House
Legislative
Analysis
Section

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COUNTY JUVENILE AGENCIES

Senate Bill 1183 with House committee amendments
Senate Bills 1187 and 1196 as passed by the Senate
Sponsor: Sen. Robert Geake

Senate Bills 1184 and 1185 with House committee amendments
Senate Bills 1189, 1193, and 1194 as passed by the Senate
Sponsor: Sen. Jon Cisky

Senate Bills 1186, 1190, 1192, and 1195 as passed by the Senate
Sponsor: Sen. Bill Bullard, Jr.

Senate Bills 1188, 1191, and 1197 as passed by the Senate
Sponsor: Sen. John Schwarz, M.D.

House Committee: Appropriations
Senate Committee: Families, Mental Health and Children (Discharged)

Complete to 12-9-98

A SUMMARY OF SENATE BILLS 1183-1197 AS REPORTED BY THE HOUSE APPROPRIATIONS COMMITTEE

The package of bills would allow counties to assume full responsibility for delinquent juveniles, who are currently state wards. (Abuse and neglect cases would still be the responsibility of the Family Independence Agency.) Under the bills, counties could either operate their own facilities for the care and supervision of these juveniles, or contract with other entities for that care and supervision. A county that was designated as a county juvenile agency would be eligible for block grant funds to pay for the care and supervision costs.

Senate Bill 1185 would create a new act, the County Juvenile Agency Act, to allow a county to accept responsibility for delinquent juveniles by becoming a county juvenile agency. The bill specifies that its provisions would not apply to a county unless it was eligible for a transfer to Title IV-E funds from the state under a 1997 federal waiver. (Apparently, this provision would limit the applicability of the bill to Wayne County.) A majority of the county board of commissioners would have to adopt a resolution to accomplish this. In a county that was a charter county, or that had adopted an optional unified form of county government, the county

board could not proceed in adopting such a resolution unless requested by the county executive or chief administrative officer, in the former case, or by the county executive or county manager, in the latter case. The resolution would not be effective until the county and the state had entered into a written agreement designating outcome criteria and reporting requirements, specifying that any federal penalties would be the responsibility of the county, and authorizing the state to offset any such penalties against amounts due to the county from the block grant.

The bill specifies that becoming a county juvenile agency would constitute an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered beyond that required by existing law on that date, and would constitute a voluntary acceptance by the county of all expenses and capital improvements initiated and approved by the county that might result.

The bill specifies that a majority of the board of commissioners who approved a resolution to become a county juvenile agency could revoke it by a subsequent resolution adopted before December 31; such a revocation would be effective October 1 of the next year. However, if a county revoked its authorization within the first five years, the revocation would not be effective until October 1 of the fifth year, or October 1 of the first state fiscal year for which the state failed to appropriate the amount required to be distributed to the county under the Social Welfare Act, and for which a loan has not been authorized for the deficiency under the Emergency Municipal Loan Act on terms acceptable to the county, whichever occurred first.

A county juvenile agency would have to provide or contract for all of the following:

• An effective program of supervision and care for juveniles committed to the county by the family division of the circuit court or by the court of general criminal jurisdiction.

• Appropriate county juvenile agency services.

• Appropriate services and facilities necessary for public wards.

A county juvenile agency would be permitted to do any of the following:

• Operate training schools or programs, halfway houses, youth camps, diagnostic centers, detention facilities, short-term treatment centers, group homes, or other facilities.

• Provide institutional care, boarding care, halfway house care, supervision in the community, or other juvenile programs or services.

• Obtain appropriate services from state, local, or private agencies, if those services met all applicable state and local government licensing standards.

• Provide appropriate juvenile justice services to any juvenile.

A county juvenile agency would be required to pay its service providers within 45 days after being billed, as provided in the contract. Further, a county would have to negotiate with

providers for prepayment contract clauses that do not exceed 33 percent. Unless otherwise negotiated, payments for residential care services would be paid in 25 percent increments, as follows: 1) when care was first provided, 2) when 1/3 of the care had been provided, 3) when 2/3 of the care had been provided, and 4) at the completion of care.

