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BILL ANALYSIS



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House Bill 4980 (as passed by the House)
Sponsor: Representative Thomas Kelly
House Committee: Judiciary and Civil Rights
Senate Committee: Judiciary

Date Completed: 2-20-96

CONTENT

The bill would amend the Juvenile Diversion Act to provide that, if a minor failed to comply with the terms of a diversion agreement and referral, a law enforcement official or court intake worker could revoke the diversion agreement. The bill also would extend from 14 days to 30 days the period after a failed diversion agreement conference during which a petition concerning the minor may be filed with the juvenile division of probate court (juvenile court).

The bill would take effect on May 1, 1996.

Under the Act, if during the investigation of an alleged offense by a minor, a petition has not been filed with the juvenile court or a petition has not been authorized, a law enforcement official or court intake worker may, among other things, divert the matter by making an agreement with the minor and his or her parent, guardian, or custodian to refer the minor to a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation. A minor accused or charged with an assaultive offense may not be diverted from the juvenile court.

If a decision is made to divert a minor with a referral, as described above, a conference must be held with the minor and his or her parent, guardian, or custodian, to consider alternatives to the filing of a juvenile court petition or authorization of a petition. The law enforcement official or court intake worker must inform the minor and parent, guardian, or custodian that, if diversion is agreed to, a petition cannot be filed with the court, or if a petition has been filed, the petition cannot be authorized. If the conference results in diversion that imposes conditions on the minor, the terms of the diversion agreement must be set forth in writing, dated, and signed by the law enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian.

The bill would require that, at the diversion conference, the law enforcement official or court intake worker inform the minor and his or her parent, guardian, or custodian that a juvenile court petition could not be filed or authorized if diversion were agreed to and the minor complied with the terms of the diversion agreement and referral plan. If the minor failed to comply with the terms of the diversion agreement and referral plan, the law enforcement officer or court intake worker could revoke the diversion agreement. If the diversion agreement were revoked, a petition could be filed with the juvenile court and a petition could be authorized. If diversion were revoked pursuant to

the bill, the law enforcement official or court intake worker would have to file with the juvenile court the fact of and reasons for the revocation.

If, at the conference, an agreement on diversion and referral is not reached, a petition may be filed and authorized, but the petition must be filed with the juvenile court no later than 14 days after the conference. The bill would require filing within 30 days after the conference.

MCL 722.825 & 722.826

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill could have an indeterminate fiscal impact on the State Department of Social Services budget under certain conditions of a diversion agreement. It is not clear how many cases would be affected, but the rescission of a diversion agreement could cause more juveniles to be detained for services by the State delinquency services system. The juveniles, under the proposed system, could enter the system on the basis of a revocation of the agreement, while under the current system an arrest is necessary. On the other hand, juvenile detention could be averted by the agreement, but only if the juvenile continued to comply with the diversion agreement.

The bill would have a minimal fiscal impact on the courts. Depending on the number of revoked diversions, the probate court could see an increase in petitions filed. However, the current use of diversion agreements by law enforcement and court intake workers is minimal.

Fiscal Analyst: C. Cole
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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.