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Senate Bill 1139 (as introduced 11-12-14)  
Sponsor: Senator Tonya Schuitmaker  
Committee: Judiciary

Date Completed: 12-8-14

### **CONTENT**

**The bill would amend the Community Corrections Act to do the following:**

- **Rename the Office of Community Alternatives in the Department of Corrections (DOC) as the "Office of Community Corrections", and rename the State Community Corrections Board as the "State Community Corrections Advisory Board".**
- **Provide that the Office would consist of an administrator and staff appointed by the DOC Director, rather than consisting of the Board and executive director, and staff appointed by the executive director.**
- **Require the Board to conduct activities necessary to advise the DOC Director on community corrections, rather than to act as the policy-making body for the Office.**
- **Revise the duties and responsibilities of the Board.**
- **Require that program standards adopted by the Board reflect evidence-based practices and that program eligibility include moderate- to high-risk offenders.**
- **Require the Office to give community corrections advisory boards information required to develop comprehensive plans and programming; and otherwise revise the duties and responsibilities of the Office.**
- **Revise the membership of local and regional community corrections advisory boards.**
- **Revise requirements for a local or regional advisory board's comprehensive corrections plan.**
- **Establish new requirements for a community corrections program.**

#### Community Corrections Programs

The Act specifies that it 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". The bill would delete that provision.

The bill would require a community corrections program to do all of the following:

- Provide appropriate sanctions and services as sentencing options, including incarceration, community supervision, and programming services for eligible offenders.
- Provide improved local services for individuals involved in the criminal justice system with the goal of reducing the occurrence of repeat criminal offenses that result in a term of incarceration or detention in jail or prison.

- Ensure the use of evidence-based practices to protect public safety and rehabilitate the offender.
- Promote local control and management of community corrections programs.
- Enhance, increase, and support the State and county partnership in the management of offenders.

The Act defines "community corrections program" as 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. The bill would delete the reference to an alternative to incarceration in a State correctional facility, and would refer instead to a program that offers sanctions, services, or both, instead of incarceration in prison, that are locally operated and span a continuum of programming options from pretrial through postadjudication.

### Office & State Board

Under the Act, the Office of Community Alternatives consists of the State Community Corrections Board and an executive director, and such staff as the executive director may appoint to carry out the duties of the Office. Under the bill, the Office of Community Corrections instead would consist of an administrator and staff as the DOC Director appointed to carry out the duties of the Office.

The Act requires the Board to appoint the executive director, who must carry out the duties of the Office subject to policies established by the Board. Under the bill, instead, the DOC Director or his or her designee could appoint the administrator of the Office or could administer the Office's assigned functions in other ways to promote efficient administration.

The Act created the State Community Corrections Board in the Office. The bill would refer to the "State Community Corrections Advisory Board". The Act requires the Board to act as the policy-making body for the Office. Under the bill, the Board instead could conduct activities it considered necessary to advise the DOC Director in matters related to community corrections.

The bill specifies that the chairperson of the Board (who is annually appointed from among the members by the Governor) could not serve more than two consecutive terms.

### Board Duties

The Act requires the Board to develop and establish goals, offender eligibility criteria, and program guidelines for community corrections programs. The bill instead would require the Board to adopt a variety of key performance indicators that promoted offender success, ensured the effective monitoring of offenders, and evaluated community corrections programs. Performance indicators would have to be relevant to the Act and be reviewed on an annual basis. Recidivism would have to be one of the key performance measures. There could be multiple recidivism measures to account for accessibility to State and national databases, local ability to collect data, and the resources needed to collect the data.

The Act requires the Board to adopt minimum program standards, policies, and rules for community corrections programs. The bill specifies that program standards would have to include evidence-based practices, and that program eligibility would have to include moderate- to high-risk offenders regardless of crime class or adjudication status.

The bill would define "evidence-based practices" as a decision-making process that integrates the best available research, clinician expertise, and client characteristics. "Moderate to high risk" would mean that the assessed individual has scored in the moderate

to high range of risk using an actuarial, objective, validated risk and need assessment instrument.

The bill also would require the Board to do the following:

- Review, at least once every three years, the actuarial, objective, validated risk and need assessment instruments to ensure that they continued to meet the needs and requirements of community corrections
- Make recommendations to the DOC Director regarding funding for community corrections, based on program performance, utilization, targeting of appropriate offenders, and adherence to evidence-based practices.
- Research, review, and make recommendations regarding the use of performance-based contracts within community corrections.

The bill would delete requirements that the Board adopt criteria for community corrections program evaluations and hire an executive director to serve at the pleasure of the Board.

#### Duties of the Office

The Act lists various responsibilities of the Office, including entering 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 monitoring compliance with those agreements. The bill instead would require the Office, on behalf of the DOC, to process such agreements between the DOC and city, county, city-county, or regional advisory boards or nonprofit service agencies.

The bill would require the Office to annually give community corrections advisory boards information required to develop comprehensive plans and programming, including all of the following for a city or county, as applicable:

- The total number of felony dispositions.
- The total number of probation violators.
- The sentencing results of all felony dispositions and probation violators.
- Demographic information, including age, race, and sex, for each sentenced felon and probation violator.
- The result of the risk and needs assessment that detailed the felon's or probation violator's risk and needs levels, for each sentenced felon and probation violator.

The bill also would require the Office to audit programs to assure that they met minimum program standards, including offender eligibility and compliance with evidence-based practices.

#### Local & Regional Boards

Membership. The Act specifies requirements for membership on a county advisory board, regional advisory board, city-county advisory board, or city advisory board, including a requirement that one member be selected from one of the following service areas:

- Mental health.
- Public health.
- Substance abuse.
- Employment and training.
- Community alternative programs.

Under the bill, at least one member and not more than three members would have to be selected from those service areas.

An advisory board also must include one member who is a criminal defense attorney. The bill specifies that that member could be a local public defender.

The bill would delete a requirement that one member represent the general public and would require that one member be affiliated with the applicable workforce investment board.

Comprehensive Plan. The Act requires a county, city, city-county, or regional advisory board, on behalf of the local unit or units it represents, to apply for funding and other assistance under the Act by submitting to the Office a comprehensive corrections plan meeting certain requirements.

One of the requirements for a comprehensive plan is that it include a data analysis of the local criminal justice system. The analysis must include 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 must 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 three years. It also must compare actual sentences with the sentences recommended by the State felony sentencing guidelines. The bill would delete those requirements. Under the bill, the analysis would have to indicate the specification of offender targeting and the services needed for the target population.

The bill also would require a comprehensive plan to include program descriptions that detailed the use of an objective, standardized assessment tool or tools to determine applicable programming through the use of targeted interventions that addressed the risk and needs of the target population.

The bill would delete requirements that the comprehensive corrections plan include the following:

- An analysis of the local community corrections programs used at the time the plan is submitted and during the preceding three years.
- A system for evaluating the effectiveness of the community corrections program.

MCL 791.402 et al.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The most recent modifications to sentencing guidelines were made in 2002 and at that time the Community Corrections Act was not revised completely to reflect all of the policy changes. The bill would update the statute to reflect current operating practices, and therefore would have no fiscal impact on the State or local government.

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.