

Act No. 511
Public Acts of 1988
Approved by the Governor
December 29, 1988
Filed with the Secretary of State
December 29, 1988

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1988**

Introduced by Reps. Kilpatrick, Clack, Murphy, Bennane and Saunders

ENROLLED HOUSE BILL No. 4164

AN ACT to provide for the funding of community-based corrections programs through local governmental subdivisions or certain nonprofit agencies; to prescribe the powers and duties of certain state officers and agencies; to provide for community corrections advisory boards and prescribe their powers and duties; to create an office of community alternatives and a state community corrections board within the department of corrections and prescribe their powers and duties; and to provide for the promulgation of rules.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "community corrections act".

Sec. 2. As used in this act:

(a) "City advisory board" means a community corrections advisory board created by a city pursuant to sections 6 and 7.

(b) "City-county advisory board" means a community corrections advisory board created by a county and the largest city by population within that county pursuant to sections 6 and 7.

(c) "Community corrections program" means a program that is operated by or contracted for by a city, county, or group of counties, or is operated by a nonprofit service agency, and is an alternative to incarceration in a state correctional facility or jail.

(d) "County advisory board" means a community corrections advisory board created by a county pursuant to sections 6 and 7.

(e) "Department" means the department of corrections.

(f) "Nonprofit service agency" means a nonprofit organization that provides treatment, guidance, training, or other rehabilitative services to individuals, families, or groups in such areas as health, education, vocational training, special education, social services, psychological counseling, alcohol and drug treatment, community service work, victim restitution, and employment.

(g) "Office" means the office of community alternatives created in section 3.

(h) "Plan" means a comprehensive corrections plan submitted by a county, city, or regional advisory board pursuant to section 8.

(i) "Regional advisory board" means a community corrections advisory board created by a group of 2 or more counties pursuant to sections 6 and 7.

(j) "State board" means the state community corrections board created in section 3.

Sec. 3. (1) An office of community alternatives is created within the department. The office shall exercise its powers and duties including budgeting and management as an autonomous entity, independent of the director of the department. The office shall consist of the board and an executive director, and such staff as the executive director may appoint to carry out the duties of the office. The executive director shall be appointed by the board, and shall carry out the duties of the office subject to the policies established by the board.

(2) A state community corrections board is created in the office. The board shall act as the policy making body for the office, as provided in this act.

(3) Not later than 90 days after the effective date of this act, the governor shall appoint, and the senate shall confirm, the 13 members of the state board as follows:

- (a) One member shall be a county sheriff.
- (b) One member shall be a chief of a city police department.
- (c) One member shall be a judge of the circuit court or recorder's court.
- (d) One member shall be a judge of the district court.
- (e) One member shall be a county commissioner.
- (f) One member shall be a member of city government.
- (g) One member shall represent an existing community alternatives program.
- (h) One member shall be the director of the department of corrections or his or her designee.
- (i) One member shall be a county prosecutor.
- (j) One member shall be a criminal defense attorney.
- (k) Three members shall be representatives of the general public.

(4) The governor shall ensure fair geographic representation of the state board membership and that minority persons and women are fairly represented.

(5) Members of the state board shall serve for terms of 4 years each, except that of the members first appointed, 5 shall serve for terms of 4 years each, 4 shall serve for terms of 3 years each, and 4 shall serve for terms of 2 years each.

(6) A vacancy on the state board shall be filled in the same manner as the original appointment.

(7) Members of the state board shall serve without compensation, but shall be reimbursed by the department for actual and necessary expenses incurred in attending meetings.

(8) The governor shall annually appoint a chairperson from among the members of the board.

Sec. 4. The state board shall do all of the following:

(a) Develop and establish goals, offender eligibility criteria, and program guidelines for community corrections programs.

(b) Adopt minimum program standards, policies, and rules for community corrections programs.

(c) Adopt an application process and procedures for funding community corrections programs, including the format for comprehensive corrections plans.

