



Kansas Legislative Research Department

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To: 2023 Special Committee on Homelessness

From: Iraida Orr, Principal Research Analyst

Re: Select States' Homelessness Rates and Statutes Applicable to People Experiencing Unsheltered Homelessness

This memorandum provides an overview of data from the 2022 Annual Homelessness Assessment Report ([2022 AHAR](#)) to Congress at the national and state level, with specific focus on states with the highest and lowest number of people experiencing homelessness (both sheltered and unsheltered), and the rates of unsheltered people experiencing homelessness. The memorandum further focuses on states with the highest and lowest rates of unsheltered people, providing an overview of statutes that address restrictions on camping, sleeping in public places, loitering, vagrancy, panhandling, and obstruction of roadways or sidewalks, which may impact people who are unsheltered.

Please note that no assumptions are made as to what effect, if any, the listed statutes have on the homelessness rates in the selected states. The statutes provided are not an exhaustive representation of all statutes that may affect people experiencing unsheltered homelessness in the selected states.

2022 AHAR Data

[*Note:* The term “People experiencing homelessness” refers to both individuals without children and households with children. Data referencing “individuals” excludes households with children.]

National Data

The 2022 AHAR to Congress published by the U.S. Department of Housing and Urban Development (HUD) in December 2022 notes, on a single night in 2022, the point-in-time (PIT) count of people experiencing homelessness, both sheltered and unsheltered, in the United States was approximately 582,500. The PIT counts of homelessness and the housing inventory information included in the report were based on data from the last ten days of January 2022 into early March 2022.

The report indicates 60 percent of the people experiencing homeless were staying in sheltered locations, such as safe havens, transitional housing, and emergency shelters. Further, the report indicates 40 percent of people experiencing homelessness were in unsheltered locations such as on the street, parks, vehicles, in abandoned buildings, or in other public or

private locations not intended for, or typically used as, a regular sleeping accommodation for persons.

According to the 2022 AHAR, between 2020 and 2022, the total number of people experiencing homelessness increased in 27 states and decreased in 23 states and the District of Columbia. The overall total number of people experiencing homelessness increased by less than 1 percent between 2020 and 2022, reflecting a 3 percent increase in people experiencing unsheltered homelessness offset by a 2 percent decrease in people staying in sheltered locations. Between 2021 and 2022, there was an increase in sheltered homelessness of 7 percent, which the report indicates could have resulted from the easing of pandemic-related restrictions. These restrictions, in place during the 2021 PIT count, reduced capacity in some emergency shelters to minimize the risk of exposure to COVID-19. The report also points to the increase in the national inventory of shelter beds between 2021 and 2022, likely due to available pandemic-related funding supporting the additional beds.

The report indicates 60 percent of people experiencing unsheltered homelessness did so in an urban area, with approximately 54 percent of all unsheltered people counted in the Continuum of Care Programs (CoCs) that include the nation's 50 largest cities. [Note: CoCs are local planning bodies responsible for coordinating the full range of homelessness services in a geographic area, which may cover a city, county, metropolitan area, or an entire state.] The remaining 40 percent of unsheltered people were nearly evenly divided between largely suburban areas (21 percent) and largely rural areas (19 percent).

The 2022 AHAR notes in two major city CoCs, more than 75 percent of people experiencing homelessness were unsheltered:

- San Jose/Santa Clara City and County, California (76.9 percent); and
- Raleigh, North Carolina (75.6 percent).

Additionally, eleven largely rural CoCs reported unsheltered rates of 75 percent or higher, two of which had unsheltered rates above 90 percent:

- Hendry, Hardee, and Highland Counties along the central Gulf Coast of Florida (93.7 percent); and
- Chattanooga/Southeast Tennessee (93.5 percent).

Similarly, eight largely suburban CoCs had unsheltered rates of 75 percent or higher, with Imperial County on California's southern border reporting the highest rate at 87.5 percent.

According to the report, more than 72 percent of people experiencing homelessness between 2021 and 2022 were individuals (households without children). The number of sheltered homeless individuals increased by five percent between 2021 and 2022, which was the second-largest year-to-year increase in sheltered homelessness among individuals since reporting began in 2007. Approximately 28 percent of people experiencing homelessness were families with at least 1 adult and 1 child under 18 years of age. The report also indicates the majority of persons in families were sheltered at time of the count.

