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House Bill 4069 (Substitute H-1 as passed by the House)
House Bill 4135 (Substitute H-1 as passed by the House)
House Bill 4169 (Substitute H-1 as passed by the House)
Sponsor: Representative Harvey Santana (H.B. 4069)
Representative Kurt Heise (H.B. 4135)
Representative Marcia Hovey-Wright (H.B. 4169)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 4-20-15

CONTENT

The bills would amend the Holmes Youthful Trainee Act within the Code of Criminal Procedure, regarding eligibility for youthful trainee status and commitment of a youthful trainee to the Department of Corrections.

House Bill 4069 (H-1) would do the following:

- Allow a court to grant youthful trainee status to a person who committed a crime before his or her 24th birthday, rather than before his or her 21st birthday.
- Provide that a youthful trainee who committed the underlying crime on or after his or her 21st birthday, but before his or her 24th birthday, could be subject to electronic monitoring during his or her term of probation.
- Allow a court to require a person assigned to youthful trainee status to maintain employment or to attend a school.

House Bill 4135 (H-1) would require a court to revoke a person's youthful trainee status if the person were convicted of a crime specified in the bill during the period the court considered or assigned that status.

House Bill 4169 (H-1) would revise the option of a court to commit a person on youthful trainee status to the Department of Corrections (DOC). The bill would do the following:

- Reduce the maximum period of commitment to the DOC from three to two years.
- Specify that, if a youthful trainee committed to the DOC were under 21, he or she would have to be committed to a facility designated for custodial supervision and training.
- Prohibit the commitment of a youthful trainee to the DOC if the underlying charge were for a particular offense listed in the bill.
- Allow a youthful trainee to be placed on probation following a prison or jail term.

Each bill would take effect 90 days after its enactment. House Bill 4169 (H-1) specifies that it would apply to cases in which an individual was assigned to youthful trainee status on or after the bill's effective date.

House Bill 4069 (H-1)

Age Limit

Currently, if an individual pleads guilty to a criminal offense committed on or after his or her 17th birthday but before his or her 21st birthday, the court may, without entering a judgment of conviction and with the individual's consent, consider and assign that individual to youthful trainee status. The court may not assign a person to youthful trainee status for a felony for which the maximum punishment is life imprisonment, a major controlled substance offense, a traffic offense, or, with certain exceptions, a criminal sexual conduct (CSC) offense. (The Act's provisions also apply to a person over 14 years of age who is charged with a felony if jurisdiction has been waived to a court of general criminal jurisdiction.) If a person's youthful trainee status is not terminated or revoked, the court must discharge the person and dismiss the proceedings upon final release from youthful trainee status.

Under the bill, the court could grant youthful trainee status if the crime were committed before the person's 24th birthday. If the offense were committed on or after the person's 21st birthday but before his or her 24th birthday, the person could not be assigned to youthful trainee status without the prosecuting attorney's consent.

If the offense were committed on or after the person's 21st birthday, in addition to other requirements, the youthful trainee could be subject to electronic monitoring during his or her probationary term.

Work/School Requirement

Under the bill, if the court assigned a person to youthful trainee status, it could require him or her to maintain employment or to attend a high school, high school equivalency program, community college, college, university, or trade school. If the person were not employed or attending school, he or she could be required to actively seek employment or entry into school.

House Bill 4135 (H-1)

Under the Act, the court having jurisdiction over the criminal offense that led to youthful trainee status may, at any time, terminate its consideration of the person as a youthful trainee or, after assigning the person to that status, revoke youthful trainee status at any time before the person's final release.

The bill would require a court that assigned a person to youthful trainee status to revoke the person's status if he or she pleaded guilty to or were convicted of any of the following during the period of consideration or assignment:

- A felony for which the maximum penalty is imprisonment for life.
- A major controlled substance offense.
- Felonious assault, assault with intent to do great bodily harm, or unarmed assault with intent to rob and steal.
- First-, second-, or third-degree home invasion.
- Possession of a firearm or distribution of ammunition by a person convicted of a felony.
- Carrying a firearm or dangerous weapon with unlawful intent.
- Unlawful carrying of a concealed weapon.
- Possession of a pistol, while not engaged in business, by a person licensed to carry a pistol because he or she is in the business of protecting another person or another person's property.
- Carrying or possessing a firearm when committing or attempting to commit a felony.

