

Steven Ward

2015-2016 #131 - Amended

From: Rob Smoke <dl>
Sent: Friday, April 08, 2016 12:43 PM
To: Ballot Access
Subject: MARKED UP DOCUMENT; RE: INITIATIVE 131

Dear Colorado Secretary of State:

I may have more than one marked up version of initiative 131 in my email inbox -- however, a marked up document was requested and this is a copy of that.

Rob Smoke

INITIATIVE 131; PROPOSED AMENDMENT TO THE COLORADO CONSTITUTION, ART. II, SECTION 32, THE COLORADO HOMELESS SURVIVAL ACT; ~~ART. II, (PROPOSED) SECTION 32 COLORADO BILL OF RIGHTS~~

WHEREAS RESPONDING TO THE CRISIS OF HOMELESSNESS IN COLORADO WITH CRIMINAL SANCTIONS DESIGNED TO PUSH PEOPLE OUT OF PUBLIC SPACES AND INTO THE CRIMINAL JUSTICE SYSTEM IS COSTLY, INHUMANE, INEFFECTIVE AND IN VIOLATION OF BASIC CIVIL, HUMAN AND CONSTITUTIONAL RIGHTS;

AND WHEREAS HUMAN RIGHTS THAT ARE AMPLY PROTECTED IN THE HOME AND OTHER PRIVATE PLACES SHOULD BE EXTENDED TO THE PUBLIC SPACES IN WHICH PERSONS EXPERIENCING HOMELESSNESS LIVE, TO ENSURE THE EQUAL RIGHTS OF ALL COLORADANS;

AND WHEREAS CRIMINALIZATION OF THE HOMELESS DOES NOTHING TO ALLEVIATE HOMELESSNESS;

~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO, AN AMENDMENT TO THE COLORADO CONSTITUTION, UNDER ARTICLE II, "BILL OF RIGHTS", (ADDING) SECTION 32: THE "COLORADO HOMELESS SURVIVAL ACT", ENSURING BASIC RIGHTS FOR PERSONS EXPERIENCING HOMELESSNESS;~~

(Here is what amending clause should look like - either add here or above the "Whereas" clauses if you decide to keep them:

Be it enacted by the people of the State of Colorado:

In the constitution of the state of Colorado, **add** section 32 to article II as follows:

~~SUB SECTION (a): (1) (a) REQUIRING THAT THE STATE AND ANY COUNTY, CITY, MUNICIPALITY, OR OTHER SUBDIVISION THAT HAS LAWS, ORDINANCES, RULES OR REGULATIONS THAT INFRINGE ON THE BASIC RIGHTS ENUMERATED IN THE PROPOSED~~

~~AMENDMENT~~ ARTICLE SHALL CEASE ENFORCEMENT OF SUCH LAWS, ORDINANCES, RULES, OR REGULATIONS; AND

~~SUB-SECTION (b):~~ (b) SAID BASIC RIGHTS SHALL BE ENUMERATED TO INCLUDE PROHIBITION OF DISCRIMINATION BASED ON HOUSING STATUS;

(2) THE FOLLOWING BASIC RIGHTS ARE GUARANTEED:

(a) THE RIGHT TO REST IN PUBLIC SPACES AND PROTECT ONESELF FROM THE ELEMENTS IN A MANNER THAT DOES NOT OBSTRUCT THE USE OF OR ACCESS TO PRIVATE PROPERTY;

(b) THE RIGHT TO EAT, SHARE, ACCEPT OR GIVE FOOD IN ANY PUBLIC SPACE WHERE FOOD IS NOT PROHIBITED;

(c) THE RIGHT TO OCCUPY A PERSON'S OWN MOTOR VEHICLE OR OCCUPY A MOTOR VEHICLE WITH THE OWNER'S PERMISSION, PROVIDED THAT THE MOTOR VEHICLE IS LEGALLY PARKED ON PUBLIC PROPERTY OR PARKED ON PRIVATE PROPERTY WITH THE PERMISSION OF THE PROPERTY OWNER; AND

(d) THE RIGHT TO A REASONABLE EXPECTATION OF PRIVACY ON ONE'S PERSONAL PROPERTY IN PUBLIC SPACES TO THE SAME EXTENT AS PERSONAL PROPERTY IN A PRIVATE RESIDENCE OR OTHER PRIVATE PLACE.