The bill would prohibit a county juvenile agency from using religion, race, color, national origin, or sex as a criterion for discriminating against or providing preferential treatment in contracting with providers. Further, the bill specifies that if one or more appropriate juvenile residential care providers located or doing business in the state had bed space available, a county juvenile agency would have to use that space rather than bed space from a provider located or doing business in another state. However, that would not apply in the case of an out-of-state provider offering a specialized program not available in Michigan.

The bill would require a county to maintain the account for the block grant separately from all other accounts of the county's funds. Expenditures would also have to be shown as separate line items or appropriations in the county's budget. The state would conduct an annual audit of all state money provided to counties under the bill.

The bill specifies that when a county becomes a county juvenile agency, public wards and juveniles transferred to the county's responsibility would remain in their existing placements, under the same terms and conditions, until a court approved a change in placement.

Under the bill, if a county assumed the operation of any facility operated by the Family Independence Agency, the county would be the successor employer. Employees under a successor agency agreement could not be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as a state employee. This provision would also apply if the county leased such a facility to a private agency or a public agency other than the state.

The bill provides that if a county becomes a county juvenile agency, that would not affect existing agreements between the Family Independence Agency and private providers, which would be guaranteed enforceable at the per diem rate as of the effective date of the bill. However, that provision would not limit the powers and authority granted under the bill to a county juvenile agency, including the discretion to select and contract with providers of juvenile residential care.

Senate Bill 1184 would amend the Youth Rehabilitation Services Act (MCL 803.302 et al.), an act that governs the acceptance, care, and discharge of youths committed to the Family Independence Agency as state wards. The bill would replace the term "state ward" with "public ward", and make other changes to conform to the provisions of Senate Bill 1185, which would allow a county to take responsibility for the care of these youths. Generally, the bill would make the provisions of the act applicable either to the FIA or to a county juvenile agency, whichever had responsibility over a public ward.

On the date that a county became a county juvenile agency, the county would assume responsibility for all public wards committed to the state from that county. If the county revoked

its authorization to become a county juvenile agency, the FIA would again assume responsibility for those youth. The bill provides that only one agency would have responsibility for a public ward at any time: either a county juvenile agency or the state FIA. It would specify that if a county was responsible for a youth's care, it would also be responsible for the entire cost of that care.

Currently, the law allows the department to place a youth in a public or private institution or agency in another state or country, where necessary. The bill would grant that authority to a county youth agency, but would require that such placements be in a state or country that had licensing laws, requirements, and rules equal to or exceeding those required of a Michigan placement.

Under current law, it is a misdemeanor to induce or assist a state ward to "absent himself" [or herself] from residential placement. The bill would provide that the penalty for this misdemeanor would be imprisonment for up to 90 days, a fine of up to $100, or both.

Senate Bill 1183 would amend the Social Welfare Act (MCL 400.55 et al.) to make complementary amendments. It would add language requiring that residential bed space for juveniles under court or FIA jurisdiction similar to language in Senate Bill 1185. That is, if one or more appropriate juvenile residential care providers (private nonprofit entities, domiciled in Michigan, licensed by the state, and having contractual agreements with the FIA as of the effective date of the bill) located or doing business in this state had bed space available, the FIA would have to use that space rather than space in out-of-state facilities (except for specialized programs not available from Michigan providers). Further, the bill would require, if there was an excess of bed space within a security level, that the FIA first use the bed spaces of private providers with whom it had contracted and allow state-owned bed space to go unused. However, a bed space that was available because a facility refused to accept a juvenile would not count toward a surplus.

The bill provides a definition of "county juvenile agency services", which would include all juvenile justice services for youth who were within a court's jurisdiction under provisions of the juvenile code that concern criminal behavior, running away from home, repeated disobedience to parents, or repeated school truancy (but not those under the court's jurisdiction due to child neglect or abuse). The bill specifies that juvenile justice services approved by a county juvenile agency or by the FIA would have to meet all applicable state and local government licensing standards. Further, the bill says that the FIA would be liable for all juvenile justice services other than those defined as "county juvenile agency services" in a county that has adopted a resolution to be a county juvenile agency.

