

**RULES
OF
THE TENNESSEE DEPARTMENT OF CORRECTION
DIVISION OF COMMUNITY SERVICES**

**CHAPTER 0420-2-2
TENNESSEE COMMUNITY CORRECTIONS PROGRAM**

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0420-2-2-.01 PREFACE. Under the authority of Title 40, Chapter 36 of the Tennessee Code Annotated, the Commissioner of the Tennessee Department of Correction is responsible for the development of administrative regulations, standards and administrative policies in accordance with the requirements of the Administrative Procedures Act for the statewide implementation of the Tennessee Community Corrections Act.

Authority: T.C.A. Section 40-36-105. *Administrative History:* Original rule filed December 30, 1986; effective February 13, 1987.

0420-2-2-.02 PURPOSE. The Tennessee Community Corrections Act Regulations are developed to accomplish the following purposes:

- (1) Clarify and interpret the elements of the Tennessee Community Corrections Act of 1985 for state and local officials throughout the State of Tennessee.
- (2) Prescribe minimum standards for the establishment, administration, and evaluation of community corrections under the provisions of the Tennessee Community Corrections Act.
- (3) Provide quantifiable measurements which will form the basis of the Department's statewide evaluation of the Act and its grantees.
- (4) Serve as a foundation for Department of Correction's Administrative Policies, as well as local program operational policies and procedures.

Authority: T.C.A. Section 40-36-105. *Administrative History:* Original rule files December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.03 DEFINITIONS. For the purpose of this program, all definitions in Tennessee Code Annotated, Title 40, Chapter 36, Part 1 shall apply. In addition, the following definitions shall apply:

- (1) *Jurisdiction* - Jurisdiction means a judicial district.
- (2) *Grantee* - Grantee means any entity which contracts with the Tennessee Department of Correction for the receipt of Community Corrections Act funds.
- (3) *On-Site Visit* - Any visit by the Tennessee Department of Correction or office of the State Comptroller for the purpose of monitoring compliance with state standards.

(Rule 0420-2-2-.03, continued)

- (4) *Community Corrections Manager* - The position in a local community corrections program responsible for the daily administration of the program and primary contact with the Tennessee Department of Correction.
- (5) *Non-Custodial Community Corrections* - Non-custodial community corrections options do not involve housing of the offender in a jail, workhouse or community facility. Examples include, but are not limited to: community service supervision; victim restitution supervision and victim/offender mediation; alcohol/drug outpatient treatment; house arrest; and psychiatric counseling.
- (6) *Community Residential Treatment* - Community residential treatment options include, but are not limited to: emergency shelters, detoxification centers, community residential restitution centers for non-violent offenders and probation/parole violators, community residential treatment centers for special need offenders, and probation/parole violators, inpatient drug/alcohol treatment, and day reporting centers.
- (7) *Department* - Department means the Tennessee Department of Correction.

Authority: T.C.A. Sections 40-36-105, 40-36-202 and 40-36-302. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.04 APPLICATION. These rules apply to the Tennessee Department of Correction and every grantee, potential grantee, and subcontractor seeking or receiving funds under the Tennessee Community Corrections Act.

Authority: T.C.A. Section 40-36-301. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.05 POLICY. In accordance with T.C.A. Title 40, Section 36, it is the policy of the State of Tennessee to punish selected felony offenders and other special needs felony offenders in front-end community based alternatives to incarceration, thereby reserving secure confinement facilities for violent felony offenders and to provide state funding to local governments and qualified private agencies for the establishment of local sanctions and services for eligible offenders under this Act.

Authority: T.C.A. Section 40-36-103. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.06 GOALS. The Department and its grantees shall administer community corrections within the State of Tennessee which accomplishes the following goals:

- (1) That the felony offenders sentenced to community correction programs would have been incarcerated had the community corrections option not been available.
- (2) Establish a range of local sanctions and services available for the judge at sentencing beyond what is presently available in the jurisdiction.
- (3) Create a more informed and supportive local and statewide public constituency for community corrections within the State of Tennessee.
- (4) Require the offender to pay financial restitution to the victim(s) of crime, and/or perform community service work for the local government and community agencies as ordered by the court and assure that payment and service are being provided.

(Rule 0420-2-2-.06, continued)

- (5) Successfully terminate a minimum of 60% of community corrections offenders.
- (6) That the felony conviction rate for offenders who have successfully completed behavior contracts within community corrections does not exceed 10% one year after termination.
- (7) Operate cost efficient and effective programs.
- (8) Reduce admissions to incarceration from local communities to the greatest extent possible based on funded resources.

