

Chapter 423

1979 REPLACEMENT PART

Corrections and Crime Control Administration and Programs

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GENERAL PROVISIONS

423.010 Definitions for ORS 423.010 to 423.070. As used in ORS 423.010 to 423.070, unless the context requires otherwise:

(1) "Assistant director" means the Assistant Director for Corrections.

(2) "Division" means the Corrections Division.

(3) "Juvenile training school" means the Hillcrest School of Oregon, the MacLaren School for Boys and any other school established by law for similar purposes, and includes any camps maintained under ORS chapter 420 for students of such schools.

(4) "Penal and correctional institutions" means the Oregon State Penitentiary, the Oregon State Correctional Institution, and includes (a) the building for female inmates committed to the penitentiary, and (b) any camps or facilities maintained under ORS chapter 421 for inmates or paroled former inmates of such institutions. [1965 c.616 §1; 1969 c.597 §96]

423.020 Corrections Division; duties and powers. (1) The Corrections Division shall:

(a) Supervise the management and administration of the penal and correctional institutions, parole and probation services and other functions related to state programs for corrections, and

(b) Accept the custody of persons committed to its jurisdiction by the courts of this state.

(2) The Corrections Division may provide consultation services related to the prevention, control and treatment of crime to local or state-wide public or private agencies, groups, and individuals, or initiate such consultation services. Consultation services shall include, but not be limited to, conducting studies and surveys, sponsoring or participating in educational programs, and advising and assisting these agencies, groups or individuals. [1965 c.616 §2; 1967 c.352 §1; 1967 c.585 §6; 1969 c.597 §98; 1971 c.401 §107]

423.025 [1969 c.597 §§97, 137; repealed by 1971 c.319 §11]

423.027 Duties and functions of Adult Community Services unit. Among the duties and functions of the unit on Adult Community Services are:

(1) To provide to the State Board of Parole necessary staff services to enable the board to carry out its functions. Such services shall include but are not limited to securing, assembling, evaluating and submitting case materials as required by the parole board.

(2) To provide probation and parole services for persons residing in this state who are:

(a) Placed on probation by order of a circuit or district court; or

(b) Released from a state penal or correctional institution on parole, conditional pardon; or

(c) Released on parole, probation or conditional pardon from other states.

(3) To make investigation required in relation to granting, revoking or modifying parole, probation, conditional pardon or other conditional release as required by the Corrections Division.

(4) In accordance with general policies established by the Assistant Director for Corrections, adopt rules necessary for the administration of the unit on Adult Community Services and enforce such rules.

(5) To keep a record of, and require reports from:

(a) All persons on parole or conditional pardon; and

(b) All persons convicted of a crime who have been placed on probation by order of a circuit or district court.

(6) To perform such additional duties in the supervision and counseling of persons in various stages of legal and physical custody of the Corrections Division as the assistant director may direct. [1969 c.597 §111; 1975 c.605 §21]

Note: 423.027 was enacted into law by the Legislative Assembly but was not added to or made a part of 423.010 to 423.070 by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

423.030 Division not limited by ORS 423.020. The enumeration of duties, functions and powers in ORS 423.020 is not exclusive nor intended as a limitation on the powers and authority vested in the division by other provisions of law. [1965 c.616 §3; 1969 c.597 §99]

423.040 Assistant Director for Corrections. (1) The Assistant Director for Corrections is responsible for the management and administration of the affairs and the performance of the functions and duties of the division. Subject to the approval of the Director of Human Resources, the assistant director may

organize and reorganize the division as necessary to properly conduct the work of the division.

