

## CHAPTER 401

## COMMUNITY CORRECTIONS

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**401.01 PURPOSE AND DEFINITION; ASSISTANCE GRANTS.**

Subdivision 1. For the purpose of more effectively protecting society and to promote efficiency and economy in the delivery of correctional services, the commissioner is hereby authorized to make grants to assist counties in the development, implementation, and operation of community based corrections programs including, but not limited to preventive or diversionary correctional programs, probation, parole, community corrections centers, and facilities for the detention or confinement, care and treatment of persons convicted of crime or adjudicated delinquent.

Subd. 2. **Definitions.** (a) For the purposes of sections 401.01 to 401.16, the following terms shall have the meanings given them:

(b) "Commissioner" means the commissioner of corrections or his designee;

(c) "Conditional release" means parole, supervised release, work release as authorized by sections 241.26 and 244.065, and includes probation;

(d) "Joint board" means the board provided in section 471.59.

**History:** 1973 c 354 s 1; 1982 c 559 s 1

**401.02 COUNTIES OR REGIONS; SERVICES INCLUDIBLE.**

Subdivision 1. **Qualification of counties.** One or more contiguous counties, having an aggregate population of 30,000 or more persons or comprising all the counties within a region designated pursuant to sections 462.381 to 462.396 or sections 473.122 to 473.249, situated within the same region designated pursuant to sections 462.381 to 462.396, or sections 473.122 to 473.249, may qualify for a grant as provided in section 401.01 by the enactment of appropriate resolutions creating and establishing a corrections advisory board, designating the officer or agency to be responsible for administering grant funds, and providing for the preparation of a comprehensive plan for the development, implementation and operation of the correctional services described in section 401.01, including the assumption of those correctional services, other than the operation of state facilities, presently provided in such counties by the department of corrections, and providing for centralized administration and control of those correctional services described in section 401.01.

Where counties combine as authorized in this section, they shall comply with the provisions of section 471.59.

Subd. 2. **Planning counties; how designated; travel expenses of corrections advisory board members.** To assist counties which have complied with the provisions of subdivision 1 and require financial aid to defray all or a part of the expenses incurred by corrections advisory board members in discharging their official duties

pursuant to section 401.08, the commissioner may designate counties as "planning counties", and, upon receipt of resolutions by the governing boards of the counties certifying the need for and inability to pay the expenses described in this subdivision, advance to the counties an amount not to exceed five percent of the maximum quarterly subsidy for which the counties are eligible. The expenses described in this subdivision shall be paid in the same manner and amount as for state employees.

**Subd. 3. Establishment and reorganization of administrative structure.** Any county or group of counties which have qualified for participation in the community corrections subsidy program provided by this chapter may, after consultation with the judges of the district court, county court, municipal court, probate court and juvenile court having jurisdiction in the county or group of counties establish, organize, and reorganize an administrative structure and provide for the budgeting, staffing and operation of court services and probation, juvenile detention and juvenile correctional facilities, and other activities required to conform to the purposes of this chapter. No contrary general or special statute divests any county or group of counties of the authority granted by this subdivision. This subdivision does not apply to Ramsey County or Hennepin County or to the counties in the Arrowhead region. In Hennepin County and Ramsey County the county board and the judges of the district court, county court, municipal court, probate court and juvenile court shall prepare and implement a joint plan for reorganization of correctional services in the county providing for the administrative structure and providing for the budgeting, staffing and operation of court services and probation, juvenile detention and juvenile correctional facilities, and other activities required to conform to the purposes of this chapter. The joint plan shall be subject to the approval of the commissioner of corrections and submitted to the legislature on or before January 15, 1983.

