A BILL FOR AN ACT

CONCERNING THE CREATION OF THE "COLORADO RIGHT TO REST ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill creates the "Colorado Right to Rest Act", which establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property.
The bill prohibits discrimination based on housing status. The bill creates an exemption of the basic right to rest for people experiencing homelessness for any county, city, municipality, or subdivision that can demonstrate that, for 3 consecutive months, the waiting lists for all local public housing authorities contain fewer than 50 people.

The bill allows the general assembly to appropriate money from the marijuana tax cash fund to the department of local affairs for the purpose of enabling governmental entities that do not meet the exemption requirement to reduce the housing waiting lists to fewer than 50 people for at least 6 months per year.

The bill allows any person whose rights have been violated to seek enforcement in a civil action.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add article 4.5 to title 24 as follows:

ARTICLE 4.5

Colorado Right to Rest Act

24-4.5-101. Short title. The short title of this Article 4.5 is the "Colorado Right to Rest Act".

24-4.5-102. Legislative declaration. (1) The general assembly finds and declares that:

(a) Many people experience homelessness because of economic hardship, a severe shortage of safe and affordable housing, the inability to secure gainful employment, and a disintegrating and shrinking social safety net;

(b) Responding to the growing crisis of homelessness with criminal sanctions to push people who are homeless out of public spaces and into courts and jails is inhumane and violates basic constitutional, civil, and human rights of people who are homeless. It is also costly and ineffective at reducing
HOMELESSNESS.

(c) CITIES THROUGHOUT COLORADO ARE ENACTING AND ENFORCING ORDINANCES THAT CRIMINALLY OR CIVILLY PUNISH BASIC ACTS OF SURVIVAL. SUCH ORDINANCES RESULT IN PEOPLE BEING CRIMINALLY OR CIVILLY PUNISHED FOR DOING WHAT ANY PERSON MUST DO TO SURVIVE.

(d) LOCAL ORDINANCES OF THIS KIND DO NOT REDUCE HOMELESSNESS OR CRIME. INSTEAD, THEY INCREASE INCARCERATION RATES AND THE FINANCIAL INDEBTEDNESS OF PEOPLE WHO ARE HOMELESS. MOREOVER, THE COLLATERAL CONSEQUENCES OF THESE ORDINANCES PROLONG HOMELESSNESS BY MAKING IT MORE DIFFICULT FOR PEOPLE TO SECURE NEEDED HOUSING, EMPLOYMENT, BENEFITS, AND MEDICAL CARE.

(e) WHILE THESE LOCAL ORDINANCES APPLY TO ALL RESIDENTS OF A CITY OR MUNICIPALITY, THEY DISPROPORTIONATELY IMPACT PEOPLE WHO ARE HOMELESS AND WHO HAVE NO PRIVATE OR LAWFUL PLACE TO REST, SHELTER THEMSELVES, STORE THEIR BELONGINGS, OR SEEK NOURISHMENT. THESE LOCAL ORDINANCES ARE OFTEN ENFORCED WITH DISCRIMINATORY INTENT AGAINST PEOPLE WHO ARE HOMELESS BASED UPON THEIR APPEARANCE OR OTHER INDICATORS OF THEIR HOUSING STATUS, OR THE LOCAL ORDINANCES HAVE A DISCRIMINATORY IMPACT ON PEOPLE BASED ON THEIR HOUSING STATUS.

(f) IN PRACTICE, THESE LOCAL ORDINANCES THREATEN THE HEALTH AND WELL-BEING OF PEOPLE WHO ARE HOMELESS BY DEPRIVING PEOPLE WHO ARE HOMELESS OR PERCEIVED AS HOMELESS OF A SAFE AND LEGAL PLACE TO REST, SHELTER THEMSELVES, STORE BELONGINGS, AND SEEK NOURISHMENT;

(g) LACKING THE RESOURCES NECESSARY TO OBTAIN ADEQUATE
LEGAL REPRESENTATION, PEOPLE WHO ARE HOMELESS ARE OFTEN DENIED
ACCESS TO JUSTICE TO REDRESS CONSTITUTIONAL, CIVIL, OR HUMAN
RIGHTS VIOLATIONS;

(h) THE FEDERAL GOVERNMENT, THROUGH ITS INTERAGENCY
COUNCIL ON HOMELESSNESS, AND THE UNITED NATIONS HAVE
RECOGNIZED THAT CRIMINALIZING HOMELESSNESS VIOLATES THE
CONSTITUTIONAL AND HUMAN RIGHTS OF PEOPLE WHO ARE HOMELESS,
INCLUDING THE RIGHT TO BE FREE FROM CRUEL AND UNUSUAL
PUNISHMENT. THE FEDERAL GOVERNMENT AND THE UNITED NATIONS
HAVE CALLED UPON GOVERNMENTS TO CEASE ENACTMENT AND
ENFORCEMENT OF SUCH LAWS.

