

By Senator Dawson

29-1036-04

1 A bill to be entitled
2 An act relating to homeless persons; defining
3 terms; providing for the appointment of shelter
4 capacity coordinators; requiring the
5 coordinator to supply certain information to
6 law enforcement agencies; prohibiting a law
7 enforcement officer from citing, arresting, or
8 incarcerating an individual for committing,
9 under specified circumstances, certain
10 life-sustaining acts that would ordinarily
11 constitute misdemeanors; allowing officers to
12 enforce certain other laws or misdemeanors and
13 to require an individual to submit to an
14 involuntary examination as specified; providing
15 responsibilities of shelter capacity
16 coordinators; requiring law enforcement
17 agencies to prepare annual reports; providing
18 an effective date.

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20 WHEREAS, the Legislature finds that the incidence of
21 homelessness continues to increase steadily throughout the
22 state, and

23 WHEREAS, increases in homelessness, coupled with a
24 critical shortage of treatment, income supports, and adequate
25 housing options, have resulted in a concomitant increase in
26 the numbers of individuals and families that live on the
27 streets, and

28 WHEREAS, an increasing number of jurisdictions, in
29 attempts to deal with increased numbers of persons living on
30 the streets, have enacted local ordinances that make illegal

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1 certain actions or behaviors that are necessary for daily
2 living, and

3 WHEREAS, such ordinances have the effect of restricting
4 the basic freedoms of individuals simply because they do not
5 have a home, and

6 WHEREAS, a growing body of research shows that the cost
7 of providing outreach, shelter, services, and supportive
8 housing to persons who are homeless and living on the street
9 is far exceeded by the cost borne by law enforcement, the
10 judicial system, and the correctional system, and

11 WHEREAS, in many communities, these systems have not
12 been equipped to address the complex and multifaceted root
13 causes of homelessness, as evidenced by the "revolving door"
14 between jail and the streets, and

15 WHEREAS, the success of numerous "best practices"
16 demonstrates that it is possible to protect the interests of
17 business and property owners without criminalizing
18 homelessness through the provision of such outreach, shelter,
19 services, and supportive housing, and

20 WHEREAS, such practices improve the quality of life for
21 all residents of the community, including homeless persons,
22 and universally increase opportunities for participation in
23 commerce, recreation, and other activities essential to the
24 health and vibrancy of the community, NOW, THEREFORE,

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Shelter capacity coordinators;
29 responsibilities; restrictions on law enforcement; annual
30 report.--

31 (1) As used in this section, the term:

1 (a) "Life-sustaining misdemeanor" means a misdemeanor
2 offense committed as a result of the performance of an action
3 that is related to a natural function or task associated with
4 daily living and that would not be considered a criminal act
5 if performed under normal conditions in a private residence.
6 The term includes, but is not limited to, the following
7 actions, regardless of how they are defined by local
8 ordinance:

- 9 1. Sleeping;
- 10 2. Lying down;
- 11 3. Camping;
- 12 4. Cooking;
- 13 5. Preparing food;
- 14 6. Eating;
- 15 7. Sitting;
- 16 8. Loitering on public property;
- 17 9. Bathing or washing;
- 18 10. Public nudity related to the changing or washing
19 of clothes;
- 20 11. Urinating;
- 21 12. Defecating; and
- 22 13. Carrying, placing, storing, stowing, or using
23 equipment or other items related to the performance of any of
24 the actions listed in subparagraphs 1.-12.

25 (b) "Shelter" means a facility providing safe,
26 temporary lodging and other basic services needed by
27 individuals who are homeless, including, but not limited to,
28 sanitary facilities, showers, food, adequate space for
29 sleeping and storing personal belongings, and protection from
30 the elements.

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1 (c) "Available bed" means appropriate accommodations
2 within a shelter or private residence to which a particular
3 individual who seeks access is guaranteed admission, without
4 expectation of payment or of participation in nonessential
5 services or religious activities. The term does not include
6 any accommodations provided in a jail or other setting in
7 which the individual is involuntarily placed or detained
8 without his or her consent nor accommodations provided in a
9 facility that lacks a valid certificate of occupancy, exceeds
10 the occupancy limit posted by the fire marshal, or otherwise
11 fails to comply with local housing codes.

