

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0648.01 Jane Ritter x4342

HOUSE BILL 18-1067

HOUSE SPONSORSHIP

Melton and Salazar,

SENATE SPONSORSHIP

(None),

House Committees

Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE "COLORADO RIGHT TO REST
102 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 persons experiencing homelessness, including, but not limited to, the right to use and move freely in public spaces, to rest in public spaces, 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 one's property. The bill does not

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 HAVING A REASONABLE EXPECTATION OF PRIVACY IN PERSONAL
2 PROPERTY, STORING BELONGINGS, ASKING FOR HELP, AND USING A
3 BLANKET, SLEEPING BAG, TENT, OR OTHER STRUCTURE TO PROTECT
4 ONESELF IN A NONOBSTRUCTIVE MANNER FROM THE ELEMENTS,
5 REGARDLESS OF OUTDOOR TEMPERATURE. SUCH LAWS RESULT IN PEOPLE
6 IN COLORADO BEING CRIMINALLY PUNISHED FOR DOING WHAT ANY
7 PERSON MUST DO TO SURVIVE.

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

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

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

26 **24-4.5-103. Definitions.** AS USED IN THIS ARTICLE 4.5, UNLESS
27 THE CONTEXT OTHERWISE REQUIRES:

1 (1) "DISTRICT" MEANS A BUSINESS IMPROVEMENT DISTRICT AS
2 DEFINED IN SECTION 31-25-1203 (3).

3 (2) "DISTRICT AGENT" MEANS A PERSON HIRED BY A DISTRICT.

4 (3) "HARASSMENT" HAS THE SAME MEANING AS SET FORTH IN
5 SECTION 18-9-111.

6 (4) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN
7 SECTION 42-1-102 (58), AND INCLUDES AUTOMOBILES, CAMPER TRAILERS,
8 COMMERCIAL VEHICLES, AND MOTOR HOMES, AS THOSE MOTOR VEHICLES
9 ARE DEFINED IN SECTION 42-1-102.

10 (5) "OBSTRUCT" DOES NOT INCLUDE CONDUCT UNDERTAKEN ON
11 PUBLIC SPACE, UNLESS SUCH CONDUCT RESULTS IN THE BLOCKING OF AN
12 ENTRYWAY TO PRIVATE PROPERTY OR RENDERS A STREET, SIDEWALK, OR
13 PASSAGEWAY IMPASSABLE OR HAZARDOUS.

14 (6) "PERSON EXPERIENCING HOMELESSNESS" MEANS A PERSON
15 WHO DOES NOT HAVE A FIXED OR REGULAR RESIDENCE AND WHO MAY LIVE
16 ON THE STREET OR OUTDOORS, IN A HOMELESS SHELTER OR OTHER
17 TEMPORARY RESIDENCE, IN A VEHICLE, OR IN AN ENCLOSURE OR
18 STRUCTURE THAT IS NOT AUTHORIZED OR FIT FOR HUMAN HABITATION.

19 (7) "PUBLIC SPACE" MEANS ANY PROPERTY THAT IS OWNED OR
20 LEASED BY A STATE OR LOCAL GOVERNMENT ENTITY OR ANY PROPERTY
21 UPON WHICH THERE IS AN EASEMENT FOR PUBLIC USE. WHEN USED IN THE
22 CONTEXT OF AN ENCLOSED BUILDING OR STRUCTURE, THE TERM "PUBLIC
23 SPACE" APPLIES ONLY WHEN THE BUILDING OR STRUCTURE IS OPEN TO THE
24 PUBLIC.

25 (8) "REST" MEANS THE STATE OF NOT MOVING AND HOLDING
26 CERTAIN POSTURES THAT INCLUDE SITTING, STANDING, LEANING,
27 KNEELING, SQUATTING, OR LYING DOWN.

