



The Homeless Protection Act

A Step Towards Ending the Victimization of Homeless New Yorkers

Policy Report

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Urban Pathways is a nonprofit homeless services and supportive housing provider serving single adults. Founded in 1975, we serve individuals through a full continuum of services that includes street outreach, drop-in services, Safe Havens, extended-stay residences, and Permanent Supportive Housing in Manhattan, Brooklyn, Queens, and the Bronx. For more information, visit www.urbanpathways.org.

Care For the Homeless is a 501(c)(3) non-profit and is committed to providing individuals experiencing homelessness with high-quality comprehensive medical and behavioral health care and supportive services. CFH currently operates Susan’s Place, 52nd Street Women’s Center, and Morris Avenue safe haven which are transitional housing residences as well as 26 health care delivery sites across all five New York City boroughs. In addition, CFH actively advocates for policies to prevent and end homelessness. For more information, visit www.careforthehomeless.org.

Summary

The Homeless Protection Act (A.2191A/S.6081B), introduced by Assemblymember Linda B. Rosenthal and Senator Luis R. Sepúlveda, would expand New York hate crime laws to include homelessness as a protected class. This means that an attack against a person perceived to be experiencing homelessness motivated by bias could be treated as a hate crime. If the State Legislature were to pass this legislation, New York would join a list of states and localities including Florida, Maine, Maryland, Rhode Island, Utah, and Washington, D.C. to hold an equivalent or similar protection. This legislation would add greater legal protection for people experiencing homelessness, prompt the collection of higher quality data on bias-motivated crimes, and help combat stigma surrounding those experiencing homelessness. **We recommend the passage of the Homeless Protection Act into law.**

The Victimization of People Experiencing Homelessness

While research demonstrates that people experiencing homelessness are much more likely to be the victim of a violent crime than to commit one, we are seeing a disturbing and increasing trend of unprovoked violence directed at people experiencing homelessness. There have been 72 documented offenses against people experiencing homelessness in New York in the last 25 years that could be classified as a hate crime but this is a dramatic undercount.¹ This number comes from the little reporting we have available produced by the National Coalition for the Homeless. Their team consulted with people with lived experience and went through news articles and community death reports to find clear offenses motivated by bias. The painful stories include people having their tents set on fire, stabbings, beatings, an individual “being punched seventeen times,” another having their “throat slashed,” and other horrific examples below.

Examples from the National Coalition for the Homeless²:

- *New York, NY: "A 28-year-old homeless man was on the northbound A train platform inside the station when between twenty and thirty teens and young adults attacked him. The homeless man was taken to the hospital with a cut to his head, swelling and bruising in both of his eyes and a broken tooth." (2/12/18)*
- *Brooklyn, NY: "A 62-year-old homeless man was sleeping in a Brooklyn apartment lobby when Lytee Knox Hundley, 31, started beating him. The homeless man was left with his nose and eye socket broken. Hundley was charged with two counts of second-degree assault." (1/28/19)*
- *New York, NY: "Five men beat a homeless man into a coma and also attacked three other homeless men while they slept. Reports say the suspect kicked, punched and threw objects at the homeless men as they demanded money but they only made off with \$5." (3/11/19)*
- *Queens, NY: "Three people approached the victim and allegedly began punching him. One of his accomplices joined in on the punching while the third perpetrator stabbed Cymry three times in Queens, NY. The victim died following the attack." (7/23/19)*

As our advocates with lived experience explain, there are many, many more stories like these, but most people never hear about them and they are never reported. The Homeless Protection Act would mandate a reporting mechanism that would help us better understand the scope of the issue and push for the protection of our peers and neighbors experiencing homelessness.

“People feel like whatever abuse I want to inflict on this person I will because there’s nothing they can do. We, as a society, have dehumanized unhoused folks and people see them as lesser in value, that they can violate them and no one will care.”

- M.A. Dennis, Consumer Advocate at Care For the Homeless

The Homeless Protection Act

The Homeless Protection Act, introduced by Assemblymember Linda B. Rosenthal and Senator Luis R. Sepúlveda, would expand New York hate crime laws to include homelessness as a protected class. This means that an attack against a person perceived to be experiencing homelessness motivated by bias could be treated as a hate crime. A hate crime under New York state law is a specified offense in which the perpetrator committed the act or selected the victim “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 or sexual orientation of a person, regardless of whether the belief or perception is correct.”³ The HPA would add homelessness to the list of protected classes under this definition.

The HPA would also include a reporting mechanism that would require law enforcement to investigate whether homelessness-related bias motivated an incident. This would provide a clearer understanding of the scope of the issue. It would also combat the stigma against people experiencing homelessness by helping others understand how unstably housed folks are not only much more likely to be a victim of a violent crime than to commit one, but also the danger of painting an entire community with a broad brush.

