Legislative Analysis

JUVENILE JUSTICE SERVICES: REIMBURSEMENT TO COUNTIES

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House Bill 4144 as introduced
Sponsor: Rep. Tommy Brann
Committee: Judiciary
Complete to 4-8-19

SUMMARY:

House Bill 4144 is part of the legislative package on juvenile justice referred to as Raise the Age. The bill would amend the Social Welfare Act to require a county to choose between two methods of reimbursement from the state related to the cost of providing juvenile justice services to juveniles 17 years of age who would become eligible for such services under the Raise the Age legislation.

Currently, the Department of Health and Human Services (DHHS) provides for the distribution of money appropriated by the legislature to counties for the cost of juvenile justice services as provided in the Act. Juvenile justice services include such things as intake, detention, detention alternatives, probation, foster care, and diagnostic evaluation and treatment. For a county that is not a county juvenile agency, the amount distributed, with some exceptions, must equal 50% of the annual expenditures from the county's child care fund.

Under the bill, beginning 180 days after its effective date, a county would have to choose between the two following ways to be reimbursed for payment of juvenile justice services:

- Option 1: The state would pay 100% of the cost to provide juvenile justice services to juveniles who are 17 years old and who are under the jurisdiction of the Family Division of circuit court for a criminal charge or, if the court has concurrent jurisdiction with an adult criminal court of a child who is 17, for whom voluntary services have been exhausted or refused for certain delinquent conduct on the part of the child, such as repeated addiction to drugs or alcohol or associating with certain types of people. (There would be no change in funding provided for juveniles under 17 years old. Further, the county would be responsible for placement and programming for the juveniles 17 years of age and older but under 18 years old who are under the court's jurisdiction as described above.)

- Option 2: The state would pay 68% of the cost to provide juvenile justice services to all juveniles who are eligible for services under the Child Care Fund, including juveniles who are 17 years old.

The bill would take effect January 1, 2021.

MCL 400.117a

BACKGROUND INFORMATION:

House Bill 4144 is a reintroduction of House Bill 6396 of the 2017-18 legislative session. It is part of a bill package known as the "Raise the Age" legislation, which is intended to treat individuals who are 17 years of age as juveniles in criminal proceedings rather than automatically treating them as adults.

FISCAL IMPACT:

This bill would amend the Social Welfare Act to require counties to choose between two choices for reimbursement by the state for the costs of juvenile justice services.

Currently, the state is required to reimburse counties for 50% of eligible expenses from county Child Care Funds. The state makes these reimbursements from the state Child Care Fund (CCF), which is a fund appropriated in the DHHS budget from which the state reimburses counties for 50% of eligible expenditures concerning the care and treatment for children who are court wards. The Fund reimburses counties for programs that serve neglected, abused, and delinquent youth, and funding may be expended for out-of-home placements such as foster homes or county-operated facilities. Expenditures may also be made for in-home services which allow children to remain in their own homes, and may include job training skills, intensive probation, community wraparound services, mentoring, family counseling, electronic tethers, alternatives to detention, and other community-based services.

Option #1

The bill's first option for counties is that in addition to the currently required 50% reimbursement to counties for other eligible expenses, the state would pay 100% of the cost of juvenile justice services for 17-year-olds who are under a circuit court's Family Division's jurisdiction for a criminal charge or are under concurrent jurisdiction with an adult criminal court for certain delinquency activities.

Under current law, 17-year-old offenders are treated as adults and are not adjudicated under juvenile court jurisdiction. Therefore, the fiscal impact of option #1 only occurs if the other bills that are part of the "Raise the Age" legislative package are enacted. If these bills were enacted along with this bill, there would be additional costs to the state and minimal costs to local units of government related to providing juvenile justice services. While the specific amount of these additional costs is not known at this time, a recently released legislatively commissioned report has provided estimates of the additional amount using historical data and surveys.

