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POSITION ON PROPOSED LEGISLATION

BILL: HB104 Unhoused Individuals-Rights and Affirmative Defense

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 1/30/2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a **favorable** report on HB104.

This bill aims to protect people experiencing homelessness from being criminalized when they have no access to shelter and are simply trying to survive. It clearly states that unhoused individuals have certain rights and that courts should interpret those laws in a way that maximizes protections for vulnerable populations and does not punish poverty. If a vulnerable and unhoused person is charged with a low-level offense, like trespassing or disturbing the peace, this bill allows for an affirmative defense to be raised demonstrating they were unhoused or that their conduct was necessary for survival. Namely, sleeping, resting or seeking shelter in public spaces due to lack of reasonable shelter or safe alternatives. And this bill repeals the authority of local enforcement to criminalize homelessness against people sleeping outdoors or in public spaces when no shelter exists. In sum, this bill protects human beings who are desperately in need of community support, not criminalization of survival-based conduct related to homelessness. Criminalization leads to the confiscation of essential personal belongings, damages physical and mental health, and exacerbates racism and bias, as communities of color are disproportionately affected by these policies.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB104.

Submitted by: Maryland Office of the Public Defender, Government Relations

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