

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: April 9, 2024

TO: Honorable Members of the Rules, Elections, and
Intergovernmental Relations Committee

FROM: Sharon M. Tso
Chief Legislative Analyst *me for SMT* Council File No.: 24-0002-S4
Assignment No.: 24-03-0199

SUBJECT: Resolution (Yaroslavsky-McOsker) to SUPPORT AB 2835 (Gabriel)

CLA RECOMMENDATION: Adopt Resolution (Yaroslavsky-McOsker) to include in the City's 2023-2024 State Legislative Program, SUPPORT for AB 2835 (Gabriel), which would repeal Section 1954.093 of the Civil Code, and thereby extend indefinitely Sections 1954.08 through 1954.092 relative to occupancy in homeless shelter programs.

SUMMARY

Resolution (Yaroslavsky-McOsker), introduced March 6, 2024, states that in the 2021-2022 California legislative session, Assembly Bill 1991 (AB 1991-Gabriel) was passed to clarify State law regarding shelter program and interim housing participants residing in motels and hotels. The Resolution further states that AB 1991 contained a sunset provision of January 1, 2025. The Resolution also states that, currently pending before the legislature is Assembly Bill 2835 (AB 2835-Gabriel), which seeks to eliminate this sunset provision. The Resolution resolves that the City should include in its 2023-2024 legislative program support for AB 2835, because the existing statute benefits both motel and hotel operators and the participants of shelter programs.

BACKGROUND

AB 2835 (Gabriel) was introduced on February 15, 2024 and proposes to amend California Civil Code Chapter 2.4 (Sections 1954.08-093), which provides statutes relative to occupancy of homeless shelter programs. AB 2835 seeks to delete in its entirety Section 1954.093, which states that, "this chapter shall remain in effect only until January 1, 2025, and as of that date is repealed." Deleting this sunset clause would preserve the existing statute indefinitely and in its entirety.

AB 1991

AB 1991 (Gabriel) was introduced February 10, 2022, during the 2021-2022 California Legislative session, and was subsequently approved by the Governor on September 28, 2022. AB 1991 enacted California Civil Code Chapter 2.4 (Section 1954.08-093), which in-part served to clarify State law surrounding tenancy of homeless shelter program participants.

Previously, State law was ambiguous as to whether a landlord-tenant relationship would develop between the hotel or motel operator and the homeless shelter participant for stays longer than 30 days' duration. This ambiguity was causing a 'shuffling' of participants between motel rooms, or

even their termination from the program entirely. As a result, AB 1991 enacted statutes that prohibit participants who stay longer than 30 days in shelter programs from being considered a “person who hires real property,” that is, a lawful tenant, during an unlawful detainer action (California Code of Civil Procedure Section 1161.6).

The statute also covers operating procedures for shelter programs. It prohibits those motels or hotels from treating shelter program participants differently than paying customers. Additionally, it provides clear guidelines regarding due process for terminating participation in shelter programs. In practice this statute mandates that participants in City of Los Angeles Interim Housing be provided 30 days’ notice of termination, and that a grievance process be established to appeal a potential wrongful termination.

City Department Positions

The Los Angeles Homeless Services Authority (LAHSA) states its support for AB 2835. LAHSA was an original co-sponsor of AB 1991 and advocates that Civil Code Chapter 2.4 be made into permanent law. LAHSA is also aware that the author may amend AB 2835 to clarify certain ambiguities in the existing language: for example, how and where notice of termination should be provided to homeless shelter program participants who return to the program following an extended absence.

DEPARTMENTS NOTIFIED

City Administrative Officer
Los Angeles Homeless Services Authority

BILL STATUS

2/15/24 Introduced; read first time.
3/11/24 Referred to Committee on Housing & Community Development
3/11/24 Read second time and amended.
3/12/24 Re-referred to Committee on Housing & Community Development



David J. Wimsatt
Analyst

Attachments: 1. Resolution (Yaroslavsky-McOsker)
2. AB 2835 (Gabriel)
4. AB 1991 (Gabriel)
5. LAHSA Sponsor and Support Letter

RESOLUTION

RULES, ELECTIONS, INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies, proposed to or pending before a local, state or federal governmental body or agency, must have first been adopted in the form of a Resolution by the City Council; and

WHEREAS, thousands of unhoused Californians are currently participating in shelter programs and residing temporarily in hotels, motels, and other sites; and