(2) Upon request of the Director of Human Resources, the assistant director shall submit statistical and progress reports and make recommendations relative to the institutions, schools and other programs and services under jurisdiction of the division. [1965 c.616 §4; 1967 c.7 §39; 1969 c.597 §100; 1971 c.319 §7]

423.050 Appointment of subordinates within division. The assistant director may appoint all classified and unclassified employes of the division, prescribe their duties and fix their compensation, subject to the limitations prescribed by law. [1965 c.616 §5]

423.060 Rules. In order to carry out the programs and responsibilities of the division, the assistant director shall promulgate rules for the administration of the division and its institutions, schools, programs and services. [1965 c.616 §6; 1969 c.597 §101]

423.070 Deposit and disbursement of funds received under Western Interstate Corrections Compact. All funds received by this state or by the division for this state under a lawful contract with another party to the Western Interstate Corrections Compact made in compliance with Article III thereof, shall be paid into the State Treasury. The assistant director shall expend these funds in compliance with the contract. [Formerly 179.122]

423.080 [1967 c 564 §§8, 9; repealed by 1969 c 597 §281]

423.085 Coordinator of institutional education programs as unclassified employe. The Assistant Director for Corrections may appoint an unclassified employe to coordinate institutional education programs. [1977 c 435 §7]

423.090 Establishment or designation of diagnostic facilities. The Corrections Division may establish or designate facilities to be used for diagnostic purposes for such categories of persons as the division may by rule assign to the facility. Such assignments shall not exceed 60 days in duration. [1967 c 585 §1]

423.100 Revolving fund. (1) On written request of the Corrections Division, the Executive Department shall establish a revolving fund of not to exceed \$10,000, including un-

reimbursed advances, by drawing warrants on amounts appropriated to the Corrections Division for operating expenses. The revolving fund shall be deposited with the State Treasurer, to be held in a special account against which the division may draw checks.

(2) The revolving fund established under subsection (1) of this section may be used by the division to pay for:

(a) Travel expenses for employes of the division and for any consultants or advisors for whom payment of travel expenses is authorized by law, or advances therefor;

(b) Purchases not exceeding \$100 each, which may be required from time to time; or

(c) Receipt or disbursement of federal funds available under federal law.

(3) The revolving fund shall be reimbursed by warrants drawn by the Executive Department upon the verified claims of the division charged against the appropriate fund or account. [1973 c.818 §5; 1974 s.s. c.13 §6]

LAW ENFORCEMENT COUNCIL

423.205 "Law enforcement" defined. For the purposes of ORS 423.205 to 423.240, "law enforcement" means all activities pertaining to crime prevention or reduction and enforcement of the criminal law, including police, courts, public prosecutors and defenders, corrections, and juvenile delinquency programs. [1969 c.177 §7]

423.210 Assistants; acceptance of gifts and grants. (1) The law enforcement coordinator may employ specialists, clerks and other employes as may be required in carrying out a crime control and prevention program.

(2) The Law Enforcement Council may accept grants and gifts from, and cooperate with, governmental and private agencies and private individuals in carrying out a crime control and prevention program. [1967 c.572 §1; 1969 c.177 §4]

423.220 Law Enforcement Council; membership; confirmation; duties. (1) There is hereby established the Law Enforcement Council. The Governor shall appoint to the council such number of qualified members as he deems appropriate, to serve at his pleasure. Members of the legislative and judicial branches of government shall be eligible to be appointed to the council.

(2) The Governor shall appoint the chairman of the Law Enforcement Council and shall appoint a law enforcement coordinator to serve at his pleasure.

(3) All appointments of members to the council by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(4) The Law Enforcement Council shall:

(a) Assist the Governor in developing, planning and carrying out a long-range, state-wide crime and delinquency control and prevention program for Oregon, embracing all facets of law enforcement.

(b) Assist the Governor in coordinating the crime and delinquency prevention activities of all state departments and agencies.

(c) Advise and assist local communities and citizen groups in developing, planning and carrying out citizen-action type, local crime and delinquency control and prevention councils and programs.

(d) Advise and assist the Governor in establishing a clearinghouse for law enforcement programs, methods and techniques.

(e) Advise and assist the law enforcement coordinator in conducting and supervising conferences and educational programs.