Authority: T.C.A. Section 40-36-104. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.07. ELIGIBILITY AND SENTENCING STANDARDS

- (1) Offender Eligibility Standards - In addition to the eligibility standards set forth in T.C.A. 40-36-106, probation violators, both technical and new felony convictions, who are on probation for an eligible offense and juvenile offenders who have been sentenced as adults for an eligible offense are eligible for consideration for community corrections placement.
- (2) Sentencing Standards - The time actually served in a community corrections program means the period of time between the placement of an offender in a community corrections program by a court and the date of any issuance of any *capias* or warrant for the offender for the violation of the terms of the court's order of sentence to community corrections, or until successful completion of the program per court order, expiration of sentence or discharge by the court.

Authority: T.C.A. Sections 40-36-105 and 40-36-106. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.08 LOCAL COMMUNITY CORRECTIONS ADVISORY BOARD/COMMITTEE.

- (1) Establishment of Community Corrections Advisory Board/Committee.
 - (a) Funding may be granted to a county upon the establishment of a local community corrections advisory board. Each community corrections advisory board shall serve the county(s) and be representative of all in its jurisdiction.
 - (b) When it is more cost-effective and feasible for one or more jurisdictions to join together, there may be one community corrections advisory board committee serving all the counties involved.
 - (c) A private agency is not required to establish a separate community corrections advisory committee. The agency's board of directors may serve as the advisory committee if it meets the membership requirements set forth in T.C.A. Section 40-36-201.
- (2) Duties of Community Corrections Advisory Board/Committee.
 - (a) Each community corrections advisory board/committee shall be responsible for:
 1. Performing the duties enumerated in T.C.A. Section 40-36-202.
 2. Adopting written by-laws.

(Rule 0420-2-2-.08, continued)

3. Adopting local program policies and procedures which conform to standards promulgated by the Department.
 4. Adopting a table of organization designating lines of authority.
 5. Reviewing potential bidders for offender services and making recommendations regarding sub-contracts which present no conflicts of interest with the community corrections advisory board/committee, county legislative body or community correction program staff.
 6. Developing a public education program and implementing public information activities at a minimum of once per quarter which inform and educate the general public regarding the need for diversion of non-violent offenders from confinement and the benefits of these programs to the local community.
 7. Conducting business in accordance with the Sunshine Act, T.C.A. Section 8-44-101 et seq.
 8. A community corrections advisory board/committee shall not be responsible for determining individual offender eligibility or termination.
- (3) Membership/Appointment of Board/Committee.
- (a) Each community corrections advisory board/committee shall demonstrate that its membership represents a reasonable cross-section of the local population, including minority and female representation.
 - (b) The by-laws of the community corrections advisory board/committee shall be written and presented to each incoming member.
 - (c) At a minimum, a multi-jurisdictional community corrections advisory board/committee shall include at least one of each type of representative required by T.C.A. Section 40-36-201. There shall be a representative from each of the judicial districts being served.
- (4) Training of Community Corrections Advisory Board.
- (a) The community corrections manager shall develop and conduct a local orientation program, approved by the Department of Correction, for each community corrections advisory board/committee and provide documentation of its orientation program.
 - (b) All community corrections advisory board/committees shall undergo in-service training as provided by the grantee and the Department to keep board members up-to-date in the field of community corrections. Each program shall document training by incorporating the training curriculum into the board minutes and by providing an attendance sheet.
- (5) Meetings of the Board and its Committees.
- (a) At a minimum, each community corrections advisory board/committee shall meet on a monthly basis during the first three months of a new program and on a quarterly basis thereafter.
 - (b) Minimally, each board shall elect a chairperson, vice-chairperson and secretary.

(Rule 0420-2-2-.08, continued)

- (c) The program manager shall document all meetings. Each committee should meet a minimum of once per year, except for the executive committee which shall meet a minimum of twice per year.
- (d) Each community corrections advisory board/committee should have the following committees:
 - 1. *Executive Committee* - Conducts transactions of the board which need to be acted upon immediately or discusses issues which may jeopardize the public image of the unit/department (i.e., emergency budget modifications, behavior of clients or staff which may detrimentally affect the department). A report shall be given to the full board at its next regularly scheduled meeting.
 - 2. *Finance Committee* - Reviews the proposed community corrections budget and makes a recommendation to the full board regarding its adoption.
 - 3. *Public Education Committee* - Develops, conducts and monitors a public education program for the unit which informs and educates the public about the need for diversion.
 - 4. *Program Committee* - Monitors the effectiveness of local community correctional services and makes recommendations to the full board regarding needed modification; along with the community corrections manager, reviews innovative community corrections programs in operation in the United States for potential replication; reviews and recommends potential subcontracts for services to the full boards; reviews proposed program policies and procedures and makes recommendations to the full board regarding their adoption.