WHEREAS, as a result of long-standing ambiguity in state law, many hotels and motels resorted to 'shuffling' people between motel rooms or exiting people from their rooms every four weeks to avoid potentially creating a landlord-tenant relationship, a practice that was disruptive to families participating in these programs and consumed resources of case managers and service providers; and

WHEREAS, in 2022 the California Legislature passed Assembly Bill (AB) 1991 (Gabriel), which clarified state law regarding shelter and interim housing participants residing in motels and hotels to restrict shuffling amongst rooms; and

WHEREAS, AB 1991 also prohibited hotel or motel from adopting termination policies, restricting access rights, or imposing charges or fees specifically for shelter program participants that did not apply to other occupants, while outlining clear guidelines around due process for terminating participation in shelter programs that benefit both service providers and participants; and

WHEREAS, AB 1991 contained a sunset provision of January 1, 2025, in order to provide adequate time to gauge the impacts of the legislation; and

WHEREAS, the City was a key supporter of AB 1991, having approved a support resolution in July 2022 (Council File 22-0002-S68); and

WHEREAS, currently pending before the Legislature is Assembly Bill (AB) 2835 (Gabriel), which will extend the January 2025 sunset included in AB 1991 (Chapter 645 of the Statutes of 2022); and

WHEREAS, the City should support AB 2835 because it will continue to afford greater certainty for motel and hotel operators while continuing to prohibit the disruptive shuffling of families between rooms;

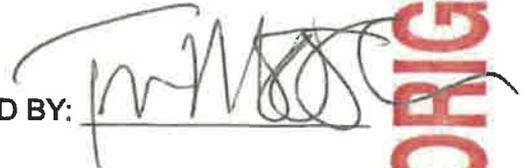
NOW, THEREFORE, BE IT RESOLVED, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2024-25 State Legislative Program SUPPORT for Assembly Bill 2835 (Gabriel).

PRESENTED BY:



Katy Yaroslavy
Councilwoman, 5th District

SECONDED BY:



MAR 06 2024

ORIGINAL

ASSEMBLY BILL

No. 2835

Introduced by Assembly Member Gabriel

February 15, 2024

An act to repeal Section 1954.093 of the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2835, as amended, Gabriel. Motels and hotels: publicly funded shelter programs.

Existing law, Chapter 645 of the Statutes of 2022, law provides that the continued occupancy of a shelter program participant in a motel or hotel does not constitute a new tenancy and is not considered a “person who hires” for purposes of an unlawful detainer action if the shelter program meets specified requirements. Existing law prohibits specified provisions of the California Building Standards Code from causing a motel or hotel to be designated as nontransient solely as a result of a shelter program participant’s occupancy in the motel or hotel beyond a 30-day period, or from being interpreted to restrict the duration of occupancy for shelter program participants. Existing law prohibits a hotel or motel from adopting specified policies or imposing charges or fees specifically for shelter program participants, and prohibits requiring those participants to check out and reregister or move out of or between rooms while actively enrolled in a shelter program for purposes of preventing occupants from establishing rights of tenancy. Existing law repeals these provisions on January 1, 2025.

This bill would ~~state the intent of the Legislature to enact legislation related to extending the sunset of Assembly Bill 1991 (Chapter 645 of~~

~~the Statutes of 2022). delete the January 1, 2025, repeal date, thereby extending operation of the above-described provisions indefinitely.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1954.093 of the Civil Code is repealed.
- 2 ~~1954.093. This chapter shall remain in effect only until January~~
- 3 ~~1, 2025, and as of that date is repealed.~~
- 4 SECTION 1. ~~It is the intent of the Legislature to enact~~
- 5 ~~legislation related to extending the sunset of Assembly Bill 1991~~
- 6 ~~(Chapter 645 of the Statutes of 2022).~~

Assembly Bill No. 1991

CHAPTER 645

An act to add and repeal Chapter 2.4 (commencing with Section 1954.08) of Title 5 of Part 4 of Division 3 of the Civil Code, relating to tenancy.

[Approved by Governor September 28, 2022. Filed with
Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1991, Gabriel. Motels and hotels: publicly funded shelter programs.

Existing law regulates the terms and conditions of tenancies and defines the term "persons who hire" for the purpose of regulating residential tenancies. Existing law excludes from these provisions, among other things, occupancy at a hotel or motel if certain conditions are met.

