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MEMORANDUM

DATE: January 29, 2016

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: S.B. 134 (Homeless Bill of Rights)

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 134 which provides persons experiencing homelessness protection from discrimination while on the streets and when seeking access to housing, employment, and temporary shelter as necessary to end their episode of homelessness. This Bill amends Title 6 by adding Chapter 78, "Homeless Persons Bill of Rights," which provides basic legal and civil protections and ensures equal treatment for persons experiencing homelessness in Delaware. SCPD endorses the proposed legislation given the high incidence of persons with disabilities in the homeless.

As background, similar legislation creating a bill of rights for homeless individuals has been passed in a few states (e.g. Rhode Island; Illinois) and municipalities. See attached November 7, 2015 Wikipedia article. In 2013, the Delaware Homeless Planning Council issued a report which included a recommendation to promote adoption of a homeless bill of rights in Delaware (Executive Summary and excerpt attached). The report (at p. 8) discusses the prevalence of persons with disabilities among the homeless population. In June, 2014, legislation (H.B. 373) was introduced to establish such a bill of rights. It was tabled in the House Housing and Community Affairs Committee.

S.B. 134 is identical to the House bill tabled in 2014. It is intended to prevent discrimination based on homelessness in a variety of contexts, including using public places, seeking employment, applying for housing, seeking temporary shelter, and voting. Local governments would be barred from enacting ordinances or regulations inconsistent with the listed rights (e.g. overbroad vagrancy laws). An aggrieved person could file a civil action for and obtain damages and attorney's fees for violations of the law.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position and observations on the proposed legislation.

cc: Homeless Planning Council
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

SB 134 homeless bill of rights 1-27-16

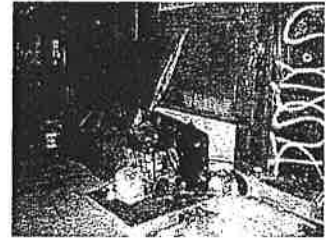
Homeless Bill of Rights

From Wikipedia, the free encyclopedia

The **Homeless Bill of Rights** (also **Homeless Person's Bill of Rights** and **Acts of Living bill**) refers to legislation protecting the civil and human rights of homeless people. These laws affirm that homeless people have equal rights to medical care, free speech, free movement, voting, opportunities for employment, and privacy. Legislation of this type has become law in Rhode Island, Connecticut and Illinois and is under consideration by several other U.S. states.

Contents

- 1 Controversy over Legislation Affecting the Homeless
- 2 Legislation in the United States
 - 2.1 Rhode Island
 - 2.2 Connecticut
 - 2.3 Illinois
 - 2.4 California
- 3 See also
- 4 References
- 5 External links



Homeless Bill of Rights laws affirm that people living on the street have a reasonable expectation of privacy in their property.

Controversy over Legislation Affecting the Homeless

An issue in homeless bills of rights are local codes that outlaw loitering, vagrancy, sitting or lying on the sidewalk, begging, eating in public, and other behaviors. These codes disproportionately affect homeless people.^[1]

The National Law Center on Homelessness and Poverty concludes its report on the "criminalization of homelessness" with an exhortation to change the laws:^[1]

Laws that criminalize visible homelessness are immoral and offend our basic human instincts. They are contrary to the fundamental religious and political principals from which the American people seek guidance, and their existence demonstrates that we have fallen vastly short of our religious and foundational aspirations.

Business interests, represented by the California Chamber of Commerce, have called Assemblymember Tom Ammiano's Homeless Person's Bill of Rights ^[2] a "job killer" which would create "costly and unreasonable mandates on employers."^[3] Some municipalities and local politicians also oppose the laws, which impose state authority to overturn local regulations. San Francisco Supervisor Scott Wiener commented:^[4]

Our local laws against forming encampments, passing out and blocking sidewalks, and otherwise monopolizing public spaces would be wiped off the books. Think we have a street behavior problem now? Just wait until this passes.

