Appendix C: *Hate Crimes Legislation Resource Guide*

Enacting Effective Hate Crime Legislation in Your Community

I. Goals to Achieve

Hate crime legislation serves many purposes. Primarily, it seeks to punish and deter individuals from committing bias-motivated crimes. In naming a vulnerable group, hate crime legislation makes a statement to the community that this group has the full protection of the law and is deserving of such protection. Such legislation also ensures the recognition of fundamental human rights.

While there is a clear need to include and protect homeless individuals in hate crime legislation, cities and states across the country differ in their approaches towards accomplishing this goal. NCH believes certain concepts are essential for comprehensive and effective hate crimes legislation. This guide will begin by out-lining those concepts. It continues by explaining and analyzing enacted legislation in order to understand their strengths and weaknesses. It also evaluates unsuccessful attempts to amend hate crimes legislation and possible reasons for those failures. Finally, this guide will pose arguments raised in opposition to the inclusion of homeless status in hate crimes legislation, as well as possible counter-arguments. In understanding these models, other jurisdictions can create their own comprehensive hate crimes legislation to ensure maximum protection for individuals experiencing homelessness.

II. Recommendations for Hate Crimes Legislation

NCH recognizes that different localities are governed by different laws and have varying needs. For this reason, it is important for state and local communities to determine what protections are already in place and what their goals are for proposing hate crimes legislation to protect the homeless. NCH also believes, however, that the homeless population is due certain fundamental protections and has identified concepts that are key to comprehensive hate crimes legislation at any level. These concepts include:

1. Recognition of the homeless on a person of "homeless status" as a protected class, thus, targeting a person due to their homeless status or perceived homeless status would qualify as violation of the law.
2. Use of a definition of homelessness in line with 42 USC 11302 (2012) as revised by the HEARTH Act.

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4. Criminal and civil sanctions (including injunctions, reasonable actual or nominal damages for economic or non-economic loss, punitive damages, or attorney's fees) for violations of hate crime laws.

5. Development of procedures that facilitate the data collection by law enforcement and local organizations and the distribution of the data to governing bodies while maintaining the privacy of the victims. This data should be used to create strong, supported recommendations to present to lawmakers.

6. Requirement of law enforcement to complete trainings on how to interact effectively and respectfully with homeless populations.

7. Coordination between law enforcement and local service providers to ensure homeless individuals receive necessary services.

8. Awareness campaigns amongst high school students and other young people about homelessness

Community Policy and Education Recommendations

NCH Advocates for the following:

1. "Homeless status" to be included in the federal hate crimes statistics statute. Doing so would require the Federal Bureau of Investigation to collect data on hate-motivated violence targeted against individuals who are homeless. H.R. 1136 was introduced in the 113th Congress by U.S. Representative Eddie Bernice Johnson, and was identical to three bills introduced to previous sessions of Congress.

2. States with hate crime statutes to include "homeless status" within their current hate crimes frame-work.

3. The U.S. Department of Justice to issue a public statement acknowledging the hate crimes and/or violence against people experiencing homelessness are a serious national problem.

4. The U.S. Department of Justice to issue guidelines for law enforcement agencies on how to investigate and prosecute bias-motivated crimes against people experiencing homelessness.

4. Law enforcement agencies provide awareness training to trainees and officers about the causes and solutions to homelessness and how to deal effectively and respectfully with people experiencing homelessness in their communities.

5. Advocates and homeless service providers to provide opportunities for people who have experienced homelessness and survived bias-motivated violence to tell their stories. The Faces of Homelessness Speakers' Bureaus (composed of homeless and formerly homeless people), which visit both public and private schools in communities for the purposes of information and education, would be one
method of providing opportunities for survivors to share their stories.

6. Federal, state, and local government to assure adequate affordable housing and services to bring an end to homelessness in our communities, and thus create safe alternatives to living in homeless situations

Image: *Matt McClain, The Washington Post*

MODEL LANGUAGE FOR ALL LEGISLATION AND RESOLUTIONS

The following model language was prepared by the National Coalition for the Homeless (NCH), in consultation with the National Homelessness Law Center (NHLC) and advocates across the country.

