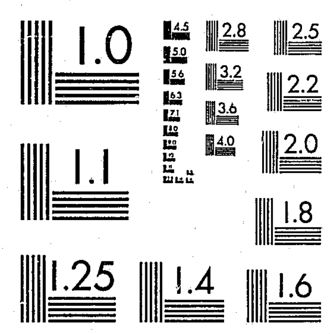

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PROGRAMS AND ISSUES IN COMMUNITY CORRECTIONS: AN OVERVIEW

STAFF BRIEF 80-3

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Wisconsin Legislative Council Staff
June 18, 1980

State Capitol
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PROGRAMS AND ISSUES IN COMMUNITY CORRECTIONS: AN OVERVIEW

INTRODUCTION

The purpose of this Staff Brief is to provide the Legislative Council Special Committee on Community Correctional Programs with an overview of corrections programs which are considered "innovative." The Brief is divided into three parts.

PART I describes the Minnesota Community Corrections Act and variations of it that have been adopted in other states. It also discusses the Community Corrections Act suggested by the Council of State Governments and describes the Wisconsin Community Youth and Family Aids Program. Each of the acts and programs presented in Part I transfers responsibility for a large share of corrections programming from the state to the local level.

PART II provides an overview of specific community programs in which offenders or alleged offenders are placed. Innovative treatment techniques are also discussed. Part II is intended to familiarize the Committee with some of the community corrections programs currently being used. It is not, however, an exhaustive discussion of all possible variations in programming.

The programs discussed in Part II include diversion, restitution, use of community assessment and evaluation teams, residential centers, new probation and parole supervision techniques, weekend sentences and reintegration programs.

PART III lists some of the issues involved in community corrections.

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*This Staff Brief was prepared by Keith Johnson, Staff Attorney, Legislative Council Staff.

PART I

LOCAL ADMINISTRATION OF COMMUNITY CORRECTIONS

Within the last decade, several states have adopted community corrections acts. These acts are founded on three basic policies:

1. Transferring responsibility for supervision of offenders from the state level to the local level;

2. Reducing the number of commitments to state-operated penal institutions; and

3. Encouraging local units of government to develop a more coordinated system of services to offenders.

Under community corrections acts, local units of government (usually counties) are allocated state funding to develop local programs such as halfway houses, drug and alcohol treatment programs, restitution programs, job placement services, counseling programs, jail recreational facilities, educational programs, financial counseling services, probation and parole supervision programs, facility construction and other programs aimed at housing or rehabilitating offenders. The acts typically do not require any specific type of programming. However, some state control over local programming is exerted through state review and approval of the corrections plans developed by local units of government.

Minnesota enacted a Community Corrections Act in 1973 [Ch. 401, Minnesota Stats.]. The Minnesota Act served as a model for later variations adopted in other states. The remainder of Part I of this Staff Brief contains a description of the Minnesota Act and these variations. It also discusses a community corrections act suggested by the Council of State Governments and an act in Wisconsin which applies only to juveniles.

A. THE MINNESOTA COMMUNITY CORRECTIONS ACT

Under the Minnesota Act, any county or group of counties that has an aggregate population of 30,000 or more may elect to participate in the Act. [A participating county or group of counties is hereinafter referred to as a "participating unit."] A participating unit elects to be covered by the Act by adoption of a resolution by the county board or boards. Participation in the Act is not mandatory. Counties that do not choose to participate remain under the state-operated corrections system and are not penalized for nonparticipation. There are currently 27 counties, which contain 70% of Minnesota's population, participating in the Act.

Each participating unit must appoint a local corrections advisory board to develop a plan for use of a subsidy received from the state to develop a community corrections system. The board consists of at least 18 but not more than 20 members, including:

1. A sheriff or his or her designee;

2. A chief of police or his or her designee;

3. A county attorney or his or her designee;

4. Judges of the area's courts having jurisdiction over felony, misdemeanor and juvenile matters;

5. An academic administrator;

6. The director of a county welfare board or his or her designee;

7. The public defender or his or her designee;

8. A parole or probation officer;

9. A correctional administrator;

10. A representative from a public or private social service agency;

11. An ex-offender;

12. A licensed medical doctor or other representative of the health care professions; and

13. At least four but no more than six citizens, at the option of the county board.

If two or more counties combine to form a participating unit, the State Commissioner of Corrections may increase the size of the local corrections advisory board to include one county board member from each participating county. Where two or more counties have joined together to form a participating unit, the membership from each of the counties may be determined by agreement of the county boards.

If the population of an ethnic minority in a participating unit exceeds the percentage of that ethnic minority in the state's population as a whole, at least two of the citizen members of the local corrections advisory board must be members of the ethnic minority group.

The local advisory corrections board must develop a plan for use of the state subsidy to the participating unit. The Act does not require a particular kind of programming. The content of the plan is left to the discretion of the local board.

The State Commissioner of Corrections must approve the local plan before granting the state subsidy to a participating unit. However, rules governing state approval of plans are very general and aimed at assuring full participation by the local corrections advisory board and the county board or boards in developing the community corrections plan. The Commissioner does not substitute his or her judgment for that of the local officials who develop the plan.

The state subsidy is allocated to participating units on the basis of a formula. It is a grant and does not operate as a reimbursement for expenses.

Each participating unit is required to maintain the level of spending for local correctional services which the unit expended prior to participation in the Act. In other words, if a unit was spending $100,000 on corrections programs before participating in the Act, the unit must continue to spend at least $100,000 in each year during which it participates in the Act. In order to receive annual increases in the subsidy, which are appropriated by the Legislature to adjust for inflation, the participating unit must increase its amount of funding for local programs by the same percentage.

The subsidy formula uses four factors to determine each participating unit's level of funding:

1. Per capita income;

2. Per capita equalized taxable property value;

3. Percentage of population ages 6 to 30 (the population most likely to commit crimes); and

4. Per capita county expenditures for correctional purposes in the prior year.

Under the formula, each of the above factors is divided by the 87 county average for the entire state. Each of those scores is then divided by four. The quotient obtained is the "computation factor" for that county. The computation factor is multiplied by a "dollar value," set by the Department of Corrections to reflect statewide per capita correctional expenditures and multiplied by the county's total population to arrive at the subsidy amount.

The effect of the formula is to compute a participating unit's resources and needs and then distribute the state subsidy so as to equalize the resources available throughout the state. For fiscal year 1980, the Legislature appropriated $9.7 million for subsidies under the Community Corrections Act.

Participating units may create a community corrections department and employ a director and other officers to implement their community corrections plan. The state subsidy may be used to fund any corrections programs which the participating unit desires to include in its plan. This includes jail programs, halfway houses, rehabilitation programs, employment placement, vocational counseling, therapy services, educational programs, construction of facilities, provision of probation and parole services and any other similar programs. The county boards of participating units oversee administration of the local programs by the local commissioner and local corrections department.

Participating units are charged by the state for the cost of confining each offender who is sentenced from the participating unit to a state institution for an offense which has a statutory maximum penalty of less than five years. The chargeback is not assessed when the statutory maximum penalty for an offense is five years or more, regardless of the actual sentence which is imposed. These charges are deducted from the

state subsidy to the participating unit. Counties which are not participating in the Community Corrections Act are not charged for offenders sentenced to state institutions, but also receive no state subsidy. Chargebacks are intended to encourage local supervision of offenders who might otherwise be under state supervision.

