

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 281*

Short Title: Criminal Justice Partnership Act.

(Public)

Sponsors: Representatives Barnes and Redwine.

Referred to: Judiciary III.

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;
23 (3) To promote coordination between State and county community-based
24 corrections programs; and

- 1 (4) To improve public confidence in the criminal justice system by
2 educating the public on the role of community-based corrections
3 programs.

4 **"§ 143B-272.2. Definitions.**

5 The following definitions apply in this Article:

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

16 **"§ 143B-272.3. Goals of community-based corrections programs funded under this**
17 **Article.**

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

- 19 (1) To reduce recidivism;
20 (2) To reduce the number of probation revocations;
21 (3) To reduce drug dependency among offenders; and
22 (4) To reduce the cost to the State of incarceration.

23 **"§ 143B-272.4. Eligible population.**

24 (a) An eligible offender is an adult offender who either is in confinement
25 awaiting trial, or was convicted of a misdemeanor or a felony offense and received a
26 nonincarcerative sentence of either an intermediate punishment or a community
27 punishment.

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

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

32 **"§ 143B-272.5. State-County Criminal Justice Partnership Account established.**

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

39 **"§ 143B-272.6. State Criminal Justice Partnership Advisory Board; members;**
40 **terms; chairperson.**

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

- 44 (1) A member of the Senate.

- 1 (2) A member of the House of Representatives.
- 2 (3) A judge of the Superior Court.
- 3 (4) A judge of the district court.
- 4 (5) A district attorney.
- 5 (6) A criminal defense attorney.
- 6 (7) A county sheriff.
- 7 (8) A chief of a city police department.
- 8 (9) Two county commissioners, one from a predominantly urban county
9 and one from a predominantly rural county.
- 10 (10) A representative of an existing community-based corrections program.
- 11 (11) A member of the public who has been the victim of a crime.
- 12 (12) A rehabilitated ex-offender.
- 13 (13) A member of the business community.
- 14 (14) Three members of the general public.
- 15 (15) A victim service provider.
- 16 (16) A member selected from each of the following service areas: mental
17 health, substance abuse, and employment and training.
- 18 (b) The membership of the State Board shall be selected as follows:
 - 19 (1) The Governor shall appoint the following members: the county
20 sheriff, the chief of a city police department, the member of the public
21 who has been the victim of a crime, a rehabilitated ex-offender, the
22 members selected from each of the service areas.
 - 23 (2) The Lieutenant Governor shall appoint the following members: the
24 member of the business community, one member of the general public,
25 the victim service provider.
 - 26 (3) The Chief Justice of the North Carolina Supreme Court shall appoint
27 the following members: the superior court judge, the district court
28 judge, the district attorney, the criminal defense attorney, the
29 representative of an existing community-based corrections program.
 - 30 (4) The President Pro Tempore of the Senate shall appoint the following
31 members: the member of the Senate, the county commissioner from a
32 predominantly urban county, one member of the general public.
 - 33 (5) The Speaker of the House shall appoint the following members: the
34 member of the House of Representatives, the county commissioner
35 from a predominantly rural county, one member of the general public.

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

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

1 members identified in subdivisions (14) through (16) of subsection (a) of this section
2 shall each be appointed for a term of three years.

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

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

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

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

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

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

27 **"§ 143B-272.7. Duties of State Criminal Justice Partnership Advisory Board.**

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

29 (1) To review the application process and procedures for funding
30 community-based corrections programs, including the format for
31 comprehensive community-based corrections plans;

32 (2) To review the criteria for monitoring and evaluating community-based
33 corrections programs;

34 (3) To review plans of participating counties and to make
35 recommendations based on their applications to the Secretary to
36 provide grant funding to assist them in the implementation and
37 operation of community-based corrections programs; and

38 (4) To review the minimum program standards, policies, and rules for
39 community-based corrections programs.

40 **"§ 143B-272.8. Duties of Department of Correction.**

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

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

25 **§ 143B-272.9. Election to apply for funding.**

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

35 **§ 143B-272.10. County Criminal Justice Partnership Advisory Boards; members;**
36 **terms; chairperson.**

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

- 39 (1) A county commissioner. In the case of a multicounty community
40 corrections advisory board, one county commissioner from each
41 participating county shall serve as a member.
- 42 (2) A county manager, or the county manager's designee.
- 43 (3) A judge of the superior court.
- 44 (4) A judge of the district court.

1 (5) A district attorney, or the district attorney's designee.

2 (6) A criminal defense attorney.

3 (7) A public defender.

4 (8) A county sheriff, or the sheriff's designee.

5 (9) A chief of a city police department, or the police chief's designee.

