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

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2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. PERKINS, DIAZ, DUANE, KRUEGER, ONORATO, PARKER, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the civil rights law, in relation to protecting constitutional or civil rights of the people

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

Section 1. The civil rights law is amended by adding a new section 44-b to read as follows:

S 44-B. VIOLATIONS OF CONSTITUTIONAL OR CIVIL RIGHTS; CIVIL ACTIONS; AND CRIMINAL SANCTIONS. 1. LEGISLATIVE INTENT. THE LEGISLATURE DECLARES THAT IT IS THE POLICY OF THE STATE OF NEW YORK TO ASSURE THAT EACH RESIDENT IS AFFORDED AN EQUAL OPPORTUNITY TO ENJOY A FULL AND PRODUCTIVE LIFE WITHOUT FEAR OF DISCRIMINATION BASED UPON RACE, RELIGION, CREED, COLOR, SEX, SEXUAL ORIENTATION, AGE, DISABILITY OR NATIONAL ORIGIN. THE STATE HAS A RESPONSIBILITY TO ACT TO PROTECT THE CONSTITUTIONALLY GUARANTEED RIGHTS OF ITS RESIDENTS. THE LEGISLATURE NOTES WITH ALARM THE CONTINUED GROWTH IN THE STATE OF ACTS AND THREATS OF VIOLENCE AND INTIMIDATION, DENYING TO MEMBERS OF RACIAL, RELIGIOUS AND ETHNIC GROUPS THEIR FUNDAMENTAL CIVIL AND HUMAN RIGHTS. ACTS WHICH DENY OR DEPRIVE OTHERS OF THEIR CONSTITUTIONALLY GUARANTEED RIGHTS THREATEN THE RIGHTS AND PRIVILEGES OF ALL PERSONS AND UNDERMINE THE FOUNDATION OF A FREE DEMOCRATIC SOCIETY. THE LEGISLATURE FINDS THAT ENACTMENT OF THIS LEGISLATION WILL ENHANCE THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE STATE.

2. WHENEVER ANY PERSON OR PERSONS, WHETHER OR NOT ACTING UNDER COLOR OF LAW, INTERFERE BY THREATS, INTIMIDATION OR COERCION, OR ATTEMPT TO INTERFERE BY THREATS, INTIMIDATION OR COERCION, WITH THE EXERCISE OR ENJOYMENT BY ANY OTHER PERSON OR PERSONS OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THIS STATE, THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION FOR INJUNCTIVE OR OTHER APPROPRIATE EQUITABLE RELIEF IN

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

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ORDER TO PROTECT THE PEACEABLE EXERCISE OR ENJOYMENT OF THE RIGHT OR RIGHTS SECURED. SAID CIVIL ACTION SHALL BE BROUGHT IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK AND SHALL BE INSTITUTED IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE CONDUCT COMPLAINED OF OCCURRED OR IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE PERSON OR PERSONS WHOSE CONDUCT COMPLAINED OF RESIDE OR HAVE THEIR PRINCIPAL PLACE OF BUSINESS OR IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE AGGRIEVED PERSON OR PERSONS RESIDE.

3. ANY PERSON WHOSE EXERCISE OR ENJOYMENT OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THIS STATE, HAS BEEN INTERFERED WITH, OR ATTEMPTED TO BE INTERFERED WITH, AS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION, MAY INSTITUTE AND PROSECUTE IN HIS OR HER OWN NAME AND ON HIS OR HER OWN BEHALF A CIVIL ACTION FOR INJUNCTIVE OR OTHER APPROPRIATE EQUITABLE RELIEF, INCLUDING THE AWARD OF COMPENSATORY AND PUNITIVE MONEY DAMAGES. ANY SUCH AGGRIEVED PERSON OR PERSONS WHO PREVAIL IN AN ACTION AUTHORIZED BY THIS SECTION SHALL BE ENTITLED TO AN AWARD OF THE COSTS OF THE LITIGATION AND REASONABLE ATTORNEYS' FEES IN AN AMOUNT TO BE DETERMINED BY THE COURT.

4. ANY PERSON CONVICTED OF VIOLATING THE PROVISIONS OF THIS SECTION SHALL BE FINED NOT MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN ONE YEAR OR BOTH; IF BODILY INJURY RESULTS FROM SUCH VIOLATION, SUCH PERSON SHALL BE PUNISHED BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS OR BY IMPRISONMENT FOR NOT MORE THAN TEN YEARS, OR BOTH; AND IF DEATH RESULTS, SUCH PERSON SHALL BE SUBJECT TO THE RELEVANT PENALTIES PROVIDED FOR IN SECTION 70.00 OF THE PENAL LAW FOR CONVICTION OF A CLASS A-I FELONY.

5. FOR PURPOSES OF THIS SECTION, "SEXUAL ORIENTATION" MEANS HAVING A PREFERENCE FOR HETEROSEXUALITY, HOMOSEXUALITY, BISEXUALITY OR ASEXUALITY, HAVING A HISTORY OF SUCH A PREFERENCE, OR BEING IDENTIFIED WITH SUCH A PREFERENCE. HOWEVER NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE CONSTRUED TO PROTECT CONDUCT OTHERWISE PROSCRIBED BY LAW.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.