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SFA



BILL ANALYSIS

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Senate Bill 537 (Substitute S-1 as reported)
Senate Bill 538 (Substitute S-1 as reported)
Senate Bill 539 (Substitute S-1 as reported)
Sponsor: Senator Robert Geake
Committee: Judiciary

Date Completed: 12-2-97

RATIONALE

Several provisions in Michigan law set criminal penalties for offenses involving the use of tobacco by minors. These include a section of the Youth Tobacco Act that prohibits minors from using tobacco in a public place, and a section of the Michigan Penal Code that prohibits the use of tobacco products on school property. If either offense is committed by a minor, it is within the exclusive jurisdiction of the juvenile division of the probate court (juvenile court). Beginning on January 1, 1998, juvenile offenses will be within the exclusive jurisdiction of the family division of the circuit court (family court). Reportedly, some people have complained that minors who commit tobacco violations are dealt with too leniently, since the juvenile court must focus on more serious offenses. There is concern that this will still be true when jurisdiction is transferred to the family court, which also will have exclusive jurisdiction over divorce, child custody, child support, adoption, and paternity cases, among others. It has been suggested that the district court might be better able to handle tobacco offenses committed by juveniles.

CONTENT

The bills would amend several statutes to give the district court concurrent jurisdiction with the family court over various tobacco violations committed by a minor. The bills are tie-barred to each other.

Senate Bill 537 (S-1)

The bill would amend the Michigan Penal Code and would apply to the use of a tobacco product on school property. The offense is a misdemeanor punishable by a fine of up to \$50.

Senate Bill 538 (S-1)

The bill would amend a section of the Youth Tobacco Act that prohibits a person under 18 from possessing or smoking cigarettes or cigars; possessing, chewing, sucking, or inhaling chewing tobacco or tobacco snuff; or possessing or using tobacco in any other form, on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement. The offense is a misdemeanor punishable by a fine of up to \$50, as well as community service or participation in a health promotion and risk reduction program.

Senate Bill 539 (S-1)

The bill would amend provisions of the Revised Judicature Act that specify cases over which the district court and the family division have jurisdiction. The bill provides that the district court would have concurrent jurisdiction over a misdemeanor involving a violation of the Michigan Penal Code or the Youth Tobacco Act (as described above), by a minor.

The bill also would make an exception to a provision that gives the family division sole and exclusive jurisdiction over cases involving juveniles as provided in the juvenile code (beginning on January 1, 1998). Under the bill, the family division would have sole and exclusive jurisdiction unless the case involved a violation of the Penal Code or the Youth Tobacco Act (as described above), where jurisdiction would be concurrent with the district court.

MCL 750.473 (S.B. 537)
722.642 (S.B. 538)
600.1021 & 600.8311 (S.B. 539)

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

Michigan law already contains adequate provisions designed to deter minors from using tobacco products, and to punish those who commit violations. These provisions, however, must be enforced in order to be effective. Since the juvenile court must handle far more serious offenses, minors evidently receive little more than a day off school when they are accused of committing a tobacco violation. When the family court takes over in January, it also will have an extremely demanding workload and probably will have to focus on domestic relations matters and serious juvenile offenses. The district court, on the other hand, already has jurisdiction over misdemeanors committed by adults, and could give juvenile tobacco offenders the attention they require. Under the bills, the district court and the family court would share concurrent jurisdiction over tobacco violations committed by a minor.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bills would have a minimal fiscal impact regarding court costs.

Fiscal Analyst: B. Bowerman

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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.