

# HOUSE BILL ANALYSIS

## HB 1067

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**Title:** An act relating to statutory double jeopardy.

**Brief Description:** Amending statutory double jeopardy provisions.

**Sponsors:** Representatives O'Brien and Ballasiotes.

### Brief Summary of Bill

- Allows the state to prosecute a defendant who has already received administrative or nonjudicial punishment from another sovereign.

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### HOUSE COMMITTEE ON JUDICIARY

**Staff:** Jim Morishima (786-7191).

#### 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.

However, 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 of Bill:

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

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

Office of Program Research