

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 534
HOUSE BILL 281

AN ACT TO CREATE A STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP
IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6A.

"North Carolina State-County Criminal Justice Partnership Act.

"§ 143B-272. Short title.

This Article is the 'North Carolina State-County Criminal Justice Partnership Act of 1993' and may be cited by that name.

"§ 143B-272.1. Legislative policy.

The policy of the General Assembly with respect to the State-county criminal justice partnership is:

- (1) To support the implementation of the recommendations of the North Carolina Sentencing and Policy Advisory Commission by providing supplemental community-based corrections programs which appropriately punish criminal behavior and which provide effective rehabilitative services;
- (2) To expand sentencing options by adding community-based corrections programs for offenders receiving a nonincarcerative sentence;
- (3) To promote coordination between State and county community-based corrections programs; and
- (4) To improve public confidence in the criminal justice system by educating the public on the role of community-based corrections programs.

"§ 143B-272.2. Definitions.

The following definitions apply in this Article:

- (1) Account. – The State-County Criminal Justice Partnership Account.
- (2) County Board. – A County Criminal Justice Partnership Advisory Board.
- (3) Department. – The Department of Correction.
- (4) Multi-County Board. – A Multi-County Criminal Justice Partnership Advisory Board.
- (5) Plan. – A Community-Based Corrections Plan.
- (6) Program. – A Community-Based Corrections Program.

- (7) Secretary. – The Secretary of the Department of Correction.
- (8) State Board. – The State Criminal Justice Partnership Advisory Board.

"§ 143B-272.3. Goals of community-based corrections programs funded under this Article.

The goals of community-based programs funded under this Article include:

- (1) To reduce recidivism;
- (2) To reduce the number of probation revocations;
- (3) To reduce alcoholism and other drug dependencies among offenders;
and
- (4) To reduce the cost to the State and the counties of incarceration.

"§ 143B-272.4. Eligible population.

(a) An eligible offender is an adult offender who either is in confinement awaiting trial, or was convicted of a misdemeanor or a felony offense and received a nonincarcerative sentence of an intermediate punishment or is serving a term of post-release supervision after completing an active sentence of imprisonment.

(b) The priority populations for programs funded under this Article shall be:

- (1) Offenders sentenced to intermediate punishments; and
- (2) Offenders who are appropriate for release from jail prior to trial under the supervision of a pretrial monitoring program.

"§ 143B-272.5. State-County Criminal Justice Partnership Account established.

The State-County Criminal Justice Partnership Account is created within the Department of Correction. Revenue in the Account may be used only to make grants to counties for supplementary community-based correctional programs for eligible offenders in accordance with this Article. Revenue appropriated to the Account does not revert at the end of the fiscal year; it remains in the Account for expenditures in the following fiscal year.

"§ 143B-272.6. State Criminal Justice Partnership Advisory Board; members; terms; chairperson.

(a) There is created the State Criminal Justice Partnership Advisory Board. The State Board shall act as an advisory body to the Secretary with regards to this Article. The State Board shall consist of 21 members as follows:

- (1) A member of the Senate.
- (2) A member of the House of Representatives.
- (3) A judge of the Superior Court.
- (4) A judge of the district court.
- (5) A district attorney.
- (6) A criminal defense attorney.
- (7) A county sheriff.
- (8) A chief of a city police department.
- (9) Two county commissioners, one from a predominantly urban county and one from a predominantly rural county.
- (10) A representative of an existing community-based corrections program.
- (11) A member of the public who has been the victim of a crime.
- (12) A rehabilitated ex-offender.

- (13) A member of the business community.
 - (14) Three members of the general public, one of whom is a person recovering from chemical dependency or who is a previous consumer of substance abuse treatment services.
 - (15) A victim service provider.
 - (16) A member selected from each of the following service areas: mental health, substance abuse, and employment and training.
- (b) The membership of the State Board shall be selected as follows:
- (1) The Governor shall appoint the following members: the county sheriff, the chief of a city police department, the member of the public who has been the victim of a crime, a rehabilitated ex-offender, the members selected from each of the service areas.
 - (2) The Lieutenant Governor shall appoint the following members: the member of the business community, one member of the general public who is a person recovering from chemical dependency or who is a previous consumer of substance abuse treatment services, the victim service provider.
 - (3) The Chief Justice of the North Carolina Supreme Court shall appoint the following members: the superior court judge, the district court judge, the district attorney, the criminal defense attorney, the representative of an existing community-based corrections program.
 - (4) The President Pro Tempore of the Senate shall appoint the following members: the member of the Senate, the county commissioner from a predominantly urban county, one member of the general public.
 - (5) The Speaker of the House shall appoint the following members: the member of the House of Representatives, the county commissioner from a predominantly rural county, one member of the general public.

