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BILL ANALYSIS

MAY 05 1988

H. B. 4596 (H-1) 48909

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House Bill 4596 (Substitute H-1 as reported without amendment)**Sponsor:** Representative Tom Alley**House Committee:** Judiciary**Senate Committee:** Judiciary**Date Completed:** 12-17-87**RATIONALE**

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. There is nothing in the Act, however, 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.

CONTENT

House Bill 4596 (H-1) would amend the Holmes Youthful Trainee Act within the Code of Criminal Procedure to expand the offenses for which a youth could not be considered for or assigned to the status of "youthful trainee". The bill would exclude from consideration or assignment youthful trainee status youths alleged to have committed any felony for which the maximum punishment is imprisonment for life (e.g., first and second degree murder, attempted murder, armed robbery, kidnapping, and first degree criminal sexual conduct), or any criminal traffic offense.

MCL 762.11

FISCAL IMPACT

The bill would result in an indeterminate impact on State expenditures in FY 1987-88. The indeterminate impact would be the result of three primary factors:

- The date the bill would take effect during FY 1987-88.
- The number of individuals who would be affected by the provisions of the bill.
- The average cost per prisoner to house sentenced felons in other secure correctional facilities.

The Department of Corrections statistics indicate that there are only 10 individuals currently sentenced under the provisions of the Holmes Youthful Trainee Act. Of the 10 individuals, five would have been excluded from youthful trainee status under the proposed bill.

Finally, with regard to cost analysis, individuals sentenced to secure confinement under the provisions of the Holmes Youthful Trainee Act are currently incarcerated at the Cassidy Lake Technical School. This facility for cost analysis is included with the Department's minimum security facilities. For FY 1987-88, the average cost per prisoner in minimum security facilities is \$15,300, compared to an average cost per prisoner of \$20,700 for all security level facilities. Therefore, if a prisoner who would currently be sentenced to Cassidy Lake Technical School were sentenced to a higher security level facility, the cost per prisoner would increase for the State.

ARGUMENTS**Supporting Argument**

By ensuring that persons charged with the most serious of crimes were 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 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.

Supporting Argument

The bill would preclude the use—whether intentional or inadvertent—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.

Opposing Argument

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.

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