

## 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 authorized to make grants to assist counties in the development, implementation, and operation of community-based corrections programs including preventive or diversionary correctional programs, conditional release programs, community corrections centers, and facilities for the detention or confinement, care and treatment of persons convicted of crime or adjudicated delinquent. The commissioner may authorize the use of a percentage of a grant for the operation of an emergency shelter or make a separate grant for the rehabilitation of a facility owned by the grantee and used as a shelter to bring the facility into compliance with state and local laws pertaining to health, fire, and safety, and to provide security.

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

(b) "CCA county" means a county that participates in the Community Corrections Act.

(c) "Commissioner" means the commissioner of corrections or a designee.

(d) "Conditional release" means parole, supervised release, conditional release as authorized by section 609.108, subdivision 6, or 609.109, subdivision 7, work release as authorized by sections 241.26, 244.065, and 631.425, probation, furlough, and any other authorized temporary release from a correctional facility.

(e) "County probation officer" means a probation officer appointed under section 244.19.

(f) "Detain" means to take into actual custody, including custody within a local correctional facility.

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

(h) "Local correctional facility" has the meaning given in section 241.021, subdivision 1.

(i) "Local correctional service" means those services authorized by and employees, officers, and agents appointed under section 244.19, subdivision 1.

(j) "Release" means to release from actual custody.

**History:** 1973 c 354 s 1; 1982 c 559 s 1; 1985 c 220 s 7; 1Sp1985 c 9 art 2 s 93; 1986 c 444; 1988 c 505 s 5; 1997 c 239 art 9 s 51; 1998 c 367 art 7 s 7

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

Subdivision 1. **Qualification of counties.** One or more contiguous counties, having an aggregate population of 30,000 or more persons 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; advisory board members expenses.** 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 establish, organize, and reorganize an administrative structure and provide for the budgeting, staffing and operation of court services and probation, construction or improvement to juvenile detention and juvenile correctional facilities and adult detention and 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.

**Subd. 4. [Repealed, 1998 c 367 art 7 s 15]**

**Subd. 5. Intermediate sanctions.** Unless the district court directs otherwise, county probation officers may require a person committed to the officer's care by the court to perform community work service for violating a condition of probation imposed by the court. Community work service may be imposed for the purpose of protecting the public, to aid the offender's rehabilitation, or both. Probation officers may impose up to eight hours of community work service for each violation and up to a total of 24 hours per offender per 12-month period, beginning on the date on which community work service is first imposed. The chief executive officer of a community corrections agency may authorize an additional 40 hours of community work service, for a total of 64 hours per offender per 12-month period, beginning with the date on which community work service is first imposed. At the time community work service is imposed, probation officers are required to provide written notice to the offender that states:

- (1) the condition of probation that has been violated;
- (2) the number of hours of community work service imposed for the violation; and
- (3) the total number of hours of community work service imposed to date in the 12-month period.

An offender may challenge the imposition of community work service by filing a petition in district court. An offender must file the petition within five days of receiving written notice that community work service is being imposed. If the offender challenges the imposition of community work service, the state bears the burden of showing, by a preponderance of the evidence, that the imposition of community work service is reasonable under the circumstances.

Community work service includes sentencing to service.

**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; 1985 c 220 s 8,9; 1986 c 444; 1992 c 511 art 9 s 13; 1992 c 571 art 11 s 11; 1993 c 326 art 10 s 10; 1995 c 244 s 9; 1998 c 367 art 7 s 8

**401.025 DETENTION AND RELEASE; PROBATIONERS, CONDITIONAL RELEASEES, AND PRETRIAL RELEASEES.**

Subdivision 1. **Peace officers and probation officers serving CCA counties.** (a) When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, the chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any peace officer in the county or any probation officer serving the district and juvenile courts of the county to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

(b) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing a probation officer serving the district and juvenile courts of the county to release a person detained under paragraph (a) within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before the court or the commissioner. This written order is sufficient authority for the probation officer to release the detained person.

(c) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any peace officer in the county or any probation officer serving the district and juvenile courts of the county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release. A written order issued under this paragraph is sufficient authority for the peace officer or probation officer to detain the person.

Subd. 2. **Peace officers and probation officers in other counties and state correctional investigators.** (a) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another county to detain a person under sentence or on probation who:

- (1) fails to report to serve a sentence at a local correctional facility;
- (2) fails to return from furlough or authorized temporary release from a local correctional facility;
- (3) escapes from a local correctional facility; or
- (4) absconds from court-ordered home detention.

(b) The chief executive officer or designee of a community corrections agency in a CCA county has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

(c) A written order issued under paragraph (a) or (b) is sufficient authority for the state correctional investigator, peace officer, probation officer, or county probation officer to detain the person.