Similarly, participating units are also charged for noninstitutional correctional services which are provided to the unit by the state. Any local corrections plan may provide for purchase of state correctional services by contract. This is typically done with probation and parole services.

If a participating unit takes over a state correctional service and operates it as a local program rather than contracting with the state, the state employes are transferred to the county and become county employes. These employes are considered to be on lay-off from the state. The Act provides that they cannot receive a reduction in pay or benefits because of transfer to a county. If the county chooses to later withdraw from participation in the Act, the employes are transferred back to the state and the state takes over the service which they are providing.

Any participating unit may withdraw from the Act upon adoption of a resolution by its county board or boards. Notice must be given to the State Department of Corrections at least three months in advance of the date of withdrawal. When a participating unit withdraws from the Act, the state resumes responsibility for correctional programs in the county or counties which are affected, as if they had never participated in the Act.

The Act contains no provision governing the disposition of facilities that have been constructed by a participating unit with subsidies when it withdraws from the Act. To date, no counties have withdrawn from the Act.

B. COMMUNITY CORRECTIONS ACTS IN OTHER STATES

Since the adoption of the Minnesota Community Corrections Act in 1973, at least six other states have enacted similar programs. These states are Oregon, Maryland, Iowa, California, Colorado and Kansas.

The Kansas Community Corrections Act is almost identical to the Minnesota Act. The programs in the other states include several variations on the Minnesota Act, and these variations are described below.

1. Oregon - Section 423.500, Oregon Statutes, enacted 1977. The Oregon legislation establishes a State Community Corrections Advisory Board to advise the State Corrections Division on implementation of the Act in participating counties. There are no minimum population requirements for county participation. The Act makes no provision for establishment of multi-county participating units.

The state has allocated funds for developing and operating local programs under the Act and an additional $5.9 million to help participating counties upgrade current local correctional facilities. Buildings renovated or constructed with moneys made available under the

Act revert to the Corrections Division if a county does not participate in the Act for at least 20 continuous years after the renovation or construction. [However, the Division may agree to permit counties to retain ownership of such facilities in exchange for correctional services provided to the state.]

A one-year grace period was provided when the Act went into effect during which state chargebacks were not assessed to counties for nonserious offenders who were incarcerated in state institutions. This made it possible for counties to utilize funds to develop local programs for a period of time without also being held financially responsible for state incarcerations.

County programs funded under the Act are not available to persons convicted of murder, treason or Class A felonies. [The maximum punishment for a Class A felony in Oregon is a prison sentence of 20 years.]

2. Maryland - Article 27, section 706, Maryland Statutes, enacted in 1976. Under the Maryland Community Corrections Act, the state reimburses county or multi-county corrections districts for 75% of construction costs and the complete operating costs of a Community Adult Rehabilitation Center, if minimum state standards are met. Clients served at these centers must have received a sentence of not more than 18 months or must have less than six months to serve before their parole eligibility date.

The Secretary of Corrections is required to determine whether a Community Adult Rehabilitation Center is needed in each county. The Secretary may allow counties to form multi-county districts to increase efficiency of service delivery. If the county or district fails to submit a plan for construction of a Center, once need has been determined, the state may construct and operate one itself.

Unlike the Minnesota Act, a judge may not sentence an offender directly to a Community Adult Rehabilitation Center. Judges may only recommend placement in a Center. The Department of Public Safety and Correctional Services determines where an offender will be placed.

3. Iowa - Section 905.1, Iowa Statutes, enacted in 1977. In Iowa, community corrections programs must be run by each judicial district. Judicial districts include several counties, with the number of counties varying from district to district. A Board of Directors oversees operation of the programs in each judicial district. The Board consists of county supervisors from each county in the district, members appointed by the judicial district judges and members appointed by community corrections project advisory committees. The advisory committees are appointed for each project by the District Director of Corrections, who is in turn appointed by the Board of Directors.

The Board of Directors appoints one of the counties in the district to serve as the administrative agent for the district. This county provides accounting, personnel and supportive services for the community corrections programs and is reimbursed by the district for its costs.

The Board of Directors plans the community corrections programs which are to be implemented in the judicial district. The Board's budget for the programs is submitted to the State Department of Social Services. If the budget and plan are approved by the Department, the budget is included in the Department's budget and submitted to the Legislature.

The State Department of Social Services maintains responsibility for pre-release programs and parole supervision. Unlike Minnesota, judicial districts are not charged for offenders who are sentenced to state institutions.

4. California - Welfare and Institutions Code, art. VII, s. 1805, enacted in 1978. Until 1978, California operated a probation subsidy program. It was replaced by the County Justice System Subvention Program. Under the new program, counties that choose to participate, and that keep their rate of commitment to state correctional institutions at or below their average rate of commitment for 1973 - 1977, receive a state subsidy. If the commitment rate in a participating county exceeds the 1973 - 1977 base rate, the county's subsidy is reduced in proportion to the percentage of excess commitments. No provision is made for formation of multi-county participating units. As in Oregon, during the first year of the program, counties were not assessed a penalty for excess commitments.

The program requires the state to reexamine the base rate which is used to determine whether a county will receive a full subsidy, if and when space in state institutions becomes available for housing more offenders. In that event, the Legislature could decide to modify the base rate to encourage more commitments to state prisons.

5. Colorado - Section 17-27-103, Colorado Statutes, enacted in 1977. The Colorado Community Correctional Facilities and Programs Act allows any unit of local government [e.g., city, county, town] to set up a correctional program eligible for state funding. The governing board of the local unit of government may operate the program with or without establishment of a local corrections board.

The Act requires community correctional facilities to charge an offender who is employed for room and board on an ability-to-pay basis. Offenders must also pay family support, if necessary, and enter into a restitution agreement if they are employed.

Unlike Minnesota, localities are not charged for offenders sentenced to state institutions. Only nonviolent offenders can be placed in local correctional facilities and programs.

C. THE COUNCIL OF STATE GOVERNMENTS SUGGESTED ACT

The Committee on Suggested State Legislation of the Council of State Governments developed a suggested Community Corrections Act in 1979. The Council of State Governments is a nonprofit organization supported by funding from the states that provides information, research and support services to state governments. The Committee on Suggested State Legislation is made up of 100 state Legislators and other state officials. A copy of the Act is included as Appendix A to this Staff Brief.

Although the Council of State Governments Act is based on the Minnesota Community Corrections Act, the Council of State Governments Act contains several provisions which differ from Minnesota law. These provisions include:

1. A State Advisory Board appointed by the Governor is established to advise the administrator of the Division of Corrections on implementation of the Act and development of standards for corrections programs;

2. There are two separate grants made to participating counties. One is for supervision of offenders on parole and probation. The other is for development of other community corrections services. The grants are distributed in accordance with a formula. The only component of the formula is the number of persons being served in each participating unit;

3. Facilities renovated or constructed with moneys received under the Act revert to the state unless the participating unit stays in the community corrections program for 20 continuous years after the facility is renovated or constructed. [However, the state may permit the county to retain ownership of a facility in exchange for correctional services provided by the county.]; and

4. Corrections facilities established under the Act are not available to offenders convicted of murder, treason or taking of hostages.

