

# Colorado Right to Rest Act



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## Right to Rest Act Frequently Asked Questions

The human indignity of homelessness impacts roughly 17,000 Coloradans and their communities. Ending homelessness nationwide should be a top priority of policy makers and, until this is achieved, the criminalization of people simply because they have no home must be immediately halted. The Right to Rest Act of 2015 will protect people who are homeless from citations and imprisonment resulting from resting, having belongings, or sharing food in public. Citations and jail time only worsen the condition of people without homes and limit their opportunities to escape homelessness. By acknowledging how municipal laws that criminalize homelessness actually deepen poverty, we believe that passage of this legislation will encourage more humane and effective responses to homelessness.

**Question:** What is the overall problem this legislation is trying to solve?

**Response:** The prevalence of homelessness in the 21st century's economic and political system has not only led to violations of internationally recognized human rights; it also threatens the public health of entire communities. The Right to Rest Act of 2015 seeks to protect the basic human rights of people to rest by outlawing municipal laws that criminalize homelessness and the survival act of resting and sharing food in public. This will shift focus to addressing the true root causes of homelessness and its consequences on families, communities, and society.

**Question:** I live in a home rule city. What gives the state the right to decide how we deal with homelessness in our city?

**Response:** Homelessness, and the criminalization thereof, are of statewide concern. Local laws against resting, sleeping and eating in public space are currently being enforced in cities across Colorado. These laws violate the State Constitution by preventing people from "defending their lives" and "obtaining their safety" by carrying out acts of survival in public space. Other practices, such as seizing, searching, destroying and disposing of homeless

people's belongings without probable cause, violate people's constitutionally protected right to possess and protect their property. These violations commonly occur during "sweeps" of sites where homeless people sleep. Because local jurisdictions are increasingly passing and enforcing such unconstitutional ordinances and rules, a state law is needed to prevent such occurrences.

The U.S. Conference of Mayors found that the approach of criminalizing homelessness hurts local governments, does not solve homelessness, and can make it worse. The federal government, through the Interagency Council on Homelessness, has said the same thing.

Further, homelessness is not isolated to a few cities or to large cities, but occurs throughout Colorado. Also, people without homes move from place to place throughout our state. Therefore, an effective, statewide response is needed. Just as local discriminatory laws of the past, such as Jim Crow or Wetback laws, were overturned at the state and federal level by those who recognized the immorality of such laws, so today the state of Colorado must take legal action to overturn laws that discriminate against homeless people and to protect their right to rest in public space.

**Question:** Homeless people need services, so is it not important that we have camping bans and other such laws to give police a tool to connect people with those services?

**Response:** While it is true that many people who are homeless need services, including mental and physical health care, drug and alcohol rehabilitation assistance, shelter, and the like, these services do not address the basic need and right to be in public spaces. For those who need these services, such services are so severely limited that many people do not have the option to access them--and thus being told to "move along" out of public spaces into these services is often not possible. Furthermore, many people do not need any of these services, so trying to force them into these services is a violation of their basic individual rights and freedoms. Using camping bans—and other such laws criminalizing necessary life-sustaining acts—as a "tool" to connect people with services is wrong and unnecessary. If the goal is to help connect those needing mental health or other such services with those resources, this could be better done by hiring social workers to connect with people on the streets and by investing in providing the needed services so those needing them have an option to receive them.

**Question:** If the Right to Rest Act includes a private right of action allowing homeless people to sue cities, police, or private security for violating their rights, won't our cities be flooded with frivolous lawsuits and forced to spend massive amounts of money fighting lawsuits?

**Response:** If cities do not want to face lawsuits for the violation of people's rights, the

easiest answer is simply not to violate these basic rights. If these rights are respected, then any lawsuits that are filed claiming rights have been violated would not prevail, and cities would not lose money. Furthermore, the attorney's fee provision incentivizes lawyers to take meritorious but low-damage cases, and disincentivizes them from filing frivolous lawsuits, since the losing party pays fees and costs. A private right of action is a common and key provision in civil rights laws, especially in the absence of other effective enforcement mechanisms.

**Question:** Isn't housing the solution to homelessness? If we just focus on housing we won't need to worry about homeless people being criminalized.

**Response:** We agree that the solution to homelessness is permanent housing, and that our entire society must work together to ensure that truly affordable housing is available to all who need it. But such a solution is not being implemented today, nor unfortunately does it seem to be "just around the corner." Meanwhile, people who lack housing and must therefore conduct their survival activities in public space are being treated as criminals for this activity. Such criminalization is unconstitutional, immoral, counterproductive, and just plain wrong. A state law is needed to protect people's right to exist in public space, even while we work to create the public will to provide affordable housing opportunities to all who need it. There is every reason why we must work to correct both wrongs--the criminalization of homelessness and the lack of affordable housing for all--at the same time.