A report released March 14, 2018, that was commissioned by the State of Michigan Legislative Council Criminal Justice Policy Commission (the "Report"),[1] presents a range of what the estimated additional costs might be to the state Child Care Fund should this category of 17-year-olds be adjudicated under juvenile courts and provided with juvenile

[1] Hornby Zeller Associates, Inc. *The Cost of Raising the Age of Juvenile Justice in Michigan: Final Report.* March 14, 2018. http://council.legislature.mi.gov/Content/Files/cjpc/MIRaisetheAgeFinalReport03.14.2018.pdf

justice services. The report states that the amount of increase to expenditures from the state Child Care Fund (under the current 50/50 state-local cost sharing model) is expected to be between $9.6 million and $26.8 million. Under the bill's provisions that the state pay 100% of eligible expenses, instead of the current law's 50% requirement, this estimated range of expected additional costs would be doubled and the range of costs would be approximately $19.2 million to $53.6 million to the state.

Within this range, it is important to note that the amount of additional costs incurred by the state would be dependent upon a variety of factors. These would include factors such as judicial and prosecutorial discretion, the type and security level of the residential placement required for each juvenile, as well as their length of stay.

Option #2

The bill's second option for counties is that, instead of the currently required 50% reimbursement to counties for eligible expenses from the CCF, the state would pay 68% of the cost to provide juvenile justice services for all eligible juveniles, including 17-year-olds. This provision would increase the amount of state reimbursement of eligible county expenses from 50% to 68% and, unlike the first option, the 68% reimbursement would be for all juvenile justice services and not limited to just those for juveniles who have committed criminal or delinquency acts. So, for example, the 68% reimbursement rate would now be applied to foster care payments as well. In addition, the bill would require that foster care administrative rates be reimbursed at the 68% rate rather than the current mandated 100% requirement under subsection (4)(e), (f), and (g).

Option #2 has a fiscal impact regardless of whether the other bills in the "Raise the Age" legislative package are enacted. If this bill is enacted and the other bills in the "Raise the Age" legislative package are not enacted, state CCF costs would increase by approximately $58.7 million and county costs would reduce by a similar amount. In FY 2018-19, the expenditures from the state CCF are anticipated to be $199.7 million. Of this amount, approximately $19.4 million are expected to be used to pay for recent administrative rate increases of which the state is mandated to pay 100%, the remaining amount reflects the state's 50% share for the other CCF-eligible services.

If the other bills in the "Raise the Age" legislative package are enacted, then this bill could increase costs to the state and reduce county costs. The Report estimates that the increased costs of this change to the child care fund would range from $19.2 million to $53.6 million under the current 50/50 state-local cost share model. Once this expenditure amount is reduced by the state CCF's reimbursement of eligible expenditures, the estimated amount of this increased cost to counties would be between $16.9 million and $34.1 million. This bill requires that the state reimburse these expenditures at 68% instead of the current 50%. Using estimates from the report, the amount of additional costs to county CCFs for increasing the age of this group of juveniles with a 68% reimbursement rate would fall within the range of $16.0 million to $27.0 million. When this cost increase is added to the savings to counties of $58.7 million generated by the 68% reimbursement rate increase for the current CCF, the estimated range of savings to counties from the bill would range from $40.6 million to $29.7 million.

If the other bills in the “Raise the Age” legislative package are enacted, then this bill could increase state costs more than the $58.7 million additional cost for the 68% reimbursement rate increase. Using estimates from the Report, the amount of additional costs to the state CCF for increasing the age of this group of juveniles with a 68% reimbursement rate would fall within the range of $10.5 million to $33.8 million. When this cost increase is added to the additional state cost of $58.7 million generated by the 68% reimbursement rate increase, the estimated range of increased state cost would range from $67.2 million to $90.5 million.

Conclusion

It is important to note that this bill allows each county to choose one of the two reimbursement methodologies. Because it is not possible to predict which choice individual counties would make, the estimated changes in state and county costs are based on calculations using estimates from the Report and, for estimating purposes, assume that all counties chose the option being evaluated. Any varying combination of county choices would be expected to produce variances in the estimated costs.

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