

HOUSE BILL No. 5828

February 17, 2010, Introduced by Rep. Byrnes and referred to the Committee on Judiciary.

A bill to amend 1963 PA 247, entitled

"An act to define the term "newspaper" as used in the statutes of this state regarding publication of notices,"

by amending section 1 (MCL 691.1051).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~The term "newspaper" as~~ **AS** used in any statute of
2 this state ~~, except the revised judicature act of 1961 relative~~ **IN**
3 **RELATION** to the publication of a notice, ~~of any kind, shall be~~
4 ~~construed to refer only to a newspaper~~ **UNLESS THE STATUTE EXPRESSLY**
5 **PROVIDES OTHERWISE, "NEWSPAPER" MEANS A PRINT PUBLICATION** published
6 in the English language for the dissemination of local ~~or~~
7 ~~transmitted news and intelligence~~ of a general character or for the
8 dissemination of legal news ~~, TO~~ which **ALL OF THE FOLLOWING APPLY:**

1 (a) **THE NEWSPAPER** has a bona fide list of paying subscribers
2 or has been published at not less than weekly intervals in the same
3 community without interruption for at least 2 years. ~~and~~

4 (b) **THE NEWSPAPER** has been published and of general
5 circulation at not less than weekly intervals without interruption
6 for at least 1 year in the ~~county, township, city, village or~~
7 ~~district where the notice is required to be published~~ **REQUIRED**
8 **AREA.** ~~A newspaper shall not lose eligibility for interruption of~~
9 ~~continuous publication because of acts of God, labor disputes or~~
10 ~~because of military service of the publisher for a period of not to~~
11 ~~exceed 2 years and provided publication is resumed within 6 months~~
12 ~~following the termination of such military service,~~

13 (c) **THE NEWSPAPER** annually averages at least 25% news and
14 editorial content per issue. ~~The term "news and editorial content"~~
15 ~~for the purpose of this section means any printed matter other than~~
16 ~~advertising.~~

17 (2) IF THERE IS NO NEWSPAPER THAT MEETS THE DEFINITION IN
18 SUBSECTION (1) PUBLISHED AND OF GENERAL CIRCULATION IN THE REQUIRED
19 AREA, "NEWSPAPER" MEANS A WEBSITE ON THE INTERNET THAT MEETS ALL OF
20 THE FOLLOWING REQUIREMENTS:

21 (A) THE WEBSITE IS IDENTIFIED AS A CONTINUING ONLINE VERSION
22 OF A NEWSPAPER THAT PREVIOUSLY MET THE DEFINITION IN SUBSECTION (1)
23 AND WAS PUBLISHED AND OF GENERAL CIRCULATION IN THE REQUIRED AREA.

24 (B) THE WEBSITE IS PUBLISHED IN THE ENGLISH LANGUAGE FOR THE
25 DISSEMINATION OF LOCAL NEWS OF A GENERAL CHARACTER OR FOR THE
26 DISSEMINATION OF LEGAL NEWS FOR THE REQUIRED AREA.

27 (C) THE WEBSITE HAS BEEN ESTABLISHED AND OPERATING WITHOUT

1 INTERRUPTION FOR AT LEAST 2 YEARS.

2 (D) THE WEBSITE CONTAINS SUBSTANTIAL NEWS AND EDITORIAL
3 CONTENT.

4 (E) NEWS CONTENT ON THE WEBSITE IS PUBLISHED AND POSTED
5 REGULARLY AND WAS UPDATED AT LEAST EVERY 7 DAYS FOR THE PRECEDING 2
6 YEARS.

7 (F) THE WEBSITE LISTS ALL OF THE FOLLOWING:

8 (i) CONTACT INFORMATION, INCLUDING A LIST OF STAFF LOCATED IN
9 THE REQUIRED AREA.

10 (ii) AN ADDRESS AND TELEPHONE NUMBER IN THE REQUIRED AREA.

11 (iii) AN ADDRESS IN THE REQUIRED AREA WHERE PUBLIC NOTICES MAY
12 BE SENT FOR POSTING.

13 (iv) AN ADDRESS IN THE REQUIRED AREA WHERE COMPLAINTS CAN BE
14 MADE.

15 (v) AN ADDRESS IN THE REQUIRED AREA WHERE PRINTED COPIES OF
16 NOTICES MAY BE VIEWED BY THE PUBLIC.

17 (G) THE WEBSITE INCLUDES A CLEARLY DESIGNATED AREA FOR PUBLIC
18 NOTICES THAT IS ACCESSIBLE VIA A CONSPICUOUSLY DISPLAYED AND
19 CLEARLY LABELED LINK FROM THE HOMEPAGE OF THE WEBSITE AND THE
20 POSTED NOTICES ARE MAINTAINED PERMANENTLY IN A SEARCHABLE DATABASE
21 ACCESSIBLE ON THE WEBSITE.

