Draft Statutory Language (working draft)

The following language is a first attempt to put the statutory framework that the Community Supervision Working Group has been developing into statutory language. Please compare this to the Potential Statutory Framework document and determine if the draft language here achieves the goals and intent as discussed by the committee. All edits and feedback and welcome. Those with HR experience should pay particular attention to the language regarding employee transfers.

244.19 PROBATION SERVICES AND OFFICERS.

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Subd. 1a.**Definitions.**
(a) For purposes of this section, the terms defined in this subdivision have the meanings given them.
(b) "CPO jurisdiction" means:
(1) a county or Tribal Nation providing probation services under subdivision 1b, paragraph (b); or
(2) a group of counties or Tribal Nations providing probation services under subdivision 1b, paragraph (c).
(c) "Non-CPO jurisdiction" means a county, Tribal Nation, group of counties, or group of Tribal Nations receiving probation services under subdivision 1b, paragraph (d).
(d) "Tribal Nation" means a federally recognized Tribal Nation within the boundaries of the state of Minnesota.

Subd. 1b.**CPO and non-CPO jurisdictions; establishment.**
(a) Adult misdemeanant and juvenile probation services for CPO and non-CPO jurisdictions must be provided according to this subdivision.
(b) The court, with the approval of the county boards or respective Tribal Nation governments, may appoint one or more salaried county or Tribal probation officers to serve at the pleasure of the court.
(c) If two or more counties or Tribal Nations offer probation services, the district court through the county boards or respective Tribal Nation governments may appoint common salaried county or Tribal probation officers to serve in the counties or Tribal Nations, or both, if applicable.
(d) A county or Tribal Nation may request the commissioner of corrections to furnish probation services in accordance with this section, and the commissioner must furnish the services to any county or Tribal Nation that fails to provide its own probation officer according to paragraph (b) or (c).
(e) If a county or Tribal Nation providing probation services under paragraph (b) or (c) asks the commissioner to furnish probation services or the legislature mandates the

commissioner to furnish probation services, thethe transition must occur as provided in section 401.16. This paragraph applies to the extent consistent with state and Tribal law.

(f) If a county or Tribal Nation receiving probation services under paragraph (d) decides to provide the services under paragraph (b) or (c),the transition must occur as provided in section 401.16. This paragraph applies to the extent consistent with state and Tribal law.

(g) In accordance with this section, a Tribal Nation may elect to provide probation services to the following individuals in any Tribal Nation or county in which the individuals reside:

(1) an individual who is enrolled or eligible to be enrolled in a Tribal Nation; and

(2) an individual who resides in an enrolled member's household.

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401.01 COMMUNITY CORRECTIONS ACT; PURPOSE AND DEFINITION.

Subdivision 1.**Subsidies for community-based correctional programs.**

(a) To more effectively protect society and promote efficiency and economy in delivering correctional services, the commissioner may subsidize counties and Tribal Nations to help them develop, implement, and operate community-based correctional programs, including:

(1) preventive or diversionary correctional programs;

(2) conditional release programs;

(3) community corrections centers; and

(4) facilities for detaining or confining, caring, and treating persons convicted of crime or adjudicated delinquent.

(b) Counties and Tribal Nations must use risk, need, and responsivity principles in their correctional programming.

Subd. 2.**Definitions.**

(a) For purposes of this chapter, the terms defined in this subdivision have the meanings given them.

(b) "CCA jurisdiction" means a county or Tribal Nation that participates in the Community Corrections Act, the subsidy program under this chapter.

(c) "Commissioner" means the commissioner of corrections or a designee.

(d) "Conditional release" means:

(1) parole, supervised release, or conditional release as authorized by section 609.3455, subdivision 6, 7, or 8; Minnesota Statutes 2004, section 609.108, subdivision 6; or Minnesota Statutes 2004, section 609.109, subdivision 7;

(2) work release as authorized by sections 241.26, 244.065, and 631.425; and

(3) probation, furlough, and any other authorized temporary release from a correctional facility.

(e) “CPO jurisdiction” has the meaning given in section 244.19, subdivision 1a(b).

