



**House  
Legislative  
Analysis  
Section**

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**FUNDING FOR LOCAL  
CORRECTIONS OFFICERS'  
TRAINING**

**House Bill 5977 as introduced  
Sponsor: Rep. Randy Richardville**

**House Bill 5978 as introduced  
Sponsor: Rep. Mike Kowall**

**House Bill 5979 as introduced  
Sponsor: Rep. Jennifer Faunce**

**First Analysis (12-3-02)  
Committee: Criminal Justice**

***THE APPARENT PROBLEM:***

Correctional officers who work in the state's prisons are required to undergo a rigorous training and certification program. No corresponding requirement exists, however, for those who staff county jails or municipal lock-ups. Public Act 415 of 1982, which established the training and certification program for state-employed correctional officers, also called for the establishment of standards and creation of a training program for local correctional officers. Reportedly, due to concerns about the program being seen as an unfunded state mandate, participation in this, or any other, training program for local correctional officers has remained optional.

The 160-hour training program established by PA 415 was developed by the Michigan Department of Corrections' Training Unit and is now taught by local correctional officers and offered at least once a year. In addition, many local sheriffs' departments and municipal lock-ups have developed their own training programs. Also, though most local training is primarily based on the training program developed under PA 415, reportedly there are some local variations. Further, not all local correctional officers or certified police officers who supervise municipal lock-ups attend any training program at all. The result is a work force for which there are no standardized, minimum levels of competency or standardized training for dealing with the challenges of supervising people who have violated laws.

The problem that has surfaced involves the changing nature of supervising detainees on the local level. According to local correctional officers, today's inmates are often younger, more violent, and more

likely to have a substance abuse problem. During the time spent in county jails or city lock-ups, they may still be addicted to drugs or alcohol or be acting out from anger or emotional problems. According to a local correctional officer from Monroe County, his responsibility for the inmates he supervises includes de-escalating conflicts, providing a listening ear, administering discipline, dispensing medicines, and assessing an inmate's need for medical care (e.g., urgent vs. a minor ailment). Some inmates may be detainees of the Immigration and Naturalization Services awaiting deportation, some are suicidal, others tend to commit the same type of crimes while being detained as they did on the streets. In short, today's local correctional officers and police officers supervising city lock-ups are faced with a veritable hodge-podge of detainees arrested for crimes ranging from drunk and disorderly to murder.

In light of the increased responsibilities borne by those supervising detainees and inmates on a local level, many believe that requiring a standardized training regimen and certification would solve many problems faced by these professionals. Legislation has been offered to require completion of a training program and certification, as well as a method of generating revenue to support such a program.

***THE CONTENT OF THE BILLS:***

The bills would require that all local corrections officers be trained and certified and establish a funding source for the training by imposing fees on the inmates of county and municipal jails. House Bill 5977 would create the Local Corrections Officers'

**House Bill 5977-5979 (12-3-02)**

Training Act, which would establish a fund for the training; and House Bills 5978 and 5979 would add new sections to the act regulating county jails to provide revenue for a Local Corrections Officer Training Fund by imposing fees on inmates in county and municipal jails. House Bill 5977 is tie-barred to House Bills 5978 and 5979; House Bill 5978 is tie-barred to House Bill 5979; and House Bill 5979 is tie-barred to House Bill 5977.

- House Bill 5977. The bill would create the Local Corrections Officers' Training Act to provide for the certification of, and develop standards and requirements for, local corrections officers, and establish a local corrections officers' advisory council.

Local Corrections Officers' Advisory Council. The council would be created within the Commission on Law Enforcement Standards (MCOLES), which was created under the Michigan Law Enforcement Officers Training Council Act [MCL 28.603]. It would develop standards and requirements for the education, training, and certification of local corrections officers, and would consist of twelve members appointed by the governor, as follows: three members from the Deputy Sheriffs Association; three members from the Michigan Sheriffs' Association, one of whom would have to be a jail administrator; one member from the Police Officers Association of Michigan; one member from the Fraternal Order of Police; one member from the Michigan Association of Counties; one member representing the general public; one member from MCOLES; and one member from the Michigan Association of Chiefs of Police.