6 (10) A probation officer.

7 (11) A community service coordinator.

8 (12) One member selected from each of the following service areas which
9 are available in the county or counties: mental health, public health,
10 substance abuse, employment and training, community-based
11 corrections programs, victim services programs.

12 (13) A member of the business community.

13 (14) A member of the community who has been a victim of a crime.

14 (15) Members at large.

15 (b) In the case of a single county board, the board of county commissioners shall
16 appoint the members. In the case of a multicounty board, the board of county
17 commissioners from the participating counties shall each appoint one commissioner as a
18 member. These members shall appoint the other members. A member may be
19 removed, with cause, by the group authorized to make the initial appointment.

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

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

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

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

40 **"§ 143B-272.11. County Criminal Justice Partnership Advisory Boards; powers**
41 **and duties.**

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

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

20 **"§ 143B-272.12. Community-Based Corrections Plan.**

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

- 22 (1) A flowchart of the criminal justice system which describes processing
23 steps from the point of arrest to the point of conviction. The flowchart
24 shall identify all decision points, decision makers and options;
- 25 (2) Arrest, conviction, and jail and prison incarceration rates;
- 26 (3) Arrest practices and data, including the use of citations;
- 27 (4) Pretrial release practices and data on type of release and bond
28 amounts;
- 29 (5) Procedures for assignment of indigent counsel;
- 30 (6) Court procedures for reducing bond amounts;
- 31 (7) Jail capacity and population data by type of offender;
- 32 (8) The jail population by type of offender, type of offenses, and average
33 length of stay;
- 34 (9) Existing State and county community-based corrections programs
35 including target population, program activities, profile of offenders
36 entering and released from the programs, length of stay, and
37 completion rates; and
- 38 (10) Offenders who received an active sentence in the past two years,
39 including type of offense, length of sentence, and actual time served.

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

1 (c) The proposed program shall target adult offenders who either are in
2 confinement awaiting trial, or were convicted of a misdemeanor or a felony offense and
3 received a nonincarcerative sentence of either an intermediate punishment or a
4 community punishment. The priority populations shall be offenders sentenced to
5 intermediate punishments and offenders who are appropriate for release from jail prior
6 to trial under the supervision of a pretrial monitoring program.

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

11 **"§ 143B-272.13. Application for implementation funding.**

12 (a) Upon approving the plan, the board or boards of county commissioners shall
13 submit the plan and an application for implementation funding. The application shall
14 contain the following:

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

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

33 **"§ 143B-272.14. Fundable programs; community-based corrections programs.**

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

- 39 (1) For offenders who are appropriate for release from jail prior to trial:
 - 40 a. Pretrial monitoring services;
 - 41 b. Pretrial electronic surveillance;
- 42 (2) For offenders who receive intermediate punishments:
 - 43 a. Residential facilities;
 - 44 b. Day reporting centers;

1 c. Restitution centers;

2 (3) For offenders who receive intermediate or intermediate and
3 community punishments;

4 a. Substance abuse services;

5 b. Employment services.

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

12 **"§ 143B-272.15. Funding formula.**

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

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

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

21 (1) Twenty percent (20%) based on a fixed equal dollar amount for each
22 county;

23 (2) Sixty percent (60%) based on the county share of the State population;
24 and

25 (3) Twenty percent (20%) based on the supervised probation admissions
26 rate for the county.

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

29 **"§ 143B-272.16. Continued eligibility.**

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

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

34 (1) Comply with its community-based corrections plan;

35 (2) Submit monitoring reports as required by the Department; and

36 (3) Comply with the minimum standards adopted.

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

39 **"§ 143B-272.17. Termination of participation in program.**

40 A county receiving financial aid under this Article may terminate its participation by
41 delivering a resolution of the board or boards of county commissioners to the Secretary
42 at the beginning of any calendar quarter. Upon withdrawal from the program, the board
43 or boards of county commissioners may adopt a resolution stating that it is in the best
44 interests of the county that the county community corrections advisory board be

1 dissolved, whereupon the county commissioners shall pay and discharge any debts or
2 liabilities of the advisory board, collect and distribute assets of the advisory board under
3 the laws of North Carolina, and pay over any remaining proceeds or property to the
4 proper fund.

5 **"§ 143B-272.18. Private nonprofit agencies participating in program.**

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

11 **"§ 143B-272.19. Prohibited uses of funds.**

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

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

17 Sec. 2. There is appropriated from the General Fund to the Department of
18 Correction the sum of ten million dollars (\$10,000,000) for the 1994-95 fiscal year to
19 support the State-County Criminal Justice Partnership program.

20 Sec. 3. This act becomes effective January 1, 1994.