

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1530

INTRODUCER: Senator Martin

SUBJECT: Unauthorized Public Camping and Public Sleeping

DATE: January 26, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	<b>Pre-meeting</b>
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

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**I. Summary:**

SB 1530 prohibits counties and municipalities, from authorizing or permitting public sleeping or public camping on public property, at public buildings, or on public rights-of-way within the government’s jurisdiction without a lawfully issued temporary permit, except under certain circumstances. This prohibition does not apply during a state of emergency issued by the Governor.

The bill additionally permits a person or business to bring a civil action in any court of competent jurisdiction against a county or municipality to enjoin a violation of the prohibition against permitting camping.

The bill takes effect October 1, 2024.

**II. Present Situation:**

**Legislation Related to Homeless Encampments**

Several states and local governments recently have heard or passed legislation related to homeless encampments on public property. Some of these efforts have been directed at banning or removing homeless encampments,<sup>1</sup> while others have moved toward protecting the rights of homeless populations to camp on public property.<sup>2</sup> State and Federal Courts have opined on the constitutionality of these varied provisions on a case-by-case basis.<sup>3</sup> Significantly, the Ninth Circuit Court of Appeals found that an Oregon city’s ordinance which precluded the use of bedding supplies when sleeping in public violated the Federal constitution’s “cruel and unusual

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<sup>1</sup> See e.g., 2023 Georgia Senate Bill No. 62, 2024 Kentucky House Bill No. 5.

<sup>2</sup> See e.g., 2017 Colorado House Bill No. 17-1314.

<sup>3</sup> See e.g., 2022 Missouri House Bill No. 1606; *Frank v. City of St. Louis*, 458 F. Supp. 3d 1090, 1092 (E.D. Mo. 2020).

punishments” clause<sup>4</sup> as applied to individuals who were involuntarily experiencing homelessness and who lacked shelter in which to lawfully sleep,<sup>5</sup> while the Eleventh Circuit has previously upheld similar restrictions.<sup>6</sup> On January 12, 2024, the U.S. Supreme Court agreed to take up this case to determine whether the enforcement of generally applicable laws regulating camping on public property is constitutional.<sup>7</sup>

### ***Local Legislation in Florida***

Numerous local governments in Florida have passed local legislation banning camping. Miami Beach, for example, provides that it is unlawful for any person to engage in camping on any public place within the city unless specifically authorized for that purpose by the city manager or his designee.<sup>8</sup> The ordinance defines camping as:

- Sleeping in a temporary shelter out-of-doors or otherwise being in a temporary shelter out of doors; or
- Cooking over an open flame or fire out-of-doors or utilizing non-city designated cooking facilities outdoor.

The Miami Beach ordinance is enforceable by vacating the area. The willful refusal to vacate the area is punishable with a fine not exceeding \$500 or by imprisonment for up to 60 days. If the official encounters a person camping who volunteers that he or she has no home or other permanent shelter, he or she must be given an opportunity to enter a homeless shelter or similar facility, if available. If no such facility is available, an arrest may not be made.

### **III. Effect of Proposed Changes:**

The bill creates sections 125.0231 and 166.0453, F.S., to prohibit counties and municipalities, respectively, from authorizing or permitting public sleeping or public camping on public property, at public buildings, or on public rights-of-way within the government’s jurisdiction without a lawfully issued temporary permit.

A county or municipality may designate certain public property for sleeping or camping subject to the following conditions, the sufficiency of which is to be determined by the Department of Children and Families:

- Minimum sanitation levels, including but not limited to access to clean and operable restrooms and running water;
- Security presence on site;
- Access to behavioral health services, including substance abuse and mental health treatment;
- Drugs and alcohol are prohibited within the designated area; and
- The property may not be in a location where it adversely and materially affects the value or security of existing residential or commercial properties.

This prohibition does not apply during a state of emergency issued by the Governor.

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<sup>4</sup> Am. 8, U.S. CONST.

<sup>5</sup> *Johnson v. City of Grants Pass*, 72 F.4th 868, 890 (9th Cir. 2023), cert. granted sub nom. *Grants Pass, OR v. Johnson*, No. 23-175, 2024 WL 133820 (U.S. Jan. 12, 2024).

<sup>6</sup> *Joel v. City of Orlando*, 232 F.3d 1353, 1355 (11th Cir. 2000).

<sup>7</sup> *Id.*

<sup>8</sup> See section 70-45, Miami Beach Code of Ordinances, this paragraph.

The bill additionally permits a person or business to bring a civil action in any court of competent jurisdiction against a county or municipality to enjoin a violation of the prohibition against permitting camping.

The bill contains a finding of important state interest.

The bill takes effect October 1, 2024.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill leaves the terms “sleeping,” “camping,” and “permit” undefined. It is unclear whether the bill may interfere with existing local parks and recreation operations. While the bill contains an exception for states of emergency issued by the Governor, it is unclear whether the bill may interfere with local emergency management operations during scenarios that do not rise to a state of emergency, such as cold weather warnings.

**VIII. Statutes Affected:**

This bill creates sections 125.0231 and 166.0453 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.