

# STATE OF NEW YORK

4154

2023-2024 Regular Sessions

## IN SENATE

February 3, 2023

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to photographing or recording a law enforcement officer

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 195.05 of the penal law, as amended by chapter 269 of the laws of 1998, is amended to read as follows:

§ 195.05 Obstructing governmental administration in the second degree.

1. A person is guilty of obstructing governmental administration in the second degree when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, town, village, fire district or emergency medical service or by means of releasing a dangerous animal under circumstances evincing the actor's intent that the animal obstruct governmental administration.

2. A person is permitted to exercise their right to photograph or record a law enforcement officer performing their duties while the officer is in a public place or public view, or the person is in a private place the person has the right to be.

(a) If such photography or recording occurs, an officer shall not:

(i) intentionally hinder, prevent, or obstruct the person from taking a photograph or making a recording;

(ii) detain, arrest, threaten, intimidate, or otherwise harass such person;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1     (iii) search or seize the photograph, recording, or device used to  
2     take the photograph or make the recording without such person's permis-  
3     sion or a warrant; or

4     (iv) damage or destroy the photograph, recording, or device used to  
5     take the photograph or make the recording.

6     (b) This subdivision shall not apply to a person if an officer is in  
7     the act of placing such person under arrest or the person is under  
8     arrest.

9     (c) If an officer violates this subdivision, such person shall have a  
10    civil cause of action against the officer and the officer's law enforce-  
11    ment agency.

12    Obstructing governmental administration in the second degree is a  
13    class A misdemeanor.

14    § 2. This act shall take effect immediately.