(i) GUARANTEEING THE RIGHT TO REST IN PUBLIC SPACES ALLOWS
MUNICIPAL GOVERNMENTS TO REDIRECT RESOURCES FROM LOCAL
ENFORCEMENT ACTIVITIES TO ACTIVITIES THAT ADDRESS THE ROOT
CAUSES OF HOMELESSNESS, DISPLACEMENT OF PEOPLE WHO ARE
HOMELESS, AND POVERTY.

(2) THE GENERAL ASSEMBLY DECLARES THAT THE INTENT OF THIS
ACT IS TO GUARANTEE THE RIGHT TO REST, AS DEFINED IN SECTION
24-4.5-103 (8), AND TO PROHIBIT DISCRIMINATION BASED ON HOUSING
STATUS.

24-4.5-103. Definitions. As used in this article 4.5, unless
the context otherwise requires:

(1) "DISCRIMINATION BASED ON HOUSING STATUS" REFERS TO ANY
LAW, POLICY, OR PRACTICE REGULATING PUBLIC SPACE THAT RESULTS IN
DISPARATE TREATMENT OR HAS A DISPARATE IMPACT ON PEOPLE WHO ARE
HOMELESS OR PERCEIVED AS HOMELESS, AS DEFINED IN THIS SECTION.

(2) "DISPLACE" MEANS REMOVING A PERSON WHO IS HOMELESS
FROM A PUBLIC SPACE THAT THE PERSON CONSIDERS HIS OR HER DWELLING.

(3) "HARASSMENT" HAS THE SAME MEANING AS SET FORTH IN SECTION 18-9-111. "HARASSMENT" ALSO MEANS A KNOWING OR WILLFUL COURSE OF CONDUCT BY LAW ENFORCEMENT OR PUBLIC OR PRIVATE SECURITY PERSONNEL OR AGENTS THAT IS DIRECTED AT A SPECIFIC PERSON AND THAT A REASONABLE PERSON WOULD CONSIDER PESTERING, TROUBLING, DISTURBING, OR THREATENING.

(4) "HOMELESS" MEANS ANY OF THE FOLLOWING:

(a) LACKING A FIXED, REGULAR, AND ADEQUATE RESIDENCE;
(b) SHARING THE HOUSING OF OTHER PEOPLE DUE TO LOSS OF HOUSING, ECONOMIC HARDSHIP, OR SIMILAR REASONS;
(c) LIVING IN MOTELS, HOTELS, OR CAMPING GROUPS DUE TO A LACK OF ADEQUATE ALTERNATIVE ACCOMMODATIONS;
(d) LIVING IN AN EMERGENCY OR TRANSITIONAL SHELTER;
(e) LIVING IN A MOTOR VEHICLE OF ANY KIND, AS DEFINED IN SUBSECTION (5) OF THIS SECTION;
(f) LIVING IN AN ENCLOSURE OR STRUCTURE THAT IS NOT MEANT FOR HUMAN HABITATION BUT THAT A PERSON CONSIDERS HIS OR HER DWELLING; OR
(g) AWAITING FOSTER CARE PLACEMENT.

(5) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN SECTION 42-1-102 (58) AND INCLUDES:

(a) CAMPER TRAILERS, AS DEFINED IN SECTION 42-1-102 (14);
(b) COMMERCIAL VEHICLES, AS DEFINED IN SECTION 42-1-102 (17.5); AND
(c) MOTOR HOMES, AS DEFINED IN SECTION 42-1-102 (57).
(6) "NONOBSTRUCTIVE MANNER" MEANS IN A MANNER THAT DOES
NOT RENDER PASSAGeways IMPASSABLE OR HAZARDOUS.

(7) "PUBLIC SPACE" MEANS ANY OUTDOOR PROPERTY THAT IS
OWNED OR LEASED BY A STATE OR LOCAL GOVERNMENTAL ENTITY OR ANY
PROPERTY UPON WHICH THERE IS AN EASEMENT FOR PUBLIC USE.

