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BILL



ANALYSIS

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House Bill 4960 (as passed by the House)
House Bill 4961 (Substitute H-1 as passed by the House)
House Bill 4962 (as passed by the House)
Sponsor: Representative Klint Kesto (H.B. 4960 & 4961)
Representative Robert L. Kosowski (H.B. 4962)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 10-17-16

CONTENT

House Bills 4960, 4961 (H-1), and 4962 would amend the Code of Criminal Procedure, the Revised Judicature Act, and the juvenile code, respectively, to do the following:

- **Include a 17-year-old as a juvenile for the purpose of criminal prosecution.**
- **Delete bank robbery, escape from a juvenile facility, and certain drug violations from the definition of "specified juvenile violation" (i.e., a particular crime for which a juvenile will be prosecuted as an adult, at the prosecuting attorney's discretion).**

Specifically, House Bill 4960 would include a 17-year-old accused of a specified juvenile violation among the juveniles for whom waiver to adult court is at the discretion of the prosecutor, rather than automatic. House Bill 4961 (H-1) would raise from 16 to 17 the maximum age of a juvenile accused of a specified juvenile violation over whom the circuit court has jurisdiction. House Bill 4962 would raise from 16 to 17 the maximum age of a juvenile over whom the family court has jurisdiction.

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

House Bill 4960

Under the Code of Criminal Procedure, certain serious crimes, such as first-degree murder, arson, and kidnapping, are defined as "specified juvenile violations" when committed by an individual who is at least 14 years old and younger than 17. If the prosecuting attorney has reason to believe that a juvenile within that age range has committed one of these violations, the prosecutor may authorize the filing of a complaint and warrant on the charge with a magistrate concerning the juvenile. Under the bill, these provisions would apply to a juvenile who was at least 14 but younger than 18.

If the magistrate finds at the conclusion of the preliminary examination of the juvenile that a specified juvenile violation did not occur or that there was not probable cause to believe that the juvenile committed the violation, but there is probable cause to believe that some other offense occurred and the juvenile committed that offense, the magistrate must transfer the case to the family court of the county where the offense is alleged to have been committed.

Such a transfer does not prevent the family court from waiving jurisdiction over the juvenile under the juvenile code (which allows a family court judge, upon motion of the prosecuting attorney, to waive jurisdiction over a juvenile who is at least 14 years old and is accused of an act that would be a felony if committed by an adult).

Currently, "specified juvenile violation" includes the following, in addition to a number of other offenses:

- Robbery of any building, bank, safe, or other depository of money, bond, or other valuables.
- Escaping or attempting escape from a juvenile facility that is a high- or medium-security facility operated by the Department of Health and Human Services (DHHS) or a county juvenile agency, or a high-security facility operated by a private agency under contract with the DHHS or a county juvenile agency.
- Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver at least 1,000 grams of any mixture containing a Schedule 1 or 2 controlled substance that is a narcotic drug or cocaine.
- Possessing at least 1,000 grams of any mixture containing a Schedule 1 or 2 controlled substance that is a narcotic drug or cocaine.

The bill would delete these crimes from the definition of "specified juvenile violation".

House Bill 4961 (H-1)

The Revised Judicature Act provides that the circuit court has jurisdiction to hear and determine a specified juvenile violation if committed by a juvenile who is at least 14 years old but younger than 17. Under the bill, the circuit court would have jurisdiction in the case of a juvenile who was at least 14 but younger than 18.

The bill would amend the definition of "specified juvenile violation" similarly to House Bill 4960.

House Bill 4962

Under the juvenile code, as a rule, the family court has exclusive original jurisdiction in proceedings concerning a juvenile under 17 years of age who has violated any municipal ordinance or State or Federal law. In the case of a juvenile who is at least 14 years old and who is charged with a specified juvenile violation, however, the family court has jurisdiction only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant.

Under the bill, family court jurisdiction would apply in the case of a juvenile under the age of 18, rather than 17. Also, the bill would amend the definition of "specified juvenile violation" similarly to House Bill 4960.

MCL 764.1f & 764.14 (H.B. 4960)
600.606 (H.B. 4961)
712A.2 & 712A.2d (H.B. 4962)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bills 4960 and 4961 (H-1)

The bills would have an indeterminate fiscal impact on the State and could have a negative fiscal impact on local government. As the bills would remove some offenses from the "specified juvenile violations" list that provides an automatic waiver for prosecutors to avoid

family court and file charges against a youth directly with the adult criminal court, there could be a reduction in the number of individuals less than 18 years of age who would be sentenced to prison. A violation of the specific offenses could still be prosecuted, even in adult criminal court, though prosecution in criminal court would no longer be mandatory. It is not known how many juveniles will commit the specific crimes eliminated, but there are currently no juveniles housed at State correctional facilities for committing those crimes. Any reduction in people sentenced to prison would reduce costs for the Department of Corrections. To the extent that a violation of one of these offenses resulted in family court jurisdiction, any resulting supervision could be in a juvenile justice facility, which would mean an increase in the costs for supervision to the Department of Health and Human Services and county juvenile justice programs.

House Bill 4962

The bill would have an indeterminate fiscal impact on the State and local courts. The impact would depend on how many cases would be heard in the Family Division of Circuit Court instead of a court for adult cases. Since juvenile proceedings typically require more time to adjudicate, there could be increased resource demands on the courts, depending on how many cases remained before the family court.

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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.