

# Legislative Analysis

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## INCREASE PENALTY FOR DISRUPTING A RELIGIOUS ASSEMBLY

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**House Bill 4537 (Substitute H-3)**

**Sponsor: Rep. Rick Jones**

**Committee: Judiciary**

### **First Analysis (9-7-10)**

**BRIEF SUMMARY:** The bill would prohibit the willful disruption of certain religious gatherings held inside a building, prohibit blocking people from going in or coming out of those gatherings, increase the penalty for a violation, allow a court to require community service for a violation, and provide an enhanced penalty for a second or subsequent violation.

**FISCAL IMPACT:** Any increase in penal fine revenues would benefit local libraries, which are the constitutionally-designated recipients of those revenues.

### **THE APPARENT PROBLEM:**

During the past few years, there have been several instances both locally and nationally in which organized groups of people have intentionally entered church buildings and disrupted worship services. In November of 2008, members of an extremist group called Bash Back! disrupted a service at an evangelical church in Delta Township near Lansing. According to a *Chicago Tribune* report at the time, while some unfurled a banner, others shouted phrases like "Jesus was a homo" or threw pro-gay fliers into the congregation. Some members of the group remained outside the building and protested what they believed to be an anti-gay agenda of the church. A videotape made by the group circulated later in various media venues including the show "O'Reilly Factor" carried by the Fox News Channel. Apparently, after the police were called, the protesters left and no names of those involved were collected. As a result, no charges could be filed against members of Bash Back! for the incident.

Michigan law currently makes it a criminal offense to disrupt a worship service. But, many argue that the low penalties – a 90-day misdemeanor, that may or may not end in actual jail time being served, and the possibility of a fine up to \$500 – are too minimal to act as a deterrent, especially for a group looking to further its own agenda.

Legislation has been offered to increase the penalties, update the language to include meetings of a religious purpose, and provide for enhanced penalties for repeat offenders.

### **THE CONTENT OF THE BILL:**

The Michigan Penal Code makes it a misdemeanor to willfully interrupt or disturb "any assembly of people met for the worship of God." It has no specific penalty, meaning that

the general misdemeanor penalty applies of not more than 90 days' imprisonment and/or a fine of up to \$500. (See MCL 750.504)

House Bill 4537 would amend the provision to prohibit a person from willfully interrupting or disturbing any assembly of people meeting for religious purposes within a building that is used for religious purposes and clearly identified as such by a posted sign or other means, whether the disturbance itself was within the building or outside of it. In addition, the bill would prohibit a person from willfully and physically obstructing any individual's entry into the building with intent to deny that individual access to the assembly or obstruct the individual from leaving the building.

The penalty for a violation would be a misdemeanor punishable by imprisonment for not more than 93 days, a fine of not more than \$1,000, and/or not more than 100 hours of community service. A second or subsequent violation would also be a misdemeanor with the same maximum term of imprisonment, a fine of not more than \$5,000, and/or not more than 200 hours of community service.

Extending the penalty to 93 days makes the offense subject to fingerprinting requirements, meaning that an offender's fingerprints would be forwarded to the State Police and FBI for a check of the state and national fingerprint databases.

The bill would take effect January 1, 2011.

MCL 750.169

### ***ARGUMENTS:***

#### ***For:***

Freedom of religion is one of the basic rights protected under the U.S. Constitution. Many people, including the bills' sponsor, believe that people should be able to conduct worship services without the fear of disruption or intimidation. Though current law makes it illegal to willfully disrupt a worship service, the penalties are so low as to be inadequate to prosecute egregious incidents or to act as a deterrent.

The bill would address this concern by increasing the penalties. Increasing the maximum term of imprisonment to 93 days triggers certain fingerprint requirements that, upon arrest, will result in a check of the state and national criminal databases. By creating a permanent entry into the state LEIN system upon conviction, law enforcement will be able to track repeat offenders who, under the bill, will face an enhanced penalty for a second or subsequent offense.

In addition, the bill updates the prohibition to apply to any assembly meeting for a religious purpose within a building used for religious purposes that is clearly identified as such. A disturbance would be prosecutable whether it occurred inside the building or outside and if it intentionally prevented or obstructed an attendee's ability to get inside the building or to leave the building.

***Against:***

The bill in its current form is too vague. The term "religious purpose" is too broad and so could apply to almost any activity conducted by a church group, synagogue, temple, or mosque. For instance, is the bill intended to apply only to disruptions of the main worship service or services, as was the case in the Delta Township incident? As written, it could be interpreted to include almost any kind of gathering, such as operating a faith-based school on the premises, prayer meetings, Sunday school, catechism classes, wedding preparation courses, concerts with spiritual music, and so on. In addition, the bill specifies that it would only apply to disturbances of those meetings conducted within the building. But many churches and religious institutions conduct outside worship services from time to time and faith-based camps and retreat centers often have chapels or meeting areas in the woods or in outdoor settings. Moreover, some churches reenact Christ's walk carrying the cross as part of their Easter services. Since these are conducted outside, similar to a parade, would intentional disruptions of these or similar religious practices be exempt from prosecution under the bill?

***POSITIONS:***

A representative of the Michigan Department of Civil Rights testified in support of the bill. (8-25-10)

The Michigan Department of Corrections indicated a neutral position on the bill. (8-25-10)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.