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## MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

### MEMORANDUM

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
William R. Vormelker  
410-260-1561  
**RE:** House Bill 487  
Unhoused Individuals - Rights, Civil Action, and  
Affirmative Defense  
**DATE:** January 30, 2025  
(2/12)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 487. The Judiciary takes no position on the bill's policy aim of increasing the rights of the unhoused, as that falls within the legislature's constitutional authority to make public policy. The bill however includes several provisions which would have operational impacts on the Judiciary and are constitutionally problematic.

The bill declares that "threatening or imposing civil or criminal punishments on unhoused individuals for undertaking life-sustaining activities...violates the protection against cruel and unusual punishment and excessive fines guaranteed by Article 25 of the Declaration of Rights." This declaration poses separation-of-powers concerns because the legislature is determining when a constitutional right has been violated, which is a judicial function.

Further, the definition of "unhoused individual" is not clear and may lead to potential equal protection conflicts under the 14th Amendment. This definition is also broad such that it would annul all existing trespass laws.

The bill also mandates certain judicial action as it requires the court to award the costs of litigation, including a reasonable attorney's fee, to a prevailing plaintiff in a civil action brought by or on behalf of an unhoused individual. This provision limits a judge's discretion to award a remedy they believe is appropriate.

Finally, the bill creates several statutory rights for all unhoused individuals. Two of these rights are the right to engage in life-sustaining activities on or about public places, and the right to use and move freely in public places without being discriminated against on the basis of actual or perceived housing status. Under the bill, it may be the case that unhoused individuals would have the right to engage in life-sustaining activities and move freely in Judiciary facilities, such as courthouses, and areas adjacent to Judiciary facilities, like courtyards. This could create substantial operational difficulties for the court.

cc. Hon. Bernice Mireku-North  
Judicial Council  
Legislative Committee  
Kelley O'Connor