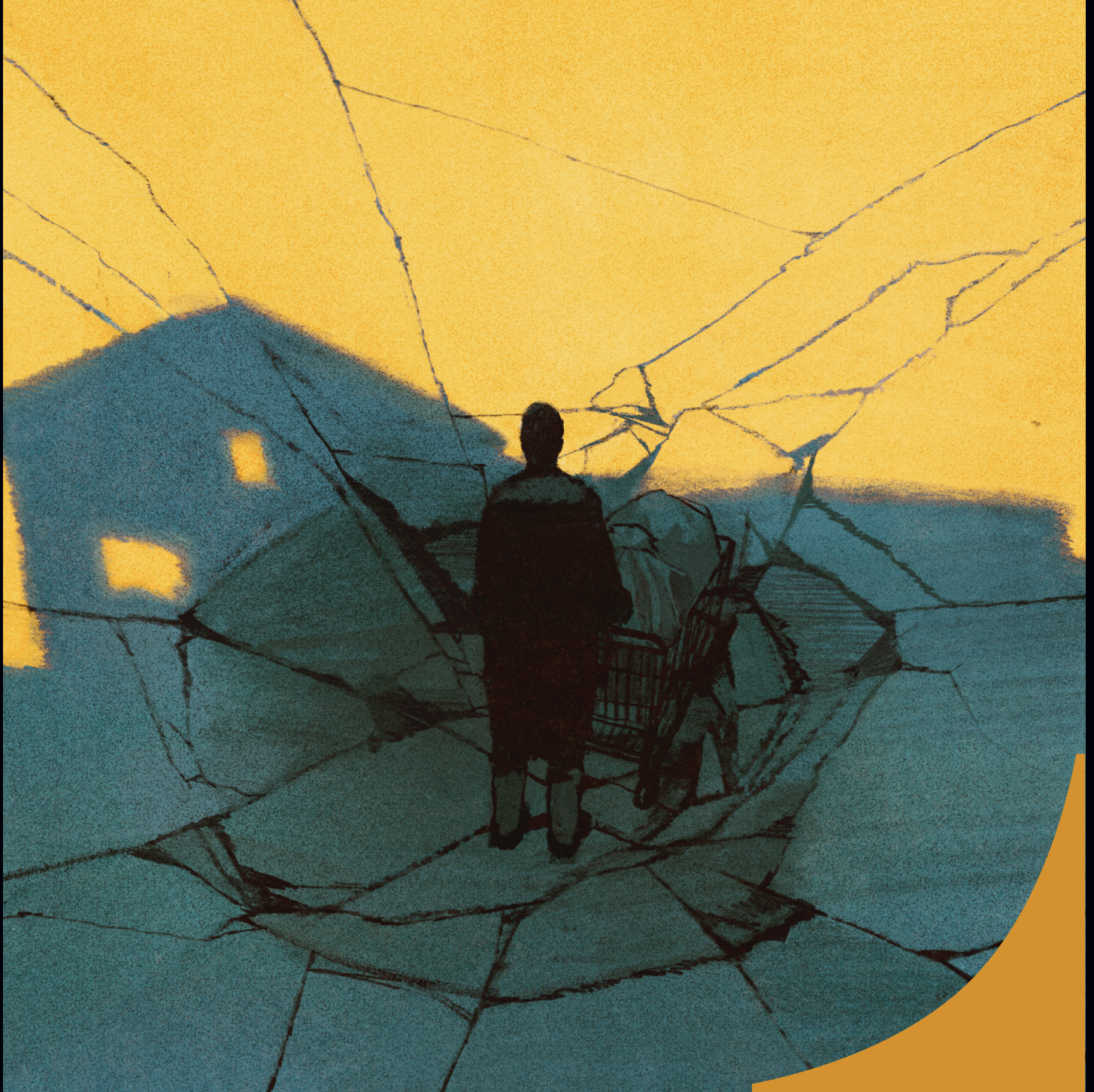


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Sheltering Injustice

A Call for Georgia to Stop Criminalizing People Experiencing Homelessness



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Executive Summary

Safe and stable housing is essential to a healthy life and is a human right. In the United States, however, the deprivation of this right has led to inequitable housing access.

As a result, in addition to people with disabilities and members of the LGBTQ+ community, people of color—especially Black people—are more likely to experience homelessness or be at risk of homelessness.* Compounding this issue, people of color and people with disabilities are also overrepresented in the criminal legal system because of mass incarceration. This intersection of housing inaccessibility and criminalization has resulted in the pernicious practice of the criminalization of people experiencing homelessness, a pressing issue across the country—including in the Deep South. Given the overrepresentation of these communities among the number of people experiencing homelessness, and the number of people impacted by the criminal legal system, the nationwide effort to criminalize people who are without housing has subsequently and uniquely impacted and harmed these communities.

In other words, policy decisions aimed to criminalize people experiencing homelessness are yet another facet of our nation's overreliance on punishment that disproportionately leads people of color to incarceration and the loss of their freedom for simply experiencing homelessness. Criminalization also only further compounds housing inequities: for example,

a criminal record and corresponding legal obligations such as fines and fees make it difficult to find affordable housing options—ensnaring people in a recurring cycle of homelessness and criminalization.

In 2023, Georgia enacted a law that forces cities and other localities to enforce bans on public camping, putting thousands of Georgians living unsheltered at risk of arrest for performing basic survival activities like resting, eating, and asking for help. This new law is based on a model bill advertised to state legislatures across the country; this template, and those spearheading it, opposes the Housing First approach—which would provide people with their own housing, and offer support services for people to maintain their housing stability and individual well-being, without mandating compliance with these services, per the National Alliance to End Homelessness. Mandating enforcement of these criminalization laws, no matter the facts on the ground, puts people across the state at risk—particularly those from communities that have been subject to historic inequities. And of note, a 2024 state audit of homelessness spending found that several Georgia law enforcement agencies in jurisdictions with large populations of people experiencing homelessness reported regular encounters with this population as part of their standard duties. Importantly, the 2022 Georgia Senate Study Committee on Unsheltered Homelessness did not consider the criminalization of those experiencing homelessness in the Peach State in its final report, showing this issue is ripe for analysis.

