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## YOUTHFUL TRAINEE STATUS

House Bill 4587 as enrolled  
Third Analysis (2-11-94)

Sponsor: Rep. James McNutt  
House Committee: Judiciary  
Senate 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 is not 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:

\*\* allow the act to be used only when a youth pleads guilty. Entry of the adjudication of guilt would be held in abeyance until successful completion of the trainee program. 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 (which could include 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.

\*\* delete language requiring the consent of the youth's legal guardian or guardian ad litem.

\*\* extend the age of eligibility for the act to include youths who were twenty years old when they committed their offenses. The act now applies to youths whose offenses were committed between their seventeenth and twentieth birthdays; the bill would extend the upper limit to the twenty-first birthday.

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The bill would take effect October 1, 1993.

MCL 762.11 et al.

### ***FISCAL IMPLICATIONS:***

According to the Senate Fiscal Agency, the bill would have an indeterminate impact on state and local government. By providing additional dispositional options, the bill would enable the Department of Corrections to realize some savings if judges chose the alternatives to prison as indicated in the bill. If that were done, however, local units of government could realize additional costs of county jail incarceration if judges chose this dispositional option. As of October 10, 1993, there were seven prisoners under the department's jurisdiction who were Holmes youthful trainees. Also, during the months of April to June, there were, on average, 2,670 youthful trainee probationers who were under the department's jurisdiction. (12-7-93)

### ***ARGUMENTS:***

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

The bill would improve the Holmes Youthful Trainee Act. It would retain the premise of allowing a young offender to be rehabilitated and have his or her record cleared, but it would restrict the program to youths who demonstrated a measure of responsibility by pleading guilty. 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 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.

Youths who unsuccessfully maintained their innocence would be punished for exercising their constitutional rights.

#### ***Response:***

The bill is right to 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.