



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**FUNDING FOR LOCAL
CORRECTIONS OFFICERS
TRAINING**

House Bill 5977 as enrolled (Vetoed)
Sponsor: Rep. Randy Richardville

House Bill 5978 as enrolled (Vetoed)
Sponsor: Rep. Mike Kowall

House Committee: Criminal Justice
Senate Committee: Judiciary

Second Analysis (1-30-03)

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. 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 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 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, 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 supervising county jails 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 county corrections officers be trained and certified and establish a funding source for the training by imposing fees on the inmates of county jails. House Bill 5977 would create the Local Corrections Officers' Training Act, which would establish a fund for the training; and House Bill 5978 would add a new section to the act regulating county jails to provide revenue for a Local Corrections Officer Training Fund by imposing fees

House Bill 5977 and 5978 (as enrolled)

on inmates in county jails. The bills are tie-barred to each other.

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 advisory board, a sheriffs coordinating and training council, and a sheriffs coordinating and training office. A "local corrections officer" would be a person employed by a county sheriff in a local correctional facility as a corrections officer or that person's supervisor or administrator. A "local correctional facility" would be a county jail, work camp, or any other facility maintained by a county that houses adult prisoners.

Sheriffs Coordinating and Training Office. The office would be created as an autonomous entity within the Department of Corrections (DOC). The DOC would not be fiscally or programmatically responsible or liable for any of the responsibilities or duties of the office, council, or board created under the bill. The Sheriffs Coordinating and Training Council would be the head of the office. An executive secretary would be appointed by the council to serve as the chief executive officer of the office and would hold office at the pleasure of the council. The council would assign functions and duties to the position of executive secretary. The council could also employ other persons as considered necessary to implement the bill's provisions.

Sheriffs Coordinating and Training Council. The council would be charged with approving minimum standards and requirements for the recruitment, training, and certification of local corrections officers. The bill would allow the council to enter into agreements with other public or private agencies or organizations to implement the bill's intent; cooperate with and assist other public or private agencies or organizations to implement the bill's intent; or make recommendations to the legislature on matters pertaining to its responsibilities under the bill. The council would consist of seven members as follows:

- the president of the Michigan Sheriffs Association (MSA);
- one sheriff, elected by the MSA, from a county with a population over 40,000 who was appointed to a one-year term;

- one sheriff, elected by the MSA, from a county with a population between 100,000 and 400,000 who was appointed to a one-year term;

- one sheriff, elected by the MSA, from a county with a population under 100,000 who was appointed to a one-year term;

- two members appointed for one-year terms elected by the Deputy Sheriff's Association of Michigan; and,

- one member appointed for a one-year term elected by the Jail Administrators Committee of the MSA.

An appointment would be vacated when the member terminated his or her official position as a sheriff or a deputy sheriff. Vacancies would be filled in the same manner as the original appointment. An appointee filling a vacancy created by a member who left before his or her term expired would fill out the remaining term. Members could be reappointed for additional terms. The first terms would begin January 1 following the bill's effective date.

The bill would specify that the council chairperson and vice-chairperson, designated from members, would serve for one-year terms and could be reelected. The council would have to meet at least four times annually and could hold special meetings. Council business would be subject to the provisions of the Open Meetings Act (MCL 15.261 et al.). Council members would serve without compensation but would be entitled to actual expenses in attending meetings and performing duties.

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. Administrative support services for the council and the executive secretary would be provided by the council by separate appropriation.

Local Corrections Officers Advisory Board. The board would be created within the council and consist of 9 members appointed by the council as follows: three members from the Deputy Sheriffs Association; three members from the Michigan Sheriffs' Association; one member from the Police Officers Association of Michigan; one member from the Fraternal Order of Police; and one member from the Michigan Association of Counties. 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.

Not later than six months after the bill's effective date (and as often as necessary after that), the board would have to develop and recommend standards and requirements for local corrections officers and submit the standards and requirements to the council for approval. In addition, the board would recommend facilities to the council that had been approved for providing training to local corrections officers. Further, the board would have to make an annual report to the council that included pertinent data regarding the standards and requirements established, and an evaluation on, the effectiveness of local corrections officer training programs.

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.

Training certification. The bill would require that the council 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 the council, as provided under the bill. Effective January 1, 2004, a person employed as a local corrections officer before January 1, 2004, upon furnishing the council satisfactory evidence of his or her employment as a local corrections officer, would have to be certified and recertified by the council if he or she applied to the council for

certification within six months after the bill's effective date.

The bill would specify that a person who becomes employed as a local corrections officer on or after January 1, 2004 could not be certified or recertified unless he or she:

- 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 board and approved by the council within the first 12 months of employment.
- Had fulfilled the standards and requirements developed by the board and approved by the council for recertification.

Local Corrections Officer Training Fund. The fund would be created in the state treasury but be administered by the council. Under the bill, all revenue which, under the provisions of House Bill 5978, would be collected from fees and civil fines from the inmates of county 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 personnel and administrative costs of the office, board, and council; 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. The council could accept funds, grants, and gifts from any public or private source, which would be used to defray the expenses incident to implementing the council's responsibilities.

Only those counties that forward to the fund 100 percent of the funds collected under House Bill 5978 would be eligible to receive grants from the fund. Money received from the fund could only be used by a county for costs relating to the continuing education, certification, recertification, and training of local corrections officers in that county. The funds could not be used to supplant current spending by the county for those purposes, including state grants and training funds.

