



**House
Legislative
Analysis
Section**

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COMMUNITY-BASED CORRECTION PROGRAMS

House Bill 4164 as passed by the House
Second Analysis (8-11-88)

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Sponsor: Rep. Carolyn Kilpatrick
Committee: Appropriations

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THE APPARENT PROBLEM:

Prisoner population has in recent years exceeded the capacity of the state's prisons. As of May 4, 1988, there were 2,672 males and 164 females above the rated capacity. To assist in providing increased options for sentencing judges, to strengthen the local criminal justice system, and to alleviate the problem of overcrowding, community diversion programs are currently being promoted nationally to provide training, counseling and job placements for offenders to be successfully reintegrated into society and thereby reduce or eliminate the potential for recurring criminal behavior. It is felt that laws should be implemented to establish state policy on community based corrections programs in Michigan.

THE CONTENT OF THE BILL:

The bill would create the Community Corrections Act to provide for community-based corrections programs. Under the bill, the director of the Department of Corrections would be required to appoint a state community corrections advisory board by October 1, 1988, and to ensure that the board consisted of a fair geographic representation of the state population and of minorities and women. The board would consist of 13 members as follows: one county sheriff, one city police department chief, one circuit or recorder's court judge, one district court judge, one county commissioner, one member of a city government, one representative of an existing community alternatives program, one probation or parole officer, one representative of the business community, one representative of the mass communications media, and three representatives of the general public. Board members would serve four-year terms, with initial members serving staggered terms, and would serve without compensation, except for actual and necessary expenses. The board would be required to advise and to make recommendations to the department in the development of goals, program guidelines, and evaluation criteria for community corrections programs, and to serve as a communications link between local communities and the state.

The bill would require the department to provide technical assistance and training to cities, counties, regions, or nonprofit service agencies in developing, implementing, and operating community corrections programs; to develop minimum program standards, policies, and rules for community corrections programs; to develop the application process and procedures for funding community corrections programs, including the format for community corrections plans; to act as an information clearinghouse regarding community corrections programs for cities, counties, regions, or nonprofit service agencies that receive funding under the bill, and other local units of government; to enter into agreements with city, county, or regional advisory boards or nonprofit service agencies for the operation of community corrections programs; to develop criteria for community corrections program evaluations, in consultation with the state advisory board; and to monitor

compliance with contractual agreements. The bill would require the department to report instances of substantial noncompliance in a biannual report, which it would be required to submit not later than March 1 and September 1 of each year, detailing the effectiveness of the programs and plans funded under the bill, and including an explanation of how the rate of commitment of prisoners to the state prison system had been affected. The bill would also require the department to submit an annual report not later than November 1 of each year, detailing individual requests received and programs and plans approved for funding. Both reports would be submitted to the Department of Management and Budget, the Senate Committee on Criminal Justice, Urban Affairs and Economic Development, the House Committee on Corrections, the Senate and House Appropriations subcommittees on Corrections, and the Senate and House Fiscal Agencies.

Under the bill, a county could elect to apply for funding and other assistance by a vote of the county board of commissioners, and by appointing a county advisory board. Two or more counties, by vote of the county boards of commissioners of each county, could agree to create a regional advisory board, instead of a county advisory board, which would be authorized to perform the same functions as a county board for each county that participated. A city could also elect to apply for funding and other assistance by a majority resolution of the city council, and by appointing a city advisory board. Each advisory board would consist of not less than seven members appointed from law enforcement officials, the legal community, advocates of alternatives to incarceration, the business community, and the general public. Each county or city would be required to ensure fair representation of minority persons and women. County or regional advisory board members would be appointed by the county board or boards of commissioners; city advisory board members would be appointed by the mayor with the approval of the city council. Before appointments were made to the county, regional, or city advisory boards, the appointing authority, in cooperation with the chief judges of the courts of record of the county or counties, would be required to publicly disseminate information regarding recommendations for appointments, and to notify persons in the county, counties, or city who represented law enforcement, the legal community, alternatives to incarceration, and citizen groups, requesting these persons submit the names of persons that might be appointed to serve.

Each board, on behalf of the city, county, or region, could apply for funding and other assistance by developing and submitting a comprehensive corrections plan to the department and the state advisory board. The bill would require that approval of the plan be obtained prior to submission from the county or regional advisory board or boards of commissioners or from the city council. The plan

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would include a system for the development, implementation, and operation of community corrections programs, with an explanation of how the state prison commitment rate would be reduced and how public safety would be maintained; an analysis of the current use of the city or county jail or jails, including information on their utilization by sentenced and unsentenced inmates and violent and nonviolent adult inmates, and a review of the rate of commitment of prisoners to the state corrections system during the preceding calendar year; and a system for evaluating the effectiveness of the community corrections program, utilizing the criteria developed in consultation with the state advisory board.

The bill would require that the above community corrections programs comply with the following criteria:

- an offender would be eligible for participation in the program if he or she was likely to be sentenced to imprisonment in a state correctional facility or jail, had not demonstrated a pattern of violent behavior and did not have a criminal record indicating a pattern of violent offenses, had been convicted of violating a penal law of the state which could be punished by imprisonment for more than one year, or an offense expressly designated by law to be a felony, and if the offender's participation in the program did not increase the risk to the public safety (plans could provide for greater restrictions on the eligibility of persons convicted of violent felony offenses);
- in addition to the offenders specified above, the plans could allow for participation by offenders who would normally be considered unfit for probation due to a history of alcohol, drug abuse, domestic violence, or mental health problems, but whose special needs were treatable and better provided in the community than in a correctional facility;
- the sentencing court that placed a person in the program would be required to retain jurisdiction over the person as a probationer, under chapter XI of the Code of Criminal Procedure.