* The Southern Poverty Law Center uses “person experiencing homelessness” or “people experiencing homelessness” instead of phrases such as “homeless person” or “the homeless.” This reflects guidance from reference sources such as the Associated Press Stylebook, the Publication Manual of the American Psychological Association, and the Reporter’s Guide from Street Sense Media suggesting that collective nouns such as “the homeless” and constructions such as “homeless person” can be seen as dehumanizing.



Watch Tiara's story
at splcenter.org/tiara

Sheltering Injustice aims to fill that gap by diving into the real-life impact of criminalization on those experiencing homelessness in their own words, highlighting how this practice harms communities, engenders fear, and ensnares people in a never-ending cycle of recidivism. Informed by these powerful stories, the report concludes with six policy proposals that Georgia and its localities should act on to end this harmful practice and, instead, advance helpful solutions to connect those experiencing homelessness with housing and additional resources:

1. Begin or increase efforts to integrate and ultimately center people with lived experience in the efforts to prevent criminalization.
2. Repeal, defund, and stop enforcing current laws that criminalize homelessness. In addition, Georgia should reform policies that disproportionately impact people with low incomes who are involved with the legal system, such as cash bail and probation fees.
3. Stop sweeping encampments.
4. Invest in creating pilot programs that allow people to access quality housing with cash assistance and show up for court appearances.
5. Increase investment in housing opportunities, including rent regulation, using the Housing First approach.
6. Add housing status as a measure of homelessness to the list of protected categories in relevant anti-discrimination laws. ●



Sheltering Injustice

A Call for Georgia to Stop Criminalizing People Experiencing Homelessness

**By Gina Azito
Thompson,
Southern Poverty
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Before the interview began at an Athens, Georgia, homeless shelter, Sylvia, an 80-year-old Black woman, wheeled her walker down the wheelchair ramp at a steady and slow pace. Though small in stature, her presence commanded the space. She had been preparing for the day in a large, open room that held 35 beds where people slept in the same communal space, regardless of gender identity. She eventually made her way over to a chair, sitting in an area where shelter guests ate donated food on white plastic tables, and settled in to tell her story.



Sylvia's Story

Sylvia is originally from Georgia.¹ She grew up on a farm and her parents were sharecroppers, engaging in a practice where Black farmers rented land from white landowners because they could not purchase their own due to racism or financial inability.

Since landowners benefited the most from this exchange, sharecropper families were often trapped in poverty and debt long after the crops disappeared.

As of 2023, Sylvia has been living without housing of her own for nearly a decade. It took her three hours to walk to the shelter the night prior because she missed the last bus of the night. While speaking, she lifted her dress to show several ulcers—open to the air and covering her ankles. They caused her pain, impacting her ability to walk, but walking back to the shelter was her only choice if she wanted to sleep in a bed. She had been staying in the shelter for two months; when the shelter is closed, Sylvia rests wherever she can and uses whatever she must to keep safe from the elements. Sometimes she will sit and rest on a bus stop bench, wearing a poncho to protect herself from the rain.

As if these hardships aren't enough, Sylvia has had several interactions with law enforcement because she lacks permanent housing. In one instance, Sylvia sat down after a long day to rest at a local shopping center and accidentally fell asleep. She was later awakened by police officers handing her a criminal trespass warning,² which prohibited her from returning to the shopping center under penalty of future arrest, for two years. In other words, the criminal trespass warning made Sylvia's physical presence itself a crime. She has one more year left before she can visit that shopping center.

by weaponizing state legislation and law enforcement across local jurisdictions—a practice that disproportionately affects people of color. In Atlanta alone, 1 in 8 Atlanta city jail bookings in 2022 were of people experiencing homelessness—over 30 times greater than the proportion of the city's total population of people experiencing homelessness.⁴ This criminalization disproportionately impacts Black people since they are more likely to be overrepresented in the population of people who are experiencing homelessness due to longstanding structural inequity, including in accessing education, health care, and stable housing, compared to white people.⁵

Recently, bills introduced in state legislatures across the country target people experiencing homelessness by using a model bill template that encourages punitive policies such as jail time for seeking shelter in public spaces. Following this national trend, the Georgia state Legislature successfully passed a law (Senate Bill 62) in 2023 that micromanages how local jurisdictions respond to those simply trying to survive in the public places where they are forced to live by requiring the enforcement of camping ban prohibitions. This model legislation includes a range of measures that prohibit basic life functions like sleeping and sitting.

This issue has even garnered international attention. In its final report following its 2023 review of the United States' compliance with the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee noted it was “concerned about reports of an increase in the number of state and local laws criminalizing homelessness and in the prevalence of violence against persons experiencing homelessness and about the higher risk of premature death that they experience due to homelessness.”⁶ Ultimately, the committee recommended that the United States abolish laws and policies criminalizing people experiencing homelessness at all levels and adopt legislative measures that protect their human rights.⁷

The targeted approach to criminalizing people experiencing homelessness has even engendered a culture of criminalizing the public for attempting to support people experiencing homelessness. For example, in 2022, restaurant employees called police after a Georgia State University student attempted to buy a chicken dinner for a person experiencing homelessness.⁸ Notably, the 11th Circuit, which includes

1 IN 8

Atlanta city jail bookings in 2022 were of people experiencing homelessness—over 30 times greater than the proportion of the city's total population of people experiencing homelessness.

