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HOUSE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING FOR ALTERATION OF A BASIC SENTENCE WHEN A CRIME IS MOTIVATED BY HATE AGAINST A HOMELESS PERSON; AMENDING THE HATE CRIMES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 31-18B-1 NMSA 1978 (being Laws 2003, Chapter 384, Section 1) is amended to read:

"31-18B-1. SHORT TITLE.--~~[This act]~~ Chapter 31, Article 18B NMSA 1978 may be cited as the "Hate Crimes Act"."

SECTION 2. Section 31-18B-2 NMSA 1978 (being Laws 2003, Chapter 384, Section 2, as amended) is amended to read:

"31-18B-2. DEFINITIONS.--As used in the Hate Crimes Act:

A. "age" means sixty years of age or older;

B. "gender identity" means a person's

self-perception, or perception of that person by another, of

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1 the person's identity as a male or female based upon the  
2 person's appearance, behavior or physical characteristics that  
3 are in accord or opposed to the person's physical anatomy,  
4 chromosomal sex or sex at birth;

5 C. "disability" means that ~~[the]~~ a person has a  
6 physical or mental disability that substantially limits one or  
7 more of that person's functions, such as caring for oneself,  
8 performing manual tasks, walking, seeing, hearing, speaking,  
9 breathing, learning and working;

10 D. "homelessness" means that a person lacks a  
11 fixed, regular and adequate nighttime residence or has a  
12 primary nighttime residence that is:

13 (1) a place not designed for or ordinarily  
14 used as a regular sleeping accommodation for human beings,  
15 including cars, parks, public spaces, abandoned buildings,  
16 substandard housing or bus or train stations;

17 (2) a publicly or privately operated shelter  
18 designed to provide temporary living accommodations, including  
19 congregate shelters and transitional housing; or

20 (3) the housing of other persons in which the  
21 person is temporarily staying;

22 ~~[D.]~~ E. "motivated by hate" means the commission of  
23 a crime with the intent to commit the crime because of the  
24 actual or perceived race, religion, color, national origin,  
25 ancestry, age, ~~[handicapped status]~~ disability, homelessness,

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1 gender, sexual orientation or gender identity of the victim,  
2 whether or not the offender's belief or perception was correct;  
3 and

4 ~~[E.]~~ F. "sexual orientation" means heterosexuality,  
5 homosexuality or bisexuality ~~[whether actual or perceived]."~~

6 **SECTION 3. EFFECTIVE DATE.**--The effective date of the  
7 provisions of this act is July 1, 2013.

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