



## LEGAL BULLETIN #2019-01 OFFICE OF LEGAL AFFAIRS

# AGGRESSIVE PANHANDLING Enforcement Concerns

The purpose of this bulletin is to assist officers in making informed enforcement decisions in light of the City's decision to repeal its aggressive panhandling ordinance (MCC 8-4-025) effective 01 January 2019. Officers must cease enforcing MCC 8-4-025 immediately in light of the repeal.

Although the City has repealed the aggressive panhandling ordinance, alternative charges may still apply, depending on the circumstances of a particular case. This bulletin identifies several viable charges that may be appropriate when dealing with a panhandler who is acting in an aggressive or threatening fashion.

### Aggressive Panhandling – MCC 8-4-025

MCC 8-4-025 prohibited panhandling near specific locations (e.g. ATMs, banks, and CTA bus stops). The ordinance also prohibited individuals from panhandling in a manner that a reasonable individual would find intimidating (e.g. touching solicited individuals, blocking the path of solicited individuals, and following behind, ahead of, and alongside individuals who declined any solicitation). The punishment for violating MCC 8-4-025 was fine only.

### Alternative Charges

In light of the repeal of the aggressive panhandling ordinance, the following is a list of alternative charges to consider when interacting with panhandlers, or other persons, acting in a potentially threatening or aggressive manner.

**Threats or Intimidation in Public Spaces\* (8-4-026):** Requires an individual to (1) assault *or* intimidate another person (2) in any public space.

**Assault (720 ILCS 5/12-1):** Requires knowingly engaging in conduct that places another in reasonable apprehension of receiving a battery.

**Aggravated Assault (720 ILCS 5/12-2):** Requires, in pertinent part, a person to commit an assault against a person on a public way, public property, public place of accommodation or amusement, or a sports venue.

**Battery (720 ILCS 5/12-3):** Requires a person to

knowingly cause bodily harm to, *or* make physical contact of an insulting or provoking nature with, an individual.

**Bullying\* (8-4-084):** Requires an intentional act that causes harm to others that involves verbal harassment, threats, physical assault, stalking, or other methods of coercion which is reasonably likely to intimidate, emotionally abuse, slander, or threaten another person.

**Disorderly Conduct\* (8-4-010):** Requires, in pertinent part, (1) an unreasonable act that creates a breach of the peace, *or* (2) any unreasonable or offensive act, which creates a clear and present danger of a breach of the peace or imminent threat of violence, *or* (3) remaining in the public way in a manner that blocks customer access to a commercial establishment, after being asked to clear the entrance by the person in charge of such establishment

**Disorderly Conduct (Criminal) (720 ILCS 5/26-1):** Requires, in pertinent part, any act done in such an unreasonable manner as to (1) alarm and disturb another and (2) to provoke a breach of the peace.

**Trespass\* (8-4-050):** Requires, in pertinent part, (1) entry onto the property of another after notice from the owner or occupant immediately prior to entry that the entry is forbidden, *or* (2) remaining on the property of another after receiving notice to depart from the owner or occupant, *or* (3) entry onto and remaining on public property with malicious and mischievous intent after notice to depart was given by the owner or occupant.

**Trespass (Criminal) (720 ILCS 5/21-3):** Requires, in pertinent part, (1) knowingly entering or remaining within or on a building without legal justification, *or* (2) entry upon land of another after receiving previous notice that entry is forbidden, *or* (3) remaining on the land of another after receiving notice to depart.

**Obstruction or Interference with Traffic\* (9-80-180):** Requires (1) the willful and unnecessary hindering, obstructing, or delaying, or attempts thereof, of any other person lawfully driving or travelling upon any street, *or* (2) offering to sell any merchandise or services on the street so as to interfere with the effective movement of traffic, *or* (3) the repeated causing of motor vehicles travelling on public thoroughfares to stop or impede the flow of traffic.

This list is not intended to be exhaustive. Additional alternative charges may be warranted based on the particular facts of a situation.

### Effect on ANOVs

Most of the above-mentioned ANOV-eligible charges carry higher potential penalties than MCC 8-4-025 did. The City has passed MCC 8-4-026, Threats or Intimidation in Public Places, with an effective date of 01 January 2019. MCC 8-4-026 has the same penalties as MCC 8-4-025 did. The following chart indicates only the potential fines of each offense, as ANOVs are not used to impose jail sentences.

Charge	Fine**
Threats or Intimidation in Public Spaces (Effective 01 January 2019)	\$50.00 (first and second offense) \$100.00 (third and subsequent offenses)
Bullying	\$100.00-\$250.00 (first offense) \$250.00-\$500.00 (subsequent offenses)
Disorderly Conduct	Up to \$500.00
Trespass	\$100.00 - \$500.00
Obstruction or Interference with Traffic	Up to \$200.00 (first offense) Up to \$500.00 (second offense)

### Effect on Long-Form Complaints

In addition to the fines shown in the table above, many of the alternative charges carry potential jail sentences and, if charged under the State statute, increased fines if a long-form complaint is used. Below is a comprehensive table of the potential fines and jail sentences for violations of the previously mentioned alternative charges.

Charge/Authority	Fine**	Jail Sentence
Threats or Intimidation in Public Spaces (Effective 01 January 2019)	\$50.00 (first and second offense) \$100.00 (third and subsequent offenses)	N/A
Assault (ILCS)	Up to \$1,500.00	Up to 30 days
Aggravated Assault (ILCS)	Up to \$2,500.00	Up to 364 days
Battery (ILCS)	Up to 2,500.00	Up to 364 days
Bullying (MCC)	\$100.00-\$250.00 (first offense) \$250.00-\$500.00 (subsequent offenses)	N/A
Disorderly Conduct (MCC)	Up to \$500.00	N/A
Disorderly Conduct (ILCS)	Up to \$1,500.00	Up to 30 days
Trespass (MCC)	\$100.00-\$500.00	N/A
Trespass (ILCS)	Up to \$1,500.00	Up to 180 days
Obstruction or Interference with Traffic (MCC)	Up to \$200.00 (first offense) Up to \$500.00 (second offense)	Up to 10 days (first offense) Up to 20 days (second offense) Up to 30 days (subsequent offenses)

### Homelessness

Since many individuals engaged in panhandling are likely to be homeless, it is important to reiterate that neither the status of being homeless nor the simple act of panhandling are criminal offenses.

Officers should always consider aiding and providing the homeless useful resources as alternatives to making an arrest. Chicago's Department of Family and Support Services maintains a hot-line for the homeless at (800) 654-8595.

*Questions regarding this bulletin should be directed to the Office of Legal Affairs at (312) 745-6115.*

\*Denotes ANOV-eligible charge

\*\*Does not include applicable court costs