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BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne Pelz
410-260-1523
RE: House Bill 104
Unhoused Individuals – Rights and
Affirmative Defense
DATE: January 21, 2026
(2/3)
POSITION: Oppose

The Judiciary takes no position on the bill's policy aim of increasing the rights of the unhoused, but opposes House Bill 104 given its operational impact on the Judiciary and the safety and security concerns attendant thereto.

The bill creates several statutory rights for all "unhoused individuals," which is broadly defined and required to be "liberally construed" under the bill's provisions. 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. The broad language suggests that individuals would have the right to engage in certain activities and move freely in all public places, including courthouses and adjacent courtyards. This unfettered access creates substantial operational and security difficulties, interfering with the ability to ensure the safety of personnel and the citizens accessing our courts. The bill further provides a right to privacy in personal property stored on or about public places to the same extent as personal property stored in private dwellings. This would appear to limit

the ability to conduct normal security screenings at courthouse entries and other public areas.

The bill also prohibits civil and criminal enforcement for certain individuals in certain places. This broad language includes traffic and parking enforcement, which may interfere with the ability to ensure a safe and orderly avenue for ingress and egress at public buildings. The bill also creates a necessity defense if an individual was not offered certain resources but does not make provisions for such resources. As such, it is unclear how that defense would be generated or demonstrated.

Finally, the bill declares that “threatening or imposing civil or criminal punishments on unhoused individuals for undertaking life-sustaining activities...violates unhoused individuals’ right to be free from cruel and unusual punishment and excessive fines guaranteed by Article 25 of the Declaration of Rights.” This legislative declaration of a constitutional violation usurps the Judiciary’s constitutional authority, posing separation-of-powers concerns.

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