

Legislative Analysis



JUVENILES: SENTENCING AND WAIVING TO ADULT COURT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4955 as reported without amendment
Sponsor: Rep. Harvey Santana

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4956 as reported without amendment
Sponsor: Rep. Vanessa Guerra

Committee: Criminal Justice
Complete to 4-26-16

SUMMARY:

House Bills 4955 and 4956 are tie-barred to each other and change the criteria used by a court when determining whether to sentence a juvenile as an adult or a juvenile and whether to waive certain juveniles to adult criminal court. The bills take effect 90 days after enactment. The bills are part of the legislative package to reform juvenile justice. Other bills in the package include HB 4947-4954 and 4957-4966. (See the summaries of those bills for background information.)

House Bill 4955 amends the Code of Criminal Procedure (MCL 769.1). Some crimes require a court to sentence a juvenile in the same manner as an adult. For other crimes, a judge must conduct a hearing at the time of sentencing to determine, by a preponderance of the evidence, if the best interests of the public would be served by placing the juvenile on probation or committing the juvenile to an institution or agency described in the Youth Rehabilitation Services Act or by imposing any other sentence provided by law for an adult offender. In making the determination, a judge in the Family Division must consider certain listed factors and *give greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency*. The bill deletes the highlighted text.

House Bill 4956 amends the Probate Code to make a similar change as above when a judge is considering criteria in making a determination whether to waive a juvenile 14 years of age or older to adult criminal court. (MCL 712A.4)

FISCAL IMPACT:

Corrections. As introduced, House Bills 4955 and 4956 could result in a savings to the state Department of Corrections. The amount of savings is indeterminate and would depend solely on judicial discretion and case outcomes. It is anticipated that fewer 17-year-olds would be sentenced to prison, meaning a savings to the Department of Corrections. The number of 17-year-olds that would not be sentenced to prison is not known. Therefore, it is not possible to assign an amount of savings to be achieved.

DHHS and Counties. House Bills 4955 and 4956 could increase costs to the Department of Health and Human Services (DHHS) and to local county governments. By eliminating the requirement that judges consider the seriousness of the alleged offense and the juvenile's prior delinquency history more heavily than other factors when sentencing, the bill's provisions may result in additional juveniles being directed to treatment and services within the juvenile justice system than under current law. Any increase in costs to DHHS and county governments would depend upon on how many additional juveniles would now be placed under DHHS or local court supervision through judicial discretion in the disposition of their cases and what placements or services might be ordered by the court.

BRIEF DISCUSSION OF THE ISSUES:

As stated above, the bills would eliminate the current requirement that in making a determination regarding whether to impose juvenile or adult sanctions on a juvenile, or waive a juvenile to adult court to be tried and sentenced as an adult, that the court put more weight on the seriousness of the crime and the juvenile's prior record of delinquency. Under the bill, all factors required to be considered would be looked at equally. For instance, rather than the offense and if the juvenile had a record of other juvenile adjudications or truancy being the main determinants of a juvenile sanction or being waived to adult court, the judge could give equal weight to factors such as culpability (e.g., the level of the juvenile's participation in planning and carrying out the offense), whether the juvenile had received any prior programming, and his or her willingness to participate meaningfully in available programming. The bills therefore could result in fairer treatment in some circumstances; for example, when a juvenile is more of a bystander than a mastermind or actor in an offense in which a person is injured.

Proponents say that youth are much more vulnerable to being shaped or influenced by external factors. The bills simply allow a judge to consider all the factors required by statute equally, and then to fit the sanction with the facts of the case. The benefit is that some juveniles may be able to be diverted to the juvenile justice system with juvenile sanctions under the bills' provisions rather than having a criminal record that could hinder them in building a productive life as adults. However, the bills would not change provisions that mandate instances in which a juvenile must be waived to adult court.

POSITIONS:

The following entities expressed *support* for the bills:

Michigan Council on Crime and Delinquency
Michigan Catholic Conference
Michigan United
Governors' Committee on Juvenile Justice
Michigan Legislative Black Caucus
Family Advisory Board, Family Participation Program
First Unitarian Universalist Church of Ann Arbor
Coalition Against Mass Incarceration

Michigan's Children
Michigan Probate Judges Association (in concept)
National Association of Social Workers-MI
Citizens Alliance on Prisons & Public Spending (CAPPS)
A.R.R.O. (Advocacy, Reentry, Resources, & Outreach)
Criminal Defense Attorneys of Michigan (in concept)
Citizens for Prison Reform
Hope Network
American Friends Service Committee
ACLU of Michigan
Highfields, Inc. (HB 4956)
Unitarian Universalist Church of Lansing (HB 4956)
M.A.D.E. *institute* (HB 4956)

The Michigan Department of Corrections is neutral on the bills.

The following entities expressed *opposition* to the bills:

Michigan Association of Counties
Ottawa County
Livingston County
Wayne County
Prosecuting Attorney Association of Michigan

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.