1 **24-4.5-104. Protected rights - prohibition of laws, ordinances,**
2 **rules, and regulations that abridge rights.** (1) THE STATE OF
3 COLORADO AND THE COUNTIES, CITIES, MUNICIPALITIES, AND OTHER
4 SUBDIVISIONS OF THE STATE SHALL NOT ENACT ANY LAW, ORDINANCE,
5 RULE, OR REGULATION THAT LIMITS, PROHIBITS, OR PENALIZES:

6 (a) THE RIGHT TO USE AND MOVE FREELY IN PUBLIC SPACES;

7 (b) THE RIGHT TO REST OR SLEEP IN PUBLIC SPACES AND PROTECT
8 ONESELF FROM THE ELEMENTS IN A MANNER THAT DOES NOT OBSTRUCT
9 THE USE OF OR ACCESS TO PRIVATE PROPERTY;

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

12 (d) THE RIGHT TO OCCUPY A PERSON'S OWN MOTOR VEHICLE OR
13 OCCUPY A MOTOR VEHICLE WITH THE OWNER'S PERMISSION, PROVIDED
14 THAT THE MOTOR VEHICLE IS LEGALLY PARKED ON PUBLIC PROPERTY OR
15 PARKED ON PRIVATE PROPERTY WITH THE PERMISSION OF THE PROPERTY
16 OWNER; AND

17 (e) THE RIGHT TO A REASONABLE EXPECTATION OF PRIVACY ON
18 ONE'S PERSONAL PROPERTY IN PUBLIC SPACES TO THE SAME EXTENT AS
19 PERSONAL PROPERTY IN A PRIVATE RESIDENCE OR OTHER PRIVATE PLACE.

20 (2) (a) THE STATE AND ANY COUNTY, CITY, MUNICIPALITY, OR
21 OTHER SUBDIVISION THAT HAS LAWS, ORDINANCES, RULES, OR
22 REGULATIONS THAT LIMIT, PROHIBIT, OR PENALIZE ANY OF THE ACTIVITIES
23 SET FORTH IN SUBSECTION (1) OF THIS SECTION SHALL CEASE
24 ENFORCEMENT OF SUCH LAWS, ORDINANCES, RULES, OR REGULATIONS
25 UPON THE EFFECTIVE DATE OF THIS SECTION.

26 (b) THE STATE AND ANY COUNTY, CITY, MUNICIPALITY, OR OTHER
27 SUBDIVISION IS EXEMPT FROM THE PROVISIONS OF SUBSECTION (2)(a) OF

1 THIS SECTION IF THE STATE, COUNTY, CITY, MUNICIPALITY, OR OTHER
2 SUBDIVISION CAN DEMONSTRATE THAT IT OFFERED THE PERSON
3 EXPERIENCING HOMELESSNESS APPROPRIATE AND ADEQUATE HOUSING,
4 BASED ON THE PERSON'S PARTICULAR CIRCUMSTANCES, AND THE PERSON
5 EXPERIENCING HOMELESSNESS REFUSED TO ACCEPT THE OFFER OF SUCH
6 HOUSING.

7 (3) EVERY PERSON HAS THE RIGHTS ENUMERATED IN SUBSECTION
8 (1) OF THIS SECTION AND MAY EXERCISE THOSE RIGHTS WITHOUT BEING
9 SUBJECT TO CRIMINAL OR CIVIL SANCTIONS OR HARASSMENT BY LAW
10 ENFORCEMENT, PUBLIC OR PRIVATE SECURITY PERSONNEL, OR DISTRICT
11 AGENTS, OR ANY OTHER ACTIVITIES FOR THE PURPOSE OF MAKING THE
12 PERSON MOVE ALONG.

13 **24-4.5-105. Liability.** THE PROVISIONS OF THIS ARTICLE 4.5 DO
14 NOT CREATE AN OBLIGATION ON THE PART OF ANY PROVIDER OF SERVICES
15 TO PERSONS EXPERIENCING HOMELESSNESS TO PROVIDE SHELTER OR
16 OTHER SERVICES WHEN NO SUCH SERVICES ARE AVAILABLE OR WHEN THE
17 RULES OR POLICIES OF THE PROVIDER DISQUALIFY THE PERSON FROM
18 RECEIVING SERVICES.

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