

1761

2011-2012 Regular Sessions

I N S E N A T E

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

AN ACT to amend the civil rights law, in relation to protecting consti-
tutional or civil rights of the people

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

1 Section 1. The civil rights law is amended by adding a new section
2 44-b to read as follows:
3 S 44-B. VIOLATIONS OF CONSTITUTIONAL OR CIVIL RIGHTS; CIVIL ACTIONS;
4 AND CRIMINAL SANCTIONS. 1. LEGISLATIVE INTENT. THE LEGISLATURE DECLARES
5 THAT IT IS THE POLICY OF THE STATE OF NEW YORK TO ASSURE THAT EACH RESI-
6 DENT IS AFFORDED AN EQUAL OPPORTUNITY TO ENJOY A FULL AND PRODUCTIVE
7 LIFE WITHOUT FEAR OF DISCRIMINATION BASED UPON RACE, RELIGION, CREED,
8 COLOR, SEX, SEXUAL ORIENTATION, AGE, DISABILITY OR NATIONAL ORIGIN. THE
9 STATE HAS A RESPONSIBILITY TO ACT TO PROTECT THE CONSTITUTIONALLY GUAR-
10 ANTEED RIGHTS OF ITS RESIDENTS. THE LEGISLATURE NOTES WITH ALARM THE
11 CONTINUED GROWTH IN THE STATE OF ACTS AND THREATS OF VIOLENCE AND INTIM-
12 IDATION, DENYING TO MEMBERS OF RACIAL, RELIGIOUS AND ETHNIC GROUPS THEIR
13 FUNDAMENTAL CIVIL AND HUMAN RIGHTS. ACTS WHICH DENY OR DEPRIVE OTHERS OF
14 THEIR CONSTITUTIONALLY GUARANTEED RIGHTS THREATEN THE RIGHTS AND PRIVI-
15 LEGES OF ALL PERSONS AND UNDERMINE THE FOUNDATION OF A FREE DEMOCRATIC
16 SOCIETY. THE LEGISLATURE FINDS THAT ENACTMENT OF THIS LEGISLATION WILL
17 ENHANCE THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE STATE.
18 2. WHENEVER ANY PERSON OR PERSONS, WHETHER OR NOT ACTING UNDER COLOR
19 OF LAW, INTERFERE BY THREATS, INTIMIDATION OR COERCION, OR ATTEMPT TO
20 INTERFERE BY THREATS, INTIMIDATION OR COERCION, WITH THE EXERCISE OR
21 ENJOYMENT BY ANY OTHER PERSON OR PERSONS OF RIGHTS SECURED BY THE
22 CONSTITUTION OR LAWS OF THE UNITED STATES, OR OF RIGHTS SECURED BY THE
23 CONSTITUTION OR LAWS OF THIS STATE, THE ATTORNEY GENERAL MAY BRING A

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

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1 CIVIL ACTION FOR INJUNCTIVE OR OTHER APPROPRIATE EQUITABLE RELIEF IN
2 ORDER TO PROTECT THE PEACEABLE EXERCISE OR ENJOYMENT OF THE RIGHT OR
3 RIGHTS SECURED. SAID CIVIL ACTION SHALL BE BROUGHT IN THE NAME OF THE
4 PEOPLE OF THE STATE OF NEW YORK AND SHALL BE INSTITUTED IN THE SUPREME
5 COURT FOR THE COUNTY IN WHICH THE CONDUCT COMPLAINED OF OCCURRED OR IN
6 THE SUPREME COURT FOR THE COUNTY IN WHICH THE PERSON OR PERSONS WHOSE
7 CONDUCT COMPLAINED OF RESIDE OR HAVE THEIR PRINCIPAL PLACE OF BUSINESS
8 OR IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE AGGRIEVED PERSON OR
9 PERSONS RESIDE.

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

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

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

34 S 2. This act shall take effect on the first of November next succeed-
35 ing the date on which it shall have become a law.