

Legislative Analysis



TRESPASSING: EXEMPT PROCESS SERVERS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 321 (reported without amendment)

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

(Enacted as Public Act 230 of 2013)

Complete to 11-7-13

A SUMMARY OF SENATE BILL 321 AS REPORTED FROM HOUSE COMMITTEE 10-17-13

The bill would exempt a process server from the prohibition on trespassing when attempting to serve process on the owner, occupant, agent of the owner or occupant, or lessee of the land or premises.

Under the Michigan Penal Code, it is a 30-day misdemeanor to enter or remain on the lands or premises of another without lawful authority after having been forbidden to do so or asked to leave by the owner, occupant, or their agents.

Senate Bill 321 would amend the Michigan Penal Code to specify that the trespassing prohibition and penalties would not apply to a process server who is on the land or premises of another while in the process of attempting, by the most direct route, to serve process upon an owner or occupant, an agent of the owner or occupant, or a lessee of the land or premises.

"Process server" would mean a person authorized under the Revised Judicature Act or Michigan Supreme Court rule to serve process.

MCL 750.552

FISCAL IMPACT:

Information is not available on the number of process servers that are charged under current law with misdemeanor trespassing. Depending on the number actually charged, the bill would result in a decrease in costs for local units of government related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. There would also be a decrease in penal fine revenues, which would decrease funding for local libraries, which are the constitutionally-designated recipients of those revenues.

BRIEF DISCUSSION OF THE BILL:

Reportedly, the bill is in response to incidents encountered by process servers when trying to serve process (i.e., a court document such as a subpoena, divorce papers, or

notice of a lawsuit). In one recent incident, a Macomb County process server knocked on a door and when there was no response, returned to his car whereupon he heard a shotgun blast. He got to safety and called 9-1-1. The responding trooper was unable to issue a citation or take further action because a "No Trespassing" sign was posted on a tree, and so the process server was considered to be trespassing.

The bill would address this concern by exempting a process server from the prohibition on trespassing, but only if the server was attempting to serve process and was doing so by the most direct route (as opposed to hiding in a barn or going the long way around someone's property).

Supporters say the bill would give legal authority for process servers to be on someone's land or property when performing their duties, which should increase safety for servers. It also would prevent the attempt of some to deliberately avoid service by posting no trespassing signs.

POSITIONS:

A representative of the Michigan Court Officer, Deputy Sheriff & Process Servers Association testified in support of the bill. (10-10-13).

A representative of the Michigan Process Servers' Alliance testified in support of the bill. (10-10-13)

The Michigan Council of Professional Investigators indicated support for the bill. (10-10-13)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ 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.