

HOUSING NOT HANDCUFFS

e-news update

May 2021

Dear Supporters and Endorsers of the Housing Not Handcuffs Campaign,

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#HNH  

Thank you so much for your continued support. We appreciate your partnership while we advocate on behalf of people experiencing homelessness. As the country inches closer to post-pandemic normalcy, we reflect on the unprecedented hardships experienced across the globe. We remain diligent as COVID-19 protections--like the national eviction moratorium--are expected to expire soon.

If you have submissions for the next newsletter, please fill out [this Google form](#) **by June 9th.**

During these last few months, there have been a number of victories and setbacks. We are thrilled that the Biden-Harris Administration has embraced Housing as a Right for All, and look forward to continuing our work with states like Connecticut seeking to declare housing as a human right.

Unfortunately, communities across the country continue to enforce punitive sweeps and propose ordinances that would criminalize people experiencing homelessness. This includes several states that introduced legislation to criminalize homelessness state-wide.

[Keep encouraging your friends, colleagues, and elected officials to endorse.](#) Please check out our new COVID-19 page at nlchp.org/coronavirus for recommendations and resources. Be on the look out for future communications from the campaign.

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The Right to Counsel for Tenants Facing Eviction: Victories and Available Federal Funds (written by John Pollock and Maria Roumiantseva from the [National Coalition for a Civil Right to Counsel](#))

Concerned about the devastating impact that evictions have on their communities and budgets, and seeing how much worse the problem has become during the pandemic, cities and states have started to enact or pursue tenant right to counsel legislation.

In just the past few months, there have been a number of significant victories: [Seattle](#) and [Louisville](#) joined the seven other cities that have enacted a right to counsel for tenants facing eviction, and Louisville is the first Southern city to do so! And while the number of city-level successes grows, we're also starting to see statewide momentum. In April, [Washington](#) became the first state to enact a right to counsel for tenants, and [Maryland](#)'s bill will become law absent a veto. Statewide bills are also currently pending in [Connecticut](#), [Delaware](#), [Indiana](#), [Minnesota](#), [Nebraska](#), [New Jersey](#), [New York](#), and [South Carolina](#).

As a budgetary stepping stone to a right to counsel, [many jurisdictions](#) have turned to [federally available funds](#) to expand tenant representation. In Connecticut, for example, the [Governor has proposed \\$20 million](#) in Fiscal Recovery Funds for tenant representation, while Louisville is using \$400,000 from their Emergency Rental Assistance (ERA) allotment. The Treasury Department recently issued an [updated Guidance](#) for ERA funds and has helpfully clarified that "housing stability services" include legal services. Interested jurisdictions should keep in mind that deadlines are fast approaching. The NCCRC's [opinion piece in The Appeal](#) provides additional details on how these funds work. In addition to considering its right to counsel legislation, New York extended its COVID-19 eviction moratorium to August 31, 2021, months after the federal moratorium is expected to expire.

For a state-by-state breakdown of right to counsel updates and legislation, refer to NCCRC's [Status Map](#).

Legislative Updates

Proposed State-Wide Legislation to Criminalize Homelessness

Amidst the ongoing struggles of the COVID-19 pandemic, several states have proposed new legislation which would further criminalize homelessness—against Law Center recommendations. Lawmakers in [Arizona](#), [Tennessee](#), and [Texas](#) proposed statewide camping bans which would criminalize sleeping on public land.

In Arizona, a recently introduced state bill would make camping on state property a Class 3 misdemeanor. The bill would also put cities and towns at risk of losing state public safety grants if they do not ban street camping in public places—thereby forcing people experiencing homelessness into state-sanctioned camps. Thankfully, the bill died in committee due to local advocacy work.

Tennessee lawmakers introduced State Senate Bill 1610/HB 978, which sought to make soliciting or camping on a state or interstate highway or under a bridge or overpass a [Class C misdemeanor](#) offense. It would also make it a **Class E felony** for anyone to camp on public property not designated for camping use. Fortunately, SB 1610 also [died in committee](#) thanks to coordinated local opposition.

