



**House
Legislative
Analysis
Section**

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**JUVENILE DIVERSION: FAILURE TO
COMPLY**

**House Bill 4980 with committee
amendments
Revised First Analysis (1-24-96)**

**Sponsor: Rep. Thomas Kelly
Committee: Judiciary and Civil Rights**

THE APPARENT PROBLEM:

The Juvenile Diversion Act provides guidelines concerning law enforcement agencies' decisions to "divert" a juvenile rather than petitioning the court or authorizing a petition for the minor to be formally charged. A juvenile is "diverted" when an agreement is reached where a minor, who has been apprehended for committing a crime that could result in the minor being formally charged and tried in juvenile court, is either: a) released into the custody of his or her parents or guardian, or b) the minor and the minor's parent or guardian agree to work with a person or organization that would assist the minor and his or her parents or guardian to resolve the problem which led to the minor's arrest. Such an agreement usually results from a conference between the law enforcement official or court intake worker and the juvenile and his or her parent(s), custodian or guardian, wherein the juvenile agrees to comply with the diversion or referral plan and the law enforcement agency agrees not to seek prosecution of the minor.

Currently, when a juvenile fails to comply with the terms of a diversion agreement, there is no recourse for law enforcement. The law enforcement agency must uphold its side of the agreement by not filing a petition or not authorizing a petition regardless of whether the juvenile complies with his or her side of the agreement. Legislation has been introduced to block this loophole that allows minors to avoid the responsibility of complying with the diversion agreement without incurring any punishment.

THE CONTENT OF THE BILL:

Currently, under the Juvenile Diversion Act, the decision to petition the court or authorize a petition for

the minor to be tried must be made within 14 days after the diversion conference. The bill would allow the law enforcement agency 30 days to decide whether or not to file a petition to have a minor tried in juvenile court.

The bill would also amend the act to require the minor to comply with the terms of the diversion agreement and the referral plan in order to prevent a petition from being filed with the court or, if a petition has already been filed, to prevent it from being authorized. A law enforcement official or court intake worker would be able to revoke a diversion agreement if the minor failed to comply with the terms of the agreement and the referral plan. If, under the bill, a diversion agreement had been revoked, the law enforcement official or the court intake worker responsible for the revocation would be required to file with the court information concerning the fact of and reasons for the revocation. After a diversion agreement had been revoked due to the minor's failure to comply with its terms, the minor could be tried as provided by law.

The bill would take effect May 1, 1996.

MCL 722.825 and 722.826

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the Department of Corrections, because it affects matters within the jurisdiction of the juvenile court. Further, the bill would have no fiscal impact on the Department of Social Services, because it would not directly affect juveniles within the Delinquency Services Division. (12-4-95)

House Bill 4980 (1-24-96)

ARGUMENTS:

For:

The bill would require greater accountability of juvenile offenders by encouraging compliance with diversion agreements in order to prevent the revocation of the agreement and subsequent prosecution. The bill might also encourage law enforcement to make better use of diversion agreements as an alternative to incarceration by providing a means of enforcing such agreements. The bill would also prevent the waste of judicial resources stemming from ineffectual diversion agreements.

Against:

There is no evidence that this change in the law is necessary. There is no indication that abuse of the diversion program is so common as to warrant such a change. It is already within the authority of the court to monitor the compliance of a juvenile with a diversion agreement.

POSITIONS:

There are no positions on the bill.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.