

# Legislative Analysis



## INCREASE PENALTY FOR DISRUPTING FREE EXERCISE OF RELIGION

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**House Bill 5560 as enrolled**

**Public Act 202 of 2012**

**Sponsor: Rep. Deb Shaughnessy**

**House Committee: Judiciary (Discharged from committee)**

**Senate Committee: Judiciary**

**First Analysis (8-30-12)**

**BRIEF SUMMARY:** The bill prohibits certain conduct on private property intended to disrupt meetings in which people are meeting or intending to meet in the pursuit of their free exercise of religion.

**FISCAL IMPACT:** Since the bill only adds specificity to a current misdemeanor offense and does not create a new misdemeanor offense, it would have a negligible impact on state and local corrections costs. The bill does add specific new provisions for civil fines for a first offense and for subsequent offenses. Any increase in fine revenue that results would benefit local public libraries.

### **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 one well-publicized case, in November of 2008, members of an activist 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. 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.

Though Michigan law currently makes it a criminal offense to disrupt a worship service, 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 not sufficient to act as a deterrent, especially for a group looking to further its own agenda.

Legislation was offered to increase the penalties, update the language to apply to intentional disruptions of the free exercise of religion on private property, 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)

House Bill 5560 amended the Penal Code (MCL 750.169) to delete this provision and replace it with language that prohibits the intentional disruption of a meeting on private property at which people are pursuing their free exercise of religion. The bill also increases penalties for a violation and provides a penalty for a repeat offense.

Specifically, the bill prohibits the following conduct on private property where a person knows people are meeting or are intending to meet in the pursuit of their free exercise of religion:

- Entering (or attempting to enter) the private property with the intent to disrupt that meeting.
- Remaining (or attempting to remain) on the private property after being instructed to leave with the intent to disrupt that meeting.
- Intentionally obstructing (or attempting to obstruct) the entrance to or exit from the private property with the intent to disrupt or prevent that meeting.

The penalty for a first violation is a misdemeanor punishable by one or more of the following: imprisonment for not more than 93 days, a fine of not more than \$1,000, and not more than 100 hours of community service. A second or subsequent violation is also a misdemeanor with the same maximum term of imprisonment, but the fine is increased to a maximum of \$5,000, and the maximum community service is 200 hours.

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's effective date is September 1, 2012.

### ***BACKGROUND INFORMATION:***

The bill is similar to House Bill 4537 of the 2009-2010 Legislative Session. That bill was reported from committee but failed to see House floor action.

### ***ARGUMENTS:***

#### ***For:***

Freedom of religion is one of the basic rights protected under the U.S. Constitution. Many people believe that people should be able to conduct religious services without the fear of disruption or intimidation. Though the previous law made it illegal to willfully

disrupt a worship service, the penalties were so low as to be inadequate to prosecute egregious incidents or to act as a deterrent. In addition, it was not always clear what activities were encompassed by the term "worship of God" or if it applied only to worship conducted within a religious building such as a church, synagogue, or mosque or to worship services conducted at a public park.

The bill addressed these concerns by updating the language for clarity and enforceability, and by increasing the penalties. First, the bill clearly applies to disruptions of meetings on private property. In addition to the traditional religious meeting places such as churches, synagogues, and mosques, many religious organizations own or operate camps or retreat centers, or meet in rented properties such as schools, storefronts, and even movie theaters. Some even hold some or all of their meetings in member's homes. This approach is far superior to the bill introduced last session, which would have applied only to services for a religious purpose conducted inside a building used for religious purposes, thus raising concerns about programs or services held on the grounds of a building. It also was not clear how the term "religious purpose" would have been interpreted. House Bill 5560 better reflects current practices of the faithful when gathering to exercise their religious freedoms. The bill also makes it clearer as to the types of conduct that is prohibited.

House Bill 5560 also changes the penalties that may be imposed for a violation. A violator will now face stiffer fines and the possibility of community service in addition to a slightly longer jail sentence. 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.

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