



Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

## YOUTHFUL TRAINEE STATUS

House Bill 4587 (Substitute H-3)  
First Analysis (6-29-93)

Sponsor: Rep. James McNutt  
Committee: Judiciary

### ***THE APPARENT PROBLEM:***

The Holmes Youthful Trainee Act, which is part of the Code of Criminal Procedure, offers a mechanism by which a youth charged with a crime when he or she was between seventeen and twenty years old may in effect be excused from having a criminal record. The act also may be used for juveniles over fifteen years old who have been "waived" from juvenile court to face adult charges in criminal court. The act may not be used when the offense in question is a traffic offense, a major drug offense, or a life offense. When a judge (with the permission of both youth and parent) opts to assign a youth to trainee status, criminal proceedings are suspended pending completion of a probationary period or a term at the Thumb Regional Correctional Facility (which is where youthful trainees committed to the Department of Corrections are sent), either of which may last up to three years (these dispositions apply to youths charged with offenses punishable by more than one year in state prison; the act is silent on what is to be done with other offenders on trainee status). The court may revoke trainee status at any time prior to the youth's release; revocation causes criminal proceedings to be reinstated. Under the act, a person who successfully completes trainee status will not be considered to have been convicted of a crime, and his or her record is closed to public inspection (although it remains available to courts, police, and the Departments of Corrections and Social Services).

The trainee act has been criticized by prosecutors and others for its requirement that prosecution be suspended pending completion of the trainee program. If a youth fails in the program, prosecution is hampered by stale evidence and the passage of time. Thus, not only can the public lose by having a young criminal return to the streets, but the youth can lose by having insufficient incentive to succeed in the program. Prosecutors and others point out that if trainee status were not available until after a conviction was obtained, these shortcomings would be eliminated.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Holmes Youthful Trainee Act to do the following:

\*\* limit application of the act to after a youth pleaded guilty or no-contest or had been found guilty. Entry of the adjudication of guilt would be held in abeyance until successful completion of the trainee program. (In other words, the bill would place assignment as a youthful trainee in between adjudication and the entry of a judgment.) Upon final release from trainee status, the judge would discharge the youth and dismiss the proceedings. A trainee's records, now closed unless criminal proceedings are reinstated and he or she is convicted, would be closed unless the court entered a judgment of conviction.

\*\* offer more dispositional options than are now available. Current law provides for cases where the offense is punishable by more than one year in prison; youthful trainee assignment may consist of up to three years of probation or time in a state correctional facility. In addition to the other options, the bill would authorize the court to commit the youth to the county jail for up to one year on work-release or release for educational purposes. For offenses punishable by imprisonment for one year or less, the court would impose probation for up to two years.

\*\* require the consent of the prosecuting attorney, in addition to the consent of the youth, for assignment to youthful trainee status. Language requiring the consent of the youth's guardian would be deleted.

The bill would take effect October 1, 1993.

MCL 762.11 et al.

House Bill 4587 (6-29-93)

**BACKGROUND INFORMATION:**

According to information provided by House Republican staff, the Department of Corrections reports that as of 3-31-92 there were 2,391 youths on probation under the Holmes Youthful Trainee Act. Data was lacking on how many complete their "training" or have their status revoked for noncompliance. Four prisoners at the Thumb Regional Facility were Holmes trainees, expected to serve 120 days in Level II, while also being treated as trustees with work assignments on grounds outside the prison walls. The number of Holmes inmates has varied from four to about twenty in recent years.

**FISCAL IMPLICATIONS:**

There is no fiscal information at present. (6-22-93)

**ARGUMENTS:****For:**

The bill would improve the Holmes Youthful Trainee Act. It would retain the premise of devising a mechanism whereby a young offender may be rehabilitated and have his or her record cleared, but it would restrict the program to youth for whom a conviction had been obtained. The certainty of the criminal sentencing that would follow failure in the program would give a youth strong incentive to succeed. Further, prosecutors would not be hampered by the current defect of suspending prosecution pending completion of the trainee period, which makes for stale evidence and lost witnesses if prosecution must be resumed. Judges, encouraged by the strengths of the revised act, might employ it more often than they do now, thus allowing more youths the opportunity to benefit from the program. Increased use of the program could in turn ease burdens on the overcrowded prison system, which otherwise might have to find space to accommodate the convicted youth. By expanding the program to misdemeanor offenses, similar benefits could accrue to minor offenders and local jails.

**Against:**

By requiring prosecutorial approval before a youth could be assigned to trainee status, the bill would undermine judicial discretion regarding the disposition of an offender. By allowing the prosecutor to determine what happens to an offender following conviction, the bill would

interfere with the proper division of roles of prosecutor and judge.

**Response:**

If a youth successfully completes trainee status, he or she will have no criminal record. This certainly is something in which a prosecutor will have an interest, especially if the youth was convicted following a trial, rather than having shown a measure of responsibility by pleading guilty. Also, the prosecutor would be in a good position to know whether the youth is someone for whom trainee status is appropriate.

**Against:**

By requiring a youth to plead guilty before he or she could be eligible for trainee status, the bill could unduly pressure some youths to plead guilty.

**Against:**

The bill should limit application of the act to youths who plead guilty. If a youth attempts to evade responsibility for a criminal act by forcing the justice system to undertake the time and expense of a criminal trial, it is questionable whether that youth should also be able to avoid the legal consequences of that act.

**Against:**

The bill would place no explicit limit on jail time used in conjunction with probation. With up to three years authorized for this option, the amount of jail time served could well exceed the one year allowed when jail alone was used, and, moreover, would not have to be imposed in conjunction with work release or educational release.

**Response:**

The bill would specify that probation would have to be ordered according to the conditions of probation set forth in Chapter XI of the Code of Criminal Procedure (MCL 772.3). Those conditions limit jail time served in conjunction with probation to twelve months.

**POSITIONS:**

The Prosecuting Attorneys Association of Michigan supports the bill. (6-22-93)

The Michigan Council on Crime and Delinquency opposes the bill. (6-22-93)