Under the bill, if a county did not elect to apply for funding and did not appoint a county advisory board nor participate in the creation of a regional advisory board, a nonprofit service agency operating in that county could apply for and receive direct state funding for a period of 24 consecutive months to operate a community corrections program. The department would be required to promptly notify the board of commissioners of such a county that the agency had submitted an application, and the county would have 30 days after receiving the notice to apply for funding and take steps to appoint a county advisory board or participate in the creation of a regional advisory board, in which case the agency's application would be denied. Alternately, a county or regional advisory board could contract with a nonprofit service agency for the provision of services as part of a community corrections program.

Should the department approve a community corrections program, it would be required to authorize payments to the county or city from its community corrections program appropriation. Of the total funding recommended for the implementation of the community corrections program not more than 30 percent could be used for administration costs. The bill would require that the funds provided for community corrections programs could not supplant current spending by the city, county, or counties. It would also require the department to promulgate rules necessary to implement the act, as required by the Administrative Procedures Act.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, a recent study commissioned by the Department of Corrections identified between 300 and 700 potential diversions. This would eliminate the necessity of building one prison, avoiding a potential capital outlay cost of \$42 million, operating cost of approximately \$11.5 million, and average annual cost of \$20,700 per prisoner. The current cost for community based programs, on the other hand, ranges from an average of \$30 per day for probation residential centers to an average cost of \$1,200 per year for service provider programs. The Community Alternative Programs budget currently is \$13 million, with funding requests exceeding the annual budget each year. (7-28-88)

ARGUMENTS:

For:

Recent studies show that, while imprisonment does offer protection from a small number of criminals (10 to 20 percent) who are violent and need a secure facility, 34 percent of the people in jail are not convicted but are awaiting trial, 27 percent of crimes are substance abuse related, and 55 percent of crimes are committed while under the influence of alcohol. For these prisoners, in particular, punishment need not be synonymous with incarceration. There are less costly, more effective, and more humane ways to punish. Alternative penalty options have been proven acceptable and effective for non-violent offenders. They include: community service work, victim/offender restitution, alternative penalty planning, and supervised work release and employment. These alternatives would be available to prisoners under the bill, and would reduce the amount of public funds normally expended on imprisonment.

For:

Michigan has been struggling over the past several years to keep pace with its burgeoning prison population. The recent prison construction constitutes the greatest capital outlay undertaking in Michigan's history. The pressure on state facilities has spilled over into local facilities as well, and many jails are rapidly filling to capacity or are now overcrowded. This situation has demanded that alternative forms of sanctions be investigated. A 1986 survey by the Michigan Prison and Jail Overcrowding Project identified 151 community corrections programs in Michigan, serving a total of 29,757 offenders in 1985. Although such programs provide a legitimate and vital service to the criminal justice system, few had training or staff development services available to them. The Michigan Community Corrections Training Project was established in March, 1987, under a grant provided by the Michigan Justice Training Commission and the Michigan Office of Criminal Justice. The project offers education, training, and technical assistance services on a statewide basis to agencies and professionals working in the field of community corrections. The project is an ongoing one, providing education and training for community-based corrections programs throughout the state. The base for expanding and professionalizing community corrections services is already underway.

Against:

Those convicted of crimes must pay a debt to society, and the traditional payment of that debt has been a loss of personal freedom.

Response: Studies have shown that a reliance on incarceration as the primary sanction for committing a

crime is neither effective nor efficient; many offenders will recidivate. Thus, the community is protected for a while only to be victimized again by the same individuals. The cost for this time-limited protection is high, and the long-term benefits non-existent. In addition, the safety achieved by imprisoning all who are sentenced is often overbalanced by the deterioration in the individual as a result of idle incarceration or exposure to other criminal personalities. Alternative corrections programs, on the other hand, focus on personal responsibility and accountability — offenders must face the consequences of their crimes in direct contact with the environments from which they come. They cannot hide in a jail or prison cell, but must participate in a program which holds them accountable for their behavior and expects growth.

POSITIONS:

The Michigan Sheriffs Association supports the bill. (7-28-88)

The Michigan Council on Crime and Delinquency supports the bill. (7-28-88)

The Department of Corrections supports the bill. (7-28-88)

The Office of Substance Abuse Services is strongly supportive of the bill. (7-28-88)

The Michigan Community Corrections Training Project, Community Justice Alternatives, Northwest Michigan Council of Governments, supports the bill. (8-10-88)

The Michigan Corrections Organization/S.E.I.U., Local 526M, supports the bill. (8-10-88)

The Michigan Association of Counties supports the bill. (8-10-88)

The Michigan Association for Community Corrections Advancement supports the bill. (8-10-88)

The Michigan Trial Lawyers Association gives conditional support to the bill until review of the amendments is completed by their legislative council. (7-28-88)

The Michigan Townships Association has no position on the bill. (8-10-88)

The Department of Social Services has no position on the bill. (8-10-88)

The State Bar of Michigan has no position on the bill. (8-10-88)