**Subd. 4. Detaining probationer or parolee.** Probation officers serving the district, county, municipal and juvenile courts of counties participating in the subsidy program established by this chapter may, without order or warrant, when it appears necessary to prevent escape or enforce discipline, take and detain a probationer, or any person on conditional release from confinement and bring him before the court or the commissioner of corrections respectively, for appropriate action by the court or the commissioner of corrections. No probationer or other person on conditional release shall be detained more than 72 hours, exclusive of legal holidays, Saturdays and Sundays, pursuant to this subdivision without being provided with the opportunity for a hearing before the court or the commissioner of corrections. When providing supervision and other correctional services to persons conditionally released pursuant to sections 241.26, 242.19, 243.05, 243.16, 244.05, and 244.065, including intercounty transfer of probation cases, and the conduct of presentence investigations, participating counties shall comply with the policies and procedures relating thereto as prescribed by the commissioner of corrections.

**History:** 1973 c 354 s 2; 1975 c 304 s 8; 1977 c 392 s 9; 1979 c 102 s 13; 1980 c 509 s 156; 1980 c 614 s 146; 1982 c 559 s 2-4; 1983 c 274 s 18

#### **401.03 PROMULGATION OF RULES; TECHNICAL ASSISTANCE.**

The commissioner shall, as provided in sections 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62, promulgate rules for the implementation of sections 401.01 to 401.16, and shall provide consultation and technical assistance to counties to aid them in the development of comprehensive plans.

**History:** 1973 c 354 s 3; 1982 c 424 s 130

**401.04 ACQUISITION OF PROPERTY; SELECTION OF ADMINISTRATIVE STRUCTURE; EMPLOYEES.**

Any county or group of counties electing to come within the provisions of sections 401.01 to 401.16 may (a) acquire by any lawful means, including purchase, lease or transfer of custodial control, the lands, buildings and equipment necessary and incident to the accomplishment of the purposes of sections 401.01 to 401.16, (b) determine and establish the administrative structure best suited to the efficient administration and delivery of the correctional services described in section 401.01, and (c) employ a director and other officers, employees and agents as deemed necessary to carry out the provisions of sections 401.01 to 401.16. To the extent that participating counties shall assume and take over state correctional services presently provided in counties, employment shall be given to those state officers, employees and agents thus displaced; if hired by a county, employment shall, to the extent possible and notwithstanding the provisions of any other law or ordinance to the contrary, be deemed a transfer in grade with all of the benefits enjoyed by such officer, employee or agent while in the service of the state.

State employees displaced by county participation in the subsidy program provided by this chapter are on layoff status and, if not hired by a participating county as provided herein, may exercise their rights under layoff procedures established by law or union agreement whichever is applicable.

State officers and employees displaced by a county's participation in the community corrections act and hired by the participating county shall retain all fringe benefits and recall from layoff benefits accrued by seniority and enjoyed by them while in the service of the state.

**History:** 1973 c 354 s 4; 1974 c 174 s 1; 1975 c 304 s 9; 1977 c 392 s 10; 1981 c 360 art 1 s 25

**401.05 FISCAL POWERS.**

Any county or group of counties electing to come within the provisions of sections 401.01 to 401.16, may, through their governing bodies, use unexpended funds, accept gifts, grants and subsidies from any lawful source, and apply for and accept federal funds.

**History:** 1973 c 354 s 5

**401.06 COMPREHENSIVE PLAN; STANDARDS OF ELIGIBILITY; COMPLIANCE.**

No county or group of counties electing to provide correctional services pursuant to sections 401.01 to 401.16 shall be eligible for the subsidy herein provided unless and until its comprehensive plan shall have been approved by the commissioner. The commissioner shall, pursuant to the administrative procedures act, promulgate rules establishing standards of eligibility for counties to receive funds under sections 401.01 to 401.16. To remain eligible for subsidy counties shall maintain substantial compliance with the minimum standards established pursuant to sections 401.01 to 401.16 and the policies and procedures governing the services described in section 401.02, subdivision 4 as prescribed by the commissioner. Counties shall also be in substantial compliance with other correctional operating standards permitted by law and established by the commissioner. The commissioner shall review annually the comprehensive plans submitted by participating counties, including the facilities and programs operated under the plans. He is hereby authorized to enter upon any facility operated under the plan, and inspect books and records, for purposes of recommending needed changes or improvements.

