



**House
Legislative
Analysis
Section**

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THE APPARENT PROBLEM:

The juvenile code gives the juvenile court jurisdiction and broad dispositional authority over "status offenders", juveniles whose offenses such as truancy or running away would not be offenses if committed by an adult. Many believe that the court should not interfere in what is essentially a family matter until alternative means of resolving the problem have at least been attempted. Modification of the juvenile court's jurisdiction over status offenders has been proposed.

THE CONTENT OF THE BILL:

The bill would amend the juvenile code to require the juvenile court to make certain findings on the record before exercising the exclusive and original jurisdiction that it has over status offenders under 17 years old. The bill would limit the court's jurisdiction in the following ways:

- when the child was a runaway, the court would have to find that the child had been placed or refused alternative placement or the child and his or her parent, guardian, or custodian had exhausted or refused family counseling;
- when the child was repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian, the court would have to find by clear and convincing evidence that court-accessed services were necessary;
- when the child was a truant or repeatedly broke school rules, the court would have to find that the child, parent and school officials had met on the child's school problems, and educational counseling and alternative agency help had been sought.

The bill would delete provisions for juvenile court jurisdiction over a child who repeatedly associated with immoral persons, or who was leading an immoral life, or was found on premises occupied or used for illegal purposes; who habitually idled away his or her time; or who repeatedly patronized any place where the principal purpose of the business conducted was the sale of alcoholic liquors.

The court's concurrent jurisdiction over status offenders between 17 and 18 years old would be limited to situations where the court found on the record that voluntary services had been exhausted or refused.

In addition, the bill would amend truancy and neglect provisions to recognize truancy from learning programs other than school, and to delete "as required by law" from a provision that lists failure to provide education as required by law among the things that constitute parental neglect. The bill would define "education" as learning based on an organized educational program that is appropriate, given the age, intelligence, ability and any psychological limitations of a child, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

MCL 712A.2

COURT AUTHORITY OVER STATUS OFFENDER

House Bill 4716 as passed by the House
Second Analysis (7-28-87)

RECEIVED

Sponsor: Rep. Debbie Stabenow AUG 19 1987
Committee: Judiciary

Mich. State Law Library

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications for the state. (6-18-87)

ARGUMENTS:

For:

The bill would help to ensure that juvenile court authority over status offenders is not exercised prematurely, but rather that families are given an opportunity to resolve problems themselves before the court steps in. Such a framework not only would protect families from undue interference from overzealous judges, but also would encourage sensible and reasonably limited use of court resources and the overburdened juvenile system.

For:

The section being amended by the bill provides for juvenile court jurisdiction over abused and neglected children and figures in the continuing debate over home schooling and the proper reach of the law in that issue. One of the conditions that constitute neglect under the code is a parent's refusal to provide "education as required by law," commonly taken to mean "education as required by the School Code." The possible consequences of this sort of "neglect" include loss of custody, clearly an extreme reaction to a situation where children certainly are not being neglected, but instead are receiving a great deal of personal attention from parents educating them at home. The bill would define education and delete "as provided by law" from the educational requirement. Although parents would still be subject to School Code penalties for violations, amendments to the bill could at least remove the threat of losing custody for failing to send a child to school.

Against:

By providing a list of subjects that were to constitute "education," the bill would, at least technically, put parents at risk of being charged with neglect even if they complied with the School Code and its less comprehensive list of subjects that schools are required to teach. Further, the definition would be based on learning that was appropriate to a child's age, intelligence, ability, and psychological limitations — elements that would be subject to judicial interpretation, and thus vulnerable to judicial overreaching. The home schooling issue is a complex one that should be resolved through avenues other than the bill. If people insist on amending the juvenile code with regard to educational requirements, it would be better to limit changes to deleting the offending language.

POSITIONS:

The Michigan Council on Crime and Delinquency supports the bill. (7-22-87)

H.B.-4716 (7-28-87)

OVER

The Michigan Federation of Private Child and Family Agencies supports limiting juvenile court jurisdiction over status offenders but opposes amendments that would involve the juvenile court in the home schooling issue. (7-23-87)