**Question:** The people who sleep outside do so by choice. If you make it legal, won't more and more people do it?

**Response:** Many people who sleep outside would move indoors if "choices" that were appropriate for their needs, like housing, were available to them. Many people are afraid of sleeping outside and choose to sleep in shelters whenever possible. Others sleep outside rather than in a shelter because there are not nearly enough shelter spaces for all who need them, and shelter is not a permanent solution for homeless. Many people with mental health conditions are unable to tolerate shelters. There's a lack of shelter spaces for couples, LGBTQ individuals, families, young people, people with disabilities, and people with pets. Many are fearful of the bugs, violence, theft, and unsanitary conditions which they often associate with shelters. Many who have jobs cannot stay at shelters because shelters have strict check in times that conflict with their work schedules.

As Denver Homeless Out Loud's 2013 report on the effects of the Urban Camping Ban revealed, making outdoor "camping" illegal did not stop people from doing it. It just pushed them away from safer, more accessible, better lit areas into more hidden, less lit and therefore more dangerous areas--which also made it harder for outreach workers to engage with them.

The way to reduce the number of people who are sleeping and living outside is not to criminalize their efforts to exist in public space, but rather to make appropriate shelters, day centers, services, and--especially--HOUSING available to those who need and want it. One reason we do not have adequate housing and services to meet the needs of homeless Coloradans is because of the high priority municipalities have placed on law enforcement activities against homeless people. If the money spent on the enforcement of anti-homeless laws (including policing, court processing, and incarceration) were instead spent on permanent affordable housing, we could end homelessness.

**Question:** But aren't most homeless people dirty? Don't they make our downtown areas look gross and push visitors away?

**Response:** The way to keep homeless people from looking dirty is not by criminalizing their existence, but by providing appropriate shelters, restrooms, showers, storage facilities, day centers, and ESPECIALLY--HOUSING! Homeless people do not WANT to be dirty. While there may be shoppers and visitors who are discouraged from coming downtown by the sight of homeless people, we believe that a majority of housed people would NOT want homeless people's rights to be violated, but instead would want positive steps to be taken to ease their burden and END their homelessness. Most camping bans are passed by the vote of a few individuals, pressured by businesses. They are generally not passed by the vote of the PEOPLE, a majority of whom would doubtless oppose such laws.

This bill does not give people the right to leave trash about, urinate in public, aggressively panhandle, block a doorway or passageway, or engage in destructive activities. It simply protects the right of all people to move about freely, rest, sleep, protect themselves from the elements, eat and share food, and engage in other basic acts of human survival.

**Question:** Don't we need laws to keep homeless people from hanging out and sleeping downtown and in neighborhoods in order to keep crime down?

**Response:** There is no statistical evidence to support stereotypes about a relationship between homelessness and real crime, like assaults or burglary. The idea that homeless people are criminals is nothing but a myth that has been perpetuated to make others afraid of homeless people and willing to support draconian measures against them--such as passing bans on sleeping outside and spending millions of dollars on policing their activities and "moving them along"--money that should be spent on needed services and on combatting REAL crime. The real problem is crime and violence experienced by homeless people--especially the many elders, youth, women, and disabled among the community--whose need to survive outside makes them so vulnerable to violence.

The National Coalition for the Homeless' 2013 report, *Vulnerable to Hate: A Survey of Hate Crimes and Violence Committed Against Homeless People* documented 1,437 acts of violence against homeless people committed by housed perpetrators between 1999 and 2013--including murders, rapes, beatings and mutilations. By criminalizing homelessness instead of dealing with its root causes, our local governments are forcing homeless people into more hidden, and therefore less secure, areas--where the risk of being attacked is increased. And criminalizing homelessness instead of providing appropriate solutions sends the public the message that "homeless lives don't matter"--they're fair game.

**Question:** If we can't have park curfew laws, camping bans, and "no loitering" ordinances, won't homeless people take over the parks, causing other people to stay away?

**Response:** Please remember that housed people have houses in which to sleep, rest and socialize. They also, to varying degrees, have a greater ability to go to coffee shops, restaurants, movies, plays and clubs to socialize and be entertained. Unhoused people, on the other hand, have shelters (if they can get in and tolerate the environment), a few overcrowded day centers in which they are segregated from everyone else, and public spaces, such as libraries, downtown areas, and parks. If homeless people tend to dominate certain parks, it is only because they have nowhere else to go and have a perfect right to be there. Anyone, housed or unhoused, who violates any law or legitimate rule that does not discriminate based on homeless status, is and should be subject to being removed and/or prosecuted. There is no reason why other people should "stay away" from public spaces in which homeless people congregate. If public officials and the media didn't perpetuate the myth of homeless people as criminals, others would probably not be as scared to be near them, and people would come to know, understand and appreciate each other.

**Question:** Why would I want to help people who are lazy, act like criminals, and refuse to help themselves? Shouldn't they just get a job so they can pay for their own housing?

**Response:** This question is based on untrue stereotypes and false assumptions. Regarding "getting a job"--According to the 2014 Metro Denver Homeless Initiative Point in Time survey, 30.8% of respondents said they or a family member had worked in the last 30 days. Nationally, the number most frequently reported is 44%. As to why more didn't work, or don't work regularly, have you ever tried to find or keep a job while living in a shelter or under a bridge, and with no place to store your belongings and no way to afford transportation? And when no one will hire you once you answer the obligatory questions about your current residence, your credit, or your criminal background--even when your offense happened and you paid your debt to society long ago?