State Data

According to the 2022 AHAR, four states accounted for more than 50 percent of the total of all people experiencing homelessness:

- California (30 percent—171,521 people);
- New York (13 percent—74,178 people);
- Florida (5 percent—25,959 people); and
- Washington (4 percent— 25,211 people).

In comparison, Kansas estimated 1,754 people experiencing homelessness. The report also indicated three states were sheltering at least 95 percent of people experiencing homelessness:

- Vermont (98 percent);
- Maine (96 percent); and
- New York (95 percent).

Per the 2022 AHAR, the following four states had the highest total rate (people per 10,000) of homelessness:

- California (44 people);
- Vermont (43 people);
- Oregon (42 people); and
- Hawaii (41 people).

Although Florida and Texas had a high total population of people experiencing homelessness, their rates of homelessness were lower than the national average of 18 people per 10,000, with the following rates being reported—Florida (12), and Texas (8).

The report notes that states with more than 50 percent of their total homeless population in unsheltered locations were:

- California (67.3 percent);
- Mississippi (63.6 percent);
- Hawaii (62.7 percent);
- Oregon (61.7 percent);
- Arizona (59.2 percent);
- Tennessee (58 percent);
- Arkansas (53 percent);
- Georgia (52 percent); and
- Washington (50 percent).

The states with the lowest percentage of people experiencing homelessness who were unsheltered were:

- Vermont (1.6 percent);
- Maine (3.7 percent);
- New York (5.4 percent);
- Wisconsin (6.3 percent); and
- Delaware (6.5 percent).

Statutes in States with the Highest Unsheltered Homelessness Rates

Existing statutes that restrict activities potentially impacting the unsheltered homeless population are outlined below for those states with the highest reported rates of people experiencing unsheltered homelessness.

California

California accounted for nearly half (49.6 percent) of all unsheltered people in the nation. The 2022 AHAR report notes 67.3 percent (115,491 people) of California's total homeless population of 171,521 was unsheltered.

California Statutes

Camping restriction. [Cal. Penal Code § 647](#) subsection (e) provides a person “who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or control of it” is guilty of disorderly conduct, a misdemeanor.

Disorderly conduct; Loitering, prowling, or wandering on certain property. Cal. Penal Code § 647(h) also provides disorderly conduct includes a person “[w]ho loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. The statute defines ‘loiter’ to “...delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.” Per subdivision (i), it is also disorderly conduct for a person to “while loitering, prowling, or wandering upon the private property of another, at any time, peek in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.”

[Cal. Penal Code § 647b](#) addressing loitering at and “annoying or molesting” persons attending courses at adult-education schools by imposing punishment of a fine up to \$1,000, imprisonment in the county jail of up to six months, or both.

[Cal. Penal Code § 555](#) notes entering or remaining on any posted industrial property without the permission of the owner, tenant, or occupant in legal possession or control is unlawful and is a misdemeanor (per [§ 555.3](#)). The industrial properties subject to posting are listed in [§ 554](#). Each day the person enters or remains on such posted property without permission is a separate offense (per § 555). The provisions of this article relating to trespassing or loitering near posted industrial property are applicable statewide in all counties and municipalities; local authorities are prohibited from enacting or enforcing any ordinance that conflicts with these provisions.

Restriction on begging or soliciting alms in public places. [Cal. Penal Code § 647\(c\)](#) provides that anyone “[w]ho accosts other persons in any public space or in any place open to the public for the purpose of begging or soliciting alms” is guilty of disorderly conduct (a misdemeanor).

Pedestrians standing in roadways. [Cal. Vehicle Code § 22520.5](#) prohibits a person from soliciting, displaying, selling, offering for sale, or otherwise vending or attempting to vend any merchandise or service while wholly or partly within any of the following:

- The right-of-way of any freeway, including any ramp, off-ramp, or roadway shoulder which lies in the right-of-way of the freeway; or
- Any roadway or adjacent shoulder within 500 feet of a freeway off-ramp or on-ramp; or
- Any sidewalk within 500 feet of a freeway off-ramp or on-ramp, when vending or attempting to vend to vehicular traffic.