There are a variety of definitions of homelessness, from broad and inclusive to narrow and specific. For this legislation, we sought to include a definition that would be broad enough to capture the many ways in which a person experiences unstable housing as well as the myriad circumstances that lead to homelessness including fleeing domestic violence, runaway youth, and others. We decided to be more specific in our definition than simply including “anyone who does not have a fixed address.”

Definition of Homelessness for the Homeless Protection Act

“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.

It is important to note that the victim does not need to fit into any of the categories or circumstances listed above to be protected under this law. The victim would simply need to be perceived to be experiencing homelessness based on the perpetrators' biases.

The Homeless Protection Act is supported by an array of twenty-four organizations across New York, including homelessness services organizations, healthcare organizations, community-based organizations, and membership organizations. It has over three hundred individual sign-ons from New Yorkers with the lived experience of homelessness and allies. Additionally, the National Coalition for the Homeless recommends "including people experiencing homelessness as a protected class under hate crime status" as one policy solution to reduce victimization of people experiencing homelessness.⁴

“The Homeless Protection Act would help protect vulnerable individuals. More often than reported, people take it upon themselves to harm those experiencing homelessness. The stigma related to poverty and homelessness allows for hate crimes. We need the protection of the law.”

- Phillip Malebranche, Consumer Advocate at Care For the Homeless

States with Similar Legislation

Six states and the District of Columbia currently have equivalent or similar legal protections for people experiencing homelessness who are the victims of bias-motivated crimes. Maryland, D.C., Florida, and Rhode Island include homelessness as a **protected class**, meaning attacks motivated by bias against a person perceived to be experiencing homelessness can be tried as a hate crime. Maine, Alaska, and Utah use a different legal mechanism: while homelessness is not a protected class for hate crimes, these states allow sentencing enhancement for crimes committed against people experiencing homelessness, either through **vulnerable victim status** or a similar legal mechanism.

Either of these approaches would be an improvement on the status quo in New York, which currently has neither in place. The Homeless Protection Act would make New York a state in which homelessness is a protected class, which is a stronger mechanism than a mere sentencing enhancement for two reasons. First, it allows a larger consideration to be made for the bias motivation. Under Federal Sentencing Guidelines, a hate crime offense increases the offense level by three levels; vulnerable victim status increases the offense level by two levels.⁵ Second, it allows for easier collection and reporting of data on victimizations, assuming the state already has centralized reporting of hate crimes. None of the three states with sentencing enhancement laws have accessible data on the number of cases that have been affected by the addition of homelessness under sentencing enhancement. Conversely, three of the four states (Maryland, D.C., and Florida) that made homelessness a protected class now have accessible data on how many incidents occur each year.⁶

Table 1

States with Equivalent or Similar Legislation

State	Year Enacted	Category	# of hate crimes against the homeless (years reported)
Alaska ⁷	2009	Sentencing Enhancement	No available data.
D.C. ⁸	2009	Protected Class (Hate Crimes)	8 (2011-2022)
Florida ⁹	2010	Protected Class (Hate Crimes)	6 (2018-2021)
Maine ¹⁰	2006	Sentencing Enhancement	No available data.
Maryland ¹¹	2009	Protected Class (Hate Crimes)	2 (2013-2021)
Rhode Island ¹²	2010	Protected Class (Hate Crimes)	No available data.
Utah ¹³	2019	Sentencing Enhancement	No available data.

In Maryland, two cases were charged as hate crimes with homelessness as the bias motivation category since the law's implementation (2013-2021). In D.C., there have been eight cases (2011-2022). In Florida, there have been six cases (2018-2021).

Table 2

Hate crimes against people experiencing homelessness by state

Year	D.C. ¹⁴	Maryland ¹⁵	Florida ¹⁶
2011	1	-	-
2012	0	-	-
2013	0	0	-
2014	2	0	-
2015	0	0	-
2016	1	0	-
2017	0	0	-
2018	1	0	1
2019	0	0	0
2020	0	1	2
2021	0	1	3
2022	3	-	-
Total	8	2	6

Don't Overlook the Data

States looking to add homelessness as a protected class should ensure that proposed legislation includes adding homelessness to their state's reporting requirements. Although homelessness was added as a protected class in Florida in 2010, no data was collected on hate crimes against people perceived to be experiencing homelessness until 2018 because "homeless status was not added to the UCR and [was] not required to be collected by law enforcement agencies or FDLE as part of the Hate Crimes Reporting Act."¹⁷

The original version of the Homeless Protection Act would have added homelessness as a protected class under penal law while not explicitly adding it as a reporting category under executive law. New York's annual report on hate crimes is designed to satisfy the reporting requirement found in state Executive Law Section 837(4-c), so it was unclear if homelessness would be included as a reporting category if only the penal law were changed.¹⁸ This has been rectified via amendment.

