

Legislative Analysis



COMMUNITY CORRECTIONS PLACEMENT CRITERIA

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House Bill 4977 as introduced
Sponsor: Rep. Andrew Kandrevas
Committee: Judiciary

First Analysis (6-2-09)

BRIEF SUMMARY: The bill would amend the Community Corrections Act to require communities to base the eligibility for placement in a community corrections program on an objective risk and needs assessment.

FISCAL IMPACT: The bill's fiscal impact on state and local correctional systems would depend on how it affected sanctions for criminal offenders, which in turn would depend on funding levels for community corrections grant programs, state and local priorities regarding targeted groups of offenders, success of local programs implemented as a result of the bill, how any changes affected the numbers of felony offenders sent to state prison, and how any changes affected jail utilization, especially for sentenced felons.

THE APPARENT PROBLEM:

Under provisions of the Community Corrections Act, local governments may apply for funding to support community-based services and treatment programs that directly or indirectly reduce the number of offenders sentenced to prison. Effective interventions for probationers who pose little risk to public safety can reduce recidivism and corrections costs.

Current efforts under the Community Corrections Act largely target a category of felons who could be sent either to prison or to local sanctions. An important consideration in placement can be whether there are local services and programs that would benefit the offender and increase the successful completion of a term of probation.

For participation in programs funded under the CCA, the act specifies that an offender must be deemed to not increase the risk to public safety, have no demonstrated pattern of violent behavior, and not have a criminal record indicating a pattern of violent offenses. The problem, as some see it, is that the current criteria are too vague, lack objectivity, and fail to recognize recent research that demonstrates the effect certain treatment programs can have for certain offenders. As a result, offenders who could be successfully supervised in a community setting if allowed to participate in available community programs or to receive services are instead sometimes deemed ineligible.

Recently, the Michigan Justice Reinvestment Working Group (comprising representatives of the Governor, Speaker of the House, and Senate Majority Leader), together with assistance from the Council of State Governments, analyzed Michigan's crime, community corrections, and sentencing policies and made recommendations

intended to reduce spending on corrections while decreasing crime and recidivism. One of the recommendations is to revise the eligibility criteria for participation in community corrections programs and services funded under the Community Corrections Act to include offenders at high risk of reoffending. To ensure the risk to public safety remained low, the new eligibility criteria would call for using an objective risk and needs assessment that, among other things, evaluated the availability in the community of programming appropriate for the offender that had evidence of success.

THE CONTENT OF THE BILL:

The bill would base the eligibility of offenders for placement in a community corrections program on an objective risk and needs assessment.

Currently, participation in community corrections programs is encouraged for offenders who are likely to be sent to prison or jail, do not increase the risk to public safety, have no demonstrated pattern of violent behavior, and do not have a criminal record demonstrating a pattern of violent offenses.

House Bill 4977 would amend the Community Corrections Act (MCL 791.408) to revise the eligibility criteria for participation by offenders in community corrections programs. The new criteria would be (new language is highlighted):

- The offenders would likely be sentenced to imprisonment in a state correctional facility or jail.
- The offenders would not likely increase the risk to public safety based on an objective risk and needs assessment that demonstrates that the offender can be safely treated and supervised in the community.

"Objective risk and needs assessment" would mean an evaluation of a probationer's criminal history; the probationer's noncriminal history; the availability in the community of evidence-based programming; and any other factors relevant to predicting the risk the probationer would present to the public safety, including, but not limited to, a criminal record that indicates a pattern of violent offenses.

ARGUMENTS:

For:

There is wide agreement that in light of the continuing economic conditions in the state, spending on corrections must decrease while still ensuring that the public is safe from harm. Recent criminal justice research reveals that certain types of intervention, educational, and behavioral programs can successfully reduce recidivism and enhance public safety, even for offenders considered to be at high risk of reoffending. This means that if properly assessed, even a high-risk offender can be successfully supervised in the community if steered toward appropriate programs known to benefit his or her particular needs. Proper assessment needs to be done through a valid instrument that accurately

predicts future risks rather than just guessing about an offender's future risk based on subjective criteria.

The bill would address the issue by revising the eligibility criteria for community corrections programs. Whereas the current language is said to be vague and lacking in objectivity, the bill would allow, among other criteria, participation by an offender who – on the basis of an objective risk and needs assessment – could be safely treated and supervised in the community if suitable and proven programming was available in the community. An offender's criminal history, non-criminal history, and criminal record indicating a pattern of violent offenses would also be evaluated. The amendment is expected to open up community placement to offenders currently deemed ineligible, thus saving money otherwise spent on incarceration in a state prison.

Several assessment tools already exist and are being used successfully around the country to make objective determinations of which offenders are likely to benefit from community placement and which are more suited for incarceration. Rather than name a particular assessment tool, such as COMPASS or LSI, the wording was deliberately kept open to accommodate future products.

In short, under the bill, if it had been objectively determined that participation in available evidence-based programming in the community would be safe, a felon who would otherwise be sent to prison could instead be placed in a community corrections program. Thus, the bill would increase the number of offenders eligible for participation in a community corrections program and accomplish the goal of the Community Corrections Act, which is to steer prison-bound offenders back to community-based programs if so doing does not increase risk to the public's safety.

POSITIONS:

The Department of Corrections supports the bill. (5-26-09)

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