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## FISCAL IMPACT REPORT

SPONSOR: Ogle DATE TYPED: 2/22/03 HB 593  
 SHORT TITLE: Sentencing Youthful Offenders as Adults SB \_\_\_\_\_  
 ANALYST: Maloy

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Indeterminate See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB507

### SOURCES OF INFORMATION

Responses Received From  
 Children, Youth and Families Department  
 Corrections Department  
 Attorney General's Office  
 Juvenile Parole Board  
 Department of Health  
 Administrative Offices of the District Attorney  
 Administrative Offices of the Courts

### SUMMARY

#### Synopsis of Bill

House Bill 593 proposes to amend the children's code to require that any youthful offender, having once been sentenced as an adult for a prior offense, shall be sentenced as an adult for any subsequent offense.

#### Significant Issues

1. The Administrative Offices of the Courts raises the concern that this amendment to the children's code seemingly circumvents the dispositional considerations expected of the court. These considerations are set out in other subsections of the children's code, *see Section 32A-2-20*. They include such factors as:

- seriousness, premeditation, violent manner, use of a firearm, type of offense, maturity of the child, previous history, and likelihood of rehabilitation.
2. The Administrative Offices of the District Attorney (AODA) raises concerns regarding the constitutionality of HB 593. Concerns are expressed regarding “vagueness and ambiguity, due process, “status”, equal protection under the law, and cruel and unusual punishment.
  3. The AODA also raises concerns regarding impracticality and unfairness:
    - A) Consider the situation of a child who at age 14 was sentenced as a “youthful offender” to 30 days as an adult in the county jail as part of an adult suspended sentence for the fourth degree felony of “shooting from a motor vehicle-(no n-injury)” under 30-3-8 as a part of a suspended sentence requiring 17 months of probation thereafter. The child successfully completes adult probation at age 15 years and 8 months, and now, as a 16 years and 5 months old person, is charged in a petition in Children’s Court with criminal trespass, a misdemeanor. Why should he not be eligible for supervision on juvenile probation?
    - B) Consider the situation of the same a child, now, as a 17 years and 4 months old person, is charged in a petition in Children’s Court with aggravated assault, a fourth degree felony. Why should he not be eligible for a hearing on “amenability to treatment” and supervision on juvenile probation? Theoretically, his prior offense and punishment as a 14 year old could have changed him and he may now be “amenable to treatment. What public purpose is served by NOT treating him as a child if he is now amenable to treatment?
  4. The issue addressed by HB 593 arose from concerns about juveniles who had spent time previously in an adult facility, returned to a juvenile facility, and then impacted the therapeutic environment in a negative manner.
  5. Opponents of the provisions in HB 593 state that adult sentencing results in unjustly oppressive and expensive treatment of juveniles in adult facilities and, thus, more repeat offenses. Additionally, the bill may conflict with the intent of the Children’s Code, which aims to protect youthful offenders by allowing age and environmental factors to be considered in sentencing.
  6. Proponents of the provisions in HB 593 state that some youthful offenders are not likely to be rehabilitated and should be sentenced as adults. They contend that this would provide a higher degree of protection to society through longer and more punishing sentences.

## FISCAL IMPLICATIONS

HB 593 would increase the number of juveniles sentenced to Department of Corrections facilities. Upon reaching the age of majority, child prisoners sentenced under HB 593’s provisions will be transferred to adult prisons. This will increase FTE and budget costs for the Department. These costs may also be increased for probation and parole supervision for these youthful of-

fenders.

In addition to the potential increase in costs for the Department of Corrections, sentencing children as adults (hence longer sentences) will likely result in a greater number of appeals. This impacts the FTE and budget resources of the courts, public defenders office and district attorneys office.

Finally, the Department of Corrections did note in its analysis that if this stricter sanction worked as a deterrent, many potential repeat offenders may avoid the conduct that could lead to the adult sentence, and thus expenses for the state would drop overall.

**CONFLICT**

Conflicts with HB 507 which seeks to create a rebuttable presumption for the youthful offender who may be sentenced as an adult to overcome by showing he is “amenable to treatment or rehabilitation as a child in available facilities”.

**SJM/njw:yr**