

A “Right to Rest” is Not the Answer

If the road to hell is paved with good intentions, Senate Bill 608 is Exhibit A. The bill, which promises a “Right to Rest” for California’s homeless population, does not provide any homes for the homeless, but enshrines in law a “right” to use any public space as a private home. Unfortunately, the bill will not assist the homeless in any meaningful way, and will impose substantial costs on everyone else — especially those most dependent on public services.

There are many needs among the homeless, including adequate mental health treatment. We also need enough beds for those needing a roof under which to sleep. Right now, as the legislation notes, most homeless people don’t know where they can find a shelter. If current shelters have empty beds and are not fulfilling their mission, an immediate priority should be to

inform those needing a bed about where one is available.

Despite this troubling lack of awareness among the homeless, the bill will not give them this information. Instead, it authorizes damages against police of \$1,000 — and reasonable attorney's fees --- for every time officers try to relocate the homeless. SB 608 assumes that people who can't find a bed will comprehend and implement Civil Code section 53.82, subdivision (b)'s provisions for injunctive relief. The bill seems designed less to create shelter for the poor than fees for attorneys.

SB 608 will not improve the homeless' well-being because it incorrectly treats homelessness as a civil rights/discrimination issue, rather than a social welfare concern. But current law is not discriminatory, as everyone has the right to use public spaces for public purposes, and no one has the right to use them for private ones.

Civil rights flow from equal citizenship. Thanks to Rosa Parks and others, everyone may now ride the bus on equal terms. This does not discriminate, as claimed by SB 608, based on "housing status, or ability or desire to be housed"; no one may lie down and take four seats. Some who sleep on a bus or bench may indeed be homeless, while others may be intoxicated, far from their home, or just tired. Regardless, if senior citizens must stand for an hour as they wait for and ride the bus because someone is lying in their seat, they will lose their "right to rest."

Of course, as Anatole France observed, such equality is not enough for the poor, so we have social welfare policies that assist them. Society should try to remedy the homeless' lack of private space by providing it, even in the imperfect form of temporary shelter. Instead, SB 608's enabling the homeless to use public spaces for private purposes will impede public access for everyone

else.

The bill's premise is that because most Californians have a private realm where they may do what they like (their home), so should the homeless. We enjoy privacy in our home because we may exclude everyone else from it. Although SB 608 does not give the homeless a formal right to exclude others from public spaces, that may be its practical effect.

Public safety will likely suffer if the proposal passes. Some people may indeed "rest" on sidewalks or in cars because they lack another place to rest. But criminals may use this access to track homeowners' comings and goings, and break in once they leave. The proposed law will likewise give cover to those who wish to rob, rape or carjack, as they may "rest" in parking lots after hours. Employees working late will have less protection, and more reason to quit working before it gets dark.

With sweeping language invoking United Nations pronouncements on human rights, the bill has a startling reach, whether intended or not.

- The proposed law “requires that civil and human rights that are amply protected in the home and in other places be extended to the public areas in which homeless persons live.” If there is a constitutional right to sexual intimacy with another consenting adult in the privacy of one’s home, will the quoted language extend that right to parks, playgrounds and other “public areas in which homeless persons live”?
- The “right to worship” in public spaces may also prove problematic. Many recall the sight of thousands of people filling Parisian streets to kneel toward Mecca. All have a right to pray, but must traffic come to halt until they finish? If individuals have a “right to pray” on “property that is owned, in whole or in part, by any state or local government entity,” the answer is yes.

- The biggest victims of the law will be residents of public housing. SB 608 entitles homeless individuals to sleep or “squat” in “public buildings,” which could include apartment hallways or even the units themselves. It expressly overrides current law, which prohibits lodging in a public or private place “without the permission of the owner or person entitled to [its] possession.”
- As “public buildings” also include schools, the bill grants the homeless a right to enter and lie down in gyms, labs, and libraries across the state --- as if classes weren’t overcrowded enough.

Even if redrafting eliminates these extreme applications, the fact remains that if public facilities may not be limited to their intended use, people will eventually abandon them. They will switch from riding the bus to using Uber, abandon public swimming pools for private health clubs, skip sidewalk cafes in

favor of indoor restaurants, and have their children play in private gyms rather than public playgrounds. And as use of public facilities drops, so will their funding.

Whom will this hurt the most? Those fortunate enough to swim in their backyard pools or ride in limousines will hardly notice. But working-class people with no other means of recreation and transportation will see reduced hours and routes. And parents who drop off their kids at the playground (or even library) will join those “free-range” Maryland parents accused of child neglect. The right to “rest” for the homeless will reduce rest for everyone else.

Downtown Los Angeles has revived because the City ensured that people could walk, dine, and socialize downtown without undue fear. We have put the “public” back into “public spaces.”

Passage of SB 608 will drive people back into their homes and

private spaces. Reduced commercial activity will mean fewer tax revenues --- and available funds to help the poor.

And the bill will do nothing to help homeless people find the bed, shower, counseling or job they desperately need. It does not even try. The Legislature should reject Senate Bill 608.

Mitchell Keiter is a certified appellate law specialist.

(www.KeiterAppellateLaw.com.) For identification purposes, he is member of the Westwood Neighborhood Council, which opposes SB 608 in its current form.