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BILL ANALYSIS

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Senate Bill 137 (as enrolled)(Public Act 64 of 1988)

Sponsor: Senator John F. Kelly

Senate Committee: Judiciary

House Committee: Judiciary

Date Completed: 7-12-88

RATIONALE

Under the juvenile code, when a minor aged 15 or older is accused of an act that would be a felony if committed by an adult, the probate court may waive jurisdiction over the juvenile to a court of general criminal jurisdiction, so that the minor can be prosecuted as an adult. Under this system, the probate court must hold a hearing and consider specific criteria to determine whether there is probable cause to believe the juvenile committed the offense, and the prosecutor must convince the court that waiver would be in the best interests of the juvenile and the public. If jurisdiction is in fact waived, the criminal court must then conduct a preliminary examination—as it does in all felony cases—to determine whether there is sufficient evidence to continue proceedings leading to a trial, and the prosecutor must show that a crime was committed and there is probable cause to believe the accused committed it. Along with proposals that would revise the way the State handles serious juvenile offenders, it has been suggested that the criteria used by the probate court be revised to ensure that violent and hardened juvenile offenders are dealt with efficiently, while salvageable youths still have the opportunity to be rehabilitated. Within this context, it also has been proposed that the juvenile waiver hearing replace the preliminary examination.

CONTENT

The bill would amend the Code of Criminal Procedure to make an exception to the provision that requires the magistrate before whom a person accused of a felony is brought to schedule and hold a preliminary examination. The exception would apply to cases in which the probate court holds a probable cause hearing on the issue of waiving jurisdiction over a juvenile accused of committing a felony.

The bill is tie-barred to House Bills 4731, 4733, 4741, 4748, 4750, and 5203, and Senate Bills 601, 604, 605, 607, 608, and 609 (Public Acts 51, 52, 53, 68, 54, 182, and 73 through 78 of 1988, respectively). (Those measures revise the treatment of juvenile offenders under the law. Public Act 182, in particular, amended the juvenile code to revise the criteria that the juvenile court must consider in deciding whether to waive jurisdiction, and provides that, if jurisdiction is waived, the probable cause finding will satisfy the requirements of and be considered the equivalent of the preliminary examination required under the Code of Criminal Procedure.)

MCL 766.4

FISCAL IMPACT

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

ARGUMENTS**Supporting Argument**

The bill would simply conform the Code of Criminal Procedure to the juvenile code, and eliminate a duplicative step in the prosecution of juvenile offenders who are waived for trial as adults. Since the probate court already must find probable cause to believe a juvenile committed an offense, in order to waive jurisdiction, it is not necessary for a magistrate also to conduct a preliminary examination to determine whether there is probable cause.

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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.

S.B. 137 (7-12-88)