

A

HB1067\_L.004

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Local Government.

HB18-1067 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

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

ARTICLE 4.5

Colorado Right to Rest Act

7 24-4.5-101. **Short title.** THE SHORT TITLE OF THIS ARTICLE 4.5 IS  
8 THE "COLORADO RIGHT TO REST ACT".

9 24-4.5-102. **Legislative declaration.** (1) THE GENERAL  
10 ASSEMBLY FINDS AND DECLARES THAT:

11 (a) MANY PERSONS EXPERIENCE HOMELESSNESS BECAUSE OF  
12 ECONOMIC HARDSHIP, A SEVERE SHORTAGE OF SAFE AND AFFORDABLE  
13 HOUSING, THE INABILITY TO SECURE GAINFUL EMPLOYMENT, AND A  
14 DISINTEGRATING AND SHRINKING SOCIAL SAFETY NET;

15 (b) RESPONDING TO THE GROWING CRISIS OF HOMELESSNESS WITH  
16 CRIMINAL SANCTIONS TO PUSH PEOPLE WHO ARE HOMELESS OUT OF PUBLIC  
17 SPACES AND INTO COURTS AND JAILS IS INHUMANE AND VIOLATES BASIC  
18 CONSTITUTIONAL, CIVIL, AND HUMAN RIGHTS OF PEOPLE WHO ARE  
19 HOMELESS. IT IS ALSO COSTLY AND INEFFECTIVE AT REDUCING  
20 HOMELESSNESS.

21 (c) CITIES THROUGHOUT COLORADO ARE ENACTING AND  
22 ENFORCING LAWS AND ORDINANCES THAT CRIMINALLY OR CIVILLY PUNISH  
23 BASIC ACTS OF SURVIVAL. SUCH LAWS AND ORDINANCES RESULT IN PEOPLE  
24 BEING CRIMINALLY OR CIVILLY PUNISHED FOR DOING WHAT ANY PERSON  
25 MUST DO TO SURVIVE.

26 (d) LOCAL ORDINANCES OF THIS KIND DO NOT REDUCE  
27 HOMELESSNESS OR CRIME. INSTEAD, THEY INCREASE INCARCERATION  
28 RATES AND THE FINANCIAL INDEBTEDNESS OF PEOPLE WHO ARE HOMELESS.  
29 MOREOVER, THE COLLATERAL CONSEQUENCES OF THESE ORDINANCES  
30 PROLONG HOMELESSNESS BY MAKING IT MORE DIFFICULT FOR PEOPLE TO  
31 SECURE NEEDED HOUSING, EMPLOYMENT, BENEFITS, AND MEDICAL CARE.

32 (e) WHILE THESE LOCAL ORDINANCES APPLY TO ALL RESIDENTS OF  
33 A CITY OR MUNICIPALITY, THEY DISPROPORTIONATELY IMPACT PEOPLE  
34 WHO ARE HOMELESS AND WHO HAVE NO PRIVATE OR LAWFUL PLACE TO  
35 REST, SHELTER THEMSELVES, STORE THEIR BELONGINGS, OR SEEK  
36 NOURISHMENT. THESE LOCAL ORDINANCES ARE OFTEN ENFORCED WITH  
37 DISCRIMINATORY INTENT AGAINST PEOPLE WHO ARE HOMELESS BASED  
38 UPON THEIR APPEARANCE OR OTHER INDICATORS OF THEIR HOUSING  
39 STATUS, OR THE LOCAL ORDINANCES HAVE A DISCRIMINATORY IMPACT ON  
40 PEOPLE BASED ON THEIR HOUSING STATUS.

41 (f) IN PRACTICE, THESE LOCAL ORDINANCES THREATEN THE

1 HEALTH AND WELL-BEING OF PEOPLE WHO ARE HOMELESS BY DEPRIVING  
2 PEOPLE WHO ARE HOMELESS OR PERCEIVED AS HOMELESS OF A SAFE AND  
3 LEGAL PLACE TO REST, SHELTER THEMSELVES, STORE BELONGINGS, AND  
4 SEEK NOURISHMENT;

5 (g) LACKING THE RESOURCES NECESSARY TO OBTAIN ADEQUATE  
6 LEAL REPRESENTATION, PEOPLE WHO ARE HOMELESS ARE OFTEN DENIED  
7 ACCESS TO JUSTICE TO REDRESS CONSTITUTIONAL, CIVIL, OR HUMAN  
8 RIGHTS VIOLATIONS;

9 (h) THE FEDERAL GOVERNMENT, THROUGH ITS INTERAGENCY  
10 COUNCIL ON HOMELESSNESS, AND THE UNITED NATIONS HAVE  
11 RECOGNIZED THAT CRIMINALIZING HOMELESSNESS VIOLATES THE  
12 CONSTITUTIONAL AND HUMAN RIGHTS OF PEOPLE WHO ARE HOMELESS,  
13 INCLUDING THE RIGHT TO BE FREE FROM CRUEL AND UNUSUAL  
14 PUNISHMENT. THE FEDERAL GOVERNMENT AND THE UNITED NATIONS  
15 HAVE CALLED UPON GOVERNMENTS TO CEASE ENACTMENT AND  
16 ENFORCEMENT OF SUCH LAWS.