(f) Serve as a supervisory body for law enforcement and for juvenile delinquency planning programs initiated by federal legislation. [1967 c.572 §2; 1969 c.177 §1; 1973 c.212 §1; 1973 c.792 §15]

423.230 Duties of coordinator in crime prevention program. For the purposes of furthering a crime control and prevention program and gathering information and data to be submitted to the Governor, the law enforcement coordinator, in consultation with the Law Enforcement Council and at the direction of the Governor, shall:

(1) Supervise all matters relating to the crime control and prevention program.

(2) Collect and compile statistics relative to crime control and prevention which he may deem important or of value to such a program.

(3) Assist in establishing local crime control and prevention councils and student crime prevention councils in the cities, counties and schools of this state.

(4) Conduct an educational program to inform the citizenry concerning the nature, extent, underlying causes, control and prevention of crime and delinquency in this state.

(5) Make surveys, investigations and inquiries into the causes of crime and its control and prevention. [1967 c.572 §3; 1969 c.177 §2]

423.240 Cooperation of state agencies. All officers, boards, commissions and other agencies of the state shall cooperate with the Governor and the law enforcement coordinator in accomplishing the purposes of ORS 423.210 to 423.280. [1967 c.572 §4; 1969 c.177 §3]

423.280 Crime Control Coordinating Council Account. There hereby is established in the General Fund of the State Treasury an account to be known as the Crime Control Coordinating Council Account. All moneys received by the council shall be paid into the State Treasury and credited to such account and hereby are appropriated continuously for and shall be used by the council in carrying out the purposes of ORS 423.210 to 423.280. [1967 c.572 §5]

COURT SERVICES

423.310 Administering court services. In administering court services, as defined in ORS 3.250, the Children's Services Division shall:

(1) Assist and maintain liaison with counties and circuit courts in developing plans and programs relating to court services.

(2) Promote and assist in the development of academic and inservice training programs in public and private agencies, including the division.

(3) Assist in locating qualified applicants and in making their names available to persons responsible for administering court services in the counties. [1967 c.534 §7; 1971 c.401 §108]

423.320 Advisory committee on court services. (1) There is created an advisory committee on court services to advise the Children's Services Division and the courts in carrying out their duties under chapter 534, Oregon Laws 1967, and consisting of:

(a) One judge of the Oregon Supreme Court, appointed by the Chief Justice.

(b) Four circuit court judges, appointed by the Chief Justice of the Oregon Supreme Court.

(c) Four members, one each from the fields of education, law enforcement, mental health and social welfare, appointed by the Governor.

(d) One member of the Oregon State Bar, appointed by the Governor from a panel of three nominated by the Board of Governors of the Oregon State Bar.

(2) The advisory committee shall select one of its members as chairman, and another as vice chairman, for such terms and with such powers and duties necessary for the performance of the functions of such offices as the committee shall determine. A majority of the committee constitutes a quorum for the transaction of business.

(3) The term of office of a member is four years, but judges appointed pursuant to paragraphs (a) and (b) of subsection (1) of this section shall serve only for as long as they hold the office of judge. In case of a vacancy for any cause, the authority which appointed the vacating member shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the advisory committee shall receive no compensation for his service as a member; but, subject to any other applicable law regulating travel and other expenses of state officers, he may receive his actual and necessary travel and other expenses incurred in the performance of his official duties. [1967 c 534 §8; 1971 c 401 §109]

423.330 Definitions for ORS 423.330 to 423.360. As used in ORS 423.330 to 423.360:

(1) "State contribution" means the amount of money to which each county is entitled from the funds appropriated for the purposes of carrying out the provisions of ORS 423.330 to 423.360 as determined by the following formula:

$$\text{State contribution} = \frac{\text{County risk population}}{\text{State risk population}} \times \left\{ \begin{array}{l} 110 \text{ percent of} \\ \text{sum appropriated} \\ \text{for state} \\ \text{assistance} \end{array} \right.$$

(2) "Risk population" means the number of children between the ages of 4 years and 18 years residing in the county according to the latest school census. [1969 c.498 §2; 1971 c.429 §2]

