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## Housing Committee

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### HB 2489

**Brief Description:** Establishing statewide standards for when local governments may enforce laws regulating the use of public space for life-sustaining activities.

**Sponsors:** Representatives Gregerson, Peterson, Farivar, Reed, Taylor, Parshley, Salahuddin, Obras, Ryu, Mena, Doglio, Macri, Thai, Ormsby, Street, Hill, Scott, Ramel, Thomas, Berry, Fosse, Simmons, Zahn, Goodman and Bergquist.

#### Brief Summary of Bill

- Prohibits local governments from adopting or enforcing laws that criminalize, penalize, or otherwise prohibit a person from engaging in life-sustaining activities on public property unless the local government can demonstrate that adequate alternative shelter space was available at the time and place of the conduct.
- Creates a private cause of action for injunctive or declaratory relief to challenge the enforcement of a local law that violates the bill.

**Hearing Date:** 1/20/26

**Staff:** Audrey Vasek (786-7383).

#### Background:

Recent United States (US) Supreme Court and Ninth Circuit Court of Appeals (Ninth Circuit) decisions have considered the constitutionality of local government regulations related to sitting, sleeping, or lying outside on public property.

*Martin v. City of Boise.*

In 2018 the Ninth Circuit issued the *Martin v. City of Boise (Martin)* opinion holding that the

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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 part of the legislation nor does it constitute a statement of legislative intent.*

Eighth Amendment of the US Constitution (Eighth Amendment) prohibited the imposition of criminal penalties against homeless individuals for sitting, sleeping, or lying outside on public property when no alternative shelter was available to them. The Eighth Amendment provides that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

In 2019 the US Supreme Court denied a petition by the City of Boise to review *Martin*, leaving in place the Ninth Circuit ruling. Under *Martin*, some local governments faced injunctions prohibiting them from enforcing their anti-sitting, sleeping, lying, or camping ordinances against homeless individuals when the number of homeless individuals in the jurisdiction exceeded the number of practically available shelter beds.

*City of Grants Pass v. Johnson.*

In 2024 the US Supreme Court issued the *City of Grants Pass v. Johnson* opinion, overruling *Martin*. The municipal code of the City of Grants Pass in Oregon contained several provisions that prohibited sleeping on the streets or camping in parks. After homeless individuals living in Grants Pass sued the city, a district court entered a *Martin* injunction prohibiting Grants Pass from enforcing its laws against homeless individuals in the city.

The district court concluded that the city's enforcement of its anti-camping and anti-sleeping ordinances violated the Eighth Amendment to the extent that these laws prohibited homeless individuals from taking necessary minimal measures to keep themselves warm and dry while sleeping when there were no alternative forms of shelter available. The Ninth Circuit affirmed the district court's decision, but the US Supreme Court reversed, holding that the enforcement of generally applicable laws regulating camping on public property does not constitute cruel and unusual punishment as prohibited by the Eighth Amendment.

**Summary of Bill:**

Restrictions on Local Laws that Prohibit Life-Sustaining Activities on Public Property.

A city or town, code city, or county may not adopt or enforce any local laws that criminalize, penalize, or otherwise prohibit a person from engaging in life-sustaining activities on public property unless the local government can demonstrate that adequate alternative shelter space was available at the time and place of the conduct.

Any action that violates the bill is invalid. A person cited, charged, or penalized in violation of the bill may raise the defense that their conduct constituted a necessary life-sustaining activity and that no adequate alternative shelter space was available at the time and place of the conduct. Courts must dismiss such actions upon a showing of probable cause for this defense.

The protections provided in the bill must be liberally construed to protect the constitutional and human rights of all individuals engaged in life-sustaining activities when adequate alternative shelter space is unavailable.

### *Cause of Action.*

A person or organization may bring an action for injunctive or declaratory relief to challenge the enforcement of a local law that violates the bill. A prevailing plaintiff is entitled to reasonable attorneys' fees and costs. Except for these reasonable attorneys' fees and costs, nothing in the bill creates a private right of action for monetary damages. Plaintiffs are not liable for attorneys' fees and are only liable for defense costs if the action is found to be frivolous.

### *Limitations.*

Nothing in the bill creates a right to shelter, an independent cause of action, or a claim related to admission to, discharge from, or continued access to shelter. The provisions of the bill must be used solely to determine whether adequate alternative shelter space exists for purposes of enforcement under the bill.

### *Application.*

The bill applies to all causes of action commenced on or after the effective date of the bill, and to all local laws existing on or after the effective of the bill, regardless of when the cause of action arose or when the local laws were enacted. To this extent, the bill applies retroactively, but in all other respects it applies prospectively.

### *Definitions.*

The following terms are defined:

- "Adequate alternative shelter space" means a space that:
  - is legally and physically accessible to the individual experiencing homelessness;
  - does not require the individual experiencing homelessness to sacrifice any other right afforded to them under federal, state, or local law;
  - is available to the individual experiencing homelessness at no cost on a continuing basis and does not require more than one application or check-in per 24-hour period, except when necessary for health or safety. Discharge or denial of continued shelter may occur only for documented safety or capacity reasons, or pursuant to objective, written, and consistently applied shelter policies necessary for the health, safety, or operation of the shelter. Policies that deny sustained access to shelter must be presumed inadequate;
  - must accommodate any disabilities, as well as pets, partners (whether legally married or not), family members, other support persons, and possessions the individual wishes to bring with them;
  - may be a tiny home or similar structure that has locking doors; appropriate climate-controlled mechanisms based on the location of the home or structure; and sanitary and cooking facilities or is part of a community with common sanitary and cooking facilities; and
  - is located within the territorial limits of the local government seeking to enforce a local law governed by this section.
- "Criminalize" or "penalize" means to make conduct subject to criminal, civil, or administrative enforcement, including fines, arrest, citation, or forced displacement.
- "Laws" include ordinances, policies, rules, regulations, or other official controls.

- "Life-sustaining activities" includes moving, resting, sitting, standing, lying down, sleeping, protecting oneself and personal property from the elements, eating, drinking, and other basic activities necessary for survival.

**Appropriation:** None.

**Fiscal Note:** Requested on January 13, 2026.

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