

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 281*
Committee Substitute Favorable 5/26/93
Committee Substitute #2 Favorable 7/16/93

Short Title: Criminal Justice Partnership Act.

(Public)

Sponsors:

Referred to:

February 25, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A STATE-COUNTY CRIMINAL JUSTICE PARTNERSHIP
3 IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 6A.**
8 **"NORTH CAROLINA STATE-COUNTY CRIMINAL JUSTICE**
9 **PARTNERSHIP ACT.**

10 **"§ 143B-272. Short title.**

11 This Article is the 'North Carolina State-County Criminal Justice Partnership Act of
12 1993' and may be cited by that name.

13 **"§ 143B-272.1. Legislative policy.**

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

- 16 (1) To support the implementation of the recommendations of the North
17 Carolina Sentencing and Policy Advisory Commission by providing
18 supplemental community-based corrections programs which
19 appropriately punish criminal behavior and which provide effective
20 rehabilitative services;
21 (2) To expand sentencing options by adding community-based corrections
22 programs for offenders receiving a nonincarcerative sentence;

- 1 (3) To promote coordination between State and county community-based
2 corrections programs; and
3 (4) To improve public confidence in the criminal justice system by
4 educating the public on the role of community-based corrections
5 programs.

6 **"§ 143B-272.2. Definitions.**

7 The following definitions apply in this Article:

- 8 (1) Account. – The State-County Criminal Justice Partnership Account.
9 (2) County Board. – A County Criminal Justice Partnership Advisory
10 Board.
11 (3) Department. – The Department of Correction.
12 (4) Multi-County Board. – A Multi-County Criminal Justice Partnership
13 Advisory Board.
14 (5) Plan. – A Community-Based Corrections Plan.
15 (6) Program. – A Community-Based Corrections Program.
16 (7) Secretary. – The Secretary of the Department of Correction.
17 (8) State Board. – The State Criminal Justice Partnership Advisory Board.

18 **"§ 143B-272.3. Goals of community-based corrections programs funded under this**
19 **Article.**

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

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

26 **"§ 143B-272.4. Eligible population.**

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

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

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

35 **"§ 143B-272.5. State-County Criminal Justice Partnership Account established.**

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

42 **"§ 143B-272.6. State Criminal Justice Partnership Advisory Board; members;**
43 **terms; chairperson.**

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

- 4 (1) A member of the Senate.
- 5 (2) A member of the House of Representatives.
- 6 (3) A judge of the Superior Court.
- 7 (4) A judge of the district court.
- 8 (5) A district attorney.
- 9 (6) A criminal defense attorney.
- 10 (7) A county sheriff.
- 11 (8) A chief of a city police department.
- 12 (9) Two county commissioners, one from a predominantly urban county
13 and one from a predominantly rural county.
- 14 (10) A representative of an existing community-based corrections program.
- 15 (11) A member of the public who has been the victim of a crime.
- 16 (12) A rehabilitated ex-offender.
- 17 (13) A member of the business community.
- 18 (14) Three members of the general public, one of whom is a person
19 recovering from chemical dependency or who is a previous consumer
20 of substance abuse treatment services.
- 21 (15) A victim service provider.
- 22 (16) A member selected from each of the following service areas: mental
23 health, substance abuse, and employment and training.

24 (b) The membership of the State Board shall be selected as follows:

- 25 (1) The Governor shall appoint the following members: the county
26 sheriff, the chief of a city police department, the member of the public
27 who has been the victim of a crime, a rehabilitated ex-offender, the
28 members selected from each of the service areas.
- 29 (2) The Lieutenant Governor shall appoint the following members: the
30 member of the business community, one member of the general public
31 who is a person recovering from chemical dependency or who is a
32 previous consumer of substance abuse treatment services, the victim
33 service provider.
- 34 (3) The Chief Justice of the North Carolina Supreme Court shall appoint
35 the following members: the superior court judge, the district court
36 judge, the district attorney, the criminal defense attorney, the
37 representative of an existing community-based corrections program.
- 38 (4) The President Pro Tempore of the Senate shall appoint the following
39 members: the member of the Senate, the county commissioner from a
40 predominantly urban county, one member of the general public.
- 41 (5) The Speaker of the House shall appoint the following members: the
42 member of the House of Representatives, the county commissioner
43 from a predominantly rural county, one member of the general public.

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

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

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

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

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

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

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

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

36 **"§ 143B-272.7. Duties of State Criminal Justice Partnership Advisory Board.**

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

- 38 (1) To recommend community-based corrections program priorities;
- 39 (2) To review the application process and procedures for funding
40 community-based corrections programs, including the format for
41 comprehensive community-based corrections plans;
- 42 (3) To review the criteria for monitoring and evaluating community-based
43 corrections programs;

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

18 **"§ 143B-272.8. Duties of Department of Correction.**

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

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

1 **§ 143B-272.9. Election to apply for funding.**

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

11 **§ 143B-272.10. County Criminal Justice Partnership Advisory Boards; members;**
12 **terms; chairperson.**

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

- 15 (1) A county commissioner. In the case of a multicounty community
16 corrections advisory board, one county commissioner from each
17 participating county shall serve as a member.
- 18 (2) A county manager, or the county manager's designee.
- 19 (3) A judge of the superior court.
- 20 (4) A judge of the district court.
- 21 (5) A district attorney, or the district attorney's designee.
- 22 (6) A criminal defense attorney.
- 23 (7) A public defender.
- 24 (8) A county sheriff, or the sheriff's designee.
- 25 (9) A chief of a city police department, or the police chief's designee.
- 26 (10) A probation officer.
- 27 (11) A community service coordinator.
- 28 (12) One member selected from each of the following service areas which
29 are available in the county or counties: mental health, public health,
30 substance abuse, employment and training, community-based
31 corrections programs, victim services programs.
- 32 (13) A member of the business community.
- 33 (14) A member of the community who has been a victim of a crime.
- 34 (15) Members at large, including persons who are recovering from
35 chemical dependency or are previous consumers of substance abuse
36 treatment services.