Regarding "pay for their own housing"--Many full-time workers are unable to do this. In

Denver, for example, if a person worked full-time making minimum wage at an entry level job, they'd clear \$1280 after taxes. If they rented a 1 bedroom apartment at the average Denver rental rate of \$1244, they would be left with \$36 for everything else!

**Question:** But won't citing homeless people at least motivate them to move out of a certain neighborhood, or maybe move indoors?

**Response:** No. As local police precincts race to respond to complaints about homeless people in their areas, most homeless people have nowhere else to go, so they are forced to remain in public space. As citations for "quality of life" activities add up, so do fines that are impossible to pay. When homeless people are arrested and even incarcerated just for being too poor to pay for these tickets, they acquire a criminal record that creates barriers to housing and employment. The criminalization of homelessness not only violates homeless people's human rights, but also perpetuates and deepens their poverty by creating legal barriers to exiting homelessness.

**Question:** Why would I want people sleeping in their cars and trucks to park outside of my house?

**Response:** What makes someone sleeping in their vehicle by your home--because they have nowhere else TO sleep--more threatening to you and the neighborhood than someone sleeping in their home next door? Get to know the people. You will likely find that there is nothing to be worried about, and even that they make the neighborhood safer by protecting your house from burglary and deterring other crime.

**Question:** If we feed homeless people in public, won't they just leave their trash everywhere?

**Response:** This is a common misconception. Many people, not just homeless people, leave their trash everywhere. If there were more trash cans available, then there would be less trash everywhere. Furthermore, organizations that distribute free food bring their own trash receptacles, often leaving public areas cleaner.

**Question:** What do you mean by the right to share food? Don't we feed homeless people enough already?

**Response:** It's not a matter of feeding them "enough." There are laws across the country criminalizing the act of simply sharing food with anybody in public. This Act will prevent laws like that from being passed in Colorado.

In many cases food-sharing programs are the only occasion in which some homeless individuals will have access to healthy, safe food. The 2013 Hunger and Homelessness Survey, conducted by the United States Conferences of Mayors, found that:

- 83% (19 of 25) of cities surveyed in 2013 reported an increase in the number of emergency food requests from the previous year.
- 91% reported an increase in persons requesting food assistance for the first time.
- 80% reported an increase in frequency of visits to food pantries and emergency kitchens each month.

The need for food assistance is growing in our communities and we must ensure that those who wish to share food with those in need can continue to do so in public space.

**Question:** So if this law passes homeless people can just start sleeping in my doorway?

**Response:** No, they cannot block doorways. The bill states clearly that people can “rest in public spaces and protect oneself from the elements, *in a non-obstructive manner.*” Current laws prohibiting obstruction of a passageway would still be in effect.

**Question:** Won't this bill prevent law enforcement from searching criminals for drugs and weapons because of the expectation of privacy of one's property?

**Response:** This bill does not change law enforcement's right to search someone and/or their property when they have probable cause of suspecting the person has illegal drugs or weapons. However, as is protected in the US Constitution, people's right to a reasonable expectation of privacy of their property will be respected when one is in public space, just as it is in private space.

**Question:** Will passage of this bill mean that city crews will no longer be able to clean up public areas?

**Response:** No. Laws against littering and obstructing a right-of-way would still be in place, so cleanup crews could still do their job. It just means that cleanup crews will not be allowed to simply throw away possessions of value to people--like backpacks, sleeping bags, and blankets when those possessions are on public property and are not obstructing a right-of-way.

**Question:** Won't this bill prevent law enforcement from dealing with safety issues or pursuing

criminals because cops will be afraid of being sued?

**Response:** This bill does not prevent law enforcement from pursuing criminals. It prevents law enforcement from pursuing HOMELESS PEOPLE simply for living in public space. If somebody is breaking a law, then law enforcement has every right to pursue them. Law enforcement will no longer have to pursue people who are performing basic acts of survival like sleeping or resting.

**Question:** How will cities deal with people's bad behavior in public places if this bill passes?

**Response:** The Right to Rest Act would not affect localities' ability to enforce laws against such things as assault, being drunk in public, harassment, trespassing or blocking passageways. It would only end the practice of arresting or citing people for the simple acts of resting or sharing food in public--acts of SURVIVAL.

**Question:** Doesn't the Right to Rest Act just incentivize homelessness?

**Response:** NO. The Right to Rest act merely makes SURVIVAL legal. Homelessness is not a condition that most people *choose*. In most Colorado cities, there are far more homeless people than there are shelter beds, and the public housing waiting lists are long and have many restrictions. Even when shelter beds are available, they often fail to meet the needs of families to stay together, of women, elderly or victims of trauma, people with disabilities, and people with pets. The data show that homelessness is caused by the lack of affordable housing. When the federal government stopped funding new public housing--spending dropped from over \$16 million per year in 1978 to nothing since 1996--homelessness tripled or quadrupled in every major U.S. city and has risen steadily since. Ironically, the criminalization of homelessness actually perpetuates homelessness by creating legal barriers to accessing housing and employment. If you want homeless people off the street, stop criminalizing them.