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**BILL ANALYSIS**



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Senate Bill 281 (Substitute S-4 as reported)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

### **CONTENT**

The bill would amend the Code of Criminal Procedure to revise the sentencing requirements for certain juvenile offenders tried as adults. The bill would apply to offenses committed on or after its effective date and is tie-barred to Senate Bill 283.

A court of criminal jurisdiction would have to sentence as an adult a juvenile convicted of assault with intent to commit murder, attempted murder, conspiracy to commit murder, solicitation to commit murder, first-degree murder, second-degree murder, or first-degree criminal sexual conduct. Currently, if a juvenile is charged as adult without a juvenile court waiver hearing, the court must conduct a hearing at sentencing to determine whether to sentence the juvenile as an adult or to commit him or her to a juvenile facility. Under the bill, that requirement would not apply to a juvenile convicted of one of the above offenses; for other juveniles, the court would have to sentence a juvenile as an adult unless it determined by clear and convincing evidence that the interests of the public would be best served by placing the juvenile on probation and committing him or her to a juvenile facility.

In making a determination of whether to sentence a juvenile as an adult, the court must consider certain factors, "giving each weight as appropriate to the circumstances". The bill would delete those factors, specify other criteria, and require that the court "give greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency".

In addition, if a juvenile under the jurisdiction of a criminal court were convicted of manufacturing, delivering, creating, or possessing with intent to deliver 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine, the bill would allow a third sentencing option. If the court determined by clear and convincing evidence, using the bill's juvenile sentencing criteria, that the best interests of the public would be served, the court could sentence the juvenile to imprisonment for any term of years with a mandatory minimum of not less than 25 years. (The mandatory adult sentence for that offense is imprisonment for life without opportunity for parole.)

If a juvenile is placed on probation and committed to a juvenile facility, the sentencing court retains jurisdiction over the juvenile, must conduct an annual review of the services provided to the juvenile, and may order changes in the juvenile's placement or treatment plan based on that review. The bill specifies that the changes could include, but would not be limited to, committing the juvenile to the Department of Corrections.

MCL 769.1

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bill would have an indeterminate impact on State government.

According to data provided by the Department of Social Services (DSS), in FY 1993-94, there were 113 juveniles ages 15-16 who were committed to the DSS for a serious felony against a person (which includes all of the offenses listed in the bill). There are currently no data available on how many of these juveniles came through probate court and how many were sentenced through adult court, or how many were convicted of murder or first-degree criminal sexual conduct. The adult court commitments for murder and first-degree criminal sexual conduct would, under the bill, have to be sentenced to prison instead of a DSS facility.

If one assumes that 10 of the DSS commitments were from adult court and convicted of murder or first-degree criminal sexual conduct, and one assumes an average prison sentence of 13 years, total costs of prison incarceration for these 10 offenders would be \$2.0 million. (The average sentence length of 15- and 16-year-olds sentenced to prison for listed offenses, excluding first-degree murder, through adult court last year was 13.3 years.) The cost of a DSS commitment for these 10 offenders, assuming a five-year commitment, would range from \$3.1 million to \$4.0 million depending on the level of confinement. Under these assumptions, the bill could result in cost savings to the State given that a DSS commitment is, on average, more costly than a commitment to an adult prison. However, if the average length of prison sentence for these juvenile offenders who previously have been committed to DSS, were greater than 20 years, then State costs would increase as a result of the bill.

There also would be additional costs to the DOC for those juvenile offenders, who after a DSS commitment, were ordered to an additional period of incarceration in an adult prison. There is no reliable way to predict how many juvenile offenders would receive additional adult prison time, and the average length of sentence for these commitments.

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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.