While Sylvia's story is uniquely her own, she shares commonalities with many other people in Georgia who are experiencing homelessness. As of 2022, there were over 10,000 estimated people experiencing homelessness throughout the state of Georgia, the majority of whom were living unsheltered.³

These people experiencing homelessness are uniquely impacted by the state's criminal legal system. Indeed, Georgia's criminal legal system penalizes people experiencing homelessness



Watch Jerry's story
at splcenter.org/jerry

Georgia, has held that outdoor food-sharing is expressive conduct protected by the First Amendment.⁹ Overall, incidents such as these send the message that people experiencing homelessness are unworthy of basic dignity, compassion, and respect. They also speak to a larger push in the state to not only punish people experiencing homelessness, but also members of the public who step up to offer support in any context—the same support the state should be giving instead of the public. For example, in 2021, Georgia enacted a criminal penalty for distributing food and water to people waiting in line to vote, following an election cycle where long lines and waiting periods were common in majority-non-white voting precincts.¹⁰ Legislative decisions such as these are not meant to remedy the root of the problem but rather are a thinly veiled attempt to suppress support—by any means necessary—from and for people of color, especially in Black communities across the state.

The rising cost of living paired with a stagnant minimum wage has also created the opportunity for legislators to further punish people already pushed out of safe housing because of an inability to afford it by funneling them into the criminal legal system. For example,



Jerry's Story

Jerry, 30 years old, is currently living in a hotel in Athens, Georgia, thanks to assistance from shelter support services.¹⁸

In his spare time, he plays the drums for a variety of audiences, but he enjoys showing children how interesting music can be through his performances. Because of this housing support, he's been able to focus on his craft. Before being housed, he had to overcome judgment and bullying. He would often feel as though he wasn't respected as a person, simply because he was experiencing homelessness.

He's grateful for the care and support of Athens case managers, outreach teams, and shelters.

It is because of them, and through his own motivation, that he has found temporary housing and can worry less about being criminalized—though he does look forward to having housing of his own.

“There are times where you’re looked at differently [while experiencing homelessness]. If I didn’t have on a suit today, could you tell if I were a homeless man or just somebody trying to go to school? People perceive you differently.”

Jerry

according to U.S. Department of Housing and Urban Development (HUD) estimates, renting a modest one-bedroom apartment in Georgia’s metropolitan areas can cost more than \$1,375 a month in 2023.¹¹ Importantly, HUD uses these calculations to establish a payment standard for “Section 8” Housing Choice Voucher rental assistance.¹² In contrast, based on cost estimates from the National Low Income Housing Coalition, at Georgia’s minimum wage of \$7.25 an hour, the maximum amount of rent a full-time worker would be able to afford is \$377 a month.¹³ Additionally, the end of the COVID-19 moratoria on evictions and the lack of affordable housing has put many at risk of criminalization. Between January 2023 and September 2023, there were over 100,000 evictions filed across Atlanta, Georgia’s five-county region.¹⁴ According to the National Low Income Housing Coalition, in 2022, Georgia also had a shortage of over 200,000 rental units affordable to extremely low-income households, whose incomes are at or below the poverty guideline or 30% of their area median income.¹⁵ This shortage, paired with the end of pandemic-related assistance, is straining already limited shelter space.

Rather than punish people for existing in public spaces, Georgia legislators should instead take steps to discontinue the criminalization of people experiencing homelessness and provide permanent housing solutions and holistic support services to people and families in need.

During the 2022 legislative session, the Georgia Legislature created the Senate Study Committee on Unsheltered Homelessness to develop “specific recommendations on the enforcement of bans on camping and sleeping in public

spaces, new types of state and local contracts with homeless nonprofit organizations, and the necessity for new state laws dealing with homelessness.”¹⁶ While the body was supposed to undertake a comprehensive look at the issue of homelessness, it declined to address the issue of criminalization of people who are experiencing homelessness—stating that “the criminalization of homelessness was not under consideration. Arrests should only take place under laws already in place that apply to everyone, regardless of housing status.”¹⁷ It should be noted, however, that the very essence of these laws targets life-sustaining behavior—things all human beings need to do to survive. Whether these behaviors are considered criminal or innocent thus depends on whether one has access to housing to eat, sleep, or rest. Although these laws theoretically apply to everyone, in practice, a law banning sleeping in public places, for example, would largely apply only to people experiencing homelessness. Laws that may appear to some as nondiscriminatory on the surface, like trespassing or camping bans, are thus disproportionately enforced on people experiencing homelessness.

This report aims to fill this gap by recommending concrete actions policymakers can and should take to stop the criminalization of people experiencing homelessness in the state of Georgia, and to begin to rectify the harm these policies cause. Throughout the report, we include quotes collected during interviews with Georgians about their experiences while living without housing or unsheltered, their ability to access housing or other support programs, and the impact of their interactions with Georgia’s criminal legal system.

This report includes the following sections:

1. An overview of how Georgia has historically enacted policies that criminalize people for experiencing homelessness.
2. A survey of the current population without stable housing both nationally and in Georgia.
3. The present-day trends of criminalization of people experiencing homelessness both nationally and in Georgia.
4. The human impact of criminalization efforts.
5. Policy solutions to rectify the harms associated with criminalizing people who are experiencing homelessness. ●



The Racist History Behind the Criminalization of People Experiencing Homelessness

Black people have been criminalized throughout history for being without housing. Following emancipation from slavery, the United States government continued to hold power over newly freed people through the enactment of “Black Codes” —a series of laws put in place by state legislatures, especially throughout the South, that only applied to Black people.

The vagrancy laws of the past have been joined in the present day by additional ordinances criminalizing homelessness—another tool to subjugate historically marginalized communities of color.