- Committing, attempting, or conspiring to commit CSC, or assault with intent to commit CSC, other than a third-degree violation involving a victim at least 13 years of age but under 16 or a fourth-degree violation involving a victim at least 13 but under 16 and an offender who is five or more years older than the victim.
- A firearm offense.

As used in this provision, "firearm offense" would mean a crime involving a firearm whether or not the possession, use, transportation, or concealment of a firearm is an element of the crime.

House Bill 4169 (H-1)

Currently, if a person is assigned to youthful trainee status and the underlying charge is an offense punishable by imprisonment for a term of more than one year, the court must do one of the following:

- Commit the person to the Department of Corrections for custodial supervision and training for up to three years in an institutional facility designated by the Department for that purpose.
- Place the person on probation for up to three years subject to conditions of probation, which may include participation in a drug treatment court.
- Commit the person to the county jail for up to one year.

The bill would revise the first option listed above. Under the bill, except as provided below, the court could commit the person to the DOC for custodial supervision and training for not more than two years. If the person were under 21, he or she would have to be committed to an institutional facility designated by the Department for custodial supervision and training.

The bill also would allow the court to commit a person assigned to youthful trainee status to the DOC or the county jail, as described above, and then place him or her on probation for up to one year subject to probation conditions as provided in Chapter XI (Probation) of the Code. If a youthful trainee were placed on probation following a commitment to the DOC, he or she would have to be reassigned to the supervision of a probation officer.

In addition, under the bill, an individual assigned to youthful trainee status could not be committed to the DOC for custodial supervision and training under the current or proposed provision if the underlying charge were for any of the following:

- A violation of Article 7 (Controlled Substances) of the Public Health Code.
- Breaking and entering a tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, structure, boat, ship, shipping container or railroad car, with intent to commit a felony or larceny.
- Third-degree home invasion.
- A violation of Chapter 24A (Credit Cards) of the Michigan Penal Code.
- Unlawfully carrying a concealed weapon.
- Larceny of property; larceny from a person; or larceny through use of force or violence, assault, or putting another person in fear.
- Willfully and without authority taking possession of and driving or taking away a motor vehicle.
- Buying, receiving, possessing, or concealing, or aiding in the concealment, of stolen, embezzled, or converted property.

MCL 762.11 (H.B. 4069)
762.12 (H.B. 4135)
762.13 (H.B. 4169)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 4069 (H-1)

The bill could result in savings to the State's corrections budget. The amount of savings would be contingent upon the number of offenders diverted from prison sentences to Holmes Youthful Trainee Act probation. In 2013, for the approximately 43,700 prisoners incarcerated in the State, about 13% or 5,700 were between 21 and 24 years of age. Depending on the type of offense committed, there would be a potential for increased diversions from prison, which could reduce the total number of prisoners and increase the number of individuals placed on probation or committed to a county jail. Currently, for felony convictions, in the short term, the marginal cost to State government is approximately \$4,100 per additional prisoner per year. Over the long term, the marginal cost to State government is approximately \$31,100 per additional prisoner per year. Since diversions for felony and misdemeanor offenses would not necessarily increase the number of cases, costs to local courts and law enforcement could be unchanged.

House Bill 4135 (H-1)

The bill could have a negative impact on the State's corrections budget. Currently, a person's youthful trainee status may be revoked if the person commits a new offense. The bill would require the trainee status to be revoked and the person sent to prison if he or she committed an offense listed in the bill. New felony convictions would result in increased costs of incarceration to the State. With any increase in the number of felony and misdemeanor cases, costs to local courts and law enforcement also could increase.

House Bill 4169 (H-1)

The bill could generate fiscal savings to the State's corrections budget and could increase the cost to local government. The amount of savings would be contingent upon the number of offenders who no longer would be committed to a Michigan Department of Corrections institutional facility for custodial supervision and training, or were committed for a shorter period of time. Since the bill still would allow a person assigned trainee status to be placed in a county jail, as well as prohibit commitment to prison for certain offenses, costs to local law enforcement could increase if those who otherwise would have committed to a Department of Corrections facility were placed in a county jail.

Fiscal Analyst: John Maxwell

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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.