These violations are infractions. A second or subsequent conviction of a violation of this section is a misdemeanor.

Mississippi

The 2022 AHAR notes 63.6 percent (761 people) of Mississippi's total homeless population of 1,196 was unsheltered.

Mississippi Statutes

Sleeping in particular public places. [MS Code § 97-7-7](#) states any person occupying “any of the offices, apartments, halls, or other portion of the capitol building at Jackson as a lodging or sleeping room...shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten dollars nor more than one hundred dollars, and be imprisoned in the county jail not exceeding thirty days.”

Panhandling in particular public places—*Repealed.* [MS Code § 97-35-29 through § 97-35-243](#), which had defined “tramps” and “vagrants” and the punishments and penalties associated with persons defined as such, was repealed in 2018.

Obstruction of roadways or sidewalks. [MS Code § 97-35-23](#) makes it “unlawful for any person or persons to intentionally obstruct, or interfere with the normal or ordinary free use and passage of vehicles of or on, any public street or highway provided for use by vehicular traffic, or for any person or persons to intentionally obstruct, or interfere with the normal or ordinary free use and passage of pedestrians of or on any public sidewalk provided for foot travel by pedestrians, and any person or persons who so do shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than four hundred dollars (\$400.00), or by imprisonment in the county jail for not more than four (4) months, or by both such fine and imprisonment.”

[MS Code § 97-35-25](#) makes it “unlawful for any person or persons to willfully obstruct the free, convenient and normal use of any public sidewalk, street, highway, alley, road, or other passageway by impeding, hindering, stifling, retarding or restraining traffic or passage thereon, and any person or persons violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by confinement in the county jail not exceeding six (6) months, or by both such fine and imprisonment.”

Hawaii

According to the 2022 AHAR, 62.7 percent (3,743 people) of Hawaii's total homeless population of 5,967 was unsheltered.

Hawaii Statutes

Lodging, living, or sleeping in vehicles. [HRS § 291C-112](#) states it is unlawful for a person to “use any vehicle for purposes of human habitation, whether or not the vehicle is designed or equipped for that purpose, while the vehicle is parked on any roadway, street, or highway or other public property between the hours of 6:00 p.m. and 6:00 a.m. or while the vehicle is parked on private property without authorization of the owner or occupant authorizing both the parking of the vehicle there and its use for purposes of human habitation.”

The statute defines the phrase “purposes of human habitation” to include “use as a dwelling place, living abode, or sleeping place.” Further, the statute clarifies “[t]his section does not apply to the parking of vehicles and their use for purposes of human habitation in parks, camps, and other recreational areas in compliance with law and applicable rules and regulations, or under emergency conditions in the interest of vehicular safety.”

Disorderly conduct; Begging or soliciting alms in public place. [HRS § 711-1101](#) states “[a] person commits the offense of disorderly conduct if, with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, the person...(e) impedes or obstructs, for the purpose of begging or soliciting alms, any person in any public place or in any place open to the public.” Disorderly conduct is a violation. However, if it is the defendant's intention to cause substantial harm or serious inconvenience, or if the defendant's disorderly conduct persists after reasonable warning or request to desist, the disorderly conduct becomes a petty misdemeanor.

Oregon

According to the 2022 AHAR, 61.7 percent (11,088 people) of the Oregon total homeless population count of 17,959 was unsheltered.

Oregon Statutes

Policies for removal of camps. [ORS § 195.500](#) requires all municipalities and counties to develop a policy recognizing the social nature of the problem of homeless individuals camping on public property, and to implement such policy to ensure the most humane treatment for removal of homeless individuals from camping sites on public property.

[ORS § 195.505](#) sets out the required elements of homeless camping policies including the posting of written notices and storage of personal property when established camping sites are cleared. [2023 HB 2939](#) was introduced declaring an emergency and would reduce the notice period before removal of homeless individuals from an established camping site from 72-hours to 24 hours, eliminate certain storage requirements for items removed from a camping site, and eliminate the preemption of the section by local law. The bill [remained](#) in the House Committee on Housing and Homelessness upon adjournment (June 25, 2023).