(f) “Delivery system” means the method by which the county or Tribal Nation provides or receives community supervision services as a CCA jurisdiction under this chapter or as a non-CCA jurisdiction under section 244.19, subd. 1b, paragraphs (b), (c) or (d).

(e) "Detain" means to take into actual custody, including custody within a local correctional facility.

(f) "Joint board" means the board under section 471.59.

(g) "Local advisory board" means:

(1) for a CCA jurisdiction, a corrections advisory board as defined in section 401.08;

(2) for a non-CCA jurisdiction other than a Tribal Nation, a human services advisory board as defined in section 402.02, or advisory committee or task force as defined in section 402.03; or

(3) for a Tribal Nation that is a non-CCA jurisdiction, a board with membership as determined by the Tribal Nation.

(h) "Non-CCA jurisdiction" means a county or Tribal Nation that is not participating in the Community Corrections Act subsidy program and provides or receives probation services according to section 244.19.

(i) "Probation officer" means a county or Tribal probation officer under a CCA or non-CCA jurisdiction appointed with the powers under section 244.19.

(j) "Release" means to release from actual custody.

(k) "Tribal Nation" means a federally recognized Tribal Nation within the boundaries of the state of Minnesota.

401.04 ACQUIRING PROPERTY; SELECTING ADMINISTRATIVE STRUCTURE.

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401.16 DELIVERY SYSTEM TRANSITION.

Subdivision 1.**Notice and Transition Period.** (a) A county or Tribal Nation that is considering changing its delivery system must provide notice to the commissioner by May 1 in any year. This initial notice may be made by the county administrator or equivalent Tribal Nation position and does not require a formal resolution.

(b) A county or Tribal Nation that has provided notice under paragraph (a) may transition to a different delivery system in the period from January through June of the

following year. The county or Tribal Nation must establish the specific date in coordination with the department of corrections. The transition date can be changed upon agreement of all parties.

(c) As used throughout this section, "Tribal Nation" refers to a Tribal Nation that is currently receiving the community supervision subsidy under section 401.10 or is considering entering the subsidy program. The requirements in this section do not apply to a Tribal Nation receiving or seeking funding under section 401.115. This section applies to the extent consistent with state and Tribal law.

Subd. 2. **Transition Study.** (a) The county administrator or equivalent Tribal Nation position must ensure that a transition study is conducted to assist the county or Tribal Nation in determining the feasibility and desirability of changing delivery systems. The study may be conducted prior to the official notice provided in subdivision 1. The study should at a minimum include:

(1) Identification of the county or Tribal Nations's goals in providing community supervision services:
(2) Comparison of the delivery system models considering the county or Tribal Nation's goals; and
(3) Analysis of the budgetary impacts of the change.

(c) The study may be conducted by the county administrator, equivalent Tribal Nation position, or a third party, but may not be conducted by management in the current delivery system. In a county currently being served by both a county probation office and the department of corrections under section 244.19, subd. 1b (b), (c), or (d), the county administrator must ensure that information from both the county corrections agency and the department of corrections is included in the study.

(b) The county administrator or equivalent Tribal Nation position must be provided data and information to inform the study from all county, state, and Tribal corrections agencies currently providing services within the county, including data relating to employee complement and compensation, management structure, caseload sizes, supervision specialization, and other information deemed relevant to the analysis.

(e) All corrections agencies currently providing services within the county must be given an opportunity to review and provide feedback or corrections to the information included in the study before it is finalized.

(f) After reviewing the transition study, if the county or Tribal Nation chooses to change delivery systems, it may do so by resolution.

Subd. 3. **Transition Team.** A county or Tribal Nation choosing to change its delivery system must appoint a transition team to manage the logistics and implementation of the transition. The transition team must include the county administrator or equivalent Tribal

Nation position and members representing both the existing delivery system and the proposed new delivery system.

Subd. 2.**Employee transfer.** (a) If a county or Tribal Nation changes delivery systems or the legislature mandates the commissioner to furnish probation services to the county, the probation officers and other employees displaced by the transition must be employed by the corrections agency in the new delivery system at no loss of salary. For employees who perform work across multiple counties, an employee is displaced if at least one-half of their time is allocated for work in a county transitioning to a new delivery system.