423.340 Financial aid to counties for court services. (1) The state shall provide financial assistance to the counties which apply therefor by January 1 of the fiscal year from funds appropriated for that purpose for court services, as defined in ORS 3.250, provided under a plan approved under ORS

423.360 and in accordance with this section. In any fiscal year, the amount of assistance shall be the lesser of:

(a) The state contribution not expended;

(b) Seventy percent of the amount expended by the county for court services in the fiscal year for which reimbursement is sought that is in excess of the amount expended for the same purposes, other than capital expenditures, in the fiscal year beginning July 1, 1968; or

(c) Fifty percent of the total cost, other than capital expenditures, of its court services in the fiscal year for which reimbursement is sought.

(2) In order to remain eligible for state financial assistance for any fiscal year for which assistance is sought, the county must not reduce its expenditures for court services in that year to less than the amount expended for court services in the fiscal year 1968-69.

(3) When certified by the Children's Services Division, claims for state financial assistance shall be presented to the Executive Department for payment in the same manner that other claims against the state are paid.

(4) In any fiscal year when the funds available do not allow the amount of assistance to be computed as provided in this section, all counties claiming assistance shall receive a pro rata reimbursement of the amount to which they would otherwise be entitled based on the ratio that the total amount of funds available bears to the total amount of funds required for such assistance. [1969 c.498 §3; 1971 c.429 §3]

423.350 Qualifications for financial aid. In order to qualify for state financial assistance for court services, the court with juvenile court jurisdiction, after consultation with the governing body of the affected county or counties, must submit a plan to the Children's Services Division for improving or expanding its court services in matters described in ORS 3.260 that are within the jurisdiction of the court. [1969 c.498 §4; 1971 c.401 §110; 1971 c.429 §1]

423.360 Policy; guidelines; determination of eligibility for aid. (1) It is the intent of the Legislative Assembly that with the limited amount of funds available certain services to juveniles should be expanded. The advisory committee on court services established under ORS 423.320 shall develop guidelines to assist the circuit courts and the Chil-

dren's Services Division in the application of funds provided under ORS 423.330 to 423.360, such guidelines to be consistent with the definition of court services contained in ORS 3.250 and the provisions of this section.

(2) In determining whether to approve a plan submitted by a circuit court, the Children's Services Division, after determining that the plan complies with the requirements of subsection (1) of this section, shall consider, among other factors:

(a) Availability, qualifications and supervision of personnel to administer and provide court services under the plan.

(b) The extent to which the plan contemplates joint use of personnel and existing facilities.

(c) Utilization of and cooperation with other community agencies, public or private, under the plan.

(d) Impact of the plan on the total court services offered by or through the circuit court.

(e) Physical facilities for staff and for juvenile detention and shelter under the plan.

(3) If the Children's Services Division approves the plan, financial assistance may be given for the court services according to ORS 423.340. [1969 c.498 §5; 1971 c.401 §111]

CORRECTIONS OMBUDSMAN

423.400 Office established; appointment by Governor. The office of Corrections Ombudsman is established in the office of the Governor. The Governor shall appoint the Corrections Ombudsman. [1977 c 378 §1]

423.405 Qualifications for office; prohibited activities. (1) The Corrections Ombudsman shall be a person of recognized judgment, objectivity and integrity who is qualified by training and experience to analyze problems of law enforcement, corrections administration and public policy.

(2) No person while serving as Corrections Ombudsman shall:

(a) Be actively involved in political party activities;

(b) Be a candidate for or hold other public office, whether elective or appointive; or

(c) Be engaged in any other full-time occupation, business or profession. [1977 c.378 §2]

423.410 Term; reappointment. The Corrections Ombudsman shall serve at the pleasure of the Governor for a term of four years. The Corrections Ombudsman may be reappointed for additional terms. [1977 c.378 §3]

423.415 Deputy and additional officers and employes. The Corrections Ombudsman may appoint a Deputy Ombudsman and any other subordinate officers and employes necessary to the performance of his duties and shall prescribe their duties and fix their compensation. [1977 c.378 §4]