[Texas Senate Bill 987](#) would establish a statewide public camping ban and impose fines and penalties for camping in a public place. SB 987 does not provide resources or solutions to get people out of tents, but it does impose possible jail time and fines for those who cannot afford shelter. The Law Center created a [fact sheet](#) to share with local advocates and wrote a [letter in opposition](#) to this bill. In this letter, we condemn the legislation as ineffective, harmful, expensive, and counter-productive to getting people off the street. Unfortunately, the bill [cleared](#) the Senate on May 20, and is headed to Texas Governor Abbott's desk, where he is expected to sign it into law.

Connecticut Human Right to Housing Bill Passes in State Senate!

On May 21, 2021, SB 194: An Act Establishing a Right to Housing [passed](#) in the Connecticut State Senate, 25-10. [SB 194](#) would affirm that Connecticut recognizes the human right to housing, “including the rights to housing affordability, rehousing assistance for people who become homeless, and protections from housing loss.” This comes after Connecticut Committee on Housing held a [public hearing](#) on S.B. 194 on March 4th and after the [bill passed](#) out of committee with a 12-3 vote on March 9th.

SB 194 would ensure that Connecticut prioritizes resources toward ensuring adequate housing for all its residents. Although the bill does not direct the state to take specific policy actions to achieve the right to housing, it declares the state’s intention to advance the right and requires consideration of the right to housing in governmental decision making.

The Law Center submitted an [op-ed](#) encouraging Connecticut to affirm this legislation. We would like to acknowledge Steve Kennedy, a legal intern at the Law Center, Connecticut resident, and legislative director of The People’s Parity Project at UConn Law, who has spearheaded the Law Center’s advocacy surrounding SB 194. We eagerly await to see if the bill passes in the Connecticut House. If passed, Connecticut would be the first state in the country to formally acknowledge the human right to housing.

Oregon "Right to Rest Act" Fails in Committee

Oregon considered establishing a state-wide “Right to Rest Act,” a bill created by HNH endorser [Western Regional Advocacy Project](#) relating to the rights of people experiencing homelessness. The [bill](#), introduced by Rep. Campos, seeks

to guarantee a right to rest in a non-obstructive and non-hazardous manner in public spaces that are open to the general public. A [public hearing](#) was held on April 13, but the bill did not pass out of committee. Tristia Bauman, senior attorney at the Law Center, testified in support of the bill at the hearing. To learn more about the bill, please refer to [campaign materials](#) produced by WRAP.

Housing Status Added to List of Protected Classes in Bias Crime Legislation in Eugene, OR

On April 21, 2021, the Eugene, OR City Council unanimously approved an [amendment](#) to Section 4.731 of the Eugene Code, Bias Crime in the Second Degree. Thanks to the advocacy of the Eugene Human Rights Commission, "housing status" was added to the list of protected classes.

Here, a person "commits a bias crime in the second degree" if they interfere with someone's property, subject another to offensive physical contact, or threatens to harm someone "because of the person's perception of **unhoused status**."

Unhoused status is defined as the lack of "a fixed, regular, and adequate nighttime residence." Under the statute, a person residing in a temporary shelter, in a place "not designed for, or ordinarily used as, a regular sleeping accommodation for human beings," in vehicles, in abandoned buildings, or other similar settings.

This amendment comes less than a month after the Law Center submitted a letter to the Eugene City Council expressing concern regarding Eugene's clearance of encampments in the city despite the Centers for Disease Control and Prevention's guidelines stating that homeless encampments should not be evicted during the COVID-19 pandemic unless the city can provide individual housing units to the encampment residents.

Proposition B Passes in Austin, TX

Sadly, Austin, TX reinstated strict anti-homeless criminalization in a ballot measure titled [Proposition B](#). Proposition B makes it a [criminal offense](#) (a Class C misdemeanor punishable by a fine) to sit or lie down on a public sidewalk, to sleep outdoors, to camp in public, and to panhandle. People found in violation of this ordinance could be subject to fines of up to \$500. Austin residents voted in favor of Proposition B [57% to 43%](#), amidst anti-homeless sentiment.

Litigation Updates

L.A. Alliance for Human Rights v. City of Los Angeles

In *L.A. Alliance for Human Rights v. City of Los Angeles*, Judge Carter issued a [preliminary injunction](#) against the city of Los Angeles, requiring it to provide access to shelter facilities to Skid Row residents. The case was filed by a [coalition](#) of downtown business owners. HNH Campaign members [LA CAN](#) have joined the case as intervenors, with the legal support of the Law Office of Carol Sobel and the [Legal Aid Foundation of Los Angeles](#).