Anti-loitering laws, one category of Black Codes, were specifically used to control the behavior and limit the presence of Black people following emancipation. Loitering is sometimes known as the act of standing around idly, without legal purpose, or appearing as if one doesn't belong as dictated by societal norms.¹⁹ Loitering has been (and still is in Georgia) considered a crime punishable by fines or even incarceration.²⁰ There are records of anti-loitering laws predating the existence of the United States, and these laws have been used throughout American history to punish those society has deemed “out of place.”²¹

Perhaps the defining category of Black Codes were vagrancy laws, which made it a crime to be unemployed. Vagrancy laws were often used to target people of color, especially Black people after the Civil War when people formerly enslaved were technically freed.²² In the South, these laws were meant to force Black people to continue employment, ideally with their former enslavers.²³ Vagrancy was the second most common reason for incarceration nationwide during the early 1900s, and in addition to loitering, vagrancy laws were present nationwide including in Georgia.²⁴

Even though slavery in its original name ended following emancipation, the practice of exploiting people for their unpaid labor did not. Slavery continued in the form of convict leasing, a system whereby people who were incarcerated were forced to work without pay in different industries such as agriculture.²⁵ There is a connection between vagrancy laws—which punished those who did not or could not work—and forced labor—which often used inhumane circumstances to extract labor unwillingly—in the post-Civil War South, and the profits that both companies and states participating in the

convict leasing system made were increased by this dangerous relationship. One particularly brutal form of forced labor following the Civil War was the chain gang, wherein people were shackled together while they worked, ate, and slept. Georgia was the first state to begin using chain gangs, which involved sending people to work outside of prison walls. In fact, Georgia made millions in profits from operating chain gangs throughout the state.²⁶

The U.S. Supreme Court's 1972 decision in *Papachristou v. City of Jacksonville*, which declared Jacksonville, Florida's vagrancy law vague, and thus, unconstitutional, ushered in the decline of similarly vague vagrancy laws across the nation.²⁷ The discontinuation of those laws, however, paved the way for new vagrancy laws that violate basic constitutional rights.²⁸ The vagrancy laws of the past have been joined in the present day by additional ordinances criminalizing homelessness—another tool to subjugate historically marginalized communities of color. These new laws feature covert racism and profits—such as fines and fees levied against people impacted by the criminal legal system—as their driving forces. ●

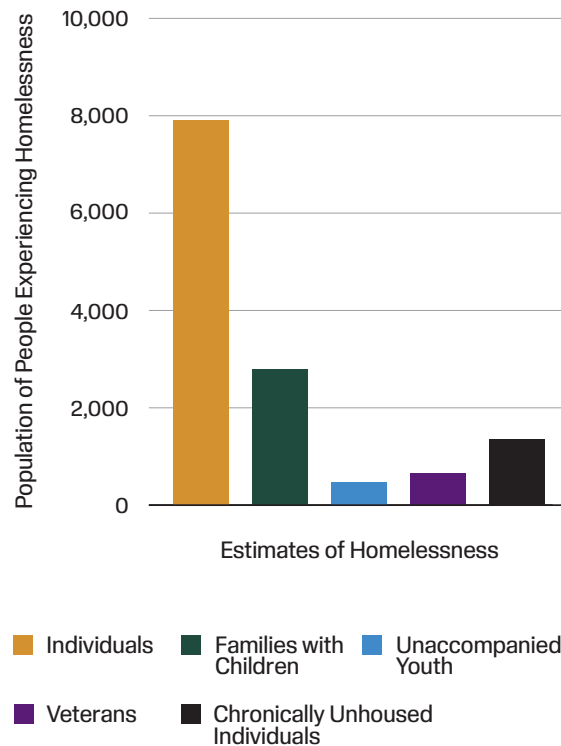


Watch Brody's story
at splcenter.org/brody

The Present-Day Portrait of Homelessness²⁹

Since 2017, the number of people experiencing homelessness has risen by at least 6%, with the number of people experiencing unsheltered homelessness trending upward across most racial, ethnic, and gender subgroups.³⁰

A Snapshot of People Experiencing Homelessness in 2022



Source: HUD AHAR 2022

In addition to the upward trend across subgroups, recent data from HUD finds that there continues to be an overrepresentation of people of color, especially Black people, among the population experiencing homelessness compared to the U.S. population.³¹ In addition to people of color, research suggests that survivors of domestic violence and people with disabilities also disproportionately report experiencing housing instability.³² There are over half a million people experiencing homelessness nationally, and across the Deep South (Alabama, Florida, Georgia, Louisiana, and Mississippi) alone, there were nearly 49,000 people experiencing homelessness in 2022.³³

Georgia has its own unique story of homelessness. More than 10,000 people in Georgia are reported to be experiencing homelessness, and approximately one-third of them are located outside of Georgia's cities.³⁴ Of the number of people in Georgia experiencing homelessness, individuals are more likely to be experiencing homelessness compared to families with children, among others. The estimated total percentage of Georgians experiencing homelessness is nearly split down the middle between the number of people living in sheltered housing arrangements versus unsheltered. In many of Georgia's jurisdictions, the populations of people who are homeless are disproportionately people of color: For example, between 2017 and 2022, Black people accounted for 28% of the population of Athens-Clarke County but



52%

of Georgians experiencing homelessness report living unsheltered

48%

of Georgians experiencing homelessness report living in sheltered arrangements

Note: As defined by the United States Department of Housing and Urban Development, sheltered homelessness refers to people who are staying in emergency shelters, safe havens, or transitional housing programs. Unsheltered homelessness refers to people who are not regularly accessing these services, and are instead sleeping in encampments, in vehicles, or other locations outside or not meant for human habitation. There are limitations to this definition, therefore it is not the full depiction of the number of people and families experiencing homelessness.

Source: HUD AHAR 2022

40% of the unsheltered individual population.³⁵ Members of the LGBTQ+ community and people with disabilities also have particularly high rates of unsheltered homelessness.³⁶ Importantly, people of color—especially Black people—and people with disabilities are also more likely to be overrepresented in the criminal legal system.³⁷ This mass deprivation of housing presents decriminalization as an urgent racial equity and disability justice priority, and until this happens, policymakers have created the perfect storm of compounded opportunities to be criminalized.

A 2024 audit of spending on homelessness programs and services conducted by the state auditor found that many law enforcement agencies themselves believe homelessness to be an issue that has significantly increased in the last five years. Living unsheltered can place people who are experiencing homelessness at an increased risk of contact with law enforcement, violence from both the public or the police, and even arrest. But living in a shelter may not be the best nor safest option for all people who are experiencing housing insecurity. ●

“It’s hard out here for [men and women] and if you don’t have a tent or somewhere to stay, it’s even harder. You have to be on survival mode all the time and you have to have common sense. You have to have will because if you don’t have any of that, you’ll barely get through the day.”

