



Senate Fiscal Agency  
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BILL ANALYSIS



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Senate Bills 1026 through 1028 (as enrolled)  
Sponsor: Senator Mike Rogers  
Senate Committee: Judiciary  
House Committee: Judiciary and Civil Rights

**PUBLIC ACTS 481 through 483 of 1996**

Date Completed: 1-2-97

**RATIONALE**

Public Act 256 of 1996 (Senate Bill 870), which took effect on January 1, 1997, amended the Michigan Penal Code to make it a felony for an individual who had been placed in a juvenile facility for a criminal violation (as opposed to a status offense) to escape or leave without lawful authority, leave the custody of a facility employee, or fail to return to custody when required. The felony of escape from a juvenile facility is punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both. The Family Independence Agency (FIA) reportedly has a policy requiring its staff to report escapes from its juvenile facilities to local law enforcement officials. In light of the enactment of the legislation making escape from a juvenile facility a felony, some people believe that a statutory requirement that juvenile escapes be reported to law enforcement officials should also be enacted.

In addition, some feel that the Social Welfare Act should be amended to conform to constitutional changes made since its enactment in 1939 regarding the appointment and responsibilities of the Director of the FIA, and specifically to allow the Director to delegate the authority to enter into contracts on the Agency's behalf.

**CONTENT**

**Senate Bills 1026, 1027, and 1028 amended, respectively, the Youth Rehabilitation Services Act, the juvenile code, and the Social Welfare Act to require that, if a juvenile escapes from a facility or residence in which he or she had been placed, the person having responsibility for maintaining custody notify the police. Senate Bill 1028 also made several changes pertaining to the appointment and responsibilities of the Director of the Family Independence Agency.**

The bills were tie-barred and took effect on January 1, 1997.

Juvenile Escape

Under the bills, if a State ward or juvenile escapes from a facility or residence, other than his or her own home or the home of his or her parent or guardian, in which he or she had been placed by a court for a criminal offense, the person at the facility or residence who has responsibility for maintaining custody of the juvenile at the time of escape immediately must notify the city, village, or township police department. If the municipality in which the escape occurred does not have a police department, the person responsible for maintaining custody is required to notify the county sheriff's department or the State Police post having jurisdiction over the area. "Escape" means to leave without lawful authority or failure to return to custody when required.

A police agency that receives notification of a juvenile's escape must enter that notification into the Law Enforcement Information Network (LEIN) without undue delay.

FIA Director

Senate Bill 1028 specifies that the Director of the FIA is to be appointed by the Governor, with the advice and consent of the Senate. The Director will serve at the pleasure of the Governor. The bill deleted a requirement that a person appointed as the FIA Director be a resident of Michigan for at least five years.

In addition, the Social Welfare Act allows the FIA Director to enter into any agreement or agreements with Federal, State, or local units of government or private agencies necessary to enable the State or governmental units to

participate in any plan the Director considers desirable for the welfare of the people of Michigan. Senate Bill 1028 authorizes the Director or the Director's designee to enter into those agreements.

Proposed MCL 803.306a (S.B. 1026)  
Proposed MCL 712A.18j (S.B. 1027)  
MCL 400.3 et al. (S.B. 1028)

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Although the FIA reportedly expects its employees to report juvenile escapes to the police, on occasion the reports apparently have not been made. Establishing a law to require notification of police will provide a greater incentive for the FIA employees, as well as employees of other juvenile facilities, to report an escape to law enforcement authorities as quickly as possible.

The changes in how the FIA Director is appointed, the removal of the five-year residency requirement, and the provision making the Director an at-will employee of the Governor all simply updated a 1939 law and brought it into compliance with current practice and the requirements of the State Constitution. Article 5, Section 3 of the State Constitution of 1963 provides that, unless elected or appointed as otherwise provided in the Constitution, the director of a department of State government shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.

### **Opposing Argument**

This legislation was unnecessary, as the FIA already required its employees to report the escape of juveniles to the police. Furthermore, there should be no need to create a State law to require those maintaining custody of juvenile offenders to report to the police when one of their wards escapes, since reporting escapes should be routine.

**Response:** Prior to the enactment of Public Act 256 of 1996, escape from a juvenile facility was not a felony. Since it is now a felony, the law should reflect that change by imposing a statutory duty to report an escape. Further, the FIA is not the only entity that operates juvenile facilities in Michigan. Even if FIA facilities are in complete compliance with the Agency's reporting policy,

there are other juvenile facilities operated by counties, juvenile courts, and private agencies that should be held to the same standard.

### **Opposing Argument**

Allowing the FIA Director to designate others to bind the Agency contractually may give rise to other problems. For instance, Senate Bill 1028 does not address such issues as how many designees may be authorized to enter the FIA into contractual agreements; what sort of limitations are placed on the designee; and whether the Director may override a designee's decision to commit the FIA to a contract.

**Response:** This merely grants the FIA Director the same degree of authority as was already possessed by some other State officials.

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bills may have a minimal indeterminate impact on State government. The Family Independence Agency has indicated that notifying law enforcement agencies following the escape of a State ward was already being done. If this was not the practice, however, State delinquency services facilities or the contracted agencies with which the wards are placed will incur a minimal increase in administrative costs for contacts made to the law enforcement representatives.

Fiscal Analyst: C. Cole

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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.