When the commissioner shall determine that there are reasonable grounds to believe that a county or group of counties is not in substantial compliance with minimum standards, at least 30 days notice shall be given the county or counties and a hearing conducted by the commissioner to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. The commissioner may suspend all or a portion of any subsidy until the required standard of operation has been met.

**History:** 1973 c 354 s 6; 1982 c 559 s 5

#### **401.07 EXISTING SINGLE JURISDICTION COUNTIES OR GROUPS.**

In any county or group of counties where correctional services are currently being provided by a single jurisdiction within that county, nothing in sections 401.01 to 401.16 shall be interpreted as requiring a change of authority.

**History:** 1973 c 354 s 7

#### **401.08 CORRECTIONS ADVISORY BOARD; MEMBERS; DUTIES.**

Subdivision 1. The corrections advisory board provided in section 401.02, subdivision 1 shall consist of at least nine members, who shall be representative of law enforcement, prosecution, the judiciary, education, corrections, ethnic minorities, the social services, and the lay citizen.

Subd. 2. The members of the corrections advisory board shall be appointed by the board of county commissioners or the joint board in the case of multiple counties and shall serve for terms of two years from and after the date of their appointment, and shall remain in office until their successors are duly appointed. The board may elect its own officers.

Subd. 3. Where two or more counties combine to come within the provisions of sections 401.01 to 401.16 the joint corrections advisory board shall contain representation as provided in subdivision 1, but the members comprising the board may come from each of the participating counties as may be determined by agreement of the counties.

Subd. 4. The corrections advisory board provided in sections 401.01 to 401.16 shall actively participate in the formulation of the comprehensive plan for the development, implementation and operation of the correctional program and services described in section 401.01, and shall make a formal recommendation to the county board or joint board at least annually concerning the comprehensive plan and its implementation during the ensuing year.

Subd. 5. If a corrections advisory board carries out its duties through the implementation of a committee structure, the composition of each committee or subgroup shall generally reflect the membership of the entire board. All proceedings of the corrections advisory board and any committee or other subgroup of the board shall be open to the public; and all votes taken of members of the board shall be recorded and shall become matters of public record.

Subd. 6. The corrections advisory board shall promulgate and implement rules concerning attendance of members at board meetings.

**History:** 1973 c 354 s 8; 1975 c 304 s 10; 1977 c 392 s 11; 1982 c 559 s 6,7

#### **401.09 OTHER SUBSIDY PROGRAMS; PURCHASE OF STATE SERVICES.**

Failure of a county or group of counties to elect to come within the provisions of sections 401.01 to 401.16 shall not affect their eligibility for any other state subsidy for correctional purposes otherwise provided by law. Any comprehensive

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plan submitted pursuant to sections 401.01 to 401.16 may include the purchase of selected correctional services from the state by contract, including the temporary detention and confinement of persons convicted of crime or adjudicated delinquent; confinement to be in an appropriate state facility as otherwise provided by law. The commissioner shall annually determine the costs of the purchase of services under this section and deduct them from the subsidy due and payable to the county or counties concerned; provided that no contract shall exceed in cost the amount of subsidy to which the participating county or counties are eligible.

**History:** 1973 c 354 s 9; 1979 c 102 s 13

## 401.10 CORRECTIONS EQUALIZATION FORMULA.

To determine the amount to be paid participating counties the commissioner of corrections will apply the following formula:

(1) All 87 counties will be scored in accordance with a formula involving four factors:

- (a) per capita income;
- (b) per capita taxable value;
- (c) per capita expenditure per 1,000 population for correctional purposes, and;
- (d) percent of county population aged six through 30 years of age according to the most recent federal census, and, in the intervening years between the taking of the federal census, according to the state demographer.

"Per capita expenditure per 1,000 population" for each county is to be determined by multiplying the number of persons convicted of a felony under supervision in each county at the end of the current year by \$350. To the product thus obtained will be added:

(i) the number of presentence investigations completed in that county for the current year multiplied by \$50;

(ii) the annual cost to the county for county probation officers' salaries for the current year; and

(iii) 33 1/3 percent of such annual cost for probation officers' salaries.

