

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

RECEIVED

APR 20 1988

Mich. State Court

House Bill 5203

Sponsor: Representative John G. Strand

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 3-3-88

SUMMARY OF HOUSE BILL 5203 as passed by the House:

The bill would amend the juvenile code to revise the criteria that the juvenile court must consider in deciding whether to waive to a court of general criminal jurisdiction a juvenile charged with what would be a felony if committed by an adult. At present, the juvenile court must hold a hearing to determine whether there is probable cause to believe the juvenile committed the offense, and, upon a showing of probable cause, the court must determine whether the interests of the juvenile and the public would be best served by granting a waiver. In making that determination, the court must consider the following criteria: 1) the prior record and character of the child; 2) the seriousness of the offense; 3) whether the offense, even if less serious, is part of a repetitive pattern indicating that the juvenile may be beyond rehabilitation under existing juvenile programs and statutory procedures; 4) the relative suitability of programs and facilities available to the juvenile in the juvenile and adult criminal courts; and 5) whether it is in the best interests of the public welfare and the protection of the public security that the juvenile stand trial as an adult.

The bill generally would retain the first, second, and fifth criteria, and replace the others with the following:

- Whether the offense was part of a repetitive pattern that would lead to a determination that the juvenile was not amenable to treatment or that despite a juvenile's potential for treatment, the nature of his or her delinquent behavior was likely to disrupt the rehabilitation of other children in the treatment program.
- Whether, despite the juvenile's potential for treatment, the nature of his or her delinquent behavior was likely to render the juvenile dangerous to the public if released at the age of 19 or 21.

The court would be required to give each criteria "weight as appropriate to the circumstances". The court also would have to put the granting or denial of a waiver motion in writing and include the reasons for denial; presently, this requirement applies only when a waiver motion is granted.

In addition, if the court waived jurisdiction, the probable cause hearing

would satisfy the requirements, and be considered the equivalent, of the preliminary examination that otherwise would be required under the Code of Criminal Procedure. Before a juvenile could waive a juvenile court probable cause hearing, the court would have to inform the juvenile that that waiver would waive the preliminary examination.

The bill would take effect June 1, 1988.

The bill is tie-barred to House Bills 4731, 4733, 4741, 4748, and 4750, and Senate Bills 137, 601, 604, 605, 607, 608, and 609, which constitute a package of proposals that would modify the way the courts deal with the jurisdiction over, and adjudication, treatment or punishment of juvenile offenders.

MCL 712A.4

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have an indeterminate impact on State and local government. Allowing the probable cause finding under Section 4(3) to satisfy the requirements of a preliminary examination would result in administrative savings.

Additional waivers that could occur due to the bill cannot be estimated. These would result in increased costs to the Department of Corrections.

Fiscal Analyst: B. Bowerman

8788 S5203SA:S8788

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.