The *Los Angeles Times* suggested in an editorial that the Homeless Bill of Rights does not go far enough unless accompanied by economic resources allocated to provide housing.^[5] Joel John Roberts, CEO of People Assisting the Homeless, argued similarly that the Homeless Bill of Rights may be toothless and even enabling. Roberts writes:^[6]



The "Beds Not Bars" slogan suggests that society must help homeless people instead of outlawing their behavior.



Skid Row in Los Angeles is sometimes mentioned as an area that would deteriorate if homelessness was not regulated

There needs to be a balance between criminalizing homelessness with ordinances that persecute people who are forced to live on the street, and giving those same people the right to do whatever they want without any consequences.... A more powerful Bill of Rights for people who are homeless, however, would consist of one simple right: the right to housing.

Legislation in the United States

The idea of a "Homeless Bill of Rights" has been discussed periodically in the U.S., and was presented formally by a group of New York City ministers on Martin Luther King, Jr. Day, 1992.^[7] City Councilperson Peter Vallone introduced several versions of such a Bill in 1998, despite strong opposition from Mayor Rudy Giuliani.^[8]

Puerto Rico and some states have passed laws adding homeless people to their lists of groups protected against hate crimes.^[9]

Rhode Island

Rhode Island was the first state in the U.S. to pass a "Homeless Bill of Rights". John Joyce, who was homeless for a period in his life, is responsible for the initial introduction of the bill. The Rhode Island law, S-2052, was ratified in the state of Rhode Island on June 21, 2012 and signed into law by Governor Lincoln Chafee on June 27.^[10] It amends the Rhode Island Fair Housing Act with wording intended to protect the rights of homeless people and prevent discrimination against them. It is the first U.S. state-level law designed to protect the rights of homeless people.

Excerpt from Rhode Island bill S-2052

- 34-37.1-3. Bill of Rights. – No person's rights, privileges, or access to public services may be denied or abridged solely because he or she is homeless. Such a person shall be granted the same rights and privileges as any other resident of this state. A person experiencing homelessness:
 1. Has the right to use and move freely in public spaces, including, but not limited to, public sidewalks, public parks, public transportation and public buildings, in the same manner as any other person, and without discrimination on the basis of his or her housing status;
 2. Has the right to equal treatment by all state and municipal agencies, without discrimination on the basis of housing status;
 3. Has the right not to face discrimination while seeking or maintaining employment due to his or her lack of permanent mailing address, or his or her mailing address being that of a shelter or social service provider;
 4. Has the right to emergency medical care free from discrimination based on his or her housing status;
 5. Has the right to vote, register to vote, and receive documentation necessary to prove identity for voting without discrimination due to his or her housing status;
 6. Has the right to protection from disclosure of his or her records and information provided to homeless shelters and service providers to state, municipal and private entities without appropriate legal authority; and the right to confidentiality of personal records and information in accordance with all limitations on disclosure established by the Federal Homeless Management Information Systems, the Federal Health Insurance Portability and Accountability Act, and the Federal Violence Against Women Act; and
 7. Has the right to a reasonable expectation of privacy in his or her personal property to the same extent as personal property in a permanent residence.

The well-established Rhode Island Coalition for the Homeless (and a newer subgroup called Rhode Island Homeless Advocacy Project) collaborated with the more radical Occupy Providence group to lobby successfully for the Bill.^{[11][12]}

The law does not guarantee positive rights such as housing or food, and some homeless advocates are concerned that it has not had enough impact.^[13]

Connecticut

On June 5, the Connecticut Assembly passed a Homeless Bill of Rights (SB 896) with seven protections similar to those passed in Rhode Island. Pending signature by Governor Dan Malloy, the bill would take effect on October 1, 2013. The Connecticut law significantly includes freedom from police harassment in its first section.^[14]

Excerpt from Connecticut bill SB 896

(a) There is created a Homeless Person's Bill of Rights to guarantee that the rights, privacy and property of homeless persons are adequately safeguarded and protected under the laws of this state. The rights afforded homeless persons to ensure that their person, privacy and property are safeguarded and protected, as set forth in subsection (b) of this section, are available only insofar as they are implemented in accordance with other parts of the general statutes, state rules and regulations, federal law, the state Constitution and the United States Constitution. For purposes of this section, "homeless person" means any person who does not have a fixed or regular residence and who may live on the street or outdoors, or in a homeless shelter or another temporary residence.

