

# HOUSE BILL REPORT

## ESHB 1754

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### As Amended by the Senate

**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:** House Committee on Housing, Community Development & Veterans (originally sponsored by Representatives Santos, Jinkins and Pollet).

#### **Brief History:**

##### **Committee Activity:**

Housing, Community Development & Veterans: 2/8/19, 2/19/19 [DPS].

##### **Floor Activity:**

Passed House: 2/17/20, 95-3.

Senate Amended.

Passed Senate: 3/3/20, 42-7.

#### **Brief Summary of Engrossed Substitute Bill**

- Places new limitations on the ability of counties, cities or towns, and code cities to regulate outdoor encampments, safe parking efforts, indoor overnight shelters, and temporary small houses on property owned or controlled by a religious organization.
- Allows a county, city or town, or code city to require a religious organization hosting the homeless and the agency managing the hosting to enter into a memorandum of understanding to protect the public health and safety of residents.
- Requires religious organizations hosting the homeless to comply with certain regulations relating to sex offender checks, vehicle and driver laws, and the homeless client management information system.

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### HOUSE COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT & VETERANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Ryu, Chair; Morgan, Vice Chair; Entenman, Frame, Leavitt and Reeves.

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*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 Jenkin, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Barkis.

**Staff:** Cassie Jones (786-7303).

**Background:**

Temporary Homeless Encampments.

Religious organizations may host temporary encampments for the homeless on property owned or controlled by the religious organization. Such encampments may be within buildings owned by the religious organization or elsewhere on property outside of buildings. Counties, cities, and towns are prohibited from enacting an ordinance or regulation or taking any other action that:

- 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;
- 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
- imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

Homeless Client Management Information System and Continuum of Care.

The Washington Homeless Client Management Information System (HMIS), managed by the Department of Commerce (Department), is an online information and referral system that enables local governments and providers to connect homeless persons in the database with available housing and other support services. Information about homeless individuals for the HMIS comes from the Washington Homeless Census, state agencies, and community organizations providing services to homeless individuals and families. The HMIS also provides the Department with information to consolidate and analyze data about the extent and nature of homelessness in Washington. 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.

**Summary of Engrossed Substitute Bill:**

Regulating Outdoor Encampments, Safe Parking, and Temporary Small Houses.

Additional limitations are placed on the ability of counties, cities or towns, and code cities to regulate outdoor encampments, safe parking efforts, indoor overnight shelters, and temporary small houses on property owned or controlled by a religious organization. However, these new limitations do not affect county, city or town, or code city policies, ordinances, memoranda of understanding, or consent decrees that:

- existed prior to the effective date of the bill;
  - do not categorically prohibit the hosting of the homeless by religious organizations;
- and

- do not violate the federal Religious Land Use and Institutionalized Persons Act (RLUIPA).

Amendments to such policies, ordinances, memoranda of understanding, or consent decrees that occur after the effective date of the bill are also not affected by the new limitations if they do not categorically prohibit hosting of the homeless or violate the RLUIPA.

Religious organizations hosting the homeless that receive public funds may not refuse to host a homeless person due to protected class status.

*Outdoor 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 availability to host an outdoor encampment to fewer than six months during any calendar year, except that a separation of three months may be required between outdoor encampment hostings at a particular site;
- limits a religious organization's hosting term for an outdoor encampment to less than four consecutive months; or
- limits the number of simultaneous religious organization outdoor encampments within the same municipality during any given time period, except when religious organization outdoor encampments are within 1000 feet of each other.

*Safe Parking.* Counties, cities or towns, and code cities may not enact an ordinance or regulation or take other action that limits a religious organizations availability to host safe parking efforts at its on-site parking lot, including other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations consistent with the following:

- no less than one space may be devoted to safe parking per 10 on-site parking spaces;
- restroom access must be provided with provisions for proper disposal of waste if recreational vehicles are hosted; and
- religious organizations must comply with existing on-site parking requirements unless the religious organization and local government enter into a memorandum of understanding that reduced the minimum number of parking spaces required.

*Indoor Overnight Shelters.* Generally, counties, cities or towns, and code cities may not enact an ordinance or regulation or take other action that limits a religious organizations availability to host an indoor overnight shelter in spaces with at least two accessible exits due to lack of sprinklers or other fire-related concerns. However, a religious organization and a county, city, town, or code city may require a religious organization to enter into a memorandum of understanding for fire safety that includes:

- local fire district inspections;
- an outline for appropriate emergency procedures;
- a determination of the most viable means to evacuate occupants from inside the host site with appropriate illuminated exit signage;
- panic bar exit doors; and
- a completed fire watch agreement that indicates the following:
  - posted safe means of egress;
  - operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers; and

- a plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the local fire department.

In addition, a county, city or town, or code city may place limits on an indoor overnight shelter if a fire official finds that fire-related concerns pose an imminent danger.

*Temporary Small Houses.* 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 temporary small houses on land owned or controlled by a religious organization, except for those consistent with the following:

- a renewable one-year duration agreed to by the host religious organization and local jurisdiction via a memorandum of understanding;
- maintaining a maximum unit square footage of 120 square feet, with units set at least 6 feet apart;
- electricity and heat, if provided, must be inspected by the local jurisdiction;
- space heaters, if provided, must be approved by the local fire authority;
- doors and windows must be included and be lockable, with a recommendation that the managing agency and host religious organization also possess keys;
- each unit must have a fire extinguisher;
- adequate restrooms must be provided, including restrooms solely for families if present, along with handwashing and potable running water to be available if not provided within the individual units, including accommodating black water; and
- a recommendation for the host religious organization to partner with regional homeless service providers to develop pathways to permanent housing.