Under the bill, council members would serve three-year terms, except that, of those first appointed, three would serve a one-year term; four would serve two-year terms; and three would serve three-year terms. Among other provisions, any member could be reappointed for additional terms. The bill would specify that the council chairperson and vice-chairperson, designated from members, would serve for one-year terms and could be reelected. Council business would be subject to the provisions of the Open Meetings Act (MCL 15.261 et al.). Council members would serve without compensation except for the actual expenses incurred in attending meetings and performing their duties.

The bill would also specify the following:

- A council member could not be disqualified from holding any public office or employment by reason of his or her appointment or membership on the

council, nor would any such office or employment have to be forfeited, notwithstanding the provisions of any local or special act, or local law, ordinance, or charter.

- The council would have to appoint an executive secretary, upon the recommendation of MCOLES, and with compensation to be provided by MCOLES.
- Administrative support services for the council and the executive secretary would be provided by the council by separate appropriation.

Local Corrections Officer Training Fund. Under the bill, all revenue which, under the provisions of House Bills 5978 and 5979, would be collected from fees and civil fines from the inmates of county and municipal jails would be credited to the fund. The council could use the fund only to defray the costs of continuing education, certification, recertification, decertification, and the training of local corrections officers; the hiring of, or contracting for, a training coordinator; and other expenditures related to the provisions of the bill. Unexpended funds remaining at the end of the fiscal year would remain in the fund and not revert to the general fund.

Training Certification. The bill would require that MCOLES certify and recertify on an annual basis those persons who satisfied the criteria established under the bill. Further, beginning six months after the bill's effective date, a person could not be a local corrections officer unless he or she had been certified or recertified by MCOLES, as provided under the bill.

Current Employees. The bill would specify that, effective January 1, 2004, a person employed as a local corrections officer before that date could not be certified or recertified unless he or she had both:

- Fulfilled the standards and requirements recommended by the council and approved by MCOLES for certification by January 1, 2006, with credit for prior training provided by the Department of Corrections allowed, but limited to, 160 hours of credit for training received before January 1, 2004.
- Fulfilled the standards and requirements developed by the council and approved by MCOLES for recertification.

New Employees. A person employed as a local corrections officer after January 1, 2004, could not be certified or recertified by the council unless he or she met the following conditions:

- Was a citizen of the U.S. and was 18 years of age or older.
- Had obtained a high school diploma or attained a passing score on the general education development test indicating a high school graduation level.
- Had fulfilled other certification standards and requirements developed by the council within the first 24 months of employment.
- Had fulfilled the standards and requirements developed by MCOLES upon the recommendation of the council for recertification.

Minimum Standards and Requirements. The bill would require that, not later than one year after the bill's effective date, and as often as necessary after that, the council would have to develop minimum standards and requirements for local corrections officers with respect to the following:

- Recruitment, selection, and certification of new local corrections officers based upon at least, but not limited to, work experience, educational achievement, and physical and mental fitness.
- New employee and continuing training programs.
- Recertification process.
- Course content of the vocational certificate program, the central training academy, and continuing training programs.
- Decertification process.

The bill would specify that standards developed under these provisions would be subject to the approval of MCOLES. The bill would also require that the council recommend all approved training facilities for local corrections officers to MCOLES; and that the council make an annual report to MCOLES that included pertinent data regarding the standards and requirements established, and an evaluation on, the effectiveness of local corrections officer training programs.

House Bill 5978. The bill would add a new section to Public Act 171 of 1846, which regulates county jails (MCL 801.1 et al.) to require that, beginning January 1, 2003, each person incarcerated in a county jail would pay a \$10 fee, which would be payable to the county sheriff when the person was admitted into the jail. The fee could be collected by a withdrawal from any inmate account maintained by the sheriff for that inmate. Once each calendar quarter, the sheriff would have to forward all fees to the state

treasurer for deposit in the Local Corrections Officers Training Fund established under the provisions of House Bill 5977. An inmate who failed to pay a fee before being discharged from the jail would be liable for a civil fine of \$100. A sheriff or deputy sheriff could issue an appearance ticket to an inmate who failed to pay a fee. The county prosecutor for the county in which the jail was located would be responsible for enforcing the civil violation. A civil fine collected under these provisions would be paid to the county treasurer, and the county treasurer would have to forward all civil fines once each calendar quarter to the state treasurer for deposit in the Local Corrections Officers Training Fund.