(b) Each homeless person in this state has the right to:

1. Move freely in public spaces, including on public sidewalks, in public parks, on public transportation and in public buildings without harassment or intimidation from law enforcement officers in the same manner as other persons;
2. Have equal opportunities for employment;
3. Receive emergency medical care;
4. Register to vote and to vote;
5. Have personal information protected;
6. Have a reasonable expectation of privacy in his or her personal property; and
7. Receive equal treatment by state and municipal agencies.

(c) Each municipality shall conspicuously post in the usual location for municipal notices a notice entitled "HOMELESS PERSON'S BILL OF RIGHTS" that contains the text set forth in subsection (b) of this section.

Illinois

On August 22, 2013 Illinois became the second state to adopt a homeless bill of rights.^[15]

Excerpt from Illinois bill SB 1210

Section 10. Bill of Rights.

(a) No person's rights, privileges, or access to public services may be denied or abridged solely because he or she is homeless. Such a person shall be granted the same rights and privileges as any other citizen of this State. A person experiencing homelessness has the following rights:

1. the right to use and move freely in public spaces, including but not limited to public sidewalks, public parks, public transportation, and public buildings, in the same manner as any other person and without discrimination on the basis of his or her housing status;
2. the right to equal treatment by all State and municipal agencies, without discrimination on the basis of housing status;
3. the right not to face discrimination while seeking or maintaining employment due to his or her lack of permanent mailing address, or his or her mailing address being that of a shelter or social service provider;
4. the right to emergency medical care free from discrimination based on his or her housing status;
5. the right to vote, register to vote, and receive documentation necessary to prove identity for voting without discrimination due to his or her housing status;
6. the right to protection from disclosure of his or her records and information provided to homeless shelters and service providers to State, municipal, and private entities without appropriate legal authority; and the right to confidentiality of personal records and information in accordance with all limitations on disclosure established by the federal Homeless Management Information Systems, the federal Health Insurance Portability and Accountability Act, and the federal Violence Against Women Act; and
7. the right to a reasonable expectation of privacy in his or her personal property to the same extent as personal property in a permanent residence.

(b) As used in this Act, "housing status" has the same meaning as that contained in Section 1-103 of the Illinois Human Rights Act.

California

State Assemblymember Tom Ammiano (D-San Francisco) introduced a Homeless Person's Bill of Rights^[2] to the California Assembly in December 2012.^[16] In May 2013, the Appropriations Committee postponed debate until January 2014.^[4] Assemblymember Ammiano said in a statement that his bill was suspended largely because of the costs of setting up new infrastructure and enforcing the new rules.^[4] A report by the Chair of the Assembly Appropriations Committee estimates that setting up hygiene centers across the state would cost \$216 million, with ongoing operating costs of \$81 million annually.^[2] The report also estimates that setting up facilities for annual law enforcement reports would cost \$8.2 million, with ongoing operating costs of \$4.1 million annually.^[2] Without providing estimates, the report notes that other costs, some potentially significant, include those associated with the right to counsel conferred to the homeless for defending against infractions, and those associated with defending against lawsuits brought against cities by the homeless alleging violations of rights conveyed under the bill.^[2]

California's Homeless Bill of Rights (Right2Rest Act), SB 608, was introduced by Senator Carol Liu (D) in February 2015. The "Right to Rest Act," would, among other things, protect the rights of homeless people to move freely, rest, eat, perform religious observations in public space as well as protect their right to occupy a legally parked motor vehicle. Also refer to UC Berkeley's Policy Advocacy Clinic Presents: California's New Vagrancy Laws a New Report on the Growing Criminalization of Homeless People in California.