Limitations

While a major step forward, this legislation does have limitations in the impact it would have on reducing the victimization of New Yorkers experiencing homelessness due to the high burden of proof in convicting hate crimes. In states that have passed similar legislation, the number of people convicted has been low. On the one hand, these numbers should assuage fears that this legislation would lead to a major increase in incarceration. In Florida, a state with a comparable population to New York, there have been an average of 1.5 cases per year since 2018. In both Maryland and D.C., there has been an average of less than one case per year. On the other hand, this does illustrate the limitation that it is difficult to prove that an offense was motivated by bias, and thus convict it as a hate crime.

Hate crimes for any protected class have a high burden of proof. In D.C., across the same time period (2011-2022) there were eight homelessness-motivated hate crimes, there were only five disability-motivated hate crimes, and three sex/gender-motivated hate crimes.¹⁹ In Florida, across the same time period (2018-2021) there were six homelessness-motivated hate crimes, there were only two disability-motivated hate crimes.²⁰ Despite the fact that convictions may be low for homelessness-motivated hate crimes, we hold that it's still a valuable tool for deterrence, destigmatization, and ensuring that the rare cases that do meet the high burden of proof for the bias motivation are handled with the gravity that they deserve.

More broadly, focusing on the attacks motivated by bias addresses only part of the harm inflicted on people experiencing homelessness. According to the most recent homeless deaths report in NYC for FY2022 (July 1, 2021 through June 30, 2022), there were 684 deaths among people experiencing homelessness. Fifteen of these deaths were due to homicide. While preventing further acts of violence is paramount, the adverse health impacts of homelessness continue to be the leading cause of death for most people experiencing homelessness.²¹

We recommend the passage of the Homeless Protection Act as one small step towards the protection of people experiencing homelessness. We urge the state legislature to also take critical measures to address the structural harms of homelessness and increase access to housing and essential services. These measures include but are not limited to increasing the affordable housing stock across the state, increasing tenant protections, ensuring greater enforcement of source of income discrimination laws, enacting the Housing Access Voucher Program, increasing access to comprehensive medical and behavioral health services, expanding harm reduction models to mitigate the impact of the opioid crisis, and investing in the human services workforce.

Conclusion

We urge the passage of the Homeless Protection Act.

New York should join a small but growing number of states which categorize homelessness as a protected class. The goal is to bring about change and ensure the protection of civil rights for everyone, regardless of economic circumstances or housing status. To build compassionate communities, the civil and human rights of people experiencing homelessness must be protected. In order to end the stigma resulting in the dehumanization of people experiencing homelessness this legislation would create a stronger mechanism for reporting and documenting attacks against unstably housed people to get a clearer picture of the extent of the issue. The legislation's approach to reducing the victimization of people experiencing homelessness is a key step forward. For more information about the Homeless Protection Act, we encourage readers to visit www.passthehpa.org.

Notes

1 "20 Years of Hate: National Coalition for the Homeless Hate Crimes Report 2018-2019." *National Coalition for the Homeless*. December, 2020.

2 Ibid.

3 NY Penal L § 485.05 (2022).

4 "20 Years of Hate: National Coalition for the Homeless Hate Crimes Report 2018-2019." *National Coalition for the Homeless*. December, 2020.

5 "Guidelines Manual 2021," *United States Sentencing Commission*, November 1, 2021.

6 While the Department of Justice has data available on hate crimes including bias motivation categories for all states, this data only includes federally protected classes race/ethnicity/ancestry, religion, sexual orientation, disability, gender, gender identity). Thus, data on homelessness as a bias motivation category is not collected by the DOJ and is only available in states that public their own reports.

7 ALASKA STAT. § 12.55.155(C)(5) (2009).

8 Bias-Related Crime Act of 1989, D.C. Official Code § 22-3700 et. seq.

9 Fla. Stat. § 775.085.

10 MAINE STAT. § 1501.8(b).

11 MARYLAND STAT. § 10-304.

12 Utah Criminal Code § 76-3-203. 14.

13 Victim Targeting Penalty Enhancements of 2019, UTAH STAT. § 76-3-203. 14.

14 "Bias-Related Hate Crimes Data," Metropolitan Police D.C., accessed December 5th, 2023.

15 "State of Maryland Hate Bias Report," *Maryland Department of State Police*. October 1, 2022.

16 "Hate Crimes in Florida," Office of Attorney General Ashley Moody, accessed December 5th, 2023.

- 17 Florida Attorney General Pam Bondi, *Hate Crimes in Florida, January 1, 2017 - December 31, 2017* (2018, December 31).
- 18 "Hate Crime in New York State 2021 Annual Report," New York State Division of Criminal Justice Services, December 2022.
- 19 "Bias-Related Hate Crimes Data," *Metropolitan Police D.C.*, accessed December 5th, 2023.
- 20 "Hate Crimes in Florida," Office of Attorney General Ashley Moody, accessed December 5th, 2023.
- 21 New York City Department of Health and Mental Hygiene, *Seventeenth Annual Report of Homeless Deaths and Homeless Shelter Residents* (2023, February 7).

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