Authority: T.C.A. Sections 40-36-201 and 40-36-202. *Administrative History:* Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.09 APPLICATION PROCESS AND PROCEDURES.

- (1) Sub Contracts.
 - (a) Qualified private agencies may contract with the grantee for the provision of specialized offender services. The grantee is encouraged to utilize existing local human services providers for the treatment of offender needs. Subcontracts with qualified private agencies for the treatment, guidance, training or other rehabilitative services to individuals and families shall be written and shall outline the following:
 - 1. Specifics of the services being purchased.
 - 2. Agreed-upon rate of payment for the services.
 - 3. Terms of the contract.
 - 4. Conditions for contract termination.
 - 5. Regular progress reports to ensure that the services agreed to are being provided.

(Rule 0420-2-2-.09, continued)

- (2) Community Corrections Application Development.
 - (a) Community corrections applications shall be developed in accordance with the Department's Administrative Policies and Procedures by each applicant seeking community corrections funds.
 - (b) County-Operated - Each community corrections advisory board shall be involved in the development of the local community corrections plan and submit it to the county legislative body for approval prior to submission to the Department.
 - (c) Private-Agency Operated - Each agency's board of directors shall be involved in the development of the community corrections plan and formally approve it prior to its submission to the Department.
- (3) Types of Programs Eligible for Funding - Community corrections funds shall only be used by the grantee for sanctions and services which are consistent with the goals and mandates of the Tennessee Community Corrections Act. Funds shall be used only to expand existing services, to develop new/innovative services within the locality and State of Tennessee, and to renovate, acquire and operate a community residential facility.
- (4) Restrictions on Act Funding.
 - (a) Community corrections funds shall not be utilized by the local unit of government or private agency to substitute for an already existing program funded by a local, state, or federal funding source.
 - (b) Construction, renovation, or operation of a county/municipal jail or state facility is not permitted with these funds.
 - (c) Salaries of state probation and parole officers shall not be funded by the Tennessee Community Corrections Act.
- (5) Application Process - Each applicant shall apply annually to the Department for community corrections funding through a process described in the Department's administrative policies and procedures.
- (6) Criteria for Allocation of Community Corrections Funds - The Department shall prescribe in its administrative policies and procedures the criteria to be used for evaluating applications and allocating community corrections funds.

Authority: T.C.A. Section 40-36-105. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.10 PROGRAM STANDARDS. The department shall develop minimum program standards that govern the operation of all community correction programs.

Authority: T.C.A. Sections 40-36-106 and 40-36-302. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.11 FINANCIAL STANDARDS.

- (1) Uniform Accounting System.
 - (a) Each grantee shall establish and maintain a uniform accounting system as prescribed by the State's Comptroller of the Treasury and the Department. Each grantee shall administer their financial affairs in accordance with generally accepted accounting practices.
 - (b) Recipients shall account separately for community corrections funds.
 - (c) Victim restitution funds shall be accounted for separately.
- (2) Auditing Requirements.
 - (a) Each grantee shall cooperate with the State's Comptroller of the Treasury and the Department in any or all audits of all books of accounts and financial records.
 - (b) An audit of all financial records and books of accounts shall be conducted annually and completed within nine months after the end of the grant year. Each grantee shall be audited by a licensed independent accountant selected by the Board and approved by the Comptroller. One copy of each audit shall be furnished to the board, the Department and Comptroller of the Treasury, and made available to the press.
 - (c) The Comptroller of the Treasury shall insure that audits are prepared in accordance with the generally accepted governmental auditing standards and determine if the audits meet minimum audit standards prescribed by the Comptroller. No audit may be accepted as meeting the requirements of this section until approved by the Comptroller.
- (3) Local Responsibility for Administration of Funds. The applicant shall designate one fiscal agent who is responsible for the administration of all community corrections funds. In multi-jurisdictional programs, one fiscal agent shall serve all counties involved.
- (4) Method of Payment.
 - (a) Community corrections funds shall be granted through a written formal contract on an annual basis in a form prescribed by the Commissioner and approved by the Comptroller.
 - (b) Each new grantee may receive up to 15% of its yearly grant at the beginning of the grant year and thereafter on a monthly reimbursement basis after the receipt and approval of a request for funds invoice, program monitoring report(s) and a financial monitoring report. The Department may readjust the monthly allocation of funds if a surplus exists within the grantee's budget.
- (5) Allocation of Funds. All funds, including interest earned and supervision fees, shall only be used for eligible offenders and services. Any funds not spent by the recipient shall be reported to the Department at the end of the fiscal year. These unspent funds, along with any supplemental funding provided by the Tennessee General Assembly, may be used at the discretion of the Commissioner for eligible offenders and services.
- (6) Financial Monitoring System.