A vote was not rendered during the 2015 process in the Housing and Transportation Committee and was asked to come back for a vote in the next California legislation session with amendments in order to get the necessary votes and pass to the next house. Please refer to the Western Regional Advocacy Project (WRAP) in San Francisco, who drafted the legislation along with other homeless, housing, public/social policy advocates. The Right2Rest is the first of three campaigns in California's Homeless Bill of Rights (Right2Rest, Legal Representation, and Hygiene Centers). Both Oregon and Washington states have same/similar legislation and are working with WRAP to draft and pass a Homeless Bill of Rights in their perspective states. Homes should be a human right.

See also

- Bill of Rights
- Human rights in the United States
- Aggressive panhandling

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2. Assem. Bill No. 5 (2013-2014 Reg. Sess.) (http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB5)
3. "Updated homeless 'bill of rights' passes CA legislative committee (<http://blogs.sacbee.com/capitol/alert/latest/2013/04/updated-homeless-bill-of-rights-passes-committee.html>)"; *Sacramento Bee*, 23 April 2013.
4. T.J. Johnston, "State Homeless 'Bill of Rights' Put on Hold Until Next Year (<http://sfpublicpress.org/news/2013-05/state-homeless-bill-of-rights-put-on-hold-until-next-year>)"; *San Francisco Public Press*, 30 May 2013.
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8. Glenn Thrus, "Vallone Plans to Beat Rudy on Homeless Rights Bill (<http://www.citylimits.org/news/articles/504/vallone-plans-to-beat-rudy-on-homeless-rights-bill#.Ud7tBb8mz34>)", *City Limits*, 31 August 1998.
9. "Hate Crimes Against the Homeless: An Organizing Manual for Concerned Citizens (<http://www.nationalhomeless.org/publications/hatecrimes/hatecrimes>) *National Coalition for the Homeless*, January 2012.
10. "Hundreds celebrate signing of Homeless Bill of Rights". WPRO. 2012-06-27.
11. Robert Wengronowitz, "Lessons From Occupy Providence", *The Sociological Quarterly* 54(2), March 2013. Accessed via Wiley (<http://onlinelibrary.wiley.com/doi/10.1111/tsq.2013.54.issue-2/issue-3> July 2013. "OP would not have been able to negotiate the deal with the City without the decades-long effort by RICH and later RIHAP to create organizational infrastructure—for example, communication networks, development of coalitional relationships, and media contacts. In fact, RICH's infrastructure itself significantly supported the founding of RIHAP. Rhode Island became the first state to pass a Homeless Bill of Rights in late June 2012, an action less likely without RICH, RIHAP, OP, and their ability to work across differences. For instance, some RICH members were concerned that OP was "too radical," but OP was fortunate in that RICH considers seriously the concept of coalition building. Ryczek (2011, capitalization in original) defended the collaboration this way to RICH members: 'Coalitions rarely see eye to eye on each and every single factor concerning their common interests... We certainly...will not agree on all issues. Yet, where common ground and common goals DO exist it must be our role to move on such commonalities.'"
12. Mallory Moretti, "Occupy Prov. marches for homelessness: Governor allows tents on State House law (http://www.wpri.com/dpp/news/local_news/providence/occupy-providence-march-rally-for-homelessness-affordable-housing-in-rhode-island)"; *WPRI*, 10 December 2011.
13. Jake Grovum, "Nation's 1st Homeless Bill of Rights Slow to Cause Change in Rhode Island (<http://www.governing.com/news/state/sl-first-homeless-bill-of-rights.html>)", 12 November 2012.
14. Scott Keyes, "Connecticut Passes Landmark 'Homeless Person's Bill Of Rights' Law (<http://thinkprogress.org/justice/2013/06/12/2139181/connecticut-homeless/?mobile=nc>)", *ThinkProgress*, 12 June 2013.
15. <http://www.chicagohomeless.org/illinois-becomes-2nd-state-to-enact-a-homeless-bill-of-rights/>
16. Kevin Fagan, "Tom Ammiano backs homeless rights bill (<http://www.sfgate.com/news/article/Tom-Ammiano-backs-homeless-rights-bill-4091599.php>)"; *San Francisco Chronicle*, 4 December 2012.