#### Permit Fees.

A county, city or town, or code city has discretion to reduce or waive permit fees for religious organizations that are hosting the homeless.

#### Memorandum of Understanding.

A county, city or town, or code city may enact an ordinance or regulation or take any other action that requires a host religious organization and a distinct managing agency, which manages an outdoor encampment, temporary small houses, indoor overnight shelter, or vehicle safe parking on property owned or controlled by the religious organization, to enter into a memorandum of understanding to protect the public health and safety of both residents of the homeless hosting and residents of the county, city or town, or code city. The memorandum of understanding must include information regarding:

- the right of a resident in a homeless hosting to seek public health and safety assistance;
- the residents ability to access social services on site;
- the residents ability to directly interact with the host religious organization, including the ability to express any concerns regarding the managing agency to the religious organization;
- a written code of conduct agreed to by the managing agency, if any, host religious organization, and all volunteers working with residents of the homeless hosting; and

- when a publicly funded managing agency exists, the ability for the host religious organization to interact with residents of the homeless hosting using a release of information.

#### Sex Offender Checks.

Any religious organization hosting the homeless, or the religious organizations managing agency, must ensure that the county or local law enforcement agency has completed sex offender checks of all adult residents and guests if required to do so by the county, city or town, or code city. The host religious organization retains the authority to allow sex offenders to remain on the property.

#### Legal Status of Vehicles and Drivers.

A host religious organization or host religious organizations managing agency performing any hosting of vehicle resident safe parking must 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.

#### Homeless Client Management Information System.

Any religious organization hosting the homeless with a publicly funded managing agency must work with the county, city or town, or code city to utilize the HMIS. Religious organizations not partnering with a managing agency are encouraged to partner with a local homeless services provider using the HMIS. Any managing agency receiving any funding from local continuum of care programs must utilize the HMIS.

#### Public Meeting.

A religious organization hosting the homeless on property owned or controlled by the religious organization is required to host a public meeting at least two weeks prior to the opening of a homeless encampment for the purpose of providing a forum for discussion of related neighborhood concerns, unless the use is in response to a declared emergency. The religious organization must provide written notice of the meeting to the county, city or town, or code city no later than 48 hours prior to the meeting. The notice must specify the time, place, and purpose of the meeting. A county must publish notice of the meeting at any time prior to the meeting. The notice must specify the time, place, and purpose of the meeting.

### **EFFECT OF SENATE AMENDMENT(S):**

#### The Senate amendment:

1. modifies conditions under which local government ordinances and policies are exempt from restrictions on the ability to regulate religious organizations' homeless encampments by providing that existing ordinances and policies are exempt when, in addition to meeting other criteria, the ordinances and policies have not been previously ruled by a court to violate the Religious Land Use and Institutionalized persons Act (RLUIPA);
2. modifies the notice period a host religious organization must provide to the local government before hosting a public meeting to discuss neighborhood concerns from no later than 48 hours prior to the meeting to at least one week if possible but no later than 96 hours prior to the meeting;

3. modifies the public notice requirements for local governments publishing notice of the public meeting to be hosted by a religious organization as follows:
  - a. the local government must provide community notice of the meeting rather than publishing notice;
  - b. rather than publishing notice in the same manner as a special meeting, the local government must take at least two of the following actions:
    - i. delivering to each local newspaper of general circulation and local radio television that has on file with the governing body a written request to be notified of special meetings;
    - ii. posting on the county's website;
    - iii. prominently displaying, on signage at least two feet in height and two feet in width, one or more meeting notices that can be placed on or adjacent to the main arterials in proximity to the location of the meeting; or
    - iv. prominently displaying the notice at the meeting site; and
  - c. the requirement to specify the time, place, and purpose is eliminated.

**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) Various federal laws have addressed the need to protect the exercise of religion on land or property of religious organizations. This bill sets a floor of requirements for regulating religious organizations' homeless encampments and sets the least restrictive means for cities to achieve a compelling interest. Many local ordinances remove the capacity of faith organizations to host the homeless in violation of federal law. For example, cities may set unnecessarily high permit fees or enact prohibitions on certain types of hostings. There is currently a homelessness crisis in our communities and it is wrong to prevent churches from trying to address this crisis by helping the homeless. The bill encourages the use of memoranda of understanding and use of the HMIS. This bill would foster stronger public-private partnerships.

(Opposed) State and federal law already significantly restrict a local jurisdiction from impeding a religious organization in fulfilling its mission to help the homeless. This bill is inconsistent with locally adopted agreements between cities and religious organizations on issues such as length of hosting and breaks between hostings at a particular site. Current law also restricts permit fee amounts and this bill goes beyond that. There should be a task force or group that includes community members so their concerns related to homeless encampments can be addressed. There may be many churches close together that would be eligible to host encampments with the 1,000 foot separation and six month duration of hosting that this bill allows. This would cause far too much impact to a neighborhood.

**Persons Testifying:** (In support) Representative Santos, prime sponsor; Bill Kirlin-Hackett, United Church of Christ; and Jeffrey Boyce, Diocese of Olympia.

(Opposed) Carl Schroeder, Association of Washington Cities; and Karen Morris.

**Persons Signed In To Testify But Not Testifying:** None.