423.420 General duties and powers. The Corrections Ombudsman shall have the power:

(1) To investigate, on complaint or on his own motion, any action by the Corrections Division or any employe thereof without regard to its finality;

(2) To adopt rules required for the discharge of the duties of office, including procedures for receiving and processing complaints, conducting investigations, and reporting findings, not inconsistent with ORS 423.400 to 423.450;

(3) To examine by subpoena the records and documents of the Corrections Division or any employe thereof;

(4) To enter and inspect without notice any premises under the jurisdiction of the Corrections Division;

(5) To subpoena any person to appear, to give sworn testimony or to produce documentary or other evidence that is reasonably material to an inquiry;

(6) To undertake, participate in or cooperate with persons and agencies in such conferences, inquiries, meetings or studies as might lead to improvements in the functioning of the Corrections Division;

(7) To bring suit in the Circuit Court for Marion County to enforce ORS 423.400 to 423.450;

(8) To establish and administer a budget for the office; and

(9) To strengthen procedures and practices which lessen the possibility that objectionable corrections actions will occur. [1977 c 378 §5]

423.425 Investigatory authority. (1) The Corrections Ombudsman shall investigate, on complaint or on the ombudsman's own motion, any corrections action that is or is alleged to be:

(a) Contrary to or inconsistent with law or Corrections Division practice;

(b) Based on mistaken facts or irrelevant considerations;

(c) Inadequately explained when reasons should have been revealed;

(d) Inefficiently performed; or

(e) Unreasonable, unfair, or otherwise objectionable, even though in accordance with law.

(2) Notwithstanding subsection (1) of this section, the Corrections Ombudsman may decide not to investigate because:

(a) The complainant could reasonably be expected to use a different administrative remedy or action;

(b) The complaint is trivial, frivolous, vexatious or not made in good faith; or

(c) The complaint has been too long delayed to justify present examination. [1977 c.378 §6]

423.430 Investigative priority; confidentiality of matters; charging fees prohibited. The Corrections Ombudsman shall:

(1) Give priority to investigating administrative actions that are not otherwise reviewable by either administrative or judicial action;

(2) Treat confidentially all matters and the identities of the complainants or witnesses coming before the ombudsman; and

(3) Not levy any fees for the submission or investigation of complaints. [1977 c.378 §7]

423.435 Recommendations following investigation; notice from Corrections Division of action taken; notice to Legislative Assembly of recommended statutory changes. (1) After investigation of any action, the Corrections Ombudsman shall state the recommendations and reasons if, in the ombudsman's opinion, the Corrections Division or any employee thereof should:

(a) Consider the matter further;

(b) Modify or cancel any action;

(c) Alter a rule, practice or ruling;

(d) Explain more fully the administrative action in question;

(e) Rectify an omission; or

(f) Take any other action.

(2) If the Corrections Ombudsman so requests, the Corrections Division shall, within the time specified, inform the ombudsman

about the action taken on the recommendations or the reasons for not complying with them. After a reasonable period of time has elapsed, the Corrections Ombudsman may issue a report.

(3) If the Corrections Ombudsman believes that any action has been dictated by laws whose results are unfair or otherwise objectionable, and could be revised by legislative action, the ombudsman shall bring to notice of the Legislative Assembly any views concerning desirable statutory change. [1977 c.378 §8]

423.440 Letters between ombudsman and persons in custody; immunity of complainants and ombudsman; privilege against giving evidence or testifying. (1) A letter to the Corrections Ombudsman from a person held in custody, including by detention, incarceration and hospitalization, by the Corrections Division shall be forwarded immediately, unopened to the Corrections Ombudsman. A letter from the Corrections Ombudsman to such person shall be immediately delivered, unopened to the person.

(2) No person who files a complaint pursuant to ORS 423.400 to 423.450 shall be subject to any penalties, sanctions or restrictions because of such complaint.