External links

- Text (<http://webservice.rilin.state.ri.us/PublicLaws/law12/law12356.htm>) of the Rhode Island bill

- Text (<http://www.ilga.gov/legislation/fulltext.asp?DocName=09500HB1878eng&GA=95&SessionId=51&DocTypeId=HB&LegID=30714&DocNum=1878&GAID=9&Session=>) of the Illinois bill
- Interview (<http://occupiedprovidencejournal.wordpress.com/tag/homeless-bill-of-rights/>) with late Rhode Island homeless advocate John Joyce

Retrieved from "https://en.wikipedia.org/w/index.php?title=Homeless_Bill_of_Rights&oldid=689414556"

Categories: [Homelessness in the United States](#) | [Rhode Island law](#) | [Human rights instruments](#) | [Homelessness and law](#)

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Ending Discrimination for Delaware's Homeless

Protecting the Rights of Our Most Vulnerable Citizens

This report brings attention to the families and individuals in Delaware experiencing homelessness, or at risk of homelessness, who face discrimination due to their housing status, source(s) of income, and/or disability status while on the streets and when seeking access to housing, employment, and temporary shelter.

Prepared by the Policy Committee on Ending Homelessness in Delaware, a Working Group of the Homeless Planning Council of Delaware

March 2013

Policy Committee on Ending Homelessness in Delaware

A Working Group of the Homeless Planning Council of Delaware

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 - Delaware Interagency Council on Homelessness
- Charles Johnson
 - Founder of H.A.R.P., Homeless People Are Real People Too
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 - Director of Strategy for Post-Secondary Education - Stand By Me (Delaware Financial Empowerment Partnership)
- Susan Starrett
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Table of Contents

➤ Executive Summary.....	3
I. Homelessness	
A. System Goals.....	5
B. The Current State of Homelessness.....	6
C. Rhode Island’s Homeless Persons’ Bill of Rights.....	7
D. Equal Access to Temporary Shelter.....	8
E. The Criminalization of Homelessness.....	9
II. Housing	
A. The United States and The Human Right to Housing.....	11
B. Delaware’s Affordable Housing Crisis.....	12
C. Fair Housing: Housing Status and Source of Income.....	13
D. Equal Employment Opportunity.....	15
III. Policy Recommendations.....	17
Appendices	
Appendix A: Definitions.....	22
Appendix B: Housing Discrimination Chart.....	23
Appendix C: Employment Discrimination Chart.....	24
Appendix D: Criminalization Charts.....	25

EXECUTIVE SUMMARY

This report aims to bring the attention of Delaware legislators to the families and individuals experiencing homelessness, or at risk of homelessness, who face discrimination due to their housing status, source of income, and disability status while on the streets and when seeking access to housing, employment, and temporary shelter.¹ In July 2012, Rhode Island passed the first Homeless Persons' Bill of Rights in the nation, providing protections for all citizens of their State regardless of their housing status.

Discriminatory practices aggravate the problem by unnecessarily prolonging experiences of homelessness and burdening the State's criminal justice, homeless services, and human services systems. As part of a comprehensive strategy to prevent and end homelessness in Delaware we must ensure that persons experiencing and at risk of homelessness receive equal treatment under the law, and have equal access to the goods and services necessary to end their homelessness.

HOMELESSNESS, DISCRIMINATION, AND CRIMINALIZATION

➤ ***DISCRIMINATION IN ACCESS TO TEMPORARY SHELTER:*** Temporary shelters in Delaware discriminate against persons due to their disability status, whether physical or psychiatric disability. Unlike other citizens in Delaware, disabled persons experiencing or at risk of homelessness are subject to overt housing discrimination by the very system meant to serve them.

POLICY RECOMMENDATIONS:



- Develop a Homeless Persons' Bill of Rights for the State of Delaware that requires all shelter providers to comply with the American Disabilities Act and Delaware's Fair Housing Act.