If a person paid the fee required by House Bill 5978, but was later found not guilty or the prosecution against that person was terminated for any reason, the fee would have to be refunded to the person by the council upon a written request for a reimbursement. The council would have to create a written form for that purpose as specified by the bill and make the forms available to all local correctional facilities in the state.

House Bill 5978. The bill would add a new section to Revised Statutes 171 of 1846, which regulates county jails (MCL 801.4b), to require that, beginning January 1, 2003, each person incarcerated in a county jail would pay a \$12 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. Except as provided by the bill, once each calendar quarter, the sheriff would have to forward all fees for deposit in the Local Corrections Officers Training Fund established under the provisions of House Bill 5977.

An exception to the above provision would be created for counties meeting certain criteria. A county in which the sheriff's office required local corrections officers to complete at least 160 hours of training as recommended by the DOC or a county for which the Sheriffs Coordinating and Training Council had certified that the county's standards and requirements for the training of local corrections officers equaled or exceeded the standards and requirements approved by the council under the provisions of House Bill 5978 would have to comply with the following:

- Once each calendar quarter, the sheriff would have to forward \$2 of the fee to the state treasurer for deposit in the Local Corrections Officers Training Fund.
- The remaining \$10 of each fee would have to be retained in that county, to be used only for costs relating to the continuing education, certification, recertification, and training of local corrections officers and inmate programs including substance abuse and mental health programs in that county. However, revenue from the fees could not be used to supplant current spending by the county for the above-stated purposes.

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 for deposit in the Local Corrections Officers Training Fund.

The bill would specify that a person incarcerated in a jail pending trial or arraignment would be entitled to a full refund of the fee if the prosecution against him or her were terminated for any reason or if he or she were found not guilty of the charges. Each person paying the fee would have to be given a written form explaining the circumstances under which a refund could be requested.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the package would have an indeterminate fiscal impact on the state and local units of government.

According to 2001 jail data reported by counties to the DOC, which represents approximately 90 percent of jail beds statewide, there were 287,380 admissions to jail. If one assumes a 100 percent collection rate for those admissions, and that the resulting revenue would represent 90 percent of statewide revenue, then the bills could generate up to \$3.8 million. Thus, a 50 percent collection rate would generate approximately \$1.9 million. The bills would allow counties that already met certain training requirements to retain \$10 of each fee for additional education, certification, training, etc. Those counties would be required to send only the remaining \$2 per prisoner to the Local Corrections Officers Training Fund. There are no data to indicate how many counties this would apply to and how this would affect the potential statewide revenue. Only counties that sent 100 percent of the collected fees would be eligible to apply for grants from the fund.

Although House Bill 5977 would require the council to establish minimum training requirements for certification as a local corrections officer, a 160-hour training course has been developed for local corrections officers under the Correctional Officers' Training Act. In 2002, this course was offered at Kirtland Community College at a cost of \$12,500 for a class capacity of 25. Assuming similar costs, the required training would cost approximately \$500 per officer. This figure, however, is based on an assumption of free classroom space, and it does not include the costs of lodging, meals, salaries, or

benefits for officers while in training, or overtime or other costs that local agencies could incur while officers were in training. Training would be required only for those officers hired after January 1, 2004. (12-11-02)

ARGUMENTS:

For:

Most people who eventually go on to serve time in a state or federal prison for a felony offense first are housed in a county jail (e.g., while waiting trial and before sentencing if bond has been denied); county jails also house those convicted of 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 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 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 that was 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 council created by the bill would approve 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 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 Bill 5978 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 fee of \$10 are levied for certain traffic violations. A \$12 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:

Though the bills were passed by both the House and Senate, they were vetoed by the governor. In his message to the legislature, the governor stated that he does not support the proposal because it is his belief "that local communities continue to push their prison population onto the state corrections system, thus increasing our cost of training, not the locals." Therefore, the governor wrote that he would not be able to support the fee increase "[u]ntil local units of government take more responsibility for the housing of criminals in this state".

Against:

Though it may well be a good idea to establish uniform training standards for officers who supervise county jails 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 would be sufficient to cover the administrative costs associated with House Bill 5977, the per diem reimbursements of the Sheriff's Coordinating and Training 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?
- Would the indigent or juveniles be excused from assessment of this fee?
- 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.

Against:

Those who supervise city lock-ups face similar issues as local corrections officers at county jails; it would seem prudent to include them in the legislation as well.

Response:

The bill package as introduced did include another bill that would have created an assessment fee for arrestees detained at a city lock-up. The bill was dropped for several reasons, including the fact that city lock-ups typically are supervised by certified police officers. These officers have already completed a rigorous training regimen that includes weapons training, proper methods of restraint, and so forth. The earlier legislation, however, was unclear as to whether or not certified police officers would also have to undergo the training and recertification requirements of House Bill 5977, or if a shorter, supplemental training program could be created for them. It was also unclear if an arrestee detained in a city lock-up prior to transport to a county jail would have to pay fees at both facilities or just one of them (and if just one, which facility would get to keep the fee). Once the program that would be created under House Bill 5977 is up and running, the legislature can reevaluate whether to include certified police officers supervising city lock-ups, and how to best incorporate them.

Analyst: S. Stutzky

■ 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.