Whereas, hate crimes and violence against homeless persons has become a nationwide trend, 1,923 reported cases of violence against homeless people over the past 23 years (1999-2022), resulting in 558 deaths;

Whereas, the scope of prohibitions against the commission of hate crimes against certain groups of per- sons should include homeless persons;

Whereas, understanding violent crimes committed against homeless persons and adequate punishment for such crimes play key roles in preventing and managing violence against homeless persons; and

Whereas, law enforcement needs proper training to handle and prevent violent crimes against homeless persons;

Be it enacted:

(1) For the purposes of this legislation, a "homeless person" means an individual or member of a family as defined in 42 .S.C. § 11302 (2009) and any regulations promulgated thereafter.

(2) The state hate crimes statute shall be expanded to include homeless persons as a protected class.

MODEL LANGUAGE FOR ALL LEGISLATION AND RESOLUTIONS (cont.)

(3) Prohibition on Hate Crimes against Homeless Persons – The following acts shall be deemed a hate crime and prohibited when carried out against a person on the basis that person's status as a homeless person:

(A) Assault, aggravated assault, battery, or aggravated battery upon the person; or

(B) Acts that deface, damage, or destroy or attempt to deface, damage, or destroy the personal property of the person; or

(C) Acts that result in the death of the person; or

(D) Any other crime against the person.

(4) Punishments for Hate Crimes against Homeless Persons –

(A) A person convicted of aggravated assault or aggravated battery upon a homeless person based on the victim's status as a homeless person shall be sentenced to a minimum term of 3 years and fined not more than $10,000. The person shall be ordered by the sentencing judge to make any restitution to the victim of the offense and to perform 500 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence that may be imposed and shall not be in lieu thereof.

(B) Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon a homeless person based on the victim's status as a homeless person, the offense for which the person is charged shall be reclassified as allows:

(1) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(2) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(3) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(4) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

MODEL LANGUAGE FOR ALL LEGISLATION AND RESOLUTIONS (cont.)

(5) State Office of the Attorney General Study -

  (A) The Office of the Attorney General shall assess the extent of the problem of crimes against home- less persons and develop a plan to prevent these crimes and apprehend and prosecute the perpetrators of these crimes.

  (B) In developing the assessment and plan, the Office of the Attorney General shall consult home- less persons, service providers and advocates for homeless persons and law enforcement agencies with experience investigating crimes against homeless persons.

(6) Law Enforcement Training on Hate Crimes against Homeless Persons –

  (A) The lead state law enforcement agency shall develop a telecourse that shall be made available to all law enforcement agencies in the state. Every state, local, and correctional law enforcement agency shall certify that each of its officers has taken the course. The telecourse shall address crimes against homeless persons and methods of dealing effectively and humanely with homeless persons. The course shall include instruction on each of the following topics:

   (1) Information about homelessness, including causes of homelessness, its impact, and solutions to homelessness.

   (2) Indicators of hate crimes.

  (3) The impact of these crimes on the victim, the victim's family, and the community.

   (4) The assistance and compensation available to victims.

   (5) The laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes.

   (6) Law enforcement procedures, reporting, and documentation of hate crimes.

   (7) Techniques and methods to handle incidents of hate crimes.

   (8) The special problems inherent in hates crimes against homeless persons and techniques on how to deal with these special problems.

MODEL LANGUAGE FOR ALL LEGISLATION AND RESOLUTIONS (cont.)

(B) The lead state law enforcement agency shall develop a protocol that law enforcement personnel are required to follow, including, but not limited, to the following:

(1) Preventing likely hate crimes by, among other things, establishing contact with persons and communities that are likely targets, and forming and cooperating with community hate crime prevention and response networks.

(2) Responding to reports of hate crimes, including reports of hate crimes committed under color of legal authority.

(3) Providing victim assistance and follow up, including community follow up.

(4) Reporting methods and procedures to track hate crimes against homeless persons.

(C) In developing the telecourse, the lead state law enforcement agency shall consult subject matter experts including, but not limited to, the following:

(1) Homeless and formerly homeless individuals;

(2) The National Coalition for the Homeless

(3) Other local homeless service providers and advocates for homeless people;

(4) Experts on the disabilities homeless persons commonly experience; and

(5) Law enforcement agencies with experience in investigating hate crimes against homeless people.