



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 281 through 284
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 10-3-95

SUMMARY OF SENATE BILLS 281 through 284 as introduced 2-14-95:

Senate Bills 281 through 284 would amend various acts to provide for a sentencing alternative when a 15- or 16-year-old juvenile was charged as an adult and convicted of first-degree murder or manufacturing, delivering, or possessing with intent to deliver 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine, without first being waived to a court of criminal jurisdiction by the probate court. Currently, the sentencing court may either place the juvenile on probation and commit him or her to a juvenile facility until he or she reaches 21 years of age or impose a sentence of imprisonment for life without possibility of parole. The bills would allow the court the third option of imposing a minimum term of not less than 25 years' imprisonment.

Senate Bill 282 is tie-barred to Senate Bills 283 and 284; Senate Bill 283 is tie-barred to Senate Bills 282 and 284; and Senate Bill 284 is tie-barred to Senate Bills 282 and 283.

Senate Bill 281

The bill would amend the Code of Criminal Procedure to specify that if a juvenile were convicted of first-degree murder or manufacturing, creating, delivering, or possessing with intent to deliver 650 grams or more of a mixture containing a Schedule 1 or 2 controlled substance that was a narcotic or cocaine, the judge would have to determine at the juvenile's sentencing hearing if the best interests of the juvenile and the public would be served by placing the juvenile on probation and committing him or her to a juvenile facility, by imposing the sentence provided by law (i.e., imprisonment for life without possibility of parole), or by imposing a sentence of imprisonment for any term of years with a mandatory minimum of not less than 25 years.

Senate Bill 282

The bill would amend the Michigan Penal Code to specify that a juvenile convicted of first-degree murder who was charged and convicted as an adult without a probate court waiver hearing, would have to be sentenced either to imprisonment for life without the possibility of parole or, if the court determined that it was in the best interests of the public, to imprisonment for any term of years but not less than 25 years.

Senate Bill 283

The bill would amend the Public Health Code to specify that a juvenile convicted of manufacturing, creating, delivering, or possessing with intent to deliver 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine without a probate court waiver hearing, would have to be sentenced either to imprisonment for life without the possibility of parole or, if the court determined that it was in the best interests of the public, to imprisonment for any term of years but not less than 25 years.

Senate Bill 284

The bill would amend the Department of Corrections (DOC) law to specify that a prisoner sentenced "to imprisonment" for first-degree murder would not be eligible for parole under the DOC law's lifer law provisions. Currently, those sentenced "for life" for first-degree murder are excluded from the lifer law's parole provisions. (The lifer law provides for parole eligibility for a prisoner sentenced to imprisonment for life or for a term of years, after the person served 10 years, for someone sentenced for a crime committed before October 1, 1992, and after the person served 15 years, for someone sentenced for a crime committed on or after October 1, 1992.) Under the bill, then, a juvenile convicted of first-degree murder and sentenced to a term of years under Senate Bill 281 could not be eligible for parole until after the juvenile served his or her minimum term less accumulated disciplinary credits, rather than after he or she served 15 years.

The bill would retain the exclusion from parole eligibility under the lifer law of prisoners sentenced for life or for a minimum term of imprisonment for a "major controlled substance offense". "Major controlled substance offense" means the manufacture, creation, delivery, possession with intent to deliver, or possession of 225 grams or more but less than 650 grams of a mixture containing a Schedule 1 or 2 narcotic or cocaine (which carries a mandatory minimum sentence of 20 years' imprisonment); the manufacture, creation, delivery, possession with intent to deliver, or possession of 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine (which carries a mandatory sentence of imprisonment for life, although the Michigan Supreme Court struck down the "no-parole feature" for the possession offense); or a conspiracy to commit one of those offenses.

MCL 769.1 (S.B. 281)
750.316 (S.B. 282)
333.7401 (S.B. 283)
791.234 (S.B. 284)

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State government.

Since 1990, there have been 15 juveniles aged 15 or 16 at the time of commitment to the Department of Social Services (DSS) for either first-degree murder or manufacture and delivery of 650 grams or more of cocaine (12 for murder 1, and three for >650 grams). During the same time period, there have been 42 offenders aged 15 or 16 committed to the Department of Corrections for either first-degree murder or manufacture and delivery of 650 grams or more of cocaine (39 for murder 1, three for >650 grams).

Of the 15 youths committed to the DSS, seven were sentenced through juvenile (probate) court and eight through adult court. While the bills would not likely have much effect on probate court

cases, it is possible, that, had judges had a third option as offered by the bills, at least a portion of the 8 adult court commitments to DSS may have instead received a 25-year prison sentence. If one assumes that half of these commitments, or roughly one per year, would under the bills receive a 25-year minimum prison sentence rather than a three- to five-year DSS commitment, in the long term, State costs would increase, given that costs of a three- to five-year DSS commitment would range from \$184,800 to \$394,500 (depending on level of confinement and length of stay) while a 25-year minimum prison sentence would cost approximately \$500,000.

In addition, one might expect that a certain portion of the annual juvenile commitments to prison for first-degree murder and at least 650 grams would, under the bills, receive a minimum 25 years instead of receiving a mandatory life sentence (assuming that at least half of the DOC commitments were the result of criminal court sentencing after the prosecutor had filed directly in circuit court). If one assumes that half of the annual (DOC) commitments for these two crimes, or roughly eight per year, received a 25-year minimum rather than a life sentence, in the long term (after 25 years) costs of incarceration would begin to decrease to an ultimate annual savings of \$5.6 million (assuming a life sentence is 60 years and the average annual cost of incarceration is \$20,000).

Fiscal Analyst: M. Hansen
C. Cole

S9596\S281SA

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.