Additionally, [Oregon Laws Ch. 400, § 35](#) (effective September 24, 2023, and not yet designated within the Oregon Revised Statutes) allows for an intergovernmental agreement between the Department of Transportation and a city with a population of 500,000 or more for alternative provisions for removal, storage, and disposition of personal property deposited, left, or displayed on property owned by the department if the provisions conform with the requirements of ORS § 195.505 and the agreement contains certain provisions.

Camping in vehicles. [ORS § 195.520](#) provides that “a political subdivision may allow any public or private entity to allow overnight camping by homeless individuals living in vehicles on the property of the entity.” The political subdivision may impose reasonable conditions including setting a maximum number of vehicles allowed. The statute requires entities providing camping spaces for individuals living in vehicles to provide access to sanitary facilities, including toilet, trash disposal, and handwashing facilities.

Sitting, lying, sleeping, or keeping warm and dry on public property. [ORS § 195.530](#) provides, except for policies developed per ORS § 195.500 or ORS § 195.505 (described above), “any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.” The statute allows a person experiencing homelessness to bring suit for injunctive or declaratory relief challenging the reasonableness of such law. Reasonable attorney fees may be awarded to a prevailing plaintiff who meets certain requirements, but the statute does not create a private right of action for monetary damages for any person.

In 2023, [SB 844](#) and [HB 2404](#) were introduced containing identical language that would declare an emergency necessary for preserving the public peace, health, and safety and would repeal OR ST § 195.530. The repeal would apply to actions filed under the statute before, on, or after the effective date of the bill. SB 844 [remained](#) in the Senate Committee on Judiciary upon adjournment. HB 2404 was referred to the House Committee on Housing and Homelessness, with subsequent referral to the House Committee on Judiciary, and [remained](#) in the House Committee on Housing and Homelessness upon adjournment.

Arizona

According to the 2022 AHAR, 59.2 percent (8,027 people) of Arizona’s total homeless population of 13,553 was unsheltered.

Arizona Statutes

Unlawful camping. [ARS § 17-308](#) makes it “unlawful for a person to to camp within one-fourth mile of a natural water hole containing water or a man-made watering facility containing water in such a place that wildlife or domestic stock will be denied access to the only reasonably available water.” No other statutes pertaining to unlawful camping or homeless encampments were located.

Restriction on loitering, loafing, and vagrancy. [ARS § 13-2905](#) defines loitering to include when a person intentionally is present:

- In a public place and in an offensive manner or in a manner likely to disturb the public peace solicits another person to engage in any sexual offense;
- In a transportation facility and after a reasonable request to cease or unless specifically authorized to do so solicits or engages in any business, trade or commercial transactions involving the sale of merchandise or services;
- In a public place, unless specifically authorized by law, to gamble; or
- In or about a school, college or university building or grounds after a reasonable request to leave and has no reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there or does not have written permission to be there from anyone authorized to grant permission.

Statutes in States with Lowest Rates of People Experiencing Unsheltered Homelessness

Existing statutes that restrict activities potentially impacting the unsheltered homeless population are outlined below for those states with the lowest rates of people experiencing unsheltered homelessness, as reported by the 2022 AHAR.

Vermont

The 2022 AHAR reported that 1.6 percent (45 people) of Vermont's total homeless population of 2,780 was unsheltered.

Vermont Statutes

Panhandling in particular public places. [23 VSA § 1056](#) provides that, with the exception of not-for-profit or municipal organizations granted approval by the local legislative body, no person may stand within the roadway of a highway for the purpose of soliciting a ride, contributions, employment, or business from the occupant of any vehicle.

Obstruction of traffic. [13 VSA § 1026](#) provides that a person is guilty of disorderly conduct if the person, either recklessly or with intent to cause public inconvenience or annoyance, obstructs vehicular or pedestrian traffic.

Maine

According to the 2022 AHAR, 3.7 percent (164 people) of Maine's homeless population of 4,411 was unsheltered.