(d) Adopt criteria for community corrections program evaluations.

(e) Hire an executive director, who shall serve at the pleasure of the board.

Sec. 5. The office shall do all of the following:

(a) Provide technical assistance and training to cities, counties, regions, or nonprofit service agencies in developing, implementing, evaluating, and operating community corrections programs.

(b) Enter into agreements with city, county, city-county, or regional advisory boards or nonprofit service agencies for the operation of community corrections programs by those boards or agencies, and monitor compliance with those agreements.

(c) Act as an information clearinghouse regarding community corrections programs for cities, counties, regions, or nonprofit service agencies that receive funding under this act.

(d) Review and approve local plans and proposals pursuant to sections 8 and 10.

(e) In instances of substantial noncompliance, halt funding to cities, counties, regions, or agencies, except that before halting funding, the office shall do both of the following:

(i) Notify the city, county, region, or agency of the allegations and allow 30 days for a response.

(ii) If an agreement is reached concerning a remedy, allow 30 days following that agreement for the remedy to be implemented.

Sec. 6. (1) A county may elect to apply for funding and other assistance under this act by a vote of the county board of commissioners approving the decision to apply, and by appointing a county advisory board. Two or more counties, by vote of the county board of commissioners of each county, may agree to create a regional advisory board instead of a county advisory board. A regional advisory board shall perform the same functions as a county advisory board for each county that participates in establishing the regional board.

(2) A county and the largest city by population within that county may elect to jointly apply for funding and other assistance under this act. An application for funding requires a vote of the board of commissioners approving the decision to apply and a majority resolution of the city council, and the appointment of a city-county advisory board.

(3) A city may elect to apply for funding and other assistance under this act by a majority resolution of the city council, and by appointing a city advisory board.

Sec. 7. (1) A county advisory board, regional advisory board, city-county advisory board, or city advisory board shall consist of the following:

(a) One member shall be a county sheriff, or his or her designee.

(b) One member shall be a chief of a city police department, or his or her designee.

(c) One member shall be a judge of the circuit court or his or her designee.

(d) One member shall be a judge of the district court or his or her designee.

(e) One member shall be a judge of the probate court or his or her designee.

(f) One member shall be a county commissioner or city councilperson. In the case of a regional advisory board or a city-county advisory board, 1 county commissioner or councilperson from each participating city and county shall serve as a member.

(g) One member shall be selected from 1 of the following service areas: mental health, public health, substance abuse, employment and training, or community alternative programs.

(h) One member shall be a county prosecuting attorney or his or her designee.

(i) One member shall be a criminal defense attorney.

(j) One member shall be from the business community.

(k) One member shall be from the communications media.

(l) One member shall be either a circuit court probation agent or a district court probation officer.

(m) One member shall be a representative of the general public.

(2) In the case of a county or regional advisory board, the members shall be appointed by the county board or boards of commissioners. In the case of a city advisory board, the members shall be appointed by the city council. In the case of the city-county advisory board, the members shall be appointed by the county board of commissioners and the city council. In appointing the members of an advisory board, the county and city shall ensure that minority persons and women are fairly represented.

(3) Before an appointment is made under this section, the appointing authority shall publish advance notice of the appointments and shall request that the names of persons interested in being considered for appointment be submitted to the appointing authority.

Sec. 8. (1) A county, city, city-county, or regional advisory board, on behalf of the city, county, or counties it represents, may apply for funding and other assistance under this act by submitting to the office a comprehensive corrections plan that meets the requirements of this section, and the criteria, standards, rules, and policies developed by the state board pursuant to section 4.

(2) The plan shall be developed by the county, city, city-county, or regional advisory board and shall include all of the following for the county, city, or counties represented by the advisory board:

(a) A system for the development, implementation, and operation of community corrections programs and an explanation of how the state prison commitment rate for the city, county, or counties will be reduced, and how the public safety will be maintained, as a result of implementation of the comprehensive corrections plan. The plan shall include, where appropriate, provisions that detail how the city, county, or counties plan to substantially reduce, within 1 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 shall be contingent upon substantial compliance with this subdivision.

