



**House  
Legislative  
Analysis  
Section**

Washington Square Building, Suite 1025  
Lansing, Michigan 48909  
Phone: 517/373-6466

**COMMUNITY-BASED CORRECTION PROGRAMS**

**RECEIVED**

House Bill 4164 as enrolled  
Third Analysis (1-18-89)

**FEB 08 1989**

Sponsor: Rep. Carolyn Kilpatrick *Mich. State Law Library*  
House Committee: Appropriations  
Senate Committee: Criminal Justice, Urban Affairs,  
and Economic Development

***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 to "encourage the participation in community corrections programs of offenders who would likely be sentenced to imprisonment in a state correctional facility or jail, would not increase the risk to public safety, have not demonstrated a pattern of violent behavior, and do not have criminal record that indicates a pattern of violent offenses." The bill would require that a sentencing court that placed a person in a community corrections program as a probationer retain jurisdiction over the person.

Under the bill, an Office of Community Alternatives would be created within the Department of Corrections as an autonomous entity, independent of the department director; and a state Community Corrections Advisory Board would be created to act as the office's policy making body. The governor would be required to appoint the members of the board, with Senate confirmation, not later than 90 days after the bill became effective, to appoint a chairperson each year, 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 an executive director, appointed by the board, and 13 members as follows: the director of the Department of Corrections, or his or her designee, 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 county prosecutor, one criminal defense attorney, 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 develop and establish goals, program guidelines, offender eligibility criteria, minimum program standards, policies, and rules for community corrections programs; to adopt an application process and procedures for funding the

programs (including the format for comprehensive corrections plans); to adopt criteria for program evaluations; and to hire an executive director.

The bill would require the Office of Community Alternatives to provide technical assistance and training to cities, counties, regions, or nonprofit service agencies in developing, implementing, evaluating and operating community corrections programs; to review and approve local plans and proposals; to enter into agreements with, and act as an information clearinghouse for, city, county, city-county, or regional advisory boards or nonprofit service agencies for the operation of community corrections programs, and to monitor compliance with those agreements. The bill would require that 30 days notice be provided before the office halted funding in instances of substantial noncompliance with program standards, and that 30 days be allowed after the notice for implementation of a remedy to the problem. The bill would require the office to report instances of substantial noncompliance in a biannual report, to be submitted 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 office 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 Corrections, 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 county, and the county's largest city, could elect to apply jointly for funding and other assistance, with approval of the county board of commissioners, majority resolution of the city council, and the appointment of a city-county advisory board. 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 county, regional, city-county or city advisory board would consist of members, or their designees, appointed from the following: one county sheriff, one city police department chief, and one each circuit, district and probate court judges. The bill would also require that one member be a county commissioner or city councilperson,

**OVER**

H.B. 4164 (1-18-89)

H.B. 4164 (1-18-89)

or, in the case of a regional or city-county advisory board, a county commissioner or councilperson from each participating unit. One member would be selected from the areas of mental health, public health, substance abuse, employment and training, or community alternative programs. The board would also consist of one county prosecuting attorney, one criminal defense attorney, one member each from the business community, and the communications media, one circuit or probate court probation agent or officer, and one representative of the general public. Each county or city would be required to ensure fair representation of minority persons and of 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 city council; and city-county advisory board members would be appointed by the county board of commissioners and the city council. Before appointments were made, the appointing authority would be required to publish advance notice of the appointments, and to request that persons interested in being considered for the appointments submit their names.

Each board, on behalf of the city, county, city-county, or region, could apply for funding and other assistance by developing and submitting to the Office of Community Alternatives a comprehensive corrections plan that met state Community Corrections Board criteria. The bill would require that the plans developed by each advisory board be approved by the appropriate county board, board of commissioners or city council before submission to the Office of Community Alternatives, and that the plan include:

- 1) 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. The plan would include provisions detailing how the city, county, or counties planned to reduce, within one year, the use of prison sentences for felons for which the state felony sentencing guidelines' upper limit for the recommended minimum sentence is 12 months or less, as validated by the Department of Corrections. Continued funding in the second and subsequent years would be contingent upon substantial compliance with the above requirements.
- 2) A data analysis of the local criminal justice system, including information on its utilization by sentenced and unsentenced inmates and any use of a jail classification system, a description of offenders on probation and in prison; a review of the rate of commitment of prisoners to the state corrections system during the preceding three years; and a comparison of actual sentences with the sentences recommended by the state felony sentencing guidelines.
- 3) An analysis of the local community corrections programs used at the time the plan is submitted and during the preceding three years, including types of offenders served and funding levels.
- 4) A system for evaluating the effectiveness of the community corrections program, utilizing the criteria developed in consultation with the state advisory board.
- 5) The identity of any designated subgrant recipient.
- 6) Provisions for the appointment of one fiscal agent to coordinate grant award financial activities for regional or city-county plans.

Under the bill, if a jurisdiction 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 Office of Community Alternatives 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, an advisory board could contract with a nonprofit service agency for the provision of services as part of a community corrections program.

Should the Office of Community Alternatives 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. The bill would also require the Office of Community Alternatives to promulgate rules necessary to implement the act, as required by the Administrative Procedures Act, and to require the Department of Corrections to transfer to the office any records, property, personnel, unexpended balances of appropriations, and other resources necessary to the office's operation.

### **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 that holds them accountable for their behavior and expects growth.