(3) EVERY PERSON HAS THE RIGHTS ENUMERATED IN SECTION (2) OF THIS SECTION AND MAY EXERCISE THOSE RIGHTS WITHOUT BEING SUBJECT TO CRIMINAL OR CIVIL SANCTIONS OR HARASSMENT BY LAW ENFORCEMENT, PUBLIC OR PRIVATE SECURITY PERSONNEL, OR DISTRICT AGENTS

~~LIABILITY:~~ (4) THE PROVISIONS OF THIS ARTICLE OF THE BILL OF RIGHTS SECTION DO NOT CREATE AN OBLIGATION ON THE PART OF ANY PROVIDER OF SERVICES TO PERSONS EXPERIENCING HOMELESSNESS TO PROVIDE SHELTER OR OTHER SERVICES WHEN NO SUCH SERVICES ARE AVAILABLE OR WHEN THE RULES OR POLICIES OF THE PROVIDER DISQUALIFY THE PERSON FROM RECEIVING SERVICES.

~~DEFINITIONS.~~

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DISCRIMINATION BASED ON HOUSING STATUS" MEANS ANY DISTINCTION, EXCLUSION, OR RESTRICTION BASED SOLELY ON WHETHER AN INDIVIDUAL HAS A FIXED OR REGULAR RESIDENCE, "DISCRIMINATION BASED ON HOUSING STATUS" ALSO INCLUDES ANY ACTION THAT DISPROPORTIONATELY IMPACTS PERSONS OF A PARTICULAR HOUSING STATUS, MEASURES TAKEN TO ENSURE EQUAL ENJOYMENT OR TO EXERCISE THE HUMAN RIGHT TO REST ARE NOT CONSIDERED DISCRIMINATORY.

(b) "DISTRICT" MEANS A BUSINESS IMPROVEMENT DISTRICT AS DEFINED UNDER COLORADO STATUTE.

(c) "DISTRICT AGENT" MEANS A PERSON HIRED BY A DISTRICT.

(d) "HARASSMENT" MEANS A KNOWING OR WILLFUL COURSE OF CONDUCT BY LAW ENFORCEMENT, PUBLIC OR PRIVATE SECURITY PERSONNEL, OR A DISTRICT AGENT THAT IS DIRECTED AT A SPECIFIC PERSON AND THAT A REASONABLE PERSON WOULD CONSIDER SERIOUSLY ALARMING, THREATENING, TORMENTING, OR TERRORIZING, OR CONDUCT THAT PREVENTS OR DISRUPTS A PERSON CONDUCTING NON-CRIMINAL ACTIVITIES FOR THE PURPOSE OF MAKING THE PERSON MOVE ALONG.

(e) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN SECTION 42 - 1- 102 (58) C.R.S., AND INCLUDES AUTOMOBILES, CAMPER TRAILERS, COMMERCIAL VEHICLES, AND MOTOR HOMES, AS THOSE MOTOR VEHICLES ARE DEFINED IN SECTION 42 - 1 -102, C.R.S.

(f) "PERSON EXPERIENCING HOMELESSNESS" MEANS A PERSON WHO DOES NOT HAVE A FIXED OR REGULAR RESIDENCE AND WHO MAY LIVE ON THE STREET OR OUTDOORS, IN A HOMELESS SHELTER OR OTHER TEMPORARY RESIDENCE, IN A VEHICLE, OR IN AN ENCLOSURE OR STRUCTURE THAT IS NOT AUTHORIZED OR FIT FOR HUMAN HABITATION.

(g) "PUBLIC SPACE" MEANS ANY PROPERTY THAT IS OWNED, IN WHOLE OR IN PART, BY A STATE OR LOCAL GOVERNMENT ENTITY, OR ANY PROPERTY UPON WHICH THERE IS AN EASEMENT FOR PUBLIC USE, AND THAT IS OPEN TO THE PUBLIC, INCLUDING PLAZAS, COURTYARDS, PARKING LOTS, SIDEWALKS, PUBLIC TRANSPORTATION FACILITIES AND SERVICES, PUBLIC BUILDINGS, SHOPPING CENTERS AND PARKS, WHEN USED IN THE CONTEXT OF AN ENCLOSED BUILDING OR STRUCTURE, THE TERM "PUBLIC SPACE" APPLIES ONLY WHEN THE BUILDING OR STRUCTURE IS OPEN TO THE PUBLIC.

(h) "REST" MEANS THE STATE OF NOT MOVING AND HOLDING CERTAIN POSTURES THAT INCLUDE SITTING, STANDING, LEANING, KNEELING, SQUATTING, SLEEPING, OR LYING DOWN.