The total figure obtained by adding the foregoing items is then divided by the total county population according to the most recent federal census, or, during the intervening years between federal censuses, according to the state demographer.

(2) The percent of county population aged six through 30 years shall be determined according to the most recent federal census, or, during the intervening years between federal censuses, according to the state demographer.

(3) Each county is then scored as follows:

- (a) Each county's per capita income is divided into the 87 county average;
- (b) Each county's per capita taxable value is divided into the 87 county average;
- (c) Each county's per capita expenditure for correctional purposes is divided by the 87 county average;
- (d) Each county's percent of county population aged six through 30 is divided by the 87 county average.

(4) The scores given each county on each of the foregoing four factors are then totaled and divided by four.

(5) The quotient thus obtained then becomes the computation factor for the county. This computation factor is then multiplied by a "dollar value", as fixed by the appropriation pursuant to sections 401.01 to 401.16, times the total county population. The resulting product is the amount of subsidy to which the county is eligible under sections 401.01 to 401.16. Notwithstanding any law to the contrary,

the commissioner of corrections, after notifying the committees on finance of the senate and appropriations of the house of representatives, may, at the end of any fiscal year, transfer any unobligated funds in any appropriation to the department of corrections to the appropriation under sections 401.01 to 401.16, which appropriation shall not cancel but is reappropriated for the purposes of sections 401.01 to 401.16.

*History: 1973 c 354 s 10; 1975 c 304 s 11*

#### **401.11 ITEMS INCLUDED IN PLAN PURSUANT TO REGULATION.**

The comprehensive plan submitted to the commissioner for his approval shall include those items prescribed by regulation of the commissioner, which may require the inclusion of the following: (a) the manner in which presentence and postsentence investigations and reports for the district courts and social history reports for the juvenile courts will be made; (b) the manner in which probation and parole services to the courts and persons under jurisdiction of the commissioner of corrections will be provided; (c) a program for the detention, supervision and treatment of persons under pre-trial detention or under commitment; (d) delivery of other correctional services defined in section 401.01; (e) proposals for new programs, which proposals must demonstrate a need for the program, its purpose, objective, administrative structure, staffing pattern, staff training, financing, evaluation process, degree of community involvement, client participation and duration of program.

In addition to the foregoing requirements made by this section, each participating county or group of counties shall be required to develop and implement a procedure for the review of grant applications made to the corrections advisory board and for the manner in which corrections advisory board action shall be taken thereon. A description of this procedure shall be made available to members of the public upon request.

*History: 1973 c 354 s 11; 1975 c 271 s 6; 1975 c 304 s 12; 1983 c 274 s 18*

#### **401.12 CONTINUATION OF CURRENT SPENDING LEVEL BY COUNTIES.**

Participating counties shall not diminish their current level of spending for correctional expenses as defined in section 401.01, to the extent of any subsidy received pursuant to sections 401.01 to 401.16; rather the subsidy herein provided is for the expenditure for correctional purposes in excess of those funds currently being expended. Should a participating county be unable to expend the full amount of the subsidy to which it would be entitled in any one year under the provisions of sections 401.01 to 401.16, the commissioner shall retain the surplus, subject to disbursement in the following year wherein such county can demonstrate a need for and ability to expend same for the purposes provided in section 401.01. If in any biennium the subsidy is increased by an inflationary adjustment which results in the county receiving more actual subsidy than it did in the previous calendar year, the county shall be eligible for that increase only if the current level of spending is increased by a percentage equal to that increase within the same biennium.

