

ALLOW PHYSICIANS TO POSTPONE JURY DUTY

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House Bill 4869 (reported from committee as H-2)

Sponsor: Rep. Andy Schor

Committee: Judiciary

Complete to 2-5-16

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:

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 removed exemptions for physicians. 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.

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.