



House Bill 104

Unhoused Individuals – Rights and Affirmative Defense

MACo Position: **OPPOSE**

To: Judiciary Committee

Date: February 3, 2026

From: Sarah Sample

The Maryland Association of Counties (MACo) **OPPOSES** HB 104. This bill attempts to offer new protections for unhoused individuals but inadvertently has the potential to exacerbate an already difficult situation for those experiencing housing insecurity. Additionally, it bars certain types of local interventions that are designed to keep communities and unhoused individuals safe. As such, the consequences for local authority as well as public health and safety are significant and worrisome.

HB 104 has multiple local effects:

- preempts local authority to enforce local ordinances and policies;
- creates a new cause of action against local governments that can expose them to significantly increased liability and insurance premiums; and
- increases the threat to community health and safety as well as operating costs to manage those threats.

Historic challenges like the housing crisis, opioid epidemic, and surge in mental and behavioral health issues have all led to an increase in the number of unhoused individuals. Local jurisdictions have gone to great lengths to build out services, which entailed making substantial investments in facilities, social workers, human services teams, public health divisions, and public safety units. However, while local jurisdictions have continued to make considerable progress, the challenge is great. The provisions of this bill make it more difficult to provide these life-saving services and could be a major setback for these ongoing efforts.

The adequate housing standard in the bill is of specific concern. Many existing shelter facilities, while being safe and accessible, will not have accommodations that meet the standards of the bill. In these circumstances, local agencies will have limited options for intervention without the risk of significant civil liability. Worse, these policies could result in keeping more individuals unhoused for longer. The public health crisis will become even more dire in areas where large numbers of individuals are permitted to congregate on public lands, to take life-sustaining actions, including but not limited to expelling human waste.

The ban on enforcement of certain policies and ordinances eliminates a tool local authorities use to encourage participation in services and programs as well as ensure safety. Not all unhoused

individuals are willing to accept help, especially those suffering from drug and alcohol addiction. While penalties for vagrancy are rarely issued, they can encourage program participation, especially when, understandably, the concept can be very uncomfortable for someone who is struggling.

Counties can appreciate that HB 104 is attempting to mitigate perceived harm, but in reality, it exposes communities and local governments to catastrophic repercussions at a time when urgent and practical solutions are needed now more than ever. This bill would compromise local efforts, while exposing communities to more danger. For these reasons, MACo **OPPOSES** HB 104.