In appointing the members of the State Board, the appointing authorities shall make every effort to ensure fair geographic representation of the State Board membership and that minority persons and women are fairly represented.

(c) The initial members shall serve staggered terms, one-third shall be appointed for a term of one year, one-third shall be appointed for a term of two years, and one-third shall be appointed for a term of three years. The members identified in subdivisions (1) through (7) of subsection (a) of this section shall be appointed initially for a term of one year. The members identified in subdivisions (8) through (13) in subsection (a) of this section shall be appointed initially for a term of two years. The members identified in subdivisions (14) through (16) of subsection (a) of this section shall each be appointed for a term of three years.

At the end of their respective terms of office their successors shall be appointed for terms of three years. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the remainder of the term. Members may be reappointed without limitation.

(d) Each appointing authority shall have the power to remove a member it appointed from the State Board for misfeasance, malfeasance, or nonfeasance.

(e) The members of the State Board shall, within 30 days after the last initial appointment is made, meet and elect one member as chairman and one member as vice-chairman.

(f) The State Board shall meet at least quarterly and may also hold special meetings at the call of the chairman. For purposes of transacting business, a majority of the membership shall constitute a quorum.

(g) Any member who has an interest in a governmental agency or unit or private nonprofit agency which is applying for a State-County Criminal Justice Partnership grant or which has received a grant and which is the subject of an inquiry or vote by a grant oversight committee, shall publicly disclose that interest on the record and shall take no part in discussion or have any vote in regard to any matter directly affecting that particular grant applicant or grantee. 'Interest' in a grant applicant or grantee shall mean a formal and direct connection to the entity, including, but not limited to, employment, partnership, serving as an elected official, board member, director, officer, or trustee, or being an immediate family member of someone who has such a connection to the grant applicant or grantee.

(h) The members of the State Board shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses.

"§ 143B-272.7. Duties of State Criminal Justice Partnership Advisory Board.

The State Criminal Justice Partnership Advisory Board has the following duties:

- (1) To recommend community-based corrections program priorities;
- (2) To review the application process and procedures for funding community-based corrections programs, including the format for comprehensive community-based corrections plans;
- (3) To review the criteria for monitoring and evaluating community-based corrections programs;
- (4) To distribute an annual plan which describes the community-based corrections program priorities, and the application process and procedures for funding community-based corrections programs, including the format for comprehensive community-based corrections plans. The annual plan must also announce the amount of funds appropriated to the State-County Criminal Justice Partnership Account;
- (5) To coordinate community-based corrections programs administered by the state agencies and programs funded under this Article;
- (6) To review plans of participating counties and, based on the State Board's annual plan, to make recommendations to the Secretary to provide grant funding to counties for implementing and operating community-based corrections programs; and
- (7) To review the minimum program standards, policies, and rules for community-based corrections programs.
- (8) To evaluate the effects of categories of programs funded by this Article and prepare a written report.

"§ 143B-272.8. Duties of Department of Correction.

In addition to those otherwise provided by law, the Department of Correction shall have the following duties:

- (1) To provide technical assistance to applicants in developing, implementing, monitoring, evaluating, and operating community-based corrections programs.
- (2) To enter into contractual agreements with county boards for the operation of community-based corrections programs and monitor compliance with those agreements.
- (3) To act as an information clearinghouse regarding community-based corrections programs.
- (4) To review plans of participating counties and to approve grants based on applications to assist them in the implementation and operation of community-based corrections programs.
- (5) To develop policies and procedures for the disbursement of grant funds to participating counties on a reimbursement basis.
- (6) To develop the minimum program standards, policies, and rules for community-based corrections programs.
- (7) In instances of substantial noncompliance, the Secretary shall notify the board or boards of county commissioners, the county community corrections advisory board, and the chief administrator of the program in writing of the allegations and allow 60 days for a response. If an agreement is reached concerning a remedy, then the Secretary shall allow 30 days following that agreement for the remedy to be implemented. If the deficiencies are not corrected within this period, then the Secretary may, upon written notice, suspend any or all of the grant funds until compliance is achieved.

