



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 471 (as passed by the Senate)  
Sponsor: Senator John Proos  
Committee: Judiciary

Date Completed: 1-5-18

### **RATIONALE**

Under the juvenile code, a juvenile may apply to the court to have his or her adjudication for an offense set aside. If the court approves, the juvenile will be considered not to have been found responsible for committing the offense. The juvenile first must demonstrate that his or her circumstances and behavior since the adjudication warrant setting aside the adjudication. If the court determines that doing so is in the public welfare, the court may enter an order setting aside the adjudication. Some contend that completion of the Michigan Youth Challenge Academy, a voluntary program that includes quasi-military drilling and classroom education targeted to at-risk youths, is a good indicator of the circumstantial and behavioral changes that warrant a set-aside. Accordingly, it has been suggested that the code should require a court to determine that an applicant's completion of the Academy warrants setting aside the juvenile's adjudication.

### **CONTENT**

**The bill would amend the juvenile code to require a court to determine, for the purposes of an application for an order setting aside an adjudication, that the applicant's circumstances and behavior warranted setting aside the adjudication if he or she had completed the Michigan Youth Challenge Academy program.**

Generally, the code specifies that a person who has been adjudicated of not more than one juvenile offense that would be a felony if committed by an adult and not more than three juvenile offenses, of which not more than one may be a juvenile offense that would be a felony if committed by an adult, and who has no felony convictions, may file an application with the adjudicating court for the entry of an order setting aside an adjudication. A court may not set aside an adjudication for certain offenses, including an offense that, if committed by an adult, would be a felony for which the maximum sentence is life imprisonment.

Except as otherwise provided, if the court determines that the circumstances and behavior of the applicant from the date of the applicant's adjudication to the filing of the application warrant setting aside the adjudication (or adjudications) and that setting aside the adjudication (or adjudications) is consistent with the public welfare, the court may enter an order setting aside the adjudication. Except as provided for specific offenses, the code states that the setting aside of an adjudication is a privilege and conditional, and is not a right.

Under the bill, if the applicant submitted to the court a certificate of completion from the Michigan Youth Challenge Academy showing that he or she had completed that program, the court would have to determine that the applicant's circumstances and behavior warranted setting aside the adjudication.

The bill would take effect 90 days after its enactment.

MCL 712A.18e

## **BACKGROUND**

The Michigan Youth ChalleNGe Academy (MYCA) is operated by the National Guard under an agreement with the Department of Veterans and Military Affairs. The MYCA program includes a 22-week residential phase, during which participants ("cadets") receive quasi-military training and education. Classroom instruction is provided by the Marshall Public Schools and includes preparation for the General Education Diploma (GED). Cadets also receive vocational/technical training and participate in community and conservation activities. After completing the residential phase, cadets graduate and then undergo a 12-month mentoring phase in their own community.

According to the MYCA website, the program is available to 16- through 18-year-olds who are high school dropouts or potential dropouts, who are not currently on parole or probation for anything other than juvenile status offenses (offenses that would not be crimes if committed by an adult, such as truancy), and who are voluntary participants. Candidates cannot be court-ordered into the program. All court cases must be closed and candidates must not have been convicted of a felony.

## **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**

Often, a juvenile's interaction with the criminal justice system can have lifelong repercussions. Some juvenile offenders commit to better themselves by participating in and completing the Youth ChalleNGe Academy. While a court may consider completion of the Academy as part of its inquiry into whether the circumstances and behavior of the applicant warrant setting aside an adjudication, there is nothing in the juvenile code requiring a court to do so. Under the bill, if an applicant submitted proof that he or she completed the MYCA, the court would have to determine setting aside the adjudication was warranted. According to testimony before the Senate Committee on Judiciary, at least 28 other states allow for some sort of expungement or set-aside of a youth's record in the juvenile court system for completion of the Youth ChalleNGe Academy or similar programs.

### **Supporting Argument**

Recent developments have changed much of the legal system's response to juvenile offenders. For example, the United States Supreme Court has struck down death sentences for crimes committed during adolescence, and has ruled that mandatory life-without-parole sentences for juveniles violate the Eight Amendment's prohibition against the imposition of cruel and unusual punishment.<sup>1</sup> These rulings, and other contemporary practices related to the administration of juvenile justice, have been guided by research indicating that the adolescent brain continues to develop until the mid-twenties and is subject to the influence of rewards or peers. These factors mean that juveniles may be more likely to offend, but they also may be more easily rehabilitated than adult offenders.

Setting aside a juvenile offender's adjudication is consistent with these developments and recognizes that a person might deserve leniency for offenses committed as a youth, especially if the juvenile's conduct demonstrates that a set-aside is appropriate. By requiring a court to set aside an adjudication if a juvenile completed the MYCA, the bill would give the individual an opportunity for success in life without the burden of a juvenile record.

Legislative Analyst: Jeff Mann

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<sup>1</sup> *Roper v. Simmons*, 543 U.S. 551 (2005), and *Miller v. Alabama*, 567 U.S. 460 (2012), respectively.

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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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.