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Senate Bill 258 (as enacted)  
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Sponsor: Senator Curtis S. VanderWall (S.B. 258)  
Senator Sylvia Santana (S.B. 259)  
Senate Committee: Local Government  
House Committee: Local Government and Municipal Finance

**PUBLIC ACT 76 of 2022**  
**PUBLIC ACT 74 of 2022**

Date Completed: 3-27-23

## **CONTENT**

**Senate Bill 258** amended Public Act 247 of 1963, which defines the term "newspaper" as used in State statutes regarding the publication of notices, to do the following:

- Modify the definition of "newspaper".
- Require a person that operates a newspaper in which a notice is published to provide access to the notice within 72 hours of receiving a request on the newspaper's website at no additional cost and require the website to satisfy certain requirements.
- Require a person that operates a newspaper in which a notice is published to place the notice on a website that is established and maintained by a State association of newspapers and require the website to comply with certain requirements.
- Specify that a publication that meets the definition of "newspaper" but is controlled by the person on whose behalf the notice is published or by an officer, employee, agent, or affiliate of the person is not qualified to serve as a newspaper for publication of the notice.

**Senate Bill 259** amended the Revised Judicature Act to redefine "newspaper", with respect to the publication of a notice, as that term is defined in Senate Bill 258, with the required area being the county in which the court is located, unless a different required area is designated.

Senate Bill 259 also repealed Section 1950 of the Revised Judicature Act. (That section defined "newspaper" for the purposes of Chapter 19 (Commencement of Action and Service of Process) of the Act.)

Each bill took effect on May 12, 2022.

Senate Bill 258 is discussed in greater detail below.

### **Definition of "Newspaper"**

Formerly, the term "newspaper", as used in any State statute, except the Revised Judicature Act, was construed to refer only to a newspaper published in English for the dissemination of local or transmitted news and intelligence of a general character that had a bona fide list of paying subscribers or had been published at least weekly in the same community without

interruption for at least two years and at least one year in the county, township, city, village, or district where the notice was required to be published. A newspaper did not lose eligibility for interruptions of continuous publication because of acts of God, labor disputes, or because of military service of the publisher for up to two years, provided publication resumed within six months after termination of service. The publication also had to average at least 25% news and editorial content (i.e., any printed matter other than advertising) per issue.

Under the bill, instead, as used in any statute of the State in relation to the publication of a notice of any kind, *unless the statute expressly provided otherwise*, "newspaper" means a print publication published in the English language for the dissemination of local news of a general character or for the dissemination of legal news to which all of the following apply:

- There is a bona fide list of paying subscribers to the publication or the publication has been published at not less than weekly intervals in the same community without interruption for at least two years.
- The publication has been published and of general circulation at not less than weekly intervals without interruption for at least one year in the required area.
- The publication annually averages at least 25% news and editorial content per issue.

In addition to the circumstances under which a newspaper does not lose eligibility for interruption of continuous publication allowed previously, a newspaper does not lose eligibility for interruption of continuous publication resulting from the COVID-19 pandemic, for the period beginning March 10, 2020, through the end of the pandemic.

"Notice" includes an order, ordinance, advertisement, report, and any other statement or information required by statute to be published. "Required area" means the county, township, city, village, district, or other geographic territory where the statute requires notices to be published or the newspaper to be published, circulated, or printed. "News and editorial content" means any content other than paid advertising.

Previously, if no newspaper qualified in the county where a court was situated, "newspaper" included a newspaper in an adjoining county which by the Act was qualified to publish notice of actions commenced therein. Under the bill, if there are no publications that meet the proposed definition of "newspaper" in the required area, the term means a publication in an adjoining county, township, city, village, district, or other geographic territory, as applicable that meets the definition.

#### Notice Publication Requirements

The bill requires a person that operates a newspaper in which a notice is published to do all of the following, at no additional cost beyond what the person charges for the print publication:

The person must provide access to the notice within 72 hours of receiving a request on the website of the newspaper. The website must satisfy all of the following requirements:

- The website homepage must have a link that takes a viewer to an area of the website where notices are available for viewing; this area of the website cannot be placed behind a pay wall, and the public must be able to read the notices at no charge.
- Notices must remain on the website during the full required publication period.
- Notices must remain searchable on the website as a permanent record of the publication.

"Website" means a collection of pages of the internet, usually in html format, with clickable or hypertext links to enable navigation from one page or section to another, that often uses associated graphics files to provide illustration and may contain other clickable or hypertext links.

The person must place the notice on a website that is established and maintained by a State association of newspapers that represents the majority of newspapers in the State as a comprehensive central repository for notices published throughout the State. The website must do all of the following:

- Provide for searching for a published notice by criteria contained in the notice.
- Maintain all published notices on a permanent basis.
- Provide access through standard computer browsers and mobile platforms, such as smartphones and tablets.
- Provide a method to alert the public of published notices by text message or email notification.

#### Other Provisions

An error or omission in the posting of a notice online as specified above does not invalidate the notice published in the print version of the newspaper.

A publication that meets the proposed definition but is controlled by the person on whose behalf the notice is published or by an officer, employee, agent, or affiliate of the person is not qualified to serve as a newspaper for publication of the notice. "Controlled" means that the person has one or more of the following:

- Ownership of or the power to vote, directly or indirectly, more than 50% of a class of voting securities or voting interests of the person that operates the publication.
- Power by the person's own action to elect or appoint a majority of executive officers, managers, directors, trustee, or other individuals exercising managerial authority of the person that operates the publication.
- The legal right by the person's own action to direct, restrict, regulate, govern, or administer the management or policies of the person that operates the publication.

A person that operates a newspaper that publishes a notice must maintain a permanent and complete printed copy of each published edition that contains the notice for archival and verification purposes in the required area.

MCL 691.1051 (S.B. 258)  
600.1461 (S.B. 259)

Legislative Analyst: Jeff Mann

#### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local units of government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.