

Indy council creates 'Homeless Bill of Rights'

Brian Eason

The City-County Council on Monday voted largely along party lines to create a "Homeless Bill of Rights," making Indianapolis one of the first cities in the country to do so.

The ordinance, modeled after similar laws in Rhode Island and Illinois, establishes specific protections for the homeless, a vulnerable population that advocates say face pervasive discrimination in their daily lives.

Among the protections: the right to "move freely in public spaces," such as sidewalks and public buildings; the right to equal treatment by city agencies; the right to emergency medical care; and the right to a "reasonable expectation of privacy" for their personal property, just as someone would have inside a home.

Notably, it would also make it more difficult to displace homeless people from public property.

The council in December voted to send the proposal back to committee for additional vetting after it became clear that the proposal lacked the support needed for passage. The biggest issue: Several council members said it tried to tackle too much at once, with too little thought given to the potential consequences.

On Monday, the council passed a stripped-down version that addressed some concerns but did little to sway Republicans in its favor. It passed 16-13, with Republican Councilman Jeff Miller voting with the Democratic majority for passage.

The new ordinance doesn't include any funding for a homeless engagement center, which the sponsor, Democratic Councilman LeRoy Robinson, has broken out into a separate proposal. And a provision protecting the homeless from employment discrimination was removed in committee because it lacked support.

But controversial provisions remained.

One section requires the city to give a homeless person 15 days notice before displacing him or her from a camp.

Opponents worry this will be too onerous in the event of a public health crisis, such as the Davidson Street camp, which was dismantled in 2013 because of complaints about garbage and human waste. The council approved an amendment that allows police to circumvent the new procedures in case of emergencies.

But others still fear it could be a magnet for lawsuits.

Republican Councilman Robert Lutz questioned the way the ordinance defines "camp" and "public space." Under the most literal interpretation, he said, it could mean as few as two people with tents at a park or on a sidewalk.

"It's well intended, but the proposal in my view has such flaws that I just don't think it's practical to enforce," Lutz said. "I don't want to be seen as a heartless person, but we have to be concerned with the realities of this."

The city also would have to store displaced people's belongings for 60 days and connect them with nonprofits that would provide them with transitional housing and "wrap-around services," such as medical care and employment assistance.

Robinson said such services are vital — and less costly than arresting people for minor offenses to get them off the streets.

"It is much more cost-effective to provide support services and assistance to those experiencing homelessness in our city, than to arrest them," Robinson wrote in an email to The Star. "Sadly, our city had chosen the latter."

Elsewhere, similar bills of rights have drawn mixed reviews. The Rhode Island Coalition for the Homeless reports that it has been difficult to get agencies to follow the new rules since they were passed in 2012, noting that despite their best efforts, "discrimination and harassment continue."

Still, the coalition says it has given legal groups another valuable tool to defend the homeless. And national advocacy groups, including the National Coalition for the Homeless, consider a bill of rights to be a critical piece in broader efforts to assist those who lack housing.

For Indianapolis, the proposal represents a 180-degree shift from past debates on the issues of homelessness and public nuisances — and it's possible it will be vetoed by Republican Mayor Greg Ballard. As recently as last year, his administration was pushing for new restrictions on the use of public spaces in a bid to put an end to aggressive panhandling Downtown.

Call Star reporter Brian Eason at (317) 444-6129. Follow him on Twitter: @brianeason.

'Homeless Bill of Rights'

The City-County Council has proposed establishing a "Homeless Bill of Rights" that would outlaw discrimination against those who lack a permanent address. Modeled after a Rhode Island law, it would enact the following protections:

1. The right to move freely in public spaces, including sidewalks, parks, buses and buildings.
2. The right to equal treatment by city agencies.
3. The right to emergency medical care.
4. The right to vote, register to vote and receive documentation needed for a photo ID.
5. The right to protection from disclosure of private records, as well as the right to confidentiality already protected by federal law.
6. The right to the same "reasonable expectation of privacy" for their personal property as someone with a permanent residence has.

Homeless Bill of Rights measures work to ensure that homeless individuals are:

- Protected against segregation, laws targeting homeless people for their lack of housing and not their behavior, and restrictions on the use of public space.
- Granted privacy and property protections.
- Allowed the opportunity to vote and feel safe in their community without fear or harassment.

- Provided broad access to shelter, social services, legal counsel and quality education for the children of homeless families.

AN ACT

Providing for the rights and privileges of people experiencing homelessness.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Homeless." The term shall have the same meaning as in 42 U.S.C. § 11302 (relating to general definition of homeless individual).

"Housing status." The status of having or not having a fixed or regular residence, including the status of living on the streets, in a shelter or in a temporary residence.

Section 3. Legislative intent.

The following shall apply:

(1) It is the long-standing policy of Allentown that no individual should suffer unnecessarily from cold or hunger, be deprived of shelter, or the basic rights incident to shelter, or be subject to unfair discrimination based on the individual's homeless status.

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

(3) It is the intent of Allentown to lessen the adverse effects and conditions caused by the lack of residence or a home.

Section 4. Rights afforded to homeless individuals.

No individual's rights, privileges or access to public services may be denied or abridged solely because the individual is homeless. A homeless individual shall be granted the same rights and privileges as other residents of the City of Allentown. A homeless individual has the following rights:

(1) 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 individual and without discrimination, harassment or intimidation on the basis of the individual's housing status.

(2) The right to equal treatment by all State and local government agencies, without discrimination on the basis of housing status.

(3) The right not to face discrimination while seeking or maintain employment due to the individual's lack of permanent mailing address or due to the fact that the mailing address given by the individual is for a shelter or social service provider.

(4) The right to emergency medical care free from discrimination based on the individual's housing status.

(5) The right to vote, register to vote and receive documentation necessary to prove the identity for voting without discrimination due to the individual's housing status.

(6) The right to protection from disclosure of the individual's records and information provided to homeless shelters and social service providers to State, local and private entities without appropriate legal authority.

(7) The right to confidentiality of personal records and information in accordance with all limitations on disclosure established by the following:

(i) Federal Homeless Management Information Systems.

(ii) The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).

(iii) The Violence Against Women Act of 1994 (Title IV of Public Law 103-322, 108 Stat. 1902).

(8) The right to a reasonable expectation of privacy in the individual's personal property to the same extent as personal property in a permanent residence.

(9) Access basic requirements necessary for sustaining life, including shelter, sanitation, medical care, clothing and food;

(10) Access adequate shelter and nourishment services

(11) Protection from mistreatment, harassment or intimidation by any City employee

(12) Access to parks, town squares, and other public facilities

Section 5. Damages and attorney fees.

In a civil action alleging a violation of this act, the court may award appropriate injunctive and declaratory relief, actual damages and reasonable attorney fees and costs to a prevailing plaintiff.

Section 6. Effective date.

This act shall take effect in 60 day