



To: Members of the House General, Housing and Military Affairs Committee
From: Karen Horn, Director, Public Policy and Advocacy, khorn@vlct.org www.vlct.org
Date: February 4, 2020
Re: H. 492

Thank you for the opportunity to testify on H. 492, the bill to address discrimination against homeless persons.

The bill would add housing status to the list of protected classes with respect to accommodation, housing, or employment. Municipal officials across the state are familiar with the tragedy of homelessness and with the many causes thereof. I cannot think of a downtown that does not support assistance to victims of homelessness in concert with both government and non-profit providers. And every municipality with a downtown also works to balance the needs of a homeless population with efforts to grow a vibrant place-based economy that is attractive to the general public.

In Title 1 Chapter 5, "Common Law; General Rights" H. 492 would establish a "Bill of Rights" for homeless persons. We are not sure why the proposed language would be in that section of statute, which addresses applicability of common law, open meeting and public records laws, and access to interpreters for persons who are deaf or hard of hearing.

The draft language would guarantee a person "without housing the right to use and move freely in public spaces, including public sidewalks, parks transportation, and buildings, in the same manner as any other person and without discrimination on the basis of his or her housing status". (Sec. 2 page 2, line 13-15).

At page 4, lines 1-4 the bill reads, "No person shall be subject to civil or criminal sanctions for soliciting, sharing, accepting or offering food, water, money, or other donations in public places".

Both municipalities and the state are working hard to grow the Vermont economy and make our downtowns welcoming places for all who might want to go there. Downtowns are centers for a wide range of activities and events as well as locations for brick and mortar retail stores, restaurants, craft brew enterprises and much more. Retail locations in particular, fight an ongoing battle to remain viable in the face of Amazon-like on-line retail giants who do not need to address a host of issues with which brick and mortar businesses contend, including activities that might discourage potential paying patrons from frequenting downtown businesses.

Not only in Vermont downtowns, but across the country, homelessness is a problem that local governments and states struggle – with inadequate resources - to manage and solve.

It is the act of soliciting or panhandling, and especially aggressive panhandling, not the status of homelessness (which is frequently unknown) that is problematic for municipalities. Municipalities need to retain authority to adopt ordinances to address time, place and manner of soliciting that are content neutral and do not burden people's abilities to exercise free speech rights.



The law about soliciting or panhandling remains unsettled. According to an article in Middle Tennessee State University's First Amendment Encyclopedia, "Panhandling Laws", updated in August 2017, ordinances regulating solicitation in a public place must be (1) neutral in content; (2) be narrowly tailored; (3) leave open ample alternative channels of communication; and (4) serve a significant government interest that is pressing and legitimate.

<https://www.mtsu.edu/first-amendment/article/1215/panhandling-laws>

Soliciting outside those businesses that have cast their fate with the success of downtowns is frequently a deterrent to people entering those businesses and spending the dollars that keep them afloat. Soliciting at busy intersections is a public safety risk to both pedestrians and drivers. We believe municipalities need to retain flexibility to address such issues.

We are also concerned about the language that would allow a person aggrieved to bring action for appropriate relief in Superior Court, including damages, costs and attorney's fees. Who is an aggrieved person going to sue? What is "aggrieved"?

Thank you for the opportunity to testify.