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TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: HB 0564 – Municipalities – Vagrancy – Repeal of Authority to Prohibit
(Support)

The Office of the Attorney General urges a favorable report of House Bill 564. Vice Chair Moon's bill would repeal the authority of a municipality to prohibit vagrancy. Vagrancy is defined as "roam[ing] from place to place without a permanent job, home, or material resources."¹ Essentially, these laws criminalize being homeless.²

Homelessness is not a choice; rather, people experience homelessness because they lack choices.³ Moreover, criminalizing homelessness is costly, yet ineffective in addressing homelessness, as a vagrancy conviction makes it harder for homeless individuals to regain stability.⁴

The Supreme Court has invalidated statutes prohibiting vagrancy, finding such statutes are unconstitutionally vague, as they do not provide fair notice that such conduct is forbidden and they encourage arbitrary enforcement.⁵ Other courts have held convictions for life-sustaining conduct like sleeping or sheltering oneself constitute cruel and unusual punishment and violate

¹ LEGAL INFORMATION INSTITUTE, *Vagrant: Definition*, CORNELL UNIVERSITY, <https://www.law.cornell.edu/wex/vagrant#:~:text=Definition,a%20violation%20of%20due%20process>.

² Eric S. Tars, *Criminalization of Homelessness – 2022 Advocates Guide*, NATIONAL LOW INCOME HOUSING COALITION (2022), https://nlihc.org/sites/default/files/2022-03/2022AG_6-08_Criminalization-of-Homelessness.pdf.

³ *See id.*

⁴ *Id.*

⁵ *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972).

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us

due process protections.⁶ As such, municipalities should no longer have the authority to implement anti-vagrancy statutes.

For the foregoing reasons, the Office of the Attorney General urges a favorable report of House Bill 564.

cc: Committee Members

⁶ See Tars, *supra* note 2; See also Martin v. City of Boise, 920 F.3d 584 (9th Cir. 2019).