



CITY COUNCIL STAFF REPORT

DATE: July 7, 2010

CONSENT

SUBJECT: HUMAN RIGHTS COMMISSION REQUEST FOR THE CITY COUNCIL TO SUPPORT CALIFORNIA AB 2706 (LOWENTHAL) AMENDING THE CAL. CIVIL CODE TO DEEM VIOLENCE AGAINST HOMELESS PEOPLE OR THEIR PROPERTY AS A HATE CRIME FOR CIVIL LITIGATION

FROM: David H. Ready, City Manager

BY: Neighborhood and Community Relations

SUMMARY

The Palm Springs Human Rights Commission voted at its June 14, 2010 meeting to encourage the City Council to support adoption of Assembly Bill 2706 which would add homelessness to civil rights protections for victims of violence based on race, color, religion, sex, marital status, political affiliation, sexual orientation, or involvement in a labor dispute. The measure would deem violence against homeless people or their property as a hate crime for civil litigation.

RECOMMENDATION:

1. Receive and file.

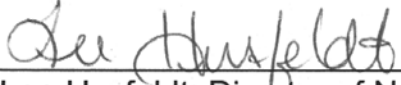
STAFF ANALYSIS:

Assembly Bill 2706 was introduced in February by California Assemblywoman Bonnie Lowenthal (D-Long Beach). It was amended and approved by the Assembly in early May. The bill passed the Senate Judiciary Committee in June and now is in the Senate Appropriations Committee.

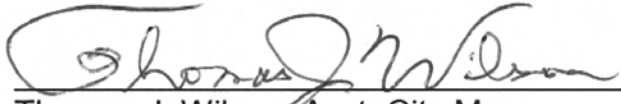
AB 2706 would not increase criminal penalties for attacking a homeless person, but victims who sue would be eligible for additional compensation that includes a \$25,000 civil penalty and exemplary damages.

AB 2706 defines a homeless person as one who lacks a residence or lives in shelters, welfare hotels, transitional housing, institutions or other such temporary accommodations.

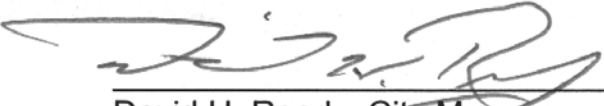
Riverside County's 2009 Homeless Count & Survey had a "one-day, point-in-time" count of 203. This included those sheltered (i.e., emergency and transitional housing) and unsheltered (i.e. outdoors, encampments, uninhabitable structure, etc.).



Lee Husfeldt, Director of Neighborhood
and Community Relations



Thomas J. Wilson, Asst. City Manager



David H. Ready, City Manager

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY APRIL 20, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2706

**Introduced by Assembly Member Bonnie Lowenthal
(Coauthor: Assembly Member Hall)**

February 19, 2010

An act to amend Section 51.7 of the Civil Code, ~~and to amend Sections 12930, 12948, 12960, 12965, and 12970 of the Government Code,~~ relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 2706, 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 ~~have~~ *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 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.

~~This bill would provide that the Department of Fair Employment and Housing does not have jurisdiction or enforcement powers over the protections specified in this bill.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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 *a the* person or property of
14 a 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.
- 25 (ii) An institution that provides a temporary residence for
26 individuals intended to be institutionalized.

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

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

11 (c) This section does not apply to statements concerning
12 positions in a labor dispute which are made during otherwise lawful
13 labor picketing.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, April 20, 2010. (JR11)**