

# HOUSE BILL REPORT

## HB 2489

---

---

**As Reported by House Committee On:**  
Housing

**Title:** An act relating to establishing statewide standards for when local governments may enforce laws regulating the use of public space for life-sustaining activities.

**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 History:**

**Committee Activity:**

Housing: 1/20/26, 2/2/26 [DPS].

**Brief Summary of Substitute Bill**

- Prohibits local governments from 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, with certain exceptions.
- Creates a private cause of action for injunctive or declaratory relief to challenge the enforcement of a local law that violates the bill.

---

### HOUSE COMMITTEE ON HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Peterson, Chair; Hill, Vice Chair; Entenman, Gregerson, Lekanoff, Reed, Thomas, Timmons and Zahn.

---

*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.*

**Minority Report:** Do not pass. Signed by 6 members: Representatives Low, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Manjarrez, Assistant Ranking Minority Member; Barkis, Connors and Engell.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Richards, Vice Chair; Dufault.

**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 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 Substitute Bill:**

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

A city or town, code city, or county may not 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.

However, the requirement to demonstrate availability of adequate alternative shelter space does not apply where specific conduct at a specific time and place creates an imminent and articulable risk of serious harm to persons, or obstructs ingress, egress, or access required for emergency response or compliance with federal or state disability access laws. Any such enforcement actions must be limited to addressing the identified risk or obstruction.

Additionally, the bill does not limit or restrict enforcement of criminal offenses under the state criminal code or certain other state laws related to crimes and punishments.

Any citation, charge, or prosecution 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.

The inability of a local government to provide adequate alternative shelter space due to an individual's refusal to use offered accessible shelter, or due to an individual's conduct resulting in exclusion from shelter for documented safety reasons, does not constitute a violation of the bill.

### *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.

### *Local Government Policies and Procedures.*

A local government may adopt policies and procedures for:

- verifying and documenting shelter bed availability;

- coordinating with shelter providers and homeless services organizations;
- offering outreach and voluntary engagement with services prior to enforcement;
- providing notice and opportunity to relocate before enforcement action; and
- storing personal property in accordance with established procedures.

*Interlocal Agreements.*

A local government may enter into an interlocal agreement with one or more other local governments, public agencies, or jurisdictions under the Interlocal Cooperation Act to establish a regional coordinated entry system or regional shelter capacity for purposes of the bill.

Where such an interlocal agreement exists, shelter capacity within any participating jurisdiction may be counted toward meeting the adequate alternative shelter space requirements for all participating jurisdictions if:

- the agreement specifies the terms for access to regional shelter resources;
- transportation or access to the regional shelter is provided at no cost to the individual needing shelter; and
- the agreement establishes equitable contribution toward regional shelter capacity among participating jurisdictions based on population, resources, or other objective criteria.

Any shelter capacity counted toward meeting the adequate alternative shelter space requirements under an interlocal agreement must independently meet the definition of "adequate alternative shelter space."

*Definitions.*

"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;
- 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;
- may be a portable mat, bed, or other sleeping space in a drop-in overnight shelter including, but not limited to, buildings owned by religious organizations;
- is located within the territorial limits of the local government seeking to enforce a local law governed by the bill, or located within a jurisdiction with which the local government has an interlocal agreement establishing a regional coordinated entry system or shelter capacity; and
- 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.

"Criminalize" or "penalize" means to make conduct subject to criminal, civil, or administrative enforcement, including fines, arrest, citation, or forced displacement.

"Imminent" has the same meaning as defined in the laws related to behavioral health disorders: the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

"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, and drinking.

#### *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 date 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.

### **Substitute Bill Compared to Original Bill:**

Compared to the original bill, the substitute bill:

- removes the prohibition on local government adoption of laws that criminalize, penalize, or otherwise prohibit a person from engaging in life-sustaining activities on public property unless there is adequate alternative shelter space available, such that local governments are only prohibited from enforcing (rather than adopting and enforcing) these types of laws;
- specifies that the bill does not limit or restrict the enforcement of criminal offenses under the state criminal code or certain other state laws related to crimes and punishments;
- specifies that the requirement to demonstrate adequate alternative shelter space does not apply where specific conduct at a specific time and place creates an imminent and

articulable risk of serious harm to persons, or obstructs ingress, egress, or access required for emergency response or compliance with federal or state disability access laws;

