Potential Statutory Framework (Working Draft)

The following outline captures the committee's areas of discussion, initial thoughts about which items should be included in statute, and the rationale or issues to consider for each topic. The goal is to use this outline to develop potential statutory language.

Timeline

- County should submit a notice of intent to transition to another delivery system by May 1st.
    - Allows counties to plan their budgets for the transition year
    - Allows DOC to determine what the financial impact may be for the other counties it serves (spreading costs over a smaller pool)
- Transition period
    - Create a window of opportunity for the transition: Transfer can take place anytime from January to June of the following year, unless the parties agree to a later date.
        - Timing can negatively impact employees – e.g., if a June transition, employee will have to start paying a new deductible mid-year.
        - Don't want the transition timeline to be too long
    - Notify clients, the chief judge of the district court, and court administrator at least 30 days prior to the transfer.
- Transition study
    - Need for a statutory or formal mechanism requiring DOC to provide specified information upon county request.

Transition team

- Require a transition team that is a mix of current and new delivery system members; mix of community supervision and county administration.

Employee Transitions

- Requirement to hire existing employees / employee pay
    - …the probation officers and other employees displaced by the changeover must be employed by the county/commissioner at no loss of salary
        - Retain this language; this is the floor
        - Issue of not bringing employees in at the same pay scale as their own employees – potential for cross-reference to the wage law
            - Add language to this provision similar to: "and must develop procedures to make the process consistent with state and federal wage laws."

    - Current wage laws prohibit asking about a person's current salary but allow the person to disclose it voluntarily.
    - It's difficult for employers to comply with this requirement to hire at no loss of salary and also the wage law prohibition.
    - See recommendation below related to information to provide to the receiving employer. This may assist with the statutory conflict issue.

- Requirement to place employees in a similar position
    - Retain some form of this provision that covers changes in both directions
        - DOC language: The commissioner of management and budget must place employees transferred to state service under subdivision 1b, paragraph (e), in the proper classifications in the classified service.
        - CCA language: …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.

- Transfer of personnel information
    - Current employer should provide the receiving employer with information relevant to determining employee placement and benefits, including employment history, compensation, disciplinary and performance records, training, and service dates.

- Probationary period
    - Employee must not be required to serve a probationary period if the employee has not had any discipline or unsatisfactory performance reviews in the past 36 months and the person has over 12 months of service.

- Employee benefits
    - Benefits accrual rate
        - "Years of service in the county probation department/state are to be given full credit for future sick leave and vacation accrual purposes."
            - Retain this provision
            - Adjust language so it is inclusive of PTO

    - Employee bank (vacation, sick, PTO)
        - Employee should start with a bank of up to 80 hours of vacation or PTO.

        - Current employer will transfer existing vacation/PTO up to 80 hours—not more than the employee currently has accrued—to the new employer.
        - Current employer will pay the new employer for the value of the hours transferred.
        - Any vacation/PTO above 80 hours will be paid out to the transferring employee according to their existing contracts/rules.
        - Any sick leave will be paid out to the transferring employee according to their existing contracts/rules.
        - If a transferring employee subsequently leaves the employ of the receiving employer, that employer will pay out any hours according to their existing contracts/rules.
    - Goals – ensure there is a minimum bank for employees, but cap financial responsibility for the sending and receiving employers.

  - Other aspects of the benefit packages must be established locally (e.g., health insurance, retirement).

- Additional labor-related provisions in the existing statutes (see statutory comparison chart)
  - Retain the provisions noting retention of layoff rights, etc., as applicable, but condense them into one provision that covers transfers in both directions.

- Require offer letters to be issued to employees no later than 30 days prior to transfer.

Advisory Board

- Require establishment of an advisory board prior to the transition
- Every agency is required to have an advisory board, so this is more likely to be an exercise in collapsing membership or ensuring that the membership of the existing board(s) reflects the applicable requirements in statute.

Comprehensive Plan

- Require submission of a provisional plan before transition, DOC approval within 30 days, an updated plan within six months, and subsequent return to the regular comprehensive-plan cycle.

Operational Guidelines

- Require the development of operational guidelines, and posting on DOC website, that address:

- How to conduct a transition study
- Ability of the existing delivery system to present information to the county board
- Transition tasks
    - Operational things like notifying clients, putting a pause on intrastate transfers, and working with the court on when to begin assigning PSIs and new cases to the new delivery system
    - Technical things like cleaning up old cases, setting up a data transfer, and conducting testing of the transfer before going live with it (recommended to have a committee working on the data piece)
    - Training
    - Etc.