"§ 143B-272.9. Election to apply for funding.

A county may elect to apply for funding under this Article by a vote of the board of county commissioners approving the decision to apply, and by appointing a county criminal justice partnership advisory board. Two or more counties, by vote of the board of county commissioners of each county, may agree to create a multicounty board instead of a county board. A multicounty board shall perform the same functions as a county board for each county that participates in establishing the multicounty board. The board or boards of county commissioners shall notify the Secretary of the intent to apply for funds within 60 days of receiving notification of the availability of funds and may request technical assistance to develop the community-based corrections plan.

"§ 143B-272.10. County Criminal Justice Partnership Advisory Boards; members; terms; chairperson.

(a) A county board or a multicounty board shall consist of not less than 10 members and shall, to the greatest extent possible, include the following:

- (1) A county commissioner. In the case of a multicounty community corrections advisory board, one county commissioner from each participating county shall serve as a member.
- (2) A county manager, or the county manager's designee.

- (3) A judge of the superior court.
- (4) A judge of the district court.
- (5) A district attorney, or the district attorney's designee.
- (6) A criminal defense attorney.
- (7) A public defender.
- (8) A county sheriff, or the sheriff's designee.
- (9) A chief of a city police department, or the police chief's designee.
- (10) A probation officer.
- (11) A community service coordinator.
- (12) One member selected from each of the following service areas which are available in the county or counties: mental health, public health, substance abuse, employment and training, community-based corrections programs, victim services programs.
- (13) A member of the business community.
- (14) A member of the community who has been a victim of a crime.
- (15) Members at large, including persons who are recovering from chemical dependency or are previous consumers of substance abuse treatment services.

(b) In the case of a single county board, the board of county commissioners shall appoint the members. In the case of a multicounty board, the board of county commissioners from the participating counties shall each appoint one commissioner as a member. These members shall appoint the other members. The board of county commissioners may designate an existing board which meets the requirements of this section to serve as the County Criminal Justice Partnership Advisory Board. A member may be removed, with cause, by the group authorized to make the initial appointment.

(c) Before an appointment is made under this section, the appointing authority shall publish advance notice of the appointments and shall request that the names of persons interested in being considered for appointment be submitted to the appointing authority. In appointing the members of a county board, the county shall make every effort to ensure that minority persons and women are fairly represented.

(d) The initial members of the county board appointed by the board or boards of county commissioners shall serve staggered terms, one-third shall be appointed for a term of one year, one-third shall be appointed for a term of two years, and one-third shall be appointed for a term of three years. Members appointed by virtue of their office serve only while holding the office or position held at the time of appointment. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the remainder of the term. Members may be reappointed without limitation.

(e) The members of the county board shall, within 30 days after the last initial appointment is made, meet and elect one member as chairman and one member as vice-chairman and appoint a secretary-treasurer who need not be a member. For purposes of transacting business, a majority of the membership constitutes a quorum.

(f) The county board shall meet at least quarterly and may also hold special meetings at the call of the Chairman.

(g) Any member who has an interest in a governmental agency or unit or private nonprofit agency which is applying for a State-County Criminal Justice Partnership Act grant or which has received a grant and which is the subject of an inquiry or vote by a grant oversight committee shall publicly disclose that interest on the record and shall take no part in discussion or have any vote in regard to any matter directly affecting that particular grant applicant or grantee. 'Interest' in a grant applicant or grantee shall mean a formal and direct connection to the entity, including, but not limited to, employment, partnership, serving as an elected official, board member, director, officer or trustee, or being an immediate family member of someone who has such a connection to the grant applicant or grantee.

(h) The board or boards of county commissioners shall provide necessary assistance and appropriations to the county board established for that county or counties.

