



**House  
Legislative  
Analysis  
Section**

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**DETENTION OF JUVENILE  
OFFENDERS WHO USE FIREARMS**

**House Bill 4038 (Substitute H-3)  
First Analysis (5-9-96)**

**Sponsor: Rep. Beverly Hammerstrom  
Committee: Judiciary and Civil Rights**

***THE APPARENT PROBLEM:***

As part of a comprehensive "juvenile justice" package of legislation, legislation has been introduced that would require the detention of juveniles who used firearms to commit crimes.

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

The bill would add a new section to the juvenile code to require that juveniles who used firearms while committing crimes be committed to a detention facility for a specified period of time.

More specifically, in addition to any other disposition under the juvenile code, the bill would require juveniles other than those sentenced as adults to be committed to a detention facility for a specified period of time (which couldn't be longer than the sentence that could have been imposed if he or she had been sentenced as an adult) if the juvenile was (a) under the jurisdiction of the juvenile court, (b) adjudicated as, or convicted of, violating a criminal municipal ordinance or state or federal law, and (c) found to have used a firearm during the criminal violation. (The definition of "firearm" would be that found in Chapter 1 of the Revised Statutes of 1846, which includes "any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion," but which doesn't include "any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air.")

The bill also would amend the juvenile code to recognize the proposed criminal jurisdiction of the probate court. (See the House Legislative Analysis Section analysis of Senate Bill 281 et al. dated 5-8-96.) More specifically, the bill would specify that the probate court could conduct hearings other than criminal hearings (rather than, as currently, "all hearings") informally, and would make changes to the code's jury provisions to allow, in criminal trials, juries to be demanded as provided by law (instead of, as currently, a jury of six for "all hearings") and for juries in criminal trials to be summoned and impaneled in

accordance with the Code of Criminal Procedure (instead of, as currently, in accordance with the Revised Judicature Act). In addition, the bill would delete existing references to "child" and instead substitute the word "juvenile".

Effective date. The bill would apply only to offenses committed on or after it took effect on January 1, 1997.

Tie-bar. The bill would not take effect unless the other bills in the so-called juvenile justice package of bills (Senate Bills 281, 283, 682, 689, 699, 700, 724, 867, 870, and House Bills 4037, 4044, 4371, 4445, 4486, 4487, and 4490) were enacted.

MCL 712A.17

***FISCAL IMPLICATIONS:***

Fiscal information is not available.

***ARGUMENTS:***

***For:***

The detention of juveniles who use dangerous weapons in the course of committing serious crimes should be automatic because of the great potential for harm such conduct carries with it. The bill might even have a deterrent effect on juveniles contemplating using firearms in crimes they intended to commit.

***Against:***

As some have pointed out, the bill would have the effect of limiting judges' discretion in these cases, when some cases might call for just such discretion. For example, while some dangerous juveniles who used firearms to commit crimes might well need to be detained for public safety reasons, in other cases this might not be so. Given the problem that the state already is facing regarding the placement of juveniles who enter the juvenile justice system, mandating detention would seem to only increase these problems. In addition, however, the bill also suggests a major

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policy shift with regard to the juvenile justice system consonant with the rest of the so-called juvenile justice packages. That is, instead of emphasizing the rehabilitation of "salvageable" juveniles, it emphasizes instead their punishment. While there may be good reasons for making such a major policy change, as is true of the whole juvenile justice package (see the House Legislative Analysis Section's analysis of Senate Bill 281 et al. dated 5-8-96) this change should not be taken in haste and without giving more consideration to the potential effects, both good and bad, of such a major policy shift.

***POSITIONS:***

There are no positions at present.

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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.