



Re: PLAIN TEXT EMAIL OF AMENDMENT PROPOSAL

Rob Smoke

to:

Robin Jones, Terese Howard

03/24/2016 12:45 PM

Hide Details

From: Rob Smoke <dubsdingleberries@gmail.com>

To: Robin Jones <robin.jones@state.co.us>, Terese Howard <terese.act@gmail.com>

History: This message has been replied to.

My mailing address at present is: Rob Smoke, 1120 Pine Street, Boulder, Co. 80302

Terese may need to update her address, but for the moment the mailing address I have is:

Terese Howard, c/o DHOL, 2260 California Street, Denver, Colorado 80205

On Thu, Mar 24, 2016 at 12:29 PM, Robin Jones <[robin.jones@state.co.us](mailto:robin.jones@state.co.us)> wrote:

Mr. Smoke or Ms. Howard,

Please call me at [303-866-3521](tel:303-866-3521). I have a couple of questions regarding the proposal and as it stands now, I cannot accept the document as is.

Thanks in advance.

Robin Jones

From: Rob Smoke <[dubsdingleberries@gmail.com](mailto:dubsdingleberries@gmail.com)>

To: [ics.ga@state.co.us](mailto:ics.ga@state.co.us), Terese Howard <[terese.act@gmail.com](mailto:terese.act@gmail.com)>

Date: 03/24/2016 12:26 PM

Subject: PLAIN TEXT EMAIL OF AMENDMENT PROPOSAL

TO: SECRETARY OF STATE  
STATE OF COLORADO / BY EMAIL

NOTE: THIS IS A DRAFT DOCUMENT. WE ARE SEEKING ADVICE ON MODIFYING  
PARAGRAPHS CONTAINED IN SECTION "102" -- DECLARATION OF INTENT --

Thanks -- Please inform of receipt.

Rob Smoke

TWO OF THE PROPONENTS FOR THIS PROPOSAL ARE:

Robert Paul Smoke

Boulder, Co. 80302

[dubsdingleberries@gmail.com](mailto:dubsdingleberries@gmail.com)

[720-930-2945](tel:720-930-2945)

Terese Howard  
 Denver, Colorado  
[terese.act@gmail.com](mailto:terese.act@gmail.com)  
[415-517-5603](tel:415-517-5603)

## COLORADO HOMELESS SURVIVAL ACT; AMENDMENT TO THE CONSTITUTION OF THE STATE OF COLORADO

Purpose and Intent: Whereas it is recognized that a significant challenge for communities across the State of Colorado would be the task of helping those who are homeless or without housing; and whereas it is in the best interest of all citizens of the State of Colorado to support the survival of those who may find themselves experiencing homelessness; and whereas it is recognized that communities across the State of Colorado with homeless residents shall endeavor to end the crisis of homelessness through the solution of providing housing, and not the hindrance to housing opportunity that criminalizing statutes achieve; as signatory I support the creation of the following AMENDMENT TO THE CONSTITUTION OF THE STATE OF COLORADO; "COLORADO HOMELESS SURVIVAL ACT", which establishes basic rights for persons experiencing homelessness, including, but not limited to, the right to use public spaces and move freely in them without discrimination, to rest in public spaces without discrimination, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of one's property. The constitutional amendment does not create an obligation for a provider of services for persons experiencing homelessness to provide shelter or services when none are available. Be it enacted by the electors of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add article 4.5 to title 3 24 as follows:

ARTICLE 4.5 5 Colorado Right to Rest Amendment ( 24-4.5-101.)

Short title. THE SHORT TITLE OF THIS AMENDMENT IS THE

"COLORADO HOMELESS SURVIVAL ACT".

24-4.5-102. DECLARATION OF INTENT. (1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT: (a) MANY PERSONS EXPERIENCE HOMELESSNESS BECAUSE

OF ECONOMIC HARDSHIP, A SEVERE SHORTAGE OF SAFE AND AFFORDABLE HOUSING, THE INABILITY TO SECURE GAINFUL EMPLOYMENT, AND A DISINTEGRATING AND SHRINKING SOCIAL SAFETY NET;

(b) RESPONDING TO THE GROWING CRISIS OF HOMELESSNESS WITH CRIMINAL SANCTIONS TO PUSH PEOPLE OUT OF PUBLIC SPACES AND INTO COURTS AND JAILS IS COSTLY, INHUMANE, INEFFECTIVE, AND VIOLATES BASIC CIVIL, HUMAN, AND CONSTITUTIONAL RIGHTS;

(c) THE EXISTENCE OF HOMELESSNESS REQUIRES THAT CIVIL AND HUMAN RIGHTS THAT ARE AMPLY PROTECTED IN THE HOME AND IN OTHER PRIVATE PLACES BE EXTENDED TO THE PUBLIC SPACES IN WHICH PERSONS EXPERIENCING HOMELESSNESS LIVE TO ENSURE THE EQUAL RIGHTS OF ALL COLORADANS;

