



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

THE APPARENT PROBLEM:

The Holmes Youthful Trainee Act offers a mechanism by which a youth charged with a crime when he or she was between seventeen and twenty years old may in effect be excused from having a criminal record (the act also may be used for juveniles over fifteen years old who were "waived" from juvenile court to face adult charges in criminal court). When a judge opts to assign a youth to youthful trainee status, criminal proceedings are suspended pending completion of a probationary period or a term at the Cassidy Lake Technical School (which is where youthful trainees committed to the Department of Corrections are sent), either of which may last up to three years. The court may revoke trainee status at any time prior to the youth's release; revocation causes criminal proceedings to be reinstated. The act provides that an individual who successfully completes trainee status will not be considered to have been convicted of a crime, and that his or her record will be closed to public inspection, though available to courts, police, and the Departments of Corrections and Social Services.

The act does not apply when the charge is first degree murder or a major substance abuse offense. However, there is nothing in the act to prevent its use for youths charged with other serious offenses. Occasionally, youths charged with serious assaultive felonies will be assigned to trainee status. More frequently, youths charged with alcohol-related driving offenses will be assigned to the status, thereby circumventing the drunk-driving laws' provision for felony charges upon the third offense. It has been proposed that the Holmes Youthful Trainee Act be amended to preclude its use for major assaultive offenses and criminal traffic offenses.

THE CONTENT OF THE BILL:

The bill would amend the Holmes Youthful Trainee Act to bar its use when the charge against the youth in question was a felony for which the maximum punishment was life imprisonment (this would include first- and second-degree murder, attempted murder, armed robbery, kidnaping, and first-degree criminal sexual conduct), and when the charge was a criminal traffic offense. The act would continue to be inapplicable for major controlled substance offenses.

MCL 762.11

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill would have fiscal implications in an amount indeterminable at this time. (7-22-87)

ARGUMENTS:

For:

By ensuring that persons charged with the most serious of crimes are not placed on youthful trainee status, the bill would protect the public from the potential consequences of an inappropriate assignment to trainee status. For such serious offenses, the trial should be held so that an

House Bill 4596 as passed by the House
Second Analysis (7-15-87)

RECEIVED

Sponsor: Rep. Tom Alley
Committee: Judiciary

AUG 19 1987

Mich. State Law Library

appropriate sentence may be imposed and a public record developed, rather than foregoing trial and placing the accused on what would likely be an insufficiently secure status. The bill would help to ensure that the punishment fit the crime.

For:

The bill would preclude the use — whether intentional or inadvertant — of the Holmes Youthful Trainee Act as a way of avoiding the progressive sanctions of the state's drunk driving laws, which include license suspension upon a drunk driving conviction and felony charges upon the third offense.

Against:

The bill may be overbroad. It would eliminate an element of flexibility in the law that allows judges to consider mitigating circumstances and opt to place an accused youth on trainee status, even though the charges are serious. Further, through its reference to vehicle code violations, the bill would bar assignment to trainee status when criminal charges other than drunk driving were brought.

POSITIONS:

The Department of State Police supports the bill. (5-27-87)

The Prosecuting Attorneys' Association of Michigan supports the bill. (5-27-87)

The Secretary of State supports the bill. (5-27-87)

The Michigan Judges' Association does not have a position on the bill. (5-27-87)

H.B. 4596 (7-15-87)