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BILL ANALYSIS

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Senate Fiscal Agency

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Senate Bill 223

Sponsor: Senator Phil Arthurhultz

Committee: Criminal Justice, Urban Affairs, and Economic Development

Date Completed: 5-6-87

SUMMARY OF SENATE BILL 223 as introduced 4-9-87:

Senate Bill 223 would amend the juvenile code to:

- Prohibit the secure detention of neglected or abused juveniles and, except under certain circumstances, status offenders and runaways.
- Prohibit status offenders and neglected or abused juveniles from being held in secure adult facilities.
- Require the construction of juvenile detention facilities.
- Expand the circumstances under which juveniles may be held pending a hearing.

Secure Detention

The bill specifies that a child taken into custody under certain conditions (for actions commonly referred to as "status offenses", or for running away from home) could not be detained in any secure facility designed to restrict the movements and activities of alleged or adjudicated juvenile offenders unless the Probate Court found that the child willfully violated a court order and, after a hearing, found that there was not a more appropriate, less restrictive alternative.

In addition, a child taken into custody for a status offense or for running away, who had not been found to have violated any municipal ordinance or State or Federal law that would be a felony if committed by an adult, could not be detained in a cell or secure area of a secure facility designed to incarcerate adults.

A child taken into custody because of neglect or abuse, or home conditions that necessitate immediate removal, could not be detained in a secure facility designed to restrict the movements and activities of alleged or adjudicated juvenile offenders or in a cell or secure area of a secure facility designed to incarcerate adults.

The bill would require the State to build juvenile detention facilities at locations in the northern part of the Lower Peninsula, in the Upper Peninsula, and in other locations designated for need.

The bill specifies that the State would have to reimburse local units of government for costs associated with any new or increased levels of service or activity required by the Act as a result of the bill's passage.

Custody

The bill would allow custody, pending a hearing, of children who have a record of unexcused failure to appear at juvenile court proceedings or those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order. The bill also would allow "custody", pending a hearing, of children in the following circumstances, for which the current law allows "detention":

- Those whose home conditions make immediate removal necessary.
- Those who have run away from home.
- Those whose offenses are so serious that release would endanger public safety.

In addition, the bill would delete a provision of the Act allowing detention of children detained for observation, study, and treatment.

Definitions

The term "status offense" refers to an action that would not be an offense if committed by an adult, but for which a juvenile may come under the jurisdiction of the probate court. Status offenses include the following:

- Desertion of the child's home without sufficient cause, or repeated disobedience to the reasonable and lawful commands of the child's parents, guardian, or custodian.
- Repeated association with immoral persons, leading an immoral life, or being found on premises used or occupied for illegal purposes.
- Repeated failure to attend school or repeated violations of the school's rules, if the child is required by law to attend school.
- Habitual idleness.
- Patronizing or frequenting a tavern or other place where the primary business is the sale of alcohol.

The code's abuse and neglect provisions give the probate court jurisdiction over children in the following circumstances:

- The child's home environment is an unfit place in which to live due to neglect, cruelty, drunkenness, criminality, or depravity on the part of the child's parent, guardian, or other custodian.
- The child's parent, or other person legally responsible for his or her care and maintenance, neglects or refuses to provide proper support, education, medical, surgical, or other care necessary for the child's health or morals.
- The child is deprived of emotional well-being; is abandoned by his or her parents, guardian, or other custodian; or is otherwise without proper custody or guardianship.

MCL 712A.15 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 223 would result in an increase in State expenditures due to changes in the juvenile code pertaining

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to the placement of children in custody, the detention of status offenders, and the construction of juvenile detention facilities.

Changes to Section 15(2) would enable a court to place in custody 1) a child who had a record of unexcused failures to appear at juvenile court proceedings and 2) a child who had run away from a detention or nonsecure facility or placement in violation of a court order. The total cost of placing these children in custody cannot be determined by the data currently available. FY 1986-87 detention rates range from \$100 to \$150 per day, however.

Amendments to Section 15(2) also would replace the term "detention" with "custody". Costs may be attributed to this replacement. "Detention" implies a secure facility, while "custody" may include both nonsecure (e.g., foster homes and shelter centers) and secure placements. The per-day cost for a secure placement (\$100 - \$150/day) is substantially greater than for nonsecure placements (\$30 - \$40/day).

In addition, the bill would affect costs associated with the detention of status offenders. Section 15(3) would allow the court to detain status offenders in secure facilities in cases in which the court could not find less restrictive placements or the child had violated a court order. There are not any means currently available to ascertain the number of status offenders meeting these criteria. This new subsection would have an indeterminate impact on State expenditures.

The new Section 15a would require the State to build juvenile detention facilities at locations in the Upper Peninsula, upper part of the Lower Peninsula, and other places of designated need. Without detailed plans (i.e., number of facilities, number of beds per facility), it is impossible to arrive at specific costs. The Department of Social Services, however, has estimated that the per-bed cost for construction of a detention facility in FY 1986-87 is approximately \$80,000. The current operating cost per bed for a detention facility is \$62,500. These figures increase as the size of the detention facility gets smaller: it is more expensive to build and operate small (based on the number of beds) facilities.

Fiscal Analyst: W. Griffith

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.