(d) CITIES THROUGHOUT COLORADO ARE ENACTING AND ENFORCING LAWS THAT CRIMINALIZE BASIC ACTS OF SURVIVAL, SUCH AS SLEEPING, SITTING, LOITERING, SLEEPING IN A LEGALLY PARKED VEHICLE, HAVING A REASONABLE EXPECTATION OF PRIVACY IN PERSONAL PROPERTY, STORING BELONGINGS, ASKING FOR HELP, AND USING A BLANKET TO COVER ONESELF IN A NON-OBSTRUCTIVE MANNER REGARDLESS OF OUTDOOR TEMPERATURE. SUCH LAWS RESULT IN PEOPLE 6 IN COLORADO BEING CRIMINALLY PUNISHED FOR DOING WHAT ANY PERSON MUST DO TO SURVIVE.

(e) LOCAL ORDINANCES OF THIS KIND DO NOT REDUCE THE INCIDENCE OF HOMELESSNESS OR CRIME. INSTEAD, THEY INCREASE 10 INCARCERATION RATES AND THE FINANCIAL INDEBTEDNESS OF PEOPLE WHO SIMPLY HAVE NO MEANS OF SUPPORTING THEMSELVES. THE LOCAL ORDINANCES PROLONG HOMELESSNESS BY MAKING IT MORE DIFFICULT FOR PEOPLE TO SECURE HOUSING, EMPLOYMENT, AND MEDICAL CARE.

(f) WHILE THESE LOCAL ORDINANCES APPLY TO ALL RESIDENTS OF A CITY OR MUNICIPALITY, THEY DISPROPORTIONATELY IMPACT PEOPLE EXPERIENCING HOMELESSNESS. THEY ARE OFTEN SELECTIVELY ENFORCED AGAINST PEOPLE BASED UPON THEIR APPEARANCE OR AN ASSUMPTION OF HOMELESSNESS.

(g) PROHIBITING LOCAL GOVERNMENTS FROM PASSING OR ENFORCING LAWS THAT

DISPROPORTIONATELY IMPACT PERSONS EXPERIENCING HOMELESSNESS, OR THAT HAVE THE DIRECT INTENT TO IMPACT PERSONS EXPERIENCING HOMELESSNESS, ALLOWS LOCAL GOVERNMENTS TO REDIRECT RESOURCES AND SHIFT THE FOCUS FROM LAW ENFORCEMENT TO POSITIVE APPROACHES THAT DIRECTLY ADDRESS HOMELESSNESS AND POVERTY.

#### 24-4.5-103. Definitions.

AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES: "DISCRIMINATION BASED ON HOUSING STATUS" MEANS ANY DISTINCTION, EXCLUSION, OR RESTRICTION BASED SOLELY ON WHETHER AN INDIVIDUAL HAS A FIXED OR REGULAR RESIDENCE. "DISCRIMINATION BASED ON HOUSING STATUS" ALSO INCLUDES ANY ACTION THAT DISPROPORTIONATELY IMPACTS PERSONS OF A PARTICULAR HOUSING STATUS. MEASURES TAKEN TO ENSURE EQUAL ENJOYMENT OR TO EXERCISE THE HUMAN RIGHT TO REST ARE NOT CONSIDERED DISCRIMINATORY.

(2) "DISTRICT" MEANS A BUSINESS IMPROVEMENT DISTRICT AS DEFINED IN SECTION 31-25-1203 (3), C.R.S. 11

(3) "DISTRICT AGENT" MEANS A PERSON HIRED BY A DISTRICT.

(4) "HARASSMENT" MEANS A KNOWING OR WILLFUL COURSE OF CONDUCT BY LAW ENFORCEMENT, PUBLIC OR PRIVATE SECURITY PERSONNEL, OR A DISTRICT AGENT THAT IS DIRECTED AT A SPECIFIC PERSON AND THAT A REASONABLE PERSON WOULD CONSIDER SERIOUSLY ALARMING, THREATENING, TORMENTING, OR TERRORIZING, OR CONDUCT THAT PREVENTS OR DISRUPTS A PERSON CONDUCTING NONCRIMINAL ACTIVITIES FOR THE PURPOSE OF MAKING THE PERSON MOVE ALONG.

(5) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN SECTION 42-1-102 (58), C.R.S., AND INCLUDES AUTOMOBILES, CAMPER TRAILERS, COMMERCIAL VEHICLES, AND MOTOR HOMES, AS THOSE MOTOR VEHICLES ARE DEFINED IN SECTION 42-1-102, C.R.S.

(6) "PERSON EXPERIENCING HOMELESSNESS" MEANS A PERSON WHO DOES NOT

HAVE A  
FIXED OR REGULAR RESIDENCE AND WHO MAY LIVE ON THE STREET OR OUTDOORS,  
IN A  
HOMELESS SHELTER OR OTHER TEMPORARY RESIDENCE, IN A VEHICLE, OR IN AN  
ENCLOSURE OR STRUCTURE THAT IS NOT AUTHORIZED OR FIT FOR HUMAN  
HABITATION.

