

Selections from the Proposed California Homeless Bill of Rights

This bill would enact the Homeless Person's Bill of Rights and Fairness Act, which would provide that no person's rights, privileges, or access to public services may be denied or abridged because he or she is homeless, has a low income, or suffers from a mental illness or physical disability. The bill would provide that every person in the state, regardless of actual or perceived housing status, income level, mental illness, or physical disability, shall be free from specified forms of discrimination and shall be entitled to certain basic human rights, including the right to be free from discrimination by law enforcement,.....

The bill would further prohibit discrimination under the above-described existing law provisions on the basis of "housing status," would define that term to include homelessness, and would make conforming changes to related provisions,

SECTION 1. This act shall be known & may be cited as the "Homeless Person's Bill of Rights and Fairness Act."

SEC. 2. The Legislature finds and declares all of the following: (a) In the State of California, there has been a long history of discriminatory laws and ordinances that have disproportionately affected people with low incomes and who are without homes, including, but not limited to, all of the following:

(1) Jim Crow laws: After the Civil War, many states, especially in the south, passed laws denying African Americans basic human rights. In California, these laws also targeted Chinese immigrants. In San Francisco, Chinese residents were forced to live in one area of the city. The same segregation laws also prohibited interracial marriage between Chinese and non-Chinese persons.

(2) Ugly laws: In 1867, San Francisco was the first city in the country to pass a law making it illegal for people with "unsightly or disgusting" disabilities to appear in public. In many cities, these laws persisted until the 1970s.

(3) Anti-Okie laws: In 1937, California passed an Anti-Okie law that criminalized "bringing or assisting in bringing" extremely poor people into the state. The United States Supreme Court struck down the law in 1941, when it declared that these laws are in violation of the Commerce Clause, and therefore unconstitutional.

(4) Sundown towns: Town policies and real estate covenants were aimed at preventing minorities and other persons considered to be socially undesirable from remaining within city limits after sunset. Thousands of these towns existed prior to the Civil Rights Act of 1968, which made these ordinances and covenants illegal.

(5) Vagrancy laws: Vagrancy laws have been held to be discriminatory on their face because they criminalize a person's status rather than a behavior. Nevertheless, these laws existed in California until the Legislature revised them in 1961.

(b) "Quality of life" ordinances, "civil sidewalk" ordinances, and similar initiatives are the modern reincarnations of laws designed to force homeless people to flee local jurisdictions. These local ordinances result in de facto segregation as homeless people are forced out of specific jurisdictions or out of specific neighborhoods within jurisdictions. These discriminatory policies subject municipalities to an increased financial burden of caring for the homeless who have migrated there from their chosen home municipality in relief of the discriminatory legislation.

These practices tend to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions that result in crowded, unsanitary, substandard, and unhealthy accommodations. Furthermore, these policies result in criminalization of homeless persons who choose not to migrate.....

(c) Today, in the state many people are denied the following (1) Housing due to their status of being homeless, living in a shelter, a vehicle, the street, or the public domain. (2) Housing or shelter due to (7) Access to safe, clean restrooms & hygienic supplies necessary to maintain health, safety, & dignity.

(d) Homeless persons are unfairly targeted by law enforcement, often resulting in the violation of the homeless persons' constitutional rights. Lacking the resources necessary to obtain adequate legal representation, **homeless persons are often denied relief or damages through the courts**.....

(l) Concordant with this fundamental belief, a person should not be subject to discrimination based on his or her housing status, income level, or mental or physical disability. Therefore, it is the intent of the Legislature in enacting this act to ameliorate the adverse effects visited upon individuals and our communities when the residents of this state are homeless.

SEC. 3. Section 51 of the Civil Code is amended to read: 51. (a) This section shall be known, and may be cited, as the Unruh Civil Rights Act....

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation, or housing status, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever....

(3) "Housing status" means the status of having or not having a fixed or regular residence, including the status of living on the streets, in a vehicle, or in a homeless shelter, or similar temporary residence or elsewhere in the public domain....

(f) "Homeless" means those individuals or families who lack a fixed, regular, and adequate nighttime residence and who have a primary nighttime residence in a shelter, on the street, in a vehicle, in an enclosure or structure that is not authorized or fit for human habitation, substandard apartments, dwellings, doubled up temporarily with friends or families, or staying in transitional housing programs. "Homeless" means any person staying in a residential hotel without tenancy rights, and families with children staying in a residential hotel whether or not they have tenancy rights.

(g) "Housing status" means the status of having or not having a fixed or regular residence, including the status of living on the streets, in a vehicle, or in a homeless shelter, or similar temporary residence or elsewhere in the public domain....

(k) "Public space" means any space that is predominantly within the public domain or that is held open to the public, including, but not limited to, plazas, courtyards, parking lots, sidewalks, public transportation, public buildings and parks, and may also refer to those places that receive additional services through business improvement districts or other, similar public-private partnerships.

53.2. No person's rights, privileges, or access to public services may be denied or abridged because he or she is homeless, has a low income, or suffers from a mental illness or physical disability. Such a person shall be granted the same rights and privileges as any other resident of this state. Every person in the state, regardless of actual or perceived housing status, income level, mental illness, or physical disability, shall be free from all of the following:

(a) Any type of discriminatory treatment by law enforcement, public or private security personnel, business owners, property managers, or BID agents, including, but not limited to, harassment, intimidation, or selective enforcement.....

(e) Unreasonable searches or seizures of his or her personal property, including property stored in vehicles, tents, grocery carts, bags, or any other carrying or storage device, if the intervention of law enforcement is based upon the actual or perceived housing status, income level, mental illness, or physical disability of the person in possession of the property.

53.3. Every person in the state, regardless of actual or perceived housing status, income level, mental illness, or physical disability, shall have the right to all of the following basic human rights and legal and civil protections:

(a) The right to use and move freely in public spaces, including, but not limited to, plazas, parking lots, public sidewalks, public parks, public transportation, public streets, and public buildings, in the same manner as any other person, and without discrimination.

(b) The right to rest in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents, as long as such rest does not maliciously or substantially obstruct a passageway.

(c) The right to own and possess personal property in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents, as long as that personal property does not maliciously or substantially obstruct a passageway.

(d) The right to share, accept, or give food in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents.

(e) The right to the same protections that law enforcement agencies afford to all other citizens, including, but not limited to, the right to reasonable protection from domestic violence, sexual assault, hate crimes, or robberies.

(f) The right to engage in life sustaining activities that must be carried out in public spaces because of homelessness, including, but not limited to, eating, congregating, possessing and storing personal property, urinating, or collecting and possessing goods for recycling, even if those goods contain alcoholic residue, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents.....

(n) The right to make his or her own decisions regarding whether or not to enter into a public or private shelter or any other accommodation, including social services programs, for any reason he or she sees fit, without facing criminal or civil sanctions, harassment, or arrest from law enforcement, public or private security personnel, or BID agents.

(o) The right to occupy vehicles, either to rest or use for the purposes of shelter, for 24 hours a day, seven days a week while legally parked on public property without facing criminal or civil sanctions, harassment, or arrest from law enforcement, public or private security personnel, or BID agents.