

# 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 Assem-  
bly, 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.

LBD00426-01-1

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.