

SB 2007

Measure Title: RELATING TO THE HOUSELESS BILL OF RIGHTS.

Report Title: Houseless Bill of Rights

Description: Defines specific rights granted to a person who is houseless including equal access to housing, jobs, and shelters, equal treatment by government agencies, and access to life-sustaining activities and essential services.

Companion:

Package: None

Current Referral: HOU, JDC

Introducer(s): ESPERO, HARIMOTO, S. Chang, Kim



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 1, 2018

TO: The Honorable Senator Will Espero, Chair
Senate Committee on Housing

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: **SB 2007 – RELATING TO THE HOUSELESS BILL OF RIGHTS**

Hearing: Thursday, February 1, 2018, 2:55 p.m.
Conference Room 225, State Capitol

POSITION: The Governor's Coordinator on Homelessness appreciates the intent of this measure, as it seeks to clarify the legal rights of persons experiencing homelessness, and offers the following comments.

PURPOSE: The purpose of the bill is to define specific rights granted to a person who is homeless, including equal access to housing, jobs, and shelters; equal treatment by government agencies; and access to life-sustaining activities and essential services.

The Coordinator notes that many of the specific rights defined by the bill are rights already defined by the U.S. Constitution, the Hawaii State Constitution, and other federal and state laws. In addition, the courts have recently issued decisions that further clarify specific constitutional rights relating to due process when property is seized, and the right of homeless persons to sleep outdoors if no alternative options for shelter are available.

The State has adopted a comprehensive framework to address homelessness, which includes a focus on three primary leverage points – affordable housing, health and human services, and public safety. All three of these leverage points must be addressed to continue forward momentum in addressing the complex issue of homelessness.

The Coordinator notes that the State has developed procedures that provide due process when property is abandoned or seized by a government agency, and ensure that

homeless outreach providers work closely with government agencies to provide alternative shelter or housing options if a homeless individual is displaced from government lands. In addition, the Department of Human Services (DHS) adopted a 'housing first' philosophy for all homeless service contracts, which aims to reduce barriers to shelter and accelerate placement into permanent housing. These efforts are intended to balance the rights of persons experiencing homelessness with the delivery of homeless services and the ability of state agencies to maintain state properties.

The Coordinator respectfully defers to the Department of the Attorney General in regard to potential conflicts between this bill and other existing laws.

Thank you for the opportunity to comment on this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

S.B. NO. 2007, RELATING TO THE HOUSELESS BILL OF RIGHTS.

BEFORE THE:

SENATE COMMITTEE ON HOUSING

DATE: February 1, 2018

TIME: 2:55 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Russell A. Suzuki, First Deputy Attorney General, or
Melissa L. Lewis, Deputy Attorney General

Chair Espero and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill seeks to create a "Houseless Bill of Rights" for individuals deemed to be houseless. The wording of this provision is vague and may be interpreted to create additional legal rights for houseless individuals that are not provided to other citizens of the State. This measure may be interpreted to give rise to civil liability against the State and may interfere with legitimate law enforcement interests.

For instance, on page 4, lines 3-9, the bill provides that:

The right to a reasonable expectation of privacy in personal property, including but not limited to identification, food, water, medication, and all objects necessary for life-sustaining activities, such as clothing, blankets, pillows, and backpacks, to the same extent as personal property in a permanent residence;

Similarly, on page 4, lines 13-17, the bill provides for:

The equal opportunity to have access to public hygiene facilities and live in decent, safe, sanitary, and healthful accommodations, regardless of housing status, but not including access to environmentally sensitive areas;

The wording in the first instance may be interpreted to give a greater right or expectation of privacy to a houseless individual in a public space than a similarly situated person who has a house. It also may interfere with law enforcement efforts in public spaces. The wording in the second instance

may be interpreted to mean that the State is obligated to provide housing for everyone. If this is not the intent we recommend these provisions be deleted.

If the intent of this measure is to simply acknowledge existing rights and to make sure that those rights are not infringed upon in a discriminatory manner due to an individual's housing status, we recommend that the following sentence be added to the end of the paragraph on page 5, line 10:

Nothing in this chapter shall be interpreted to create new legal rights for houseless individuals; it is intended to ensure that a houseless person is not discriminated against due to housing status.

