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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 933 (as reported with amendment)
 Sponsor: Senator Jack Welborn
 Committee: Criminal Justice and Urban Affairs

Date Completed: 5-16-90

RECEIVED

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RATIONALE

When a minor who is incarcerated under the jurisdiction of the Department of Corrections (DOC) is in need of medical treatment, the DOC reportedly must seek the consent of the prisoner's parent or legal guardian before treatment can be administered. The emancipation of minors Act grants certain rights and responsibilities to emancipated minors, including the "right to authorize his or her own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability". Some feel that minors who are prisoners housed in a DOC correctional facility or probationers participating in a DOC "boot camp" should be emancipated so that they can be responsible for decisions regarding their own medical care.

CONTENT

The bill would amend the emancipation of minors Act to provide for emancipation to occur "by operation of law" during the period when a minor was a prisoner under the Department of Corrections' jurisdiction, or was a probationer in a special alternative incarceration unit (boot camp).

MCL 722.4

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

If a State prisoner or boot camp probationer is

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in need of medical treatment, especially in the case of an emergency, the DOC should be allowed, and even expected, to provide the necessary care. Requiring the DOC to obtain the consent of a minor prisoner's parent before rendering medical treatment is unnecessarily burdensome and could even be detrimental to the minor. The bill would provide a procedure for the DOC to administer necessary medical care without the formality of seeking parental consent.

Response: The bill goes too far. Providing for the emancipation of a minor would grant far more rights to that child than the right to make medical decisions. The Act addresses the problem of medical treatment to a minor in the custody of a law enforcement agency, by granting limited emancipation for consenting to routine medical care or emergency medical treatment. If the bill's aim is to grant medical decision rights to a minor prisoner or boot camp probationer, it should take such a limited emancipation approach.

Opposing Argument

If Michigan adopts a law requiring parental consent for a minor who seeks to have an abortion, this bill would circumvent such a requirement.

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