

**TOWN OF FAIRFAX
COUNCILMEMBER MEMORANDUM**

To: Mayor and Town Council

Meeting Date: September 5, 2012

From: Councilmember Weinsoff / Mayor Hartwell-Herrero

Subject: Resolution of the Town Council Requesting the California State Legislature Enact a “California Homeless Bill of Rights.”

The homeless too often suffer and incur discrimination, hardships, burdens and the deprivation of constitutionally protected rights solely because of their status as being without a permanent home. It is long past due for this separate and unequal treatment to be replaced with compassion, respect, and the recognition that for those in our Fairfax community, Marin County, and State who are blessed with great providence comes the moral obligation to care for those less fortunate than ourselves. It is for these reasons that a “California Homeless Bill of Rights” should be formally added to the California Fair Employment and Housing Act (Government Code § 12900 *et seq.*).

The long road of justice arcs in our time to prohibit discrimination on the basis of race, religious creed, color, national origin, physical disability, mental disability, medical condition, sex, age, and – in still incomplete fashion - sexual orientation. Today we need to enact legislation to specifically identify homeless persons as having rights equal to those of us fortunate to live under a secure roof in a safe home.

This “California Homeless Bill of Rights” asks not for the granting of special or extra rights not given to any other person or group of persons, but calls out and requires that our State enforce existing rights for homeless individuals already guaranteed by the California and U.S. Constitutions. In sum, this “California Bill of Rights” prohibits police, healthcare workers, landlords or employers from treating homeless people unfairly because of their housing status, and provides homeless people both a way to ensure their rights are protected and the means to obtain relief for damages incurred.

Model legislative language, in significant part borrowed from similar legislation enacted by the Rhode Island Legislature, is urged upon our State Legislature by the people of Fairfax to be enacted as an “urgency statute.” Our sister towns and cities and the County are asked to join us in this movement toward justice.

AGENDA ITEM # 18

RESOLUTION NO. 12-59

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX REQUESTING THE CALIFORNIA LEGISLATURE ENACT A “CALIFORNIA HOMELESS BILL OF RIGHTS”

WHEREAS, for far too long many persons have been rendered homeless as a result of economic hardship, a severe shortage of safe, affordable housing, and a shrinking social safety net; and

WHEREAS, homeless persons are routinely discriminated against by numerous entities in our state depriving them of the stated rights under our California Constitution; and

WHEREAS, the People of the Town of Fairfax and its Council find it necessary that legislation should be passed to protect homeless people from the abuses visited upon them.

NOW THEREFORE BE IT RESOLVED, the Town government of the Town of Fairfax requests the California Legislature chapter the text of the “California Homeless Bill of Rights” as framed below within the California Fair Employment and Housing Act, ensuring that homeless people will no longer be deprived of the rights and privileges that all other California citizens receive. The proposed text is as follows:

CHAPTER XXX

CALIFORNIA HOMELESS BILL OF RIGHTS

Short Title. This chapter shall be known and may be cited as the “California Homeless Bill of Rights.”

Legislative intent.

(1) At the present time, many persons have been rendered homeless as a result of economic hardship, a severe shortage of safe, affordable housing, and a shrinking social safety net.

(2) Article 1, Section 1 of the California State Constitution states in part, “All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.” Article 1 Section 7(a) of the California State Constitution states in part, “A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws ...”

(3) Consistent with these stated Constitutional rights, no person should suffer unnecessarily or be subject to unfair discrimination based on their homeless status. It is the intent of this chapter to ameliorate the adverse effects visited upon individuals and

our communities when the state's residents lack a home.

Bill of Rights. No person's rights, privileges, or access to public services may be denied or abridged solely because he or she is homeless. Such a person shall be granted the same rights and privileges as any other resident of this state. A person experiencing homelessness:

(1) Has the right to use and move freely in public spaces including, but not limited to, public sidewalks, public parks, public transportation, and public buildings, in the same manner as any other person, and without discrimination on the basis of his or her housing status;

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

(3) Has the right not to face discrimination while seeking or maintaining employment due to his or her lack of a permanent mailing address, or his or her mailing address being that of a shelter or social service provider;

(4) Has the right to emergency medical care free from discrimination based on his or her housing status;

(5) Has the right to vote, register to vote, and receive documentation necessary to prove identity for voting without discrimination due to his or her housing status;

(6) Has the right to protection from disclosure of his or her records and information provided to homeless shelters and service providers to state, municipal, and private entities without appropriate legal authority; and the right to confidentiality of personal records and information in accordance with all limitations on disclosure established by the federal Homeless Management Information Systems, the federal Health Insurance Portability and Accountability Act, and the federal Violence Against Women Act; and

(7) Has the right to a reasonable expectation of privacy in his or her personal property to the same extent as personal property in a permanent residence.

Damages and Attorney's Fees. In any civil action alleging a violation of this chapter, the courts may award appropriate injunctive and declaratory relief, actual damages, and reasonable attorneys' fees and costs to a prevailing plaintiff.

Definitions. As used in this chapter, "housing status" means the status of having or not having a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence.

The foregoing Resolution was adopted at a regular meeting of the Town of Fairfax held in said Town on the 5th day of September 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

MAYOR PAM HARTWELL-HERRERO

Attest:
