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HB 104 – Unhoused Individuals – Rights and Affirmative Defense

Hearing in the Judiciary Committee, February 3, 2026

Position: Favorable

Community Legal Services supports HB 104, which would prevent individuals from being subject to civil and criminal charges for the “crime” of having no shelter available to them. In other words, this bill prevents the criminalization of being homeless.

Community Legal Services (CLS) is dedicated to promoting equal access to justice for underrepresented individuals and families in Maryland. We provide free, high-quality legal services to those who would otherwise lack access to legal help or representation in court. Our services encompass many areas of law, including housing, employment, and family law matters.

Through our advocacy, we have observed that even brief periods of homelessness can have devastating consequences for our clients’ future prospects, affecting their ability to secure housing, obtain employment, and maintain relationships with their children. When arrest and resulting criminal records are piled on top of the experience of homelessness, the negative effects of homelessness are multiplied, creating insurmountable barriers to success for individuals trying to get out of homelessness and into stable, productive living conditions.

Unhoused individuals often have no choice but to seek shelter in public or private spaces, yet they are frequently arrested and charged simply for trying to survive. These criminal records make it even harder for them to support themselves and their families, and to secure housing and employment, trapping them and often their children in cycles of poverty. By allowing a necessity defense, HB 104 acknowledges that homelessness is not a crime and ensures that people are not punished for circumstances beyond their control. Repealing local vagrancy laws further prevents municipalities from using outdated policies to criminalize poverty.

CLS urges a favorable report on HB 104 to ensure Maryland takes a just and humane approach to addressing homelessness - one that prioritizes the development of solutions over punishment. Please reach out to Executive Director, Jessica Quincosa or Director of Litigation and Advocacy, Lisa Sarro with questions (quincosa@clspgc.org and sarro@clspgc.org).

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