➤ ***CRIMINALIZATION ON THE STREET:*** Persons living on the streets are vulnerable to policies that target the homeless for performing necessary life-sustaining activities (e.g. eating, sleeping, sitting, standing) that they have no option but to perform in public places. Laws that make it illegal to do things that persons experiencing homelessness must do as a result of their homeless status criminalize homelessness. Persons experiencing homelessness are frequently treated unequally by authorities with regards to their use of public space in our communities. This criminalization of homelessness

¹ See APPENDIX A: Definitions

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February 2013

places unnecessary burdens on Delaware's criminal justice system. It also saddles the homeless with fines they cannot afford, and criminal records that inhibit their ability to access housing, employment, and the essential human services they need to end their homelessness.

POLICY RECOMMENDATIONS:

- Develop a Homeless Persons' Bill of Rights for the State of Delaware that ensures equal treatment under the law, equal access to and use of public space for all Delaware citizens, regardless of their housing status.
- Pursue alternative justice system strategies to criminalization such as police training, human services and police department collaborations, police department homeless liaisons, and homeless diversion or community courts.
- Review municipal and state codes, and their enforcement, to ensure that laws do not unfairly target the homeless due to their housing status.

HOUSING AND EMPLOYMENT DISCRIMINATION

➤ ***FAIR HOUSING AND EQUAL EMPLOYMENT OPPORTUNITY:*** Persons experiencing or at risk of homelessness are frequently denied access to housing and employment for which they would otherwise be eligible due to practices by landlords and employers that discriminate against applicants based on their housing status and/or source(s) of income. These practices aggravate the problem by denying individuals and families equal opportunities to access the housing and income they need to end their homelessness.

POLICY RECOMMENDATIONS:

- Develop a Homeless Persons' Bill of Rights for the State of Delaware that protects all individuals and families in Delaware experiencing or at risk of homelessness from discrimination based on their housing status and source of income.
- Add "housing status" and "source(s) of income" to Delaware's Fair Housing Act and Delaware's Equal Opportunity Law.

In this Bill they define the term "housing status" as "the status of having or not having a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence."⁸

D. EQUAL ACCESS TO TEMPORARY SHELTER

The Fair Housing Amendments Act of 1988 (FHAA) prohibits discrimination in the sale or rental of housing on the basis of disability. As a result of the Olmstead settlement with the Department of Justice in July 2011, Delaware has made significant progress towards ensuring that individuals with a diagnosed psychiatric disability have access to permanent community-based housing. However, it is also necessary to ensure that psychiatrically and physically disabled persons experiencing or at risk of homelessness are protected from discrimination with regards to equal access to temporary shelter in situations of crisis. In this report, "temporary shelter" means any emergency, transitional, or temporary shelter provided to individuals and/or families experiencing homelessness by any federal, state, faith-based, non-profit, or private agency.

Eight hundred and forty-six (37%) of the adults served by Delaware's homeless services system in FY 2011 reported having a disability of long duration⁹. Approximately 10% of Delaware's homeless in 2011 were physically disabled.¹⁰ During Delaware's Registry Week in June 2012 for the 100,000 Homes Campaign, volunteers located and interviewed a total of 186 homeless individuals living on the streets in Delaware over the course of 3 mornings. Of those persons, 78% reported one or more behavioral health issue, while 40% reported a dual diagnosis of mental illness and substance abuse disorder.¹¹ In Delaware's 2012 Point in Time survey, 27% of individuals reported having a diagnosed mental illness, and 24% reported having a substance abuse problem.

Homeless individuals diagnosed with physical and psychiatric disabilities, including co-occurring disorders (recurring mental illness *and* recurring substance abuse disorder), are at greater risk of being denied access to shelter than the general homeless population in Delaware due to their disability

⁸ Rhode Island Homeless Persons' Bill of Rights, 34-37-3, 27-29

⁹ Homeless Planning Council of Delaware. (2012). Delaware HMIS FY2011 Data Report.

¹⁰ Homeless Planning Council of Delaware (2011). Point In Time Data.

¹¹ Homeless Planning Council of Delaware. (2012). Delaware Registry Week Community Brief Back Fact Sheet.