

HOUSE BILL 104

E2, L6
HB 487/25 – JUD

(PRE-FILED)

6lr1364
CF SB 49

By: **Delegate Mireku-North**

Requested: October 28, 2025

Introduced and read first time: January 14, 2026

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Unhoused Individuals – Rights and Affirmative Defense**

3 FOR the purpose of establishing that unhoused individuals have certain rights relating to
4 engaging in life-sustaining activities; prohibiting certain governmental entities,
5 government officials, or government agents from imposing certain penalties for
6 exercising a right established under this Act or for offering certain aid to unhoused
7 individuals on or about public places; establishing an affirmative defense of necessity
8 for certain criminal prosecutions relating to trespass or disturbing the peace;
9 repealing the authority of a municipality to prohibit vagrancy; and generally relating
10 to unhoused individuals.

11 BY adding to
12 Article – Courts and Judicial Proceedings
13 Section 3–2701 through 3–2705 to be under the new subtitle “Subtitle 27. Rights of
14 Unhoused Individuals”
15 Annotated Code of Maryland
16 (2020 Replacement Volume and 2025 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Local Government
19 Section 5–207
20 Annotated Code of Maryland
21 (2013 Volume and 2025 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SUBTITLE 27. RIGHTS OF UNHOUSED INDIVIDUALS.

3-2701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “ADEQUATE ALTERNATIVE INDOOR SPACE” MEANS AN INDOOR SPACE THAT:

(i) IS LEGALLY AND PHYSICALLY ACCESSIBLE TO AN UNHOUSED INDIVIDUAL WITHOUT REQUIRING THE INDIVIDUAL TO WAIVE ANY CONSTITUTIONAL OR STATUTORY RIGHT PROVIDED UNDER FEDERAL, STATE, OR LOCAL LAW AS A CONDITION OF ACCESS;

(ii) IS AVAILABLE INDEFINITELY TO AN UNHOUSED INDIVIDUAL AT NO CHARGE AND WITHOUT REQUIRING A DAILY REAPPLICATION;

(iii) IS COMPLIANT WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT; AND

(iv) IS ABLE TO ACCOMMODATE:

1. A SPOUSE OR DOMESTIC PARTNER AND OTHER FAMILY MEMBERS;

2. SUPPORT INDIVIDUALS; AND

3. ANY POSSESSIONS THAT AN UNHOUSED INDIVIDUAL WISHES TO BRING TO THE SPACE.

(2) “ADEQUATE ALTERNATIVE INDOOR SPACE” DOES NOT INCLUDE AN INDOOR SPACE LOCATED OUTSIDE THE JURISDICTION IN WHICH AN UNHOUSED INDIVIDUAL RESIDES UNLESS TRANSPORTATION IS AVAILABLE AT NO COST TO THE INDIVIDUAL TO ENSURE THE INDIVIDUAL IS ABLE TO ADDRESS ONGOING PERSONAL OR PROFESSIONAL MATTERS WITHIN THE JURISDICTION.

(C) (1) “LIFE-SUSTAINING ACTIVITY” MEANS MOVING, RESTING, SITTING, STANDING, LYING DOWN, SLEEPING, EATING, DRINKING, OR PROTECTING ONESELF FROM THE ELEMENTS.

(2) “LIFE-SUSTAINING ACTIVITY” INCLUDES STORING PERSONAL PROPERTY, AS NEEDED, TO SAFELY SHELTER THE PROPERTY FROM THE ELEMENTS.

1 (D) “MOTOR VEHICLE” HAS THE MEANING STATED IN § 11–135 OF THE
2 TRANSPORTATION ARTICLE.

3 (E) (1) “PUBLIC PLACE” MEANS:

4 (I) PROPERTY THAT IS OWNED OR LEASED, IN WHOLE OR IN
5 PART, BY ANY STATE OR LOCAL GOVERNMENTAL ENTITY;

6 (II) PROPERTY ON WHICH THERE IS AN EASEMENT FOR PUBLIC
7 USE; OR

8 (III) FEDERAL PROPERTY ON WHICH A LOCAL GOVERNMENT HAS
9 THE AUTHORITY TO ENFORCE LOCAL LAWS.

10 (2) “PUBLIC PLACE” INCLUDES:

11 (I) A PLAZA;

12 (II) A COURTYARD;

13 (III) A PARKING LOT;

14 (IV) A SIDEWALK;

15 (V) A PUBLIC TRANSPORTATION FACILITY;

16 (VI) A PUBLIC BUILDING;

17 (VII) A SHOPPING CENTER;

18 (VIII) AN UNDERPASS OR OTHER LAND ADJACENT TO A ROADWAY;

19 AND

20 (IX) A PARK.

21 (F) “RECREATIONAL VEHICLE” HAS THE MEANING STATED IN § 15–1001 OF
22 THE TRANSPORTATION ARTICLE.

23 (G) (1) “UNHOUSED INDIVIDUAL” MEANS AN INDIVIDUAL WHO LACKS A
24 FIXED, REGULAR, AND ADEQUATE NIGHTTIME RESIDENCE.

