MCCD
MICHIGAN COUNCIL
ON CRIME AND DELINQUENCY

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MEMORANDUM

August 29, 2014

TO: Jane Wilensky, Executive Secretary, Michigan Law Revision Commission;
Carl Reynolds, Senior Legal and Policy Advisor, Council of State Governments
FROM: Dennis Schrantz, Executive Director
SUBJECT: CSG Sentencing Study Summary of Legislative Recommendations and Draft Legislation; Amendments to the Michigan Community Corrections Act

Thank you for the opportunity to comment on the Council of State Governments legislative recommendations and draft legislation. Due to time constraints (I didn't receive the August 7 report until August 19th), I am limiting my comments here to the draft of recommended amendments to the Michigan Community Corrections Act. In terms of the other recommendations, I have reviewed the comments from the Citizen's Alliance on Prison and Public Spending (CAPPS) and agree with much of their review but will need more time to study the issues they raised in more detail.

To begin with, MCCD is very enthusiastic about the intent of the amendments to the Community Corrections Act because it updates the law to reflect a better appreciation of targeting offenders for community programs based on risk rather than the type of crime they committed in order to reduce recidivism, and intends to codify some aspects of the highly successful Michigan Prisoner Reentry Initiative (MPRI) into law. When I spoke to the Michigan Law Revision Commission at your public stakeholder hearing in Lansing, I suggested that the Community Corrections Act and the MPRI be combined into a new law with the working title of the "Michigan Community Partnership Recidivism Reduction Act" to communicate one of the primary purposes of the amended law: codifying community engagement as the unifying principal of a state/local partnership. The CSG suggested amendments include some aspects of this but will require much more specificity on this and other points.

Generally speaking, the suggested amendments appear to be shoehorning some very limited aspects of the MPRI into the community corrections act model, rather than legislating a new approach for recidivism reduction that takes into account both front end diversions from prison and back end recidivism reduction measures through community-based comprehensive planning. The suggested revisions also contain a good deal of language which is time-limited and process oriented for shifting into the new approach with several subsections that will only be needed for one or two years. These would be better addressed in annual appropriations law or through rule promulgation rather than the statute to the extent they are needed at all (Section 4.1. f; Section 4.2).

Within Section 4.2, the expectation to "…evaluate the office's currently funded programs as well as the department's community reentry programs for fidelity to evidence based practices… (and)… evaluate the delivery of services according to contractual expectations … including measurement of recidivism…" which is to be completed before January 2016 is quite unrealistic and unnecessary. I am not sure why it

is needed. Why not just move forward with new evidenced-based approaches and save a couple of years of work and a great deal of taxpayer dollars? Why would community corrections and reentry programs meet the rigors of being evidence-based and focused on recidivism reduction if such standards were not delineated nor expected in the first place? I wouldn't recommend looking this much backwards. I don't think this entire subsection is needed, along with subsections 4.1.f and 4.2 in total. These directives are better placed in appropriation language and if pursued should provide sufficient dollars to contract for the work. The staff at the department does not have the competency to evaluate either fidelity to evidence based practices nor recidivism reduction and these efforts, if required, would be better placed in the hands of professional, contracted evaluators.

It is striking that the draft language for the Act begins with Section 4 and doesn't address Sections 1 through 3 of the Act that includes in Section 3 the institution of an autonomous agency, housed in the department of corrections, as a Type I Agency with a state board that has authority over policy independent of the corrections department but with the director of corrections on the board. Section 3 also includes the make-up of the state board. This section is very critical and in my view needs to be included and updated while retaining the independent nature of the board. This will better guarantee community engagement in a way that will never be accomplished through the department of corrections which seeks to control the work, rather than collaborate around it. As the founding director of the Office of Community Corrections who worked under the independent state board during its first five years, I have a pretty unique and experienced viewpoint on this. My work as the Chief Deputy Director of the Department of Corrections as the architect of the MPRI makes this view even more concrete: the legislature must legislate community engagement and authority over community planning to an agency that is independent from the department.

The suggested revisions delete the diversionary aspects of the Community Corrections Act (Section 8.2.a) and replace it with language that sensibly includes recidivism reduction but limits the process and planning to support jail and prison reentry and pretrial assessment rather than community based alternatives to prison. This essentially guts the original and intended purpose of the Act. MCCD supports reducing the number of offenders who are sentenced to prison through the revised Act.

Section 8.2.g is another example of a time constrained process issue and provides existing community corrections boards the option to not expand the board to include reentry. It makes no mention of existing reentry councils and appears to support their elimination. This may not be intended but without specific language that respects reentry councils' roles, responsibilities, make up and purposes, the assumption is that these things don't matter. And they do – very much so. MCCD supports the codification of the community in the revised Act.

Finally, these revisions, taken in totality, codify the *department's* control and authority over community engagement – without sufficient language to specify what that engagement provides for from the community perspective. And the notion that reentry planning is just added to front end planning won't work. While the creation of a local board that oversees planning on both ends of the system makes absolute sense – albeit with a need for much more specificity – two plans are needed, one for each end of the system, with the common ground being in program services and delivery.

MCCD is very willing to work with CSG and the Commission to develop new language for your consideration that takes into account the observations provided here while respecting the very worthwhile goals of moving the work toward more evidence-based approaches (a process which will take time) that reduce recidivism.