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Senate Bill 428 & 429 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Senator Stephanie Chang

Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

Senate Bill 428 (S-2) would amend the juvenile Code to do the following:

- Prohibit a court from considering restitution when determining if a case should be placed on the consent calendar.
- Require a court to consider the results of a risk screening tool and mental health screening tool conducted on a juvenile by a designated, trained individual or agency before determining whether a case should proceed on the consent calendar.
- Limit the period for a juvenile to complete the terms of a consent calendar case plan to three months.
- Prohibit a court from ordering a juvenile or a juvenile's parent, guardian, or legal custodian to pay specified fees or costs associated with the juvenile's court case, court proceedings, or post-disposition care.
- Prohibit the court from collecting the balance of any court-ordered fines, fees, or costs previously assessed to a juvenile, beginning October 1, 2024.
- Prohibit an individual from being placed outside of his or her home solely based on nonpayment of restitution or refusal to perform community service.
- Require a risk and needs assessment to be conducted on a juvenile before disposition and the results used in a disposition decision.
- Require a risk and needs assessment to be conducted on a juvenile if six months have passed since the juvenile's last assessment or if the juvenile experienced a major life event or a change in proceedings.
- Require 100% of the money collected from a juvenile subject to crime victim payments to be applied to the payment of restitution to a victim's estate before the balance could be applied to assessments to the Crime Victim Rights Fund.
- Repeal Section 18m of the Code, which establishes the minimum costs a juvenile must pay arising from a juvenile proceeding.

Senate Bill 429 (S-2) would amend the DNA Identification Profiling System Act to exempt a juvenile within the jurisdiction of the court under the juvenile Code or a parent, legal guardian, or legal custodian of a juvenile, from the requirement to pay a \$60 assessment for the retention of the juvenile's DNA identification profile.

The bills would take effect October 1, 2024, and are tie-barred. Senate Bill 428 (S-2) also is tie-barred to *Senate Bill 421*, which would amend the juvenile Code to require a risk and needs assessment to be used in making a disposition decision, and *House Bill 4268*, which would amend the juvenile Code to provide that a juvenile case could not be placed on the consent calendar unless the court considered the results of a risk screening tool and mental health screening tool, *House Bill 3633*, which would amend the juvenile Code to revise the factors considered by the court for traditional waivers and designations, *House Bill 4636*, which would amend the Revised Judicature Act to exempt juveniles and their guardians from paying late penalties, and *House Bill 4637*, which would amend the Code of Criminal Procedure to eliminate certain provisions that require a juvenile or their guardians to pay the court

reimbursement for the cost of care and service. Senate Bill 429 (S-2) also is tie-barred to House Bills 4636 and 4637.

MCL 712A.2f et al. (S.B. 428)
28.176 (S.B. 429)

BRIEF RATIONALE

The Task Force on Juvenile Justice, created by Governor Whitmer's Executive Order 2021-6, was charged with analyzing Michigan's juvenile justice system and recommending changes to State law, policy, and appropriations aimed to improve youth outcomes. The Task Force found that inconsistent court fees and assessments across the State may disproportionately burden the rehabilitation of some juveniles. Additionally, testimony indicates that non-restitution fees, such as court costs and assessments, generally can make juvenile rehabilitation more difficult. Accordingly, it has been suggested that all non-restitution fees be prohibited.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 428 and 429 are companion bills to House Bills 4634 and 4635 of the 2023-2024 Legislative Session. Senate Bill 429 is a reintroduction of House Bill 4989 of the 2021-2022 Legislative Session, whereas Senate Bill 428 is similar to House Bill 4987 of that session.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

Senate Bill 428 (S-2) would have an indeterminate impact on the Department of Health and Human Services and local governments. The elimination of collecting benefits paid by the Federal government for court wards would mean that some of the costs currently offset by those benefits would fall on the State and local governments to fund.

Regarding, statewide judicial costs, Public Act 119 included new ongoing funding of \$2.025 million and 13.0 full-time employees (FTEs) for a Juvenile Justice Services Division within the State Court Administrative Office. It is likely this new administrative division would be responsible for several statewide responsibilities proposed by the bill, including the creation of guidelines on the use of risk screening tools and mental health screening tools related to diversion and the creation of guidelines on the use of a risk and needs assessment tool.

Additionally, the bill would eliminate non-restitution fees and costs for juvenile adjudication. The cost to local courts and the State are indeterminate; however, associated costs related to the current collection of such fees and costs would also be reduced, again, to an indeterminate degree. According to the State Court Administrative Office, the statewide costs for local courts to collect such fees are high and may currently cost court systems more than the outstanding amounts owed on an annual basis. This cannot be confirmed.

Some statewide data is available. According to the most recent Statewide Circuit Court Summary, total dispositions in circuit court under the juvenile Code amounted to 20,762 in 2021. Additionally, there were 2,181 consent calendar proceedings for juveniles that same year.

Senate Bill 429 (S-2) would have a minimal negative fiscal impact on the Justice System Fund, as it would end the requirement that a juvenile, convicted under the bill in which DNA analysis costs were involved in the prosecution, pay an assessment of \$60, which is deposited into the Fund. The Fund was created by Public Act 97 of 2003 to simplify the assessment,

collection, and distribution of monetary obligations imposed in criminal cases. Revenue deposited into the Fund comes from various assessments related to court penalties and is distributed according to a percentage formula outlined in the Revised Judicature Act, which supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, Michigan State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. For FY 2021-22, these distributions totaled \$33.1 million in restricted revenue.

Date Completed: 10-12-23

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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.