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BILL



ANALYSIS

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House Bill 5600 (Substitute H-5 as passed by the House)
Sponsor: Representative Joe Haveman
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 12-4-12

CONTENT

The bill would amend the juvenile code to do the following:

- **Allow a person who had been adjudicated of not more than one juvenile offense that would be a felony and not more than two that would be misdemeanors if committed by an adult, to file for a court order expunging those adjudications.**
- **Specify that multiple, related juvenile adjudications for acts that occurred within 12 hours would be considered one offense, if the adjudications were not for certain violations.**
- **Allow a person to file for expunction of juvenile adjudications sooner than under current law.**

Currently, except as otherwise provided, a person who has been adjudicated of not more than one juvenile offense and who has no felony convictions may file an application with the adjudicating court for the entry of an order setting aside the adjudication. A person may have only one adjudication set aside.

Under the bill, instead, a person who had been adjudicated of not more than one juvenile offense that would be a felony if committed by an adult and not more than two juvenile offenses that would be misdemeanors if committed by adult, and who had no felony convictions, could file for an order setting aside the juvenile adjudications. A person could have only one adjudication set aside for an offense that would be a felony if committed by an adult and not more than two adjudications set aside for an offense that would be a misdemeanor if committed by an adult.

The bill specifies that multiple juvenile adjudications arising out of a series of acts that were in a continuous time sequence of 12 hours or less, and that displayed a single intent and goal, would constitute one offense if none of the adjudications constituted any of the following:

- An assaultive crime.
- An offense involving the use or possession of a weapon.
- An offense with a maximum penalty of 10 or more years' imprisonment.

("Assaultive crime" means that term as defined in Section 9a of Chapter 10 of the Code of Criminal Procedure. Under Section 9a, "assaultive crime" includes various assault offenses;

attempted murder, first-degree murder, second-degree murder, and manslaughter; kidnapping; hostage-taking by a prisoner; mayhem; stalking; first-, second-, third-, and fourth-degree criminal sexual conduct (CSC) and assault with intent to commit CSC; carjacking; use of force or violence, or possession of a weapon, during the course of committing larceny; a violation of Chapter 33 (Explosives and Bombs, and Harmful Devices) of the Michigan Penal Code; and a violation of the Michigan Anti-Terrorism Act.)

Under the juvenile code, an application to set aside a juvenile adjudication may not be filed until the latest of the following:

- Five years after the disposition for the adjudication was imposed.
- Five years after any term of detention for the adjudication was completed.
- The person's 24th birthday.

Under the bill, an application could be filed one year after the disposition was imposed, one year after any term of detention was completed, or the person's 18th birthday, whichever was latest.

Under the code, a person may not apply to have set aside, and judge may not set aside, any of the following:

- An adjudication for an offense that if committed by an adult would be a felony for which the maximum punishment is life imprisonment.
- An adjudication for a traffic offense that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.
- A conviction under Section 2d of the code, which provides for a juvenile to be tried as an adult under certain circumstances (though such a conviction may be set aside as otherwise provided by law).

The bill would retain those restrictions.

MCL 712A.18e

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

By creating the potential for multiple adjudications to be set aside and also reducing the waiting period before which a juvenile offender can petition for a set-aside, the bill could result in an increase in applications and therefore an increase in administrative costs for local courts and the Michigan State Police. Costs for the Michigan State Police could be partially offset by a corresponding increase in revenue from the \$25 application fee.

Fiscal Analyst: Dan O'Connor

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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.