

STATE OF NEW YORK

298

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. L. ROSENTHAL -- read once and referred 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 § 2. Subdivisions 1, 2 and 4 of section 485.05 of the penal law, as
4 amended by chapter 8 of the laws of 2019, 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, gender identity or expression, religion, reli-
12 gious practice, age, disability, homelessness, or sexual orientation of
13 a person, regardless of whether 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, gender identity or
17 expression, religion, religious practice, age, disability, homelessness,
18 or sexual orientation of a person, regardless of whether the belief or
19 perception is correct.

20 2. Proof of race, color, national origin, ancestry, gender, gender
21 identity or expression, religion, religious practice, age, disability,
22 homelessness, or sexual orientation of the defendant, the victim or of
23 both the defendant and the victim does not, by itself, constitute legal-

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

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1 ly sufficient evidence satisfying the people's burden under paragraph
2 (a) or (b) of subdivision one of 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;

7 (c) the term "gender identity or expression" means a person's actual
8 or perceived gender-related identity, appearance, behavior, expression,
9 or other gender-related characteristic regardless of the sex assigned to
10 that person at birth, including, but not limited to, the status of being
11 transgender[~~+~~]; and

12 (d) the term "homelessness" means the set of circumstances in which an
13 individual or family is undomiciled, has no fixed address, lacks a fixed
14 regular nighttime residence, resides in a place not designed for or
15 ordinarily used as a regular sleeping accommodation for human beings
16 (such as a hallway, bus station, lobby or similar place), resides in a
17 homeless shelter, resides in a residential program for victims of domes-
18 tic violence, or resides in a hotel/motel on a temporary basis.

19 § 3. This act shall take effect immediately.