

SENATE BILL 49

E2, L6
SB 484/25 – JPR

(PRE-FILED)

6lr1365
CF HB 104

By: Senator Muse

Requested: October 28, 2025

Introduced and read first time: January 14, 2026

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Unhoused Individuals – Rights and Affirmative Defense**

3 FOR the purpose of establishing that unhoused individuals have certain rights relating to
4 engaging in life-sustaining activities; prohibiting certain governmental entities,
5 government officials, or government agents from imposing certain penalties for
6 exercising a right established under this Act or for offering certain aid to unhoused
7 individuals on or about public places; establishing an affirmative defense of necessity
8 for certain criminal prosecutions relating to trespass or disturbing the peace;
9 repealing the authority of a municipality to prohibit vagrancy; and generally relating
10 to unhoused individuals.

11 BY adding to

12 Article – Courts and Judicial Proceedings

13 Section 3–2701 through 3–2705 to be under the new subtitle “Subtitle 27. Rights of
14 Unhoused Individuals”

15 Annotated Code of Maryland

16 (2020 Replacement Volume and 2025 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Local Government

19 Section 5–207

20 Annotated Code of Maryland

21 (2013 Volume and 2025 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SUBTITLE 27. RIGHTS OF UNHOUSED INDIVIDUALS.

2 3-2701.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (B) (1) "ADEQUATE ALTERNATIVE INDOOR SPACE" MEANS AN INDOOR
6 SPACE THAT:

11 (II) IS AVAILABLE INDEFINITELY TO AN UNHOUSED INDIVIDUAL
12 AT NO CHARGE AND WITHOUT REQUIRING A DAILY REAPPLICATION;

13 (III) IS COMPLIANT WITH THE FEDERAL AMERICANS WITH
14 DISABILITIES ACT; AND

15 (IV) IS ABLE TO ACCOMMODATE:

2. SUPPORT INDIVIDUALS; AND

26 (C) (1) "LIFE-SUSTAINING ACTIVITY" MEANS MOVING, RESTING,
27 SITTING, STANDING, LYING DOWN, SLEEPING, EATING, DRINKING, OR PROTECTING
28 ONESELF FROM THE ELEMENTS.

1 (D) "MOTOR VEHICLE" HAS THE MEANING STATED IN § 11-135 OF THE
2 TRANSPORTATION ARTICLE.

3 (E) (1) "PUBLIC PLACE" MEANS:

10 (2) "PUBLIC PLACE" INCLUDES:

11 (I) A PLAZA;

12 (II) A COURTYARD;

13 (III) A PARKING LOT;

14 (IV) A SIDEWALK;

15 (V) A PUBLIC TRANSPORTATION FACILITY;

16 (VI) A PUBLIC BUILDING;

17 (VII) A SHOPPING CENTER;

(VIII) AN UNDERPASS OR OTHER LAND ADJACENT TO A ROADWAY;

19 AND

20 (IX) A PARK.

21 (F) "RECREATIONAL VEHICLE" HAS THE MEANING STATED IN § 15-1001 OF
22 THE TRANSPORTATION ARTICLE.

23 (G) (1) "UNHOUSED INDIVIDUAL" MEANS AN INDIVIDUAL WHO LACKS A
24 FIXED, REGULAR, AND ADEQUATE NIGHTTIME RESIDENCE.

25 (2) "UNHOUSED INDIVIDUAL" INCLUDES AN INDIVIDUAL WHO:

3 (II) LIVES IN A MOTEL, A HOTEL, A TRAILER PARK, OR CAMPING
4 GROUNDS DUE TO A LACK OF ACCESS TO AN ADEQUATE ALTERNATIVE INDOOR
5 SPACE;

6 (III) LIVES IN AN EMERGENCY OR TRANSITIONAL SHELTER;

7 (IV) LIVES IN A PLACE UNFIT FOR HUMAN HABITATION;

8 (v) LIVES IN A CAR, A PARK, AN ABANDONED BUILDING,
9 SUBSTANDARD HOUSING, A TRANSPORTATION STATION, OR A SIMILAR SETTING;

(vi) IS A MINOR ABANDONED IN A HOSPITAL; OR

(VII) IS A MINOR AWAITING A FOSTER CARE PLACEMENT.

12 3-2702.

20 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COURTS
21 SHALL LIBERALLY CONSTRUE THIS SUBTITLE TO MAXIMIZE THE PROTECTIONS
22 AFFORDED BY IT TO UNHOUSED INDIVIDUALS IN THE STATE.

23 3-2703.

