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## BILL ANALYSIS



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Senate Bill 694  
Sponsor: Senator Michael J. Bouchard  
Committee: Judiciary

Date Completed: 9-29-95

**SUMMARY OF SENATE BILL 694 as introduced 9-27-95:**

**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.**

The Code provides that, if a child at least 15 years old is accused of an act that would be a felony if committed by an adult, the probate judge of the county in which the offense is alleged to have been committed may waive jurisdiction, upon motion of the prosecuting attorney. After waiver, it is lawful to try the child in the court having general criminal jurisdiction. Before waiving jurisdiction, the juvenile division of probate court (juvenile court) must determine on the record if there is probable cause to believe that an offense has been committed and that the child committed the offense. Upon a showing of probable cause, the court must conduct a hearing to determine if the best interests of the child and the public would be served by granting a waiver of jurisdiction. In making that determination, the juvenile court must consider specified criteria, giving each weight as appropriate to the circumstances.

The current criteria, which the bill would delete, are the following:

- 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.
- 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 minor:

- 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.
- Whether the child had previously been waived under the juvenile code.

In considering these 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.

MCL 712A.4

Legislative Analyst: P. Affholter

**FISCAL IMPACT**

The bill would have no fiscal impact on the courts.

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.

<b>AVERAGE ANNUAL STATE COSTS</b>	
<b><u>Department of Social Services</u></b>	<b><u>Department of Corrections</u></b>
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 yr. intensive supervision.

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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.