"§ 143B-272.11. County Criminal Justice Partnership Advisory Boards; powers and duties.

The County Criminal Justice Partnership Advisory Board shall have the following powers and duties:

- (1) To participate in a planning process to develop a Community-Based Corrections Plan. The purpose of this planning process is to:
 - a. Examine the local criminal justice system;
 - b. Identify problem areas;
 - c. Identify offender groups for programs;
 - d. Propose strategies for improving the local criminal justice system;
 - e. Identify a specific community-based program that is needed;
 - f. Plan a method for integrating the needed community-based program into the existing local criminal justice system;
 - g. Develop criteria for evaluating the impact of the community-based program; and
 - h. Improve coordination at the local level between State and county community-based corrections programs.
- (2) To submit the plan to the boards of county commissioners for approval within one year of the last appointment to the county board. This plan shall include all of the elements required by this section.
- (3) To review and revise the plan and make a formal recommendation to the board or boards of county commissioners at least annually concerning the plan and its implementation and operation during the ensuing year.
- (4) To monitor and evaluate the impact of the community-based corrections program and prepare a written report.

"§ 143B-272.12. Community-Based Corrections Plan.

- (a) The Community-Based Corrections Plan shall include the following:
 - (1) A flowchart of the criminal justice system which describes processing steps from the point of arrest through conviction, to post-release

supervision after completing an active sentence of imprisonment. The flowchart shall identify all decision points, decision makers and options;

- (2) Number and rate of arrest, convictions, admissions to probation, jail, prison, and post-release supervision;
- (3) Arrest practices and data, including the use of citations;
- (4) Pretrial release practices and data on type of release and bond amounts;
- (5) Procedures for assignment of indigent counsel;
- (6) Court procedures for reducing bond amounts;
- (7) Jail capacity and population data by type of offender;
- (8) The jail population by type of offender, type of offenses, and average length of stay;
- (9) Existing State and county community-based corrections programs (pretrial, sentenced, and post-release) including target population, program activities, profile of offenders entering and released from the programs, length of stay, and completion rates;
- (10) Education, vocation/employment, health, mental health, housing, and other social services which are available to offenders; and
- (11) Number of offenders who received an active sentence in the past two years, including type of offense, length of sentence, and actual time served.

(b) Based on the information collected in subsection (a) of this section, the plan shall include a detailed description of the need for the proposed community-based corrections program, the offender population the proposed program will target, the changes that are planned in local policies and procedures to accommodate the proposed program, and how the proposed program will be integrated into the criminal justice system.

(c) The proposed program shall target adult offenders who either are in confinement awaiting trial, were convicted of a misdemeanor or a felony offense and received a nonincarcerative sentence of an intermediate punishment, or are serving a term of post-release supervision after completing active sentences of imprisonment. The priority populations shall be offenders sentenced to intermediate punishments and offenders who are appropriate for release from jail prior to trial under the supervision of a pretrial monitoring program.

(d) Technical assistance to complete the plan shall be provided either by the Department, or the Department shall grant funds to the county for technical assistance. If a county receives technical assistance funds, the county must provide twenty-five percent (25%) of the grant amount.

"§ 143B-272.13. Application for implementation funding.

(a) Upon approving the Community-Based Corrections Plan, the board or boards of county commissioners shall submit the plan and an application for implementation funding. The application shall contain the following:

- (1) A description of the problem, including specific data and information concerning the population the proposed community-based corrections program is to serve.
- (2) A description of the program's goal, objective, activities and how it relates to the annual plan distributed by the State Board.
- (3) A description of the operation of the program, including an outline of the approach, implementation steps and phases of the program, its administrative structure, staffing pattern, staff training, financing, degree of community involvement, and offender participation.
- (4) A description of the program's monitoring criteria, outlining the documentation and records to be maintained.
- (5) A description of the method for evaluating the impact of the program.
- (6) The identity of any designated contractor.
- (7) In the case of a multicounty community-based corrections plan, provisions for the appointment of a fiscal agent to coordinate the financial activities pertaining to the grant award.
- (8) A detailed budget for the program.

