

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

March 1, 2018

Vermont House Committee on General, Housing, and Military Affairs
Via Email to Ron Wild, rwild@leg.state.vt.us

Dear Members of the Vermont House Committee on General, Housing, and Military Affairs:

Thank you for this opportunity to present testimony on behalf of the National Law Center on Homelessness & Poverty (“Law Center”) to urge the members of the Vermont House Committee on General, Housing, and Military Affairs to take all necessary measures to support and **pass H412, the Homeless Bill of Rights**, which would protect the civil and human rights of people without homes. H412 responds to the growing discrimination and criminalization of homelessness within Vermont and, consistent with recent federal policy initiatives and Constitutional law, resolves to reduce the impact of homelessness on communities and individuals by establishing fundamental legal protections to safeguard homeless persons from common forms of discrimination and criminalization measures.

The Law Center is the nation’s only legal advocacy organization dedicated solely to ending and preventing homelessness. The mission of the Law Center is to use the power of the law to address the immediate and long-term needs of those who are homeless or at risk.

Since 1991, the Law Center has documented a dramatic increase in criminalization measures and the negative consequences of these discriminatory measures nationwide. A report by the Law Center, [*Housing Not Handcuffs: Ending the Criminalization of Homelessness in the U.S. Cities* \(2016\)](#), documents that over the past ten years, despite record poverty and unemployment and a severe lack of affordable housing and emergency shelter, many municipalities, including those in Vermont, have enacted or begun vigorously enforcing local measures that criminalize the life-sustaining activities of homeless people in public, even when there are no sheltered alternatives.

Our report also documents that these discriminatory measures fail as simply bad policy: they waste taxpayer resources and makes the problem worse for both *individuals* and the *community* at large, rather than solving it.

For *individuals*, as the Justice Department stated in their 2015 filing in *Bell v. Boise*, “[i]t should be uncontroversial that punishing conduct that is a universal and unavoidable consequence of being human violates the Eighth Amendment. . . Sleeping is a life-sustaining activity—i.e., it must occur at some time in some place. If a person literally has nowhere else to go, then enforcement of the anti-camping ordinance against that person criminalizes her for being homeless. . . Issuing citations for public sleeping forces individuals into the criminal justice system and creates additional obstacles to overcoming homelessness. Criminal records can create barriers to employment and participation in permanent, supportive housing programs. Convictions under these municipal ordinances can also lead to lengthy jail sentences based on the ordinance violation itself, or the inability to pay fines and fees associated with the ordinance violation.”

For the *community*, numerous studies have found criminalization is actually the most expensive and least effective way of addressing homelessness. A 2015 study by the University of North Carolina found creating 85 units of supportive housing for chronically homeless individuals in Charlotte, NC saved the city \$1.8 million in its first year alone. These savings came through a combination of 447 fewer visits by

program residents to the emergency room, 372 fewer days in the hospital, a 78 percent reduction in arrests and 84 percent fewer days spent in jail. In its 2013 Comprehensive Report on Homelessness, the Utah Housing and Community Development Division reported that the annual cost of emergency room visits and jail stays for an average homeless person was \$16,670, while providing an apartment and a social worker cost only \$11,000. Because of the ineffectiveness of criminalization, the Department of Housing and Urban Development prioritizes dollars in its \$1.9 billion homeless Continuum of Care funding stream to applicants that can “demonstrate recipients have implemented specific strategies that prevent criminalization of homelessness.”

Moreover, criminalization laws often cost cities significant amounts in defending losing lawsuits. Our 2017 [*Housing Not Handcuffs: A Litigation Manual*](#) highlights that the majority of ordinances criminalizing homelessness are being found unconstitutional. Since the 2015 Supreme Court decision in *Reed v. Gilbert* and the 7th Circuit’s application of it in *Norton v. Springfield* to the issue of panhandling, 100% of cases brought in federal court against panhandling ordinances have found them to be unconstitutional restrictions on free speech (including several in the 1st Circuit where Vermont lies). Dozens more cities have repealed their panhandling ordinances or placed moratoria on their enforcement. Further, 75% of cases between 2014 and 2017 challenging laws restricting camping and sleeping in public or evictions of homeless encampments have also found in favor of homeless plaintiffs. Despite these trends, communities continue to pass the ordinances.

Statewide homeless bills of rights like H412 are the best way to ensure Vermont’s cities do not have an expensive and unproductive “race to the bottom” trying to push out homeless individuals by criminalizing their life-sustaining behaviors. H412’s non-discrimination provisions clarify homeless persons’ equal rights to access public spaces and services, employment, voting, education, and their equal expectation of privacy in their belongings and records. The specific protections in sections (c) and (d) clearly prohibiting laws punishing panhandling and other life-sustaining behaviors associated with homelessness, will remove any doubt that these laws are illegal, and encourage communities to instead focus energy on constructively ending homelessness itself via proven housing and service strategies, rather than ineffectively addressing its symptoms via law enforcement.


While establishing the legal invalidity of criminalization ordinances is important, section (e) of H412, providing a private right of action for enforcement of the law, should not be cause for concern. Our 2014 report [*From Wrongs to Rights: The Case for Homeless Bills of Rights*](#) documents the trend from Rhode Island, Connecticut, Illinois, and the United States territory of Puerto Rico in enacting Homeless Bills of Rights. To date, none of these states have seen a significant increase in litigation against municipalities under the Bills. Rather, they have only produced positive results, helping communities increase their sensitivity to homeless persons and remove barriers to their exiting homelessness. Homeless Bills of Rights have also been proposed in California, Hawaii, Massachusetts, Missouri, Oregon, and Delaware, as well as in a number of cities.

Passing H412 would help ensure Vermont’s reputation not only domestically, but internationally, as a leader in protecting human rights. HUD also recognizes that the criminalization of homelessness may also violate our international human rights obligations. In their 2014 and 2015 reviews of the U.S., four UN human rights bodies made recommendations for the U.S. to “abolish criminalization of homelessness laws and policies at state and local levels.” Homeless Bills of Rights not only protect homeless individuals from discrimination and criminalization, but also help homeless people to realize those basic rights that most of society takes for granted.

Nobody wants to see homeless people sleeping or begging on the streets. But we can all agree that in order to end the crisis of homelessness, passing or enforcing laws criminalizing homelessness only makes things worse. Everyone experiencing homelessness should have access to housing, services, and opportunities that allow them to live with dignity, and will be an efficient use of scarce public resources. Passing H412 makes sense regardless of whether we approach the issue from a legal, moral, fiscal, or policy perspective. The Law Center urges the Vermont Legislature to take all necessary steps to protect homeless individuals by passing H412, and encourages your committee to give it your unanimous endorsement. Our Founding Fathers proclaimed that all men are created equal and throughout the generations, our nation has continually labored to live up to this declaration. Now, it is time for Vermont to affirm equality and dignity for all by passing H412, demonstrating to the nation and the world that no one's human rights should be jeopardized simply because they lack a permanent home.

Thank you for the opportunity to present these views. Please feel free to contact me at etars@nlchp.org or 202-638-2535 x. 120 with any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Eric S. Tars".

Eric S. Tars
Senior Attorney