*History: 1973 c 354 s 12; 1981 c 360 art 1 s 26*

#### **401.13 CHARGES MADE TO COUNTIES.**

Each participating county will be charged a sum equal to the per diem cost of confinement of those juveniles committed to the commissioner after August 1, 1973, and confined in a state correctional facility. Provided, however, that the amount charged a participating county for the costs of confinement shall not exceed the

amount of subsidy to which the county is eligible, and provided further that the counties of commitment shall also pay the per diem herein provided for all persons convicted of a felony for which the penalty provided by law does not exceed five years and confined in a state correctional facility prior to January 1, 1981. The commissioner shall annually determine costs and deduct them from the subsidy due and payable to the respective participating counties, making necessary adjustments to reflect the actual costs of confinement. However, in no case shall the percentage increase in the amount charged to the counties exceed the percentage by which the appropriation for the purposes of sections 401.01 to 401.16 was increased over the preceding biennium. All charges shall be a charge upon the county of commitment.

**History:** 1973 c 354 s 13; 1977 c 392 s 12; 1979 c 102 s 13; 1982 c 559 s 8

#### **401.14 PAYMENT OF SUBSIDY.**

Subdivision 1. Upon compliance by a county or group of counties with the prerequisites for participation in the subsidy prescribed by sections 401.01 to 401.16, and approval of the comprehensive plan by the commissioner, the commissioner shall determine whether funds exist for the payment of the subsidy and proceed to pay same in accordance with applicable rules and regulations.

Subd. 2. Based upon the comprehensive plan as approved, the commissioner may estimate the amount to be expended in furnishing the required correctional services during each calendar quarter and cause the estimated amount to be remitted to the counties entitled thereto in the manner provided in section 401.15, subdivision 1.

Subd. 3. **Installment payments.** The commissioner of corrections shall make payments for community corrections services to each county in 12 installments per year. The commissioner shall ensure that the pertinent payment of the allotment for each month is made to each county on the first working day after the end of each month of the calendar year, except for the last month of the calendar year. The commissioner shall ensure that each county receives its payment of the allotment for that month no later than the last working day of that month. The payment described in this subdivision for services rendered during June, 1985 shall be made on the first working day of July, 1985.

**History:** 1973 c 354 s 14; 1975 c 304 s 13; 1983 c 312 art 1 s 24

#### **401.15 PROCEDURE FOR DETERMINATION AND PAYMENT OF AMOUNT; BIENNIAL REVIEW.**

Subdivision 1. **Certified statements; determinations; adjustments.** On or before the end of each calendar quarter, participating counties which have received the payments authorized by section 401.14 shall submit to the commissioner certified statements detailing the amounts expended and costs incurred in furnishing the correctional services provided in sections 401.01 to 401.16. Upon receipt of certified statements, the commissioner shall, in the manner provided in sections 401.10 and 401.12, determine the amount each participating county is entitled to receive, making any adjustments necessary to rectify any disparity between the amounts received pursuant to the estimate provided in section 401.14 and the amounts actually expended. If the amount received pursuant to the estimate is greater than the amount actually expended during the quarter, the commissioner may withhold the difference from any subsequent monthly payments made pursuant to section 401.14. Upon certification by the commissioner of the amount a participating county is entitled to receive under the provisions of section 401.14 or of this subdivision the commissioner of finance shall thereupon issue a state warrant to the

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chief fiscal officer of each participating county for the amount due together with a copy of the certificate prepared by the commissioner.

Subd. 2. The commissioner shall biennially review the ranking accorded each county by the equalization formula provided in section 401.10 and compute the subsidy rate accordingly.

**History:** 1973 c 354 s 15; 1973 c 492 s 14; 1975 c 304 s 14; 1983 c 312 art 1 s 25

## **401.16 WITHDRAWAL FROM PROGRAM.**

Any participating county may, at the beginning of any calendar quarter, by resolution of its board of commissioners, notify the commissioner of its intention to withdraw from the subsidy program established by sections 401.01 to 401.16, and the withdrawal shall be effective the last day of the last month of the quarter in which the notice was given. Upon withdrawal, the unexpended balance of moneys allocated to the county, or that amount necessary to reinstate state correctional services displaced by that county's participation, including complement positions, may, upon approval of the legislative advisory commission, be transferred to the commissioner for the reinstatement of the displaced services and the payment of any other correctional subsidies for which the withdrawing county had previously been eligible.

**History:** 1973 c 354 s 16; 1977 c 392 s 13