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BILL ANALYSIS

DATE 03 1988

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House Bill 5196 (as reported without amendment)**Sponsor:** Representative Michael D. Hayes**House Committee:** Judiciary**Senate Committee:** Criminal Justice, Urban Affairs, & Economic Development**Date Completed:** 1-25-88***RATIONALE***

Because juveniles are prosecuted as adults only under special circumstances as provided by law, they are sometimes used, convinced, or coerced by adults to commit a criminal act that would be considered a felony if committed by an adult. Many feel that this practice is prevalent in the illegal drug trade, where adults can use minors to commit illegal acts, such as distributing or carrying drugs, and thus remove the adult dealers from risk of prosecution. It has been suggested that the practice would be discouraged if special penalties were imposed on adults for inducing minors to commit serious drug offenses.

CONTENT

House Bill 5196 would amend the Public Health Code to make it a felony to solicit or coerce a juvenile to commit a controlled substances offense that would be a felony if committed by an adult.

A fine of up to the amount authorized for the solicited offense could be imposed for a violation of the bill. In addition, the bill would establish minimum terms of imprisonment from which the court could depart if it found on the record that there were substantial and compelling reasons for doing so. For most offenses, the minimum prison term would be one-half of the maximum period authorized for the solicited offense, and the maximum term would be the same. When the solicited offense was the manufacture, delivery, or possession with intent to deliver of at least 650 grams of narcotics or cocaine, however, the penalty would be mandatory imprisonment for life, which is the penalty for the solicited offense. Also, the bill's provisions for minimum prison terms would not apply to the manufacture, delivery, or possession with intent to deliver of marijuana. A person sentenced under the bill would not be eligible for a delayed or suspended sentence or for probation.

Proposed MCL 333.7416

FISCAL IMPACT

The bill would result in an indeterminate increase in 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 length of the sentence imposed by the sentencing judge for the felony offense committed.

For FY 1987-88, the average cost per prisoner in a secure correctional facility is \$20,700. Any increase in the number of prison commitments would increase State spending accordingly.

ARGUMENTS***Supporting Argument***

Many of the juveniles involved in the drug trade are acting on behalf of adults seeking to insulate themselves from criminal prosecution. This exploitation of children is a particularly reprehensible aspect of drug trafficking. By creating special penalties for using a juvenile to commit a controlled substance offense, the bill would appropriately punish that behavior and discourage drug traffickers from engaging in it.

Opposing Argument

The bill would add to the worsening problem of a piecemeal approach to sentencing. The proper way to deal with sentencing issues, instead of sporadically adopting minimum sentences for individual offenses, is comprehensively developing carefully considered and internally consistent sentencing guidelines.

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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.