

SENATE No. 2735

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

SENATE, May 1, 2020.

The committee on Children, Families and Persons with Disabilities, to whom was referred the petitions (accompanied by bill, Senate, No. 76) of Rebecca L. Rausch, Thomas M. Stanley and Mike Connolly for legislation relative to the safety, dignity, and civil rights of persons experiencing homelessness; (accompanied by bill, Senate, No. 784) of Nick Collins, Jason M. Lewis, Patrick M. O'Connor and Paul R. Feeney for legislation to create a bill of rights for people experiencing homelessness; and (accompanied by bill, Senate, No. 816) of Rebecca L. Rausch, Harriette L. Chandler, Patricia D. Jehlen, Jason M. Lewis and other members of the General Court for legislation to provide a bill of rights for people experiencing homelessness, reports recommending that the accompanying bill (Senate, No. 2735) ought to pass.

For the committee,
Sonia Chang-Diaz

SENATE No. 2735

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act providing a bill of rights for people experiencing homelessness.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 214 of the General Laws is hereby amended by inserting after
2 section 1(C) the following section:-

3 Section 1(D). (a) This section shall be known and may be cited as the Homelessness Bill
4 of Rights. A person experiencing homelessness shall have the right to be free from
5 discrimination on the basis of housing status.

6 (b) As used in this chapter, the following words shall, unless the context clearly requires
7 otherwise, have the following meanings:

8 “Housing status” means a person’s current ability to access a fixed, regular nighttime
9 residence as defined in section 16W of chapter 6A of the general laws.

10 “Park” shall include a city or town common dedicated to the use of the public, or
11 appropriated to such use without interruption for a period of 20 years as defined in section 1 of
12 chapter 45 of the general laws.

13 “Persons experiencing homelessness” means persons who lack, or are perceived to lack, a
14 fixed, regular nighttime residence as defined in section 16W of chapter 6A of the general laws.
15 Persons experiencing homelessness includes, but are not limited to, persons who: (1) share the
16 housing of other persons due to loss of housing, economic hardship or a similar reason; (2) live
17 in motels, hotels, trailer parks or campgrounds due to the lack of fixed, regular, and adequate
18 nighttime residence; (3) live in emergency or transitional shelters; (4) are abandoned in hospitals;
19 (5) are awaiting foster care placement; (6) have a primary nighttime residence that is a public or
20 private place not designed for or ordinarily used as a regular sleeping accommodation for human
21 beings; (7) live in cars, parks, public spaces, abandoned buildings, bus or train stations or similar
22 settings; (8) are transient and otherwise experiencing homelessness as described in this
23 subsection; or (9) are in situations as described in section 103(a) of Stewart B. McKinney
24 Homeless Assistance Act of 1987.

25 “Public space” means any real property that is owned, in whole or in part, by the
26 Commonwealth or any municipality, or upon which there is an easement for public use, and is
27 held open to the public. Public space includes but is not limited to plazas, courtyards, parking
28 lots, sidewalks, public transportation facilities and services, public buildings, and parks. Public
29 space does not include a private business establishment.

30 “Recreational vehicle” has the meaning given that term in section 20 of chapter 90B of
31 the general laws.

32 “Rest” means the state of sleeping or not moving or the state of holding certain postures
33 that include but are not limited to sitting, standing, leaning, kneeling, squatting or lying on the
34 ground or other surface.

35 “Town” shall not include city as defined in section 1 of chapter 45 of the general laws.

36 (c) Persons experiencing homelessness shall have the right to:

37 (i) use public spaces in the same manner as any other person without discrimination
38 based on their housing status;

39 (ii) equal treatment by all state and municipal agencies, without discrimination on the
40 basis of housing status;

41 (iii) a reasonable expectation of privacy in personal property in public spaces;

42 (iv) interact with public officials, employees, and officers without harassment on the
43 basis of their housing status;

44 (v) rest in public spaces and seek protection from adverse weather or an imminent public
45 health emergency in a manner that does not obstruct human or vehicle traffic and is without
46 discrimination based on their housing status;

47 (vi) access routine and emergency medical care free from discrimination on the basis of
48 housing status; as well as during the state of emergency declared by the governor on March 10,
49 2020 and for the entirety of the COVID-19 pandemic access testing and health care related to the
50 coronavirus.

51 (vii) eat, share, accept, or give food in any public space in which having food is not
52 prohibited;

53 (viii) vote, register to vote, and receive documentation necessary to prove identity for
54 voting without discrimination on the basis of housing status;

55 (ix) pray, meditate, worship, or practice religion in public spaces without discrimination
56 based on housing status in a manner that does not obstruct human or vehicle traffic;

57 (x) protection from the disclosure of records provided to homeless shelters and service
58 providers to state, municipal, and private entities, absent valid written authorization to do so; and

59 (xi) occupy a motor vehicle or a recreational vehicle, provided that the vehicle is legally
60 parked on public property or on private property with the express permission of the private
61 property owner.

62 (d) The provisions of this section pertaining to public spaces shall not apply if the public
63 space is closed to the general public or requires a fee for entry. When practicable, public
64 officials, employees, or officers shall clearly designate and provide an appropriate alternative
65 place for persons experiencing homelessness to rest without time limitations in the near vicinity.

66 (e) It shall be an affirmative defense to a civil claim or criminal charge related to use of
67 public spaces that a person experiencing homelessness was exercising any right set forth in this
68 section.

69 (f) The superior court shall have jurisdiction in equity to enforce any right set forth in this
70 section and award damages in connection with any violation thereof.

71 SECTION 2. Section 1 of chapter 50 is hereby amended by inserting after the last
72 sentence the following sentence:-

73 Lack of a fixed, permanent residence for a person experiencing homelessness shall not
74 prohibit voter registration.

75 SECTION 3. Section 1 of chapter 151B of the general laws is hereby amended by adding
76 the following subsection:-

77 24. The term “housing status” shall be defined as a person’s current ability to access a
78 fixed, regular, or adequate nighttime residence.

79 SECTION 4. Section 3 of chapter 151B of the General Laws is hereby amended by
80 inserting after the word “information” in line 20 the following words:- “, housing status”

81 SECTION 5. Section 3 of chapter 151B of the General Laws is hereby amended by
82 inserting after the word “persons”, in line 56, the following words:- “; persons who have
83 experienced homelessness”.

84 SECTION 6. Section 3 of chapter 151B of the General Laws is hereby amended by
85 inserting after the word “information”, in line 66, the following words:- “, housing status”.

86 SECTION 7. Section 3 of chapter 151B of the General Laws is hereby amended by
87 inserting after the word “origin”, in line 87, the following words:- “, housing status”.

88 SECTION 8. Section 4 of said chapter 151B is hereby amended by inserting after the
89 word “information”, in lines 5, 74, 89, 93, 102, 113, 147, 174, 192, 242, 250, 260, 360, 371, 376,
90 and in each instance, the following words:- “, housing status”.

91 SECTION 9. Section 4 of said chapter 151B is hereby amended by inserting after the
92 word “age” in line 181 the following words:- “housing status”.

93 SECTION 10. Section 4 of said chapter 151B is hereby amended by inserting after the
94 word “information”, in lines 192, 242, 250, 260, 360, 371, 376, and 383, and in each instance,
95 the following words:- “, housing status”.

96 SECTION 11. Section 4 of said chapter 151B is hereby amended by inserting after the
97 word “origin”, in lines 513 and 523, and in each instance, the following words:- “, housing
98 status”.

99 SECTION 12. Section 4 of said chapter 151B is hereby amended by inserting after the
100 word “origin”, in lines 702 and 712, and in each instance, the following words:- “, housing
101 status”.

102 SECTION 13. Section 4 of said chapter 151B is hereby amended by adding the following
103 subsection:

104 20. It shall be unlawful discrimination for any employer, employment agency, labor
105 organization, or licensing agency to refuse to hire or employ, represent, grant membership to, or
106 license a person on the basis of that person's housing status or having a mailing address being
107 that of a shelter or social service provider, or to terminate or refuse to renew a person's
108 employment, representation, membership, or license on the basis of that person’s housing status.

109 SECTION 14. Sections 63 through 69, inclusive, of chapter 272 of the general laws are
110 hereby repealed.

111 SECTION 15. Section 92A of chapter 272 of the general laws is hereby amended by
112 inserting after the word “nationality”, in line 9, the following words:- “, housing status”.

113 SECTION 16. Section 98 of said chapter 272, as so appearing, is hereby amended by
114 inserting after the word “origin”, in line 3, the following words:- “, housing status”.

115 SECTION 17. Section 122 of chapter 5 of the Acts of 1995 is hereby repealed.