House Bill 5979 would also add a new section to Public Act 171 of 1846 to add provisions identical to those provided under House Bill 5978, except that the provisions of House Bill 5979 would apply to inmates in municipal jails and lockups. Also, under the bill, fines would be collected from a person incarcerated in a jail or lockup operated by a city, village, or township by the officer in charge, and the municipal attorney, rather than the county prosecutor, would be responsible for enforcing the civil violation incurred by a person who failed to pay a fee.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the package would have an indeterminate fiscal impact on the state and local units of government, depending on whom was responsible for costs of implementation, the amount of those costs, and the amount of any offsetting revenue collected under the legislation.

Exclusive of administrative costs, implementation costs would largely depend on the numbers of officers affected, whether they were paid while undergoing training, and what those pay levels were. Data are incomplete, but it appears that the cost of meeting training requirements for current officers could be roughly \$400,000 (assuming no additional wages or overtime) to \$2.6 million (assuming additional costs of wages or overtime) per year for the first three years of implementation. The bills provide for establishment of a Local Correctional Officers Training Fund to support the training program; deposits into the fund would come from \$10 booking fees assessed offenders admitted to jails and lockups. Given available data, it is not clear how much revenue could reliably be expected under both bills; however, if about half of the potential jail fees were collected, annual revenues could be about \$1.6 million annually. (11-25-02)

**ARGUMENTS:*****For:***

Every person who goes on to serve time in a state or federal prison for a felony offense first is housed in a city lock-up (e.g., when first arrested) or a county jail (e.g., while waiting trial and before sentencing if bond has been denied), and these institutions also house those arrested for misdemeanor and minor felony offenses. Detainees may be drunk or under the influence of controlled substances at the time of an arrest, and often are still in the throes of addiction when transferred to a county jail. They may still be acting out in anger over being arrested, or exhibit emotional problems such as mental illnesses or disorders or depression. Detainees attempt suicide, fight with other residents, engage in the same criminal activities that put them there, and often need medical attention for chronic conditions such as diabetes. In short, today's local correctional officer or certified police officer who supervises a municipal lock-up is a combination social worker, disciplinarian, keeper of the peace, medic, and big brother/big sister. They have to protect their charges from each other, protect some from self-inflicted harm, and protect themselves. And, most disturbing, they may have to do all this with little training.

Unlike correctional officers who work in state prisons or other Department of Corrections operated facilities, those who do comparable work in county jails or city lock-ups are not required to undergo training, nor must they demonstrate any minimum level of competency. Though 1982 legislation required the creation of a training program for local correctional officers, participation has been voluntary due to concerns that making the program mandatory would constitute an unfunded state mandate. As a result, it is estimated that only about 35 to 40 percent of the approximately 3,400 officers who staff jails full- or part-time have completed the 160-hour training program developed under the 1982 legislation (by comparison, all correctional officers employed by the DOC must complete a 360-hour training program and maintain certification).

While many local agencies have developed their own training programs, and some also require 160 hours of training, this still results in a workforce operating under differing training standards and with no established standards for minimum qualifications. House Bill 5977 would establish not only a standardized training program, but would require certification and recertification to ensure continued competency. The advisory council created by the bill would set minimum qualifications for employment, and could revise, as needed, components of the

training program to incorporate new developments and technology in the field of corrections.

According to testimony, when a correctional officer is faced with an emergency - whether a direct threat to her or his own safety, a threat to the safety and well-being of a detainee, a medical emergency, or a detainee who has become violent, the tendency is to fall back on one's training. In the absence of training, a person tends to fall back on his or her instincts. Depending on the officer's background, personality, ability to make quick judgments, etc., the resulting action on the part of the officer may be appropriate or inappropriate. There are plenty of lawsuits filed every year against local governments claiming that correctional officers and police officers mishandled situations. A required training program, minimum hiring qualifications, and certification of officers should reduce litigation costs by giving officers the training necessary to appropriately and safely handle their responsibilities.

House Bills 5978 and 5979 would provide the revenue source necessary to implement the training and certification program. Such a surcharge does have precedent in state law, as a highway assessment fee of \$5, a jail reimbursement program assessment fee of \$5, and a secondary road patrol and training assessment of \$10 are levied for certain traffic violations. A \$10 booking fee should not impose a financial hardship on most detainees. Besides, as officer training is improved and standardized, the safety and well-being of detainees should also increase. Therefore, the bills represent a win-win for both those in law enforcement and also for those being detained for violating the law.