D. WISCONSIN COMMUNITY YOUTH AND FAMILY AIDS

The Wisconsin Legislature created the Wisconsin Community Youth and Family Aids Program in SEC. 827 and other related sections of Ch. 34, Laws of 1979 (the 1979-81 Biennial Budget Act). The program is based on the Minnesota Community Corrections Act, but deals only with juveniles rather than with both adult and juvenile offenders. All counties will be required to participate in the program when it is fully implemented in 1981.

The program is administered by the Department of Health and Social Services (DHSS). It allocates funds to county social service departments (sometimes referred to as public welfare departments). The funds are used to implement local plans for provision of correctional services to juveniles. Each county's plan must be developed by a committee consisting of representatives of the county social service department and representatives of the county youth planning commission, if one exists in the county, and judicial and law enforcement agency representatives.

Each county is eligible to receive two separate grants under the program. During 1980 and the first six months of 1981, all counties are eligible for a capacity-building grant. This grant can be used to expand programs for juveniles, including planning of foster or group home programs, counseling programs, education programs, drug and alcohol treatment programs and other related services for juvenile offenders. The capacity-building grants cannot be used to construct new facilities.

In addition to the capacity-building grants, all counties are eligible to receive a fiscal relations grant to fund operation of delinquency-related services during 1981. However, in 1980, the fiscal relations grants will be distributed on a pilot basis to the following 10 counties: Adams, Bayfield, Dane, Juneau, LaCrosse, Racine, Richland, Sauk, Washington and Winnebago. Fiscal relations grants will be provided to counties each year, upon approval of the local juvenile justice plan by DHSS. The plans must be developed by the local planning group described above.

Only four counties did not submit plans and apply for capacity-building grants during 1980. The capacity-building allocations to counties totaled $2.5 million in 1980 and $1.3 million in 1981. The fiscal relations grants are $4.2 million in 1980 (10 counties) and $25.5 million (all counties) in 1981.

Under the Community Youth and Family Aids Program, counties must pay the state for the cost of juvenile justice services provided to a county by the state. Charges for these services are deducted from the fiscal relations grants to each county. The daily charges assessed against counties in calendar years 1980 and 1981 for state services will be as follows:

Correctional Institution	$64
Foster Home	$12
Group Home	$41
Child Caring Institution	$63
Probation Supervision	$ 3

Counties are free to use Community Youth and Family Aids grants to develop and operate local programs to replace the state-run programs. If a county develops its own programs and places juveniles in those programs, rather than in state institutions, the county will avoid the state charges for those services.

In addition to the capacity-building and fiscal relations grants, an emergency fund has been set aside for counties which experience unusually large costs due to an unforeseen rise in juvenile crime. The 1980 emergency fund contains $95,000. The legislation establishing the Community Youth and Family Aids Program establishes the emergency fund at the level of up to 2% of the fiscal relations grants to counties under the program.

The formula for the distribution of grants among counties weighs equally each county's percentage of the total statewide juvenile population, the average number of serious juvenile arrests for 1975 through 1978 in each county and the average number of juvenile correctional placements from each county in state institutions for 1975 through 1978. However, no county can be allocated a grant that is less

than 93% nor more than 115% of the amount it would receive if funds were distributed only on the basis of its average juvenile placements with the state for 1975 through 1978.

PART II

SELECTED PROGRAM ALTERNATIVES IN COMMUNITY CORRECTIONS

There are a variety of community corrections programs currently in operation in the United States. The programs fall into several general categories, including:

- Diversion programs;
- Classification and evaluation techniques;
- Restitution programs;
- Probation and parole programs;
- Weekend sentences; and
- Reintegration programs.

Selected examples of programs from each of these categories are described in this Part of the Staff Brief.

A. DIVERSION PROGRAMS

Diversion programs attempt to remove an offender from the judicial system before final disposition. Diversion can take place before charges are filed, before trial, after trial but before sentencing or while an offender is subject to revocation of parole or probation. Under a diversion program, prosecution, sentencing or revocation may be deferred so long as the offender meets specified conditions, such as participating in a community corrections program or making restitution. If the conditions are met, incarceration, or even conviction, may be avoided.

Diversion is not a new component in the criminal justice system. Judges, police departments and prosecutors have been diverting persons accused of crime from the judicial process for many years. Diversion reduces the work load of courts and prosecutors and also spares the first-time offender from the stigma and experience of a criminal conviction.

One key to a successful diversion program lies in development of a screening process which will successfully identify persons who qualify for and can benefit from diversion. On this subject, the National Advisory Commission on Criminal Justice Standards and Goals, appointed by the Law Enforcement Assistance Administration in 1971, has recommended that a screening program be incorporated in a comprehensive offender evaluation process that includes not only screening for diversion, but also includes presentence investigation, identification of an offender's program needs and goals for sentencing and, if incarcerated, classification of an offender for security purposes.

Successful diversion has been accomplished both informally and through formal diversion programs. Various forms of diversion are currently used in many jurisdictions in Wisconsin and throughout the nation. Some of these diversion efforts are described below.

1. Kenosha County, Wisconsin, Deferred Prosecution Program

The Kenosha County deferred prosecution program began in 1978 as a county project funded by the Wisconsin Council on Criminal Justice. It is now funded and operated by the Kenosha Alcohol and Drug Council, a private, nonprofit agency. The program is designed for persons who are not considered a threat to the safety of the community and who have allegedly committed less serious offenses resulting from a treatable problem, such as a family, emotional, drug or alcohol abuse problem.

In order to participate in the program, an individual charged with a crime must not have been arrested on a felony charge or had more than two misdemeanor arrests or ordinance arrests within the last five years. In addition, the alleged offender must not have been involved in any first offender or deferred prosecution program within the last five years. He or she cannot currently be on probation. The alleged offense must not have been of a violent nature, other than family violence, or have involved possession of a weapon.

The director of the program screens 90-95% of all cases that are brought into the district attorney's office for potential participants. [Persons charged with more serious crimes, such as murder, are not considered for the program.] Eligible individuals are referred to other private and public agencies. The agencies generally require that the accused pay an amount to cover cost of the services, based on his or her ability to pay.

If a service agency determines that the accused would benefit from its program, and if the deferred prosecution program director determines that the accused is sufficiently motivated to participate in the program, a contract is entered into between the alleged offender and the prosecutor. The contract requires that the person participate in the program and meet certain other specified conditions. Under the contract, the accused waives his or her right to a speedy trial. The prosecution is deferred for a period of time, usually six months. If the person completes the program, the charges are dismissed.

Other Wisconsin counties have deferred prosecution programs. Although they are generally similar to the Kenosha County program, they vary as to the types of cases handled, the community programs available for diversion, the amount of screening of potentially eligible applicants and the use of a formal contract.

2. California Drug Diversion Act - California Penal Code, Section 1000

California's state drug diversion law covers persons charged with the following crimes: possessing heroin, marijuana or narcotic paraphernalia, being in a place where narcotics are being used, possessing restricted dangerous drugs, being under the influence of or use of an opiate substance, cultivating marijuana for personal use, inhaling toxic fumes with the intent to become intoxicated and possessing drugs without a lawful prescription.