Further, on page 4, lines 18-21, and page 5, lines, 1-4, the measure provides that:

Action by the State, a county, or private organization shall not impede an individual's ability to maintain access to services essential to survival, including but not limited to medical services, shelter, food, and water; provided that as used in this paragraph, "action by the State" shall not include law enforcement activities and efforts to promote health, safety, and welfare.

It is our understanding that counties may also need to take enforcement action and action to promote health, safety, and welfare. If it is the intent that the State and counties may engage in law enforcement, and health, safety, and welfare efforts, we recommend that the following amendment be made:

Action by the State, a county, or private organization shall not impede an individual's ability to maintain access to services essential to survival, including but not limited to medical services, shelter, food, and water; provided that as used in this paragraph, "action by the State and counties" shall not include law enforcement activities and efforts to promote health, safety, and welfare.

If this bill is to proceed we respectfully request that the recommended modifications be made.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON HOUSING

THURSDAY, February 1, 2018, 2:55 PM, Room 225

SB 2007, Relating to the Houseless Bill of Rights

TESTIMONY

Nina Eejima, Legislative Committee, League of Women Voters of Hawaii

Chair Espero, Vice-Chair Harimoto and Committee Members:

The League of Women Voters of Hawaii offers comments on SB 2007 that defines specific rights granted to a person who is houseless, including equal access to housing, jobs, and shelters, equal treatment by government agencies, and access to life-sustaining activities and essential services.

We unequivocally support the legal protections provided under federal and state legal regimes that ensure substantive and procedural due process rights, including equal protection under the law, regardless of a person's housing status. We note, however, that houseless persons' rights can and are compromised to the extent such houseless status results in de facto discrimination. In our opinion, existing laws and court decisions already provide the legal protections that this measure reflects. We note that it is the lack of enforcement of such existing protections that allows such discrimination to continue. In this regard, we bring attention to the inherent access to justice issues that houseless persons face. What is needed is a long-standing challenge: we need a societal commitment to more effective and wide-spread enforcement and implementation of existing laws on behalf of a virtually voiceless constituency. While we applaud the spirit and intent of this bill, we note that the rule of law on the issues presented is well-established. What's missing is our collective efforts to ensure that rights are not just theoretical protections.

Thank you for the opportunity to submit testimony.

SB-2007

Submitted on: 1/30/2018 2:46:33 PM

Testimony for HOU on 2/1/2018 2:55:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
		Comments	No

Comments:

Aloha Chair Espero and members of the Committee on Housing:

While I support the intent of this bill, I have some **comments**.

On page 4, lines 13-17, I have a concern regarding the language in the section. I agree that everyone should have access to public hygiene facilities, etc. but those facilities should be used as designed. I am concerned that allowing anyone to utilize bathroom facilities (toilets and urinals) in a manner other than intended, i.e. as a shower or body bath facility may not be appropriate for all other individuals who might utilize those facilities. I believe those facilities should be used as intended and not in other fashions.

On page 4, line 18- page 4, line 4 may also be problematic. While not impeding an individual's ability to maintain access to services essential to survival from State or county facilities are one thing, to ask a private organization to allow that is not appropriate. In that case, it appears that you are stating that anyone can go to a private organization (like a bank, law office, etc.) and access these services. The most problematic is access to water.

I believe that both of these sections need to be clearer for the rights of the homeless and just anyone in general who might wish/want to access the services provided. One right cannot trump another's right to the same access.

Mahalo,

Cynthia K. L. Rezentes

SB-2007

Submitted on: 1/29/2018 12:39:27 PM

Testimony for HOU on 2/1/2018 2:55:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl		Support	No

Comments:

It is exciting to see someone taking action to back up our belief in Hawai'i that every person has value. I fully support that each and every person has these rights. My only other comment is how do we balance the rights of all people? As someone who lives downtown Honolulu, near Fort Street Mall, some days are hard to walk through the area. There are people who have mental challenges which can prove dangerous to others. Just yesterday evening as we walked to Hawai'i Theater with others, a person took off the garbage can cover and flew it out into the air. Everyone stopped to make sure that all were safe including that person. There are probably no all inclusive answers to these situations but I wanted to note them.

Again, I fully support that all people have rights and hope that this will continue into other areas of our islands.