

HOUSE BILL REPORT

HB 2044

As Reported by House Committee On:
Community Development, Housing & Tribal Affairs

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, Peterson, Robinson, Orwall, Chapman, Kloba, Santos and Pollet.

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 2/15/17, 2/16/17 [DPS].

Brief Summary of Substitute Bill

- Creates new limitations for counties, cities or towns, and code cities when regulating a religious organization's ability to host homeless persons on property it owns or controls.
- 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 limiting simultaneous religious organization hostings.
- Requires a hosting religious organization and managing agency to enter into an agreement regarding the health and safety of both the residents of the particular hosting organization and county residents.
- Encourages hosting religious organizations and tent encampment managing agencies to use the state Homeless Client Management Information System.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Ryu, Chair; Macri, Vice Chair; Reeves and Sawyer.

Minority Report: Do not pass. Signed by 2 members: Representatives Barkis, Assistant Ranking Minority Member; Jenkin.

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: Without recommendation. Signed by 1 member: Representative McCabe, Ranking Minority Member.

Staff: Kirsten Lee (786-7133).

Background:

In *City of Woodinville v. Northshore United Church of Christ*, the Washington State Supreme Court (Court) held that the City of Woodinville violated a church's right to free exercise of religion under Article I, section 11 of the state Constitution when the city refused to consider the church's application to host a homeless encampment. The Court held that the refusal infringed upon the church's free exercise of religion without justification because the City of Woodinville created a substantial burden on the church's ability to host an encampment for homeless persons on its 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 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 its 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 may not enact an ordinance or regulation or 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 requires the religious organization to indemnify the municipality against such liability; or
- imposes 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 shelters and provide access to restrooms. In addition, some safe parking programs provide housing services, community meals, access to microwaves, clothing drives, and opportunities to connect with a congregational community.

Homeless Management Information System and Continuum of Care.

The Department of Commerce (Department) manages the statewide Homeless Client Management Information System (HCMIS), which is a database used to provide accurate counts of homeless clients in the state and assessments of services that are needed. Some service providers independently collect information on their homeless clients and input the information into a HCMIS, but the Department assists counties or agencies that do not have a HCMIS set up. The Department also works with counties to submit applications for the annual federal Department of Housing and Urban Development (HUD) Continuum of Care competition. The competition provides grant funding to nonprofit agencies and state and local governments for homelessness efforts. To be eligible for federal homeless assistance funding, agencies must participate in a HCMIS.

Summary of Substitute Bill:

Religious organization homeless hostings include temporary encampments.

Counties, cities or towns, and code cities may not enact an ordinance or regulation or take other action that limits a religious organization's:

- ability to host a rotating, established tent encampment for 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;
- ability to host simultaneous tent encampments within the same municipality during any given period of time; and
- availability to host safe parking efforts at its own on-site parking lot, except for the following limitations 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 or its managing agency must ensure sex offender checks are completed by respective law enforcement for all vehicle residents, inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

Counties, cities or towns, and code cities may, however:

- require three months of separation between the establishment of tent encampments; and
- limit simultaneous religious organization hostings when located within 1,000 feet of another religious organization hosting.

A county, city or town, or code city must enact an ordinance or take other action to require a hosting religious organization and the managing agency, when the managing agency is not the hosting religious organization, to enter into a written agreement to protect the health and safety of encampment residents and residents of the respective jurisdiction. Such a written agreement must include the encampment residents' ability to access social services on site and interact with the hosting religious organization. It must also include a code of conduct

approved by the managing agency, hosting religious organization, and approved by the local jurisdiction.

A hosting religious organization and its managing agency are encouraged to work with the county or city to use the state HCMIS.

Substitute Bill Compared to Original Bill:

The substitute bill:

- eliminates the requirement that actual costs associated with the review and approval of permit applications be reasonable;
- requires that the county sheriff, rather than county or local law enforcement agencies, complete sex offender checks on all vehicle residents;
- eliminates references to temporary small houses on site, indoor overnight shelters, and vehicle resident safe parking;
- eliminates the requirement for hosting religious organizations and/or managing agencies to utilize the HCMIS, instead encouraging them to utilize the state HCMIS; and
- changes the definition of "safe parking."

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This is a faith-use bill based on federal law allowing religious organizations to practice their mission. There are too many jurisdictions violating this religious right. Many jurisdictions are preventing religious organizations from hosting the homeless by creating burdensome restrictions, including unaffordable permitting fees. Religious organizations want to help those who are homeless find a way out of homelessness and too many organizations are prevented from doing this because of these restrictions.

(Opposed) None.

(Other) Preemption of local ordinances, including permitting fees, presents issues in rural areas. The definition of "temporary small house on site" is ambiguous. There are a number of other issues with the language being too prescriptive, which makes it difficult for local agencies to manage competing interests. There is language that was agreed to in previous versions of similar legislation that would be good to reincorporate.

Persons Testifying: (In support) Representative McBride, prime sponsor; and Bill Kirlin-Hackett, Interfaith Task Force on Homelessness.

(Other) Lauren Berg, Washington State Association of Counties; and Doug Levy, Cities of Redmond, Everett, Kent, Renton, Puyallup, and Issaquah.

Persons Signed In To Testify But Not Testifying: None.