(b) A data analysis of the local criminal justice system including a basic description of jail utilization detailing such areas as sentenced versus unsentenced inmates, sentenced felons versus sentenced misdemeanants, and any use of a jail classification system. The analysis also shall include a basic description of

offenders sentenced to probation and to prison and a review of the rate of commitment to the state corrections systems from the city, county, or counties for the preceding 3 years. The analysis also shall compare actual sentences with the sentences recommended by the state felony sentencing guidelines.

(c) An analysis of the local community corrections programs used at the time the plan is submitted and during the preceding 3 years, including types of offenders served and funding levels.

(d) A system for evaluating the effectiveness of the community corrections program, which shall utilize the criteria developed pursuant to section 4(d).

(e) The identity of any designated subgrant recipient.

(f) In the case of a regional or city-county plan, provisions for the appointment of 1 fiscal agent to coordinate the financial activities pertaining to the grant award.

(3) The county board or boards of commissioners of the county or counties represented by a county, city-county, or regional advisory board, or the city council of the city represented by a city or city-county advisory board, shall approve the proposed comprehensive corrections plan prepared by their advisory board before the plan is submitted to the office pursuant to subsection (1).

(4) This section is intended 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 a criminal record that indicates a pattern of violent offenses.

Sec. 9. A sentencing court that places a person in a community corrections program shall retain jurisdiction over the person as a probationer under chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 771.1 to 771.14a of the Michigan Compiled Laws.

Sec. 10. (1) In any jurisdiction that has not elected to apply for funding under this act and has not appointed an advisory board or participated in the creation of an advisory board, a nonprofit service agency that operates in that jurisdiction may apply for and receive direct state funding in that jurisdiction.

(2) The office promptly shall notify the county board of commissioners of a county described in subsection (1) of the fact that the nonprofit service agency has submitted an application for funding. The county shall have 30 days after receiving notice to apply for funding under this act, and to take steps to appoint a county advisory board or participate in the creation of a regional advisory board, in which case the application of the nonprofit service agency shall be denied.

(3) An advisory board may contract with a nonprofit service agency for the provision of services as described in the comprehensive corrections plan.

(4) A nonprofit service agency that receives direct funding under subsection (1) shall not receive the direct funding for a period of more than 24 consecutive months.

Sec. 11. (1) The office shall authorize payments from funds appropriated to the office for community corrections programs to cities, counties, regions, or agencies for the community corrections programs described in the plan submitted pursuant to section 8 or the proposal submitted pursuant to section 10 if the plan or proposal is approved by the office.

(2) Of the total funding recommended for the implementation of the comprehensive corrections plan, not more than 30% may be used by the city, county, or counties for administration.

(3) The funds provided to a city, county, or counties under this section shall not supplant current spending by the city, county, or counties for community corrections programs.

Sec. 12. (1) The office shall submit an annual report not later than November 1 of each year, detailing the individual requests received by the state board for funding under this act, and the programs and plans approved for funding.

(2) The office shall submit a biannual report not later than March 1 and September 1 of each year, detailing the effectiveness of the programs and plans funded under this act, including an explanation of how the rate of commitment of prisoners to the state prison system has been affected by the programs and plans funded under this act and listing any instances of noncompliance as required under section 5(b).

(3) All of the reports required in this section shall be submitted to the department of management and budget, the department of corrections, the members of the senate standing committee on criminal justice, urban affairs and economic development, the members of the house standing committee on corrections, the members of the senate and house appropriations subcommittees on corrections, and the senate and house fiscal agencies.

Sec. 13. Not later than 180 days after the effective date of this act, any records, property, personnel, and unexpended balances of appropriations and other resources necessary to the operation of the office shall be transferred to the office by the department of corrections.

Sec. 14. The office, with the approval of the state board, shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, necessary to implement this act.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.