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BILL ANALYSIS



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Senate Bill 275 (as reported without amendment)
Sponsor: Senator Gretchen Whitmer
Committee: Judiciary

Date Completed: 3-15-07

RATIONALE

The Revised Judicature Act (RJA) sets forth the qualifications of jurors and an exemption from jury duty. To qualify as a juror, a person must be a U.S. citizen who is at least 18 years old and must live in the county in which he or she is selected or, in the case of a district court jury, in the district in which he or she is selected. A juror also must be able to communicate in English and be physically and mentally able to carry out the functions of a juror. A person who has served on a jury or grand jury during the preceding 12 months or who has ever been convicted of a felony may not serve on a jury. The RJA also provides that a person who is over 70 years old may claim an exemption from jury service and is exempt upon making the request. Since nursing mothers need to feed their babies, or at least express breast milk, at regular intervals, some people believe that they also should be allowed to claim an exemption from jury duty.

CONTENT

The bill would amend the Revised Judicature Act to allow a nursing mother to claim exemption from jury service for the period during which she was nursing her child. A nursing mother would be exempt upon making the request, if she provided a letter from a physician or certified nurse midwife verifying that she was a nursing mother.

"Physician" would mean an individual licensed by the State to engage in the practice of medicine or osteopathic medicine and surgery. "Certified nurse midwife" would mean an individual licensed as a registered professional nurse who has been

issued a specialty certification in the practice of nurse midwifery by the Board of Nursing.

MCL 600.1307a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A mother who is nursing her baby must express breast milk roughly every two hours, in order to nourish the child sufficiently and to avoid her own medical complications. If a nursing mother were required to serve as a juror, the court likely would have to accommodate her with regular breaks and provide her with the facilities needed to feed her child or pump and store her breast milk. This would pose an unreasonable burden upon the woman and disrupt the court proceedings.

In 2005, the Senate Judiciary Committee heard testimony on a similar bill from a woman who received a juror questionnaire two different times during periods in which she was breast-feeding her child. In one instance, she indicated on the questionnaire that a medical condition, which she identified as breast-feeding, could prevent her from serving and she was not called for jury duty. In the second instance, she took the same action but was required to report, although the judge granted her request to be excused. Also, an official with the Michigan Supreme Court testified in 2005 that he was unaware of any occasion in which a judge had compelled a nursing mother to serve on a jury. Still, without a statutory provision

allowing an exemption for nursing mothers, a woman who is breast-feeding her child could be required to serve as a juror. To accommodate these women, and provide for the most efficient use of court time and resources, the RJA should specifically allow a nursing mother to request and be granted an exemption from jury service.

Response: The bill should require that a jury questionnaire and summons inform the recipient that she could be excused if she were nursing, and should allow a mother to choose not to serve by simply responding to the questionnaire or summons with a sworn statement that she was nursing. Nursing mothers should not have to go through the process of obtaining and submitting a letter from a health professional.

Opposing Argument

The judicial system relies on representation from a broad cross section of the public in its jury pools. While it may be an inconvenience for certain people to serve as jurors, it is important to the integrity of the system that all be represented.

Response: The bill would exempt a limited number of people from jury service. Reportedly, about 70% of new mothers breast-feed their infant child and, after about six months, that number drops to about 33% of mothers. Also, the exemption would be for a limited time, and a woman excused from jury service under the bill could be summoned again when she was no longer nursing her child. In addition, like the mother who testified in 2005, nursing mothers apparently are excused from jury service on a case-by-case basis anyway. The bill simply would codify what evidently is current practice.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Stephanie Yu

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.