



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

BILL ANALYSIS

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

Senate Bill 694 (Substitute S-3 as reported)
Sponsor: Senator Michael J. Bouchard
Committee: Judiciary

CONTENT

The bill would amend the juvenile code to delete and replace the factors a probate judge must consider when determining whether to waive jurisdiction of a juvenile to a court of general criminal jurisdiction; and to reduce the minimum age for waiver from 15 to 14 years. The juvenile court currently must consider specified criteria, giving each weight as appropriate to the circumstances. In considering the bill's factors, the juvenile court would have to give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency than to the other factors.

The current criteria, which the bill would delete, are the prior record and character of the child, his or her physical and mental maturity, and his or her pattern of living; the seriousness of the offense; whether the offense is part of a repetitive pattern of offenses that would lead to a determination either that the child is not amenable to treatment or that, despite the child's potential for treatment, the nature of his or her delinquent behavior is likely to disrupt the rehabilitation of other children in the treatment program; whether, despite the child's potential for treatment, the nature of his or her delinquent behavior is likely to render the child dangerous to the public if released at the age of 19 or 21; whether the child is more likely to be rehabilitated by the services and facilities available in adult programs and procedures than in juvenile programs and procedures; and whether it is in the best interests of the public welfare and the protection of the public security that the child stand trial as an adult offender.

The bill instead, would require that the juvenile court consider the following criteria in determining whether to waive jurisdiction of a juvenile: the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm, and the impact on any victim; the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the sentencing guidelines; the child's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior; the child's programming history, including his or her willingness to participate meaningfully in available programming; the adequacy of the punishment or programming available in the juvenile justice system; the dispositional options available for the child; and whether the child had previously been waived under the juvenile code.

The bill would apply to offenses committed on or after its effective date and is tie-barred to Senate Bills 689-692.

MCL 712A.4

Legislative Analyst: P. Affholter

FISCAL IMPACT

An accurate assessment of the bill's effect on the number of juveniles over whom jurisdiction would be waived from juvenile court to the general criminal court cannot be made. Following is a comparison of the cost of commitment to a juvenile facility and the cost of adult criminal sanctions.

AVERAGE ANNUAL STATE COSTS	
<u>Department of Social Services</u>	<u>Department of Corrections</u>
Detention Center. \$ 78,900	Probation. \$ 3,000
Family Group/Shelter Homes. 9,700-9,325	Tether. 2,375
Residential Care Center. 61,600	Boot Camp*. 11,500
Foster Family Homes. 7,264	Secure Confinement. 20,000

*Includes 1-year intensive supervision.

The bill would have an indeterminate fiscal impact on the Department of Corrections.

If the new factors listed in the bill resulted in an increased number of juvenile commitments to prison (instead of to a Department of Social Services (DSS) facility), then costs for the Department of Corrections (DOC) would increase, while costs for the DSS would decrease. Given that average daily costs at a DSS facility are substantially higher than a DOC prison, on average it would require a prison sentence of 4.7 years to equal one year of DSS confinement. The average prison sentence for all 15- and 16-year-olds admitted to prison in 1994 was 6.9 years.

In addition, it is not possible to assess whether a significant number of juveniles would be deterred from sentencing to DSS facilities by the new factors listed in the bill for consideration in sentencing.

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Fiscal Analyst: M. Bain
C. Cole
M. Hansen

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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.