(7) "PUBLIC SPACE" MEANS ANY PROPERTY THAT IS OWNED, IN WHOLE OR IN PART,  
BY A STATE OR LOCAL GOVERNMENT ENTITY, OR ANY PROPERTY UPON WHICH  
THERE IS  
AN EASEMENT FOR PUBLIC USE, AND THAT IS OPEN TO THE PUBLIC, INCLUDING  
PLAZAS, COURTYARDS, PARKING LOTS, SIDEWALKS, PUBLIC TRANSPORTATION  
FACILITIES AND SERVICES, PUBLIC BUILDINGS, SHOPPING CENTERS, AND PARKS.  
WHEN USED IN THE CONTEXT OF AN ENCLOSED BUILDING OR STRUCTURE, THE  
TERM  
"PUBLIC SPACE" APPLIES ONLY WHEN THE BUILDING OR STRUCTURE IS OPEN TO  
THE  
PUBLIC.

(8) "REST" MEANS THE STATE OF NOT MOVING AND HOLDING 11 CERTAIN POSTURES  
THAT INCLUDE SITTING, STANDING, LEANING, KNEELING, SQUATTING, SLEEPING, OR  
LYING DOWN. 13 24-4.5-104.

Protected rights of persons experiencing homelessness – prohibition of  
laws, rules, regulations, and ordinances that abridge rights. (1) A PERSON  
EXPERIENCING HOMELESSNESS IS PERMITTED TO USE PUBLIC SPACE IN THE SAME  
MANNER AS ANY OTHER PERSON AND IS TO BE FREE FROM DISCRIMINATION ON THE  
BASIS OF HOUSING STATUS.

(2) THE STATE OF COLORADO AND THE COUNTIES, CITIES, MUNICIPALITIES, AND  
OTHER SUBDIVISIONS OF THE STATE ARE ENCOURAGED NOT TO ENACT ANY LAW,  
ORDINANCE, RULE, OR REGULATION THAT LIMITS, PROHIBITS, OR PENALIZES: (a)  
THE RIGHT TO USE AND MOVE FREELY IN PUBLIC SPACES;

(b) THE RIGHT TO REST IN PUBLIC SPACES AND PROTECT ONESELF FROM THE  
ELEMENTS IN A MANNER THAT DOES NOT OBSTRUCT THE USE OF OR ACCESS TO  
PRIVATE  
PROPERTY;

(c) THE RIGHT TO EAT, SHARE, ACCEPT, OR GIVE FOOD IN ANY PUBLIC SPACE WHERE  
FOOD IS NOT PROHIBITED;

(d) THE RIGHT TO OCCUPY A PERSON'S OWN MOTOR VEHICLE OR OCCUPY A MOTOR  
VEHICLE WITH THE OWNER'S PERMISSION, PROVIDED THAT THE MOTOR VEHICLE IS

LEGALLY PARKED ON PUBLIC PROPERTY OR PARKED ON PRIVATE PROPERTY WITH THE PERMISSION OF THE PROPERTY OWNER; AND

(e) THE RIGHT TO A REASONABLE EXPECTATION OF PRIVACY ON ONE'S PERSONAL PROPERTY IN PUBLIC SPACES TO THE SAME EXTENT AS PERSONAL PROPERTY IN A PRIVATE RESIDENCE OR OTHER PRIVATE PLACE.

(3) THE STATE, AND ANY COUNTY, CITY, MUNICIPALITY, OR OTHER SUBDIVISION THAT HAS LAWS, ORDINANCES, RULES, OR REGULATIONS THAT LIMIT, PROHIBIT, OR PENALIZE ANY OF THE ACTIVITIES SET FORTH IN SUBSECTION (2) OF THIS SECTION SHALL CEASE ENFORCEMENT OF SUCH LAWS, ORDINANCES, RULES, OR REGULATIONS UPON THE EFFECTIVE DATE OF THIS SECTION.

(4) EVERY PERSON HAS THE RIGHTS ENUMERATED IN SUBSECTION (2) OF THIS SECTION AND MAY EXERCISE THOSE RIGHTS WITHOUT BEING SUBJECT TO CRIMINAL OR CIVIL SANCTIONS OR HARASSMENT BY LAW ENFORCEMENT, PUBLIC OR PRIVATE SECURITY PERSONNEL, OR DISTRICT AGENTS. 21 24-4.5-105.

Liability. THE PROVISIONS OF THIS ARTICLE DO NOT CREATE AN OBLIGATION ON THE PART OF ANY PROVIDER OF SERVICES TO PERSONS EXPERIENCING HOMELESSNESS TO PROVIDE SHELTER OR OTHER SERVICES WHEN NO SUCH SERVICES ARE AVAILABLE OR WHEN THE RULES OR POLICIES OF THE PROVIDER DISQUALIFY THE PERSON FROM RECEIVING SERVICES. ###