STATE OF NEW YORK

2191--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

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:

Section 1. Short title. This act shall be known and may be cited as the "homeless protection act".

§ 2. Subdivisions 1, 2 and 4 of section 485.05 of the penal law, as amended by chapter 8 of the laws of 2019, are amended to read as follows:

1. A person commits a hate crime when he or she commits a specified offense and either:

(a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability**, homelessness,** or sexual orientation of a person, regardless of whether the belief or perception is correct, or

(b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability**, homelessness,** or sexual orientation of a person, regardless of whether the belief or perception is correct.

2. Proof of race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability**, homelessness,** or sexual orientation of the defendant, the victim or of 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.

LBD06488-10-3

ly sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.

4. For purposes of this section:

(a) the term "age" means sixty years old or more;

(b) the term "disability" means a physical or mental impairment that substantially limits a major life activity;

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

(d) the term "homelessness" means the set of circumstances in which an individual or family lacks a fixed, regular, and adequate nighttime residence, resides in a place not designed for or ordinarily used as a regular sleeping accommodation for human beings, such as a car, public sidewalk or street, hallway, bus or train station, lobby or similar place, resides in a residential program for victims of domestic violence or runaway and homeless youth, or resides in a supervised publicly or privately operated shelter designed to provide temporary living arrangements, including hotels and motels paid for by federal, state, or local government programs or by charitable organizations, congregate shelters, safe havens or transitional housing.

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

(a) In cooperation with the chief administrator of the courts as well as any other public or private agency, including law enforcement agencies, collect, maintain, analyze and make public statistical and all other information and data with respect to the number of hate crimes reported to or investigated by the division of state police, and all other police or peace officers, the number of persons arrested for the commission of such crimes, the offense for which the person was arrested, the demographic data of the victim or victims of such crimes including, but not limited to, race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability**, homelessness** or sexual orientation of a person, the demographic data of the person or persons arrested for the commission of such crimes including, but not limited to, race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability**, homelessness** or sexual orientation of a person, the county within which the arrest was made and the accusatory instrument filed, the disposition of the accusatory instrument filed, including, but not limited to, as the case may be, dismissal, acquittal, the offense to which the defendant pled guilty, the offense the defendant was convicted of after trial, and the sentence imposed. Data collected shall be used for research or statistical purposes only and shall not contain information that may reveal the identity of any individual. The division shall include the statistics and other information required by this subdivision in an annual report submitted to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly codes committee, the chair of the senate codes committee, the attorney general and the chief administrative judge of the office of court administration. Such annual reports shall be a public record.

§ 4. This act shall take effect immediately.