



House
Legislative
Analysis
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AMEND REQUIREMENTS FOR JUVENILE WAIVER

House Bills 4039-4044

Sponsor: Rep. Beverly Hammerstrom
Committee: Judiciary and Civil Rights

Complete to 8-25-95

A SUMMARY OF HOUSE BILLS 4039-4044 AS INTRODUCED 1-11-95

The bills would amend current law regarding the jurisdiction of different courts over crimes involving juvenile perpetrators. The bills, which are tie-barred, would expand the circumstances under which, depending upon the nature of the criminal behavior, the prosecuting attorney would be allowed to waive the jurisdiction of the juvenile court and transfer jurisdiction of the crime to circuit court.

House Bill 4039 would amend the juvenile code (MCL 712A.2 et al.), the law establishing jurisdiction of the juvenile division of the probate court. Generally, the juvenile division of the probate court has exclusive original jurisdiction over children under the age of seventeen accused of criminal activity. However, this does not apply in cases of juvenile offenders who are 15 years old or older and who are charged with certain serious crimes, unless the prosecuting attorney, at his or her discretion, chooses to file a petition in juvenile court. The crimes listed are: assault with intent to commit murder; assault with intent to rob or steal; attempted murder; first degree murder; second degree murder; first degree criminal sexual conduct; aggravated assault/armed robbery; carjacking; unlawful manufacture, delivery, or possession of a controlled substance; or possession of a controlled substance or an analogue of a controlled substance.

The bill would add three more crimes to this list (assault with intent to do great bodily harm less than murder, first degree home invasion, and kidnapping) but only where the offender was armed with a dangerous weapon at the time the crime was committed. The bill would define a dangerous weapon as any of the following: 1) a firearm, whether loaded or unloaded, operable or inoperable; 2) a knife, stabbing instrument, brass knuckles, blackjack, or other object specifically designed, carried, or possessed for use as a weapon; 3) an object likely to cause death or bodily injury when used as a weapon and was carried, used, or possessed as a weapon; or 4) any object used or fashioned in a such a manner that would lead a person to believe that the object would fit into one of the three preceding categories.

The bill would also amend the law concerning the juvenile division's jurisdiction over a child after he or she has been found guilty. Generally, the juvenile division retains jurisdiction over offenders until they reach age 19. Where the juvenile committed one or more of several listed crimes, and the prosecuting attorney has chosen not waive the juvenile court's jurisdiction, current law allows the juvenile division to continue its jurisdiction over the child until he or she reaches 21 years of age. The crimes listed include: burning a dwelling house; assault with intent to commit murder; assault with intent to commit great

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bodily harm less than murder; unarmed and/or armed assault with intent to rob or steal; attempted murder; breaking and entering a place other than a dwelling house; first or second degree murder; kidnapping; larceny from a building; taking possession and driving away a motor vehicle; first, second, or third degree criminal sexual conduct; assault with intent to commit criminal sexual conduct; aggravated assault; armed robbery; carjacking; unlawful manufacture, delivery, or possession of a controlled substance; or possession of a controlled substance or an analogue of a controlled substance. The bill would add to this list of juvenile offenses which would allow the child to remain under the jurisdiction of the juvenile court the crime of first degree home invasion.

If a child was committed to a public institution as a result of having committed one of the offenses listed above, the court is currently required to conduct a review hearing to determine whether the child has been rehabilitated and whether he or she still presents a serious risk to public safety. If the court concludes that the child is not rehabilitated or remains a threat to public safety, then the court's jurisdiction over the child may continue until age 21. The bill would add the crime of first degree home invasion to the list of crimes allowing for the juvenile to remain institutionalized until age 21.

House Bills 4040 and 4041 would amend the Revised Judicature Act (MCL 600.606) and the act establishing Detroit Recorder's Court (MCL 725.10a) to add language conforming to the provisions of House Bill 4039.

House Bill 4042 would amend the Code of Criminal Procedure (MCL 764.1f and 764.14) to add the same three crimes (where the offender was armed with a dangerous weapon during the commission of the crime) to the list of crimes for which the prosecutor could waive the juvenile court's jurisdiction. The bill would also add these provisions to the section of the law requiring that the magistrate transfer certain cases back to the juvenile court.

House Bill 4043 would add these provisions to act establishing the Criminal Identification Bureau of the Department of State Police (MCL 28.241a).

House Bill 4044 would amend the Youth Rehabilitation Services Act (MCL 803.307) to add these provisions.