

1-1 By: West S.B. No. 536  
1-2 (In the Senate - Filed February 8, 2007; February 26, 2007,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 2, 2007, reported favorably by the following vote: Yeas 5,  
1-5 Nays 1; April 2, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to an offense committed against a homeless person because  
1-9 of bias or prejudice.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (a) and (c), Article 42.014, Code of  
1-12 Criminal Procedure, are amended to read as follows:

1-13 (a) In the trial of an offense under Title 5, Penal Code, or  
1-14 Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an  
1-15 affirmative finding of fact and enter the affirmative finding in  
1-16 the judgment of the case if at the guilt or innocence phase of the  
1-17 trial, the judge or the jury, whichever is the trier of fact,  
1-18 determines beyond a reasonable doubt that the defendant  
1-19 intentionally selected the person against whom the offense was  
1-20 committed or intentionally selected property damaged or affected as  
1-21 a result of the offense because of the defendant's bias or prejudice  
1-22 against a group identified by race, color, disability, religion,  
1-23 national origin or ancestry, age, gender, [~~or~~] sexual preference,  
1-24 or homelessness.

1-25 (c) In this article:

1-26 (1) "Homelessness":

1-27 (A) means a condition under which an individual:  
1-28 (i) lacks a fixed, regular, and adequate  
1-29 nighttime residence; or

1-30 (ii) has a primary nighttime residence that  
1-31 is:

1-32 (a) a supervised publicly or  
1-33 privately operated shelter designed to provide temporary living  
1-34 accommodations, including welfare hotels, congregate shelters, and  
1-35 transitional housing for the mentally ill;

1-36 (b) an institution that provides a  
1-37 temporary residence for individuals intended to be  
1-38 institutionalized; or

1-39 (c) a public or private place not  
1-40 designed for, or ordinarily used as, a regular sleeping  
1-41 accommodation for human beings; and

1-42 (B) does not include a condition under which an  
1-43 individual is imprisoned or otherwise detained in a correctional  
1-44 facility.

1-45 (2) "Sexual[~~, -sexual~~] preference" has the following  
1-46 meaning only: a preference for heterosexuality, homosexuality, or  
1-47 bisexuality.

1-48 SECTION 2. The change in law made by this Act applies only  
1-49 to an offense committed on or after September 1, 2007. An offense  
1-50 committed before September 1, 2007, is governed by the law in effect  
1-51 when the offense was committed, and the former law is continued in  
1-52 effect for that purpose. For purposes of this section, an offense  
1-53 was committed before September 1, 2007, if any element of the  
1-54 offense occurred before that date.

1-55 SECTION 3. This Act takes effect September 1, 2007.

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