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**BILL ANALYSIS**



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House Bill 4037 (Substitute H-4 as reported without amendment)

Sponsor: Representative Beverly Hammerstrom

House Committee: Judiciary and Civil Rights

Senate Committee: Judiciary

### **CONTENT**

The bill would amend the juvenile code to expand the list of offenses for which a juvenile court review hearing is required, if a juvenile is committed to a juvenile facility, to determine whether the juvenile has been rehabilitated and whether he or she presents a serious risk to public safety. The bill would add to that list assault with intent to maim; first-degree home invasion; escape from a juvenile facility (as proposed by Senate Bill 870); and robbery of a bank, safe, or vault. The bill specifies that, in a review proceeding, the juvenile would have the burden of proving, by a preponderance of the evidence, that he or she had been rehabilitated and was not a serious risk to public safety.

The bill also specifies that this review proceeding would not apply to a juvenile convicted of a crime in juvenile court, as Senate Bill 682 (H-3) would allow, and that a criminal conviction pursuant to that proposal could not be set aside under the juvenile code's expunction provisions.

The bill is tie-barred to House Bills 4038, 4044, 4371, 4445, 4486, 4487, and 4490, and Senate Bills 281, 283, 682, 689, 699, 700, 724, 867, and 870, and would take effect on January 1, 1997.

MCL 712A.18 & 712A.18e

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

Department of Corrections. House Bills 4037 (H-4), 4038 (H-3), 4044 (H-2), 4371 (H-3), 4486 (H-3), 4487 (H-3), and 4490 (H-3) would have an indeterminate fiscal impact on the Department of Corrections. Costs of incarceration would increase to the extent that the new provisions allowing a juvenile court to impose a delayed sentence on a juvenile, after trying him or her as an adult, resulted in an increase in future commitments to the Department of Corrections. In addition, lowering from 15 to 14 the age at which a juvenile may be waived to adult court, could result in increased commitments to the Department of Corrections depending on the increased number of waivers and the disposition of each sentence.

Given that the bills would provide for a number of conditions, options, and other variables through each stage of the process (which way to prosecute, in which court, with a number of different sanctioning options), it is difficult to predict to what extent, if any, these bills would have a fiscal impact on the Department of Corrections. Furthermore, if the bills resulted in a shift in sanctioning practices from the juvenile system, to the adult system, State costs could in fact decrease, since the costs of juvenile detention are generally significantly greater than the costs of adult-type incarceration.

Family Independence Agency. The bills would have an indeterminate impact on the Family Independence Agency. It is difficult to determine when taken together what the specific impact of the bills would be. It is possible that more juveniles would be committed to the system and for longer periods of time due to the addition of certain offenses, such as crimes that if committed by an adult would be punishable by imprisonment, juveniles adjudicated for criminal violations with the use of a firearm who would have to be committed to a juvenile facility, and, under certain circumstances, cases that would qualify for a change in automatic discharge from State wardship from 19 years to 21 years of age.

The amending language that addresses the sentencing of juveniles as an adult, delayed sentencing sanctions, and not permitting the setting aside of convictions, could reduce the number of juveniles committed to the delinquency services system or the amount of time spent as a State ward. However, this does not include the majority of cases under Family Independence Agency responsibility. An Office of Delinquency Services report on case termination from the system includes some reasons pertaining to the change in case status that these proposed legislative changes also address. The report indicates that of those youths released from the training schools, approximately 5% were moved to higher security level commitment, 5% were terminated from the training schools while they were on truancy status, and 12% were released as youths who had not met all the case planned goals but whom the center believed would not make further progress in a juvenile delinquency program. In cases assigned to residential care, the report indicates that 1% were moved to higher security, generally due to minimal constraints on the juveniles, 33% were truancy status cases, and 20% were at maximum treatment goals benefit.

However, the general cost of cases in the juvenile system is presented below for reference:

<b>AVERAGE ANNUAL STATE COSTS</b>			
<u>Department of Social Services</u>		<u>Department of Corrections</u>	
Detention Center. . . . .	\$ 78,900	Probation. . . . .	\$ 3,000
Family Group/Shelter Homes. . . . .	9,700-9,325	Tether. . . . .	2,375
Residential Care Center. . . . .	61,600	Boot Camp*. . . . .	11,500
Foster Family Homes. . . . .	7,264	Secure Confinement. . . . .	20,000
*Includes 1-year intensive supervision.			

Probate Courts. The fiscal impact on the probate courts would depend on the number of juveniles who required a formal criminal proceeding. Since the procedures involved in holding criminal proceedings are currently practiced in other courts, the impact of increased formal hearings is expected to be minimal.

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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.