

ALLOW PHYSICIANS TO POSTPONE JURY DUTY

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House Bill 4869 as passed by the House
Sponsor: Rep. Andy Schor
Committee: Judiciary
Complete to 4-15-16

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: This bill would amend the Revised Judicature Act of 1961 by allowing physicians to postpone jury duty during a period when they have one or more patients with immediate, imminent, and life-threatening health issues.

FISCAL IMPACT: The bill appears to have no fiscal impact.

THE APPARENT PROBLEM:

If a physician is required to report for jury duty, it may not just affect that physician, but also that physician's patients. A postponement of care for even a day can be traumatic and even life-threatening for a patient who is very ill.

THE CONTENT OF THE BILL:

This bill would amend the Revised Judicature Act of 1961 (MCL 600.1307a) by allowing physicians to obtain a postponement for jury duty to a specified date agreed upon by the physician and the court if the physician has one or more patients with immediate, imminent, and life-threatening health issues.

In order to obtain a postponement, the physician must submit a letter to the court attesting to facts supporting the postponement and requesting a postponement of three months to one year.

BACKGROUND INFORMATION:

Practice in Other States

All states, including Michigan, apply certain basic requirements to potential jurors: a juror must be a citizen of the United States, over age 18, and be able to speak English, among other requirements. Each state also lists instances in which a citizen may be excused from jury duty specific to that state, whether because of disability, status as a student or member of a certain profession, or prior plans that cannot be rescheduled. At present, Michigan law only allows a person to claim an exemption from jury service if that person is over 70 years old or is a nursing mother.

The practice of excusing physicians varies widely. Several states, including Hawaii and Maine, allow practicing physicians to claim exemptions from jury duty. Approximately 26 states do not currently have any exemptions for professions. Some of these, including Louisiana and Massachusetts, have recently removed exemptions for physicians.

History of Jury Excuses in Michigan

Michigan also used to excuse physicians and members of other professions.¹ Public Act 326 of 1968 allowed any allopathic or osteopathic physician or dentist licensed to practice in the state to claim an exemption and be excused on request from service as a juror. Firefighters, officers, enlisted personnel of the organized militia, and pharmacists could also claim an exemption from jury duty.

That same legislation also prohibited the following people from jury service: state elected and appointed officials but not employees; county officers but not employees; persons employed by any police agency of the state or any political subdivision thereof; attorneys and counselors at law; persons convicted of a felony whose record has not been expunged by any court of record; people against whom a felony charge is pending; and persons who have made to the jury board directly or indirectly any request to be selected and returned as a juror (some of these classes of people were added by three subsequent amendments).

Section 1307 of the Revised Judicature Act described above, prohibiting jury duty for some professions and exempting upon request for others, was repealed by legislation that was enacted in 1978 and took effect in 1981. That same act added Section 1307a, which now governs the qualifications of jurors, and which would be amended by this bill.

Many states include a broader exemption for those people for whom jury duty would present an "extreme hardship," which may apply to physicians who must care for ill patients. (National Center for State Courts, link to table below)

<http://www.ncsc.org/~media/Microsites/Files/SCO/Archive2012/Table%2049.ashx>

ARGUMENTS:

For:

In cases where a physician is operating a solo practice, is performing a specialized procedure, or just for purposes of continuity of care, jury duty can cause an extreme disruption to a patient's care. Physicians and patients testified about the potentially devastating effects of delays in treatment. In some cases, even a day's delay could be the difference between the patient's life and death. The jury duty postponement described in this bill would allow a physician to care for a patient when the patient most needs him or her.

The bill initially allowed physicians an *exemption* from jury duty when they had critically ill patients. Replacing that exemption with a *postponement* alleviates some concerns expressed over treating a certain class of individuals differently.

Against:

Representative jury: The people of Michigan have an interest in seeing a representative jury. By allowing some of the best educated people in the jury pool to avoid jury duty, the quality of the jury may be adversely affected. This is one of the few responsibilities of all citizens, and one which is vitally important to the justice system. There is a concern that this special treatment may be exploited by those seeking to avoid their civic duty.

¹ MCL 600.1307, repealed by 11 PA 1978, § 2; effective 1981.

Preferential treatment for a single profession: Some also expressed opposition for the precedent of special treatment for a single profession. Members of other professions also have pressing needs, and if the legislature begins judging whose occupation or profession merits a discretionary postponement for jury duty, there is no telling where it might end.

Moreover, judges and courts already have the ability and authority to exercise reasonable discretion in excusing jurors for cause. A critically ill patient would certainly merit consideration, and this bill would remove that judicial discretion.

POSITIONS:

The American Cancer Society Cancer Action Network supports this bill. (2-2-16)

The Michigan Osteopathic Association supports this bill. (2-2-16)

The Michigan Society of Hematology and Oncology supports this bill. (2-2-16)

The State Bar of Michigan has indicated neutrality. (2-2-16)

The Michigan District Judges Association is opposed to this bill. (2-2-16)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.