- provides that any citation, charge, or prosecution (instead of any action) that violates the bill is invalid;
- authorizes a local government to adopt policies and procedures for verifying and documenting shelter bed availability, coordinating with shelter providers and homeless services organizations, offering outreach and voluntary engagement with services prior to enforcement, providing notice and opportunity to relocate before enforcement action, and storing personal property;
- specifies that the inability of a local government to provide adequate alternative shelter space due to an individual's refusal to use offered accessible shelter, or due to an individual's conduct resulting in exclusion from shelter for documented safety reasons, does not constitute a violation of the bill;
- authorizes local governments to enter into interlocal agreements under the Interlocal Cooperation Act to establish a regional coordinated entry system or regional shelter capacity for purposes of the bill;
- broadens the definition of "adequate alternative shelter space" such that, in addition to being located within the territorial limits of the local government, it can also be located within a jurisdiction with which the local government has an interlocal agreement establishing a regional coordinated entry system or shelter capacity, and specifies that "adequate alternative shelter space" may be a portable mat, bed, or other sleeping space in a drop-in overnight shelter including, but not limited to, buildings owned by religious organizations;
- adds a definition of "imminent" that is the same as in the Behavioral Health Disorders chapter: "imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote; and
- narrows the definition of "life-sustaining activities" by removing the reference to "other basic activities necessary for survival," such that "life-sustaining activities" now only includes moving, resting, sitting, standing, lying down, sleeping, protecting oneself and personal property from the elements, eating, and drinking.

---

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 2, 2026.

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

**Staff Summary of Public Testimony:**

(In support) This bill, the Shelters, Not Penalties Act, is about creating statewide standards and putting people first. Being homeless is not a crime. Across the state there is currently a

patchwork of responses to homelessness that span from do-nothing, displacement, enforcement, and even to punishment. This bill seeks to create a floor with clear, consistent statewide standards on public property for those who have no other place to survive. Criminalizing someone who is not breaking any laws other than seeking to survive when there is no adequate shelter available for them is not good for anyone and does not solve any problems.

This bill has a definition of what adequate shelter space means. This bill does not take away any of the city's ability to enforce laws that address crime, protect public safety, or help people in crisis. This bill recognizes that every city, every county, and every community has different tools, needs, and approaches.

The American Civil Liberties Union (ACLU) of Washington's mapping displacement project documents every local anti-camping, sit-and-lie, and related public space ordinance across Washington and maps them geographically. This project shows a dense, fragmented patchwork of local laws that often change from block to block, city to city, and county to county. For people experiencing homelessness, that patchwork translates into constant displacement. People are cited or told to move in one jurisdiction, only to cross an invisible boundary into another jurisdiction with a different rule, a different enforcement practice, or no shelter at all. The result is not compliance, it is churn. The data confirms what service providers and outreach workers have been saying for years. Local criminalization does not resolve homelessness, it simply moves it. This displacement is not random. It is driven by enforcement activity layered on top of uneven shelter access.

This bill is grounded in a simple premise. The system should not punish someone for survival conduct unless there is a real alternative available. The mapping displacement project shows that enforcement routinely occurs when adequate shelter is not available. From the perspective of someone living outside, available shelter often exists on paper but not in practice. When enforcement proceeds anyway, the outcome is predictable. People are moved without being housed and outreach relationships are disrupted. This bill does not mandate shelter construction or dictate shelter models. It simply aligns enforcement authority with reality.

In 2023 alone, hundreds of people across Washington were subjected to arrests, citations, fines, and jail stays tied to local anti-camping enforcement. This enforcement consumes significant public resources, police time, court time, and jail beds without producing lasting housing outcomes, and the cost implications are stark. State jail data shows that on average, incarcerating someone costs more than \$70,000 per year per person. In contrast, permanent supportive housing costs approximately \$19,000 per year and has been shown to produce better stability and housing outcomes.

The mapping displacement data, the shelter availability analysis, and the enforcement data all point in the same direction. Criminalization does not reduce homelessness, displacement does not create stability, and punishment without options is both ineffective and expensive.

This bill offers a more rational, humane, and fiscally responsible approach that aligns enforcement with shelter availability and evidence-based housing outcomes.

When encampments are swept without adequate options for housing or comprehensive shelter, people are further traumatized, ineffectively moved around, and often end up on private property which can be extremely difficult for property owners or law enforcement to manage.

Operators of low-barrier shelters, permanent supportive housing, and other centers for people experiencing homelessness find that once people have their basic safety and human needs met (such as food, shelter, warmth, hygiene, and safety) they are much more likely to engage and be successful in treatment services (such as clinical mental health and substance use treatment), as well as follow through with primary and specialty medical care, which relieves stress on the emergency department and first responders.

Low-barrier shelters allow pets, allow couples stay together, do not require sobriety, do not require identification documents for entry, and do not screen people out automatically for any criminal history. Many people at low-barrier shelters have been exited from other programs, have not been in shelter or housing for a very long time, and have often been labeled as hard to house, not wanting help, treatment resistant, or service resistant. However, in the experience of homeless service providers, if people do not want help, it is often because the help they are being offered is not the right solution.

