

Legislative Analysis



HOLMES YOUTHFUL TRAINEE ACT REVISIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4069 as introduced
Sponsor: Rep. Harvey Santana

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4135 as introduced
Sponsor: Rep. Kurt Heise

House Bill 4169 as introduced
Sponsor: Rep. Marcia Hovey-Wright

Committee: Criminal Justice
Complete to 2-13-15

SUMMARY:

The bills all amend the Holmes Youthful Trainee Act.

Generally speaking, House Bill 4069 would expand the ages of offenders eligible for trainee status to include 21-23 year olds; require the consent of the prosecutor for assignment of youths aged 21-23 years of age; restrict eligibility to just one assignment; and allow a court to require a trainee to work, attend school, or wear an electronic monitor during any term of probation.

House Bill 4135 would require a court to no longer consider an individual for trainee status, and to revoke trainee status, if the individual were convicted of certain crimes.

House Bill 4169 would eliminate the option to send a trainee to prison.

The Department of Corrections describes the Holmes Youthful Trainee Act as a state law that *allows a judge to place a youth between 17 and 20 who is alleged to have committed a crime and who has pleaded guilty to that crime to be placed in prison or on probation without a conviction to avoid a criminal record. Excluded from this program are youth who are charged with a felony for which the maximum punishment is life imprisonment, a major controlled substance offense or a traffic offense. This action protects the privacy of the offender while on trainee status. If the youth successfully completes the program, there is no criminal record. Imprisonment or probation cannot exceed three years.*

DETAILED SUMMARY:

House Bill 4069 would amend the section of the Code of Criminal Procedure known as the Holmes Youthful Trainee Act (MCL 762.11) to do the following:

- ❖ Expand eligibility so that it applies to youths from 17 years of age through 23 years of age.

- ❖ Require the consent of the prosecuting attorney if the criminal offense occurred on or after the individual's 17th birthday but before the 24th birthday. "Criminal offense" would mean one or more adjudications arising out of a series of acts that were in a continuous time sequence of 12 hours or less and that displayed a single intent and goal.
- ❖ Prohibit a court from assigning an individual to youthful trainee status if the individual had previously been assigned to the status of youthful trainee.
- ❖ Allow a court to require a person assigned to youthful trainee status to maintain employment or attend a high school, high school equivalency program, community college, college, university, or trade school. If the person is not employed or attending school, the court could require the individual to actively seek employment or entry into one of the listed educational institutions.
- ❖ Allow a court to subject the trainee to electronic monitoring during the probationary term if the offense had been committed on or after the individual's 21st birthday.
- ❖ Require compliance with conditions of probation to be verified monthly by a probation officer. Verification of employment status or school attendance must include a review of employment and school records.

House Bill 4135: Currently, under the act, court may, at its discretion, terminate its consideration of an individual as a youthful trainee or, once assigned, revoke the status of a trainee at any time before the individual's final release from the program.

The bill would amend Section 12 of the act to specify that if the court assigns an individual to youthful trainee status, the court must revoke that status if – during the period of consideration or assignment – the individual is convicted of any of the following:

- ❖ A felony for which the maximum penalty is imprisonment for life.
- ❖ A major controlled substance offense.
- ❖ A violation, attempted violation, or conspiracy to violate:
 - Felonious assault.
 - Assault with intent to do great bodily harm less than murder.
 - Rob and steal, unarmed.
 - Home invasion, 1st-3rd degrees.
 - Possession of firearm or distribution of ammunition by person convicted of felony.
 - Carrying a firearm or dangerous weapon with unlawful intent.
 - Carrying a concealed weapon.
 - Unlawful possession of a pistol.
 - Possession of firearm during commission of a felony.
 - Criminal sexual conduct in the 1st-4th degrees.
 - Carjacking.
 - Using force or violence during commission of a larceny.

- ❖ A violation, attempted violation, or conspiracy to violate the prohibition on assault with intent to commit criminal sexual conduct, with some exceptions.

The bill would take effect 90 days after enactment.

House Bill 4169: Under the Holmes Youthful Trainee Act, if the underlying charge is an offense punishable by imprisonment for a maximum term of more than one year, the court is required to do one of the following:

- ❖ Send the trainee to prison for not more than three years;
- ❖ Place the trainee on probation for not more than three years subject to probation conditions as provided in Section 3 of Chapter XI of the Code; **or**,
- ❖ Commit the trainee to the county jail for not more than one year.

The bill would amend the act (HYTA), MCL 762.13, to eliminate the first option cited above ["a"] and require the court to instead place the trainee on probation or commit the trainee to the county jail for not more than one year.

Further, the bill would delete an obsolete provision requiring the Department of Corrections, a sheriff, or the trainee's probation office to register, or accept a registration of, a trainee whose offense is a listed offense requiring registration as a sex offender. A person sentenced under HYTA after October 1, 2004, no longer has to register as a sex offender unless the person loses trainee status under HYTA.

FISCAL IMPACT:

House Bill 4069: Under the bill, there would be an indeterminate amount of savings to the state's correctional system. The amount of savings would depend on the number of offenders actually diverted from prison sentences to Holmes Youthful Trainee Act probation terms. The average cost of prison incarceration in a state facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. Also, there could be additional community supervision costs depending on the increased number of offenders diverted to probation terms. Costs for probation supervision average about \$3,700 per supervised offender per year.

House Bill 4135: Under the bill, there could be increased costs to the state and to local correctional systems. Costs would depend on the number of offenders who are convicted of crimes set forth in the bill, have their youthful trainee status revoked, and are sent to either prison or to county jail. The average cost of prison incarceration in a state facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail vary by jurisdiction.

House Bill 4169: Under the bill, there would be an indeterminate amount of savings to the state's correctional system. The amount of savings would depend on the number of offenders actually committed to county jail that would have otherwise been committed to prison for not more than three years. The average cost of prison incarceration in a state

facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. Also, there could be additional costs for county jails depending on the increased number of offenders committed to jail instead of to prison. The costs of local incarceration in a county jail vary by jurisdiction

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.