17 (i) GUARANTEEING THE RIGHT TO REST IN PUBLIC SPACES ALLOWS  
18 MUNICIPAL GOVERNMENTS TO REDIRECT RESOURCES FROM LOCAL  
19 ENFORCEMENT ACTIVITIES TO ACTIVITIES THAT ADDRESS THE ROOT  
20 CAUSES OF HOMELESSNESS, DISPLACEMENT OF PEOPLE WHO ARE  
21 HOMELESS, AND POVERTY.

22 (2) THE GENERAL ASSEMBLY DECLARES THAT THE INTENT OF THIS  
23 ACT IS TO GUARANTEE THE RIGHT TO REST, AS DEFINED IN SECTION  
24 24-4.5-103 (8), AND TO PROHIBIT DISCRIMINATION BASED ON HOUSING  
25 STATUS.

26 **24-4.5-103. Definitions.** AS USED IN THIS ARTICLE 4.5, UNLESS  
27 THE CONTEXT OTHERWISE REQUIRES:

28 (1) "DISCRIMINATIONBASED ON HOUSING STATUS" REFERS TO ANY  
29 LAW, POLICY, OR PRACTICE REGULATING PUBLIC SPACE THAT RESULTS IN  
30 DISPARATE TREATMENT OR HAS A DISPARATE IMPACT ON PEOPLE WHO ARE  
31 HOMELESS OR PERCEIVED AS HOMELESS, AS DEFINED IN THIS SECTION.

32 (2) "DISPLACE" MEANS REMOVING A PERSON WHO IS HOMELESS  
33 FROM A PUBLIC SPACE THAT THE PERSON CONSIDERS HIS OR HER  
34 DWELLING.

35 (3) "HARASSMENT" HAS THE SAME MEANING AS SET FORTH IN  
36 SECTION 18-9-111. "HARASSMENT" ALSO MEANS A KNOWING OR WILLFUL  
37 COURSE OF CONDUCT BY LAW ENFORCEMENT OR PUBLIC OR PRIVATE  
38 SECURITY PERSONNEL OR AGENTS THAT IS DIRECTED AT A SPECIFIC PERSON  
39 AND THAT A REASONABLE PERSON WOULD CONSIDER PESTERING,  
40 TROUBLING, DISTURBING, OR THREATENING.

41 (4) "HOMELESS" MEANS ANY OF THE FOLLOWING:

42 (a) LACKING A FIXED, REGULAR, AND ADEQUATE RESIDENCE;

