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BILL ANALYSIS

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Senate Bills 684 through 688
Sponsor: Senator Michael J. Bouchard
Committee: Judiciary

Date Completed: 10-3-95

SUMMARY OF SENATE BILLS 684 through 688 as introduced 9-27-95:

Senate Bills 684 through 688 would amend various acts to reduce from 15 to 14 years the minimum age at which a minor may be tried as an adult in a court of general criminal jurisdiction, rather than as a juvenile in the juvenile division of probate court (juvenile court), for certain offenses. The bills also would include among the offenses for which a prosecutor may file criminal charges directly in a court of criminal jurisdiction conspiracy or solicitation to commit any of the specified offenses, any lesser included offense of one of those violations, and any other violation arising out of the same transaction as any of those violations. In addition, the bills would refer to any of these offenses as a "specified juvenile violation". (The age reduction would apply to a prosecuting attorney's authority to file a criminal complaint on certain charges without a waiver hearing, but not to the juvenile court's authority to waive jurisdiction over a minor charged with any felony.)

The bills all are tie-barred to each other.

Under current law, a criminal court can gain jurisdiction over a 15- or 16-year-old juvenile in one of two ways. (In Michigan's criminal justice system, a "juvenile" is someone under 17 years of age.) After investigation and examination, upon the motion of the prosecuting attorney, the juvenile court may waive jurisdiction over a minor who is at least 15 and is charged with a felony. In addition, if a prosecuting attorney has reason to believe that a juvenile 15 years of age or older has committed any of the following offenses, the prosecuting attorney may authorize the filing of a criminal complaint and warrant on the charge:

-- Assault with intent to murder (MCL 750.83).
-- Armed assault with intent to rob and steal (MCL 750.89).
-- Attempted murder (MCL 750.91).
-- First-degree murder (MCL 750.316).
-- Second-degree murder (MCL 750.317).
-- First-degree criminal sexual conduct (MCL 750.520b).
-- Armed robbery with aggravated assault (MCL 750.529).
-- Carjacking (MCL 750.529a).
-- Manufacturing, delivering, or possessing with intent to deliver 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine (MCL 333.7401(2)(a)(*i*)).
-- Possession of 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine (MCL 333.7403(2)(a)(*i*)).

Senate Bill 684

The juvenile code specifies that the juvenile court has exclusive jurisdiction over a child at least 15 years of age who is charged with a violation for which a prosecuting attorney may authorize a complaint and warrant in a court of criminal jurisdiction, only if the prosecuting attorney files a petition in the juvenile court instead of authorizing a criminal complaint and warrant. The bill would amend the code to refer, instead, to a child at least 14 years old.

Senate Bill 685

The Code of Criminal Procedure specifies that a prosecuting attorney may authorize the filing of a complaint and warrant with a magistrate concerning a juvenile at least 15 years of age if the prosecuting attorney has reason to believe that the juvenile has committed one of the crimes for which a prosecutor may authorize a criminal complaint and warrant against the juvenile. The bill would amend the Code to refer to a juvenile at least 14 years of age.

Senate Bill 686

The Revised Judicature Act specifies that the circuit court has jurisdiction over crimes for which the prosecuting attorney may authorize a criminal complaint and warrant if committed by a juvenile at least 15 years of age. The bill would amend the Act to refer to a juvenile at least 14 years of age.

Senate Bill 687

Public Act 369 of 1919, which regulates the Detroit Recorder's Court, specifies that the Recorder's Court has jurisdiction over crimes for which the prosecuting attorney may authorize a criminal complaint and warrant if committed by a juvenile at least 15 years of age. The bill would amend the Act to refer to a juvenile at least 14 years of age.

Senate Bill 688

The Youth Rehabilitation Services Act includes in the definition of "state ward" a person accepted for care by the Department of Social Services (DSS) who is at least 15 years of age at the time he or she is committed to the DSS by a court of general criminal jurisdiction, if the act for which the youth is committed occurred before his or her 17th birthday. The bill would amend the Act to refer, instead, to a person who was at least 14 at the time he or she was committed.

MCL 712A.2 (S.B. 684)
762.15 & 764.1f (S.B. 685)
600.606 (S.B. 686)
725.10a (S.B. 687)
803.302 (S.B. 688)

Legislative Analyst: P. Affholter

FISCAL IMPACT

The following analysis is based on preliminary data.

The bills would have an indeterminate impact on State government.

If lowering from 15 to 14 the age at which a minor may be tried as an adult in circuit court (in only those instances in which the prosecutor may file directly), resulted in increased commitments to the Department of Corrections (DOC), then costs for the DOC would increase. However, given that

under current law, these offenders otherwise may be sentenced to a Department of Social Services facility (and could continue to be under the bills), the effect of these bills could be simply to shift the responsibility for commitment from the DSS to the DOC. Currently, a 15- or 16-year-old offender convicted of a crime for which the prosecutor may file directly may be sentenced to the DSS or to the DOC.

In order to determine the actual impact, one needs to determine the estimated number of new commitments to the DOC as a result of the lower age for only those crimes for which the prosecutor may file directly. While currently available data do not include all of these crime categories, in 1994, there were 170 commitments to the DOC for offenders who were either 15 or 16 at the time of the offense with an average minimum sentence of seven years. (Eleven sentences were for life, and all of those were for first-degree murder.) (Data limitations do not provide the number of these commitments that were the result of direct filing by the prosecutor.) Of those 170 commitments, 79 were for first- and second-degree murder, first- and third-degree criminal sexual contact, and armed robbery. Nine were for drug crimes, and 82 were for "other" offenses. During FY 1993-94 (calendar year data not being currently available), there were 113 commitments ages 15 and 16 to the DSS for a "serious felony against a person" offenses, as defined by the DSS. (These offenses could include crimes other than those included for DOC commitments above, or other than those eligible for prosecutorial discretion, and also would include offenders sentenced to the DSS through probate court. The number of annual commitments to the DSS, by circuit court, however, is currently unavailable.) If one assumes that the "other" category for DOC commitments listed above does not contain serious felony offenses against a person, and that the serious felony against a person category represents those crimes for which the prosecutor may file directly, then for those offenders receiving a sentence of incarceration, approximately 41% received a prison sentence and 59% received a DSS sentence.

In FY 1993-94 there were 36 14-year-old offenders committed to the DSS for a serious felony against a person. If the same distribution of sentencing patterns were to apply to 14-year-olds, then one might expect 41% or 15 of these offenders, under the bill, to receive a prison sentence rather than a sentence to the DSS.

If one assumes that the average length of sentence in a DSS facility of a 14-year-old offender is five years, then the cost of the DSS sentence for those 15 offenders would range from $4.6 million to $5.9 million depending on the level of confinement. If these offenders would instead be sentenced to the DOC, total costs of incarceration, assuming a seven-year sentence, would be $3.8 million. In other words, if the bill resulted in more 14-year-olds sentenced to prison, for average sentences of seven years, and a corresponding reduction in those commitments to the DSS, then the State could realize some savings, the magnitude of which would be determined by the average sentence lengths of the two types of commitments, and the number of annual commitments. Under the assumptions and analysis described above, the State would realize savings ranging from $0.8 million to $2.1 million.

It is difficult at this time to determine what impact the inclusion of conspiracy or solicitation, or the inclusion of a lesser offense of one of the listed crimes would have on the number of times a prosecutor would file directly in circuit court and the corresponding impact on the number of offenders sentenced to prison rather than to a DSS facility. All other things being equal, it would require a prison sentence greater than 11 years before the costs of DOC incarceration exceeded the average cost of a three-year DSS juvenile detention center sentence.

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