In this order, Judge Carter lays out a detailed history of racial discrimination in housing and urban development in Los Angeles, including redlining, state

sanctioned gentrification, race-based property restrictions and use of State power to take land from Black landowners, inefficient and ineffective affordable housing initiatives, and the creation of a homeless containment zone within Skid Row.

Despite providing this history, Judge Carter dismisses the need for permanent supportive housing, and allows Los Angeles to satisfy its commitment to Skid Row residents through solely offering shelter. The injunction would further permit enforcement of LA's anti-camping ordinance following any offer of shelter to unhoused residents of Skid Row. We are concerned that the Order could exacerbate the housing crisis in Los Angeles by focusing on emergency shelter and criminalization instead of permanent housing solutions.

Warren v. Chico

In *Warren v. Chico*, the Eastern District of California [granted](#) a Temporary Restraining Order prohibiting enforcement of anti-camping ordinances and stopping a sweep of the Comanche Creek Green Way homeless encampment. The Law Center consulted with [Legal Services of Northern California](#) who brought the case, building on the Law Center's victory in *Martin v. Boise*. During the COVID-19 pandemic, Chico had committed to a moratorium on conducting sweeps, which we even cited as a local [best practice](#). This is unfortunately no longer the case, as Chico has resumed conducting sweeps despite CDC guidance.

Federal Policy Updates

Exciting Changes at USICH!

The United States Interagency Council on Homelessness is [adopting](#) a "comprehensive national approach toward ending homelessness." This multi-pronged approach seeks to combat homelessness by prioritizing racial equity, economic mobility, and environmental justice approaches. Significantly, USICH declares that "Housing is a Right for All," confirms the importance of Housing First approaches to ending homelessness, and prioritizes rapid-rehousing and permanent supportive housing.

These new USICH priorities were unveiled approximately one month after Anthony Love was appointed Interim Executive Director and stand in stark contrast with the priorities of a Robert Marbut-headed USICH under the Trump Administration.

National Homelessness Law Center staff had the opportunity to meet with Anthony Love and USICH staff to discuss our work and organizational mission. We look forward to continuing to foster our relationship with USICH and finding opportunities for collaboration.

Department of Housing and Urban Development Formally Withdraws Trump Administration Change to Equal Access Rule

The U.S. Department of Housing and Urban Development [announced](#) that it was withdrawing a proposed change to the Equal Access Rule submitted by the Trump Administration. As noted in the announcement, "[t]he Equal Access Rule ensures that all individuals—regardless of sexual orientation or gender identity—have equal access to the Department's Office of Community Planning

and Development programs, shelters, other buildings and facilities, benefits, services, and accommodations.”

The Trump Administration proposed a change to the Equal Access Rule [that](#) “would have allowed for HUD-sanctioned, federally funded discrimination against transgender people, who face disproportionately high rates of homelessness and extreme risk in unsheltered homelessness.” The Trump rule allowed shelter providers to “to create policies excluding transgender and gender non-conforming people from being placed in single-sex facilities that aligned with those persons’ gender identities.” Transgender people already face disproportionate rates of housing instability and unsheltered homelessness, as well as increased rates of abuse and assault in shelter facilities.

In announcing HUD’s departure from the Trump rule, Secretary Fudge [affirmed](#) that “[a]ccess to safe, stable housing and shelter is a basic necessity. Unfortunately, transgender and gender non-conforming people report more instances of housing instability and homelessness than cis-gender people. Today, we are taking a critical step in affirming HUD’s commitment that no person be denied access to housing or other critical services because of their gender identity. HUD is open for business for all.”

The Law Center submitted a [comment](#) opposing the Trump rule. In addition to promoting harmful outcomes for transgender people experiencing homelessness generally, the Trump rule would “frustrate the congressional intent, purpose, and statutory requirements of the McKinney-Vento Act and the HEARTH Act by negatively affecting homeless youth, especially LGBTQ homeless youth.” The Trump rule would have deprived students whose educational stability relied on safe shelter which conformed with their gender identity “a full and equal opportunity to succeed in school.” We are pleased that HUD withdrew the Trump rule, committed to Housing First, and declared that housing is a right for all and a basic necessity.