Subd. 3. **Offenders under department of corrections commitment.** CCA counties shall comply with the policies prescribed by the commissioner 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 persons on conditional release and the conduct of presentence investigations.

**History:** 1998 c 367 art 7 s 9

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

The commissioner shall, as provided in chapter 14, 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; 1995 c 233 art 2 s 56; 1997 c 187 art 5 s 31

#### **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 and local correctional services presently provided in counties, employment shall be given to those state and local 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 or local correctional service.

State or local 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 or local 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; 1988 c 505 s 6

#### **401.05 FISCAL POWERS.**

Subdivision 1. **Authorization to use and accept funds.** 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.

Subd. 2. **Capital improvements; bonds; leases.** (a) A county or group of counties which acquires facilities under section 401.04 or constructs the facilities may finance the acquisition or construction and the equipping and subsequent improvement of the facilities in whole or in part by:

(1) the issuance of general obligation bonds of the county or group of counties in the manner provided in chapter 475; or

(2) the issuance of revenue bonds, secured by a lease agreement as provided in subdivision 3 and sections 469.152 to 469.165, by a city situated in any of the counties or a county housing and redevelopment authority established pursuant to chapter 469 or special law.

Proceedings for the issuance of general obligation bonds shall be instituted by the board of county commissioners of the county or boards of the group of counties.

(b) If counties have combined as authorized in section 401.02, the joint powers board created under section 471.59 shall, with the approval of the county board of each county which is a party:

(1) fix the total amount necessary for the construction or acquisition and the equipping and subsequent improvement of the facilities; and

(2) apportion to each county its share of this amount or of the annual debt service or lease rentals required to pay this amount with interest, as provided in subdivision 4.

**Subd. 3. Leasing.** (a) A county or joint powers board of a group of counties which acquires or constructs and equips or improves facilities under this chapter may, with the approval of the board of county commissioners of each county, enter into a lease agreement with a city situated within any of the counties, or a county housing and redevelopment authority established under chapter 469 or any special law. Under the lease agreement, the city or county housing and redevelopment authority shall:

(1) construct or acquire and equip or improve a facility in accordance with plans prepared by or at the request of a county or joint powers board of the group of counties and approved by the commissioner of corrections; and

(2) finance the facility by the issuance of revenue bonds.

(b) The county or joint powers board of a group of counties may lease the facility site, improvements, and equipment for a term upon rental sufficient to produce revenue for the prompt payment of the revenue bonds and all interest accruing on them. Upon completion of payment, the lessee shall acquire title. The real and personal property acquired for the facility constitutes a project and the lease agreement constitutes a revenue agreement as provided in sections 469.152 to 469.165. All proceedings by the city or county housing and redevelopment authority and the county or joint powers board shall be as provided in sections 469.152 to 469.165, with the following adjustments:

(1) no tax may be imposed upon the property;

(2) the approval of the project by the commissioner of trade and economic development is not required;

(3) the department of corrections shall be furnished and shall record information concerning each project as it may prescribe, in lieu of reports required on other projects to the commissioner of trade and economic development or the energy and economic development authority;

(4) the rentals required to be paid under the lease agreement shall not exceed in any year one-tenth of one percent of the market value of property within the county or group of counties as last equalized before the execution of the lease agreement;

(5) the county or group of counties shall provide for payment of all rentals due during the term of the lease agreement in the manner required in subdivision 4;

(6) no mortgage on the facilities shall be granted for the security of the bonds, but compliance with clause (5) may be enforced as a nondiscretionary duty of the county or group of counties; and

(7) the county or the joint powers board of the group of counties may sublease any part of the facilities for purposes consistent with their maintenance and operation.

**Subd. 4. Tax levies; apportionment of costs.** The county or each county of the group of counties shall annually levy a tax in an amount necessary to defray its proportion of the net costs of maintenance and operation of the facilities, and shall levy a tax to pay the cost of construction or acquisition, equipping, and any subsequent improvement to the facilities or the retirement of any bonds or required lease payments for these purposes. Each county may levy these taxes without limitation on the rate or amount. This levy shall not cause the amount of other taxes levied or to be levied by the county, which are subject to any limitation, to be reduced in any amount. A joint

powers board of the group of counties shall apportion the costs of maintenance and operation, construction or acquisition, equipping, and subsequent improvement of the facilities to each of the counties according to a formula in the agreement entered into by the counties.

**Subd. 5. Correctional facilities fund.** All money received for the operation and maintenance, payment of indebtedness or lease payments, and construction or acquisition, equipping, and subsequent improvement of the facilities must be deposited in a correctional facilities fund maintained in the treasury of the county in which the facilities are located or any county treasury of the group of counties as designated by the joint powers board. Payments from the fund shall only be made upon certification of the chair or board designee that the expenditures have been approved at a meeting of the board.

