

HB 3115 proposes to affirm in state law key principles from two guiding cases on homelessness and public space issues:

	<i>Martin v. City of Boise</i> (920 F.3d 584 (9th Cir. 2019))	<i>Blake v. Grants Pass</i>	HB 3115
Holding	The Cruel and Unusual Punishments Clause of the Eighth Amendment precluded the enforcement of a statute prohibiting sleeping outside against homeless individuals with no access to alternative shelter. The panel held that, as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.	Following precedent of <i>Martin</i> , the court held that an ordinance that prohibits camping on all City property at all times, including taking measures to stay warm and dry, when a person has no place else to go, violates the Eighth Amendment.	Requires that any local law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.
What penalties are prohibited	Criminal	Criminal and Civil	[Does not explicitly prohibit penalties, but requires that laws penalizing these activities be reasonable, as described in the bill]
What activities are covered	Sitting, sleeping, or lying outside on public property	Sleeping, taking necessary minimal measures to keep warm and dry while sleeping	Sitting, lying, sleeping and keeping warm and dry outside on public property
Exceptions	<ul style="list-style-type: none"> - Naturally, our holding does not cover individuals who do have access to adequate temporary shelter, whether because they have the means to pay for it or because it is realistically available to them for free, but who choose not to use it. - Nor do we suggest that a jurisdiction with insufficient shelter can never criminalize the act of sleeping outside. Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible. So, too, might an ordinance barring the obstruction of public rights of way or the erection of certain structures. - Whether some other ordinance is consistent with the Eighth Amendment will depend, as here, on whether it punishes a person for lacking the means to live out the “universal and unavoidable consequences of being human” in the way the ordinance prescribes. 	<ul style="list-style-type: none"> - The holding in this case does not say that Grants Pass must allow homeless camps to be set up at all times in public parks. - Just like in <i>Martin</i>, this holding in no way dictates to a local government that it must provide sufficient shelter for the homeless, or allow anyone who wishes to sit, lie, or sleep on the street at any time and at any place. Nor does this holding cover individuals who do have access to adequate temporary shelter, whether they have the means to pay for it or because it is realistically available to them for free, but who choose not to use it. - The City may implement time and place restrictions for when homeless individuals may use their belongings to keep warm and dry and when they must have their belonging packed up. 	[Does not explicitly outline exceptions, but requires that local laws regulating the covered activities be objectively reasonable as to time, place and manner with regards to people experiencing homelessness. Note that exceptions to non-enforcement articulated in the case law provide the framework for the underlying bill (i.e., “time, place and manner limitations”)]