

HOUSE BILL REPORT

2EHB 2086

As Passed House:
February 11, 2016

Title: An act relating to the hosting of the homeless by religious organizations.

Brief Description: Concerning the hosting of the homeless by religious organizations.

Sponsors: Representatives McBride, Walkinshaw, Moscoso, Farrell, Riccelli, Ormsby, Ryu, Robinson and Pollet.

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 2/16/15, 2/19/15 [DP].

Floor Activity:

Passed House: 3/6/15, 56-42.

Floor Activity:

Passed House: 2/11/16, 53-43.

Brief Summary of Second Engrossed Bill

- Creates new limitations for counties, cities or towns, and code cities when regulating a religious organization's ability to host an encampment for homeless persons on their property.
- Allows counties, cities or towns, and code cities to enact ordinances or regulations requiring a three-month separation of time between established tent encampments and limit simultaneous religious organization hostings.
- Requires a hosting religious organization of a homeless encampment and an agency managing the encampment to enter into an agreement regarding the health and safety of the encampment and county residents.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 4 members: Representatives Robinson, Vice Chair; Appleton, Sawyer and Van De Wege.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 3 members: Representatives Johnson, Ranking Minority Member; Zeiger, Assistant Ranking Minority Member; Hawkins.

Staff: Sean Flynn (786-7124).

Background:

In *City of Woodinville v. Northshore United Church of Christ*, decided in 2009, the Washington State Supreme Court held that the City of Woodinville violated the church's right to free exercise of religion under Article I, section 11, of the Washington State Constitution, when the city refused to consider a church's application to host a homeless encampment. The Court held that the refusal infringed upon the church's free exercise of religion without any justification because the City of Woodinville created a substantial burden on the church's ability to host an encampment for homeless persons on their property. The City of Woodinville failed to demonstrate that not allowing the church to apply to host an encampment was a narrow means to achieve a compelling goal. The City of Woodinville also provided no other alternative for the church.

In the Court's discussion, the Court mentioned that a city may regulate encampments located on a religious organization's property for the purposes of mediating concerns regarding safety, noise, and crime.

Temporary Encampments for the Homeless.

In 2010 legislation was enacted permitting religious organizations to host temporary encampments for homeless persons on any property owned or controlled by a religious organization. A "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

Counties, cities, and towns may only regulate a religious organization regarding encampments for homeless persons on their property for purposes necessary to protect the health and safety of the public, and may not substantially burden the decisions or actions of a religious organization regarding the location of encampments on the religious organization's property.

Counties, cities, and towns are prohibited from enacting an ordinance or regulation or to take any action that:

- requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on the religious organization's property or otherwise requiring the religious organization to indemnify the municipality against such liability; or
- impose permit fees in excess of actual costs associated with the review and approval of the required permit applications.

Safe Parking Programs.

Safe parking programs allow homeless persons and families to park their vehicles in church parking lots overnight as an alternative to shelter and provide access to restrooms. In addition, some safe parking programs provide housing services, community meals, microwaves, clothing drives, and opportunities to connect with a congregational community.

An example of a safe parking program is the Road to Housing program in the City of Seattle, which was established in 2012. Safe parking sites also exist in other areas of King County.

Summary of Second Engrossed Bill:

Counties, cities or towns, and code cities are additionally prohibited from enacting an ordinance or regulation or taking other action that limits a religious organization's:

- ability to host a rotating, established tent encampment to less than eight months during any calendar year;
- hosting term to less than four months unless agreed to by that religious organization for a specific instance; or
- availability to host safe parking efforts at its own on-site parking lot, except for the following limitations that would govern if enacted by local ordinance:
 - no less than one space per 20 on-site parking spaces may be devoted to safe parking;
 - restroom access must be provided; and
 - the host religious organization must act as a managing agency, ensuring sex offender checks are completed by respective law enforcement for all vehicle residents, informing vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and providing a written code of conduct consistent with area standards.

Counties, cities or towns, and code cities are permitted to:

- require three months of separation between the establishment of tent encampments; and
- limit simultaneous religious organization hostings when located within one thousand feet of another hosting religious organization.

A county or city must enact an ordinance or take other action to require a hosting religious organization of a homeless encampment and an agency managing the encampment to enter into a written agreement to protect the health and safety of the encampment and county residents. Such written agreement must include the encampment residents' ability to access public assistance and to interact with management as well as the hosting religious organization. It also must include a code of conduct approved by the county or city. The hosting religious organization and the managing agency are encouraged to work with the county or city to use the state Homeless Client Management Information System managed by the Department of Commerce.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Homeless encampments are a necessity, as the rate of homelessness continues to escalate. In King County the number of homeless individuals has increased 37 percent since 2010. This legislation fulfills a moral obligation, protects the constitutionally protected rights for the most vulnerable individuals in our community, and provides more consistency among jurisdictions in regards to homeless encampments. Encampments provide safe shelter, provide community to those in need, and in many cases, have helped with the process of finding affordable housing. Additionally, homeless encampments encourage partnerships between cities and religious organizations. It is encouraged to allow vehicle campers be hosted in encampments with modest and sensible guidelines.

(Opposed) None.

Persons Testifying: Representative McBride, prime sponsor; Dave Asher, City of Kirkland; Bill Kirlin-Hackett, Interfaith Task Force on Homelessness; and Edwin Beatty, University Friends and Friends Committee on Washington Public Policy.

Persons Signed In To Testify But Not Testifying: None.