

FINAL BILL REPORT

EHB 1067

C 141 L 99

Synopsis as Enacted

Brief Description: Amending statutory double jeopardy provisions.

Sponsors: Representatives O'Brien and Ballasiotes.

House Committee on Judiciary

Senate Committee on Judiciary

Background:

Under the double jeopardy clauses of the federal and state constitutions, it is unconstitutional for a person to be tried twice for the same crime by the same sovereign. However, there is no constitutional prohibition against successive prosecutions for the same crime by different sovereigns. For example, a Washington court could constitutionally prosecute a defendant who has already been prosecuted for the same crime in another state or in a military tribunal. This is known as the doctrine of dual sovereignty.

Many states, including Washington, statutorily override the doctrine of dual sovereignty. In Washington, double jeopardy protections apply to a defendant who has already been criminally prosecuted for the same offense by another sovereign. The Washington Supreme Court has ruled that this includes a person who has been subject to nonjudicial punishment under the Uniform Code of Military Justice.

Summary:

Double jeopardy protections do *not* apply to a defendant who has received administrative or nonjudicial punishment, civilian or military, for the same offense from another sovereign. Double jeopardy protections continue to apply to a defendant who has already been prosecuted for the same offense in judicial proceedings conducted under the criminal laws of another sovereign.

Votes on Final Passage:

House 97 0

Senate 46 1

Effective: July 25, 1999