



MASSACHUSETTS COALITION FOR THE HOMELESS

Committed to ensuring that everyone has a place to call home

July 17, 2020

The Honorable Aaron Michlewitz, Chair of the House Committee on Ways and Means

The Honorable Clare Cronin, House Chair of the Joint Committee on the Judiciary

Via email to [Testimony.HWMJudiciary@mahouse.gov](mailto:Testimony.HWMJudiciary@mahouse.gov)

***Re: Addressing discrimination and criminalization of acts of survival by people experiencing homelessness as part of the current police reform and racial equity legislation***

Dear Chairperson Michlewitz, Chairperson Cronin, and members of the House Committees on Ways and Means and the Judiciary:

I am writing on behalf of the Massachusetts Coalition for the Homeless as the House reviews Senate Bill 2820, *An Act to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color*. In addition to the broader remarks we shared in the letter from the Task Force on Coronavirus and Equity, we would like to highlight the importance of incorporating language from the bill of rights for people experiencing homelessness in the final legislation.

The current iteration of the bill of rights for people experiencing homelessness, which combines the stand-alone bill of rights with the related “Act of Living” legislation, seeks to address the intersections of homelessness, housing, and systemic racism (see House Bill 4688 and Senate Bill 2735). **It is a critical piece of racial justice policy to reduce needless and costly contact with the criminal justice system for people experiencing homelessness.** With housing costs continuously on the rise; shelter availability contingent upon geography, access to public transportation, and meeting narrow eligibility criteria; and LGBTQ+ youth – often youth of color – concerned about facing identity-based discrimination in shelters, many individuals and families only have public spaces available as their last resort for safety. In the midst of the COVID-19 pandemic, more and more people are being turned away from shelters or deciding that staying in overcrowded congregate settings is riskier than staying on the streets. **Decriminalizing acts of survival in public enables people experiencing homelessness to seek protection and shelter in places not meant for human habitation as a last resort when they have already slipped through the holes in our Commonwealth’s social safety net.** A template for suggested language to include is attached at the end of this testimony, drawn from language filed by Senator Becca Rausch as Amendment #10 to the Senate version of the bill, Senate Bill 2800.

We know that people experiencing homelessness are systematically over-policed and over-represented in our criminal justice system. Data from the Boston Police Department shows that 1 in 8 of all people arrested in Boston last year were people experiencing homelessness, often the result of laws that criminalize the most basic necessities of life for people without housing.<sup>1</sup> These arrests totaled 1,375 in 2019, a number that is nearly a quarter of the 6,203 people counted in the city’s annual homelessness census conducted in January 2019.

**The bill of rights for people experiencing homelessness is urgent in the broader work to address the disproportionate impact of homelessness on Black and Latinx families, individuals, and youth.** Based

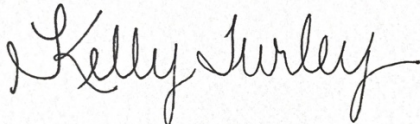
<sup>1</sup> See the Boston Globe coverage from June 28, 2020: <https://www.bostonglobe.com/2020/06/28/metro/homeless-boston-beyond-laws-can-criminalize-life-itself>

on data from the 2019 U.S. Department of Housing and Urban Development (HUD) point-in-time homelessness count, 34.8% of people counted as experiencing homelessness in Massachusetts identified as Black or African American (6,436 people out of 18,471 total people), with an additional 10.7% identifying as being of multiple races (1,976 people). 7,380 people out of the 18,471 people counted as experiencing homelessness — 39.95% — identified as Latinx (Hispanic/Latino).<sup>2</sup> In a meeting last week with the Massachusetts Department of Housing and Community Development (DHCD), DHCD leadership responded to one of our inquiries on the racial and ethnic breakouts of families participating in the Emergency Assistance (EA) family shelter program. As anticipated, there are disproportionate numbers of Black and Latinx families in the EA program. Currently, 39.41% of families are Black, and 37.67% are Latinx (of all races). By comparison, 2019 data from the U.S. Census Bureau shows that only 9.0% of the overall population in Massachusetts identifies as Black/African American, and only 12.4% of the overall population identifies as Hispanic/Latino.<sup>3</sup>

**Until we as Commonwealth can prevent and end homelessness, uphold housing as a basic human right, and end the systemic racism that perpetuates homelessness, we must do all we can to decriminalize acts of survival for people experiencing homelessness. We hope you will take action now to do just that.**

Thank you for your consideration of this timely and important matter. We are grateful for your continued efforts to promote racial equity and justice in the Commonwealth.

With hope and commitment,



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*Suggested language:*

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

Section 1(D). (a) A person experiencing homelessness shall have the right to be free from discrimination on the basis of housing status.

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

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

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

“Persons experiencing homelessness” means persons who lack, or are perceived to lack, a fixed, regular nighttime residence as defined in section 16W of chapter 6A of the general laws. Persons experiencing homelessness includes, but are not limited to, persons who: (1) share the housing of other persons due to loss of housing, economic hardship or a similar reason; (2) live in motels, hotels, trailer parks or campgrounds due to the lack of fixed, regular, and adequate nighttime residence; (3) live in emergency or transitional shelters; (4) are abandoned in hospitals; (5) are awaiting foster care placement; (6) have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; (7) live in cars, parks, public spaces, abandoned buildings, bus or train stations or similar settings; (8) are transient and otherwise experiencing homelessness as described in this subsection; or (9) meet the definition of homeless provided in section 11302(a) of Title 42 of the United States Code.

“Public space” means any real property that is owned, in whole or in part, by the Commonwealth or any municipality, or upon which there is an easement for public use, and is held open to the public. Public space includes but is not limited to plazas, courtyards,

<sup>2</sup> See [https://files.hudexchange.info/reports/published/CoC\\_PopSub\\_State\\_MA\\_2019.pdf](https://files.hudexchange.info/reports/published/CoC_PopSub_State_MA_2019.pdf) for more data. Data from the 2020 point-in-time count, conducted in January, is not yet available.

<sup>3</sup> See 2019 Massachusetts data from the U.S. Census Bureau’s “QuickFacts”:  
<https://www.census.gov/quickfacts/fact/table/MA,US/PST045219>

parking lots, sidewalks, public transportation facilities and services, public buildings, and parks. Public space does not include a private business establishment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION XX. Section 1 of chapter 51 of the General Laws is hereby amended by inserting after the last sentence the following sentence:-

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

SECTION XX. Sections 63 through 69, inclusive, of chapter 272 of the General Laws are hereby repealed.

SECTION XX. Section 92A of chapter 272 of the General Laws is hereby amended by inserting after the word “nationality”, in line 9, the following words:- “, housing status”.

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