

# STATE OF NEW YORK

9297

## IN SENATE

May 10, 2024

Introduced by Sen. TEDISCO -- 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 including aggravated cemetery desecration in the second degree and aggravated cemetery desecration in the first degree as specified offenses for purposes of hate crimes

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

1 Section 1. Subdivision 3 of section 485.05 of the penal law, as  
2 amended by section 1 of part C of chapter 55 of the laws of 2024, is  
3 amended to read as follows:  
4 3. A "specified offense" is an offense defined by any of the following  
5 provisions of this chapter: section 120.00 (assault in the third  
6 degree); section 120.05 (assault in the second degree); section 120.06  
7 (gang assault in the second degree); section 120.07 (gang assault in the  
8 first degree); section 120.10 (assault in the first degree); section  
9 120.12 (aggravated assault upon a person less than eleven years old);  
10 section 120.13 (menacing in the first degree); section 120.14 (menacing  
11 in the second degree); section 120.15 (menacing in the third degree);  
12 section 120.20 (reckless endangerment in the second degree); section  
13 120.25 (reckless endangerment in the first degree); section 121.11  
14 (criminal obstruction of breathing or blood circulation); section 121.12  
15 (strangulation in the second degree); section 121.13 (strangulation in  
16 the first degree); subdivision one of section 125.15 (manslaughter in  
17 the second degree); subdivision one, two or four of section 125.20  
18 (manslaughter in the first degree); section 125.25 (murder in the second  
19 degree); section 125.26 (aggravated murder); section 125.27 (murder in  
20 the first degree); section 120.45 (stalking in the fourth degree);  
21 section 120.50 (stalking in the third degree); section 120.55 (stalking  
22 in the second degree); section 120.60 (stalking in the first degree);  
23 section 130.20 (sexual misconduct); section 130.25 (rape in the third  
24 degree); section 130.30 (rape in the second degree); section 130.35  
25 (rape in the first degree); section 130.40 (criminal sexual act in the  
26 third degree); section 130.45 (criminal sexual act in the second

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

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1 degree); section 130.50 (criminal sexual act in the first degree);  
2 section 130.52 (forcible touching); section 130.53 (persistent sexual  
3 abuse); section 130.55 (sexual abuse in the third degree); section  
4 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse  
5 in the first degree); section 130.65-a (aggravated sexual abuse in the  
6 fourth degree); section 130.66 (aggravated sexual abuse in the third  
7 degree); section 130.67 (aggravated sexual abuse in the second degree);  
8 section 130.70 (aggravated sexual abuse in the first degree); section  
9 135.05 (unlawful imprisonment in the second degree); section 135.10  
10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping  
11 in the second degree); section 135.25 (kidnapping in the first degree);  
12 section 135.60 (coercion in the third degree); section 135.61 (coercion  
13 in the second degree); section 135.65 (coercion in the first degree);  
14 section 140.10 (criminal trespass in the third degree); section 140.15  
15 (criminal trespass in the second degree); section 140.17 (criminal tres-  
16 pass in the first degree); section 140.20 (burglary in the third  
17 degree); section 140.25 (burglary in the second degree); section 140.30  
18 (burglary in the first degree); section 145.00 (criminal mischief in the  
19 fourth degree); section 145.05 (criminal mischief in the third degree);  
20 section 145.10 (criminal mischief in the second degree); section 145.12  
21 (criminal mischief in the first degree); section 145.26 (aggravated  
22 cemetery desecration in the second degree); section 145.27 (aggravated  
23 cemetery desecration in the first degree); section 150.05 (arson in the  
24 fourth degree); section 150.10 (arson in the third degree); section  
25 150.15 (arson in the second degree); section 150.20 (arson in the first  
26 degree); section 155.25 (petit larceny); section 155.30 (grand larceny  
27 in the fourth degree); section 155.35 (grand larceny in the third  
28 degree); section 155.40 (grand larceny in the second degree); section  
29 155.42 (grand larceny in the first degree); section 160.05 (robbery in  
30 the third degree); section 160.10 (robbery in the second degree);  
31 section 160.15 (robbery in the first degree); section 230.34 (sex traf-  
32 ficking); section 230.34-a (sex trafficking of a child); section 240.25  
33 (harassment in the first degree); subdivision one, two or four of  
34 section 240.30 (aggravated harassment in the second degree); section  
35 240.50 (falsely reporting an incident in the third degree); section  
36 240.55 (falsely reporting an incident in the second degree); section  
37 240.60 (falsely reporting an incident in the first degree); subdivision  
38 one of section 265.03 (criminal possession of a weapon in the second  
39 degree); subdivision one of section 265.04 (criminal possession of a  
40 weapon in the first degree); section 490.10 (soliciting or providing  
41 support for an act of terrorism in the second degree); section 490.15  
42 (soliciting or providing support for an act of terrorism in the first  
43 degree); section 490.20 (making a terroristic threat); section 490.25  
44 (crime of terrorism); section 490.30 (hindering prosecution of terrorism  
45 in the second degree); section 490.35 (hindering prosecution of terror-  
46 ism in the first degree); section 490.37 (criminal possession of a chem-  
47 ical weapon or biological weapon in the third degree); section 490.40  
48 (criminal possession of a chemical weapon or biological weapon in the  
49 second degree); section 490.45 (criminal possession of a chemical weapon  
50 or biological weapon in the first degree); section 490.47 (criminal use  
51 of a chemical weapon or biological weapon in the third degree); section  
52 490.50 (criminal use of a chemical weapon or biological weapon in the  
53 second degree); section 490.55 (criminal use of a chemical weapon or  
54 biological weapon in the first degree); or any attempt or conspiracy to  
55 commit any of the foregoing offenses.

