



House Bill 104

Unhoused Individuals- Rights and Affirmative Defense

In the Judiciary Committee

Hearing on February 3rd, 2026

Position: FAVORABLE

Maryland Legal Aid submits its testimony on HB104 at the request of Delegate Mireku-North.

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including housing, family law, public benefits, bankruptcy and other debt collection matters, and criminal record expungements.

MLA urges a favorable report on H104. No Marylander should face criminal penalties simply because they are unhoused.

In 2024, the United States Supreme Court ruled that local governments can arrest or fine people for sleeping outside, even when adequate shelter is unavailable.¹ This decision emboldened cities across the country to introduce over 320 bills criminalizing unhoused people. Nearly 220 have passed.²

HB104 ensures Maryland communities will not criminalize homelessness. Under its provisions, any legislation that criminalizes life-sustaining activities, such as sleeping or taking shelter in an unobtrusive manner on public land, violates the Maryland Declaration of Rights. The bill protects the right of unhoused individuals to use public places to move, rest, sit, stand, lie down, sleep, eat, drink, or protect themselves or their personal property from weather – unless an adequate alternative indoor space and transportation to that space is made available.

HB104 offers critical protections as Maryland's housing crisis worsens.

MLA represents people facing eviction throughout Maryland. When we speak of the importance of representation in cases of eviction in court, it is because we understand the imminent risk of homelessness associated with these cases. In 2025, MLA represented over 3,000 clients in eviction cases. When MLA asks clients if they have a plan

¹ *City of Grants Pass v. Johnson*, 603 U.S. 520 (2024).

² *One Year Since Grants Pass: Tracking the Criminalization of Homelessness*, American Civil Liberties Union (Jan. 27, 2026), <https://www.aclu.org/one-year-since-grants-pass-tracking-the-criminalization-of-homelessness>.

if their case results in eviction, almost 1-in-5 report their only alternative is sleeping in a shelter or homelessness.

Maryland's housing shortfalls have the most disparate impact on our vulnerable neighbors. Low-income seniors in Maryland outnumber the available subsidized apartments designated for them. The lowest-income renter households face significant housing gaps.³ There is not enough affordable housing available to renters earning less than 30% of Area Median Income; 610 affordable homes are missing for every 1,000 households in this category. In 2022, 45.5% of renters were cost burdened in Maryland. Households are considered cost-burdened when they spend more than 30% of their income on rent or other housing costs. For black households in Maryland, this figure was 48%.

Without the passage of HB104, Marylanders will face not only the challenges of homelessness, but also the burden of a criminal record, based solely on living in poverty, with its many collateral consequences. MLA assists hundreds of Marylanders with criminal record expungement each year. We see firsthand that criminal charges are a direct impediment to securing employment, loans, and education opportunities, as well as housing.

With a budget already stretched past capacity, Maryland cannot forgo the opportunity to divert more individuals away from the costly carceral system and avoid unnecessary additional costs. It has been well established that enforcement of these practices is expensive.⁴ One study from New York City reported a savings of \$1.3 billion if the city had housed people instead of incarcerating them.⁵ Another, from Charlotte, describes a savings of \$2.4 million over one year, after the city created a housing facility for the unhoused, rather than shuffling them between shelters, emergency rooms, and jails.⁶

Maryland Legal Aid urges a **favorable report on HB104**. If you have any questions please contact Zafar Shah, Advocacy Director for Human Right to Housing (zshah@mdlab.org), or Amanda Wisniewski, Community Outreach Manager (acwisniewski@mdlab.org) .

³ National Center for Smart Growth, *Maryland Housing Needs Assessment Update* (Summer 2025), <https://dhcd.maryland.gov/Documents/Research/Compiled-Report-SHNA-2025.pdf>.

⁴ National Alliance to End Homelessness, *Criminalizing Homelessness Worsens the Crisis* (Feb. 4, 2025), https://endhomelessness.org/wp-content/uploads/2025/02/CriminalizingWorsensTheCrisis_NAEH_2-4-25.pdf.

⁵ Bennett Allen & Michelle L Nolan, *Impact of a Homeless Encampment Closure on Crime Complaints in the Bronx, New York City, 2017: Implications for Municipal Policy*, 19 *Journal of Evidence-Based Social Work* 356-366 (2022).

⁶ Mark Price, *UNC Charlotte report: Homeless project saved city \$2.4 Million*, *Charlotte Observer*, (May 4, 2015).