

Legislative Analysis



JURY DUTY: EXEMPT NURSING MOTHERS

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House Bill 4691 (Substitute H-1)

Sponsor: Rep. Kurt Heise

Committee: Judiciary

First Analysis (10-19-11)

BRIEF SUMMARY: The bill would allow a nursing mother to claim exemption from jury service for the period during which she was nursing her child.

FISCAL IMPACT: The bill would not have a significant fiscal impact on state or local governments. Courts would have to receive and process notes provided by doctors or certified nurse midwives in order to exempt nursing mothers from jury service. The cost of processing these exemptions would likely be minimal.

THE APPARENT PROBLEM:

Currently, the only automatic exemption from jury duty contained in the Revised Judicature Act is for persons more than 70 years of age. A person who is over the age of 70 may serve as a juror or may claim exemption from service and is exempt upon making the request. A person who has been convicted of a felony is disqualified (as opposed to being exempt) from jury service. Those whose circumstances make it difficult to fulfill their civic duty as jurors, such as full-time students and people with physical or mental disabilities, can apply for exemption but the court has discretion to approve or deny the request.

For many years, legislation has been offered to create an exemption for nursing mothers. It has been noted that nursing has health benefits for both the mother and child, and health professionals strongly encourage new moms to nurse their babies for at least the first six months (better for one to two years). However, the jury selection and trial process are ill-suited to the needs of a nursing mother and her child. Besides child care, the nursing mother needs a suitable place to nurse her child or express her milk at regular intervals. Being a juror on a long trial, such as a murder trial, can pose a significant hardship to a nursing mother and be disruptive to a baby's feeding schedule, as well as being disruptive and inefficient for the court proceedings.

At least 12 states and Puerto Rico exempt a nursing mother from jury duty. Some feel that Michigan should follow the examples of California, Idaho, Illinois, Iowa, Kansas, Kentucky, Mississippi, Montana, Nebraska, Oklahoma, Oregon, and Virginia and enact a breastfeeding exemption.

THE CONTENT OF THE BILL:

House Bill 4691 would amend the Revised Judicature Act to allow a nursing mother to claim exemption from jury service for the period during which she is nursing her child. She would be exempt upon making the request if she provided a letter from a certified nurse midwife, a lactation consultant, or a physician verifying that she was a nursing mother.

"Certified nurse midwife" would mean an individual licensed as a registered professional nurse and who has been issued a specialty certification in the practice of nurse midwifery by the Board of Nursing under provisions of the Public Health Code.

"Lactation consultant" would mean a lactation consultant certified by the International Board of Lactation Consultant Examiners.

"Physician" would be defined as an individual licensed by the state to engage in the practice of medicine or osteopathic medicine and surgery under Article 15 of the Public Health Code.

MCL 600.1307a

BACKGROUND INFORMATION:

Bills to exempt nursing mothers from jury duty have been introduced in both the House and the Senate dating back at least to the 2001-2002 legislative session.

ARGUMENTS:

For:

A nursing mother must breastfeed her child or express milk every few hours. To accommodate her, a court must take regular breaks and provide a place of privacy. Yet, many court buildings are not equipped with an adequate room for a woman to nurse her baby or express milk. For example, the Oakland County 52-4 District Court tells nursing moms on its website that there is a "rest room right across the hall from the jury room." Many would argue that a bathroom, where germs are rampant and spread through the air with every flush, is hardly a sanitary, quiet, or suitable place to either breastfeed a baby or collect milk with which to feed the baby later. In addition, to require the court to break so frequently is an inefficient use of the court's time. Though some women nurse for two years or more, most wean their babies by the six month or first birthday. Thus, for most women, they would be out of the jury pool for a very small window of time. Moreover, many courts already exempt nursing mothers upon request. In that sense, the bill codifies what many courts already do in practice.

Response:

Instead of making breastfeeding an automatic exemption, wouldn't it be more appropriate to grant nursing mothers a *postponement*? If exempted, there is the possibility that the woman may never be summoned for jury duty again. The judicial system needs to rely

on representation from a broad cross section of the public in its jury pools. By *postponing* jury service, instead of being *exempted* from jury service, a woman could be placed back in the pool from which jurors are summoned and thus fulfill her civic duty.

POSITIONS:

The Michigan Council for Maternal and Child Health indicated support for the bill. (10-13-11)

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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.