1 § 1-a. Subdivision 3 of section 485.05 of the penal law, as amended by  
2 section 2 of part C of chapter 55 the laws of 2024, is amended to read  
3 as follows:

4 3. A "specified offense" is an offense defined by any of the following  
5 provisions of this chapter: section 120.00 (assault in the third  
6 degree); section 120.05 (assault in the second degree); section 120.06  
7 (gang assault in the second degree); section 120.07 (gang assault in the  
8 first degree); section 120.10 (assault in the first degree); section  
9 120.12 (aggravated assault upon a person less than eleven years old);  
10 section 120.13 (menacing in the first degree); section 120.14 (menacing  
11 in the second degree); section 120.15 (menacing in the third degree);  
12 section 120.20 (reckless endangerment in the second degree); section  
13 120.25 (reckless endangerment in the first degree); section 121.11  
14 (criminal obstruction of breathing or blood circulation); section 121.12  
15 (strangulation in the second degree); section 121.13 (strangulation in  
16 the first degree); subdivision one of section 125.15 (manslaughter in  
17 the second degree); subdivision one, two or four of section 125.20  
18 (manslaughter in the first degree); section 125.25 (murder in the second  
19 degree); section 125.26 (aggravated murder); section 125.27 (murder in  
20 the first degree); section 120.45 (stalking in the fourth degree);  
21 section 120.50 (stalking in the third degree); section 120.55 (stalking  
22 in the second degree); section 120.60 (stalking in the first degree);  
23 section 130.20 (sexual misconduct); section 130.25 (rape in the third  
24 degree); section 130.30 (rape in the second degree); section 130.35  
25 (rape in the first degree); former section 130.40; former section  
26 130.45; former section 130.50; section 130.52 (forcible touching);  
27 section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse  
28 in the third degree); section 130.60 (sexual abuse in the second  
29 degree); section 130.65 (sexual abuse in the first degree); section  
30 130.65-a (aggravated sexual abuse in the fourth degree); section 130.66  
31 (aggravated sexual abuse in the third degree); section 130.67 (aggra-  
32 vated sexual abuse in the second degree); section 130.70 (aggravated  
33 sexual abuse in the first degree); section 135.05 (unlawful imprisonment  
34 in the second degree); section 135.10 (unlawful imprisonment in the  
35 first degree); section 135.20 (kidnapping in the second degree); section  
36 135.25 (kidnapping in the first degree); section 135.60 (coercion in the  
37 third degree); section 135.61 (coercion in the second degree); section  
38 135.65 (coercion in the first degree); section 140.10 (criminal trespass  
39 in the third degree); section 140.15 (criminal trespass in the second  
40 degree); section 140.17 (criminal trespass in the first degree); section  
41 140.20 (burglary in the third degree); section 140.25 (burglary in the  
42 second degree); section 140.30 (burglary in the first degree); section  
43 145.00 (criminal mischief in the fourth degree); section 145.05 (crimi-  
44 nal mischief in the third degree); section 145.10 (criminal mischief in  
45 the second degree); section 145.12 (criminal mischief in the first  
46 degree); section 145.26 (aggravated cemetery desecration in the second  
47 degree); section 145.27 (aggravated cemetery desecration in the first  
48 degree); section 150.05 (arson in the fourth degree); section 150.10  
49 (arson in the third degree); section 150.15 (arson in the second  
50 degree); section 150.20 (arson in the first degree); section 155.25  
51 (petit larceny); section 155.30 (grand larceny in the fourth degree);  
52 section 155.35 (grand larceny in the third degree); section 155.40  
53 (grand larceny in the second degree); section 155.42 (grand larceny in  
54 the first degree); section 160.05 (robbery in the third degree); section  
55 160.10 (robbery in the second degree); section 160.15 (robbery in the  
56 first degree); section 230.34 (sex trafficking); section 230.34-a (sex

1 trafficking of a child); section 240.25 (harassment in the first  
2 degree); subdivision one, two or four of section 240.30 (aggravated  
3 harassment in the second degree); section 240.50 (falsely reporting an  
4 incident in the third degree); section 240.55 (falsely reporting an  
5 incident in the second degree); section 240.60 (falsely reporting an  
6 incident in the first degree); subdivision one of section 265.03 (crimi-  
7 nal possession of a weapon in the second degree); subdivision one of  
8 section 265.04 (criminal possession of a weapon in the first degree);  
9 section 490.10 (soliciting or providing support for an act of terrorism  
10 in the second degree); section 490.15 (soliciting or providing support  
11 for an act of terrorism in the first degree); section 490.20 (making a  
12 terroristic threat); section 490.25 (crime of terrorism); section 490.30  
13 (hindering prosecution of terrorism in the second degree); section  
14 490.35 (hindering prosecution of terrorism in the first degree); section  
15 490.37 (criminal possession of a chemical weapon or biological weapon in  
16 the third degree); section 490.40 (criminal possession of a chemical  
17 weapon or biological weapon in the second degree); section 490.45 (crim-  
18 inal possession of a chemical weapon or biological weapon in the first  
19 degree); section 490.47 (criminal use of a chemical weapon or biological  
20 weapon in the third degree); section 490.50 (criminal use of a chemical  
21 weapon or biological weapon in the second degree); section 490.55 (crim-  
22 inal use of a chemical weapon or biological weapon in the first degree);  
23 or any attempt or conspiracy to commit any of the foregoing offenses.

24 § 2. This act shall take effect immediately provided, however, if  
25 section 1 of part C of chapter 55 of the laws of 2024 shall not have  
26 taken effect on or before such date then section one of this act shall  
27 take effect on the same date and in the same manner as such section,  
28 takes effect; provided, further, that provisions of section one-a of  
29 this act shall take effect on the same date and in the same manner as  
30 section 2 of part C of chapter 55 of the laws of 2024, takes effect.