

Legislative Analysis



ELIMINATE BAN ON SUNDAY SERVICE OF PROCESS

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House Bill 4133 as enrolled

Public Act 201 of 2005

Sponsor: Rep. Leslie Mortimer

1st House Committee: Judiciary

2nd House Committee: Local Government and Urban Policy

Senate Committee: Judiciary

Second Analysis (8-14-06)

BRIEF SUMMARY: The bill would allow service of process to be served on a Sunday and prohibit service on a person while attending a worship meeting of a religious organization.

FISCAL IMPACT: The bill would have no fiscal impact.

THE APPARENT PROBLEM:

Currently, Michigan law prohibits civil process from being served or executed on a Sunday, although restraining orders and certain writs can be served on a Sunday if sufficient cause is shown by affidavit to the satisfaction of a circuit court judge. The ban on Sunday process of service apparently dates back to the Revised Statutes of 1846, when courts and most other businesses did not transact business on Sundays. Now, however, some courts conduct arraignments and other business on Sundays. Furthermore, over half a million new civil cases are filed each year; each new case necessitates service of process on the litigants. Allowing service to be made on Sundays provides 52 more days for process servers to locate litigants and is expected to increase the efficiency of the courts. Reportedly, at least 39 states allow for service of process on Sunday. Legislation has been offered to eliminate the ban on Sunday service of process.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to allow civil process to be served or executed on a Sunday. However, the bill would prohibit service on a person who was attending a worship meeting of a religious organization having tax exempt status under Section 501 (c)(3) of the Internal Revenue Code, on property where the organization normally conducted its worship, or on a person going to or coming from such a meeting within 500 feet of that property. Nonetheless, a judge could order service or execution of process if, to the judge's satisfaction, sufficient cause was shown by affidavit.

MCL 600.1831

ARGUMENTS:

For:

Whenever a civil complaint (e.g., an action to begin a divorce, a lawsuit to recover damages, etc.) is filed in court, a copy must be delivered in person within a specified time frame to the person or persons named in the action. This is referred to as service of process. In 2004, over 583,000 new civil cases were filed in district courts in Michigan. Often, only the home address of the person is known to the process server and many people are home on Saturdays and Sundays whereas they may be at work on other days of the week. A significant number of people are served on Saturdays; adding Sundays is therefore expected to help expedite the process, reduce backlogs, and increase the efficiency of courts across the state.

For:

Although "blue laws" for many years prohibited various business transactions (and other activities) on Sundays, that day is now a normal business day for many. The lifting of the blue laws through the years also recognized that not all religions view Sunday as the principal day of celebration or worship. Many faiths designate other days of the week as their day of worship and so are not currently protected from service of process on those days. State laws should not favor members of one religion over another.

The bill would recognize the diversity of religious worship in the state and ban service on a person while going to, attending, or leaving a worship service, regardless of the day of the week the service was held. To prevent abuse by a person deliberately avoiding being served, only services sponsored by churches, synagogues, temples, and other religious organizations granted tax exempt status as charitable or nonprofit organizations by the IRS would qualify as a place of refuge. In addition, a judge could, if sufficient evidence was presented to support it, order service to be done on a person even during the worship service or while the person was still on or near the property.

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