Brody



Brody's Story

Even though they have been subject to several police interactions while living without housing, Brody and his partner live in a tent in the woods in Athens, Georgia, rather than in a shelter.³⁸

They do so because they are unmarried and do not want to be separated or lose their privacy as a couple living together in a congregate shelter—which might happen if they entered a shelter program. And even though they can stay together in the woods, Brody notes that life is still full of obstacles for the couple.

Like Brody, there are many people for whom living unsheltered may be their only viable option, signifying that there is ongoing policy failure in the response to homelessness. The housing and shelter system is not always responsive to people’s needs or desire for privacy, rendering the decision to live unsheltered as a necessity, and not a choice. For some, a shelter may not be the safest place depending on gender identity or sexual orientation, for example.³⁹ Many shelters have time limits and are closed during periods throughout the day, and some also have limits on the number of times someone can stay during the year. Further, many shelters cannot meet the needs of people who are disabled and require caregiving, nor can many shelters house both families with children (particularly families of mixed gender identities) and single-gender clients at the same time. These limitations are at times due to funding constraints, space limitations, or both. Issues such as these present a need for legislative efforts to focus not on criminalizing people who are homeless, but instead creating responsive services and programs to help people. During the COVID-19 pandemic especially, congregate shelters were additional public health risks for a population of people who are already at higher risk of having or developing a disability or chronic illness.⁴⁰

The Current Landscape of Criminalization Efforts

National Landscape

A national survey by Western Regional Advocacy Project found that people experiencing homelessness are “harassed by police, cited, or arrested for harmless activities, including sleeping, loitering, and sitting or lying down in public.”⁴¹ According to *Housing Not Handcuffs*, a 2019 report from the National Law Center on Homelessness & Poverty, nationally, a person experiencing homelessness is up to 11 times more likely to be arrested than a housed person.⁴² Since 2021, 48 states out of 50 and the District of Columbia have at least one law that prohibits or restricts the conduct of people experiencing homelessness—through camping bans or other restrictions on survival activities such as sleeping and resting.⁴³ These laws have also taken deep root across the Deep South.

Notably, as laws criminalizing these behaviors have increased, so too have efforts to stop the needless exposure to the criminal legal system for doing these behaviors. For example, in the landmark 2018 *Martin v. Boise* decision, the Ninth Circuit held that cities cannot enforce anti-camping ordinances if they do not have enough shelter beds available for their population of people experiencing homelessness. Of note, the court determined criminalization to be unconstitutional for people sleeping outside in absence of adequate housing alternatives.⁴⁴ Although the Supreme Court declined to hear the case, a recent petition by the city of Grants Pass, Oregon, to the court concerning the constitutionality of anti-camping laws shows the issue is still alive and well.⁴⁵

Criminalization of People Experiencing Homelessness in Georgia

The criminalization of homelessness is also occurring in Georgia. This may come as no surprise given Georgia’s overreliance on incarceration: If Georgia were a country,

Examples of Criminalization of Homelessness Laws Throughout the Deep South

	AL	FL	GA	LA	MS
Sleeping in Particular Public Places	Light Gray	Light Gray	Light Gray	Light Gray	Black
Camping in Public Statewide	Light Gray	Dark Purple	Light Gray	Light Gray	Light Gray
Camping in Particular Public Places	Light Gray	Light Gray	Dark Green	Light Gray	Light Gray
Loitering / Loafing / Vagrancy Statewide	Orange	Dark Purple	Dark Green	Light Gray	Light Gray
Loitering / Loafing in Particular Public Places	Orange	Light Gray	Dark Green	Blue	Light Gray
Standing in Roadways	Orange	Dark Purple	Dark Green	Blue	Black
Panhandling in Public Places Statewide	Orange	Light Gray	Light Gray	Light Gray	Light Gray
Panhandling in Particular Public Places	Orange	Dark Purple	Dark Green	Light Gray	Black
Panhandling in Particular Ways	Orange	Light Gray	Light Gray	Light Gray	Light Gray
Total Criminalization Laws by State	6	4	5	2	3

Source: National Homelessness Law Center, *Housing Not Handcuffs 2021: State Law Supplement*

Selected Georgia Laws Criminalizing Homelessness

County	Athens-Clarke County
Title	Camping and overnight use
Excerpt	No person may erect a tent or related shelter at any time to camp, sleep or park a vehicle overnight at any park or open space, except as authorized by permit, and only in areas designated or marked for such purpose.
Ordinance	Ord. of 11-5-2013, § 1

County	Crisp County
Title	Camping and overnight use
Excerpt	No person may erect a tent or related shelter at any time to camp, sleep or park a vehicle overnight at any park or open space, except as authorized by permit, and only in areas designated or marked for such purpose.
Ordinance	Ord. of 11-10-2015

County	Henry County
Title	Camping; tents
Excerpt	No person shall camp, or stay overnight, in any park, or any other public area, not designated for that purpose, including camping or staying overnight in vehicles or trailers except for organized sporting events.
Ordinance	12.12.140

County	Worth County
Title	Vagrants
Excerpt	Vagrants or persons of suspicious character shall not loiter or loaf or lounge in and upon the streets or other public places of the city, or upon the premises of another.
Ordinance	Code 1965, § 16-15

Georgia would incarcerate more people per capita than any democracy on earth in present day. Black Georgians are disproportionately impacted by incarceration—they represent nearly 60% of Georgia’s population of incarcerated people, yet only 31% of the total state population.⁴⁶ Following this overreliance on incarceration, many Georgia cities and counties have laws criminalizing homelessness in public.

Though some localities’ bans on public camping do include mandating written or verbal warnings for people prior to arrest, some do not include those provisions—which can increase the likelihood of further criminalization.⁴⁷ Even among the jurisdictions that have warnings in place, this is often to comply with existing case law or to provide a way to circumvent claims that the law criminalizes housing status. Some are concerned that these provisions are not meant in good faith and do little to nothing to address the underlying fact that all human beings need sleep, and that must occur in regular intervals to sustain life.