This bill would provide that the continued occupancy of a shelter program participant, as defined, in a motel or hotel does not constitute a new tenancy and is not considered a "person who hires" for purposes of an unlawful detainer action if the shelter program meets the core components of Housing First, as defined, and specified requirements related to termination policies and grievance processes. The bill would define "shelter program participant" as an occupant of a motel or hotel, as defined, who participates in specified city-, county-, continuum of care-, state-, or federally funded shelter, interim housing, motel voucher, or emergency shelter programs.

Existing law prohibits a person from requiring an occupant of a residential hotel, as defined, to move or check out and reregister before the expiration of 30 days' occupancy if a purpose is to have that occupant maintain transient occupancy status, as described.

Existing law, the California Building Standards Law, establishes the California Building Standards Commission within the Department of General Services and requires the commission to approve and adopt building standards and to codify those standards in the California Building Standards Code.

This bill would prohibit specified provisions of the California Building Standards Code from causing a motel or hotel to be designated as nontransient solely as a result of a shelter program participant's occupancy in the motel or hotel beyond a 30-day period, or from being interpreted to restrict the duration of occupancy for shelter program participants.

This bill would prohibit a hotel or motel from adopting termination policies, restricting access rights, or imposing charges or fees specifically for shelter program participants that do not apply to other occupants, and would also prohibit a motel or hotel from requiring those shelter program participants to check out and reregister, move out of rooms or between

rooms, or from the hotel or motel while actively enrolled in the shelter for purposes of preventing occupants from establishing rights of tenancy.

This bill would repeal these provisions on January 1, 2025.

The people of the State of California do enact as follows:

SECTION 1. Chapter 2.4 (commencing with Section 1954.08) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2.4. OCCUPANCY IN INTERIM HOMELESSNESS PROGRAMS

1954.08. For the purposes of this chapter, the following definitions apply:

(a) “Harm-reduction” means a set of strategies, policies, and practices aimed at mitigating the negative social and physical consequences associated with various human behaviors, including, but not limited to, substance use, and that do not rely on punitive measures to gain program compliance.

(b) “Motel or hotel” means a dwelling unit, as defined by subdivision (c) of Section 1940, that an innkeeper retains a right of access to and control of, and that provides or offers all of the following services to all of the residents:

(1) Facilities for the safeguarding of personal property pursuant to Section 1860.

(2) Central telephone service subject to tariffs covering the same filed with the California Public Utilities Commission.

(3) Maid, mail, and room services.

(c) “Shelter program” means a city-, county-, continuum of care-, state-, or federally funded shelter, interim housing, motel voucher, or emergency shelter program in which the city, county, continuum of care, state, or federal governmental entity retains an oversight and accountability role in ensuring compliance with program regulations and proper program administration.

(d) “Shelter program administrator” means a city, county, or continuum of care entity that retains an oversight role in ensuring compliance with program regulations and proper program administration.

(e) “Shelter program operator” means a service provider agency that is contracting with a shelter program administrator to carry out the operations of the shelter program. A “shelter program operator” may include community-based service providers as well as public government agencies carrying out program operations.

(f) “Shelter program participant” means an occupant of a motel, hotel, or other shelter site whose occupancy is solely due to their participation in a shelter program.

(g) “Trauma-informed” means a set of practices that promote safety, empowerment, and healing in recognition that program participants may have experienced trauma that informs their experiences and responses.

1954.09. (a) Notwithstanding paragraph (1) of subdivision (b) of Section 1954.091, shelter program participants shall not have their continued occupancy in a motel, hotel, or shelter program constitute a new tenancy and shall not be considered persons who hire pursuant to Section 1940 for the purposes of Section 1161 of the Code of Civil Procedure, if the shelter program meets all of the following requirements:

(1) The shelter program adheres to the core components of Housing First, pursuant to subdivision (b) of Section 8255 of the Welfare and Institutions Code.

(2) The shelter program establishes, adopts, and clearly documents rules governing how and for what reasons a shelter program participant's enrollment may be terminated and the shelter program operator discloses the termination policy to program participants in writing, in plain language, at the commencement of their occupancy.

(A) Permissible reasons for termination shall include sexual assault, verbally or physically threatening behaviors, which rise to the level of a "direct threat" to persons or property, as defined in paragraph (3) of subdivision (b) of Section 12179 of Title 2 of the Code of California Regulations, physical violence to staff or other program participants, direct observation of participant engaging in illegal activity onsite, or time limits established by the shelter program.

(B) Terminations for reasons not stated in subparagraph (A) and any operational policies negotiated prior to the commencement of the shelter program shall be approved by the shelter program administrator and shared with their shelter program participants in a clearly labeled document.

