

MEMORANDUM

TO: Regional Steering Committee on Homelessness and Housing

FROM: HomeBase

DATE: January 23, 2009

RE: Federal Legislative News

This memorandum summarizes the status of two Federal legislative items. As the new President and his administration settle in, we expect to see additional bills that will address homelessness.

McKinney-Vento Reauthorization Update

On October 2, 2008, the U.S. House of Representatives passed HR 7211 (the amended Homeless Emergency Assistance and Rapid Transition to Housing Act of 2008 (HEARTH)) to reauthorize the McKinney Vento legislation. The bill moved to the Senate as S.1518, where it was put on hold and not picked up in the two subsequent Senate sessions. As a result, the bill will need to return to the House to be re-introduced and pass through that process again. The bill will only become law after it passes both the House and Senate in the same form. It is unknown if and when the bill will be re-introduced or what form it will take, especially considering the current range of issues occurring at the Federal level.

HR 29: The Homeless Children and Youth Act of 2009

As RSC has discussed many times, one of the key pieces of the draft McKinney-Vento reauthorization legislation was the Federal definition of homelessness. Attached to this memorandum, please find a summary of how the definition of homelessness has changed through the various versions of the McKinney-Vento reauthorization bills.

About two weeks ago, Congresswoman Judy Biggert (R-IL) introduced a piece of legislation (HR 29) that takes on solely that issue. If approved, HR 29 would amend the definition of “homeless person” under the McKinney Vento Act to include:

- A child or youth who has been verified as homeless (as such term is defined in Section 725(B)(i) of the McKinney-Vento Assistance Act), by a local educational agency homeless liaison (as designated in Section 722(g)(1)(J)(ii) of McKinney) and the family of such child or youth.
- A youth verified as homeless by the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director

- A child verified as homeless under Section 602 of the Individuals with Disabilities Education Act by the director or the designee of such program and the family of such child, and
- A child verified as homeless under Section 637 of the Head Start Act by the director or designee of such program, and the family of such child.

In effect, the law would make consistent the Federal definitions of homelessness that apply to homeless children and youth, including the education subtitle of the McKinney-Vento Act, Head Start, Runaway and Homeless Youth, and Early Intervention programs.

As a result, the HUD definition of homelessness would be expanded to cover families in temporary, unstable situations (including doubled-up or in hotels).

Further, it places the responsibility for determining which children are homeless in the hands of local homeless liaisons and designated service providers who work with youth and children.

MCKINNEY-VENTO REAUTHORIZATION BILLS

McKinney-Vento = Current Legislation/NOFA

CPEHA = Community Partnership to End Homelessness Act (Reed, Senate)

Original HEARTH = Homeless Emergency Assistance and Rapid Transition to Housing Act (Carson, House, HR 840, 2007)

Passed HEARTH = Homeless Emergency Assistance and Rapid Transition to Housing Act (Carson, HR 7221, passed the House on October 2, 2008). Bill HAS NOT BEEN REINTRODUCED in 2009.

WHO IS CONSIDERED HOMELESS

✓ = This language is in the legislation.

* = This language is not in the legislation, but a person living in the situation described has been considered eligible for assistance under current law.

	McKinney-Vento	CPEHA	Original HEARTH	Passed HEARTH
An individual who lacks a fixed, regular, and adequate nighttime residence	✓	✓	✓	✓
An individual who lacks a fixed, regular, and adequate nighttime residence, including someone who is sharing the housing of other persons due to a loss of housing, economic hardship or similar reason			✓	In part, see ★below.
An individual who has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters and transitional housing for the mentally ill)	✓	✓	“is living in an emergency or transitional shelter”	✓
An individual who has a primary nighttime residence that is an institution that provides a temporary residence for individuals intended to be institutionalized (see below)	✓	✓	✓	
An individual who has a primary nighttime residence that is a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings.	✓	✓	✓	✓

An individual who lacks a fixed, regular, and adequate nighttime residence, including someone who is living in a motel, hotel, or camping ground due to the lack of alternative adequate accommodations	*	*	✓	Includes camping grounds but not motels and hotels, except as described in ★below.
An individual who lacks a fixed, regular, and adequate nighttime residence, including someone who is living in a car, park, public space, abandoned building, substandard housing, bus or train station or similar setting.	*	*	✓	✓ But does not specifically include substandard housing.
Does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.	✓	✓		✓
Does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law. <u>Such term includes individuals who have been released from prison on parole.</u>	Original language to left, without redline	✓	✓	
Any individual or family fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.	*	*	*	✓

★HEARTH as it passed the House in October 2008 included language intended to be a compromise between CPEHA and the original HEARTH about people who are doubled-up or staying on hotels or motels. Under this version of HEARTH, the following people would also be considered homeless:

- An individual or family who
 - Will imminently lose their housing, including housing they own, rent, or live in

without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations as evidenced by:

- Eviction notice notifying person or family that they have to leave within 14 days
- The individual or family having a primary nighttime residence that is a room in a hotel or motel where they lack the resources necessary to reside there for more than 14 days or
- Credible evidence indicating that owner or renter of house will not allow them to stay for more than 14 days
- Has no subsequent residence identified AND
- Lacks resource or support networks to obtain other permanent housing
- Unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who
 - Have experienced a long term period without living independently in permanent housing
 - Have experienced persistent inability as measured by frequent moves over such period AND
 - Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

Background:

Under the current McKinney-Vento definition, HUD considers people to be homeless if they come from the following locations. People reviewing the proposed legislation may wish to comment on the importance of any of these categories being included in the statute or regulations (which HUD will write).

1. Places not meant for human habitation, such as cars, parks, sidewalks, and abandoned buildings;
2. An emergency shelter; or
3. Transitional housing for homeless persons and who originally came from the streets or emergency shelter.

If a person is in one of the three categories listed above, but most recently spent less than 30 days in a jail or institution, he/she qualifies as coming from one of these three categories.

In addition to the above three categories, projects providing Transitional Housing, Safe Havens (non-PH), or Supportive Services Only may also serve populations meeting the following:

- Is being evicted within a week from a private dwelling unit and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.
- Is being discharged within a week from an institution, such as a mental health or

substance abuse treatment facility or a jail/prison, in which the person has been a resident for more than 30 consecutive days and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

- Is fleeing a domestic violence housing situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.
- Has been incarcerated, but only if upon discharge the person is eligible if no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

Examples of people who are not homeless currently are those who are:

- At-risk of being homeless
- Being discharged from an institution that is required to provide or arrange housing upon release.
- Wards of the State, although youth in foster care may receive needed supportive services, which supplements, but does not substitute for, the state's assistance.