Cherokee's Story

Cherokee is a 27-year-old living in Athens, Georgia.⁴⁸ She holds hope for her future—a future where she can have housing of her own. Cherokee has been on the waiting list for housing for around five years. After being arrested while living unsheltered, she was put on probation for two years. She had to pay \$834 in restitution while still experiencing homelessness. Although she worked off and on to be able to afford her monthly payment, there were times when she simply did not have the funds. Cherokee is not the only Georgia resident who has experienced this.

In 2022, Georgia had the country’s highest population of people under probation and parole supervision—about 1 in 23 adults were on probation in 2022 compared to the national average of 1 in 66.⁴⁹ Indeed, in 2022, 41% of people experiencing homelessness who were arrested in Fulton County or Atlanta Municipal Court had outstanding fines and fees associated with their arrest, with the average amount being \$536.⁵⁰ In Georgia, the failure to pay probation fees can even lead to probation revocation.⁵¹ Once someone has entered the criminal legal system, the fines and fees can also create a cyclical process of exacerbating poverty and increasing encounters with the criminal legal system.

Cash bail, or the amount of money one must pay to be released following arrest, provides another point of concern for people experiencing homelessness who encounter the criminal legal system. Although cash bail is purported to be necessary to ensure the person appears in court for their trial, in reality, research finds that cash bail is ineffective and only creates additional strain on finances—especially for people experiencing homelessness and financial insecurity.⁵² For those without access to money to make bail, which is the case for many people experiencing homelessness, cash can mean the difference between freedom and remaining incarcerated while awaiting trial.

In addition to bail and other associated fees, many people who are without stable housing struggle to attend court hearings associated with their arrest—often because they do not know about them. Many Georgia cities still notify people of court dates via the postal service, and a mailing address is necessary to receive identification documents such as a birth certificate, Social Security card, or driver’s license.⁵³ In Atlanta, 86% of people incarcerated in the city jail in 2022 had bench warrants for failure to appear in court.⁵⁴ Although many people are arrested without housing or a mailing address, the court system is built for people who do have a place to receive mail, leaving people experiencing homelessness to often rely on shelter or other nonprofit addresses to receive their mail.

The Cicero Institute Model

The foundation for recent criminalization laws—such as Georgia’s Senate Bill 62, passed by the state Legislature in 2023—is the mandated enforcement of public camping bans as a medium to criminalize people experiencing

“I’m still paying fines and fees for something I did 10 years ago. I’ve received close to \$70,000 in court fees while experiencing homelessness and many months I couldn’t afford to pay the fee, so I would just be sent back to jail.”

Toney

homelessness.⁵⁵ Specifically, the bill forces cities and other local jurisdictions to uniformly respond to public camping, sleeping, or obstructing sidewalks despite the differing needs that each community across the state may have.

Spearheading this bill and many other harmful criminalization bills across the nation is the Texas-based Cicero Institute. The Cicero Institute was founded by millionaire Joe Lonsdale, who also co-founded a software company interested in advancing predictive policing, a practice that has been condemned by many critics as infected with racial bias.⁵⁶ Central to the pattern of the Cicero Institute model is the targeting of people who are living in encampments or other unsheltered locations and occupying land owned by the government. Cicero’s legislative proposals are purported to be aimed at solving homelessness, using the threat of incarceration as the whip to deter people from being visibly homeless and sleeping or meeting other basic needs in public spaces. Importantly, 2023 was not the first time Georgia introduced bills based off Cicero’s model templates. During the 2021-2022 legislative session, House Bill 713 and Senate Bill 535—both based on a Cicero template bill—were introduced, though unsuccessful.⁵⁷ These bills sought to create, among other things, a statewide camping ban and state-sanctioned camps in Georgia.

In the 2021-2022 legislative session, the Georgia Legislature created the Senate Study Committee on Unsheltered Homelessness to examine homelessness issues broadly as an alternative to the bills. While the committee made several recommendations, it explicitly stated that it did not consider the criminalization of homelessness, noting in its final report that “[S]tudy Committee members stressed that

the criminalization of homelessness was not under consideration. Arrests should only take place under laws already in place that apply to everyone, regardless of housing status.”⁵⁸ This explicit note from the Study Committee report, however, does not consider potential pretextual reasons for the disproportionate arrest of people experiencing homelessness. For example, as pointed out by Yale Law School’s Allard K. Lowenstein International Human Rights Clinic, laws may prohibit life-sustaining activities that people experiencing homelessness must conduct outdoors, laws may punish acts these communities disproportionately engage in (like breaking park curfews), and law enforcement may disproportionately enforce seemingly neutral laws against people experiencing homelessness.⁵⁹ For example, one California survey of people experiencing homelessness found that around 80% of those surveyed reported that they felt they were arrested, cited, or even harassed by California law enforcement because of their economic status.⁶⁰

Troublingly, the number of people whose freedom is impacted by criminalization bills is larger than ever. In 2022, the count of individuals experiencing homelessness across the country reached record highs throughout the history of data collection.⁶¹ At the same time as the rise in the number of people without housing, many state legislatures began introducing bills that target people without stable housing and tie the hands of localities’ ability to aid their own communities. Alongside Georgia, Missouri, Arizona, Oklahoma, and Wisconsin also introduced Cicero template bills in 2021-2022.⁶² ●

“When they forced us out, they took everything. We didn’t have time to move some of this stuff. I had real belongings. I had real furniture. I had a tent. ... There [were] tools that we [had] to maintain our camps, like the building of them and stuff. And we had clothes.”

Kathryn



Kathryn’s Story

Kathryn is a wife, mother, sister, and grandmother living in Athens, Georgia.⁶³ She recently completed a rehabilitation program for substance use. She and her husband have been living apart while she completed the program, often relying on emails or other ways to communicate when speaking on the phone was impossible.

Like many others have done, she left her hometown to pursue economic opportunities and achieve her hopes and dreams for herself and her family. For the past few years, she has been living unsheltered in a tent encampment in the woods after her house caught fire—that was the first time where she lost many of her belongings. The next few times were when her encampment was cleared.

