



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 689 (Substitute S-3 as reported)
Sponsor: Senator Michael J. Bouchard
Committee: Judiciary

CONTENT

The bill would amend the juvenile code to reduce from 15 to 14 years the minimum age at which a minor may be tried as an adult in a court of general criminal jurisdiction, rather than as a juvenile in the juvenile division of probate court (juvenile court), for certain offenses. The bill would expand the list of offenses for which a prosecutor may file criminal charges directly in a court of criminal jurisdiction and include an attempt, conspiracy, or solicitation to commit any of the specified offenses, any lesser included offense of one of those violations, and any other violation arising out of the same transaction as any of the applicable violations. In addition, the bill would refer to any of those offenses as a "specified juvenile violation".

Under current law, if a prosecuting attorney has reason to believe that a juvenile 15 years of age or older has committed any of the following offenses, the prosecuting attorney may authorize the filing of a criminal complaint and warrant on the charge: assault with intent to murder (MCL 750.83); armed assault with intent to rob and steal (MCL 750.89); attempted murder (MCL 750.91); first-degree murder (MCL 750.316); second-degree murder (MCL 750.317); first-degree criminal sexual conduct (MCL 750.520b); armed robbery with aggravated assault (MCL 750.529); carjacking (MCL 750.529a); manufacturing, delivering, or possessing with intent to deliver 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine (MCL 333.7401(2)(a)(i)); and possession of 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine (MCL 333.7403(2)(a)(i)).

The bill would add to that list burning a dwelling house (MCL 750.72); assault with intent to maim (MCL 750.86); kidnapping (MCL 750.349); and bank, safe, and vault robbery (MCL 750.531).

The bill would apply to offenses committed on or after its effective date and is tie-barred to Senate Bills 690, 691, 692, and 694.

MCL 712A.2

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State government.

Lowering from 15 to 14 the age at which a minor may be tried as an adult in circuit court (in only those instances in which the prosecutor may file directly), could result in increased commitments to the Department of Corrections (DOC). However, given that under current law, 14-year-old offenders may be sentenced to a Department of Social Services (DSS) facility (and could continue to be under the bills), the effect of these bills could be simply to shift the responsibility for

commitment from the DSS to the DOC. Currently, a 15- or 16-year-old offender convicted of a crime for which the prosecutor may file directly may be sentenced to the DSS or to the DOC.

In order to determine the actual impact of the bills, one needs to determine the estimated number of new commitments to the DOC as a result of the lower age for only those crimes for which the prosecutor may file directly. While currently available data do not include all of the listed crime categories, in 1994, there were 170 commitments to the DOC for offenders who were either 15 or 16 at the time of the offense with an average minimum sentence of seven years. (Eleven sentences were for life, and all of those were for first-degree murder. Data limitations do not provide the number of these commitments that were the result of direct filing by the prosecutor.) During FY 1993-94 (calendar year data not being currently available), there were 113 commitments aged 15 and 16 to the DSS for "serious felony against a person" offenses, as defined by the DSS. (These offenses could include crimes other than those included for DOC commitments above, or other than those eligible for prosecutorial discretion, and also would include offenders sentenced to the DSS through probate court. The number of annual commitments to the DSS, by circuit court, however, is currently unavailable.) If one assumes that the serious felony against a person category represents those crimes for which the prosecutor may file directly, then for those offenders receiving a sentence of incarceration, approximately 41% received a prison sentence and 59% received a DSS sentence.

In FY 1993-94 there were 36 14-year-old offenders committed to the DSS for a serious felony against a person. If the same distribution of sentencing patterns were to apply to 14-year-olds, then one might expect 41% or 15 of these offenders, under the bill, to receive a prison sentence rather than a sentence to the DSS.

If one assumes that the average length of sentence in a DSS facility of a 14-year-old offender is five years, then the cost of the DSS sentence for those 15 offenders would range from \$4.6 million to \$5.9 million depending on the level of confinement. If these offenders would instead be sentenced to the DOC, total costs of incarceration, assuming a seven-year sentence, would be \$3.8 million. In other words, if the bill resulted in more 14-year-olds sentenced to prison, for average sentences of seven years, and a corresponding reduction in those commitments to the DSS, then the State could realize some savings, the magnitude of which would be determined by the average sentence lengths of the two types of commitments, and the number of annual commitments. Under the assumptions and analysis described above, the State would realize savings ranging from \$0.8 million to \$2.1 million.

It is difficult at this time to determine what impact the inclusion of conspiracy or solicitation, or the inclusion of a lesser offense of one of the listed crimes, or the addition of four new crimes would have on the number of times a prosecutor would file directly in circuit court and the corresponding impact on the number of offenders sentenced to prison rather than to a DSS facility. All other things being equal, it would require a prison sentence greater than 11 years before the costs of DOC incarceration exceeded the average cost of a three-year DSS juvenile detention center sentence.

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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.