

Legislative Analysis



INCREASE PENALTY FOR DISRUPTING A RELIGIOUS ASSEMBLY

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Senate Bill 19 (Substitute H-3)

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

First Analysis (5-3-11)

BRIEF SUMMARY: The bill would prohibit the intentional disruption of a meeting where people have gathered for their free exercise of religion, prohibit blocking people from going in or coming out of those gatherings, increase the penalty for a violation, allow a court to require community service for a violation, and provide an enhanced penalty for a second or subsequent violation.

FISCAL IMPACT: The bill increases the maximum sentence for imprisonment for violations from 90 days to 93 days. Given the small increase, the bill is unlikely to have any significant effect on incarceration costs incurred by local units of government. Senate Bill 19 would have an indeterminate fiscal impact on the local trial courts. Any fiscal impact would be dependent upon the number of actions filed under the provisions of the bill. Any fines levied under the provisions of the bill would go to the support of local libraries in this state.

THE APPARENT PROBLEM:

During the past few years, there have been several instances both locally and nationally in which organized groups of people have intentionally entered church buildings and disrupted worship services. In November of 2008, members of an extremist group called Bash Back! disrupted a service at an evangelical church in Delta Township near Lansing. According to a *Chicago Tribune* report at the time, while some unfurled a banner, others shouted phrases like "Jesus was a homo" or threw pro-gay fliers into the congregation. Some members of the group remained outside the building and protested what they believed to be an anti-gay agenda of the church. A videotape made by the group circulated later in various media venues, including the television show "O'Reilly Factor" carried by the Fox News Channel. Apparently, after the police were called, the protesters left and no names of those involved were collected. As a result, no charges could be filed against members of Bash Back! for the incident.

Michigan law currently makes it a criminal offense to disrupt a worship service. But, many argue that the low penalties – a 90-day misdemeanor, that may or may not end in actual jail time being served, and the possibility of a fine up to \$500 – are too minimal to act as a deterrent, especially for a group looking to further its own agenda. Legislation has been offered to increase the penalties, update the language to apply to a disruption of a person's free exercise of religion, and provide for enhanced penalties for repeat offenders.

THE CONTENT OF THE BILL:

The Michigan Penal Code makes it a misdemeanor to willfully interrupt or disturb "any assembly of people met for the worship of God." It has no specific penalty, meaning that the general misdemeanor penalty applies of not more than 90 days' imprisonment and/or a fine of up to \$500. (See MCL 750.504)

Senate Bill 19 would delete the current provision and instead prohibit a person from:

- Entering or attempting to enter any private property where the person knows people are meeting or are intending to meet in the pursuit of their free exercise of religion with the intent to disrupt that meeting.
- After being instructed to leave, remain on or attempt to remain on any private property where the person knows people are meeting or are intending to meet in the pursuit of their free exercise of religion with the intent to disrupt that meeting.
- Intentionally obstruct or attempt to obstruct the entrance to or exit from any private property where the person knows people are meeting or are intending to meet in the pursuit of their free exercise of religion with the intent to disrupt or prevent that meeting.

The penalty for a violation would be a misdemeanor punishable by imprisonment for not more than 93 days, a fine of not more than \$1,000, and/or not more than 100 hours of community service. A second or subsequent violation would also be a misdemeanor with the same maximum term of imprisonment, a fine of not more than \$5,000, and/or not more than 200 hours of community service.

Extending the penalty to 93 days makes the offense subject to fingerprinting requirements, meaning that an offender's fingerprints would be forwarded to the State Police and FBI for a check of the state and national fingerprint databases.

The bill would take effect September 1, 2011.

MCL 750.169

HOUSE COMMITTEE ACTION:

The committee adopted a substitute that limited the application to conduct on private property, expanded it to include the free exercise of religion, and established a September 1, 2011, effective date.

BACKGROUND INFORMATION:

House Bill 4537 of the 2009-2010 legislative session addressed the same issues. That bill would have, among other things, prohibited the willful disruption of certain religious gatherings held inside a building and increased penalties for a violation. The bill was reported from committee but died on the House floor.

FISCAL INFORMATION:

The bill increases the maximum sentence for imprisonment for violations from 90 days to 93 days. Given the small increase, the bill is unlikely to have any significant effect on incarceration costs incurred by local units of government.

Senate Bill 19 would have an indeterminate fiscal impact on the local trial courts. Any fiscal impact would be dependent upon the number of actions filed under the provisions of the bill. Any fines levied under the provisions of the bill would go to the support of local libraries in this state.

ARGUMENTS:

For:

Freedom of religion is one of the basic rights protected under the U.S. Constitution. Many people, including the bills' sponsor, believe that people should be able to conduct worship services without the fear of disruption or intimidation. Though current law makes it illegal to willfully disrupt a worship service, some people believe the penalties are so low as to be inadequate to prosecute egregious incidents or to act as a deterrent. Moreover, some religions, such as Buddhism, do not "worship" a deity, and so are not covered under current law.

The bill would address this concern by increasing the penalties. Increasing the maximum term of imprisonment to 93 days triggers certain fingerprint requirements that, upon arrest, will result in a check of the state and national criminal databases. By creating a permanent entry into the state LEIN system upon conviction, law enforcement will be able to track repeat offenders who, under the bill, will face an enhanced penalty for a second or subsequent offense. The bill also strikes a balance between one person's right to the free exercise of their religious beliefs and another person's right to free speech. Protests held on the public right-of-way, as long as they did not block entrance to or from the religious meeting, would not be illegal. Further, the bill applies only to religious meetings and not to events such as AA meetings held in a church basement, or social gatherings. For those events, disruptive conduct could be subject to trespassing laws.

Against:

The bill's language is still too imprecise to be effective. For instance, the bill would make it a criminal offense to enter or attempt to enter private property where it is known that a religious meeting is being, or will be, held with the intent to disrupt that meeting. The problem is that a prosecutor would have to prove both that the person knew a religious meeting was or would be held there and that the person was there to intentionally disrupt the meeting even though he or she had not engaged in conduct that could be considered disruptive. In addition, the bill does not define the conduct that would constitute being disruptive. Would certain attire trigger the penalties? After all, not very long ago a woman wearing slacks to some church meetings would have been considered as "disrupting" the service. If a person yelled out a comment or called out a question during a sermon, could that alone be sufficient to constitute intentionally disrupting the meeting? Since a violation of the bill would result in a criminal record, it should be clear as to the conduct that would subject a person to the penalties.

Against:

Some feel that the penalties are too harsh and point out that a violation of the bill could result in a higher fine and more community service than a conviction for assault or domestic violence.

Response:

Freely assembling for religious purposes is a fundamental right protected by the Constitution. Thus, the penalty needs to be sufficient to act as a deterrent for anyone considering using the interruption of a religious meeting as a pulpit for their own interests.

POSITIONS:

The Michigan Catholic Council indicated support for the bill. (4-28-11)

A representative of the Department of Civil Rights testified in support of the bill. (3-3-11)

The Michigan State Police indicated a neutral position on the bill. (4-2-11)

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■ 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.