(b) The Secretary shall complete the review of the plan within 90 days of submission. Failure to disapprove or recommend amendment to the plan within 90 days shall constitute approval.

"§ 143B-272.14. Fundable programs; community-based corrections programs.

(a) Fundable programs under this Article shall include community-based corrections programs which are operated under a county community-based corrections plan and funded by the State subsidy provided in this Article. Based on the prioritized populations in G.S. 143B-272.4, the programs may include, but are not limited to, the following:

- (1) For offenders who receive intermediate punishments:
 - a. Residential facilities;
 - b. Day reporting centers;
 - c. Restitution centers;
 - d. Substance abuse services;
 - e. Employment services;
- (2) For offenders who are appropriate for release from jail prior to trial:
 - a. Pretrial monitoring services;
 - b. Pretrial electronic surveillance;
- (3) For offenders who are serving a term of post-release supervision after completing active sentences of imprisonment:
 - a. Aftercare support services.

(c) When a county receives more than fifty thousand dollars (\$50,000) in community-based corrections funds, then that county shall use at least fifty percent (50%) of those funds to develop programs for offenders who receive intermediate punishments.

(b) Community-based corrections funds may be used to operate programs and may also be used to construct, acquire, or renovate community facilities established to

provide the programs and services set forth in subsection (a) of this section. Construction and renovation funds may not be used for jails. Construction and renovation funds may not be used to reimburse expenses for any facilities renovated before the effective date of this Article.

"§ 143B-272.15. Funding formula.

To determine the grant amount for which a county or counties may apply, the granting authority shall apply the following formula:

(a) Twenty percent (20%) of the total fund shall be distributed in the discretion of the Secretary to encourage innovative efforts to develop multicounty projects; to encourage cooperation and collaboration among existing services and avoid duplication of efforts; to encourage the renovation of existing facilities; and to encourage innovative substance abuse programs.

(b) Of the remaining eighty percent (80%) of the fund, a total funding amount will be set for each county based upon the following variables:

- (1) Twenty percent (20%) based on a fixed equal dollar amount for each county;
- (2) Sixty percent (60%) based on the county share of the State population; and
- (3) Twenty percent (20%) based on the supervised probation admissions rate for the county.

The sum of the amounts in subdivisions (1), (2), and (3) is the total amount of the funding that a county may apply for under this subsection.

"§ 143B-272.16. Continued eligibility.

(a) To continue to receive funding under this Article, a county shall submit an updated application for implementation funding to the Secretary at the beginning of each fiscal year.

(b) To remain eligible for funding, a county shall:

- (1) Comply with its community-based corrections plan;
- (2) Submit monitoring reports as required by the Department; and
- (3) Comply with the minimum standards adopted.

(c) If the Secretary suspends any or all of the grant funds, the county may request a hearing in accordance with Chapter 150B of the General Statutes.

"§ 143B-272.17. Termination of participation in program.

A county receiving financial aid under this Article may terminate its participation by delivering a resolution of the board or boards of county commissioners to the Secretary at the beginning of any calendar quarter. Upon withdrawal from the program, the board or boards of county commissioners may adopt a resolution stating that it is in the best interests of the county that the county community corrections advisory board be dissolved, whereupon the county commissioners shall pay and discharge any debts or liabilities of the advisory board, collect and distribute assets of the advisory board under the laws of North Carolina, and pay over any remaining proceeds or property to the proper fund.

"§ 143B-272.18. Private nonprofit agencies participating in program.

After the county criminal justice partnership advisory board has developed a plan and the board or boards of county commissioners has reviewed it, if the county decides that it does not intend to operate the proposed program, the county criminal justice partnership advisory board shall recommend the appropriate deliverer of services and the county may contract for services.

"§ 143B-272.19. Prohibited uses of funds.

(a) Counties may not use funds received under this Article to supplant or replace existing funds or other resources from the federal, State, or county government for existing community-based corrections programs.

(b) Counties may not use funds received under this Article for indirect costs associated with a program."

Sec. 2. This act becomes effective January 1, 1994. Grants administered under this act shall become effective July 1, 1995. The Department of Correction may use funds available to support the administration of the State-County Criminal Justice Partnership program effective January 1, 1994.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives