S T A T E O F N E W Y O R K

918

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:

Section 1. Short title. This act shall be known and may be cited as the "homeless protection act".

S 2. Subdivisions 1, 2 and 4 of section 485.05 of the penal law, as added by chapter 107 of the laws of 2000, are amended to read as follows:

1. A person commits a hate crime when he or she commits a specified offense and either:

(a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, HOMELESSNESS, or sexual orientation of a person, regardless of whether the belief or perception is correct, or

(b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, HOMELESSNESS, or sexual orientation of a person, regardless of whether the belief or perception is correct.

2. Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability, HOMELESSNESS, or sexual orientation of the defendant, the victim or of both the defendant and the victim 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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the people's burden under paragraph (a) or (b) of subdivision one of this section.

4. For purposes of this section:

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

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

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

S 3. This act shall take effect immediately.