***Against:***

Requiring all the money generated under the bill to go to the state-offered program is unfair to the larger urban areas of the state. Many of the larger counties and cities have developed very good, very comprehensive training programs that meet or exceed the training provided by the program developed under Public Act 415 of 1982. It doesn't seem right that these should be shut down and officers required to travel outside their districts to receive training that could continue to be provided locally. Further, since urban areas have a denser population than rural counties, urban areas also account for a higher number of people being held in city lock-ups and county jails. Therefore, it would appear that a few urban areas would be subsidizing the program for the rest of the state.

Some would like to see the bills amended to allow all or part of the revenue collected under the bills to remain at the local level and used to fund local training programs and even local inmate service programs. As local governments are also facing budget shortfalls, funding for inmate services, such as substance abuse counseling, have been cut in some counties. Since many of these programs are effective in breaking the cycle of crime, it would be advantageous if some of the revenue generated by the booking fee could remain at the local level and be used to support local programs.

### ***Against:***

Though it may well be a good idea to establish uniform training standards for officers who supervise local jails and city lock-ups and require certification to demonstrate competency, the bills remain problematic for several reasons. The following concerns may need to be addressed:

- It is unclear if the fees generated by House Bills 5778 and 5979 would be sufficient to cover the administrative costs associated with House Bill 5977, the per diem reimbursements of the Local Corrections Officers' Advisory Council, the certification program, etc.
- It is unclear if there would be costs associated with attending the training program, and if so, who would bear those costs? Besides the cost of the training itself, which may or may not be covered by the revenue generated by the assessment fee, there also would be associated travel costs and costs for meals and lodging. Would these be paid by the agency sending an officer for training or by the officer attending the training? Would Article IX of the state constitution, which requires the state to assume costs of newly-imposed mandates for local units of government, require the state to pick up the all costs not covered by the fee revenue, or would that provision not pertain in this instance?
- Six months after House Bill 5977 takes effect, an individual could not be hired unless he or she had completed the local corrections officers training and been certified. Therefore, would admission to this training program be open to the general public (and if so, at whose expense), or only open to those who had an offer of a job with a county jail or municipal lock-up?
- Generally, when arrested, a person is held in a municipal lock-up until bond is posted or until after the arraignment. Those who cannot post bond, or who are denied bond, may then be transported to the county jail while they await trial and for the time

period between the trial and the sentencing date. Would these individuals pay a \$10 fee before release from the municipal lock-up and also a \$10 fee at the county jail, or only be required to pay one \$10 fee? If only one fee per arrest were collected, which agency would collect it? What about those who are sent back to jail for probation or parole violations? Would they pay another \$10 fee?

- Would the indigent or juveniles be excused from assessment of this fee?
- Some individuals are arrested but never charged with a crime. Would they also be assessed this fee? If charged, but later acquitted, would they still be responsible for paying the fee, or be reimbursed if the fee had already been paid?
- Various statutes set forth an order of priority of payments of court costs, victim restitution, reimbursement to municipal governments for costs associated with prosecution and emergency response, fines, fees, and reimbursements for the costs of incarceration. It is unclear how this new fee would fit into this existing framework.
- Certified police officers generally supervise municipal lock-ups. Would these professionals be required to hold dual certification? Could a different program be devised for these officers, such as a shorter program to supplement, rather than reproduce, the training they have already received as police officers?

### ***POSITIONS:***

The Michigan Sheriff's Association supports the bill. (11-26-02)

The Deputy Sheriff's Association of Michigan supports the bills. (11-20-02)

The Michigan Fraternal Order of Police is neutral on imposing booking fees, but supports certifying local corrections officers. (12-2-02)

The Department of Corrections has no position on the bills. (11-22-02)

The Michigan Association of Counties has not yet taken a position on the bills. (12-2-02)

The Oakland County Sheriff's Department opposes the bills as introduced. (11-20-02)

The Michigan Association of Chiefs of Police opposes the bills as reported from committee. (11-27-02)

Analyst: S. Stutzky

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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.