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BILL



ANALYSIS

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House Bills 4955 and 4956 (as passed by the House)
Sponsor: Representative Harvey Santana (H.B. 4955)
Representative Vanessa Guerra (H.B. 4956)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 10-17-16

CONTENT

House Bills 4955 and 4956 would amend the Code of Criminal Procedure and the juvenile code, respectively, to eliminate a requirement that a court give greater weight to certain factors when determining whether to waive jurisdiction of a juvenile to criminal court and whether to sentence a juvenile in the same manner as an adult for certain offenses.

The bills are tie-barred and would take effect on October 1, 2018.

House Bill 4956

Under the juvenile code, if a juvenile who is at least 14 years old is accused of an act that would be a felony if committed by an adult, the family court judge may waive jurisdiction upon motion of the prosecuting attorney. After waiver, the juvenile may be tried in the court having general criminal jurisdiction. Before the family court waives jurisdiction, it must determine on the record if there is probable cause to believe that an offense that would be a felony if committed by an adult has been committed and if there is probable cause to believe that the juvenile committed the offense.

Upon a showing of probable cause, the family court must conduct a hearing to determine if the best interests of the juvenile and the public would be served by granting a waiver of jurisdiction. In making its determination, the court must consider certain factors, giving greater weight to the seriousness of the alleged offense in terms of community protection and the juvenile's prior record of delinquency. The bill would delete the requirement that the court give greater weight to those two factors.

The other factors that the court must consider are: the culpability of the juvenile in committing the alleged offense, including the level of his or her participation in planning and carrying out the offense; the juvenile's programming history; the adequacy of the punishment or programming available in the juvenile justice system; and the dispositional options available for the juvenile.

House Bill 4955

Under the Code of Criminal Procedure, unless the court is required to sentence a juvenile in the same manner as an adult (for an offense described below), a judge having jurisdiction over a juvenile offender must conduct a hearing at the juvenile's sentencing to determine if the best interests of the public would be served by placing the juvenile on probation and

committing him or her to an institution or agency that provides youth rehabilitation services or by imposing a sentence provided by law for an adult offender.

In making the sentencing determination, the judge must consider certain factors, giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency. (The factors are the same as those that must be considered under the juvenile code.) The bill would delete the requirement that the judge give greater weight to the two specified factors.

(The Code requires a court to sentence a juvenile convicted of any of the following in the same manner as an adult:

- First-degree arson.
- Assault with intent to commit murder or to maim.
- Attempted murder, conspiracy to commit murder, or solicitation to commit murder.
- First- or second-degree murder.
- Kidnapping.
- First-degree criminal sexual conduct.
- Armed robbery.
- Carjacking.)

MCL 769.1 (H.B. 4955)
712A.4 (H.B. 4956)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on the State and could have a negative fiscal impact on local government. Since the bills would delete the requirement that judges give greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency when determining whether to waive jurisdiction and, if jurisdiction is waived, whether to sentence the offender as an adult or a juvenile, it is possible that fewer juveniles would be tried and sentenced as adults.

For any decrease in prison intakes, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year. In the long term, if the decreased intake of prisoners reduced the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government would be approximately \$34,550 per prisoner per year.

To the extent that these individuals would be placed under the supervision of the Department of Health and Human Services (DHHS), there would be an increase in DHHS expenses. For local governments, supervision costs would increase to the extent that more offenders were sentenced as juveniles rather than adults.

Fiscal Analyst: Ryan Bergan
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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.