25 (2) “UNHOUSED INDIVIDUAL” INCLUDES AN INDIVIDUAL WHO:

(I) SHARES THE HOUSING OF ANOTHER INDIVIDUAL DUE TO LOSS OF HOUSING, ECONOMIC HARDSHIP, OR SIMILAR REASON;

(II) LIVES IN A MOTEL, A HOTEL, A TRAILER PARK, OR CAMPING GROUNDS DUE TO A LACK OF ACCESS TO AN ADEQUATE ALTERNATIVE INDOOR SPACE;

(III) LIVES IN AN EMERGENCY OR TRANSITIONAL SHELTER;

(IV) LIVES IN A PLACE UNFIT FOR HUMAN HABITATION;

(V) LIVES IN A CAR, A PARK, AN ABANDONED BUILDING, SUBSTANDARD HOUSING, A TRANSPORTATION STATION, OR A SIMILAR SETTING;

(VI) IS A MINOR ABANDONED IN A HOSPITAL; OR

(VII) IS A MINOR AWAITING A FOSTER CARE PLACEMENT.

3-2702.

(A) THE GENERAL ASSEMBLY DECLARES THAT THREATENING OR IMPOSING CIVIL OR CRIMINAL PUNISHMENTS ON UNHOUSED INDIVIDUALS FOR UNDERTAKING LIFE-SUSTAINING ACTIVITIES, INCLUDING SLEEPING OR TAKING SHELTER IN AN UNOBTRUSIVE MANNER ON PUBLIC LAND IN THE ABSENCE OF ADEQUATE ALTERNATIVE INDOOR SPACES, VIOLATES UNHOUSED INDIVIDUALS' RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT AND EXCESSIVE FINES GUARANTEED BY ARTICLE 25 OF THE MARYLAND DECLARATION OF RIGHTS.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COURTS SHALL LIBERALLY CONSTRUE THIS SUBTITLE TO MAXIMIZE THE PROTECTIONS AFFORDED BY IT TO UNHOUSED INDIVIDUALS IN THE STATE.

3-2703.

(A) ALL UNHOUSED INDIVIDUALS HAVE THE RIGHT TO:

(1) BE ON OR ABOUT PUBLIC PLACES WITHIN THE STATE WITHOUT BEING DISCRIMINATED AGAINST ON THE BASIS OF ACTUAL OR PERCEIVED HOUSING STATUS;

(2) ENGAGE IN LIFE-SUSTAINING ACTIVITIES ON OR ABOUT PUBLIC PLACES, PROVIDED THAT SUCH ACTIVITIES DO NOT:

1 **(I) HINDER OR OBSTRUCT THE ORDINARY COURSE OF A**
2 **PRIVATE OR PUBLIC ENTITY; OR**

3 **(II) OBSTRUCT THE NORMAL MOVEMENT OF PEDESTRIAN OR**
4 **VEHICULAR TRAFFIC IN SUCH A MANNER THAT CREATES A HAZARD TO OTHERS,**
5 **UNLESS AN ADEQUATE ALTERNATIVE INDOOR SPACE IS AVAILABLE AND HAS BEEN**
6 **OFFERED TO THE INDIVIDUAL, INCLUDING TRANSPORTATION FOR THE INDIVIDUAL**
7 **AND THE INDIVIDUAL'S BELONGINGS;**

8 **(3) USE AND MOVE FREELY IN PUBLIC PLACES WITHOUT BEING**
9 **DISCRIMINATED AGAINST ON THE BASIS OF ACTUAL OR PERCEIVED HOUSING**
10 **STATUS;**

11 **(4) PRIVACY IN PERSONAL PROPERTY STORED ON OR ABOUT PUBLIC**
12 **PLACES TO THE SAME EXTENT AS PERSONAL PROPERTY STORED IN A PRIVATE**
13 **DWELLING;**

14 **(5) PRAY, MEDITATE, WORSHIP, OR PRACTICE RELIGION ON OR**
15 **ABOUT PUBLIC PLACES WITHOUT BEING DISCRIMINATED AGAINST ON THE BASIS OF**
16 **ACTUAL OR PERCEIVED HOUSING STATUS;**

17 **(6) OCCUPY A MOTOR VEHICLE OR RECREATIONAL VEHICLE PARKED**
18 **ON OR ABOUT A PUBLIC PLACE THAT IS NOT OBSTRUCTING THE NORMAL MOVEMENT**
19 **OF TRAFFIC;**

20 **(7) RELOCATE A MOTOR VEHICLE OR RECREATIONAL VEHICLE BEING**
21 **USED FOR LIFE-SUSTAINING ACTIVITIES BEFORE RECEIVING A PARKING TICKET OR**
22 **THE VEHICLE BEING TOWED;**

23 **(8) RETRIEVE ITEMS FROM A TOWED MOTOR VEHICLE OR**
24 **RECREATIONAL VEHICLE;**

25 **(9) RECLAIM A TOWED MOTOR VEHICLE OR RECREATIONAL VEHICLE**
26 **FROM STORAGE FREE OF CHARGE OR AT A REDUCED RATE ON CONSIDERATION OF**
27 **THE INDIVIDUAL'S ABILITY TO PAY ANY COSTS; AND**

