

House Bills 4056 - 4060

A certain segment of the juvenile criminal population has graduated from stealing hubcaps to armed robbery and from resolving conflicts with fists to resolving them with firearms. Committee testimony and media reports have graphically illustrated the problem of a more hardened, hostile youth who is committing more sophisticated and increasingly assaultive crimes, only to be turned over to a juvenile justice system that was created to deal with juvenile behavior of the nineteen forties and fifties. The existing system lacks the procedures and facilities to provide treatment and punishment to serious juvenile offenders. The Juvenile Serious Offender Act would provide measures and facilities to effectively protect the public, require accountability from juveniles committing the most serious offenses and to send a meaningful message to today's criminal youth.

House bills 4056 through 4060 would create the Juvenile Serious Offender Act. The act would:

- ** open the courtroom for all juvenile serious offender hearings,
- ** leave jurisdiction for youths determined to be serious juvenile offenders with the probate court rather than the Department of Social Services (DSS),
- ** extend the age of jurisdiction from age 19 to age 21,
- ** define and establish secure juvenile correctional facilities,
- ** require programs for rehabilitation, education and training,
- ** provide for a yearly review by the DSS youth parole and review board with recommendations and mandate review by the probate court at age 18 for serious offenders who become juvenile wards,
- ** relax criteria for release of records if necessary to protect the public,
- ** provide a presumed waiver for juveniles accused of committing certain serious offenses, however, the juvenile would have the opportunity to convince the court by a preponderance of the evidence that he or she could be rehabilitated, and
- ** eliminate redundant preliminary examination in district court after juvenile court waiver.

The Juvenile Serious Offender Act would allow the probate court to designate youths committing certain serious felonies such as armed robbery, murder, criminal sexual conduct, kidnapping, aggravated assault and arson as juvenile wards. The court would place them within secure correctional facilities for a term that could extend until the youth's twenty-first birthday. Presently, jurisdiction for juvenile wards only extends until age nineteen. The Department of Social Services would have custody of a person accepted as a juvenile ward until the ward's term had been served or upon the order of the probate court. The act would create the category of juvenile ward defined as a person who is between the ages of twelve and twenty at the time he or she is adjudicated by the juvenile court for an act committed before his or her seventeenth birthday.

A probate court would waive jurisdiction to an adult court for a youth that is fifteen or older if the court found probable cause to believe a youth has committed a violation or attempted violation of the following offenses:

- ** assault with intent to commit murder
- ** first degree murder
- ** second degree murder
- ** first degree criminal sexual conduct
- ** armed robbery, aggravated assault

and it could not be shown by a preponderance of the evidence that the court should not waive jurisdiction. The youth would bear the burden of proving that he or she could be rehabilitated.

The act would require the juvenile court to conduct a review hearing following a juvenile ward's eighteenth birthday for a term that continued beyond his or her eighteenth birthday to determine whether the ward continued to be a threat to public safety. The court would consider the ward's behavior during placement, physical and mental maturity, participation and performance in counseling programs and recommendations of the youth parole and review board. The juvenile would bear the burden of convincing the court by clear and convincing evidence that he or she was no longer a threat to public safety.

DSS would be required to operate or contract the operation of secure correctional facilities that would provide 24-hour on site supervision and isolate serious offenders from the public. Juveniles under the jurisdiction of the act would be placed exclusively in secure correctional facilities and could not be placed in a minimum security or nonsecure facility or a community placement program. Secure correctional facilities would provide rehabilitative therapy programs, general educational development programs, community college academic and vocational programs and related trades instruction.

Criteria would be considered in determining placement of a juvenile ward in a secure correctional facility in the following order of priority:

- ** if the juvenile presented a threat to public safety or to the public safety of staff or other wards
- ** the juvenile ward's age and physical mental and emotional maturity and condition
- ** any prior record for offenses that if committed by an adult would have been a felony
- ** if the ward presented a chronic management problem or a serious escape risk

A ward who escaped from a secure facility would be returned by a police officer with or without a court order. A person who induced or assisted a ward in escaping from a facility or who failed to notify DSS and the police with knowledge of the ward's escape would be guilty of a misdemeanor.

Records pertaining to a juvenile under the act would be confidential, however, the act would permit certain exceptions to be made in the interest of public safety.