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**SUBSTITUTE HOUSE BILL 1591**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Gregerson, Peterson, Macri, Doglio, Appleton, Thai, Robinson, Jinkins, Lekanoff, Slatter, and Davis)

AN ACT Relating to the rights of persons experiencing homelessness; adding a new chapter to Title 43 RCW; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Homeless" means lacking a fixed, regular, and adequate nighttime residence, and includes persons:

(a) Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; living in emergency or transitional shelters; abandoned in hospitals; or awaiting foster care placement;

(b) Having a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, within the meaning of 42 U.S.C. Sec. 11302(a)(2);

(c) Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or

(d) Who meet the definition of "homeless" under 42 U.S.C. Sec. 11434a(2), as it existed on October 1, 2014, as well as persons who would qualify as "homeless" under 42 U.S.C. Sec. 11434a(2), as it existed on October 1, 2014, but for not being a child or youth.

(2) "Motor vehicle" has the meaning defined in RCW 46.04.320.

(3) "Nonobstructive manner" means in a manner that does not render passageways impassable or hazardous.

(4) "Public space" means any property that is owned or leased, in whole or in part, by any state or local government entity or any property upon which there is an easement for public use and that is held open to the public, including, but not limited to:

(a) Plazas;

(b) Courtyards;

(c) Parking lots;

(d) Sidewalks;

(e) Public transportation facilities and services;

(f) Rooms or areas within public buildings, but only to the extent that the rooms or areas are generally held open to the public, and only during normal hours of operation;

(g) Shopping centers, but only those which serve as the functional equivalent of downtown areas under the Washington Constitution, and only during normal hours of operation;

(h) Parks, but only those parks and areas within parks which are open to the public without fee or charge; and

(i) Natural and wildlife areas, but only those areas which are open to the public without fee or charge and subject to reasonable rules and regulations necessary to protect fish and wildlife resources and their habitat.

(5) "Recreational vehicle" has the meaning defined in RCW 43.22.335.

(6) "Survive" means the conduct of necessary, life-sustaining activities in a nonobstructive manner that includes, but is not limited to, sitting, standing, leaning, kneeling, squatting, sleeping, lying down, eating, and sheltering oneself.

NEW SECTION. **Sec.**  (1) People experiencing homelessness enjoy constitutional and civil rights, including the right to survive, regardless of their housing status.

(2) Every person experiencing homelessness and who has no reasonable alternative but to survive in public space has the following rights in public space:

(a) The right to survive in a nonobstructive manner;

(b) The right to shelter oneself from the elements in a nonobstructive manner;

(c) The right to eat, share, accept, or give food in any public space where food is not prohibited;

(d) The right to occupy a motor vehicle or recreational vehicle, provided that the vehicle or recreational vehicle is legally parked on public property or parked on private property with the permission of the property owner; and

(e) The right to a reasonable expectation of privacy in one's personal property.

(3) A person experiencing homelessness may not be prosecuted criminally under any state or local law for exercising the rights in subsection (2) of this section when that person has no reasonable alternative but to survive in public space and existing local shelters are inadequate in number or capacity or are functionally inaccessible.

(4) The exercise of the rights set forth in subsection (2) of this section must not impede or limit the authority and responsibility of the state and local governments to:

(a) Manage public space with respect to identified public health threats or identified public safety concerns;

(b) Provide workplaces free of unreasonable workplace hazards; or

(c) Adequately and appropriately operate, manage, and maintain public facilities.

NEW SECTION. **Sec.**  (1) No later than October 31, 2019, the department of enterprise services, in cooperation with other state agencies, and counties and cities, acting singly or in cooperation with other counties and cities, shall:

(a) Examine and evaluate laws, regulations, and policies within their respective jurisdictions to determine whether any of the laws, regulations, or policies infringe upon any of the rights of persons experiencing homelessness that were recognized by the ninth circuit court of appeals in *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018) or that are recognized in this act;

(b) Consider and undertake appropriate revisions that are within their jurisdiction to make;

(c) Make recommendations regarding revisions that require action by the legislature; and

(d) Report to the appropriate committees of the legislature with respect to the examination and evaluation, efforts undertaken to make revisions, and any recommendations for further legislative action.

(2) In this undertaking, agencies and counties and cities shall involve advocates, people experiencing homelessness, law enforcement, and state and local officials.

NEW SECTION. **Sec.**  No later than October 31, 2019, the office of homeless youth prevention and protection programs shall make recommendations to the appropriate committees of the legislature regarding rights that all unaccompanied homeless youth and young adults should have regarding appropriate care and treatment in licensed and unlicensed residential runaway and homeless youth programs.

NEW SECTION. **Sec.**  Sections 1 and 2 of this act constitute a new chapter in Title 43 RCW.

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