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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. BRESLIN, ADAMS, HASSELL-THOMPSON, HUNTLEY, KLEIN, KRUEGER, OPPENHEIMER, PARKER, PERKINS, STAVISKY -- 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 designating offenses against homeless persons as hate crimes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "homeless protection act".
3 S 2. Subdivisions 1, 2 and 4 of section 485.05 of the penal law, as
4 added by chapter 107 of the laws of 2000, are amended to read as
5 follows:
6 1. A person commits a hate crime when he or she commits a specified
7 offense and either:
8 (a) intentionally selects the person against whom the offense is
9 committed or intended to be committed in whole or in substantial part
10 because of a belief or perception regarding the race, color, national
11 origin, ancestry, gender, religion, religious practice, age, disability,
12 HOMELESSNESS, or sexual orientation of a person, regardless of whether
13 the belief or perception is correct, or
14 (b) intentionally commits the act or acts constituting the offense in
15 whole or in substantial part because of a belief or perception regarding
16 the race, color, national origin, ancestry, gender, religion, religious
17 practice, age, disability, HOMELESSNESS, or sexual orientation of a
18 person, regardless of whether the belief or perception is correct.
19 2. Proof of race, color, national origin, ancestry, gender, religion,
20 religious practice, age, disability, HOMELESSNESS, or sexual orientation
21 of the defendant, the victim or of both the defendant and the victim
22 does not, by itself, constitute legally sufficient evidence satisfying

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

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1 the people's burden under paragraph (a) or (b) of subdivision one of
2 this section.

3 4. For purposes of this section:

4 (a) the term "age" means sixty years old or more;

5 (b) the term "disability" means a physical or mental impairment that
6 substantially limits a major life activity; AND

7 (C) THE TERM "HOMELESSNESS" MEANS THE SET OF CIRCUMSTANCES IN WHICH AN
8 INDIVIDUAL OR FAMILY IS UNDOMICILED, HAS NO FIXED ADDRESS, LACKS A FIXED
9 REGULAR NIGHTTIME RESIDENCE, RESIDES IN A PLACE NOT DESIGNED FOR OR
10 ORDINARILY USED AS A REGULAR SLEEPING ACCOMMODATION FOR HUMAN BEINGS
11 (SUCH AS A HALLWAY, BUS STATION, LOBBY OR SIMILAR PLACE), RESIDES IN A
12 HOMELESS SHELTER, RESIDES IN A RESIDENTIAL PROGRAM FOR VICTIMS OF DOMES-
13 TIC VIOLENCE, OR RESIDES IN A HOTEL/MOTEL ON A TEMPORARY BASIS.

14 S 3. This act shall take effect immediately.