



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 700 (as introduced 1-8-20)
Senate Bill 893 and 894 (as introduced 4-28-20)
Sponsor: Senator Sylvia Santana
Committee: Judiciary and Public Safety

Date Completed: 9-23-20

CONTENT

Senate Bill 700 would amend the juvenile code to do the following:

- **Modify various provisions to refer to "juvenile" instead of "child".**
- **Revise, until September 20, 2021, the definition of "juvenile" to apply to a person who was less than 17 years old.**
- **Require a court promptly to notify the Department of Health and Human Services (DHHS) if a juvenile were taken into custody for violating certain court orders and was detained in a secure facility.**
- **Require the secure facility to interview a detained juvenile in person within 24 hours of detention to assess his or her immediate needs, and to submit the assessment to the court within 48 hours of the assessment.**
- **Require the court to conduct a hearing to determine whether there was a reasonable cause to believe the juvenile violated the court order and the appropriate placement of the juvenile.**
- **Delete language prohibiting juveniles from being detained under certain circumstances in any secure facility designed to physically restrict his or her movement and activities.**
- **Allow a court to enter certain additional orders of disposition that were appropriate for the welfare of a juvenile and society.**

Senate Bill 893 would amend the Youth Rehabilitation Services Act to change citations to the Michigan Compiled Laws (MCL) sections that Senate Bill 700 would amend.

Senate Bill 894 would amend the Juvenile Boot Camp Act to changes citations to the MCL sections that Senate Bill 700 would amend.

Senate Bills 893 and 894 are tie-barred to Senate Bill 700. Each bill would take effect 90 days after its enactment.

Senate Bill 700 is described in greater detail below.

Under the code, in the case of a child concerning whom a complaint had been made or a petition has been filed, the court may order the child, pending a hearing, detained in a facility as the court designates. The court may release the child, pending the hearing, in the custody of a parent, guardian, or custodian, to be brought before the court. The bill would refer to "juvenile" instead of "child". Currently, the code defines "juvenile" as a person who is less than 18 years of age who is the subject of a delinquency petition. Under the bill, until

September 30, 2021, "juvenile" would mean a person who is less than 17 years of age who is the subject of a delinquency petition. Beginning October 1, 2021, "juvenile" would revert to its current definition.

As used in the provisions described above, "petition" includes all of the following:

- Petition.
- Supplemental petition.
- Petition for revocation.
- Supplemental petition alleging a violation of a PPO.

Under the bill, "petition" also would mean a petition or supplemental petition alleging that a juvenile violated a court order under Sections 2(a)(2) to 2(a)(4) of the code or for running away from home. (Section 2(a) generally provides for the circumstances under which the family court has exclusive original jurisdiction in proceedings concerning juveniles under 17 years of age who are found within the county. Sections 2(a)(2) to 2(a)(4) specify that the family court has exclusive original jurisdiction in proceedings concerning a minor who has deserted his or her home without sufficient cause and has refused alternative placement, a minor who is repeatedly disobedient to a parent's or guardian's reasonable commands, or a minor who willfully and repeatedly absents himself or herself from school or other learning programs or repeatedly violates rules and regulations of the school or learning program.)

Custody, pending hearing, is limited to children in specific instances. The bill would include children who had allegedly violated a court order pertaining to the instances above.

Under the Code, a child taken into custody under Section 2(a)(2) to (4), or for running away from home, may not be detained in any secure facility designed to physically restrict the movements and activities of alleged or adjudicated juvenile offenders unless the court finds that the child willfully violated a court order and the court finds, after a hearing and on the record, that there is not a less restrictive alternative more appropriate to the needs of the child. This does not apply to a child who is under the jurisdiction of the court for violating any municipal ordinance, State, or Federal law, or a child who is not less than 18 years of age and who is under the jurisdiction of the court under a supplemental petition under Section 2(h). The bill would delete these provisions.

Instead, under the bill, if a child were taken into custody under Section 2(a)(2) to (4), or for running away from home and was detained in a secure facility, the court would have to notify the DHHS that the juvenile offender was held in custody for violating a court order and the secure facility would have to interview the juvenile in person within 24 hours to assess his or her immediate needs. Within 48 hours of the assessment, the facility would have to submit the assessment to the court and the court would have to conduct a hearing to determine both of the following:

- If there were reasonable cause to believe that the juvenile violated the court order.
- The appropriate placement of the juvenile pending the disposition of the alleged violation, including if the juvenile should be placed in a secure detention facility or secure licensed child caring institution.