The bill specifies a formula for determining the amount of a county juvenile agency's block grant funding for carrying out its responsibilities under the bill. The base amount, generally speaking, would consist of all state or federal funding to the county for fiscal year 1997-98 for items related to county juvenile agency services, including the county's 50 percent state reimbursement for its expenditures from its child care fund (for the foster care of children), detention and assessment costs, community-based programs, staff costs, program operational costs, and the cost of care for state wards, minus one-half of the amount of state and county

expenditures charged to the county's child care fund for the 1997-98 fiscal year that were *not* "county juvenile agency services", as that term is defined in the bill.

For fiscal years 1999-2000 and thereafter, the base amount of the juvenile block grant to a county would be adjusted by two multipliers, one based on the percentage change in the reimbursement rate for service providers, and one based on the percentage change in the county's juvenile population.

Further, a county's juvenile block grant would be reduced to account for educational services offered to state wards in state-operated training schools for whom the county had assumed responsibility.

Senate Bill 1186 would amend the child care licensing act (MCL 722.115 and 722.115b) to require the Family Independence Agency to expedite licensing for child care facilities that are being developed to contract with a county juvenile agency. Under the bill, the FIA would have to review an application and advise the applicant and the county juvenile agency within 10 days after receiving an application as to what further information was required to complete the application, and the FIA would have to issue or deny a license to such an applicant within 60 days of receiving an application. If the FIA failed to issue or deny a license within 60 days, the county juvenile agency or the applicant could bring an action for mandamus to require the FIA to issue or deny the license. The bill would also specify that a county juvenile agency would be a "party" for purposes of any hearing, review, or other proceeding on a license application under the bill. The county could also challenge the FIA's determination concerning further required information for a child care facility license application.

Senate Bill 1187 would amend the juvenile code (MCL 712A.1 et al.) to make complementary amendments. It would specify the responsibilities of the family division of the circuit court in committing a juvenile to either the FIA, or to a county juvenile agency where appropriate. Further, the bill would allow the county juvenile agency to place a juvenile under its care in a juvenile boot camp program. In addition, it would allow the family division of the circuit court to enter into an agreement with any or all district courts or municipal courts within the circuit court's jurisdiction to waive jurisdiction over any or all cases involving juveniles alleged to have committed civil infractions.

Senate Bill 1196 would amend the Emergency Municipal Loan Act (MCL 141.932 et al.) to authorize loans under the act to Wayne County during fiscal year 1998-99 and provide for a loan to a county that was a "county juvenile agency" under Senate Bill 1185 and that received a block grant under Senate Bill 1183 for provision of juvenile justice services. Loans made under the bill would not have to meet the Emergency Municipal Loan Act's current eligibility conditions or interest payment and monitoring requirements. The specifies that, for a state fiscal year in which a block grant appropriation to Wayne County for juvenile justice services was less than the amount required to be distributed to that county in that year under the Social Welfare Act, the county could receive a loan for the amount of the difference.

Senate Bill 1197 would amend the Health and Safety Fund Act (MCL 141.473 and 141.475) to allow money distributed from the Health and Safety Fund (which is funded by the

proceeds of the excise tax on cigarettes under the Tobacco Products Tax Act) to be used by a county that received a loan under Senate Bill 1196.

Tie-bars. Senate Bills 1183, 1184, 1185, 1186, 1187, 1196, and 1197 are tie-barred to each other.

The rest of the bills in the package would amend various acts to make complementary amendments. They are all tie-barred to Senate Bills 1183-1187, 1196 and 1197. Senate Bill 1188 would amend the Code of Criminal Procedure (MCL 761.1 et al.). Senate Bill 1189 would amend the Juvenile Facilities Act (MCL 803.222 et al.). Senate Bill 1190 would amend the DNA Identification Profiling Act (MCL 28.173). Senate Bill 1191 would amend the Crime Victim's Rights Act (MCL 780.752 et al.). Senate Bill 1192 would amend the Mental Health Code (MCL 330.1498c and 330.1498d). Senate Bill 1193 would amend Public Act 220 of 1935, which governs the Michigan Children's Institute (MCL 400.207). Senate Bill 1194 would amend the Michigan Penal Code (MCL 750.186a). Senate Bill 1195 would amend the Juvenile Boot Camp Act (MCL 400.1302 et al.).

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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.