While Kathryn was living outside, city officials deemed her presence a public nuisance and sanctioned the clearing of her encampment in the woods.

Once the encampment’s belongings were cleared out, she was warned she would face arrest if she came back. She did not receive any resources or support in accessing alternative housing options, so she did not have anywhere else to go other than the place that was familiar to her—the encampment.

To try and combat the strain housing instability had on her mental health, Kathryn’s family had recently gotten a dog for emotional support, which was taken from her at the time of her arrest.

Now, not only did she lose her home, her belongings, and become thrust into the legal system for experiencing homelessness, but she also lost her dog that offered some semblance of life before housing instability—this is what happens when people are removed from encampments by threat of law enforcement and legal consequences.



Watch Kathryn's story
at splcenter.org/kathryn



The Devastating Impact of Criminalization Efforts

Today, a criminal record can negatively impact a person's eligibility for employment and education, as well as exacerbate existing trauma, mental health concerns, and health care more generally.

“I’ve applied to places, and I keep being told they’ll give me a call back but look, I need a job now ... not three or four weeks from now and I’ve been trying to get [a job]. I’m scared I’m not going to be able to support myself [and demonstrate continued eligibility] when my housing application goes through.”

Brenda

-50%

Callback rates reduce by 50% for people with criminal records compared to those without a record.

Employment

Most reported barriers succeeding incarceration have historically been employment-related.⁶⁴ Research suggests that employer callback rates reduce by 50% for people with criminal records compared to those without a record, with Black women often experiencing the highest unemployment rate following incarceration compared to Black men and white people.⁶⁵



Brenda's Story

Brenda is 57 years old and lives in Georgia.⁶⁶ She has been staying in a shelter off and on for a few years, with her most recent stay being three months long. While at the shelter, she’s been applying for jobs since steady income is the first step toward securing and maintaining a home of her own but has had a hard time getting a call back from the places she’s applied to.

Education

Additionally, educational attainment becomes more difficult to access following incarceration. Evidence finds that more than half of people formerly incarcerated have only a high school-level education, and formerly incarcerated people are nearly eight times less likely to complete college than the general public.⁶⁷ Without a postsecondary degree or credential, it becomes more difficult for people to secure employment that offers higher earning potential, trapping them in the cycle of accepting jobs that pay less when compared to jobs that require a postsecondary degree or credential—making them more likely to experience financial instability that can lead back to homelessness.⁶⁸

Accessing Housing

Prior to finding employment or increasing educational attainment, the first thing one must do when transitioning back to the community from incarceration is find a stable, safe place to live. Research finds that people who have been to prison just once experience homelessness at a rate nearly seven times higher than the general public, but people who have been incarcerated multiple times are twice as likely to be without housing as those who are returning to the community from their first prison term.⁶⁹ This is likely due to the fact that the process to access housing can be difficult for anyone, but especially people who were formerly incarcerated.

Health

Incarceration also has a devastating impact on multiple health outcomes. For example, research finds that the proportion of people with mental illness in Georgia's county jails is nearly twice the rate of the general population.⁷¹ Moreover, the number of unnatural deaths in Georgia prisons doubled from 26 in 2019 to over 50 reported deaths in 2021.⁷² Exposing people to potentially deadly encounters while incarcerated does nothing to solve the issue of homelessness. Instead, choosing to funnel people experiencing homelessness into a criminal legal system that is rife with increased reports of deaths while in custody needlessly puts people's lives at risk when the solution is clearly linked to alleviating their homelessness.

People who are incarcerated are also more likely to experience chronic illness and health problems such as asthma and substance use disorders.⁷³ Additionally, evidence shows people who are incarcerated disproportionately lack access to adequate health care.⁷⁴ As mentioned, the environment inside jails and prisons can also be detrimental to mental health. In fact, research finds that incarceration is linked to higher rates of potentially traumatic events (PTEs), and evidence shows that experiencing PTEs is strongly correlated with reported rates of post-traumatic stress disorder upon release.⁷⁵ Exposure to traumatic experiences is also associated with behavioral health and chronic physical health conditions.⁷⁶ Additionally, homelessness itself is a traumatic experience.⁷⁷ Given the detrimental impacts both homelessness and incarceration have, it seems putting people who are likely experiencing trauma at even higher risk of experiencing the trauma associated with incarceration should outweigh the desire to punish people for life-sustaining activities like sleeping in public. ●



Toney's Story

Toney, a Black man living in Atlanta, Georgia, is 51 years old.⁷⁰ From age 19 to present, Toney has been in and out of incarceration. When not incarcerated, he was without housing—meaning Toney has not had stable housing for over 30 years (or over half of his life). Toney is currently in a shelter program and is in the process of completing an internship, hoping to jump-start his career; before the shelter, he was often arrested for criminal trespassing because he was trying to find a safe and warm place to rest.

“I used to get locked up for criminal trespassing [because] I wanted to just go somewhere like the hospital emergency room trying to get some sleep. They'd lock me up for different things like that and I'd spend a couple of days in jail and then they'd release me. Then I'd have to find another place to stay [like] train stations or wherever ... and I'd get arrested again.”

Toney



Watch Toney's story
at splcenter.org/tony

Hope, Resiliency, Housing

Despite the harm that experiencing homelessness can have on people and families, many are able to maintain hope for a better future—one where housing is guaranteed and where support, empathy, and civility supplant criminalization.



Rosalyn's Story

Rosalyn lives in Atlanta, Georgia, with her three children.⁷⁸ She is currently employed and now has safe and stable housing for herself and her family. She's now had housing for around five months, but before then she lived in hotels and in her car. She worked while living in hotels, but they were expensive, and it felt as if she was working solely to pay for the cost of staying in the hotel. It was too expensive to maintain living in hotels for long periods, but nevertheless, she was determined to keep herself and her children safe despite experiencing homelessness. She often felt unsafe while living in her car, but she knew that at least she would not have to pay the weekly hotel costs. One time, a stranger tried to open the doors during the middle of the night while she and her children were inside, an incident that shook her. Through it all, she stayed determined to find housing. Eventually, using resources from Atlanta-area shelters, she successfully found housing; within 30 days, she and her children moved into their apartment.

