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**SUBSTITUTE HOUSE BILL 2044**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives McBride, Peterson, Robinson, Orwall, Chapman, Kloba, Santos, and Pollet)

AN ACT Relating to the hosting of the homeless by religious organizations; amending RCW 36.01.290, 35.21.915, and 35A.21.360; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that residents in temporary encampments hosted by religious organizations are a particularly vulnerable population that do not have access to the same services as citizens with more stable housing. Residents in these encampments can be at increased risk of exploitation, theft, unsanitary living conditions, and physical harm. Therefore, it is the intent of the legislature that local municipalities have the authority and discretion to protect the health and safety of residents in temporary encampments hosted by religious organizations. Furthermore, the legislature finds and declares that tent encampments serve as a pathway for individuals experiencing homelessness to achieve financial stability, health, and permanent housing.

**Sec.**  RCW 36.01.290 and 2010 c 175 s 2 are each amended to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A county may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; ((~~or~~))

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications;

(d) Limits a religious organization's availability to host a rotating, established tent encampment to fewer than eight months during any calendar year. However, a county may enact an ordinance or regulation that requires a three-month separation of time between established tent encampments;

(e) Limits a religious organization's hosting term to fewer than four months unless consented to by that religious organization for a specific instance;

(f) Limits the number of simultaneous religious organization hostings within the same municipality to one religious organization hosting during any given period of time. Simultaneous hostings by religious organizations may be prohibited if located within one thousand feet of other hosting religious organizations; or

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other church-sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance:

(i) No less than one space may be devoted to safe parking per twenty on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities;

(iii) The host religious organization must ensure that the county sheriff has completed sex offender checks of all vehicle residents and must act as managing agency to 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.

(3) A county must enact an ordinance or regulation or take any other action that requires 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 public health and safety of both the residents of the tent encampments and the residents of the county. At a minimum, the agreement must include information regarding: A tent encampment resident's right to seek public health and safety assistance, ability to access social services on site, ability to directly interact with the hosting religious organization, including the ability to express any concerns regarding the managing agency; a written code of conduct agreed to by the managing agency and hosting religious organization, as approved by the local jurisdiction; and the ability for the hosting religious organization to interact with residents of the tent encampment.

(4) Hosting religious organizations and tent encampment managing agencies are encouraged to work with the county to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180.

(5) For the purposes of this section, the following definitions are used:

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless encampment. A "managing agency" may be the same entity as the sponsor.

(b) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(c) "Safe parking" means a number of parking spaces, parking area, and parking design approved by a designated traffic engineer or building officer from a county.

((~~(4)~~)) (6) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**Sec.**  RCW 35.21.915 and 2010 c 175 s 3 are each amended to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A city or town may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; ((~~or~~))

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications;

(d) Limits a religious organization's availability to host a rotating, established tent encampment to fewer than eight months during any calendar year. However, a city or town may enact an ordinance or regulation that requires a three-month separation of time between established tent encampments;

(e) Limits a religious organization's hosting term to fewer than four months unless consented to by that religious organization for a specific instance;

(f) Limits the number of simultaneous religious organization hostings within the same municipality to one religious organization hosting during any given period of time. Simultaneous hostings by religious organizations may be prohibited if located within one thousand feet of other hosting religious organizations; or

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other church-sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance:

(i) No less than one space may be devoted to safe parking per twenty on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities;

(iii) The host religious organization must ensure that the local law enforcement has completed sex offender checks of all vehicle residents and must act as managing agency to 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.

(3) A city or town must enact an ordinance or regulation or take any other action that requires 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 public health and safety of both the residents of the tent encampments and the residents of the city or town. At a minimum, the agreement must include information regarding: A tent encampment resident's right to seek public health and safety assistance, ability to access social services on site, ability to directly interact with the hosting religious organization, including the ability to express any concerns regarding the managing agency; a written code of conduct agreed to by the managing agency and hosting religious organization, as approved by the local jurisdiction; and the ability for the hosting religious organization to interact with residents of the tent encampment.

(4) Hosting religious organizations and tent encampment managing agencies are encouraged to work with the city or town to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180.

(5) For the purposes of this section, the following definitions are used:

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless encampment. A "managing agency" may be the same entity as the sponsor.

(b) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(c) "Safe parking" means a number of parking spaces, parking area, and parking design approved by a designated traffic engineer or building officer from a city or town.

((~~(4)~~)) (6) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**Sec.**  RCW 35A.21.360 and 2010 c 175 s 4 are each amended to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A code city may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; ((~~or~~))

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications;

(d) Limits a religious organization's availability to host a rotating, established tent encampment to fewer than eight months during any calendar year. However, a code city may enact an ordinance or regulation that requires a three-month separation of time between established tent encampments;

(e) Limits a religious organization's hosting term to fewer than four months unless consented to by that religious organization for a specific instance;

(f) Limits the number of simultaneous religious organization hostings within the same municipality to one religious organization hosting during any given period of time. Simultaneous hostings by religious organizations may be prohibited if located within one thousand feet of other hosting religious organizations; or

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other church-sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance:

(i) No less than one space may be devoted to safe parking per twenty on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities;

(iii) The host religious organization must ensure that the local law enforcement has completed sex offender checks of all vehicle residents and must act as managing agency to 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.

(3) A code city must enact an ordinance or regulation or take any other action that requires 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 public health and safety of both the residents of the tent encampments and the residents of the code city. At a minimum, the agreement must include information regarding: A tent encampment resident's right to seek public health and safety assistance, ability to access social services on site, ability to directly interact with the hosting religious organization, including the ability to express any concerns regarding the managing agency; a written code of conduct agreed to by the managing agency and hosting religious organization, as approved by the local jurisdiction; and the ability for the hosting religious organization to interact with residents of the tent encampment.

(4) Hosting religious organizations and tent encampment managing agencies are encouraged to work with the code city to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180.

(5) For the purposes of this section, the following definitions are used:

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless encampment. A "managing agency" may be the same entity as the sponsor.

(b) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(c) "Safe parking" means a number of parking spaces, parking area, and parking design approved by a designated traffic engineer or building officer from a code city.

((~~(4)~~)) (6) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

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