

# Legislative Analysis



## JUVENILE LIFE WITHOUT PAROLE

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4160 as introduced**  
**Sponsor: Rep. Stephanie A. Young**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4161 as introduced**  
**Sponsor: Rep. Jimmie Wilson, Jr.**

**House Bill 4162 as introduced**  
**Sponsor: Rep. Amos O'Neal**

**House Bill 4163 as introduced**  
**Sponsor: Rep. Kara Hope**

**House Bill 4164 as introduced**  
**Sponsor: Rep. Curt S. VanderWall**

**Committee: Criminal Justice**  
**Revised 8-15-23**

## SUMMARY:

Taken together, House Bills 4160 to 4164 would amend different laws to prohibit sentencing an individual who committed certain crimes when less than 19 years old to life without parole and require an individual who was sentenced for a crime committed when the individual was less than 19 to be eligible for parole consideration after serving 10 years of a sentence for life without parole or, for certain crimes, life for any term of years. Provisions in the juvenile code allowing juveniles who commit certain crimes to be sentenced to life imprisonment without parole, or to serve long minimum and maximum sentences for those crimes, would be repealed.

Currently, a juvenile who committed certain serious crimes when less than 18 years old that mandate life without parole for an adult offender may still be sentenced to life without the possibility of parole, but such a sentence cannot be automatic and may only be imposed after a hearing in which certain factors are considered. If life without parole is not imposed, the individual must be sentenced to a term of imprisonment for which the minimum term is at least 25 but not more than 40 years and the maximum term is at least 60 years.

**House Bill 4160** would amend the Corrections Code to provide that, notwithstanding any provision in the act to the contrary, an individual who was less than 19 years of age at the time the individual committed a crime for which the sentence was life without parole or a term of years for certain crimes is subject to the jurisdiction of the parole board after serving 10 years of the sentence and may be released on parole by the parole board.

In determining whether to release an individual on parole, the parole board would be required to consider all of the following factors:

- The individual's age and immaturity at the time of the offense.
- The individual's family and home environment at the time of the offense.
- The circumstances surrounding the offense, including the role the individual had in the commission of the offense and the influence of peer pressure.

The bill's provisions would apply to those crimes described in House Bill 4162 if committed by an individual who was less than 19 years of age at the time the offense was committed.

In addition, the parole board is required to provide notice to the prosecuting attorney of the county in which the prisoner was convicted before granting parole to prisoners convicted of certain controlled substance offenses. The bill would require the parole board to similarly provide notice to the prosecuting attorney before granting a parole to individuals subject to the bill's provisions.

MCL 791.234

**House Bill 4161** would amend a section of the Public Health Code that establishes criminal penalties for knowingly adulterating, misbranding, removing, or substituting a drug or medicine so as to render the drug or medicine injurious to a person's health or selling or manufacturing for sale such a drug. Currently, the penalty for an individual who violates the prohibition with the intent to kill or to cause serious impairment of a body function of two or more individuals, if the violation results in death, is life without parole, or life without parole and a fine of up to \$40,000.

The bill would retain the prohibition and penalty for adults at least 19 years of age, but it would make an exception for an individual who committed a violation when less than 19 years of age at the time of the violation. The penalty for that individual would be imprisonment for not less than 10 years and not more than 60 years and a fine of up to \$40,000.

MCL 333.17764

**House Bill 4162** would amend the Michigan Penal Code to revise the penalties for certain crimes involving the death of another person if the offense was committed by an individual less than 19 years old at the time. The bill also would provide that, notwithstanding any provision in the act to the contrary, an individual who was less than 19 years of age at the time of committing a crime could not be sentenced to imprisonment for life without parole eligibility for that crime.

The offenses listed below currently carry a penalty of life without parole, with some of the violations requiring a fine of up to \$40,000 to be imposed, while others make the fine permissive. There is no criminal fine for first degree murder. Under the bill, if the individual was less than 19 years of age at the time the offense was committed, the penalty would be punishable by imprisonment for not less than 10 years and not more than 60 years. As currently, a fine of up to \$40,000 would be required by some of the offenses and permissible for others.

Adulterating, misbranding, removing, or substituting a drug or device, or selling or manufacturing for sale an adulterated or misbranded drug, with intent to kill or cause serious impairment of two or more people, resulting in the death of another person.

Knowingly or recklessly mixing a drug or medicine with an ingredient, or selling or manufacturing for sale such a drug, with intent to kill or cause serious impairment of two or more people, resulting in the death of another person.

Manufacturing, delivering, possessing, using, or releasing a harmful biological or chemical substance or device, a harmful radioactive material or device, or a harmful electronic or electromagnetic device, resulting in the death of another person.

Sending or delivering explosives with the intent to frighten, injure, or kill a person or to damage or destroy property without permission, causing the death of another person.

Placing an explosive substance in or near real or personal property with the intent to frighten, injure, or kill a person or to damage or destroy property without permission, causing the death of another person.

Placing an offensive or injurious substance or compound in or near real or personal property with the intent to injure, coerce, or interfere with a person or their property or business, causing the death of another person.

Carrying or possessing an explosive or combustible substance, a compound or substance that when combined with another substance will become explosive or combustible, or an article containing such a substance or compound with the intent to frighten, injure, or kill a person or to damage or destroy property without permission, causing the death of another person.

Manufacturing, buying, selling, or possessing a Molotov cocktail or similar device or any device that is designed to or will explode upon impact or if heated with a flame, with the intent to frighten, intimidate, injure, or kill any person, causing the death of another person.

First degree murder.

