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
create an obligation for a provider of services for persons experiencing homelessness to provide shelter or services when none are available.

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 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 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, SLEEPING BAG, TENT, OR OTHER STRUCTURE TO PROTECT ONESELF IN A NONOBSTRUCTIVE MANNER FROM THE ELEMENTS, 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 4.5, unless the context otherwise requires:
(1) "District" means a business improvement district as defined in section 31-25-1203 (3).
(2) "District agent" means a person hired by a district.
(3) "Harassment" has the same meaning as set forth in section 18-9-111.
(4) "Motor vehicle" has the same meaning as set forth in section 42-1-102 (58), and includes automobiles, camper trailers, commercial vehicles, and motor homes, as those motor vehicles are defined in section 42-1-102.
(5) "Obstruct" does not include conduct undertaken on public space, unless such conduct results in the blocking of an entryway to private property or renders a street, sidewalk, or passageway impassable or hazardous.
(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 or leased by a state or local government entity or any property upon which there is an easement for public use. 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, or lying down.
24-4.5-104. Protected rights - prohibition of laws, ordinances, rules, and regulations that abridge rights. (1) The state of Colorado and the counties, cities, municipalities, and other subdivisions of the state shall not 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 or sleep 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.

(2) (a) 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 (1) of this section shall cease enforcement of such laws, ordinances, rules, or regulations upon the effective date of this section.

(b) The state and any county, city, municipality, or other subdivision is exempt from the provisions of subsection (2)(a) of
THIS SECTION IF THE STATE, COUNTY, CITY, MUNICIPALITY, OR OTHER
SUBDIVISION CAN DEMONSTRATE THAT IT OFFERED THE PERSON
EXPERIENCING HOMELESSNESS APPROPRIATE AND ADEQUATE HOUSING,
BASED ON THE PERSON'S PARTICULAR CIRCUMSTANCES, AND THE PERSON
EXPERIENCING HOMELESSNESS REFUSED TO ACCEPT THE OFFER OF SUCH
HOUSING.

(3) EVERY PERSON HAS THE RIGHTS ENUMERATED IN SUBSECTION
(1) 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, OR ANY OTHER ACTIVITIES FOR THE PURPOSE OF MAKING THE
PERSON MOVE ALONG.

24-4.5-105. Liability. The provisions of this article 4.5 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. 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.