(b) Years of service in the county probation department, county corrections agency, or department or corrections are to be given full credit for future sick leave and vacation or paid time off accrual purposes.

(c) If the employee is transferring to the department of corrections:

(i) The commissioner of management and budget must place the employee in the proper classifications in the classified service.

(ii) The state must negotiate the employees' seniority with the exclusive representative for the bargaining unit to which the employees are transferred. For purposes of computing seniority among those employees transferring from one county unit only, a transferred employee retains the same seniority position as the employee had within that county's probation office.

(d) If the employee is transferring from the department of corrections to the county or from a CPO jurisdiction to a CCA jurisdiction, employment must, to the extent possible and notwithstanding any other law to the contrary, be deemed a transfer in grade with all the benefits enjoyed by the officer or employee while in the service of the state or local correctional service.

(e) The corrections agency in the current delivery system must provide the corrections agency in the new delivery system with information relevant to facilitating the employee's transfer, including employment history and service dates, current compensation and any compensation progression scheduled to occur on the employee's anniversary date within six months of the delivery system transition, disciplinary and performance records, and training records.

(f) The employee must not be required to serve a probationary period if the employee has at least 12 months of service and has not had any discipline or unsatisfactory performance reviews in the past 36 months.

Subd. 3. **Employee benefit transfer; payment.** (a) An employee may transfer vacation, sick, or paid-time-off hours up to their accrued balance or 120 hours, whichever is greater, to the state, county, or Tribal Nation during the delivery system transition.

(b) Any hours not transferred must be paid out to the employee according to the applicable contract or rules then existing in the corrections agency from which the employee is transferring.

(c) The corrections agency in the current delivery system must pay the value of the transferred hours to the corrections agency in the new delivery system.

(d) The employee and corrections agency in the new delivery system may negotiate a transfer of more than 120 hours, and if they reach an agreement, the corrections agency in the current delivery system will pay the value of the transferred hours not to exceed the value that would have been paid to the employee under applicable contract or rules.

Subd. 4. **Seniority and layoff.** (a) State and local officers and employees displaced by the delivery system transition who transfer to the corrections agency in the new delivery system retain all fringe benefits and recall from layoff benefits accrued by seniority and enjoyed by them while in the service of the state or local corrections agency.

(b) State or local employees displaced by the delivery system transition are on layoff status and, if they do not transfer to the corrections agency in the new delivery system as provided in subdivision 2, may exercise their rights under layoff procedures established by law or collective-bargaining agreement, whichever is applicable.

Subd. 4. **Transfer agreement.** At least 30 days prior to the delivery system transition, the corrections agency in the new delivery system must provide the employee with a written transfer agreement detailing the transfer of employment, including position, salary, benefits transfer, and other applicable benefits provided by the new employer.

Subd. 5. **Local Advisory Board; Provisional Comprehensive Plan.** (a) Prior to the transition, the corrections agency in the new delivery system must ensure that a local advisory board, as defined in section 401.02, subdivision 2(g), is in place.

(b) At least 60 days prior to the delivery system transition date, corrections agency in the new delivery system must submit to the commissioner a provisional comprehensive plan. The plan must:

(i) describe how the agency plans to provide supervision services following the delivery system transition;

(ii) include a plan, if needed, for coming into compliance with statewide policies governing community supervision; and

(Iii) comply with all other commissioner-developed standards and reporting requirements.

(c) The local advisory board must assist in the development of the provisional comprehensive plan.

(d) The commissioner must review and approve or deny the provisional comprehensive plan within 30 days of receipt. If the plan is denied, the county must work to correct the plan. If the plan is not approved by the transition date, the commissioner may withhold funding until the county brings the plan into compliance.

Subd. 6. **Operational Guidelines.** The commissioner must work with all delivery systems to develop operational guidelines to provide practical guidance and best practices for delivery system transitions. The operational guidelines must be posted on the Department of Corrections website.