**History:** 1973 c 354 s 5; 1992 c 511 art 9 s 14

#### **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 procedure 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. The commissioner 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; 1986 c 444

#### **401.065 PRETRIAL DIVERSION PROGRAMS.**

**Subdivision 1. Definition.** As used in this section:

(1) a person is an "offender" if:

(i) the person is charged with, or probable cause exists to arrest or charge the person with, a felony, gross misdemeanor, or misdemeanor crime, other than a crime against the person, but the person has not yet entered a plea in the proceedings;

(ii) the person has not previously been convicted as an adult in Minnesota or any other state of any crime against the person; and

(iii) the person has not previously participated as an adult in Minnesota in a pretrial diversion program, including a program that existed before July 1, 1994, and had charges dismissed or not filed as part of that program; and

(2) "pretrial diversion" means the decision of a prosecutor to refer an offender to a diversion program on condition that the criminal charges against the offender will be dismissed after a specified period of time, or the case will not be charged, if the offender successfully completes the program.

Subd. 2. **Establishment of program.** By July 1, 1994, every county attorney of a county participating in the community corrections act shall establish a pretrial diversion program for adult offenders. If the county attorney's county participates in the community corrections act as part of a group of counties under section 401.02, the county attorney may establish a pretrial diversion program in conjunction with other county attorneys in that group of counties. The program must be designed and operated to further the following goals:

- (1) to provide eligible offenders with an alternative to confinement and a criminal conviction;
  - (2) to reduce the costs and caseload burdens on district courts and the criminal justice system;
  - (3) to minimize recidivism among diverted offenders;
  - (4) to promote the collection of restitution to the victim of the offender's crime;
- and
- (5) to develop responsible alternatives to the criminal justice system for eligible offenders.

Subd. 3. **Program components.** A diversion program established under this section may:

- (1) provide screening services to the court and the prosecuting authorities to help identify likely candidates for pretrial diversion;
- (2) establish goals for diverted offenders and monitor performance of these goals;
- (3) perform chemical dependency assessments of diverted offenders where indicated, make appropriate referrals for treatment, and monitor treatment and aftercare;
- (4) provide individual, group, and family counseling services;
- (5) oversee the payment of victim restitution by diverted offenders;
- (6) assist diverted offenders in identifying and contacting appropriate community resources;
- (7) provide educational services to diverted offenders to enable them to earn a high school diploma or GED; and
- (8) provide accurate information on how diverted offenders perform in the program to the court, prosecutors, defense attorneys, and probation officers.

Subd. 3a. **Reporting of data to criminal justice information system (CJIS).** (a) Every county attorney who establishes a diversion program under this section shall report the following information to the bureau of criminal apprehension:

- (1) the name and date of birth of each diversion program participant and any other identifying information the superintendent considers necessary;
- (2) the date on which the individual began to participate in the diversion program;
- (3) the date on which the individual is expected to complete the diversion program;
- (4) the date on which the individual successfully completed the diversion program, where applicable; and
- (5) the date on which the individual was removed from the diversion program for failure to successfully complete the individual's goals, where applicable.

The superintendent shall cause the information described in this subdivision to be entered into and maintained in the criminal history file of the Minnesota criminal justice information system.

(b) Effective August 1, 1997, the reporting requirements of this subdivision shall apply to misdemeanor offenses.

Subd. 4. **Reports.** By January 1, 1995, and biennially thereafter, each county attorney shall report to the state court administrator and the legislature on the operation of a pretrial diversion program required by this section. The report shall

include a description of the program, the number of offenders participating in the program, the number and characteristics of the offenders who successfully complete the program, the number and characteristics of the offenders who fail to complete the program, and an evaluation of the program's effect on the operation of the criminal justice system in the county.

**History:** 1993 c 326 art 10 s 11; 1994 c 576 s 43,44; 1995 c 226 art 4 s 20; 1995 c 259 art 1 s 55; 2000 c 299 s 6

#### **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 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 COMMUNITY CORRECTIONS AID.

Subdivision 1. **Aid calculations.** To determine the community corrections aid amount to be paid to each participating county, the commissioner of corrections must apply the following formula:

(1) For each of the 87 counties in the state, a percent score must be calculated for each of the following five factors:

(a) percent of the total state population aged ten to 24 residing within the county according to the most recent federal census, and, in the intervening years between the taking of the federal census, according to the most recent estimate of the state demographer;

(b) percent of the statewide total number of felony case filings occurring within the county, as determined by the state court administrator;

(c) percent of the statewide total number of juvenile case filings occurring within the county, as determined by the state court administrator;

(d) percent of the statewide total number of gross misdemeanor case filings occurring within the county, as determined by the state court administrator; and

(e) percent of the total statewide number of convicted felony offenders who did not receive an executed prison sentence, as monitored and reported by the sentencing guidelines commission.