Each district attorney must determine if an offender charged with any of these offenses is eligible for diversion. Eligibility is conditioned upon the following:

1. The alleged offender must have had no conviction for any offense involving controlled substances prior to the currently pending offense;

2. The offense charged must not be a crime of violence or threatened violence;

3. There must be no evidence of a violation of drug laws other than those listed as eligible under the statutes;

4. The accused must not have had probation or parole revoked without it thereafter being successfully completed;

5. The alleged offender must not have been diverted from prosecution under the statute within the five years immediately prior to the alleged offense; and

6. The alleged offender must have had no prior felony conviction within five years prior to the alleged offense.

If the defendant is determined to be eligible for the diversion program by the district attorney, the defendant and his or her attorney must be advised of this determination in writing and be provided with a description of the diversion program. If the defendant consents to participation in the diversion program and waives the right to a speedy trial, the district attorney must refer the case to the State Probation Department for a pre-diversion report. The Probation Department must submit its pre-diversion report to the court within 30 days after initial referral. The report contains a treatment plan for the offender which makes use of available community programs that would meet the offender's needs. The Probation Department may recommend that a defendant not be diverted, if it concludes that the defendant would not benefit from the program.

After receiving the pre-diversion report, the court holds a hearing to determine whether the defendant is to be diverted. If the court does not consider the defendant to be a good candidate for diversion, or if the defendant does not consent to diversion, the alleged offender is subject

to continued legal proceedings as in any other criminal matter. If the defendant is diverted, any bail which was paid is returned.

The period of diversion can last from six months to two years. The Probation Department must file a report with the court for each defendant participating in the program every six months. Upon successful completion of the diversion program, the original charges are dismissed and the arrest record is expunged. However, criminal proceedings can be reinstituted at any time during the diversion period if the defendant is performing unsatisfactorily or is not benefitting from the program, or if the defendant is convicted of a felony or a misdemeanor reflecting a "propensity for violence."

3. Wisconsin Domestic Abuse Deferred Prosecution Program

A statutory deferred prosecution program for domestic abuse was created in Wisconsin by Ch. 111, Laws of 1979. Under this new program, any person charged with battery to a spouse may be diverted from prosecution by the district attorney.

If the district attorney decides to use the deferred prosecution program and the accused consents, a contract is signed. In the contract, the alleged offender waives his or her right to a speedy trial and agrees to whatever conditions the district attorney deems appropriate, including referral to a counseling agency or other community program. The person must file a monthly report with the district attorney certifying compliance with the conditions of the contract. Any statements made by the accused while in the diversion program cannot be used in a prosecution for the battery charge.

The written agreement may be terminated and a prosecution resumed at any time prior to completion of the diversion period, upon written notice by either the accused or the district attorney. Upon successful completion of diversion as set forth in the contract, the court must dismiss the original charges.

4. Saskatchewan Mediation - Diversion Program

The Canadian province of Saskatchewan operates a Mediation-Diversion Program that is aimed at crimes resulting from husband-wife, family or landlord-tenant disputes and assault, vandalism, minor fraud, shoplifting, car theft or other theft. The program is not used if any of the following circumstances exist:

1. The complainant or accused refuse to participate in the program;

2. The incident involved the use of, or threatened use of, firearms or other weapons;

3. The incident involved physical harm to a victim where there was no pre-existing relationship between the offender and the victim;

4. The incident is part of a pattern of criminal behavior; or

5. The alleged offender is not normally a resident of the community in which the act occurred.

The Mediation-Diversion Program makes use of a mediation meeting between the victim and the offender. A mediator aids the parties in coming to a mutual agreement. If an agreement cannot be reached, criminal proceedings are continued. However, if the mediation results in an agreement between the victim and the offender, the agreement is recorded in writing and signed. In addition, other community services, such as counseling, can be provided to the victim and offender as part of the program.

The diversion agreement entered into cannot extend beyond 90 days. If the agreement is broken, criminal proceedings may be recommenced.

5. Probation Revocation Diversion

The Wisconsin Division of Corrections operates a diversion program for selected probationers subject to revocation of probation. This diversion project has operated on a limited basis and places offenders in a residential center in Milwaukee. Revocation proceedings are deferred while the probationer is in the program and dropped if he or she successfully completes it.

B. CLASSIFICATION AND EVALUATION

Classification and evaluation has traditionally been seen as the process of determining what institution and programs an offender should be placed in once he or she has been sentenced. However, the view of this process taken by criminal justice professionals has recently broadened.

1. National Advisory Commission Recommendations

The National Advisory Commission on Criminal Justice Standards and Goals, appointed by the Law Enforcement Assistance Administration, sees classification of a person charged with a crime as an ongoing process. The process should start with screening for possible participation in a pretrial diversion program and continue as the offender moves through the criminal justice system. [The National Advisory Commission on Criminal Justice Standards and Goals, Corrections (1973), pages 213 et seq. and 296 et seq.]

The Commission recommends that initial screening take place within three days of arrest. It further recommends that classification and evaluation be done by a team that is active in pretrial diversion, presentence evaluation, program planning for the offender and security classification of the offender. The Commission sees the goal of classification and evaluation as placing an offender in the least restrictive environment in which he or she will not pose a security risk.

If an offender is sentenced to an institution, classification should not take longer than one week and should be done in a community-based facility, rather than in a maximum security institution. Reevaluations of the classification should be made periodically.

The Commission, in Corrections, states:

> As with other efforts involving the community, the planning and operation of community classification should be accomplished with the assistance of affected and interested groups - police, courts and public. Their support is essential to the successful operation of community-based programs, and they can assist in opening the doors to further resources.
>
> For full effectiveness, the teams should participate in all types of processes that channel offenders into community-based programs - diversion, sentencing and disposition, and placement decisions of correctional agencies....
>
> In addition to its responsibility for assigning offenders to various community programs, the classification team should have a role in observing the operation of these programs and recommending new programs, changes, or innovations that may be more responsive to the needs of offenders. [Page 216.]

2. San Diego Classification Program

Although the National Advisory Commission offers guidance for classification and evaluation of offenders, there are few, if any, programs that meet the Commission's criteria. The San Diego County, California, program attempts to implement some of the Commission's guidelines.

The Probation Department of San Diego County participates in classification at every stage of the process and operates seven days a week. It prepares immediate post-arrest recommendations for judges pertaining to release on bail, conducts pretrial diversion screening programs, prepares presentence reports, develops probation plans and classifies offenders sentenced to the county jail.

Offenders who are sentenced to the county jail are sent to a camp-like facility which serves as a reception area. The prisoners are interviewed, tested and classified at the camp within three to five days.

C. RESTITUTION

Restitution to victims of crime is a concept that dates back to ancient Roman, Babylonian and Persian law. In Anglo-Saxon law, the use of restitution diminished as the concept developed that crime is an offense against the state. Recently, the idea of restitution as part of the

offender's responsibility has gained favor. Some jurisdictions have developed formal restitution programs. In others, restitution is often used as an informal disposition.

1. Wisconsin - Restitution as a Condition of Probation

Beginning July 1, 1980, judges in Wisconsin who place an offender on probation will be required either to order the offender to make restitution for his or her crime or make a specific finding that there is substantial reason not to require restitution. [For offenses prior to July 1, a judge may order restitution as a condition of probation, but is not required to consider it.] This change in sentencing procedure was made by Ch. 238, Laws of 1979.

Under Ch. 238, if a court orders restitution, it must set the amount and method of payment, taking into consideration the financial resources and future ability of the probationer to pay. The offender makes the restitution payment to the Department of Health and Social Services, unless the clerk of circuit court has been authorized by the county board to process restitution payments. The payments are placed in an account for the victim.

