

SECURE JUVENILE DETENTION FACILITIES

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Senate Bills 700 (S-1), 893, and 894 as passed by the Senate

Sponsor: Sen. Sylvia Santana

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

Complete to 12-15-20

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

SUMMARY:

Senate Bill 700 would amend the Probate Code by amending Chapter XIIA (known as the juvenile code) to do all of the following:

- Amend the definition of “petition” used in the case of a juvenile awaiting a hearing to add a petition or supplemental petition alleging that a juvenile violated a court order under section 2(a)(2) through (4) of chapter XIIA, regarding juvenile misconduct.¹
- Remove children who have run away from home from a list of those to whom custody pending a hearing is limited and add those who have allegedly violated a court order under section 2(a)(2) through (4) of chapter XIIA.
- Provide that if a juvenile is taken into custody for violating a court order under section 2(a)(2) through (4) of chapter XIIA and is detained in a *secure facility*, the petitioner must ensure that an appropriately trained, licensed, or certified mental health substance abuse professional interviews the juvenile in person within 24 hours to assess the juvenile’s mental health and substance abuse needs. The assessment would have to be submitted to the court within 48 hours, and the court would have to conduct a hearing to determine if there is reasonable cause to believe that the juvenile violated the court order and to determine the appropriate placement of the juvenile pending disposition of the alleged violation, including whether the juvenile should be placed in a secure facility.

Secure facility would mean any public or private licensed child caring institution identified by the Department of Health and Human Services (DHHS) as designed to physically restrict the movements and activities of the alleged or adjudicated juvenile offender and that has the primary purpose of serving juveniles who have been alleged or adjudicated delinquent, other than a juvenile alleged or adjudicated under section 2(a)(2) through (4) of chapter XIIA.

- Change a prohibition against detaining a child taken into custody for certain violations in a secure facility designed to physically restrict the movements and activities of the alleged or adjudicated juvenile offenders to a prohibition against detaining that child in a secure facility.

¹ <http://legislature.mi.gov/doc.aspx?mcl-712A-2>

- Add the following to the orders of disposition that a court can enter if appropriate for the welfare of the juvenile and society in view of the facts:
 - Order the juvenile to be placed in a secure facility if the court finds the juvenile violated a court order under section 2(a)(2) through (4) of chapter XIIA. The court order would have to state the court order the juvenile violated; why there is reasonable cause to believe that the juvenile did so; the basis for determining that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile; the length of time, no more than seven days, the juvenile may remain in the secure facility; the plan for the juvenile’s release from the facility; and that the order may not be renewed or extended.
 - For a second or subsequent violation of a court order under section 2(a)(2) through (4) of chapter XIIA, issue a second or subsequent order as described above, but only if the court finds that the juvenile violated a court order after the date of the initial order and that the court has procedures in place to ensure that a juvenile held in a secure facility by a court order is not in custody more than seven days or the length of time authorized by the court, whichever is shorter.

MCL 712A.1 et seq.

Senate Bills 893 and 894 would amend the Youth Rehabilitation Services Act and the Juvenile Boot Camp Act, respectively, to revise Probate Code citations to reflect changes proposed by Senate Bill 700.

MCL 803.307 (SB 893)
 MCL 400.1305 (SB 894)

The bills would take effect 90 days after enactment.

The bills are tie-barred to each other, which means that none could take effect unless all were enacted.

FISCAL IMPACT:

The provisions of Senate Bill 700 would bring the state into compliance with the requirements of the federal Juvenile Justice Reform Act of 2018. This federal act requires the state’s Juvenile Justice and Delinquency Plan be modified to include, among other things, plans to provide alternatives to detention, to reduce the number of children in secure detention and correction facilities, and to promote evidence-based programs and practices.

The state currently receives \$908,000 federal funding to be distributed to local projects and services for youth and their families under the Juvenile Justice Reform Act of 2018. According to DHHS, if the state does not comply with the act’s provisions, the state would lose 20%, or approximately \$181,600, of this federal funding. In addition, the state would need to redirect 50% of the remaining funds (approximately \$363,200) from local projects

and services for youth and families and direct that funding to activities that specifically help the state come into compliance with the federal act. Under this scenario, it is estimated that only \$363,200 would be available to fund projects and services for youth and families. Senate Bill 700 would also have an indeterminate fiscal impact on local probate courts. Costs could be incurred depending on how changes required under the bill to the hearings process affect court caseloads and the related administrative costs. A number of courts likely would be able to absorb these additional costs, but it is not known if all probate courts could absorb additional costs.

Senate Bills 893 and 894 are companion bills to Senate Bill 700 and would not have a direct fiscal impact on the state or on local units of government.

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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.