Maine Statutes

Obstructing public ways. [17 AMRSA § 505](#) provides that a person is guilty of obstructing public ways by unreasonably obstructing the free passage of foot or vehicular traffic on any public way and refusing to cease or remove the obstruction upon a lawful order by a law enforcement officer. Public way is defined to include a sidewalk over which the general public has a right to pass by foot or by vehicle.

New York

The 2022 AHAR reports that of the 74,178 total people experiencing homelessness in New York, 5.4 percent (4,038 people) were unsheltered.

New York Statutes

Loitering, loafing, and vagrancy in particular public places. [NY Penal L § 240.35](#) states a person is guilty of loitering when loitering or remaining:

- In a public place for the purpose of gambling with cards, dice, or other gambling paraphernalia; or
- In or about school, college, or university buildings or grounds, or school buses, without a reason to be there, or a children's overnight camp or a summer day camp in violation of established policies; or
- In any transportation facility, without specific authorization, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services, or for the purpose of entertaining persons by singing, dancing or playing any musical instrument.

Wisconsin

The 2022 AHAR notes 6.3 percent (301 people) of Wisconsin's total homeless population of 4,775 was unsheltered.

Wisconsin Statutes

Camping in particular public places. [WSA § 86.025](#) makes it unlawful to camp in wagons, tent, or otherwise on public highways or adjacent lands, after a notice to remove by the owners of such adjacent lands, or the owner of land abutting on the highway, or by a member of the board of supervisors or any trustee of any town or village where such camping place is made. A violation is a misdemeanor and, upon conviction, subject to a fine not to exceed \$10, or imprisonment in the county jail not to exceed 30 days, or both.

Vagrancy. [WSA § 947.02](#) defines the following persons as being vagrants and makes vagrancy a Class C misdemeanor:

- A person, with the physical ability to work, who is without a lawful means of support and does not seek employment; or
- A prostitute who loiters on the streets or in a place where intoxicating liquors are sold; or
- A person who, in public, solicits another to commit a crime against sexual morality; or
- A person known to be a professional gambler or known as a frequenter of gambling places or who derives part of his or her support from begging or as a fortune teller or similar impostor.

Trespassing on railroad. [WSA § 192.32](#) prohibits any person, other than a licensee, authorized newspaper reporter, or person connected with or employed by the railroad, from walking, loitering, or being on or along the track of any railroad.

Pedestrians standing or loitering on roadways. [WSA § 346.29](#) prohibits a person from being on a roadway to solicit a ride from the operator of any vehicle other than a public passenger vehicle or from standing or loitering on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

Delaware

According to the 2022 AHAR, 6.5 percent (154 people) of the 2,369 total people experiencing homelessness in Delaware were unsheltered.

Delaware Statutes

Loitering; Sitting in particular public places. [11 DE Code § 1321](#) states a person is guilty of loitering when the person:

- Fails or refuses to move when lawfully ordered by any police officer; or
- Stands, sits idling or loiters on any pavement, sidewalk or crosswalk, or stands or sits in a group or congregates with others on any pavement, sidewalk or crosswalk or doorstep, in any street or way open to the public in the State so as to obstruct or hinder the free and convenient passage of persons walking, riding or driving over or along such pavement, walk, street or way, and fails to make way, remove or pass, after reasonable request from any person; or
- Loiters or remains in or about a school building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or any other specific or legitimate reason for being there, unless the person has written permission from the principal; or
- Loiters, remains or wanders about in a public place for the purpose of begging; or

- Loiters or remains in a public place for the purpose of engaging or soliciting another person to engage in sexual intercourse or deviate sexual intercourse; or
- Loiters, congregates with others or prowls in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity, especially in light of the crime rate in the relevant area. Unless flight by the accused or other circumstances make it impracticable, a peace officer shall, prior to any arrest for an offense under this paragraph, afford the accused an opportunity to dispel any alarm which would otherwise be warranted, by requesting identification and an explanation of the person's presence and conduct. No person shall be convicted of an offense under this paragraph if the peace officer did not comply with the preceding sentence, or if it appears that the explanation given by the accused was true and, if believed by the peace officer at the time, would have dispelled the alarm.