A probationer who is required to pay restitution may petition the court for a modification of the restitution order at any time after six months from the imposition of the order. If the probationer fails to comply with a restitution order, probation may be revoked. A court may waive compliance, upon finding that there is substantial reason to no longer require restitution.

If payments are made by the state to a victim under the Crime Victim's Compensation Program [Ch. 949, Wis. Stats.], the state may collect restitution from an offender ordered to make restitution up to the amount of the compensation paid to the victim.

2. Minnesota - Restitution House

One of the best known restitution programs in the country is Restitution House, operated by the Minnesota Department of Corrections, in Minneapolis. Restitution House is a center for male offenders who have been incarcerated and are released on parole.

Offenders who are paroled to Restitution House must sign a contract in which they agree to abide by the rules of the center, pay for their room and board, participate in whatever therapy or other community programs are appropriate, get and hold a regular job and make restitution payments to their victims.

To be eligible for the program, an offender must:

1. Come from the Minneapolis area;

2. Have committed a crime that involves no violence or use of weapons;

3. Not have been arrested for a violent offense within the preceding five years;

4. Have an earning capacity commensurate with the amount of restitution that is ordered; and

5. Not be regarded as a professional criminal.

Residents at Restitution House go through four phases in which they progressively acquire more personal freedom. All residents, no matter what phase of the program they are in, are permitted to stay out every night until 11:00 p.m. After phase one, the curfew is 1:00 a.m. Most residents are also eligible for frequent overnight and weekend stays at home.

The center emphasizes maintenance of community and family ties and participation in community programs aimed at meeting the specific needs of each offender (e.g., alcohol or drug abuse programs, psychiatric counseling, job counseling). The final phase of the program is release from the center under regular parole supervision.

The amount of restitution paid by offenders at Restitution House ranges from $15 to over $2,000. The average restitution contract is about $250. Whenever possible, offenders are required to make at least one payment to the victim of their crime in person. This has been considered an integral part of the program and important to the rehabilitative progress.

3. Georgia - Restitution Centers

Georgia operates restitution centers that vary somewhat from the Minneapolis Restitution House. Offenders who participate in the Georgia Restitution Center Program are placed in a center as a condition of probation. They are automatically screened by staff members as a part of the post-conviction, presentence investigation.

The selection criteria are similar to those used in Minnesota, with the additional criterion that the offender must be someone who would have been incarcerated if the program were not available. The restitution center staff recommends participation in the program to the sentencing judge, who can accept, modify or reject the recommendation.

The restitution center in Cobb County, Georgia, differs in operation from the other Georgia restitution centers. At the Cobb County facility, selection of offenders to participate in the program is made from all offenders after they have been sentenced to a term in prison. The staff makes a recommendation to the judge to amend the sentence to provide for probation with a condition that the offender participate in the

restitution program. This post-conviction screening assures that the program serves as a substitute for incarceration rather than as an additional restraint on probationers.

Once an offender is sentenced to a restitution center, a contract is negotiated between the staff and the offender. The contract specifies the amount of restitution required and conditions that must be fulfilled at the center. [In some instances the amount of restitution is set by the judge at the time of sentencing.] Residents pay a fee for room and board.

In addition to helping the offender find a job, the centers offer counseling and educational programs. A point system is used to reward residents for following restitution center discipline and for meeting restitution obligations. Points can be used to obtain furloughs.

Each resident is also required to perform public service restitution. This consists of volunteer work in a community service organization such as a hospital, old-age home, youth organization or church.

On the average, center residents spend four months in the program. After the restitution center contract has been fulfilled, the court must approve release to regular probation.

4. Multnomah County, Oregon - Community Service

Community service is a concept similar to restitution. Multnomah County, Oregon, operates a program which allows offenders convicted of a misdemeanor to perform volunteer community work in place of, or in addition to, a traditional court sentence. A community service order is usually imposed as a condition of probation.

Offenders in the community service program are typically assigned to perform maintenance or clerical work for a private or public social service agency.

D. PROBATION AND PAROLE PROGRAMS

The kinds of community corrections programs which have been made available to offenders on probation or parole are as varied as the needs of offenders themselves. The following description provides an overview of what could be considered innovative programs for such offenders.

1. Residential Centers

Residential centers, also called halfway houses, provide a level of supervision between incarceration and regular probation or parole. They are usually intended to offer an alternative to incarceration, although they are sometimes used to provide additional supervision for someone on probation or parole. Offenders who live at a residential facility participate in various programs, both at the facility and in the community.

Residential centers generally provide offenders with assistance in finding and maintaining employment. At some centers, offenders are responsible for paying all or part of their room and board costs out of their wages. Programs which are also used include drug or alcohol abuse treatment, educational programs, vocational training, psychiatric counseling, financial or budget counseling, group therapy and other treatment services.

One of the leading residential facilities in the United States is the Probationed Offenders Rehabilitation and Training (PORT) Facility in Rochester, Minnesota. The Rochester PORT program features group counseling, along with work and training placements. A community board, similar to the local corrections advisory board under the Minnesota Community Corrections Act, oversees operation of the Facility. The PORT project has been replicated in other Minnesota cities.

2. California Probation Subsidy Program

The California Probation Subsidy Program, adopted in 1965, was intended to reduce state institution populations while upgrading the quality of probation services. It served as a model for the Minnesota Community Corrections Act. It was replaced in 1978 by the California County Justice System Subvention Program.

Counties were not required to participate in the Probation Subsidy Program. A county which chose to participate could be reimbursed for the cost of running programs for probationers.

Once the governing body of a county chose to participate in the Act, the county would have to submit a plan of how it intended to spend money received under the Program. Subsidies could be used for any probation-related program. In practice, the funds were used for such things as staff salaries, administrative expenses, research and program development expenses and program operation expenses. Specific programs funded by the subsidy included residential centers, drug treatment services and traditional probation supervision.

A participating county would receive up to $4,000 for each reduction in the number of persons sentenced to state institutions from the county which amounted to a reduction below the average commitment rate for the years 1959-1963. In other words, if a county spent $100,000 on a probation program that was approved as part of its probation plan by the state, and there were 10 fewer offenders sentenced to state institutions during a calendar year than the average number of offenders sent to state institutions from that county during 1959-1963, the county would receive a subsidy of up to $40,000. [In actuality, the subsidies varied from $2,080 to $4,000 per reduced commitment, depending upon the amount of reduction below the basic commitment rate. However, most counties received the maximum $4,000 reimbursement.]

3. Team Supervision

The Municipal Probation Services Department in Seattle, Washington, assigns a team of staff members to each offender on probation, rather than assigning only one staff member to an offender. All functions of the Department relating to a particular offender are handled by the team, including preparation of pre-bail reports, deferred prosecution screening, preparation of presentence reports and evaluation of an offender's needs in developing a probation plan.

Team members often specialize, so that an agent works closely with an offender if the agent has expertise in meeting a particular need of, or relates better to, a particular offender. In addition, probation decisions are made jointly by the team, rather than by an individual agent.

The Seattle Probation Services Department emphasizes referral to community resources. The surveillance function of probation has not been emphasized.

4. Use of Volunteers

Some probation departments have used volunteers to increase community involvement with probationers and to provide more supervision where caseloads are heavy. For example, San Diego County in California operates what is believed to be the largest volunteer corrections program in the country. Approximately 1,000 county residents are involved in a wide variety of activities in the department. This includes person-to-person contact with probationers in a program similar to the Big Brother or Big Sister programs. Volunteers maintain regular contacts with offenders, help them with problems and offer friendship. [There are several volunteer-in-probation programs in Wisconsin, including programs in Dane, Milwaukee and Waukesha Counties.]

