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## LOCAL CORRECTIONS OFFICERS: TRAINING AND CERTIFICATION

**House Bill 4515 as enrolled**  
**Public Act 125 of 2003**  
**Sponsor: Rep. Randy Richardville**

**House Bill 4516 as enrolled**  
**Public Act 121 of 2003**  
**Sponsor: Rep. Fran Amos**

**House Bill 4517 as enrolled**  
**Public Act 124 of 2003**  
**Sponsor: Rep. Lisa Wojno**

**House Committee: Criminal Justice**  
**Senate Committee: Judiciary**

**Second Analysis (8-13-03)**

### ***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 training program established by PA 415, which calls for 160 hours of training, 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. Though most local training is primarily based on the training program developed under PA 415, reportedly there are some local variations. Further, some local correctional officers did not attend any training program at all. Data collected by the Michigan Sheriffs Association suggests that only 35 to 40 percent of the approximately 3,400 officers who staff county jails have completed the 160-hour training course developed under PA 415. 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, while 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

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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. In addition, legislation is needed to amend the Correctional Officers' Training Act to remove the provisions added by Public Act 415 of 1982 regarding the current training program for local corrections officers, as it would become redundant under the new legislation.

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

House Bill 4515 would create the Local Corrections Officers' Training Act, which would 1) require that local corrections officers be certified beginning April 1, 2004 by a newly created Sheriffs Coordinating and Training Council; 2) provide for the approval of standards and requirements by the new council for the recruitment, training, and certification of officers based on recommendations submitted by a specially created advisory board; and 3) establish the Local Corrections Officers Training Fund to defray the costs of training, certification, and continuing education of officers.

House Bill 4516 would make complementary amendments to the existing Correctional Officers' Training Act to delete references to local corrections officers, among other things.

House Bill 4517 would add a new section to the act that regulates county jails to impose a \$12 fee on each inmate when first admitted into a county jail as a source of revenue for the training fund. The bill says the fee would be collected beginning August 1, 2003 (but the bill itself would not take effect until October 1, 2003, so presumably the fee would start being collected then).

House Bills 4515 - 4517 were tie-barred to each other and would each take effect October 1, 2003. A more detailed description of the bills follows.

House Bill 4515. The bill would create the Local Corrections Officers' Training Act to provide for the certification of local corrections officers, as well as the ongoing development of standards and requirements for such officers, and to establish a local corrections advisory board, a sheriffs coordinating and training council, and a sheriffs coordinating and training office.

(In the bill, a "local corrections officer" is defined as 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" is defined as county jail, work camp, or any other facility maintained by a county that houses adult prisoners.)

Certification. Beginning April 1, 2004, 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. The council would certify or recertify a person who was already employed as a local corrections officer before January 1, 2005 when the officer furnished to the council satisfactory evidence of his or her employment as a local corrections officer, if the officer applied to the council for certification no later than April 1, 2004.

A person who became employed as a local corrections officer on or after January 1, 2005 could not be certified or recertified unless he or she fulfilled the certification standards and requirements developed by the board and approved by the council within the first 12 months of employment. The person would also have to be a citizen of the U.S., 18 years of age or older, and have obtained a high school diploma or attained a passing score on the general education development test indicating a high school graduation level. To be recertified, a person would have to fulfill the standards and requirements developed by the board and approved by the council for recertification.

Collective bargaining agreements/emergencies. Nothing in the bill would supersede a right granted under a collective bargaining agreement. A person who exercised a right under a collective bargaining agreement that resulted in the person's being required to receive certification would have to be allowed at least two years to obtain that certification at the expense of his or her employer. Further, during any period of emergency, a county sheriff could temporarily transfer or assign an uncertified employee to a position that normally required certification or could use an uncertified employee to function as a corrections officer.

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 seven-member council would consist of the president of the Michigan Sheriffs Association (MSA); and six other members each appointed for a one-year term as follows:

- one sheriff, elected by the MSA, from a county with a population over 400,000;
- one sheriff, elected by the MSA, from a county with a population between 100,000 and 400,000;
- one sheriff, elected by the MSA, from a county with a population under 100,000;
- two members elected by the Deputy Sheriff's Association of Michigan; and,
- one member 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, 2004.

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 advisory board would be created within the council and consist of nine 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, board 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. Further, board members would serve without compensation but would be entitled to actual expenses in attending meetings and performing duties.

Not later than April 1, 2004 (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 October 1, 2004, and as often as necessary after that, the council would have to approve minimum standards and requirements for local corrections officers with respect to the following:

- Recruitment, selection, and certification of new local corrections officers based upon, 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. Education and training on how to identify and manage prisoners with a mental illness would have to be included in the course training.
- Decertification process.

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 collected from fees and fines under House Bill 4517 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 revenue collected under House Bill 4517 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 4517, 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 4516. The bill would amend the Correctional Officers' Training Act (MCL 791.502 et al) to revise the definition of "correctional facility", delete references in the act to local correctional officers, and revise the membership composition of the Correctional Officers' Training Council. "Correctional facility" currently refers either to a facility or institution which houses an inmate population under the jurisdiction of the Department of Corrections (DOC) or a municipal or county jail, work camp, lockup, holding center, halfway house, community corrections center, or any other facility maintained by a municipality or county which houses adult prisoners. The bill would eliminate the reference to municipal or county jails, etc. The definition of "local correctional officer" also would be deleted. In addition, the title of the act would be amended to remove references to local correctional officers.

The bill would also decrease the membership of the Correctional Officers' Training Council from 10 to 8 by eliminating the positions currently held by a member representing local correctional officers and by a member representing local agencies that maintain jails, corrections, or temporary holding facilities. The bill would change the reference to the Michigan Commission of Corrections to "the department" and the reference to the Office of Criminal Justice to the "Department of Management and Budget".