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

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

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

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

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

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

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

33 **"§ 143B-272.11. County Criminal Justice Partnership Advisory Boards; powers**
34 **and duties.**

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

- 37 (1) To participate in a planning process to develop a Community-Based
38 Corrections Plan. The purpose of this planning process is to:
- 39 a. Examine the local criminal justice system;
 - 40 b. Identify problem areas;
 - 41 c. Identify offender groups for programs;
 - 42 d. Propose strategies for improving the local criminal justice
43 system;
 - 44 e. Identify a specific community-based program that is needed;

- 1 f. Plan a method for integrating the needed community-based
2 program into the existing local criminal justice system;
3 g. Develop criteria for evaluating the impact of the community-
4 based program; and
5 h. Improve coordination at the local level between State and
6 county community-based corrections programs.
7 (2) To submit the plan to the boards of county commissioners for approval
8 within one year of the last appointment to the county board. This plan
9 shall include all of the elements required by this section.
10 (3) To review and revise the plan and make a formal recommendation to
11 the board or boards of county commissioners at least annually
12 concerning the plan and its implementation and operation during the
13 ensuing year.
14 (4) To monitor and evaluate the impact of the community-based
15 corrections program and prepare a written report.

16 **"§ 143B-272.12. Community-Based Corrections Plan.**

17 (a) The Community-Based Corrections Plan shall include the following:

- 18 (1) A flowchart of the criminal justice system which describes processing
19 steps from the point of arrest through conviction, to post-release
20 supervision after completing an active sentence of imprisonment. The
21 flowchart shall identify all decision points, decision makers and
22 options;
23 (2) Number and rate of arrest, convictions, admissions to probation, jail,
24 prison, and post-release supervision;
25 (3) Arrest practices and data, including the use of citations;
26 (4) Pretrial release practices and data on type of release and bond
27 amounts;
28 (5) Procedures for assignment of indigent counsel;
29 (6) Court procedures for reducing bond amounts;
30 (7) Jail capacity and population data by type of offender;
31 (8) The jail population by type of offender, type of offenses, and average
32 length of stay;
33 (9) Existing State and county community-based corrections programs
34 (pretrial, sentenced, and post-release) including target population,
35 program activities, profile of offenders entering and released from the
36 programs, length of stay, and completion rates;
37 (10) Education, vocation/employment, health, mental health, housing, and
38 other social services which are available to offenders; and
39 (11) Number of offenders who received an active sentence in the past two
40 years, including type of offense, length of sentence, and actual time
41 served.

42 (b) Based on the information collected in subsection (a) of this section, the plan
43 shall include a detailed description of the need for the proposed community-based
44 corrections program, the offender population the proposed program will target, the

1 changes that are planned in local policies and procedures to accommodate the proposed
2 program, and how the proposed program will be integrated into the criminal justice
3 system.

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

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

15 **"§ 143B-272.13. Application for implementation funding.**

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

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

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

39 **"§ 143B-272.14. Fundable programs; community-based corrections programs.**

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

1 (1) For offenders who receive intermediate punishments:

- 2 a. Residential facilities;
3 b. Day reporting centers;
4 c. Restitution centers;
5 d. Substance abuse services;
6 e. Employment services;

7 (2) For offenders who are appropriate for release from jail prior to trial:

- 8 a. Pretrial monitoring services;
9 b. Pretrial electronic surveillance;

10 (3) For offenders who are serving a term of post-release supervision after
11 completing active sentences of imprisonment:

- 12 a. Aftercare support services.

13 (c) When a county receives more than fifty thousand dollars (\$50,000) in
14 community-based corrections funds, then that county shall use at least fifty percent
15 (50%) of those funds to develop programs for offenders who receive intermediate
16 punishments.

17 (b) Community-based corrections funds may be used to operate programs and
18 may also be used to construct, acquire, or renovate community facilities established to
19 provide the programs and services set forth in subsection (a) of this section.
20 Construction and renovation funds may not be used for jails. Construction and
21 renovation funds may not be used to reimburse expenses for any facilities renovated
22 before the effective date of this Article.

23 **"§ 143B-272.15. Funding formula.**

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

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

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

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

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

41 **"§ 143B-272.16. Continued eligibility.**

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

- 1 (b) To remain eligible for funding, a county shall:
2 (1) Comply with its community-based corrections plan;
3 (2) Submit monitoring reports as required by the Department; and
4 (3) Comply with the minimum standards adopted.

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

7 **"§ 143B-272.17. Termination of participation in program.**

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

17 **"§ 143B-272.18. Private nonprofit agencies participating in program.**

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

23 **"§ 143B-272.19. Prohibited uses of funds.**

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

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

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