12 (d) "Attempted placement" means an effort made by a
13 law enforcement officer or his or her agent at a specific
14 point in time to secure admission of a particular individual
15 to occupy an available bed in a shelter or private residence
16 within or in reasonable proximity to the jurisdiction of the
17 officer, as well as to provide or ensure the provision of
18 transportation to the shelter or private residence for the
19 individual.

20 (e) "Shelter capacity coordinator" means an individual
21 or organization designated by a law enforcement agency as the
22 entity responsible for inventorying the local or regional
23 supply of shelter beds and their relevant target populations,
24 restrictions, requirements, fee structures, and other relevant
25 information needed by law enforcement officers or their agents
26 to make attempted placements to available beds within the
27 community or region.

28 (2) Each law enforcement agency shall designate a
29 shelter capacity coordinator. The designation must be made
30 with the input of the local coalition for the homeless, as
31 defined in section 420.623, Florida Statutes. Law enforcement

1 agencies are encouraged to coordinate the designation of
2 shelter capacity coordinators with their counterparts from
3 neighboring jurisdictions.

4 (3) The shelter capacity coordinator shall, at least
5 daily, provide to the law enforcement agency current
6 information regarding the inventory and status of available
7 beds in shelters within the county or metropolitan area. The
8 shelter capacity coordinator shall ideally make current
9 information available to law enforcement officers in real
10 time.

11 (4) A law enforcement officer may not cite, arrest, or
12 incarcerate an individual for committing a life-sustaining
13 misdemeanor unless:

14 (a) Based on the most recent information provided by
15 the shelter capacity coordinator which is available to the law
16 enforcement officer, there is an available bed for that
17 individual;

18 (b) The officer or his or her agent has made an
19 attempted placement of that individual to an available bed;
20 and

21 (c) That individual refuses to accept the attempted
22 placement.

23 (5) A law enforcement officer may not cite, arrest, or
24 incarcerate an individual for committing a life-sustaining
25 misdemeanor if an attempted placement of that individual is
26 unsuccessful as a result of:

27 (a) The provision of inaccurate or incomplete
28 information by the shelter capacity coordinator; or

29 (b) A change in the status of an available bed prior
30 to the placement of that individual.

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1 (6) This section does not preclude or restrict a law
2 enforcement officer from enforcing other laws or ordinances
3 that are violated simultaneously with the commission of the
4 life-sustaining misdemeanor nor from requiring an individual
5 to submit to an involuntary examination as described in
6 section 394.463, Florida Statutes, or part V of chapter 397,
7 Florida Statutes.

8 (7) Each shelter capacity coordinator shall establish
9 a procedure for reviewing the need to add, delete, or modify
10 information regarding the status of available beds in relation
11 to a particular individual or category of individuals, based
12 on information provided by the law enforcement agency or the
13 local coalition for the homeless.

14 (8) Each shelter capacity coordinator shall, to the
15 greatest extent practical, provide or facilitate the provision
16 of additional information or training to law enforcement
17 officers in order to promote access to other services and
18 resources that may be needed by individuals committing
19 life-sustaining misdemeanors or by other homeless individuals.

20 (9) Each law enforcement agency shall annually prepare
21 a report that summarizes its activities relating to the
22 shelter capacity coordinator, including the number and nature
23 of successful and unsuccessful attempted placements, as well
24 as the number of citations and arrests for life-sustaining
25 misdemeanors.

26 Section 2. This act shall take effect January 1, 2005.
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SENATE SUMMARY

Prohibits law enforcement officers from arresting homeless persons under specified circumstances for committing certain acts related to fulfilling life-sustaining needs which would otherwise be misdemeanors. Provides for the appointment of shelter capacity coordinators. Provides for exchanges of information between the coordinators and law enforcement agencies. Requires agencies to prepare annual reports relating to their activities under this section.