Under the bill, it would take four, instead of five, members to make a written request to the chair of the council to convene a special meeting. Further, the bill would repeal a provision requiring that the council develop minimum standards and requirements for the certification, recertification, and decertification of local correctional officers.

House Bill 4517. The bill would add a new section to Revised Statutes 171 of 1846, which regulates county jails (MCL 801.4b), to require that, beginning August 1, 2003, each person incarcerated in a county jail would pay a \$12 fee 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, except as provided by the bill, for deposit in the Local Corrections Officers Training Fund established under the provisions of House Bill 4515.

Fees would be distributed differently in counties that the Sheriffs Coordinating and Training Council had certified as having standards and requirements for the training of local corrections officers equaling or exceeding the standards and requirements approved by the council under the provisions of House Bill 4515. In such a case, 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 with the remaining \$10 of each fee 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 to 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 responsible for a state civil infraction and could be ordered to pay a 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 state civil infraction. A civil fine collected under these provisions would be paid as provided under Section 8831 of the Revised Judicature Act. (This provision specifies that revenue collected from a state civil infraction is to be earmarked for public libraries and county law libraries.)

A full refund of the fee would be provided to a person if the prosecution against him or her were terminated for any reason or if the person 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 House Fiscal Agency, the package would have an indeterminate fiscal impact on the state and local counties, depending on who was responsible for costs of implementation, the amount of those costs, and the amount of any offsetting revenue collected under the legislation. The following information is derived from an extended HFA analysis dated 5-13-03.

House Bill 4515. Although House Bill 4515 would require the council to approve 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, supported in part by a grant from the Michigan Commission on Law Enforcement Standards (MCOLES). The previous year's costs for that program totaled about \$12,500, about \$1,500 of which was provided by the state grant.

At \$12,500 for a class of 25, it is reasonable to estimate a training cost per officer of at least \$500. This figure is based on an assumption that classroom space could be obtained at no additional charge, as it is at Kirtland. However, 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.

Deferred costs of litigation or other expenses that presumably could be avoided or minimized with a fully-trained staff could result in offsetting some costs; however, such savings are impossible to quantify. Finally, it is not clear whether Article IX, Section 29 of the state constitution, which requires the state to assume the costs of newly-imposed mandates for local units of government, would pertain.

Several training programs for local correctional officers currently are supported by grants from MCOLES. Seven grants were awarded in December 2002 for the current calendar year; they total \$252,415, and were awarded to the Grand Traverse County Sheriff, Ingham County Sheriff, Kellogg Community College, Kirtland Community College, Monroe County Sheriff, and Ottawa County Sheriff.

House Bill 4516. The bill would have no significant fiscal impact on the state.

House Bill 4517. For those counties reporting jail data to the DOC in 2001 (about 90 percent of the 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 a maximum of \$3.8 million annually. However, the division of revenue between counties and the state would depend on how many jail admissions were in counties that had training programs that met state standards.

## **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 awaiting 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 of those 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 4515 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.

### **For:**

According to testimony offered before the committee, 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 4515 also would require that local corrections officers receive education and training on how to identify and manage prisoners with a mental illness. A 1998-1999 study of three county jails (Wayne, Kent, and Clinton) conducted by the Department of Community Health found that almost one-half of the prisoners had a mental illness; 34 percent of the prisoners had a serious mental illness such as schizophrenia or other psychotic condition, bipolar disorder, or major depressive disorder. Reportedly, these figures were much higher than the national average of 16 percent, as projected by the U.S. Justice Department for 1999. Obviously, to ensure the safety of a prisoner who may be in the throes of a psychotic episode and the prisoners around him or her, as well as jail staff, it is imperative that local corrections officers be properly trained in the recognition and management of prisoners with mental illnesses. This training will also assist officers in differentiating the symptoms and behaviors associated with mental illness from a prisoner acting out in rage. In addition, recognizing the symptoms of a mental illness will enable jail staff to provide appropriate and timely care for prisoners. Since most of all jail suicides occur in the first 24 hours, the additional education and training may also reduce the number of suicides committed by detainees.

**For:**

House Bill 4517 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 it may be a good idea to establish uniform training standards for officers who supervise county jails and to 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 Bill 4517 would be sufficient to cover the administrative costs associated with House Bill 4515, the per diem reimbursements for members of the Sheriff's Coordinating and Training Council and the Local Corrections Officers Advisory Board, 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?
- 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.

- The bill contains different certification provisions for local corrections officers employed before January 1, 2005 and those employed on or after that date. Those already employed before that date can receive initial certification by submitting evidence of employment, but they must apply to the newly created council no later than April 1, 2004. This seems to leave officers hired between April 1, 2004 and January 1, 2005 without specific guidance as how to obtain initial certification. This may need to be addressed in the near future.

**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:**

A similar bill package introduced in the 2001-2002 legislative session included a 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 the Local Corrections Officers' Training Act, 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 4515 is up and running, the legislature can reevaluate whether to include certified police officers supervising city lock-ups, and how to best incorporate them.

**For:**

House Bill 4516 would make necessary technical changes to the Correctional Officers' Training Act to reflect the creation by House Bill 4515 of a new stand-alone act to govern the training and certification of local correctional officers. The creation of new act means that there would no longer be a need for provisions in the older act, which primarily regulates state prison guards employed by the Department of Corrections, to also address

training requirements of local correctional officers who primarily staff county jails. Similarly, since House Bill 4515 would create an advisory board charged with developing and recommending training standards and requirements for local correctional officers, there no longer would be a need for representation of local correctional officers on the Correctional Officers' Training Council.

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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.