

SENATE BILL No. 163

February 17, 2011, Introduced by Senators ROCCA, JONES, BIEDA, SCHUITMAKER, NOFS, CASPERSON, WALKER and PAPPAGEORGE 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); and to repeal acts and parts of acts.

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~~ **TO** which **ALL OF THE FOLLOWING APPLY:**

9 (a) ~~has~~ **THERE IS** a bona fide list of paying subscribers **TO THE**

1 PUBLICATION or THE PUBLICATION has been published at not less than
2 weekly intervals in the same community without interruption for at
3 least 2 years. ~~and~~

4 (b) THE PUBLICATION 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 PUBLICATION 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 PUBLICATION 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 PUBLICATION THAT PREVIOUSLY MET THE DEFINITION IN SUBSECTION
23 (1) AND WAS PUBLISHED AND OF GENERAL CIRCULATION IN THE REQUIRED
24 AREA.

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

1 (C) THE WEBSITE HAS BEEN ESTABLISHED AND OPERATING WITHOUT
2 INTERRUPTION FOR AT LEAST 2 YEARS.

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

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

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

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

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

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

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

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

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

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

25 (3) If THERE IS ~~no newspaper so qualifies~~ PUBLICATION OR
26 WEBSITE THAT MEETS THE DEFINITION IN SUBSECTION (1) OR (2) in the
27 ~~county where the court is situated, the term~~ REQUIRED AREA,

1 "newspaper" shall include any newspaper MEANS A PUBLICATION OR
2 WEBSITE in an adjoining county which by this act is qualified to
3 publish notice of actions commenced therein COUNTY, TOWNSHIP, CITY,
4 VILLAGE, DISTRICT, OR OTHER GEOGRAPHIC TERRITORY, AS APPLICABLE,
5 THAT MEETS THE DEFINITION IN SUBSECTION (1) OR (2).

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

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

20 (6) AS USED IN THIS SECTION:

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

23 (i) OWNERSHIP OF OR THE POWER TO VOTE, DIRECTLY OR INDIRECTLY,
24 MORE THAN 50% OF A CLASS OF VOTING SECURITIES OR VOTING INTERESTS
25 OF THE ENTITY THAT OPERATES THE PUBLICATION OR WEBSITE.

26 (ii) POWER BY THE PERSON'S OWN ACTION TO ELECT OR APPOINT A
27 MAJORITY OF EXECUTIVE OFFICERS, MANAGERS, DIRECTORS, TRUSTEES, OR

1 OTHER PERSONS EXERCISING MANAGERIAL AUTHORITY OF THE ENTITY THAT
2 OPERATES THE PUBLICATION OR WEBSITE.

3 (iii) THE LEGAL RIGHT BY THE PERSON'S OWN ACTION TO DIRECT,
4 RESTRICT, REGULATE, GOVERN, OR ADMINISTER THE MANAGEMENT OR
5 POLICIES OF THE ENTITY THAT OPERATES THE PUBLICATION OR WEBSITE.

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

7 (C) "NEWS AND EDITORIAL CONTENT" MEANS ANY CONTENT OTHER THAN
8 ADVERTISING.

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

12 (E) "REQUIRED AREA" MEANS THE COUNTY, TOWNSHIP, CITY, VILLAGE,
13 DISTRICT, OR OTHER GEOGRAPHIC TERRITORY WHERE THE STATUTE REQUIRES
14 THE NOTICE TO BE PUBLISHED OR THE NEWSPAPER TO BE PUBLISHED,
15 CIRCULATED, OR PRINTED.

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

21 Enacting section 1. Sections 1461 and 1950 of the revised
22 judicature act of 1961, 1961 PA 236, MCL 600.1461 and 600.1950, are
23 repealed.

24 Enacting section 2. This amendatory act does not take effect
25 unless Senate Bill No. 164

26 of the 96th Legislature is enacted into law.