“My time without being in safe and secure housing was very hard. I want to tell everybody out there who is trying and struggling to find a place to live because of their criminal background or because they're homeless—I want you all to keep trying. I know it's not easy.”

Rosalyn



Tiara's Story

Tiara is a 20-year-old African American woman who recently moved from Chicago, Illinois, to Atlanta, Georgia.⁷⁹ Alongside her family, which was full of love despite the hardships they faced, she experienced homelessness from the age of 9 to 18.

Tiara had a housing voucher while in Chicago, but after moving to Georgia, she had to wait a significant amount of time for her voucher to transfer.

Before securing her housing, Tiara often found shelter wherever she could, staying in at least seven different shelters throughout the city of Atlanta, and would at times sleep in the MARTA station, or outside. While

sleeping in train stations, she had uncomfortable interactions with station staff, and witnessed her loved ones experiencing the same treatment. Ultimately, this grew her desire to see the end of the criminalization of people experiencing homelessness, as she does not want to see anyone else experience this harm.

Living without housing was mentally exhausting for Tiara. At times, she had to overcome harassment and judgment, but it was the desire to make things better for people experiencing similar situations and the desire to have her own home—which Tiara is proud to say she now has—that kept her determined.



Watch Tiara's story
at splcenter.org/tiara

Policy Recommendations

Access to safe, stable housing is a human right, as is the ability to rest, sleep, eat, or perform other life-sustaining activities in public without fear of arrest. There are many steps that Georgia and its localities can take to stop harming people experiencing homelessness:

1. **Begin or increase efforts to integrate and ultimately center people with lived experience in the efforts to prevent criminalization.**

People impacted by homelessness and criminalization can provide effective solutions, and centering the people most impacted can help ensure that policies addressing criminalization center racial equity and disability justice. For example, Baltimore, Maryland, has created a Lived Experience Advisory Committee where members with lived experiences of homelessness are involved in decisions about funding and systemwide policies.⁸⁰ The city of Austin, Texas, has also created an opportunity to conduct research and test ideas alongside people with lived experience on how best to end homelessness.⁸¹

2. **Repeal, defund, and stop enforcing current laws that criminalize homelessness. In addition, Georgia should reform policies that disproportionately impact people with low incomes who are involved with the legal system, such as cash bail and probation fees.**

Criminalization disproportionately impacts communities that have historically been harmed by public policy. By continuing the pattern of racist, punitive policies, we do more damage to people experiencing homelessness at times when kindness and support are needed the most. Rather than compounding harm through continued criminalization, Georgia and its localities should stop this practice and focus on actually supporting and responding to the needs of people experiencing homelessness. Overall, this reform should also look to rectify other policies that disproportionately impact people experiencing financial instability such as cash bail and probation fees.

3. **Stop sweeping encampments.**

Georgia should call on local jurisdictions to immediately stop sweeping encampments. Critically, this does not mean cities would lose their ability to clean outdoor spaces but could do so with ample notice or clean at regular intervals. Rather than expend public resources to sweep encampments and further alienate people experiencing homelessness from law enforcement or other city officials, governments should invest in outreach and housing alternatives.

4. Invest in creating pilot programs that allow people to access quality housing with cash assistance and show up for court appearances.

One such solution would be to give people cash without strings attached rather than traditional housing vouchers. In Georgia, the “Section 8” Housing Choice Voucher wait list had been closed to new applications since 2021 but in October 2023, the program opened applications for four days and received more than 177,000 applications; however, only 13,000 of those applicants will be able to join a waiting list to receive the voucher.⁸² One alternative solution to housing assistance, the Denver Basic Income Project, launched in 2022, provides monthly direct cash payments to individuals and families experiencing homelessness.⁸³ Participants in this program reported fewer nights spent outside, fewer emergency room visits, and increased employment after receiving six months of income assistance.⁸⁴ Georgia jurisdictions should also explore pilot programs aimed at decreasing the proliferation of warrants for missed court dates, an issue that has been cited by people experiencing homelessness as an ongoing concern.⁸⁵

5. Increase investment in housing opportunities, including rent regulation, using the Housing First approach.

Given the rising cost of housing, many people experiencing homelessness are often priced out of housing units that are available. At present, Georgia bans rent regulation. Reassessing this ban to do what is needed to keep Georgians in their homes, and out of homelessness, is something that must be further explored. Compared to the cost of criminalization, providing housing and wraparound support services can be cheaper than housing people in the criminal legal system. The National Alliance to End Homelessness defines Housing First as “a homeless assistance approach that prioritizes providing permanent housing to people experiencing homelessness, thus ending their homelessness and serving as a platform from which they can pursue personal goals and improve their quality of life.”⁸⁶ Although Housing First would provide housing without strings or mandated compliance with support services, the approach is guided by acknowledging that

people need access to basic survival needs such as food and shelter before they can begin to address other things such as securing stable employment or substance use.⁸⁷

6. Add housing status as a measure of homelessness to the list of protected categories in relevant anti-discrimination laws.

As of 2023, Georgia is one of a handful of states without comprehensive anti-discrimination legislation.⁸⁸ In addition to passing a general anti-discrimination law, Georgia and its local municipalities should add housing status to their list of protected categories under relevant anti-discrimination laws (including the Fair Employment Practices Act and the Georgia Fair Housing Law at the state level and local anti-discrimination laws such as Atlanta’s anti-discrimination ordinance).⁸⁹ Doing so will protect people experiencing homelessness from being targeted or denied access to employment, housing, and other critical services simply because of their housing status. For example, in 2023, California introduced Assembly Bill 920, which would expand the list of protected classes in the state’s anti-discrimination law to include “housing status,” to prevent the discrimination of people who are experiencing homelessness.⁹⁰ In 2022, Washington, D.C., also became the first jurisdiction in the nation to add “homeless status” as a protected category in its anti-discrimination law.⁹¹ ●

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