(8) "REST" MEANS THE STATE OF NOT MOVING AND HOLDING
CERTAIN POSTURES IN A NONOBSTRUCTIVE MANNER AND INCLUDES BUT IS
NOT LIMITED TO SITTING, STANDING, LEANING, KNEELING, SQUATTING,
SLEEPING, OR LYING DOWN. IT ALSO INCLUDES LIFE-SUSTAINING
ACTIVITIES CONDUCTED IN CONJUNCTION WITH REST, INCLUDING EATING
AND SHELTERING ONESELF IN A NONOBSTRUCTIVE MANNER.

24-4.5-104. Protected rights - exemptions - appropriation.

(1) EVERY PERSON HAS THE FOLLOWING RIGHTS IN PUBLIC SPACES
WITHOUT BEING SUBJECT TO CRIMINAL OR CIVIL PENALTIES OR
HARASSMENT:

(a) THE RIGHT TO REST IN A NONOBSTRUCTIVE MANNER;

(b) THE RIGHT TO SHELTER ONESELF FROM THE ELEMENTS IN A
NONOBSTRUCTIVE MANNER;

(c) THE RIGHT TO EAT, SHARE, ACCEPT, OR GIVE FOOD IN ANY
PUBLIC SPACE WHERE FOOD IS NOT PROHIBITED;

(d) THE RIGHT TO OCCUPY A MOTOR VEHICLE, PROVIDED THAT THE
MOTOR VEHICLE IS LEGALLY PARKED ON PUBLIC PROPERTY OR PARKED ON
PRIVATE PROPERTY WITH THE PERMISSION OF THE PROPERTY OWNER; AND

(e) THE RIGHT TO A REASONABLE EXPECTATION OF PRIVACY IN HIS
OR HER PERSONAL PROPERTY.

(2) DISCRIMINATION BASED ON HOUSING STATUS IS PROHIBITED.

(3) (a) THE STATE AND ANY COUNTY, CITY, MUNICIPALITY, OR
OTHER SUBDIVISION IS EXEMPT FROM THE PROVISIONS OF SUBSECTION 1
(a) OF THIS SECTION IF THE STATE, COUNTY, CITY, MUNICIPALITY, OR
OTHER SUBDIVISION CAN DEMONSTRATE THAT, FOR THREE CONSECUTIVE
MONTHS, THE WAITING LISTS FOR ALL LOCAL PUBLIC HOUSING
AUTHORITIES OR COMPARABLE AGENCIES CONTAIN FEWER THAN FIFTY
PEOPLE. FOR PURPOSES OF THIS SUBSECTION (3)(a), THE POSSESSION OF A
HOUSING VOUCHER IS NOT COUNTED AS HAVING HOUSING UNTIL A LEASE
HAS BEEN SIGNED AND APPROVED BY INSPECTORS FROM THE HOUSING
AUTHORITY OR COMPARABLE AGENCY DOCUMENTING THAT THE DOMICILE
MEETS ALL HEALTH AND SAFETY CODES.

(b) THE GENERAL ASSEMBLY MAY APPROPRIATE UP TO TEN
MILLION DOLLARS OVER THREE YEARS, BEGINNING ON JULY 1, 2019, TO
THE DEPARTMENT OF LOCAL AFFAIRS FROM THE MARIJUANA TAX CASH
FUND CREATED IN SECTION 39-28.8-501 FOR THE PURPOSE OF ENABLING
GOVERNMENTAL ENTITIES THAT DO NOT MEET THE EXEMPTION
REQUIREMENT SET FORTH IN SUBSECTION (3)(a) OF THIS SECTION TO
REDUCE THE HOUSING WAITING LISTS IN RESPECTIVE JURISDICTIONS TO
FEWER THAN FIFTY PEOPLE FOR AT LEAST SIX MONTHS PER YEAR.

24-4.5-105. Enforcement. A person whose rights have been
violated pursuant to this Article 4.5 may seek enforcement of
those rights in a civil action. The court may award appropriate
injunctive and declaratory relief, restitution for loss of
property, and actual and compensatory damages of up to one
thousand dollars per violation. The court may award
reasonable attorney fees and costs to the prevailing party.

24-4.5-106. Severability. This Article 4.5 must be liberally
construed to achieve its purposes and preserve its validity. If
ANY PROVISION OR CLAUSE OF THIS ARTICLE 4.5 OR APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE 4.5 THAT CAN BE GIVEN FULL EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION. TO THIS END, THE PROVISIONS OF THIS ARTICLE 4.5 ARE DECLARED SEVERABLE AND ARE INTENDED TO HAVE INDEPENDENT VALIDITY.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.