22 (H) A SUBSTANTIAL NUMBER OF VISITORS TO THE WEBSITE ARE
23 RESIDENTS OF THE REQUIRED AREA.

24 (3) If ~~THERE IS~~ no newspaper ~~so qualifies~~ **THAT MEETS THE**
25 **DEFINITION IN SUBSECTION (1) OR (2) in the county where the court**
26 ~~is situated, the term~~ **REQUIRED AREA, "newspaper" shall include any**
27 **MEANS A** newspaper in an adjoining county ~~which by this act is~~

1 ~~qualified to publish notice of actions commenced therein~~ COUNTY,
2 TOWNSHIP, CITY, VILLAGE, DISTRICT, OR OTHER GEOGRAPHIC TERRITORY,
3 AS APPLICABLE, THAT MEETS THE DEFINITION IN SUBSECTION (1) OR (2).

4 (4) A NEWSPAPER SHALL MAINTAIN A PERMANENT AND COMPLETE
5 PRINTED COPY OF EACH PUBLISHED NEWSPAPER EDITION FOR ARCHIVAL AND
6 VERIFICATION PURPOSES IN THE REQUIRED AREA. A WEBSITE THAT
7 QUALIFIES AS A NEWSPAPER UNDER THIS SECTION SHALL CREATE A PRINTED
8 COPY OF ANY NOTICE, IN A FORMAT THAT INCLUDES THE DATE OF
9 PUBLICATION, ON THE FIRST DAY THAT THE NOTICE IS PUBLISHED ON THE
10 WEBSITE AND SHALL MAINTAIN THE PRINTED COPY IN THE REQUIRED AREA
11 FOR ARCHIVAL AND VERIFICATION PURPOSES.

12 (5) A NEWSPAPER THAT MEETS THE DEFINITION UNDER SUBSECTION (1)
13 OR (2) BUT THAT IS CONTROLLED BY THE PERSON ON WHOSE BEHALF THE
14 NOTICE IS PUBLISHED OR BY AN OFFICER, EMPLOYEE, AGENT, OR AFFILIATE
15 OF THE PERSON IS NOT QUALIFIED TO ACT AS A NEWSPAPER FOR
16 PUBLICATION OF THE NOTICE.

17 (6) AS USED IN THIS SECTION:

18 (A) "CONTROLLED" MEANS THAT THE PERSON HAS 1 OR MORE OF THE
19 FOLLOWING:

20 (i) OWNERSHIP OF OR THE POWER TO VOTE, DIRECTLY OR INDIRECTLY,
21 MORE THAN 50% OF A CLASS OF VOTING SECURITIES OR VOTING INTERESTS
22 OF THE NEWSPAPER.

23 (ii) POWER BY THE PERSON'S OWN ACTION TO ELECT OR APPOINT A
24 MAJORITY OF EXECUTIVE OFFICERS, MANAGERS, DIRECTORS, TRUSTEES, OR
25 OTHER PERSONS EXERCISING MANAGERIAL AUTHORITY OF THE NEWSPAPER.

26 (iii) THE LEGAL RIGHT BY THE PERSON'S OWN ACTION TO DIRECT,
27 RESTRICT, REGULATE, GOVERN, OR ADMINISTER THE MANAGEMENT OR

1 POLICIES OF THE NEWSPAPER.

2 (B) "INTERNET" MEANS THAT TERM AS DEFINED IN 47 USC 230.

3 (C) "NEWS AND EDITORIAL CONTENT" MEANS ANY CONTENT OTHER THAN
4 ADVERTISING.

5 (D) "NOTICE" INCLUDES AN ORDER, ORDINANCE, ADVERTISEMENT,
6 REPORT, AND ANY OTHER STATEMENT OR INFORMATION REQUIRED BY STATUTE
7 TO BE PUBLISHED.

8 (E) "REQUIRED AREA" MEANS THE COUNTY, TOWNSHIP, CITY, VILLAGE,
9 DISTRICT, OR OTHER GEOGRAPHIC TERRITORY WHERE THE STATUTE REQUIRES
10 THE NOTICE TO BE PUBLISHED OR THE NEWSPAPER TO BE PUBLISHED,
11 CIRCULATED, OR PRINTED.

12 (F) "WEBSITE" MEANS A COLLECTION OF PAGES OF THE INTERNET,
13 USUALLY IN HTML FORMAT, WITH CLICKABLE OR HYPERTEXT LINKS TO ENABLE
14 NAVIGATION FROM 1 PAGE OR SECTION TO ANOTHER, THAT OFTEN USES
15 ASSOCIATED GRAPHICS FILES TO PROVIDE ILLUSTRATION AND MAY CONTAIN
16 OTHER CLICKABLE OR HYPERTEXT LINKS.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No.____ or House Bill No. 5826(request no.
19 03209'09) of the 95th Legislature is enacted into law.