



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**ELIZABETH HILLIARD**  
DIRECTOR OF GOVERNMENT RELATIONS

## **POSITION ON PROPOSED LEGISLATION**

**BILL:** House Bill 432 – Municipalities – Vagrancy – Repeal of Authority to Prohibit

**FROM:** Maryland Office of the Public Defender

**POSITION:** FAVORABLE

**DATE:** February 3, 2026

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The Maryland Office of the Public Defender (MOPD) urges the Committee to issue a favorable report on House Bill 432, which repeals municipal authority to prohibit “vagrancy.”

### **Office of the Public Defender’s Support for HB 432**

The MOPD is constitutionally mandated to provide legal representation to individuals who cannot afford counsel, overwhelmingly people who are poor, unhoused, or otherwise marginalized. Every day, our attorneys and staff represent Marylanders charged with low-level public-order offenses—loitering, trespass, disorderly conduct, and related charges—that operate much like vagrancy laws by targeting visible poverty and homelessness rather than specific harmful conduct.<sup>1</sup> Our clients are disproportionately impacted by the laws and policies that criminalize poverty, homelessness, and marginalization.<sup>2</sup>

Vagrancy laws historically criminalize the very conditions of poverty and homelessness—“wandering from place to place” without a home, job, or “visible means of support”—rather than acts that threaten public safety.<sup>3</sup> The people and communities served by the MOPD are indigent, disproportionately Black, and disproportionately unhoused or housing-insecure; they are precisely the people swept into the criminal legal system by vagrancy-style enforcement. When municipalities criminalize sleeping in public and loitering, they criminalize basic survival and virtually guarantee that more of MOPD’s clients will face arrest, prosecution, and collateral consequences for simply being poor in public. HB 432 is a focused but important reform: it removes an archaic, status-based power that primarily harms unhoused and over-policed communities while leaving municipalities with ample authority to address genuine public-safety concerns.

### **The History of Vagrancy Laws**

Vagrancy laws, rooted in English poor laws that punished people for being unhoused, unemployed, or “wandering” rather than for committing specific crimes, have long been used as a tool of social and labor control. Despite civil-rights-era constitutional scrutiny, the logic of vagrancy has persisted in Maryland in the form of broad municipal powers under Local Government § 5-207 to ‘prohibit vagrancy’—a power the General Assembly’s own Racial Equity Impact Statement defines as covering ‘sleeping in public, loitering, and begging/panhandling’—and in related ordinances that criminalize basic survival activities

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<sup>1</sup> Maryland Office of the Public Defender, “Mission and Values,” accessed January 29, 2026, <https://opd.state.md.us/mission-and-values>.

<sup>2</sup> Maryland Office of the Public Defender, “Decarceration Initiative,” accessed January 29, 2026, <https://opd.state.md.us/decarceration-initiative>.

<sup>3</sup> VAGRANCY, Black’s Law Dictionary (11th ed. 2019)

by unhoused people.<sup>4</sup> HB 432 would remove only the vagrancy clause while leaving other public-safety powers intact. This targeted repeal recognizes that vagrancy, unlike the other enumerated powers, is inherently tied to criminalizing status and poverty rather than specific harmful conduct. This history of criminalizing status and poverty—rather than conduct—helps explain why vagrancy laws have consistently fallen hardest on Black people and unhoused communities.

### **Racial Equity and the Criminalization of Homelessness**

Vagrancy laws were a key part of Jim Crow Laws and Black Codes, adopted by most former Confederate and slave-holding states after the Civil War and the 13th Amendment. Modeled on slave laws, these laws aimed to restrict the movement of emancipated African Americans and push them into low-wage, debt-based labor<sup>5</sup>. Vagrancy laws allowed for the arrest of Black people for minor infractions, enabling convict leasing—a system where Black men convicted of vagrancy were used as unpaid labor, effectively re-enslaving them.<sup>6</sup> Black Codes sought to control Black labor and social behavior, leading to increased policing of Black communities. Laws against loitering and vagrancy formed the foundation of this social control. Maryland passed vagrancy and apprentice laws requiring Black people to obtain licenses from White people before doing business.<sup>7</sup> In both historical and modern forms, vagrancy and related status offenses have functioned less as neutral tools of public order than as mechanisms for policing Black presence, poverty, and mobility. Vagrancy-style laws continue to disproportionately affect Black people in Maryland. Data from the Maryland Department of Housing and Community Development, as referenced in the Maryland General Assembly’s Racial Equity Impact Statement for HB487/SB 484, indicate that Black people accounted for 57% of the state's unhoused population in 2024, despite representing only 29% of the overall population. In contrast, White individuals constituted 28% of the unhoused and about 47% of the total population.<sup>8</sup> These disparities highlight that reforms aimed at decriminalizing homelessness could help alleviate the persistent challenges faced by Black people who experience homelessness and its root causes at significantly higher rates. Removing the power of local governments to criminalize vagrancy can be one tool in addressing the documented overrepresentation of Black Marylanders in this crisis.

### **Key Benefits of HB 432**

The MOPD believes that passing HB 432 will yield several significant benefits:

- **Reducing the criminalization of poverty and homelessness:** By eliminating municipal authority to prohibit vagrancy, HB 432 restricts the use of status-based offenses that penalize people for being poor, unhoused, or visibly in need rather than for harmful conduct.
- **Enhancing constitutional compliance and fairness:** Repealing the vagrancy clause helps Maryland follow modern laws that protect the rights of all, especially marginalized groups

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<sup>4</sup> Maryland General Assembly, Department of Legislative Services. Unhoused Individuals – Rights, Civil Action, and Affirmative Defense (SB 484) Racial Equity Impact Note, 2025 Regular Session. Annapolis, MD: Department of Legislative Services, April 2, 2025.

<sup>5</sup> Hansan, J.E. (2011). Jim Crow laws and racial segregation. Social Welfare History Project. Accessed January 29, 2026 from <https://socialwelfare.library.vcu.edu/eras/civil-war-reconstruction/jim-crow-laws-andracial-segregation/>

<sup>6</sup> Williams, Hubert, and Patrick V. Murphy. The evolving strategy of police: A minority view. No. 13. US Department of Justice, Office of Justice Programs, National Institute of Justice, 1990.

<sup>7</sup> Ranney, *In the Wake of Slavery* (2006), p. 17. "Between 1795 and 1810, Maryland enacted vagrancy laws similar to Delaware's; required free blacks to obtain certificates of good character from local officials in order to sell products or keep hunting equipment; and allowed its courts to apprentice children of destitute or unfit black parents to white masters."

<sup>8</sup> Maryland Department of Housing and Community Development. DHCD Presentation to the Joint Committee on Ending Homelessness. Presentation to the Joint Committee on Ending Homelessness, Maryland General Assembly, Annapolis, MD, October 30, 2024.

- **Advancing racial equity:** HB 432 aims to reduce a key factor behind the persistent and cyclical homelessness faced by Black Marylanders.

### **Conclusion**

House Bill 432 represents a crucial and long-overdue step toward ending the criminalization of poverty and homelessness in Maryland and aligning the State's laws with principles of constitutional and racial equity. The Maryland Office of the Public Defender believes that meaningful reform is not only appropriate but essential, particularly for the communities we serve. Because vagrancy-style enforcement targets exactly these communities, we strongly urge the Committee to issue a favorable report on HB 432.

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**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

**Authored by: Kirsten Gettys Downs**  
**Director of Systemic Reform**  
**Maryland Office of the Public Defender**  
[Kirsten.Downs@maryland.gov](mailto:Kirsten.Downs@maryland.gov)