

RESOLUTION 09-03-2006

DIGEST

Transient Persons: Transportation to Shelter in Lieu of Arrest

Amends Penal Code section 647a to prohibit the arrest of a homeless person for unlawful camping unless the person refuses transport to a shelter.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar associations recommend that legislation be sponsored to amend Penal Code section 647a to read as follows:

- 1 § 647a.
- 2 (a) Any peace officer, as defined in subdivision (a) of Section 830.1 or Section
- 3 830.31, 830.32, or 830.33, may transport any person, as quickly as is feasible, to the nearest
- 4 homeless shelter, or any runaway youth or youth in crisis to the nearest runaway shelter, if
- 5 the officer inquires whether the person desires the transportation, and the person does not
- 6 object to the transportation.
- 7 Any officer exercising due care and precaution shall not be liable for any damages or
- 8 injury incurred during transportation.
- 9 ~~(b) Notwithstanding any other provision of law, this section shall become operative~~
- 10 ~~in a county only if the board of supervisors adopts the provisions of this section by~~
- 11 ~~ordinance. The ordinance shall include a provision requiring peace officers to determine the~~
- 12 ~~availability of space at the nearest homeless or runaway shelter prior to transporting any~~
- 13 ~~person.~~
- 14 (b) Notwithstanding any other provision of law, any peace officer described in
- 15 subdivision (a) of this section shall transport a homeless person eligible for arrest or citation
- 16 for any local or state statute describing unlawful camping, unauthorized lodging or other
- 17 similar acts to the nearest homeless shelter in lieu of arrest or citation. No homeless person
- 18 shall be arrested or prosecuted under any such section unless the prosecutor proves that a
- 19 nearby homeless shelter was available to receive the homeless person to be arrested or cited
- 20 and the homeless person to be arrested or cited refused transport to the shelter.

(Proposed new language underlined, language to be deleted stricken)

PROPONENT: Bar Association of Ventura County

STATEMENT OF REASONS

Existing Law: Homeless persons can be arrested on misdemeanor unlawful camping or unauthorized lodging ordinances when they truly have no where to go.

This Resolution: Does not allow for a prosecution for unlawful camping or lodging by a homeless person unless (1) a shelter is available and (2) the person refuses transportation to that shelter.

The Problem: Homeless persons are being arrested for the crime of having nowhere to sleep.

In accordance with CDCBA rules, VCBA timely offers this resolution for consideration. Consistent with traditional CDCBA practice, the Proponent reserves the right to timely withdraw or amend the resolution.

IMPACT STATEMENT

This resolution would not affect any other statute, rule, or law.

AUTHOR AND/OR PERMANENT CONTACT: Jason S. Leiderman, Deputy Public Defender, Law Offices of the Public Defender, 800 South Victoria Avenue, Suite 207, Ventura, CA 93009, telephone (805) 654-2201, facsimile (805) 648-9220, e-mail jay.leiderman@ventura.org.

RESPONSIBLE FLOOR DELEGATE: Jay Leiderman