

# STATE OF NEW YORK

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2191--A

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

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Introduced by M. of A. L. ROSENTHAL, HEVESI -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the executive 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 lacks a fixed, regular, and adequate nighttime  
14 residence, resides in a place not designed for or ordinarily used as a  
15 regular sleeping accommodation for human beings, such as a car, public  
16 sidewalk or street, hallway, bus or train station, lobby or similar  
17 place, resides in a residential program for victims of domestic violence  
18 or runaway and homeless youth, or resides in a supervised publicly or  
19 privately operated shelter designed to provide temporary living arrange-  
20 ments, including hotels and motels paid for by federal, state, or local  
21 government programs or by charitable organizations, congregate shelters,  
22 safe havens or transitional housing.

23 § 3. Paragraph (a) of subdivision 4-c of section 837 of the executive  
24 law, as amended by chapter 118 of the laws of 2022, is amended to read  
25 as follows:

26 (a) In cooperation with the chief administrator of the courts as well  
27 as any other public or private agency, including law enforcement agen-  
28 cies, collect, maintain, analyze and make public statistical and all  
29 other information and data with respect to the number of hate crimes  
30 reported to or investigated by the division of state police, and all  
31 other police or peace officers, the number of persons arrested for the  
32 commission of such crimes, the offense for which the person was  
33 arrested, the demographic data of the victim or victims of such crimes  
34 including, but not limited to, race, color, national origin, ancestry,  
35 gender, gender identity or expression, religion, religious practice,  
36 age, disability, homelessness or sexual orientation of a person, the  
37 demographic data of the person or persons arrested for the commission of  
38 such crimes including, but not limited to, race, color, national origin,  
39 ancestry, gender, gender identity or expression, religion, religious  
40 practice, age, disability, homelessness or sexual orientation of a  
41 person, the county within which the arrest was made and the accusatory  
42 instrument filed, the disposition of the accusatory instrument filed,  
43 including, but not limited to, as the case may be, dismissal, acquittal,  
44 the offense to which the defendant pled guilty, the offense the defend-  
45 ant was convicted of after trial, and the sentence imposed. Data  
46 collected shall be used for research or statistical purposes only and  
47 shall not contain information that may reveal the identity of any indi-  
48 vidual. The division shall include the statistics and other information  
49 required by this subdivision in an annual report submitted to the gover-  
50 nor, the speaker of the assembly, the temporary president of the senate,  
51 the chair of the assembly codes committee, the chair of the senate codes  
52 committee, the attorney general and the chief administrative judge of  
53 the office of court administration. Such annual reports shall be a  
54 public record.

55 § 4. This act shall take effect immediately.