(A) ALL UNHOUSED INDIVIDUALS HAVE THE RIGHT TO:

25 (1) BE ON OR ABOUT PUBLIC PLACES WITHIN THE STATE WITHOUT
26 BEING DISCRIMINATED AGAINST ON THE BASIS OF ACTUAL OR PERCEIVED HOUSING
27 STATUS:

1 (I) HINDER OR OBSTRUCT THE ORDINARY COURSE OF A
2 PRIVATE OR PUBLIC ENTITY; OR

23 (8) RETRIEVE ITEMS FROM A TOWED MOTOR VEHICLE OR
24 RECREATIONAL VEHICLE;

1 (B) THE STATE, AN AGENCY OF THE STATE, A POLITICAL SUBDIVISION OF
2 THE STATE, OR AN OFFICIAL OR AGENT OF THE STATE, AN AGENCY OF THE STATE,
3 OR A POLITICAL SUBDIVISION OF THE STATE ACTING UNDER COLOR OF LAW MAY
4 NOT:

5 (1) IMPOSE CIVIL OR CRIMINAL PENALTIES AGAINST AN UNHOUSED
6 INDIVIDUAL FOR EXERCISING A RIGHT DESCRIBED UNDER SUBSECTION (A) OF THIS
7 SECTION; OR

8 (2) IMPOSE A CIVIL OR CRIMINAL PENALTY AGAINST ANY INDIVIDUAL
9 FOR SOLICITING, SHARING, ACCEPTING, OR OFFERING FOOD, WATER, MONEY, OR
10 OTHER DONATIONS TO UNHOUSED INDIVIDUALS ON OR ABOUT PUBLIC PLACES.

11 (C) THE STATE, AN AGENCY OF THE STATE, A POLITICAL SUBDIVISION OF
12 THE STATE, OR AN OFFICIAL OR AGENT OF THE STATE ACTING UNDER COLOR OF
13 LAW MAY ARREST OR IMPOSE CIVIL OR CRIMINAL PENALTIES ON AN UNHOUSED
14 INDIVIDUAL WHO HAS ENGAGED IN CRIMINAL ACTIVITY THAT IS NOT A PROTECTED
15 ACTIVITY UNDER SUBSECTION (A) OF THIS SECTION.

16 3-2704.

17 (A) THIS SECTION APPLIES TO A PROSECUTION FOR:

18 (1) CRIMINAL TRESPASS UNDER § 6-402, § 6-409, OR § 6-410 OF THE
19 CRIMINAL LAW ARTICLE OR A SIMILAR LOCAL LAW OR ORDINANCE; AND

20 (2) DISTURBING THE PEACE OR DISORDERLY CONDUCT UNDER §
21 10-201 OF THE CRIMINAL LAW ARTICLE OR ANY SIMILAR LOCAL LAW OR
22 ORDINANCE.

23 (B) IN A PROSECUTION FOR AN OFFENSE LISTED IN SUBSECTION (A) OF THIS
24 SECTION, A DEFENDANT MAY ASSERT AN AFFIRMATIVE DEFENSE OF NECESSITY IF:

25 (1) THE DEFENDANT COMMITTED THE ALLEGED CRIMINAL ACT
26 WHILE ENGAGING IN A LIFE-SUSTAINING ACTIVITY; AND

27 (2) THE DEFENDANT, AT THE TIME OF COMMITTING THE CRIMINAL
28 ACT, WAS NOT OFFERED ACCESS TO AN ADEQUATE ALTERNATIVE INDOOR SPACE
29 AND A REASONABLE STORAGE OPTION FOR PERSONAL PROPERTY.

30 (C) A DEFENSE OF NECESSITY RAISED IN ACCORDANCE WITH SUBSECTION
31 (B) OF THIS SECTION CREATES A REBUTTABLE PRESUMPTION THAT AN ADEQUATE
32 ALTERNATIVE INDOOR SPACE WAS NOT AVAILABLE TO THE DEFENDANT.

1 3-2705.

2 THE PROVISIONS OF THIS SUBTITLE SHALL SUPERSEDE ANY LOCAL LAW OR
3 ORDINANCE COMPARABLE IN SUBJECT MATTER EXCEPT TO THE EXTENT THAT THE
4 LOCAL LAW OR ORDINANCE PROVIDES BROADER APPLICABILITY OR MORE
5 PROTECTIONS FOR UNHOUSED INDIVIDUALS THAN THIS SUBTITLE.

6 **Article – Local Government**

7 5-207.

8 (a) A municipality may establish and maintain:

9 (1) a fire department; and

10 (2) a police force.

11 (b) A municipality may:

12 (1) provide for the removal of fire hazards;

13 (2) control the use and handling of dangerous and explosive materials; and

14 (3) prevent the discharge of firearms or other explosive instruments.

15 (c) A municipality may:

16 (1) pay rewards for information relating to crime committed in the
17 municipality;

18 (2) prohibit [vagrancy,] vice, gambling, and houses of prostitution in the
19 municipality;

20 (3) enforce all ordinances relating to disorderly conduct and nuisances
21 equally:

22 (i) within the municipality; and

23 (ii) up to one-half mile outside the municipal limits, except where
24 there is a conflict with the powers of another municipality; and

25 (4) prohibit minors from being on the streets and in public places at certain
26 hours of the night.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
2 the application of any provision of this Act to any person or circumstance is held invalid for
3 any reason in a court of competent jurisdiction, the invalidity does not affect other
4 provisions or any other application of this Act that can be given effect without the invalid
5 provision or application, and for this purpose the provisions of this Act are declared
6 severable.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2026.