



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
County Manager



**Date:** May 8, 2013  
**Board Meeting Date:** May 21, 2013  
**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** John L. Maltbie, County Manager

**Subject:** County Manager's Report #4

**RECOMMENDATION:**

Adopt a Resolution in opposition to Assembly Bill 5 (Ammiano) Homelessness

**BACKGROUND AND DISCUSSION:**

**Assembly Bill 5 (Ammiano)** would enact the Homeless Person's Bill of Rights and Fairness Act. In amending the Civil and Government codes, the bill would create a new protected class, ultimately providing unlimited access for homeless individuals in public spaces, parks, streets, transit infrastructure, and even entrances of office buildings. Under the bill, "life-sustaining activities that must be carried out in public spaces because of homelessness," such as eating, urinating, amassing possessions and collecting trash to recycle, would be protected.

In addition to the creation of new protected class, the bill would:

1. Provide homeless individuals the right to receive legal counsel when cited—even for infractions.
2. Require local law enforcement agencies to annually compile and review the number of citations, arrests and other enforcement activities made prohibiting various laws that affect homeless individuals.
3. Provide that every homeless person shall have the right to decline admittance to a public or private shelter or any other accommodation, including social service programs, for any reason they see fit, without being subject to criminal or civil sanctions, harassment, or arrest from law enforcement.
4. Provide that every homeless person shall have the right to confidentiality of their records and information by homeless shelters, medical centers, schools, or any other publicly funded human service provider to law enforcement agencies, employers or landlords without appropriate legal authority.

5. Provide that every local government and disadvantaged unincorporated community within the state shall have sufficient health and hygiene centers available 24 hours a day, seven days a week, for use by homeless people.
6. Provide immunity from employer retaliation to a public employee who provides “available public resources” to a homeless person without the consent of the local agency.
7. Provide for judicial relief and impose civil penalties for a violation of the act and authorizes an award of damages, including restitution for loss of personal effects and belongings, statutory damages of \$1,000 per violation, and attorney’s fees and costs to a prevailing plaintiff.

According to the author, the Homeless Person’s Bill of Rights and Fairness Act defines a statewide standard protecting the basic civil rights of the state’s most vulnerable Californians and would help to alleviate poverty and homelessness while protecting people from discrimination and ensuring a right to privacy and personal property.

The “2013 San Mateo County Homeless Census and Survey,” prepared by the Human Services Agency and the Center on Homelessness found that there were 2,281 homeless people in San Mateo County on the night of January 23, 2013. These were comprised of: 1,299 unsheltered homeless people (living on streets, in vehicles, in homeless encampments) and 982 sheltered homeless people (in emergency shelters, transitional housing, motel voucher programs, and institutions—residential treatment, jails and hospitals). The highest concentrations of homeless people in San Mateo County are in: Redwood City, South San Francisco, Pacifica, East Palo Alto, Half Moon Bay, and San Bruno. Using an annualization formula developed by the Corporation for Supportive Housing, there are an estimated 7,151 homeless people in San Mateo County on an annual basis.

Existing law provides that all persons are free and equal and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation, and are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishments. Further, current law establishes that no person shall be discriminated under any state-funded program or activity on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability.

According to County Counsel, although the “Homeless Person’s Bill of Rights and Fairness Act” appears to be well-intentioned, it would negatively affect local government by limiting the County’s ability to enforce its own ordinances (specifically those that limit nuisance activities); interfere with the employment relationship between the County and certain employees; impose several unfunded mandates; and open the floodgates to meritless litigation, which would increase legal costs to the County, and further strain the underfunded judicial system.

The Sheriff’s Office, in opposition to the bill, cites concerns regarding the rights conferred, specifically the right to occupy vehicles and public places, the right to sleep in

public places, the right to access public facilities 24/7, and the right to solicit funds (pan handle), which it believes would unnecessarily interfere with communities' attempts to address serious public health and safety issues. Furthermore, the Sheriff is troubled with the finding in Section 1 of the bill that alleges that law enforcement officials unfairly target homeless person, "often resulting in the violation of the homeless persons' constitutional rights." Indeed, dealing with the homeless population is a difficult and challenging task, requiring the balancing of interests of many while attempting to protect the safety and public health of all. However, to suggest that law enforcement regularly violates the constitutional rights of any members of the community, homeless or otherwise, is unwarranted and request that this language be stripped from the bill. Finally, the Human Services Agencies has raised concerns regarding language in the proposal that would provide every homeless person with a right of confidentiality regarding their records. This is particularly troubling given that HSA staff at Service Connect routinely exchange this type of information with the Probation Department through the Multidepartmental Teams supervising and providing services to the homeless AB 109 population.

Approval of this resolution contributes to the Shared Vision of 2025 of a Collaborative Community by opposing measures that would impose costly state mandates and undermine the local decision making process. The Resolution has been reviewed by and approved as to form by County Counsel.

**PERFORMANCE MEASURE(S):**

Measure	FY 2012-13 Actual	FY 2013-14 Projected
Federal/State Measures analyzed and acted on	57	100

**FISCAL IMPACT:**

Unknown, but potentially substantial given increased county responsibilities and potential litigation costs.