28 **(10) RECEIVE ANY ADDITIONAL INTERVENTIONS OFFERED TO**
29 **UNHOUSED INDIVIDUALS BY LOCAL HUMAN SERVICES, SOCIAL SERVICES, PUBLIC**
30 **HEALTH, AND LAW ENFORCEMENT AGENCIES WHEN ADEQUATE ALTERNATIVE**
31 **INDOOR SPACE IS NOT AVAILABLE.**

(B) THE STATE, AN AGENCY OF THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN OFFICIAL OR AGENT OF THE STATE, AN AGENCY OF THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE ACTING UNDER COLOR OF LAW MAY NOT:

(1) IMPOSE CIVIL OR CRIMINAL PENALTIES AGAINST AN UNHOUSED INDIVIDUAL FOR EXERCISING A RIGHT DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION; OR

(2) IMPOSE A CIVIL OR CRIMINAL PENALTY AGAINST ANY INDIVIDUAL FOR SOLICITING, SHARING, ACCEPTING, OR OFFERING FOOD, WATER, MONEY, OR OTHER DONATIONS TO UNHOUSED INDIVIDUALS ON OR ABOUT PUBLIC PLACES.

(C) THE STATE, AN AGENCY OF THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN OFFICIAL OR AGENT OF THE STATE ACTING UNDER COLOR OF LAW MAY ARREST OR IMPOSE CIVIL OR CRIMINAL PENALTIES ON AN UNHOUSED INDIVIDUAL WHO HAS ENGAGED IN CRIMINAL ACTIVITY THAT IS NOT A PROTECTED ACTIVITY UNDER SUBSECTION (A) OF THIS SECTION.

3-2704.

(A) THIS SECTION APPLIES TO A PROSECUTION FOR:

(1) CRIMINAL TRESPASS UNDER § 6-402, § 6-409, OR § 6-410 OF THE CRIMINAL LAW ARTICLE OR A SIMILAR LOCAL LAW OR ORDINANCE; AND

(2) DISTURBING THE PEACE OR DISORDERLY CONDUCT UNDER § 10-201 OF THE CRIMINAL LAW ARTICLE OR ANY SIMILAR LOCAL LAW OR ORDINANCE.

(B) IN A PROSECUTION FOR AN OFFENSE LISTED IN SUBSECTION (A) OF THIS SECTION, A DEFENDANT MAY ASSERT AN AFFIRMATIVE DEFENSE OF NECESSITY IF:

(1) THE DEFENDANT COMMITTED THE ALLEGED CRIMINAL ACT WHILE ENGAGING IN A LIFE-SUSTAINING ACTIVITY; AND

(2) THE DEFENDANT, AT THE TIME OF COMMITTING THE CRIMINAL ACT, WAS NOT OFFERED ACCESS TO AN ADEQUATE ALTERNATIVE INDOOR SPACE AND A REASONABLE STORAGE OPTION FOR PERSONAL PROPERTY.

(C) A DEFENSE OF NECESSITY RAISED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION CREATES A REBUTTABLE PRESUMPTION THAT AN ADEQUATE ALTERNATIVE INDOOR SPACE WAS NOT AVAILABLE TO THE DEFENDANT.

1 **3-2705.**

2 **THE PROVISIONS OF THIS SUBTITLE SHALL SUPERSEDE ANY LOCAL LAW OR**
3 **ORDINANCE COMPARABLE IN SUBJECT MATTER EXCEPT TO THE EXTENT THAT THE**
4 **LOCAL LAW OR ORDINANCE PROVIDES BROADER APPLICABILITY OR MORE**
5 **PROTECTIONS FOR UNHOUSED INDIVIDUALS THAN THIS SUBTITLE.**

6 **Article – Local Government**

7 **5-207.**

8 (a) A municipality may establish and maintain:

9 (1) a fire department; and

10 (2) a police force.

11 (b) A municipality may:

12 (1) provide for the removal of fire hazards;

13 (2) control the use and handling of dangerous and explosive materials; and

14 (3) prevent the discharge of firearms or other explosive instruments.

15 (c) A municipality may:

16 (1) pay rewards for information relating to crime committed in the
17 municipality;

18 (2) prohibit [vagrancy,] vice, gambling, and houses of prostitution in the
19 municipality;

20 (3) enforce all ordinances relating to disorderly conduct and nuisances
21 equally:

22 (i) within the municipality; and

23 (ii) up to one-half mile outside the municipal limits, except where
24 there is a conflict with the powers of another municipality; and

25 (4) prohibit minors from being on the streets and in public places at certain
26 hours of the night.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
2 the application of any provision of this Act to any person or circumstance is held invalid for
3 any reason in a court of competent jurisdiction, the invalidity does not affect other
4 provisions or any other application of this Act that can be given effect without the invalid
5 provision or application, and for this purpose the provisions of this Act are declared
6 severable.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2026.