There is a myth that people choose to be homeless because they refuse help. However, people are not refusing help. They are refusing a punitive system that they cannot navigate. When the right type of help is offered (help that is based in the reality of what people are going through), people accept that help and their lives improve dramatically.

There are dozens of stories of people who swore that they would never go inside, but when trust and care were given, they made incredible changes in their lives to become more stable. When individuals are offered a dignified, low-barrier space, many do come inside. With a stable place to sleep and leave their belongings, people can receive vital medical treatment and transition into permanent housing. Many individuals are not resistant; they are simply waiting for a system that works.

Some city council members and mayors support this bill. It can be a struggle to reach consensus in a local response to the homelessness crisis without state-level guidance. Local jurisdictions are put into a position of competing against each other to impose bans faster than other neighboring areas in order not to be the one left holding the bag. However, banning unhoused people is not a solution to homelessness. Forcing people to move down the road or across a boundary into another jurisdiction makes things worse and solves nothing.

Local governments need support to take a different tack, to take stock of their specific

circumstances, marshal community resources, and determine how best to deploy those resources in partnership with other local governments. Local governments need more than a ban on bans, but removing the option of passing homeless individuals from city to city as each one implements a ban is a humane and necessary first step.

Criminalization leads to loss of connection to service providers, job opportunities, and life-sustaining social networks while compounding barriers to housing. Criminalization creates an endless cycle of providing and destroying belongings. This bill shifts the response to houselessness away from punishment and toward dignity, stability, and real solutions. This bill recognizes houselessness as a housing and economic crisis, affirming that people deserve fairness and the right to exist in public spaces when no alternative exists.

(Opposed) Some law enforcement officers are opposed to this bill as currently written. Law enforcement supports a housing-first approach, but this bill creates operational problems that will undermine both public safety and effective homeless services. This bill will require officers statewide to make impossible individualized, real-time assessments before any action can be taken. For example, the bill defines adequate shelter as one that can accommodate disabilities, pets, partners, etc. If an officer responds to a call for service, under this bill the officer must determine at that point in time whether adequate shelter exists for this specific person or multiple people. These are impossible decisions to make in real time.

The bill also provides an affirmative defense to anyone engaged in life-sustaining activities, which the bill defines as moving, resting, sitting, etc. So, officers across the state will not be able to clear blocked sidewalks, address fire hazards under overpasses, or ensure public access to public spaces. Officers will be required to explain to frustrated communities that state law prohibits enforcement, and the public will blame the police for inaction when the police are following the law.

Some cities believe that this bill would effectively eliminate the ability of cities to manage public camping or public use in parks, soccer fields, sensitive environmental areas, levees, and sidewalks, regardless of the impact on families, seniors, children, or the environment, unless the city can provide shelter that meets an extraordinarily prescriptive standard. The standards in the bill are so rigid that almost no shelter would qualify. The cost of building and operating these types of shelters in every community is so great that it is not realistic, and this bill places the burden entirely on cities.

The state needs to do more to fund treatment, shelter, and permanent supportive housing, and cities need to be able to continue to use local solutions for local issues. This bill will invalidate and render unusable tools that cities have worked carefully alongside local stakeholders to craft, including laws that are humane, targeted, and focused on health, safety, and the shared use of public spaces.

Some cities have found success under the current regulatory framework in housing

individuals who want services while also preserving open spaces for all constituents, not just individuals who are facing homelessness. For example, some city police departments already partner with local treatment and housing providers and engage in weekly outreach to the homeless population, offering services, housing, and treatment. This bill impedes the ability of cities to deal with local problems using local solutions. Compassion and accountability are not opposites. Cities need the tools to do both.

This bill is unworkable as written. This bill goes far beyond *Martin v. City of Boise*, with standards that no jurisdiction can meet. Currently, there are no shelter systems in Washington that would meet the standards in the bill, which means that no adequate shelter would exist regardless of how many beds are empty that night. The bill also defines life-sustaining activities so broadly that nearly any conduct could be exempt from enforcement. The litigation that will stem from this bill will require local governments to spend money on attorneys, court fees, and appeals instead of services.

**Persons Testifying:** (In support) Representative Mia Gregerson, prime sponsor; Sarah Moore; Jazmyn Clark, ACLU of Washington; Meg Martin, LICSW Director of Integrative Services, Interfaith Works; Ti'eri Lino, MPA Director of Homeless Services for interfaith Works; Julie Garcia, Jewels Helping Hands; and Zaneta McQuarter, Lived Experience Coalition.

(Opposed) Lisa Beaton, City of Kennewick, Deputy City Manager; Darrell Lowe, Redmond Police Chief; and Christina Schuck, Deputy City Attorney, City of Kent.

**Persons Signed In To Testify But Not Testifying:** More than 20 persons signed in. Please contact the House Public Records Office at <https://leg.wa.gov/public-records-requests/> or call (360) 786-0926.