(C) The shelter program administrator shall endeavor to ensure terminations are performed by the shelter program operator in a trauma-informed manner utilizing a harm-reduction approach, and shall ensure that the termination policies and procedures of the hotel, motel, and shelter program, including the required grievance procedure, comply with all applicable disability laws, including requirements for reasonable accommodation.

(3) The shelter program administrator establishes procedures regarding how a shelter program participant will be provided a written termination notice if a termination occurs and the shelter program operator discloses those procedures to shelter program participants in writing at the commencement of their occupancy.

(A) The shelter program operator shall provide the termination notice to the participant at least 30 days prior to the proposed termination or, if the underlying cause for a proposed termination constitutes a "direct threat," as defined in paragraph (3) of subdivision (b) of Section 12179 of Title 2 of the Code of California Regulations, the shelter program operator may remove the participant from the premises immediately, provided that the operator advises the participant of their right to utilize the grievance process described in paragraph (5).

(B) The termination notice shall contain a clear, plain-language statement of the reason for the termination, shall notify the participant of their right

to request a reasonable accommodation if they are a qualified person with a disability, and shall notify the participant of their right to utilize the grievance process described in subparagraph (E).

(C) The established procedures developed regarding participant guideline violations shall include an escalation continuum that incorporates documented warnings and documented shelter program operator staff and participant problem solving methods prior to instituting terminations from the shelter program.

(4) The shelter program operator shall provide an exit plan upon termination of a shelter program participant that includes referrals to any available local shelter service for which the participant is eligible and the shelter program operator shall make a good faith, reasonable effort to facilitate an intake for that participant in an available bed or unit.

(A) The shelter program operator shall document good faith, reasonable efforts and shall make that documentation available upon request.

(B) The shelter program administrator, in cases where the grievance process is utilized, shall determine whether the shelter program operator's efforts constitute a good faith effort to facilitate a participant into an alternative available shelter site or program.

(C) (i) The shelter program administrator shall make good faith efforts to provide reasonable transportation accommodations upon termination of a shelter program participant from a program or upon transfer of a shelter program participant to an alternative available bed or unit.

(ii) In exigent circumstances that necessitate the presence of first responders, police, or fire department and render it infeasible to provide a termination letter at that time or coordinate a postexit plan, the shelter program operator shall create a termination letter that satisfies the above-described requirements and make that documentation available to participants within 24 hours of their request.

(5) The shelter program administrator shall establish a grievance process that complies with due process and the shelter program operator shall disclose the grievance process to occupants in writing, in plain language, at the commencement of their occupancy.

(A) The grievance process shall give shelter program participants a right to due process appeal through the shelter program administrator if the shelter program participant believes they were or are being wrongfully terminated from the program, and shall inform shelter program participants on how to access and initiate the grievance process.

(B) (i) Program participants shall be provided the opportunity to initiate the grievance process 30 days prior to their proposed termination date or at any point thereafter.

(ii) In cases where participants are subject to immediate removal based on circumstances that present a "direct threat," as defined in paragraph (3) of subdivision (b) of Section 12179 of Title 2 of the Code of California Regulations, participants shall be provided the opportunity to initiate the grievance process at the time of removal or at any point thereafter.

(C) If, following the grievance process, the proposed termination is not carried out, any participant already removed shall be granted the right to resume their participation in the program. If the shelter program operator is unable to place the individual in the original site, the shelter program operator shall facilitate a placement for the individual in an alternative available motel, hotel, or shelter site.

(b) Where a shelter program administrator is also the shelter program operator, the shelter program administrator is responsible for all of the duties described in subdivision (a).

(c) For properties that are being converted from use as a motel or hotel, or from use as a shelter, interim housing, emergency shelter, or other interim facility to a permanent housing site, paragraph (2) shall not apply to occupants of the site from the date that the site receives a certificate of occupancy as a permanent housing site.

1954.091. (a) Section 310.3 of Chapter 3 (commencing with Section 301.1) of Part 2 of Title 24 (the California Building Standards Code) of the California Code of Regulations shall not be interpreted to restrict the duration of occupancy for shelter program participants.

(b) (1) This chapter shall not be interpreted to either confer or deny any tenant rights or protections for persons who hire pursuant to Section 1940, or any rights that the tenant may otherwise be entitled to under any applicable federal, state, or local law.

(2) Notwithstanding paragraph (1), a shelter program participant of a shelter program that complies with the requirements described in Section 1954.09 shall be entitled to all of the following:

(A) A shelter program participant's continued occupancy in a motel or hotel does not constitute a new tenancy.