43 (b) SHARING THE HOUSING OF OTHER PERSONS DUE TO LOSS OF

1 HOUSING, ECONOMIC HARDSHIP, OR SIMILAR REASONS;  
2 (c) LIVING IN MOTELS, HOTELS, OR CAMPING GROUPS DUE TO A  
3 LACK OF ADEQUATE ALTERNATIVE ACCOMMODATIONS;  
4 (d) LIVING IN AN EMERGENCY OR TRANSITIONAL SHELTER;  
5 (e) LIVING IN A MOTOR VEHICLE OF ANY KIND, AS DEFINED IN  
6 SUBSECTION (5) OF THIS SECTION;  
7 (f) LIVING IN AN ENCLOSURE OR STRUCTURE THAT IS NOT MEANT  
8 FOR HUMAN HABITATION, BUT THAT A PERSON CONSIDERS HIS OR HER  
9 DWELLING; AND  
10 (g) AWAITING FOSTER CARE PLACEMENT.  
11 (5) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN  
12 SECTION 42-1-102 (58), AND INCLUDES:  
13 (a) CAMPER TRAILERS, AS DEFINED IN SECTION 42-1-102 (14);  
14 (b) COMMERCIAL VEHICLES, AS DEFINED IN SECTION 42-1-102  
15 (17.5); AND  
16 (c) MOTOR HOMES, AS DEFINED IN SECTION 42-1-102 (57).  
17 (6) "NON-OBSTRUCTIVE MANNER" MEANS IN A MANNER THAT DOES  
18 NOT RENDER PASSAGEWAYS IMPASSABLE OR HAZARDOUS.  
19 (7) "PUBLIC SPACE" MEANS ANY OUTDOOR PROPERTY THAT IS  
20 OWNED OR LEASED BY A STATE OR LOCAL GOVERNMENT ENTITY OR ANY  
21 PROPERTY UPON WHICH THERE IS AN EASEMENT FOR PUBLIC USE.  
22 (8) "REST" MEANS THE STATE OF NOT MOVING AND HOLDING  
23 CERTAIN POSTURES IN A NON-OBSTRUCTIVE MANNER AND INCLUDES, BUT  
24 IS NOT LIMITED TO, SITTING, STANDING, LEANING, KNEELING, SQUATTING,  
25 SLEEPING, OR LYING DOWN. IT ALSO INCLUDES LIFE-SUSTAINING  
26 ACTIVITIES CONDUCTED IN CONJUNCTION WITH REST, INCLUDING EATING  
27 AND SHELTERING ONESELF IN A NON-OBSTRUCTIVE MANNER.  
28 **24-4.5-104. Protected rights.** (1) EVERY PERSON HAS THE  
29 FOLLOWING RIGHTS IN PUBLIC SPACES WITHOUT BEING SUBJECT TO  
30 CRIMINAL OR CIVIL PENALTIES OR HARASSMENT:  
31 (a) THE RIGHT TO REST IN A NON-OBSTRUCTIVE MANNER;  
32 (b) THE RIGHT TO SHELTER ONESELF FROM THE ELEMENTS IN A  
33 NON-OBSTRUCTIVE MANNER;  
34 (c) THE RIGHT TO EAT, SHARE, ACCEPT, OR GIVE FOOD IN ANY  
35 PUBLIC SPACE WHERE FOOD IS NOT PROHIBITED;  
36 (d) THE RIGHT TO OCCUPY A MOTOR VEHICLE, PROVIDED THAT THE  
37 MOTOR VEHICLE IS LEGALLY PARKED ON PUBLIC PROPERTY OR PARKED ON  
38 PRIVATE PROPERTY WITH THE PERMISSION OF THE PROPERTY OWNER; AND  
39 (e) THE RIGHT TO A REASONABLE EXPECTATION OF PRIVACY IN  
40 ONE'S PERSONAL PROPERTY.  
41 (2) DISCRIMINATION BASED ON HOUSING STATUS IS PROHIBITED.  
42 (3) THE STATE AND ANY COUNTY, CITY, MUNICIPALITY, OR OTHER  
43 SUBDIVISION IS EXEMPT FROM THE PROVISIONS OF SUBSECTION (1)(a) OF

1 THIS SECTION IF THE STATE, COUNTY, CITY, MUNICIPALITY, OR OTHER  
2 SUBDIVISION CAN DEMONSTRATE THAT THE WAITING LISTS FOR ALL LOCAL  
3 PUBLIC HOUSING AUTHORITIES, OR COMPARABLE AGENCIES, CONTAIN  
4 FEWER THAN FIFTY PERSONS. THE POSSESSION OF A HOUSING VOUCHER IS  
5 NOT COUNTED AS HAVING HOUSING UNTIL A LEASE HAS BEEN SIGNED AND  
6 APPROVED BY INSPECTORS FROM THE HOUSING AUTHORITY, OR  
7 COMPARABLE AGENCY, DOCUMENTING THAT THE DOMICILE MEETS ALL  
8 HEALTH AND SAFETY CODES.

9 **24-4.5-105. Enforcement.** A PERSON WHOSE RIGHTS HAVE BEEN  
10 VIOLATED PURSUANT TO THIS ARTICLE 4.5 MAY SEEK ENFORCEMENT OF  
11 THOSE RIGHTS IN A CIVIL ACTION. THE COURT MAY AWARD APPROPRIATE  
12 INJUNCTIVE AND DECLARATORY RELIEF, RESTITUTION FOR LOSS OF  
13 PROPERTY, AND ACTUAL AND COMPENSATORY DAMAGES OF UP TO ONE  
14 THOUSAND DOLLARS PER VIOLATION. THE COURT MAY AWARD  
15 REASONABLE ATTORNEYS FEES AND COSTS TO THE PREVAILING PARTY.

16 **24-4.5-106. Severability.** THIS ARTICLE 4.5 MUST BE LIBERALLY  
17 CONSTRUED TO ACHIEVE ITS PURPOSES AND PRESERVE ITS VALIDITY. IF  
18 ANY PROVISION OR CLAUSE OF THIS ARTICLE 4.5 OR APPLICATION THEREOF  
19 TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, SUCH INVALIDITY  
20 DOES NOT EFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE  
21 4.5 THAT CAN BE GIVEN FULL EFFECT WITHOUT THE INVALID PROVISION OR  
22 APPLICATION. TO THIS END, THE PROVISIONS OF THIS ARTICLE 4.5 ARE  
23 DECLARED SEVERABLE AND ARE INTENDED TO HAVE INDEPENDENT  
24 VALIDITY.

25 **SECTION 2. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, and safety."

\*\* \*\* \*\* \*\* \*\*