



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

TO: The Honorable Sandy Bartlett, Chair and  
Members of the Judiciary Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee  
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 3, 2026

RE: **HB 104 Unhoused Individuals – Rights, Civil Action, and Affirmative Defense**  
POSITION: **OPPOSE**

The Maryland Chiefs of Police and the Maryland Sheriffs' Association (MCPA-MSA) **OPPOSE HB 104**. HB 104 establishes rights that unhoused individuals have in engaging in life-sustaining activities, while authorizing civil action to be taken against any government agents or entities that attempt to violate the rights established within the bill.

MCPA-MSA firmly believe that the unhoused population of Maryland are valuable members of our communities and deserve to be treated with respect and dignity. Similarly, *all* Marylanders, whether housed or unhoused, are entitled to safe environments and to the use and enjoyment of all public places. MCPA-MSA understand that the government has an important role to play in providing necessary aid to the unhoused population. Law enforcement agencies across the State have robust partnerships with local organizations that provide shelter, sustenance, and assistance to the unhoused with a goal of service and support. There is much work being done, there is more to be done, and MCPA-MSA are honored to continue doing the work.

However, HB 104 mandates an approach that has proven to be a failure in other jurisdictions that have incorporated it across the country. This bill calls for the allowance of unhoused individuals to sleep or take shelter in an “unobtrusive”, a word undefined by the bill, manner on public land such as parks, courtyards, parking lots, sidewalks, public buildings, underpasses, shopping centers, etc. Furthermore, the bill provides that unhoused individuals are able to engage in life-sustaining activities provided that the activities do not “obstruct the normal movement of pedestrians or vehicles”, however this unclear language does not define “normal movement”. The broad language and lack of clarity within this bill raises extreme concern. In addition, this bill’s allotment for a state agency or a state agent to have a civil action brought against them for violating the rights within this bill, and its unclear language, is incredibly alarming to the MCPA-MSA.

532 Baltimore Boulevard, Suite 308  
Westminster, Maryland 21157  
667-314-3216 / 667-314-3236

The grave consequences that will be created by the implementation of HB 104 were recently discussed at length by the United States Supreme Court in *City of Grants Pass v. Johnson*, 603 U.S. 520 (2024). Similarly to HB 104, the Ninth Circuit had forbidden municipalities from enforcing certain criminal laws against unhoused individuals unless the municipality could demonstrate access to alternate shelter. In like manner, HB 104 and the Ninth Circuit ground their approaches on a misunderstanding of a constitutional prohibition against “cruel and unusual punishment.”<sup>1</sup> Enforcing quality of life, mitigating public nuisance, and upholding public safety laws as it pertains to unhoused individuals simply do not surpass the threshold necessary to constitute cruel and unusual punishment.

The Supreme Court concluded their opinion in *City of Grants Pass* with this observation: “Yes, people will disagree over which policy responses are best; they may experiment with one set of approaches only to find later another set works better; they may find certain responses more appropriate for some communities than others. But in our democracy, that is their right.” 603 U.S. at 561. Our position is that the experiment of HB 104 should not be supported in Maryland and will undoubtedly have unintended consequences that will negatively impact generations of Marylanders to come. For these reasons, MCPA-MSA strongly **OPPOSE HB 104** and urge an **UNFAVORABLE** committee report.

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<sup>1</sup> HB 104 specifically refers to Article 25 of Maryland’s Declaration of Rights which provides, “That excessive bail ought not to be required; nor excessive fines imposed, nor cruel or unusual punishment inflicted, by the Courts of Law.” “Article 25 is, textually and historically, substantially identical to the Eighth Amendment. Indeed, both of them were taken virtually verbatim from the English Bill of Rights of 1689. Thus, it is well settled in this State that Article 25 is in *pari materia* with the Eighth Amendment.” *Aravanis v. Somerset County*, 339 Md. 644, 656 (1995).