(B) A shelter program participant shall not be considered a person who hires pursuant to Section 1940 for the purposes of Section 1161 of the Code of Civil Procedure.

(C) Receipt of a written termination policy.

(D) Disclosure of a termination notice procedure.

(E) Thirty days' notice prior to termination, except as described in Section 1954.09.

(F) Right to appeal termination pursuant to the grievance policy required by Section 1954.09.

1954.092. (a) A motel or hotel shall not be designated as a nontransient motel or a nontransient hotel pursuant to Section 310.4 of Chapter 3 (commencing with Section 301.1) of Part 2 of Title 24 (the California Building Standards Code) of the California Code of Regulations solely as a result of a shelter program participant's occupancy in the motel or hotel beyond a 30-day period.

(b) A hotel or motel shall not do either of the following:

(1) (A) Adopt termination policies specifically for motel or hotel occupants who are shelter program participants that do not apply to other motel or hotel occupants who are not participating in a shelter program, impose restrictions on the ability of program participants to freely enter or

exit the property or access certain areas or amenities of the property that do not apply to other motel or hotel occupants, or levy charges and fees, including fees for room card replacements, that do not apply to other motel or hotel occupants.

(B) This paragraph sets minimum standards for shelter program terminations and shall not be construed to restrict shelter program operating standards that confer greater rights to participants with regard to shelter program terminations.

(2) Require shelter program participants to check out and reregister, move out of rooms or between rooms, or from the hotel or motel while actively enrolled in the shelter program for the purposes of preventing an occupant from establishing rights of tenancy.

1954.093. This chapter shall remain in effect only until January 1, 2025, and as of that date is repealed.



April 11, 2022

The Honorable Assemblymember Buffy Wicks
Chair, Assembly Committee on Housing & Community Development
1020 N Street, Room 156
Sacramento, CA 95814

Re: Sponsor and Support for Assembly Bill 1991 (Gabriel)

Dear Chair Wicks—

On behalf of the Los Angeles Homeless Services Authority (LAHSA), I write as a supporter and proud sponsor of Assembly Bill 1991 (Gabriel), which would clarify state code regarding people experiencing homelessness who are participating in a publicly funded shelter program. AB 1991 would provide guidance to motel and hotel providers regarding the occupancy of shelter program participants and create termination protections for shelter program occupants.

LAHSA is a joint-powers authority of the City and County of Los Angeles and serves as the lead agency of the Los Angeles Continuum of Care (LA CoC). LAHSA is responsible for funding a significant portion of the interim housing, permanent housing, and supportive services for individuals and families experiencing homelessness in Los Angeles County.

At the moment, thousands of people experiencing homelessness in the State of California are taking part in shelter programs and living temporarily in hotels, motels, and other interim sites. However, a lack of clarity in state law regarding their occupancy creates several challenges for these programs and their participants. Because of ambiguity in state law, hotels, and motels resort to 'shuffling' people between motel rooms or exiting people from their rooms every four weeks to avoid potentially creating a landlord-tenant relationship. This 'shuffling' practice disrupts families participating in these programs and consumes resources of case managers and service providers who must work to quickly find accommodations for these families, while failing to shuffle families also does not clearly confer rights of tenancy. In other cases, motels and hotels do not take part in shelter programs out of concern that they will establish unwanted landlord-tenant relationships, thus limiting the availability of their units for local homeless services systems to provide needed relief for homeless families.

AB 1991 would deliver much needed clarity and guidance to motels, hotels, and shelter providers who offer shelter for homelessness programs regarding tenancy and termination of occupants. This bill provides those experiencing homelessness who participate in shelter programs from needlessly moving from motel to motel every 30 days. Lastly, the bill creates process and protections for people taking part in these programs to ensure they are not exited arbitrarily from their programs.

We appreciate the Legislature's leadership to address homelessness and hope your committee will support this bill. We look forward to partnering together and

Heidi Marston
Executive Director

Board of Commissioners

Jacqueline Waggoner
Chair

Wendy Greuel
Vice Chair

Andy Bales

Melissa Chinchilla

Noah Farkas

Irene Muro

Booker Pearson

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stabilizing California's most vulnerable residents to help them exit homelessness. For these reasons, we ask for your support on AB 1991.

Sincerely,

A handwritten signature in black ink, appearing to read "Heidi Marston". The signature is fluid and cursive, with a prominent loop at the end.

Heidi Marston
Executive Director