Some jurisdictions have also developed parole programs that are similar to volunteers-in-probation programs. They are variously referred to as partners programs, friendship programs or sponsorship programs. Under these programs, a volunteer who has been screened and trained is paired with an inmate who is being released to his or her area to help the parolee adjust to life outside the institution.

The partner may visit the inmate while incarcerated and is expected to help with problems after release. Partners often assist ex-offenders in finding jobs and housing. Counseling and referral services are usually provided by project staff. A partners program has been used in Kenosha County. Similar sponsorship programs are in operation in the State of Washington and in Denver.

5. Satellite Probation Offices

Probation departments in Denver and Philadelphia have initiated an experiment called the Community Outreach Probation Experiment (COPE). The

COPE project is a response to dissatisfaction with most probation offices being located in downtown business areas, making access difficult for many probationers.

In the COPE project, a decentralized, satellite system of probation offices was established in areas where probation clients live. The outreach centers are open evenings and weekends. These community offices allow probation agents to maintain better contact with probationers and become more aware of resources for and influences on an offender in his or her neighborhood.

6. Day Centers

Great Britain and Australia have used a form of probation which provides more structure than traditional probation supervision but less structure and control than residential centers. In Britain, these facilities are called Day Training Centers. In Australia, they are called Attendance Centers. Probationers report to the facilities during the daytime for programmed activities.

The Centers offer therapeutic, practical and remedial activities. Examples of programs include social skills counseling, craftwork, role playing, therapy and discussion groups, education classes, alcohol and drug dependence programs, financial counseling, vocational counseling and other similar programs.

7. Shock Probation

A form of sentencing called "shock probation" was introduced in 1965 in Ohio. It is now in use in at least seven states and it is seen as a way to impress upon an offender the seriousness of a prison sentence, while allowing eventual use of community-based treatment facilities.

Under Ohio statutes, an offender, who has been sentenced to prison for an offense for which probation could have been ordered, can petition the trial court for release on shock probation no earlier than 30 days, nor later than 60 days, after the sentence begins. The court may also, on its own motion, place an offender on shock probation.

The offender serves a sentence of at least 30 days without knowing whether he or she will be released on probation. This is intended to serve as a shock to the offender to deter future commission of crimes. If the court deems the case appropriate for release on probation when reviewing the petition, the offender is released and serves the remainder of his or her sentence on probation.

8. Contractual Parole Release

The Wisconsin Division of Corrections has used a contractual parole release program called the Mutual Agreement Program (MAP). Under MAP, an eligible inmate executes a contract with the Parole Board for a guaranteed

release date. In return, the inmate must agree to participate in certain programs and meet specific behavior objectives. These provisions are included in the contract.

The MAP was intended to eliminate the unpredictability of the parole process for inmates and identify needed treatment programs. However, funding for MAP was not included in the 1979-81 Biennial Budget Act. A performance assessment of the Program undertaken by the Division of Corrections concluded that it was not resulting in a reduction of time served by participating inmates.

9. Outward Bound

Outward Bound is a probation program that has been used for juveniles. The Program is built on the idea that participating in a small group of nine to 12 people, who live together, act as a team and need to develop cooperative efforts and group decision-making abilities in order to survive, will benefit each of the group's members. Participants are challenged to overcome a seemingly insurmountable task and, in doing so, gain self-reliance and develop a sense of self-worth.

Outward Bound has been used with offenders in Denver and in Wisconsin. In Wisconsin, the program is used as a juvenile pre-release program and is called Support, Pride, Readiness, Involvement, Teamwork and Education (SPRITE).

In the SPRITE Program, participants engage in rock climbing, backpacking, canoeing, winter camping, snowshoeing and cross-country skiing. A week is also spent in a city learning job-seeking and urban survival skills.

The Denver Outward Bound Program for offenders lasts approximately three weeks and has four phases. The phases are a basic skills training phase, a long expedition, a solo three-day period of solitude to measure survival skills and a period of final testing. The activities are combined with discussion groups. Activities are not intended to be an end in themselves, but are used to develop desirable character traits.

10. Project Re-Entry

Project Re-Entry in Racine, Wisconsin coordinates community resources to provide ex-offenders with assistance after they have been released from an institution. Inmates who will be returning to the Racine area on parole are contacted while still in prison and informed of the Project. [The Project also assists individuals who are on probation and are referred by their probation agent.] The goal of the Project is to match the needs of clients with available community resources upon release. Project staff works closely with each offender's parole agent.

The Project assists offenders in finding employment and offers reintegration counseling. Clients are referred to community agencies that provide job training, medical care, emergency financial aid, housing, psychiatric counseling, drug or alcohol counseling, educational programming and other services.

Contacts are made with referred clients once each month for six months following the client's entry into the program. Clients are also contacted one year after entry into the program to evaluate their status.

E. WEEKEND SENTENCES

An alternative form of sentencing which has been used in some jurisdictions, including Vermont and Washington, D.C., is sentencing offenders to spend only weekends in jail. This allows an offender to maintain his or her employment, family relationships and other community ties while providing punishment for the crime.

In Washington, D.C., a work release center has been put to use to accommodate "weekenders." During their weekend sentences, offenders work at yard and facility maintenance tasks.

F. REINTEGRATION PROGRAMS

The primary goal of reintegration programs is to maximize the retention of positive community links which an offender has and help him or her establish new links to smooth the transition from prison to eventual release into the community.

Reintegration programs such as furlough releases, education or work release programs and liberal visiting privilege programs may help an offender maintain positive links with his or her community. Examples of other programs which have been used in institutions to assist offenders in reintegration are described below.

1. Massachusetts Reintegration Programs

In 1972, legislation was enacted in Massachusetts which created a series of reintegration programs in the state prison system. In addition to assisting an offender in maintaining and establishing positive community links, the programs are designed to decrease the negative effects of incarceration.

Inmates who participate in the programs are eligible for community furloughs and prison programs throughout their period of incarceration. During the middle period of an offender's incarceration, he or she is also eligible for a series of movements from maximum to medium to minimum security institutions. Within 18 months of parole eligibility, the offender qualifies for community work release, residence in a community pre-release center, community education release or one of a variety of other programs aimed at releasing the offender into the community for a specific activity (e.g., therapy, drug counseling, Alcoholics Anonymous).

The Massachusetts Department of Corrections has cited the programs as being associated with a reduction in the rate of recidivism for inmates released from state institutions. [LeClair, Daniel P., Ph.D., Community-Based Reintegration: Some Theoretical Implications of Positive Research Findings, Massachusetts Department of Corrections (1979).]

2. Rock County Jail Services Project

The Comprehensive Jail Services Project in Rock County, Wisconsin, provides employment, education, counseling and other services to residents of the Rock County Huber Law Release Facility. The Project assists clients in obtaining and keeping employment, provides General Education Degree instruction at the Facility, arranges study release to attend schools outside the Facility, provides counseling services and referral to outside counseling agencies and brings in volunteers from the community to assist in programming.

Similar programs are being conducted in several other counties throughout the state. Jail services projects attempt to meet the program needs of individual offenders and to reinforce positive community links.

3. The Newgate Project

The Newgate Project is a joint university-corrections program in Minnesota. Initially, the program operated as a prison study release program. However, as the program developed, participating offenders were moved out of state institutions to live in residential centers near the campus. The Newgate Project combines study release at a college or university with group counseling at the center. It has served as a model for other college study release programs.

Newgate units have been developed for vocational education release, as well as university study release. A women's Newgate, located in St. Paul, provides a study release residential center for offenders who are mothers. They are permitted to keep their children with them at the center.

PART III

ISSUES IN COMMUNITY CORRECTIONS

The development of community corrections programs over the past decade has raised several major issues. These issues include:

1. Whether use of community corrections programs can reduce the number of offenders sentenced to state institutions.

2. Whether availability of community corrections programs serves to extend the amount of control exerted by the criminal justice system over offenders who would otherwise not be prosecuted or sentenced.

3. Whether community corrections is less costly per offender than incarceration in a prison.

4. Whether use of community corrections programs can reduce recidivism rates.

5. Whether community corrections facilities and programs present a threat to the safety of communities in which they are located.

6. Whether community resistance to the establishment of community corrections facilities and programs can be overcome.

7. Whether adoption of a community corrections act results in increased sentencing of offenders to serve time in county jails rather than in better-equipped state facilities.

8. Whether limiting discretionary release from prison by adoption of a determinate sentencing law impacts upon community corrections.

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APPENDIX A

COUNCIL OF STATE GOVERNMENTS SUGGESTED COMMUNITY CORRECTIONS ACT

Community Corrections Act

This suggested legislation provides state financial assistance to counties which choose to assume responsibility for corrections programs and facilities for persons other than Class A felons. To be eligible for state funding, a county (or two or more counties) with a population exceeding 30,000 must submit a plan to the administrators of the Corrections Division. The plan is then reviewed and recommendations offered by a statewide, 15-member Community Corrections Advisory Board. Financial aid to participating counties consists of (1) payments for supervising felon parolees and probationers based on each county's percentage share under rules of the division and (2) enhancement grants based on each county's percentage share of persons charged with felonies. After January 1, 1979, each participating county will be assessed a per-inmate-cost charge, not to exceed the county's share of supervision and enhancement funds, for each person sentenced for a Class C felony to the custody of the division. The bill also appropriates funds for the acquisition, construction, or renovation of local corrections facilities provided that such facilities revert to the division if the county participates in the program less than 20 years.

The purpose of this act is to establish and finance community corrections centers with state funds in order to provide sentencing alternatives and improved local services for persons charged with criminal offenses. The goal is to reduce the incidence of recidivism. To accomplish these purposes, the bill appropriates a total of $14 million for the first biennium.

This act is based on an Oregon statute.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. [*Short Title.*] This act may be cited as the [state] Community Corrections Act.

Section 2. [*Definitions.*] As used in this act:

(1) "Administrator" means the administrator of the [corrections division of the department of human resources].

(2) "Advisory board" means the Community Corrections Advisory Board established by Section 3.

(3) "County" means a county having a population in excess of 30,000 persons or two or more counties whose combined population exceeds 30,000 persons, according to the latest estimates by the [appropriate census-taking organization].

(4) "Division" means the [corrections division of the department of human resources].

(5) "Plan" means the comprehensive community corrections plan

required by Section 13.

(6) "Program" means those programs and services described in Section 6.

Section 3. [*Establishment of Community Corrections Advisory Board.*]

(a) There is established the Community Corrections Advisory Board consisting of 15 members appointed by the governor. The board shall be composed of:

(1) Three persons representing community corrections agencies.

(2) Two persons representing state agencies.

(3) Two persons representing private agencies.

(4) Four lay citizens.

(5) A member of the judiciary.

(6) A law enforcement officer.

(7) Two members of the [law enforcement council].

(b) Members of the board shall serve for a period of four years at the pleasure of the governor, provided they continue to hold the office, position, or description required by subsection (d). The governor may at any time remove any member for inefficiency, neglect of duty, or malfeasance in office. Before the expiration of the term of the member, the governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the governor shall make an appointment to become immediately effective for the unexpired term.

(c) A member of the board shall receive no compensation for service as a member, but all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties within limits as provided by law or rule under [appropriate state statute].

(d) Notwithstanding the term of office specified by subsection (b) of the members first appointed to the board:

(1) Five shall serve for a term ending [June 30, 1978].

(2) Five shall serve for a term ending [June 30, 1979].

(3) Five shall serve for a term ending [June 30, 1980].

Section 4. [*Duties of Advisory Board.*] The Community Corrections Advisory Board shall:

(1) Advise the administrator of the [corrections division] in the participation of the [division] in this act.

(2) Advise the administrator in the formulation of standards and the adoption of rules for the establishment, operation, and evaluation of community corrections.

(3) Review plans of counties for participation under this act and make recommendations thereon to the local corrections advisory committee established pursuant to Section 12.

(4) Provide advice and assistance to the administrator in establishing

the requisite qualifications to the managers of community corrections programs.

(5) Provide advice and assistance to the administrator in all other matters related to this act.

Section 5. [*Grants by* [*Corrections Division*].] The [corrections division] shall make grants to assist counties in the implementation and operation of community corrections including, but not limited to, preventive or diversionary corrections programs, probation, parole, work release, and community corrections centers for the care and treatment of criminal defendants.

Section 6. [*Programs and Services.*]

(a) A county may apply to the administrator of the [corrections division] in a manner and form prescribed by the administrator for financial aid made available under this act. The application shall include a community corrections plan. The administrator shall provide consultation and technical assistance to counties to aid in the development and implementation of community corrections plans.

(b) The administrator, with the advice of the Community Corrections Advisory Board, shall adopt rules prescribing minimum standards for the establishment, operation, and evaluation of community corrections under a community corrections plan and other rules as may be necessary for the administration and implementation of this act. The standards shall be sufficiently flexible to foster the development of new and improved supervision or rehabilitative practices.

(c) All community corrections plans shall comply with rules adopted pursuant to this act and shall include but need not be limited to:

(1) Proposals for corrections programs that demonstrate the need for the program, its purpose, objective, administrative structure, staffing, staff training, proposed budget, evaluation process, degree of community involvement, client participation, and duration of the program.

(2) A provision that the corrections program shall be available only to misdemeanants, to parolees, to probationers, and to persons convicted of other than murder, treason, or Class A felonies.

(3) The location and description of facilities that will be used by the county pursuant to this act, including but not limited to halfway houses, work release centers, and jails.

(4) The manner in which probation, parole, and other corrections services will be provided. Consideration shall be given to contracting with proven private corrections agencies.

(5) The manner in which counties that jointly apply for participation under this act will operate a coordinated community corrections program.

(6) Correctional services that will be made available to persons who are confined in local corrections facilities.

(7) The manner in which the local corrections advisory committee will participate in community corrections.

(d) All community corrections plans shall provide that an adequate amount of the financial aid received under this act shall be used for staff training and that an adequate amount of the financial aid shall be used for evaluation of county corrections programs. The plan shall specify the manner in which these requirements shall be met.

(e) All community corrections plans shall designate a community corrections manager of the county and shall provide that the administration of community corrections under this act shall be under that manager.

(f) No amendment to or modification of an approved community corrections plan shall be placed in effect without prior approval of the administrator.

