

CHAPTER XII

COMMUNITY PROGRAMS AND FUNDING

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XII. COMMUNITY PROGRAMS AND FUNDING

A. COMMUNITY CORRECTIONS PLANS/FUNDING

1. Plan

Statutory Provision-ORS 423.525 (as amended by Section 65, Chapter 790, Oregon Laws 1989):

- (1) A county may apply to the Director of the Department of Corrections in a manner and form prescribed by the director for financial aid made available under ORS 423.500 to 423.560. The application shall include a community corrections plan. The director shall provide consultation and technical assistance to counties to aid in the development and implementation of community corrections plans.
- (2) The 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, to offenders on post-prison supervision 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, post-prison supervision 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;
 - (g) The manner in which the local corrections advisory committee will participate in community corrections; and
 - (h) The projected field population of parolees, probationers and

offenders on post-prison supervision.

(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 director.

Statutory Summary

Section 65 amends ORS 423.525 to incorporate appropriate references to "post-prison supervision" as components of community corrections plans. This section also requires that each community corrections plan include a projected field population of parolees, probationers and offenders on post-prison supervision.

2. Funding

Statutory Provision-ORS 423.530 (as amended by Section 66, Chapter 790, Oregon Laws 1989):

(1) Financial aid for community corrections pursuant to ORS 423.500 to 423.560 shall consist of:

(a) Payments from moneys appropriated to the Department of Corrections for the purposes of supervising parolees, probationers and offenders subject to post-prison supervision. The department 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.

(b) Enhancement grants from the department for the purpose of providing community corrections services. The department 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 state-wide crime and demographic data certified by a state agency other than the Department of Corrections.

(2) (a) Commencing with the beginning of the county's second biennium of participation, 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 Department of Corrections 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 Department of Corrections for the most recent two calendar years. Irrespective of sentence or term, each such reimbursement shall continue for one year.

(b) Moneys paid by the county shall be credited to the General Fund and continuously appropriated to the Department of Corrections to be disbursed by the director, with the advice of the Community Corrections Advisory Board and to participating counties in response to requests for special funding of programs for reduction of felony commitments to state institutions. Disbursements under this subsection are contingent upon Department of Corrections approval of the program upon which the disbursement is to be spent. The special funding shall not be considered part of a county's percentage share of regular enhancement grants.

(3) The department 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.

Statutory Summary

Section 66 amends ORS 423.530 to incorporate appropriate references to "post-prison supervision" as a function which may be funded through the community corrections system.

B. DIRECTORY OF REHABILITATION PROGRAMS

The 1989 Legislative Assembly directed the Department of Corrections to develop a directory of programs available as community resources for sentenced offenders. Section 7a, Chapter 790, Oregon Laws 1989. "Rehabilitative Programs" are defined as any "planned activity, in a custodial or noncustodial context, designed and implemented to treat drug or alcohol abuse, to prevent criminal sexual behavior, to modify a propensity to commit crimes against persons or property or to achieve restitution for losses caused by an offender and includes programs that employ the device of mediation between the victim and offender." Id.

The directory should include all public or private rehabilitative programs available to the corrections agencies of the state and to each county. It is to be completed by January 1, 1990 and shall be made available specified criminal justice officials including parole and probation officers and sentencing judges. When this directory is completed, it may be inserted into this implementation manual for easy reference. The proper implementation of sentencing guidelines relies on the appropriate

use of available community-based programs.

Statutory Provision-Section 7a, Chapter 790, Oregon Laws 1989:

(1) By January 1, 1990, the Director of the Department of Corrections shall compile and thereafter maintain a directory of public and private rehabilitative programs known and available to corrections agencies of the state and of each county. For purposes of this subsection, "rehabilitative program" means a planned activity, in a custodial or noncustodial context, designed and implemented to treat drug or alcohol abuse, to prevent criminal sexual behavior, to modify a propensity to commit crimes against persons or property or to achieve restitution for losses caused by an offender and includes programs that employ the device of mediation between the victim and offender. The director shall include:

- (a) The name, address and telephone number of the program and the identity of its director or other principal contact;
- (b) The geographical jurisdiction of the program;
- (c) The types of offenders that the program claims to be able to serve and the criteria that the program applies in selecting or soliciting cases;
- (d) The claims of the program regarding its effectiveness in reducing recidivism, achieving restitution or otherwise serving correctional objectives;
- (e) An assessment by the relevant corrections agency of the actual effectiveness of the program; and
- (f) The capacity of the program for new cases.

(2) The Director of the Department of Corrections shall make the directory available to the Oregon Criminal Justice Council and to judges in a form that will allow sentencing judges to determine what rehabilitative programs are appropriate and available to the offender during any period of probation, imprisonment or local incarceration and post-prison supervision. The Director of the Department of Corrections shall also make the directory available to its employees who prepare presentence reports and proposed release plans for submission to the State Board of Parole and Post-Prison Supervision.

(3) The directory shall be updated as frequently as is practical, but no less often than every six months.

(4) The Director of the Department of Corrections shall prepare a plan for monitoring the scope and measuring the effectiveness of existing rehabilitative programs and shall deliver that plan to the Oregon Criminal Justice Council no later than January 1, 1990.

When the Directory of Rehabilitative Programs is completed, it might be properly inserted here.

GLOSSARY

The following definitions were adopted by the State Sentencing Guidelines Board to clarify the appropriate use of these terms within the sentencing guidelines system. The definitions included in OAR 253-03-001 will also be applicable to the text of this manual.

OAR 253-03-001 DEFINITIONS.

As used in these rules:

- (1) "Bench probation" means a probationary sentence which directs the probationer to remain under the supervision and control of the sentencing judge.
- (2) "Board" means the State Board of Parole and Post-Prison Supervision.
- (3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.
- (4) "Department" means the Department of Corrections.
- (5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.
- (6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.
- (7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions.
- (8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of post-prison supervision, term of probation or number of custody units which may be imposed as a condition of probation.
- (9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1.
- (10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime

of conviction and an offender's criminal history classification.

(11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act which, if committed by an adult, would be punishable as a felony.

(12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.

(13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 253-05-006.

(14) "Person felonies" are in numerical statutory order: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.205 Criminal Mistreatment I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.275 Coercion as defined in Crime Category 7 (Appendix 3); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse I; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (Appendix 3); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (Appendix 3); ORS 164.325 Arson I; ORS 164.395 Robbery III ; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 166.165 Intimidation; ORS 166.220 Carrying Dangerous Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 811.705 Hit and Run Vehicle (INJURY) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 163.160 Assault IV; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.208 Assault Officer; ORS 163.425 Sexual Abuse II; ORS 163.545 Child Neglect; ORS 163.575 Endanger Welfare of Minor; ORS 163.605 Criminal Defamation; ORS 166.155 Intimidation II; ORS 488.164 Hit and Run Boat; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the

sentencing judge shall designate which offense is the primary offense.

(18) "Single judicial proceeding" means one or more proceedings linked in time with respect to a single defendant convicted of multiple crimes which are:

(a) Of the same or similar character;

(b) Based on the same act or transaction; or

(c) Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(19) "Supervisory authority" means the state and local corrections official or officials designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

Commentary

This rule defines a number of special terms for use in these sentencing guidelines. Some terms such as "departure," "dispositional departure," "grid," "grid block," "optional probationary sentence" and "presumptive sentence" first entered Oregon law in the 1987 legislation or these administrative rules. Other terms such as "non-person felonies", "person felonies" and "person class A misdemeanors," which may have some informal currency or general usage, have been expressly defined for use in these rules.