

SENATE No. 142

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/24/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/25/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>3/1/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/5/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>3/9/2021</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>3/15/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>4/8/2021</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>4/20/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>4/28/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>5/21/2021</i>

SENATE No. 142

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 142) of Rebecca L. Rausch, Harriette L. Chandler, Michael J. Barrett, Jack Patrick Lewis and other members of the General Court for legislation to provide a bill of rights for people experiencing homelessness. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2735 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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. Section 17A of chapter 85 of the General Laws is hereby repealed.

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

4 Section 1D. (a) 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 11302(a) of title 42 of the United
24 States Code.

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, including without limitation access to medical care, testing, and vaccination for
49 the 2019 novel coronavirus, known as COVID-19;

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

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

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

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

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

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

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

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

70 SECTION 3. Section 1 of chapter 51 of the General Laws, as appearing in the 2018
71 Official Edition, is hereby amended by inserting after the last sentence the following sentence:-

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

74 SECTION 4. Section 1 of chapter 151B of the General Laws, as appearing in the 2018
75 Official Edition, is hereby amended by adding the following subsection:-

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

78 SECTION 5. Section 3 of chapter 151B of the General Laws, as appearing in the 2018
79 Official Edition, is hereby amended by inserting after the word “information” in line 20 the
80 following words:- housing status.

81 SECTION 6. Said section 3 of chapter 151B, as so appearing, is hereby further amended
82 by inserting after the word “persons”, in line 56, the following words:- persons who have
83 experienced homelessness.

84 SECTION 7. Said section 3 of chapter 151B, as so appearing, is hereby further amended
85 by inserting after the word “information”, in line 66, the following words:- housing status

86 SECTION 8. Said section 3 of chapter 151B, as so appearing, is hereby amended by
87 inserting after the word “origin”, in line 87, the following words:- housing status.

88 SECTION 9. Section 4 of said chapter 151B, as so appearing, is hereby amended by
89 inserting after the word “information”, in lines 5, 189, 204, 211, 223, 232, 266, 293, 311, 361,
90 369, 379, 479, 490, 495, 502, 824, and 833 in each instance, the following words:- housing status

91 SECTION 10. Said section 4 of chapter 151B, as so appearing, is hereby further amended
92 by inserting after the word “age” in line 300 the following words:- housing status.

93 SECTION 11. Said section 4 of chapter 151B, as so appearing, is hereby further amended
94 by inserting after the word “origin”, in lines 634 and 644, and in each instance, the following
95 words:- housing status.

96 SECTION 12. Said section 4 of chapter 151B, as so appearing, is hereby further amended
97 by adding the following subsection:-

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

103 SECTION 13. Sections 63 through 69, inclusive, of chapter 272 of the General Laws are
104 hereby repealed.

105 SECTION 14. Section 92A of chapter 272 of the General Laws is hereby amended by
106 inserting after the word “nationality”, in line 9, the following words:- housing status.

107 SECTION 15. Section 98 of said chapter 272, as so appearing, is hereby amended by
108 inserting after the word “origin”, in line 3, the following words:- housing status.

109 SECTION 16. Section 122 of chapter 5 of the Acts of 1995 is hereby repealed.