(3) The Corrections Ombudsman and the staff of the office shall have the same immunities from civil and criminal liabilities as a judge of this state.

(4) The Corrections Ombudsman and his staff shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of their official duties except as may be necessary to enforce ORS 423.400 to 423.450. [1977 c.378 §9]

423.445 Witness rights; fees; expenses of state agency personnel. (1) Any person required to testify under ORS 423.400 to 423.450 shall be accorded the same privileges and immunities, receive the same fees and mileage and be subject to the same penalties provided in ORS 183.440.

(2) The fees and mileage shall be paid by warrant upon the State Treasurer upon the certificate of the Corrections Ombudsman. No tender of witness fees or mileage in advance shall be necessary.

(3) Notwithstanding subsection (1) of this section, a representative of a state agency shall receive his actual necessary traveling

expenses only. [1977 c 378 §10]

423.450 Contempt proceedings against person interfering with ombudsman. If any person wilfully obstructs or hinders the proper and lawful exercise of the Corrections Ombudsman's powers, or wilfully misleads or attempts to mislead the Corrections Ombudsman in inquiries under ORS 423.400 to 423.450, the judge of the Circuit Court for Marion County, on application of the ombudsman, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1977 c.378 §11]

COMMUNITY CORRECTIONS

423.500 Definitions for ORS 423.500 to 423.560. As used in ORS 423.500 to 423.560, unless the context requires otherwise:

(1) "Assistant director" means the Assistant Director for Corrections of the Department of Human Resources.

(2) "Advisory board" means the Community Corrections Advisory Board created by ORS 423.510.

(3) "Division" means the Corrections Division of the Department of Human Resources.

(4) "Plan" means the comprehensive community corrections plan required by ORS 423.535.

(5) "Program" means those programs and services described in ORS 423.525. [1977 c.412 §1a, 1979 c.160 §2]

423.505 Legislative policy on program funding. It is declared to be the legislative policy of this state to establish and finance with appropriations from the General Fund state-wide community correction programs on a continuing basis. The intended purpose of this program is to provide appropriate sentencing alternatives and to provide improved local services for persons charged with criminal offenses with the goal of reducing the occurrence of repeat criminal offenses. [1977 c.412 §1]

423.510 Community Corrections Advisory Board; qualifications; terms; removal; compensation and expenses. (1) There is hereby established the Community Corrections Advisory Board consisting of 15 members appointed by the Governor. The board shall be composed of:

- (a) Three persons representing community corrections agencies;
- (b) Two persons representing state agencies;
- (c) Two persons representing private agencies;
- (d) Four lay citizens;
- (e) A member of the judiciary;
- (f) A law enforcement officer; and
- (g) Two members of the Law Enforcement Council.

(2) 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 (1) of this section. 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.

(3) 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 ORS 292.220 to 292.250. [1977 c.412 §2]

423.515 Duties and powers of Community Corrections Advisory Board. The Community Corrections Advisory Board shall:

(1) Advise the Assistant Director for Corrections in the participation of the division in ORS 423.500 to 423.560;

(2) Advise the assistant director 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 ORS 423.500 to 423.560 and make recommendations thereon to the local corrections advisory committee established pursuant to ORS 423.560;

(4) Provide advice and assistance to the assistant director in establishing the requisite qualifications to the managers of community corrections programs; and

(5) Provide advice and assistance to the

assistant director in all other matters related to ORS 423.500 to 423.560. [1977 c.412 §4]

423.520 Financial grants to counties from 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 correctional programs, probation, parole, work release, and community corrections centers for the care and treatment of criminal defendants. [1977 c.412 §5]

423.525 Application for financial aid; rules for program evaluation; use of funds; community corrections manager; modification of plan. (1) A county may apply to the Assistant Director for Corrections in a manner and form prescribed by the assistant director for financial aid made available under ORS 423.500 to 423.560. The application shall include a community corrections plan. The assistant director shall provide consultation and technical assistance to counties to aid in the development and implementation of community corrections plans.

