

AMENDED IN ASSEMBLY APRIL 7, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 312

**Introduced by Assembly Member Bonnie Lowenthal
(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley,
Chesbro, Eng, Hall, Huffman, and Swanson)**

February 9, 2011

An act to amend Section 51.7 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 312, as amended, Bonnie Lowenthal. Civil rights: homeless persons.

Existing law sets forth various personal rights and provides that all persons within California have the right to be free from violence, or intimidation by the threat of violence, because of, among other characteristics, their race, color, religion, ancestry, national origin, political affiliation, or sex. Existing law further permits an individual whose exercise or enjoyment of specified personal rights has been interfered with to bring a civil action for damages, including actual damages, exemplary damages, attorney's fees, injunctive relief, and other appropriate relief. Existing law requires the Department of Fair Employment and Housing to receive, investigate, and conciliate complaints that an individual's personal rights have been violated.

This bill would specify that homeless persons, as defined, are entitled to the personal rights set forth under existing law, and would provide that a homeless person has the right to be free from violence or

intimidation by threat of violence directed against that person on the basis of that person’s status as a homeless person. The bill would also provide that these provisions shall not be construed to enlarge or diminish an existing duty, if any, by an owner of residential rental or commercial property to protect a homeless person who is present on the property from violence or intimidation by threats of violence. *The bill would provide that these provisions are not to be construed to prohibit or restrict a public agency from the lawful enforcement of any law, and a public agency would not be subject to civil liability for that lawful enforcement.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51.7 of the Civil Code is amended to
 2 read:
 3 51.7. (a) All persons within the jurisdiction of this state have
 4 the right to be free from any violence, or intimidation by threat of
 5 violence, committed against their persons or property because of
 6 political affiliation, or on account of any characteristic listed or
 7 defined in subdivision (b) or (e) of Section 51, or position in a
 8 labor dispute, or because another person perceives them to have
 9 one or more of those characteristics. The identification in this
 10 subdivision of particular bases of discrimination is illustrative
 11 rather than restrictive.
 12 (b) (1) This section includes any violence, or intimidation by
 13 threat of violence, committed against the person or property of a
 14 homeless person because the person is, or is perceived to be, a
 15 homeless person.
 16 (2) For purposes of this section, “homeless person” means:
 17 (A) A person who does not have a fixed, regular, and adequate
 18 nighttime residence.
 19 (B) A person that has a nighttime residence that constitutes any
 20 of the following:
 21 (i) A supervised, publicly or privately operated shelter
 22 designated to provide temporary living accommodations, including,
 23 but not limited to, welfare hotels, congregate shelters, and
 24 transitional housing.

1 (ii) An institution that provides a temporary residence for
2 individuals intended to be institutionalized.

3 (iii) A public or private building or designated area that is not
4 ordinarily designed for, or ordinarily used for, sleeping
5 accommodations for persons.

6 (3) This subdivision shall not be construed to enlarge or diminish
7 an existing legal duty, if any, by an owner of residential rental or
8 commercial property to protect a homeless person from violence,
9 or intimidation by threats of violence, because the homeless person
10 is physically present on the owner's property or other property
11 controlled by the owner incidental to ownership of the rental
12 property.

13 *(4) This subdivision shall not be construed to prohibit or restrict*
14 *a public agency from the lawful enforcement of any law, and a*
15 *public agency shall not be subject to civil liability for that lawful*
16 *enforcement.*

17 (c) This section does not apply to statements concerning
18 positions in a labor dispute that are made during otherwise lawful
19 labor picketing.

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