A BILL FOR AN ACT

CONCERNING THE CREATION OF A BILL OF RIGHTS FOR PERSONS EXPERIENCING HOMELESSNESS.

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://www.leg.state.co.us/billsummaries.)

The bill creates the "Colorado Right to Rest Act", which establishes basic rights for persons experiencing homelessness, including, but not limited to, the right to use and move freely in public spaces without discrimination, to rest in public spaces without discrimination, 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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment. Capital letters indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
privacy of one's property. The bill does not create an obligation for a provider of services for persons experiencing homelessness to provide shelter or services when none are available.

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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 is the "COLORADO RIGHT TO REST ACT".

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

(a) Many persons 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 out of public spaces and into courts and jails is costly, inhumane, ineffective, and violates basic civil, human, and constitutional rights;

(c) The existence of homelessness requires that civil and human rights that are amply protected in the home and in other private places be extended to the public spaces in which persons experiencing homelessness live to ensure the equal rights of all Coloradans;

(d) Cities throughout Colorado are enacting and enforcing laws that criminalize basic acts of survival, such as

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SLEEPING, SITTING, LOITERING, SLEEPING IN A LEGALLY PARKED VEHICLE,
HAVING A REASONABLE EXPECTATION OF PRIVACY IN PERSONAL
PROPERTY, STORING BELONGINGS, ASKING FOR HELP, AND USING A
BLANKET TO COVER ONESELF IN A NON-OBSTRUCTIVE MANNER
REGARDLESS OF OUTDOOR TEMPERATURE. SUCH LAWS RESULT IN PEOPLE
IN COLORADO BEING CRIMINALLY PUNISHED FOR DOING WHAT ANY
PERSON MUST DO TO SURVIVE.

(e) LOCAL ORDINANCES OF THIS KIND DO NOT REDUCE THE
INCIDENCE OF HOMELESSNESS OR CRIME. INSTEAD, THEY INCREASE
INCARCERATION RATES AND THE FINANCIAL INDEBTEDNESS OF PEOPLE
WHO SIMPLY HAVE NO MEANS OF SUPPORTING THEMSELVES. THE LOCAL
ORDINANCES PROLONG HOMELESSNESS BY MAKING IT MORE DIFFICULT FOR
PEOPLE TO SECURE HOUSING, EMPLOYMENT, AND MEDICAL CARE.

(f) WHILE THESE LOCAL ORDINANCES APPLY TO ALL RESIDENTS OF
A CITY OR MUNICIPALITY, THEY DISPROPORTIONATELY IMPACT PEOPLE
EXPERIENCING HOMELESSNESS. THEY ARE OFTEN SELECTIVELY ENFORCED
AGAINST PEOPLE BASED UPON THEIR APPEARANCE OR AN ASSUMPTION OF
HOMELESSNESS.

(g) PROHIBITING LOCAL GOVERNMENTS FROM PASSING OR
ENFORCING LAWS THAT DISPROPORTIONATELY IMPACT PERSONS
EXPERIENCING HOMELESSNESS, OR THAT HAVE THE DIRECT INTENT TO
IMPACT PERSONS EXPERIENCING HOMELESSNESS, ALLOWS LOCAL
GOVERNMENTS TO REDIRECT RESOURCES AND SHIFT THE FOCUS FROM LAW
ENFORCEMENT TO POSITIVE APPROACHES THAT DIRECTLY ADDRESS
HOMELESSNESS AND POVERTY.

24-4.5-103. Definitions. As used in this article, unless the
context otherwise requires:
(1) "Discrimination based on housing status" means any distinction, exclusion, or restriction based solely on whether an individual has a fixed or regular residence. "Discrimination based on housing status" also includes any action that disproportionately impacts persons of a particular housing status. Measures taken to ensure equal enjoyment or to exercise the human right to rest are not considered discriminatory.

(2) "District" means a business improvement district as defined in section 31-25-1203 (3), C.R.S.

(3) "District agent" means a person hired by a district.

(4) "Harassment" means a knowing or willful course of conduct by law enforcement, public or private security personnel, or a district agent that is directed at a specific person and that a reasonable person would consider seriously alarming, threatening, tormenting, or terrorizing, or conduct that prevents or disrupts a person conducting noncriminal activities for the purpose of making the person move along.

(5) "Motor vehicle" has the same meaning as set forth in section 42-1-102 (58), C.R.S., and includes automobiles, camper trailers, commercial vehicles, and motor homes, as those motor vehicles are defined in section 42-1-102, C.R.S.

(6) "Person experiencing homelessness" means a person who does not have a fixed or regular residence and who may live on the street or outdoors, in a homeless shelter or other temporary residence, in a vehicle, or in an enclosure or structure that is not authorized or fit for human habitation.
(7) "Public space" means any property that is owned, in whole or in part, by a state or local government entity, or any property upon which there is an easement for public use, and that is open to the public, including plazas, courtyards, parking lots, sidewalks, public transportation facilities and services, public buildings, shopping centers, and parks. When used in the context of an enclosed building or structure, the term "public space" applies only when the building or structure is open to the public.

(8) "Rest" means the state of not moving and holding certain postures that include sitting, standing, leaning, kneeling, squatting, sleeping, or lying down.

24-4.5-104. Protected rights of persons experiencing homelessness - prohibition of laws, rules, regulations, and ordinances that abridge rights. (1) A person experiencing homelessness is permitted to use public space in the same manner as any other person and is to be free from discrimination on the basis of housing status.

(2) The state of Colorado and the counties, cities, municipalities, and other subdivisions of the state are encouraged not to enact any law, ordinance, rule, or regulation that limits, prohibits, or penalizes:

(a) The right to use and move freely in public spaces;

(b) The right to rest in public spaces and protect oneself from the elements in a manner that does not obstruct the use of or access to private property;

(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 person’s own motor vehicle or occupy a motor vehicle with the owner’s permission, 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 on one’s personal property in public spaces to the same extent as personal property in a private residence or other private place.

(3) The state, and any county, city, municipality, or other subdivision that has laws, ordinances, rules, or regulations that limit, prohibit, or penalize any of the activities set forth in subsection (2) of this section shall cease enforcement of such laws, ordinances, rules, or regulations upon the effective date of this section.

(4) Every person has the rights enumerated in subsection (2) of this section and may exercise those rights without being subject to criminal or civil sanctions or harassment by law enforcement, public or private security personnel, or district agents.

24-4.5-105. Liability. The provisions of this article do not create an obligation on the part of any provider of services to persons experiencing homelessness to provide shelter or other services when no such services are available or when the rules or policies of the provider disqualify the person from receiving services.

SECTION 2. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.