

JUVENILES: REQUIRE ATTORNEY REPRESENTATION

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House Bill 4314

Sponsor: Rep. Mark Meadows

Committee: Judiciary

Complete to 5-4-09

A SUMMARY OF HOUSE BILL 4314 AS INTRODUCED 2-17-09

The bill would require a court, in certain proceedings, to appoint an attorney to represent a child at each stage of the proceeding.

House Bill 4314 would amend the juvenile code section of the Probate Code (MCL 712A.17c). Currently, in certain juvenile proceedings [under Section 2(a) or (d)], a court must appoint an attorney to represent the child if one or more of the following apply:

- The child's parent refuses or fails to appear and participate in the proceedings.
- The parent is the complainant or victim.
- The child and family are financially unable to pay the costs of an attorney and the child does not waive the right to an attorney.
- Those responsible for the child's support refuse or neglect to employ an attorney for the child and the child does not waive the right to an attorney.
- The court determines that the best interests of the child or the public require appointment.

The bill would delete the listed circumstances and instead require a court to appoint an attorney to represent a child in a proceeding under Section 2(a) or (d).

In addition, the code allows a child to waive his or her right to an attorney in open court if the court finds on the record that the waiver is made voluntarily and understandably. However, *the child is not allowed to waive counsel if his or her parent or guardian ad litem objects or if an attorney had been appointed due to the parent's inability to afford representation and the child had not waived his or her right to an attorney.* The bill would delete the highlighted text.

[Section 2(a) lists the circumstances under which the family division of circuit court has jurisdiction over juveniles and includes juveniles under the age of 17 who have violated any local ordinances or state or federal laws (certain crimes require a juvenile who is 14 years of age or older to be tried as an adult unless the prosecutor petitions the court for the child to be tried as juvenile); and juveniles under 18 years of age who have suffered abuse or neglect. Section 2(d) places juveniles between the ages of 17 and 18 under the court's jurisdiction if they have substance abuse addictions; associate with criminal or disorderly persons; are found in a house of prostitution; associate with thieves,

prostitutes, or pimps; or are willfully disobedient to the reasonable and lawful commands of a parent, guardian, or other custodian and in danger of becoming morally depraved.]

FISCAL IMPACT:

House Bill 4314 would have an indeterminate fiscal impact on the judiciary. Although it would make appointment of counsel for a juvenile under certain proceedings the default provision, it would also allow the juvenile to waive appointed counsel if the court found that it was done so voluntarily and understandingly. The bill would also remove language stating that a child could not waive his or her right to counsel if the parent or guardian ad litem objected.

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