Eviction Moratorium Updates

During the COVID-19 pandemic, the CDC director ordered a [moratorium on evictions](#). Originally, this moratorium was expected to expire on December 31, 2020, but has since been extended to June 30, 2021.

In *Alabama Association of Realtors v. U.S. Department of Health and Human Services*, the United States District Court for Washington D.C. on May 5, 2021 [held](#) that the CDC overstepped its statutory authority and ordered that the national eviction moratorium be vacated. HHS submitted a motion to the Court requesting that the order not take effect until it has had a full chance to appeal the ruling. On May 14, 2021, the Court [granted](#) the motion. The Court found that vacating the eviction moratorium would result in irreparable harm for millions of renters nationwide and exacerbate the COVID-19 pandemic. Now, the moratorium will stay in effect while the case is appealed.

Washington, D.C. is not the first court that has evaluated the CDC eviction moratorium. [According to](#) the National Low Income Housing Coalition, “[t]here are currently many conflicting rulings at the district court level, with several judges ruling in favor of the moratorium and others ruling against it. Several

cases have been appealed to circuit courts for further review, but the issue has not yet been decided by a higher court. While the court's ruling in *Alabama Association of Realtors v. HHS* states that the moratorium is invalidated nationwide, NLIHC believes it likely has limited application impacting only the plaintiffs who brought the case or, at most, renters in the district court's jurisdiction."

We continue to monitor the progress of this case and others as we approach June 30, when the eviction moratorium is currently set to expire.

Announcements

National Homelessness Law Center Has a New Executive Director!

Last summer, the Law Center launched a national search for our next Executive Director, and [selected](#) Antonia Fasanelli to carry on on the mission passed to her, stepping in as the first Executive Director after 31 years of leadership under Founder Maria Foscarinis. Antonia began as executive director at the Law Center on April 1, 2021.

Please consider donating to the [Foscarinis Fund](#), a fund created by the Law Center to honor and commemorate Maria's work. We are incredibly grateful for Maria's leadership, and are excited for our next chapter.

Over 3,000 Endorsements!

Over the summer, the Law Center hosted a webinar series aimed to help advocates promote the needs of people experiencing homelessness during and after the COVID-19 crisis. We appreciate the over 1,000 new endorsers from the webinar series, and the over 3,000 public officials, law enforcement and criminal justice professionals, organizations, and individuals from across the nation who have joined their voice with the Housing Not Handcuffs Campaign. All past webinars as well as information for upcoming webinars can be found on our [website](#).

Multiple Letters Sent to Communities to Combat Criminalization of Homelessness!

Each week, the National Homelessness Law Center, often in partnership with local advocates and partners, submits letters to local governments across the country, contesting proposed ordinances criminalizing homelessness and planned sweeps. Click [here](#) to keep up with the Law Center's impact.

Stay Up to Date!

Check out the [Law Center in the News](#) section of our website to see coverage of our staff and of our work in communities across the country. Additionally,

make sure to subscribe to our organizational news letter [In Just Times](#), to see any [op-eds](#) and [press releases](#) from the Law Center, and our [social media](#)!

HNH Campaign / Organizational Resources

This [one pager](#) provides an overview of the HNH Campaign and outlines concrete ways for people to get involved. It also includes a fact sheet on the criminalization of homelessness. This tool is useful to share with people who are already familiar with homelessness issues and are looking for more information about the HNH Campaign. Additional resources can be found [here](#).

For more information on applying for FEMA reimbursement for non-congregate shelter, watch NLIHC's informative webinar [here](#). Additionally, please refer to our [FEMA Fact Sheet](#).

To see our evaluation of recommendations made to the Biden-Harris Administration, check out our [First 100 Days Scorecard](#).

Resources, news, and initiatives by the Law Center regarding Coronavirus can be found at our Coronavirus [hub](#).

Campaign Branding

We encourage campaign endorsers to link relevant events to the national Housing Not Handcuffs campaign. Please see the guidelines for branding your materials [here](#).

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