

# HOUSE BILL REPORT

## SHB 1544

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As Passed House  
March 11, 1993

**Title:** An act relating to uniform criminal penalties.

**Brief Description:** Requiring that criminal penalties set by cities and counties be the same as those set in state law.

**Sponsors:** By House Committee on Judiciary (originally sponsored by Representatives Appelwick and Johanson.)

**Brief History:**

Reported by House Committee on:  
Judiciary, March 2, 1993, DPS;  
Passed House, March 11, 1993, 96-0.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

**Staff:** Bill Perry (786-7123).

**Background:** Generally, when the state has enacted a criminal law, local jurisdictions are prohibited from enacting local criminal ordinances covering the same conduct but providing for different penalties. This is so for either of two reasons. First, it may be clear that the state has intentionally preempted the field in the area of conduct in question. Second, equal protection guarantees of the state and federal constitution will invalidate convictions under local ordinances that prescribe different penalties for conduct prohibited under a state law. (See State v. Mason, 34 Wn. App. 514 (1983), and Seattle v. Hogan, 53 Wn. App. 387 (1989).)

At least with respect to two state laws covering the same conduct but prescribing different penalties, the state supreme court has rejected equal protection arguments if one of the laws has decriminalized the conduct. (Kennewick v. Fountain, 116 Wn.2d. 189 (1991).) The rational for this

holding is that the burden of proof is different under the two laws. Thus, it may be that a local ordinance that decriminalizes conduct which is criminal under state law would not be found to violate equal protection guarantees. If in such a situation the state were also found not to have preempted the field, persons who commit exactly the same acts could receive different treatment depending on whether they are prosecuted under the state law or the local ordinance.

Local criminal ordinances are limited to misdemeanors and gross misdemeanors.

**Summary of Bill:** Beginning July 1, 1994, local jurisdictions are prohibited from establishing a penalty for an act that constitutes a crime under state law if the local penalty differs from the state penalty.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect July 1, 1994.

**Testimony For:** Punishments for crimes should not vary depending on which side of a city boundary the defendant lives. Uniformity in treatment under the criminal justice system is an important factor in promoting public confidence in the system.

**Testimony Against:** None.

**Witnesses:** Judge Robert McBeth, Washington State District and Municipal Court Judges Association (pro).