(2) The assistant director, 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 ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the development of new and improved supervision or rehabilitative practices.

(3) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500 to 423.560, and shall include but need not be limited to:

(a) Proposals for correctional 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;

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

(c) The location and description of facilities that will be used by the county pursuant

to ORS 423.500 to 423.560, including but not limited to halfway houses, work release centers and jails;

(d) The manner that probation, parole and other correctional services will be provided. Consideration shall be given to contracting with proven private correctional agencies;

(e) The manner in which counties that jointly apply for participation under ORS 423.500 to 423.560 will operate a coordinated community corrections program;

(f) Correctional services that will be made available to persons who are confined in local correctional facilities; and

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

(4) All community corrections plans shall provide that an adequate amount of the financial aid received under ORS 423.500 to 423.560 shall be used for staff training and that an adequate amount of the financial aid shall be used for evaluation of county correctional programs. The plan shall specify the manner in which these requirements shall be met.

(5) All community corrections plans shall designate a community corrections manager of the county and shall provide that the administration of community corrections under ORS 423.500 to 423.560 shall be under such manager.

(6) No amendment to or modification of an approved community corrections plan shall be placed in effect without prior approval of the assistant director. [1977 c.412 §6]

423.530 Procedure for determining amount of financial aid. (1) Financial aid for community corrections pursuant to ORS 423.500 to 423.560 shall consist of:

(a) Payments from moneys appropriated to the Corrections Division for the purposes of supervising parolees and probationers. The division shall determine, prior to July 1 of each odd-numbered year each county's percentage share of the amount appropriated for the purposes of this subsection. Such 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.

(b) Enhancement grants from the division for the purpose of providing community corrections services. The division shall deter-

mine, prior to July 1 of each odd-numbered year, each county's percentage share of the amount appropriated for the purposes of this subsection. Such determination shall be adopted by rule and shall be based upon state-wide crime and demographic data certified by a state agency other than the Corrections Division.

(2) After January 1, 1979, each participating county shall be assessed a charge of \$3,000 for each person sentenced for a Class C felony to the custody of the Corrections Division up to the limit of the county's enhancement grant or until a ceiling figure is reached, whichever is less. The ceiling shall be based on the county's average number of Class C felony commitments to the custody of the Corrections Division for the most recent two calendar years. 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.

(3) 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. Such computation shall be based upon any actions approved by the Legislative Assembly relative to the timing of expenditures with respect to appropriations for purposes of paragraphs (a) and (b) of subsection (1) of this section. [1977 c 412 §7; 1979 c 160 §1]

423.535 Notice to assistant director to participate in program; plan approval; contract for service by Corrections Division. (1) To receive moneys for the operation of the community corrections program authorized by ORS 423.500 to 423.560, the county must notify the assistant director of the division 90 days prior to the proposed beginning date of participation. Such notification shall be by resolution of the appropriate board or boards of county commissioners.

(2) Prior to participation in the program, the county shall have a comprehensive community corrections plan approved by the division.

(3) 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 paragraph (b) of subsection (1) and subsection (3) of ORS 423.530 to provide the community corrections services described therein. In providing such services, the divi-

sion 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 misdemeanor probationers. [1977 c.412 §13]

423.540 Program performance review by Corrections Division; standards; effect of failure to comply; prohibited use of program financial aid. (1) The Assistant Director for Corrections shall periodically review the performance of counties participating under ORS 423.500 to 423.560. A county must substantially comply with the provisions of its community corrections plan and the operating standards established pursuant to subsection (2) of ORS 423.525 to remain eligible to participate. If the assistant director determines that there are reasonable grounds to believe that a county is not in substantial compliance with the plan or operating standards, the assistant director 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 assistant director, with the advice of the Community Corrections Advisory Board, may suspend any portion of financial aid made available to the county under ORS 423.500 to 423.560 until the required compliance occurs.