Section 7. [*Financial Aid for Community Corrections.*]

(a) Financial aid for community corrections pursuant to this act shall consist of:

(1) Payments from moneys appropriated to the [corrections division] for the purposes of supervising parolees and probationers. The [division] shall, prior to [October 1, 1977], and prior to July 1 of each odd-numbered year thereafter, determine each county's percentage share of the amount appropriated for the purposes of this subsection. That determination shall be adopted by rule and shall be based upon each county's respective share of persons under felon probation and parole supervision in accordance with rules adopted by the [division].

(2) Enhancement grants from the [division] for the purpose of providing community corrections services. The [division] shall, prior to [October 1, 1977], and prior to July 1 of each odd-numbered year thereafter, determine each county's percentage share of the amount appropriated for the purposes of this subsection. That determination shall be adopted by rule and shall be based upon each county's respective share of the unduplicated number of persons charged with a felony in justice, district, or circuit court in the county during the most recent two calendar years, as certified by the [state court administrator].

(b) After [January 1, 1979], each participating county shall be assessed a charge for each person sentenced for a Class C felony to the custody of the [corrections division]. The amount of the assessment shall be based upon the average daily cost of institutionalization per inmate as determined by the [legislature]. However, no county shall be charged more than the county's share of funds received under this section. Irrespective of sentence or term, each such reimbursement shall continue for one year. Moneys paid by the county shall be credited to the general fund and shall be available for general governmental expenses.

(c) The [division] shall by rule provide for computation of each county's entitlement in each biennial period in the event participation by the county is for less than a biennial period. That computation shall be based upon any actions approved by the [legislature] relative to the timing of expenditures with respect to appropriations for purposes of subsection (a).

Section 8. [*Review of County Performance.*]

(a) The administrator of the [corrections division] shall periodically review the performance of counties participating under this act. A county must substantially comply with the provisions of its community corrections plan and the operating standards established pursuant to Section 6(b) to remain eligible to participate. If the administrator determines that there are reasonable grounds to believe that a county is not in substantial compliance with the plan or operating standards, the administrator shall, after giving the county not less than 30 days' notice, conduct a hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. After the hearing, the administrator, with the advice of the Community Corrections Advisory Board, may suspend any portion of financial aid made available to the county under this act until the required compliance occurs.

(b) Financial aid received by a county pursuant to Section 7 shall not be used to replace moneys, other than federal or state funds, currently being used by the county for existing corrections programs for misdemeanants and shall not be used to develop, build, or improve local corrections facilities as defined by [appropriate state statute].

Section 9. [*County Responsibility; Termination.*]

(a) A county that accepts financial aid under this act shall assume responsibility for those corrections services, other than the operation of state institutions, presently planned or provided in the county by the [corrections division].

(b) Any county that receives financial aid under this act may terminate its participation at the end of any month by delivering a resolution of its board of commissioners to the administrator of the [corrections division] not less than 180 days before the termination date.

(c) If a county terminates its participation under this act:

(1) The responsibility for corrections services transferred to the county pursuant to subsection (a) and the remaining portion of the financial aid made available to the county under Section 7 shall revert to the [corrections division].

(2) The facilities renovated or constructed with moneys made available under this act shall revert to the [corrections division], unless the county has participated for 20 continuous years in this act since the facilities were renovated or constructed. The county and the [division] may agree to permit the county to retain ownership in the facility in exchange for an agreement that the county will house specified persons under the jurisdiction of the [division].

Section 10. [*Transfer of Employees.*]
(a) When a county pursuant to this act assumes responsibility for corrections services previously provided by the [corrections division], the county may contract with the [division] for the provision of parole and probation supervision services. The county shall pay the [division] for such services on an actual cost basis.
(b) Any state corrections field officer, immediate supervisor of such corrections officer, or any supporting clerical personnel whose job involves rendering services assumed by the county may transfer to employment by the county or may remain in the employment of the [division] and provide field services to the county under the terms of a contract for services between the county and the [division]. The county shall pay the [division] for any services rendered by those employees on an actual cost basis. Any employee transferring to county employment under this section shall not suffer any reduction in salary or loss of employee benefits as a result of the transfer.
(c) Any employee who transfers employment pursuant to subsection (b) shall be entitled to reenter state employment within 30 days if the county to which the employee has transferred withdraws from participation under this act or if funds are not appropriated to carry out the purposes of this act.

Section 11. [*Statewide Evaluation.*] The [division] shall establish and operate a statewide evaluation and information system to monitor the effectiveness of corrections services provided to criminal defendants under this act.

Section 12. [*Local Corrections Advisory Committee.*]
(a) The board or boards of county commissioners of a county that is participating under this act shall designate a local corrections advisory committee. The committee shall include:
(1) A law enforcement officer.
(2) A district attorney.
(3) A circuit court judge.
(4) A public defender or defense attorney.
(5) A probation or parole officer.
(6) A representative of a private corrections agency, if a suitable agency exists in the county.
(7) A county commissioner from each county.
(8) Seven lay citizens, one of whom shall be a member of a minority ethnic group if such a group exists in the county.
(9) An ex-offender.
(b) The committee shall actively participate in the design of the county's community corrections plan and application for financial aid, observe the operation of community corrections in the county, make an annual report, and develop appropriate recommendations for improvement or modification to the county commissioners or community corrections manager of the county.

Section 13. [*County Requirements; Reimbursement to Counties.*]
(a) To receive moneys for the operation of the community corrections program authorized by this act, the county must notify the administrator of the [division] 90 days prior to the proposed beginning date of participation. The notification shall be by resolution of the appropriate board or boards of county commissioners.
(b) Prior to participation in the program, the county shall have a comprehensive community corrections plan approved by the [division].
(c) The [corrections division], in consultation with the respective board of county commissioners, may use moneys which would have been made available to the county pursuant to Section 7(a)(2) and (c) to provide the community corrections services described therein. In providing such services, the [division] may contract with public or private agencies for the provision of services to convicted felons. Any agreement to reimburse counties for the cost of providing services for felons shall include a provision that the [division] shall deduct from such reimbursement the cost incurred by the [division] of supervising misdemeanant probationers.

Section 14. [*Appropriations.*] There is hereby appropriated to the [corrections division of the department of human resources] for the biennium beginning [July 1, 1977], out of the general fund, the following sums for the following purposes:
(1) $[7,252,847] for the purpose of Section 7(a)(2).
(2) $[5,900,000] for the purposes of making grants for the acquiring, constructing, or renovating of local facilities, excluding local corrections facilities as defined by [appropriate state statute].
(3) $[784,731] for the operating expenses of [three] probation centers.

Section 15. [*Matching Mental Health Funds.*] Of the amount appropriated by Section 14(1), a limitation of $[750,000] is established as the maximum amount to be used to match moneys available to local mental health programs by the [mental health division] for the purpose of providing:
(1) Treatment and rehabilitation services for parolees and probationers with alcohol or drug problems.
(2) Mental health treatment services for persons charged with a felony and determined by a district or circuit court to be in need of such services.

Section 16. [*Federal Funds.*] A limitation on expenditures of federal moneys made available for the purposes of this act for the biennium

beginning [July 1, 1977], in the amount of $[1] is hereby established.

Section 17. [*Severability.*] [Insert severability clause.]

Section 18. [*Repeal.*] [Insert repealer clause.]

Section 19. [*Effective Date.*] [Insert effective date.]

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