



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 826 (Substitute S-1 as enrolled)
 Sponsor: Senator Loren Bennett
 Committee: Judiciary

Date Completed: 3-18-96

RATIONALE

The Interstate Compact on Juveniles provides for the return of delinquent juveniles who have escaped or absconded, and nondelinquent juveniles who have run away from home, to their state of residence. ("Delinquent juvenile" refers to a juvenile who has been adjudged delinquent and is still subject to the jurisdiction of the court or of an agency or institution pursuant to court order.) An optional article, known as the "rendition amendment", can be added to the Interstate Compact to provide for the return of a juvenile who commits a crime in one state and flees to another state before legal action is commenced. The rendition amendment is operational only among those states that have ratified it. Michigan, Nebraska, Tennessee, and Alaska are the only states that do not include the rendition amendment in their laws enacting the Interstate Compact. This apparently has resulted in the inability to return youths to face serious charges in other states or to force the return to Michigan of youths who have been charged with serious offenses in this state. Some people believe that Michigan should enact the rendition amendment to the Interstate Compact on Juveniles.

CONTENT

The bill would amend Public Act 203 of 1958, which provides for Michigan's participation in the Interstate Compact on Juveniles, to provide additional remedies for returning a child to his or her home state.

Under the bill, when a child was brought before a court in a state in which the child was not a resident, and that state was willing to permit the child's return to his or her home state, the home state, upon being advised by the state in which the proceeding was pending, immediately would have

to begin proceedings to determine the residence and jurisdictional facts regarding the child and the home state. The home state, within five days of finding that the child was in fact a resident of that state and subject to the jurisdiction of its courts, would have to authorize the return of the child to the home state and to the parent or custodial agency legally authorized to accept custody. The return would have to be at the expense of the home state, to be paid from funds that it procured, designated, or provided, with prompt action being of the essence.

The bill also specifies that all provisions and procedures of Articles V and VI of the Compact (which deal with return of escapees and absconders, and voluntary return procedures, respectively) would have to be construed to apply to any juvenile charged with being a delinquent for the violation of any criminal law. A juvenile so charged would have to be returned to the requesting state upon a requisition to the state in which the juvenile was found. A petition in the case would have to be filed in a court of competent jurisdiction in the requesting state in which the violation of criminal law allegedly was committed. The petition could be filed regardless of whether the juvenile had left the state before or after the filing of the petition. A requisition described in Article V of the Compact would have to be forwarded by the judge of the county in which the petition was filed.

MCL 3.701

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Due to the lack of the so-called rendition amendment in Michigan's version of the Interstate Compact on Juveniles, Michigan is unable to return to another state a juvenile who may have committed a crime in that state and fled to Michigan or to secure the return to Michigan of a minor who may have committed a criminal violation here and fled to another state. Although some cases may be handled under the adult extradition process, depending on the seriousness of the offense, it will not apply in many cases due to legal limitations in this and other states. According to the Department of Social Services, while Michigan deals with only about two of these cases per year, the offenses involved are usually serious felonies. Enactment of the rendition amendment would facilitate these transfers and provide for legal consistency by bringing Michigan into a cooperative agreement with 46 other states.

Supporting Argument

There is no reason to believe that interstate transfers of juveniles would be undertaken indiscriminately. The bill would require court review of all transfer requests, so due process concerns would be met. Reportedly, there is even precedent for the denial of a transfer based on a youth's demonstrated rehabilitation since the commitment of the crime. Practice in states that have already adopted the rendition amendment suggests that the transfer agreement would be used only in connection with the most serious crimes.

Legislative Analyst: P. Affholter

FISCAL IMPACT

At this time it is difficult to assess what, if any, fiscal impact the bill would have on the State and localities. The Department of Social Services (soon to be the Family Independence Agency) indicates that 46 states have incorporated this technical change in legislation that provides for Compact activity. There are approximately two children affected by this activity in a year. Since this amendment is necessary to move juvenile delinquents between states, the cost of movement is also an important factor. It is not currently known how much the local authorities would incur in costs of transporting juvenile delinquents back to Michigan, or how many out-of-State juveniles are in Michigan's detention facilities. However, since the State does not currently send juveniles whose legal address is out of State back to their home state, then the bill would produce some

savings in the costs of State detention. Conversely, having Michigan residents who are juveniles returned from other states would produce more costs for juvenile detention. Therefore, if there were any fiscal impact, it would be minimal.

Fiscal Analyst: C. Cole

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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.