Willfully mingling a poison or harmful substance with a food, drink, nonprescription medicine, or pharmaceutical product or placing such a substance in a spring, well, reservoir, or public water supply, causing the death of another person.

Terrorism, if death was caused by the terrorist act.

MCL 750.16 et seq.

**House Bill 4163** would amend Chapter IX (Judgment and Sentence) of the Code of Criminal Procedure. Chapter IX requires that a court sentence a *juvenile* convicted of certain crimes in the same manner as an adult.<sup>1</sup> As used in this provision, *juvenile* refers to a juvenile who is at least 14 years old but less than 18 years old who is charged with committing a specified juvenile violation, a list of more serious offenses that include the crimes for which a juvenile is required to be sentenced as an adult and also includes the crimes of bank robbery and assault with intent to rob being armed.

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<sup>1</sup> The crimes listed are: first degree arson, assault with intent to commit murder; assault with intent to maim; first and second degree murder, attempted murder, conspiracy to commit murder, solicitation to commit murder, kidnapping, first degree criminal sexual conduct, armed robbery, and carjacking.

Under the bill, the court would be prohibited from sentencing an individual who was less than 19 years of age when the crime was committed to imprisonment for life without parole eligibility.

The bill would amend other provisions to comport with the prohibition and make changes of an editorial nature that would not result in a substantive change to current law.

The bill also would repeal sections 25 and 25a of Chapter IX. Section 25 establishes sentencing procedures for an individual who was under 18 at the time the individual committed a violation that otherwise is punishable by a mandatory sentence of life in prison without possibility of parole. Section 25a provides that the procedures established under section 25 do not apply to any case that was final for purposes of appeal on or before June 24, 2012.

MCL 769.1 and 769.1b (amended) and MCL 769.25 and 769.25a (repealed)

**House Bill 4164** would amend Chapter XIIA of the Probate Code. (Chapter XIIA is known as the juvenile code.) Currently, if the court entered a judgment of conviction for a juvenile in a case in which the juvenile was tried in the same manner as an adult, the court may enter any disposition listed in section 18 appropriate for the welfare of the juvenile and society in view of the facts in the case. (Dispositions range from a warning to probation, placement in a foster care home, or detention in a private or public institution.) The court may also determine that the best interests of the public would be served by imposing any sentence upon the juvenile that could be imposed upon an adult convicted of the same offense.

The bill would provide that such a sentence would have to be other than imprisonment for life without parole eligibility.

MCL 712A.18

Each bill would take effect 90 days after being enacted. None of the bills could take effect unless all five were enacted into law.

#### **FISCAL IMPACT:**

House Bills 4160 to 4164 would codify recent changes in the way individuals that committed offenses when they were under the age of 19 are sentenced. Changes in sentencing are required because of the U.S. Supreme Court ruling in *Montgomery v Louisiana*, 577 US 190 (2016),<sup>2</sup> and, more recently, because of rulings in three Michigan State Supreme Court cases: *People v Parks*, \_\_\_ Mich \_\_\_ (2022) (Docket No. 162086);<sup>3</sup> *People v Poole*, \_\_\_ Mich \_\_\_ (2022) (Docket No. 161529);<sup>4</sup> and *People v Stovall*, \_\_\_ Mich \_\_\_ (2022) (Docket No. 162425).<sup>5</sup> Resentencing hearings are required for individuals serving life sentences for offenses they committed when they were younger than 19 years of age. These hearings will have a direct

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<sup>2</sup> <https://casetext.com/case/montgomery-v-louisiana-3>

<sup>3</sup> [https://www.courts.michigan.gov/49f21b/siteassets/case-documents/uploads/opinions/final/sct/162086\\_90\\_01.pdf](https://www.courts.michigan.gov/49f21b/siteassets/case-documents/uploads/opinions/final/sct/162086_90_01.pdf)

<sup>4</sup> <https://www.courts.michigan.gov/4a2112/siteassets/case-documents/briefs/msc/2021-2022/161529/161529-2022-07-28-or.pdf>

<sup>5</sup> [https://www.courts.michigan.gov/4a21cc/siteassets/case-documents/opinions-orders/msc-term-opinions-\(manually-curated\)/21-22/stovall-op.pdf](https://www.courts.michigan.gov/4a21cc/siteassets/case-documents/opinions-orders/msc-term-opinions-(manually-curated)/21-22/stovall-op.pdf)

fiscal impact on the state and on local court systems. Initially, there will be costs to the state and to local court systems because there are 351 inmates eligible for resentencing hearings under recent Michigan State Supreme Court rulings. These hearings are typically held over multiple days and require significant evidence and numerous experts. The State Appellate Defender Office (SADO) was appropriated \$2.5 million and 18.0 FTE positions in the FY 2023-24 budget to continue resentencing hearings under the U.S. Supreme Court ruling (\$958,100 and 7.0 FTEs) and to begin resentencing hearings under the Michigan State Supreme Court cases (\$1.6 million and 11.0 FTEs). It is estimated that \$1.6 million will cover costs of roughly half of the resentencing hearing required under state Supreme Court rulings.

As cases are reheard, most sentences are reduced and there is less time spent in state correctional facilities, which results in a savings to the state. According to SADO, from the resentencing hearings that have already occurred under the U.S. Supreme Court ruling, the cumulative total of reduced sentences is estimated at 1,900 years, saving roughly \$70.0 million. Under the bills, being eligible for parole after serving 10 years of the sentence also would result in a savings to the state. In fiscal year 2022, the average cost of prison incarceration in a state facility was roughly \$47,900 per inmate, a figure that includes various fixed administrative and operational costs. Those costs are financed with state general fund/general purpose revenue.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.