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BILL ANALYSIS

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**House Bills 4731, 4733, 4741 (H-2), 4748 (H-2), and 4750 (H-2)**

Sponsor: Representative Virgil Smith, Jr. (House Bill 4731)

Representative David Honigman (House Bill 4733)

Representative Burton Leland (House Bill 4741)

Representative Michael J. Bennane (House Bill 4748)

Representative Teola P. Hunter (House Bill 4750)

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 1-27-88

***SUMMARY OF HOUSE BILLS 4731,  
4733, 4741 (H-2), 4748 (H-2), and 4750  
(H-2) as passed by the House:***

House Bills 4731, 4733, 4741 (H-2), 4748 (H-2), and 4750 (H-2) are part of a package of bills that would modify the way the courts treat the jurisdiction, adjudication, and treatment or punishment of juvenile offenders. House Bills 4731 and 4733 would give the Detroit Recorder's Court and the Circuit Court, respectively, original and exclusive jurisdiction over juveniles 15 years of age or older who were charged with any of the offenses described below, and House Bill 4741 (H-2) would remove jurisdiction from the probate court over juveniles aged 15 or older who were charged with any of the following offenses, which carry a maximum penalty of life imprisonment:

- Assault with intent to murder.
- First or second degree murder or attempted murder.
- Assault with intent to commit armed robbery.
- First degree criminal sexual conduct.
- Armed robbery.
- Manufacture, delivery, or possession of more than 650 grams of cocaine or a Schedule 1 or 2 narcotic.

House Bill 4748 (H-2) would amend the Code of Criminal Procedure to accommodate the adjudication, disposition, and detention of juveniles aged 15 or older who committed any of the offenses listed above.

House Bill 4750 (H-2) would amend the juvenile code to allow the probate court to retain jurisdiction over juveniles up to 21 years of age who committed certain offenses less serious than those listed above, and juveniles who committed felonies and were committed to juvenile facilities.

The bills are all tie-barred to one another and to the other bills in the package. A more detailed description of the bills follows.

**House Bill 4731**

The bill would amend Public Act 369 of 1919 to give the Detroit Recorder's Court original and exclusive jurisdiction over juveniles 15 years of age or older who were charged with any of the life-maximum offenses listed above, that were committed in the City of Detroit.

MCL 725.10a

**House Bill 4733**

The bill would amend the Revised Judicature Act to give the Circuit Court original and exclusive jurisdiction over juveniles 15 years of age or older who were charged with any of the life-maximum offenses listed above.

Proposed MCL 600.606

**House Bill 4741 (H-2)**

The bill would amend the juvenile code to remove from the juvenile division of probate court original jurisdiction over juveniles 15 years of age or older who were charged with any of the life maximum-offenses listed above.

If the juvenile division operated a detention facility for children within its jurisdiction, the court would have to house a juvenile charged with one of these offenses at that facility if ordered to do so by the Circuit Court or the Detroit Recorder's Court.

MCL 712A.2

**House Bill 4748 (H-2)**

The bill would amend the Code of Criminal Procedure to accommodate the adjudication and disposition of juveniles 15 years of age or older who were charged with any of the life-maximum offenses listed above. Prior to trial, the bill would prohibit the detention of such a juvenile with adults, under language paralleling that for detention of minors in the juvenile code (out of the range of sight and sound of adult detainees). Time served in a juvenile facility would have to be applied to any sentence or commitment imposed following trial.

At the conclusion of the preliminary examination, a juvenile's case would have to be transferred to the juvenile court if the magistrate found that none of the listed violations occurred or that there was not probable cause to believe that the juvenile committed the violation, but that there was probable cause to believe that the juvenile had committed some other offense.

Upon sentencing a juvenile, the trial court would have to conduct a hearing to determine whether the best interests of the juvenile and the public would be served by committing the juvenile to a juvenile facility for rehabilitative services or by imposing any other sentence

H.B. 4731, 4733, 4741 & 4748 (1-27-88)

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provided by law for an adult offender. In making the determination, the court would have to employ criteria virtually identical to those to be used by the juvenile court when deciding whether to waive a minor to adult court. The court could waive such a hearing with the consent of both the prosecutor and the defendant. If the hearing were waived, the court could not impose any sentence provided by law for an adult, but could commit the youth to a juvenile facility for rehabilitative services.

