



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Testimony in Support of House Bill 104: Unhoused Individuals - Rights and Affirmative Defense
February 3rd, 2026

Madam Chair Bartlett, Madam Vice Chair Davis, and esteemed members of the Judiciary Committee, it is my pleasure to come before you and offer testimony in favor of **House Bill 104: Unhoused Individuals - Rights and Affirmative Defense**. This bill builds on the work begun last session with [House Bill 487](#).

For centuries, vagrancy laws have criminalized poverty and perceived “suspicious” presence rather than specific conduct, historically serving as a tool of social control over marginalized communities. In 2024, the Supreme Court in *City of Grants Pass, Oregon v. Johnson* ruled that cities may enforce laws banning camping or sleeping in public places, even when unhoused individuals have no access to alternative shelter. The Court held that such ordinances do not violate the Eighth Amendment’s prohibition on cruel and unusual punishment because they regulate conduct rather than a person’s status.

This decision, in practice, permits cities to penalize unhoused people for sleeping in public places. Under current law, civil and criminal penalties can be imposed on unhoused individuals – with little to no recourse – simply for occupying a public space. Furthermore, they can be forced to move, even if there is no safe place for them to go. While not every law enforcement agency or jurisdiction does this, there is no law prohibiting this practice.

House Bill 104 is a direct response to the Supreme Court’s decision in *City of Grants Pass, Oregon v. Johnson* and seeks to address this issue more humanely. The bill permits law enforcement to remove an unhoused individual from a public space only if adequate shelter is available and the individual can be transported to that location. It is important to clarify that HB 104 is not a license for criminal activity. Rather, it protects the rights of unhoused individuals to engage in essential, life-sustaining activities—such as moving, resting, sitting, standing, lying down, sleeping, eating, drinking, and protecting themselves from the elements—in public spaces. Law enforcement retains the ability to rely on traditional tools, including trespass or disorderly conduct charges, when circumstances require.


As of 2024, 6,089 experienced homelessness on any given night in Maryland, nearly one-third of whom are families with children, followed by adults over 55 years old. Those people may be charged with vagrancy-related offenses, arrested, shortly released, and returned to homelessness, sometimes facing fines or warrants that create further challenges in their lives.

Being unhoused disproportionately impacts Black Marylanders. While only 31% of Marylanders are Black, they constitute 60% of the unhoused population. Being unhoused also disproportionately impacts seniors in Maryland, with a 77 percent increase in adults over age 65 facing homelessness in our State.

Homelessness can affect individuals from all walks of life. An unhoused person may be a lawyer experiencing a mental health crisis, an individual struggling with substance use disorder, or a young family evicted from their home with no alternative but to live in their car. House Bill 104 is intended to protect individuals facing such hardships while remaining mindful of public safety. The recent Supreme Court decision, threats to federal funding for Continuum of Care programs (which states like Maryland have had to defend in court) and the ongoing shortage of affordable housing together serve as a call to action for Maryland to establish minimum statewide standards for how localities treat unhoused individuals. At a minimum, this bill seeks to ensure that jail is not the first response to homelessness. While some jurisdictions already take this approach, there is currently no statewide standard removing incarceration as an option. For example, in Montgomery County, the Department of Health and Human Services proactively identifies shelter options and supportive resources before further police intervention becomes necessary.

I am happy to work with stakeholders to build on this legislation. I welcome further amendments to clarify what constitutes “adequate” shelter and to balance the interests of local businesses and residents with those of unhoused individuals. Recognizing that local jurisdictions face unique challenges, we remain open to refining these provisions. While any solution requires fiscal commitment, there is choice in where we spend our resources. Providing shelter, for example, costs money, but incarcerating unhoused individuals costs even more.

For these reasons, I respectfully ask for a favorable report on House Bill 104.


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