

August 29, 2014

Michigan Law Revision Commission
Jane Wilensky, Executive Secretary
P.O. Box 30036
Lansing, Michigan 48909

Dear Members of the Commission:

First, we would like to thank the Michigan Law Revision Commission (MLRC) for inviting public comment on the work of the Council on State Governments (CSG), as it pertains to Michigan's Sentencing System. The Michigan Association of Counties (MAC) and our members were actively involved as work progressed on the report through both public and private meetings. We understand that this first draft will be further vetted and we look forward to a thoughtful and data driven approach to address stakeholder concerns.

The report contains many proposals that will affect county judiciary and public safety partners, corrections programs, policies and budgets. Before we can begin to respond to many of the proposals in the report, we need more details. During the series of public meetings MAC has said, and continues to maintain, that we require a clear fiscal analysis by CSG. Additionally, the legislative fiscal agencies need to provide analysis to determine the implementation and maintenance costs of any new or altered programs. To answer additional questions of our constituency we would need an analysis of how the proposed changes would affect public safety and local units of government. Without this data we cannot engage in a meaningful dialogue about how these proposed changes might be implemented; in fact, whether or not they should be implemented.

A number of questions arise regarding the proposals. There are suggestions to change the current community corrections program. Funding for these boards has already been cut, reducing their programmatic capabilities and we are unclear how the MLRC revisions might further erode their local focus. The local community corrections boards have already struggled to continue providing prison diversion, which is a direct benefit to the state through DOC. Diverting individuals from jail to prison, downward shifts in sentencing, increased numbers of probationers due to jail lockouts and sentencing changes, in addition to suggestions of entirely new probation programs all create tremendous concern. What impact will these changes have on our county board responsibility of balancing a budget and what guarantees do they hold for increased public safety and justice?

It is equally important to MAC that we remain a good partner to our sheriff's, judges, prosecutors, administrators, community corrections officials, victim's rights advocates and other judicial and public safety stakeholders. The considerable amount of concern expressed by the experts who deliver services on a daily basis causes a great deal of concern for us, as well. Technical and implementation issues raised by our partner organizations deserve thorough vetting and consideration. (In fact, some of the proposals contained within the MLRC draft are new issues which were never discussed during the CSG

meetings and deserve more thorough investigation, period.) As the funding unit for these critical services, we rely on their expertise in the field to inform decisions at the county level and the same great care must be taken by the State.

Our sheriffs question how their personnel and jail space resources will be affected by the proposals. Prosecutors are clearly concerned about cases pending in the Michigan Supreme Court which might nullify the work of this group, in addition to their concerns about the sentencing guidelines. Judges spoke during the public meetings about their objections to the premise of the report's assertion regarding prison sentences and their need for discretion and continued flexibility within the grids.

As the funding unit in Michigan's 83 counties, it is the duty of county boards to create and follow fiscally responsible budgets which efficiently utilize taxpayer dollars. We are also responsible for setting policy, providing legislative oversight and constituent services including judiciary and public safety functions. It is our duty to adequately fund the justice system in our counties, while balancing other functions mandated by the State and local services that are important to our community.

There are proposals we would like to discuss further, such as swift and sure sanctions, because we feel there may be actual positive returns on public safety through this program if properly funded by the State. However, we require a more detailed analysis of the costs to implement, expand or maintain the program. Following the analysis, there is a need to ensure adequate funding for any expansion of the swift and sure and probation program.

Following these analyses, conversations can begin with lawmakers and administration officials to define the sharing arrangements that would be guaranteed if savings and returns can be realized. If we are mandated by state laws to take on new or altered responsibilities with the promise of future cost savings, we must understand and agree to where the savings accrue and how locals would recoup their share.

MAC is concerned that the legislative proposals suggested in this report have less to do with improved public safety and local ability to provide community based solutions, and more to do with saving dollars within the state system. While we certainly can appreciate fiscal constraints and the need to discuss options, we cannot agree to proposals which subsequently transfer the state's financial responsibility to the local units, or divert our already stretched resources to be used on new populations for which we presently hold no responsibility.

Because of these clear and compelling concerns and outstanding questions, MAC urges a metered approach to any further action on these proposals until more data on costs and public safety outcomes can be obtained, reviewed and addressed. These proposals reflect major changes to our system of justice, much of which counties are responsible for through the work of our partners in the judicial and public safety sectors.

We thank you for your consideration.

Respectfully,



Deena Bosworth
Director of Governmental Affairs
Michigan Association of Counties

cc: Speaker of the House Jase Bolger

Senate Majority Leader Randy Richardville

Representative Kevin Cotter, Chair of the House Judiciary Committee

Senator Rick Jones, Chair of the Senate Judiciary Committee

Representative Joe Haveman, Chair of the House Appropriations Committee

Senator Roger Kahn, Chair of the Senate Appropriations Committee

Representative Greg MacMaster, Chair of the House Appropriations Subcommittee on Corrections

Senator John Proos, Chair of the Senate Appropriations Subcommittee on Corrections

Representative Kurt Heise, Chair of the House Criminal Justice Committee

Representative Amanda Price, Chair of the House Local Government and Elections Committee

Senator Dave Robertson, Chair of the Senate Local Government Committee

Paul C. Smith, Deputy Legal Counsel, Office of the Governor- Legal Division