

FINAL BILL REPORT

SHB 1544

Synopsis as Enacted

C 83 L 93

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

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

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Generally, when the state has enacted a criminal law, local jurisdictions are prohibited from enacting local criminal ordinances with different penalties for the same conduct. There are two reasons why such local laws may be invalid. First, it may be clear that the state has intentionally preempted the field in the area of the conduct in question. Second, equal protection guarantees of the state and federal constitutions will invalidate convictions under local ordinances that prescribe different penalties for conduct prohibited under a state law.

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. The rationale 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: 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.

Votes on Final Passage:

House 96 0
Senate 47 0

Effective: July 1, 1994