"Secure facility" would mean any public or private licensed child caring institution identified by the DHHS as designed to physically restrict the movements and activities of the alleged or adjudicated juvenile offender that had the primary purpose of serving juveniles who have been alleged or adjudicated delinquent, other than a juvenile alleged or adjudicated under Sections 2(a)(2) to (4) of the code.

The Code prohibits a child taken into custody under Section 2(b) or because his or her home conditions make immediate removal necessary from being detained in any secure facility designed to physically restrict the movements and activities of alleged or adjudicated juvenile offenders or in a cell or other secure area of any secure facility designed to incarcerate adult. (Section 2(b) generally prescribes the circumstances under which a family court has jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county.) The bill would delete the language pertaining to a facility *designed to physically restrict movement and activities of alleged or adjudicated juvenile offenders*.

Under the Code, a child taken into custody under Section 2(a)(2) to (4), or for running away from home may not be detained in a cell or other secure area of any secure facility designed to incarcerated adults unless: a) the child is under the jurisdiction of the court for an offense, which if committed by an adult, would be a felony; or b) if the child is not less than 18 years old and is under the jurisdiction of the court under a supplemental petition for a PPO.

The bill would refer to "juvenile" instead of "child". Additionally, the provision pertaining to a juvenile not less than 18 years old would apply beginning October 1, 2021. Until September 30, 2021, the bill would refer to a juvenile not less than 17 years old.

Under the code, if a court finds that a juvenile concerning whom a petition is filed is not within the code, the court must enter an order dismissing the petition. Except as otherwise provided, if the court finds that a juvenile is within the code, the court must order the juvenile returned to his or her parent if the return would not cause a substantial risk of harm to the juvenile or society. The court also may enter certain specified orders of disposition that are appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained.

The bill would include among the orders of disposition the following that would be appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained:

- If the court had ordered the child to be taken into custody under Section 2(a)(2) to (4), or for running away from home, order the juvenile to be placed in a secure juvenile detention facility or in a secure licensed child caring institution.
- For a second or subsequent violation of a court order requiring the child to taken into custody under Section 2(a)(2) to (4), or for running away from home, issue a second or subsequent order described above, but only if the court found that the juvenile violated a court order after the date that it issued if the first order and that the court had procedures in place to ensure that a juvenile held in a secure detention facility or secure licensed child caring institution by a court order was not in custody more than seven days or the length of time authorized by the court, whichever was shorter.

A court order placing the child in a secure juvenile detention facility or in a secure licensed child caring institution would have to state all the following:

- The court order the juvenile violated.
- The factual basis for determining that there was reasonable cause to believe that the juvenile violated the court order.
- The court's finding of fact to support a determination that there was no appropriate less restrictive alternative placement available considering the best interests of the juvenile.
- The length of time, which could not exceed seven days, that the juvenile could remain in the detention facility or institution and the plan for the juvenile's release from the facility.
- That the order could not be renewed or extended.

MCL 712A.1 et al. (S.B. 700)
803.307 (S.B. 893)

Legislative Analyst: Dana Adams
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FISCAL IMPACT

Senate Bill 700

The bill would have a fiscal impact on the DHHS and on local units of government. The proposed changes would bring Michigan into compliance with the Federal Juvenile Justice Reform Act of 2018. The Act was designed to enhance existing Federal law, which restricts placement of "nondelinquent" status offenses (such as running away from home, truancy, parental disobedience) into secure facilities without a valid court order. In order to continue to meet Federal requirements, the bill would add several requirements for secure facility placements. The DHHS notes that if these changes are not enacted, the State would have the following changes to Federal juvenile justice funding:

- 20.0% of local youth and families project and service funding would be lost (approximately \$181,600).
- 50.0% of remaining funding, approximately \$363,200, would have to be redirected from existing services for youth and families to comply with the Federal requirements.

The bill also could have a negative fiscal impact on local courts. The bill would change hearing procedures and would add a requirement for courts to notify the Department when a juvenile was in custody for violating a court order. These required actions likely would increase administrative and hearing costs for probate courts, but these costs likely would be absorbed by existing funding.

Senate Bills 893 & 894

The bills would have no direct fiscal impact on State or local government. The fiscal impact would be indirect because their language would implement changes included in Senate Bill 700.

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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.