(2) Financial aid received by a county pursuant to ORS 423.530 shall not be used to replace moneys, other than federal or state funds, currently being used by the county for existing correctional programs for misdemeanants and shall not be used to develop, build or improve local correctional facilities as defined by subsection (3) of ORS 169.005. [1977 c.412 §8; 1979 c.487 §14]

Note: The amendment to 423.540 by section 14, chapter 487, Oregon Laws 1979, takes effect July 1, 1980. See section 16, chapter 487, Oregon Laws 1979. 423.540 (1977 Replacement Part) is set forth for the users' convenience.

423.540. (1) The Assistant Director for Corrections shall periodically review the performance of counties participating under ORS 423.500 to 423.560. A county must substantially comply with the provisions of its community corrections plan and the operating standards established pursuant to subsection (2) of ORS 423.525 to remain eligible to participate. If the assistant director determines that there are reasonable grounds to believe that a county is not in substantial compliance with the plan or operating standards, the assistant director 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 assistant director, with the advice of the Community Corrections Advisory Board, may suspend any portion of financial aid made available to the county under ORS 423.500 to 423.560 until the required compliance occurs.

(2) Financial aid received by a county pursuant to ORS 423.530 shall not be used to replace moneys, other than federal or state funds, currently being used by the county for existing correctional programs for misdemeanants and shall not be used to develop, build or improve local correctional facilities as defined by subsection (1) of ORS 169.005.

423.545 Obligations of counties accepting financial aid; manner of terminating participation; effect of termination. (1) A county that accepts financial aid under ORS 423.500 to 423.560 shall assume responsibility for those correctional services, other than the operation of state institutions, presently planned or provided in the county by the Corrections Division.

(2) Any county that receives financial aid under ORS 423.500 to 423.560 may terminate its participation at the end of any month by delivering a resolution of its board of commissioners to the Assistant Director for Corrections not less than 180 days before the termination date.

(3) If a county terminates its participation under ORS 423.500 to 423.560:

(a) The responsibility for correctional services transferred to the county pursuant to subsection (1) of this section and the remaining portion of the financial aid made available to the county under ORS 423.530 shall revert to the Corrections Division.

(b) The facilities renovated or constructed with moneys made available under ORS 423.500 to 423.560 shall revert to the Corrections Division, unless the county has participated for 20 continuous years in ORS 423.500 to 423.560 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. [1977 c.412 §9]

423.550 Contract by counties for parole and probation supervision service; transfer of state personnel to county employment; reentry of transferred employes. (1) When a county pursuant to ORS 423.500 to 423.560 assumes responsibility for

correctional 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.

(2) Any state correctional field officer, immediate supervisor of such correctional 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 such employes on an actual cost basis. Any such employe transferring to county employment under this section shall not suffer any reduction in salary or loss of employe benefits as a result of the transfer.

(3) Any such employe who transfers employment pursuant to subsection (1) of this section shall be entitled to reenter state employment within 30 days if the county to which the employe has transferred withdraws from participation under ORS 423.500 to 423.560 or if funds are not appropriated to carry out the purposes of ORS 423.500 to 423.560. [1977 c.412 §10]

423.555 State-wide program evaluation and information system. The division shall establish and operate a state-wide evaluation and information system to monitor the effectiveness of correctional services provided to criminal defendants under ORS 423.500 to 423.560. [1977 c.412 §11]

423.560 Local corrections advisory committee; qualifications; duties and powers. (1) The board or boards of county commissioners of a county that is participating under ORS 423.500 to 423.560 shall designate a local corrections advisory committee. The committee shall include:

- (a) A law enforcement officer;
- (b) A district attorney;
- (c) A circuit court judge;
- (d) A public defender or defense attorney;
- (e) A probation or parole officer;
- (f) A representative of a private correctional agency, if a suitable agency exists in the county;

(g) A county commissioner from each county;

(h) Seven lay citizens, one of which shall be a member of a minority ethnic group if such a group exists in the county; and

(i) An ex-offender.

(2) 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. [1977 c.412 §12]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel

CHAPTERS 424 AND 425 [Reserved for expansion]

