

# Are the poor allowed to ask for help? Anti-panhandling law may not be legal

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## Anti-panhandling bylaw: Is it legal?

Toronto municipal politician Jane Pitfield has proposed a “quality of life” bylaw to ban panhandling. The law courts have ruled that there is “expressive content” in begging that is protected under the *Charter of Rights and Freedoms*. In plain language, people are free to tell others that they are poor and to ask for their help. Toronto’s City Solicitor has cautioned that an anti-panhandling bylaw is almost certainly unconstitutional:

“...it would appear that any attempt by the City to prohibit panhandling in general would not survive a challenge based on the Charter as panhandling would be found to have expressive content that is protected under the Charter’s freedom of expression.”

## Anti-panhandling bylaw: What will it cost?

An anti-panhandling bylaw, if enacted, would be enforced either by municipal bylaw enforcement officers or police. A ticket would be issued to require the accused to appear in court. Anyone convicted, or anyone failing to appear in court, would likely be fined. However, many people who panhandle don’t have the money to pay a fine, so they would be sent to jail.

A recent Montreal study tracked ticketing under a municipal bylaw aimed at banning homeless people from sleeping in parks and other public places. The number of tickets grew four-fold from 1994 to 2004 to a total of 22,685 tickets. In 72% of the tickets, the person who was convicted was sent to jail. In Toronto, the average cost to taxpayers for a month in a provincial jail is \$4,333, and the average cost to the city for a month in a social housing unit is \$199.92.

## Attack the problem, not the person

The United States Court of Appeal struck down a Los Angeles bylaw that made it a criminal offense for homeless people to sleep on the streets or in the parks. The court ruled in April of 2006:

“There is obviously a ‘homeless problem’ in the City of Los Angeles, which the City is free to address in any way that it sees fit, consistent with the constitutional principles we have articulated. ... All we hold is that, so long as there is a greater number of homeless individuals in Los Angeles than the number of available beds, the City may not enforce section 41.18(d) at all times and places throughout the City against homeless individuals for involuntarily sitting, lying, and sleeping in public.

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