The percents in clauses (b) to (e) must be calculated by combining the most recent three-year period of available data. The percents in clauses (a) to (e) each must sum to 100 percent across the 87 counties.

(2) For each of the 87 counties, the county's percents in clauses (a) to (e) must be weighted, summed, and divided by the sum of the weights to yield an average percent for each county, referred to as the county's "composite need percent." When performing this calculation, the weight for each of the percents in clauses (a) to (e) is 1.0. The composite need percent must sum to 100 percent across the 87 counties.

(3) For each of the 87 counties, the county's "adjusted net tax capacity percent" is the county's adjusted net tax capacity amount, defined in the same manner as it is defined for cities in section 477A.011, subdivision 20, divided by the statewide total adjusted net tax capacity amount. The adjusted net tax capacity percent must sum to 100 percent across the 87 counties.

(4) For each of the 87 counties, the county's composite need percent must be divided by the county's adjusted net tax capacity percent to produce a ratio that, when multiplied by the county's composite need percent, results in the county's "tax base adjusted need percent."

(5) For each of the 87 counties, the county's tax base adjusted need percent must be added to twice the composite need percent, and the sum must be divided by 3, to yield the county's "weighted need percent."

(6) Each participating county's weighted need percent must be added to the weighted need percent of each other participating county to yield the "total weighted need percent for participating counties."

(7) Each participating county's weighted need percent must be divided by the total weighted need percent for participating counties to yield the county's "share percent." The share percents for participating counties must sum to 100 percent.

(8) Each participating county's "base funding amount" is the aid amount that the county received under this section for fiscal year 1995, as reported by the commissioner of corrections. In fiscal year 1997 and thereafter, no county's aid amount under this section may be less than its base funding amount, provided that the total amount

appropriated for this purpose is at least as much as the aggregate base funding amount defined in clause (9).

(9) The "aggregate base funding amount" is equal to the sum of the base funding amounts for all participating counties. If a county that participated under this section during fiscal year 1995 chooses not to participate in any given year, then the aggregate base funding amount must be reduced by that county's base funding amount. If a county that did not participate under this section in fiscal year 1995 chooses to participate in any given year, then the aggregate base funding amount must be increased by the amount of aid that the county would have received had it participated in fiscal year 1995, as reported by the commissioner of corrections, and the amount of increase shall be that county's base funding amount.

(10) In any given year, the total amount appropriated for this purpose first must be allocated to participating counties in accordance with each county's base funding amount. Then, any remaining amount in excess of the aggregate base funding amount must be allocated to participating counties in proportion to each county's share percent, and is referred to as the county's "formula amount."

Each participating county's "community corrections aid amount" equals the sum of (i) the county's base funding amount, and (ii) the county's formula amount.

However, if in any year the total amount appropriated for the purpose of this section is less than the aggregate base funding amount, then each participating county's community corrections aid amount is the product of (i) the county's base funding amount multiplied by (ii) the ratio of the total amount appropriated to the aggregate base funding amount.

For each participating county, the county's community corrections aid amount calculated in this subdivision is the total amount of subsidy to which the county is entitled under sections 401.01 to 401.16.

**Subd. 2. Transfer of funds.** Notwithstanding any law to the contrary, the commissioner of corrections, after notifying the committees on finance of the senate and ways and means 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.

**Subd. 3. Formula review.** Prior to January 16, 2002, the committees with jurisdiction over community corrections funding decisions in the house of representatives and the senate, in consultation with the department of corrections and any interested county organizations, must review the formula in subdivision 1 and make recommendations to the legislature for its continuation, modification, replacement, or discontinuation.

**History:** 1973 c 354 s 10; 1975 c 304 s 11; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1996 c 408 art.8 s 19

#### 401.11 ITEMS INCLUDED IN PLAN PURSUANT TO RULE.

The comprehensive plan submitted to the commissioner for approval shall include those items prescribed by rule 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 conditional release 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 pretrial 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 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 will be taken on them. A description of this procedure must 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; 1985 c 220 s 10; 1985 c 248 s 70; 1986 c 444

#### 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 actual per diem cost of confinement, excluding educational costs, of those juveniles committed to the commissioner and confined in a state correctional facility. The commissioner shall annually determine costs making necessary adjustments to reflect the actual costs of confinement. The commissioner of corrections shall bill the counties and deposit the receipts from the counties in the general fund. 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; 1Sp1985 c 9 art 2 s 94; 1991 c 292 art 8 s 11; 1993 c 146 art 2 s 18,32; 1994 c 636 art 6 s 23,29; 1997 c 239 art 9 s 33; 1998 c 367 art 9 s 17

#### 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.

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; 1985 c 248 s 70

#### **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 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