The court would be required to enter a written order on the youth's commitment or sentencing that set forth the findings that formed the basis of the order. If a juvenile were committed to a State institution or agency, the court's written order would have to include a provision for reimbursement by the juvenile or those responsible for his or her support for the cost of care or services. The amount of reimbursement would have to be "reasonable" given income considerations and would apply during the entire period that the juvenile remained in care outside of his or her own home under the court's supervision. Collections of reimbursement payments would be made by the court and reported to the county board of commissioners. One-fourth of all reimbursement amounts collected would have to go toward the administrative costs of collections with the balance divided between the county, State, and Federal governments in proportion to their participation in the cost of care. The court also could collect benefits paid by the Federal government for the juvenile's care. Money collected by the Department of Social Services would have to be accounted for and reported on an individual basis.

A reimbursement order directed to a person responsible for a juvenile's support would not be binding unless an opportunity for a hearing had been given and until a copy of the order was served personally or by first class mail. If the court had appointed an attorney for the juvenile's defense, an order could require reimbursement to the court for attorneys' fees.

The Department of Social Services, or the juvenile facility if the child had been detained in a juvenile facility pending trial, would have to prepare the equivalent of a presentence investigation report for use by the court. The report would be in addition to the presentence investigation report prepared by the Department of Corrections for all felony convictions.

The court would retain jurisdiction over a juvenile committed to a juvenile facility, and annually would have to review that juvenile's placement and progress, using an annual report to be prepared by the facility under the proposed "Juvenile Facilities Act". The court could order changes in placement or the treatment plan based on the review.

If a juvenile were committed to a juvenile facility, the court would have to conduct a review hearing as near as possible to the juvenile's nineteenth birthday to determine whether the juvenile had been rehabilitated and whether the juvenile presented a serious risk to public safety. If the juvenile had not been rehabilitated or presented a serious risk to public safety, the court's jurisdiction would continue. In making the determination, the court would have to consider all of the following:

- The juvenile's participation in education, counseling, and work programs.
- The juvenile's willingness to accept responsibility for prior behavior.
- The juvenile's behavior in the current placement.
- The prior record and character of the juvenile and his or her physical and mental maturity.
- The juvenile's potential for violent conduct as demonstrated by prior behavior.

- The recommendations of the juvenile facility.
- Other information submitted by the prosecutor or the juvenile.

The juvenile facility could at any time petition for a review hearing if it believed that a juvenile under the bill had been rehabilitated and did not present a serious risk to the public. The bill would include provisions for timely notice of hearing to prosecutors, juveniles, and parents, and for appointment of counsel.

MCL 761.1 et al.

### **House Bill 4750 (H-2)**

The bill would amend the juvenile code to allow the juvenile division of probate court to retain jurisdiction until age 21 for juveniles who committed any of the following offenses:

- Arson of a dwelling.
- Assault with intent to do great bodily harm less than murder.
- Assault with intent to commit unarmed robbery.
- Kidnapping.
- Second or third degree criminal sexual conduct.
- Attempted criminal sexual conduct.
- Unarmed robbery.

Currently, the juvenile court's jurisdiction generally ends at age seventeen. When the court has exercised its jurisdiction, however, it may retain it until the youth turns 19.

In addition, the juvenile court would retain jurisdiction over juveniles who had committed felonies and were committed to a juvenile facility, regardless of whether the facility was a State facility. (Currently, commitment to a State facility puts the juvenile under the jurisdiction of the Department of Social Services.) Beginning three years after the bill took effect, the court would retain jurisdiction over all adjudicated juveniles. The court annually would have to review the juvenile's placement and progress, and could order changes in the juvenile's placement or treatment plan. A juvenile could be released only with the approval of the court.

Generally, a juvenile committed to a State facility would continue to be released automatically at age 19. For those juveniles who had committed offenses for which the court could retain jurisdiction until age 21, however, the court would have to conduct a review hearing as close as possible to the juvenile's nineteenth birthday. If the court determined that the juvenile had not been rehabilitated or presented a serious risk to public safety (the same determinations which the criminal court would make with regard to juveniles under its jurisdiction), the court would continue its jurisdiction over the juvenile. In making its determinations, the court would have to consider the same factors as required for a review hearing under House Bill 4748 (H-2). Provisions for notice, appointment of counsel, and commitment reports would parallel those in House Bill 4748 (H-2).

MCL 712A.2a

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bills would have an indeterminate impact on State and local government.

Fiscal Analyst: B. Bowerman

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.