(Rule 0420-2-2-.11, continued)

- (a) Each participant shall participate in the statewide financial monitoring system as set forth by the Commissioner in administrative policies and procedures. Each participant shall prepare and submit all reports required by the Department on a timely basis.
 - (b) Each fiscal agent shall establish and maintain a financial monitoring procedure which will provide the financial information required by the Department and the Comptroller of the Treasury.
 - (c) The fiscal agent and/or designee shall be responsible for approving all financial expenditures and for providing required financial reports to the grantee and the Department.
 - (d) The grantee shall maintain financial records for a minimum of three years.
- (7) Withdrawal.
- (a) Any participant can withdraw from participation in the program established by the Tennessee Community Corrections Act with written authorization of the county legislative body or board of directors after written notification is given to the Commissioner during the fourth quarter of the grant year. Recipients who request withdrawal shall be terminated on the last day of the grant year.

Authority: T.C.A. Sections 40-36-303, 40-36-304, and 40-36-305. *Administrative History:* Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.12 PERFORMANCE CRITERIA.

- (1) Conditions of Compliance.
 - (a) In order to remain eligible for continued grant funding through the Tennessee Community Corrections Act, the grant recipients shall:
 1. Demonstrate compliance with mandatory state rules, standards and administrative policies and procedures as evaluated annually by the department. Programs may receive a waiver from a specific standard (not rules) only with official written approval from the department. Such waivers shall be for a specific period of time not to exceed twelve months.
 2. Demonstrate compliance with the goals outlined in rule 0420-2-2-.06.
 3. Demonstrate that the per capita cost per community corrections client is less than the cost of state or local incarceration and is an effective and efficient use of such funds.
 4. Demonstrate achievement of the required functions of each community corrections advisory board/committee as outlined in rule 0420-2-2-.08.
 5. Demonstrate that the profiles of offenders served in community corrections resemble those who would have been incarcerated rather than placed on regular probation.
- (2) Statewide Evaluation and Monitoring.
 - (a) Each recipient shall participate in a statewide evaluation of the Tennessee Community Corrections Act, including the rules and standards covering community corrections.

(Rule 0420-2-2-.12, continued)

- (b) The Department shall establish and operate a statewide management information system to monitor the effectiveness of community corrections by participating counties and private agencies. Each program shall participate in the management information system as required by the department.
- (3) Conditions of Non-Compliance.
 - (a) A recipient shall be subject to withdrawal of community corrections funds by the Tennessee Department of Correction when it is in violation of one or more of the following:
 - 1. The Community Corrections Act, T.C.A. §40-36-101 et seq.
 - 2. The written formal grant agreement.
 - 3. Tennessee Department of Correction Rules.
 - 4. Administrative Policies and Procedures.
 - 5. Program Standards.
 - (b) If the Commissioner determines that there are reasonable grounds to believe that a grantee is not in compliance, the grantee shall:
 - 1. Receive written notice of non-compliance from the Commissioner.
 - 2. Within 30 days of receipt of written notice, prepare and submit an action plan to describe the actions to be taken by the grantee to correct deficiencies.
 - 3. After approval by the Commissioner, the grantee has 45 days to correct deficiencies.
 - 4. The Commissioner may suspend any part or all of the funding, if the deficiencies are not corrected within 45 days from the approval of the action plan, or if no satisfactory action plan is submitted within 30 days from receipt of written notice.
 - (c) Distribution of community corrections funds can be temporarily suspended until compliance is achieved or there may be termination of funds at the discretion of the Commissioner.

Authority: T.C.A. Sections 40-36-105, 40-36-303, 40-36-304 and 40-36-305. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Amendment filed March 8, 1993; effective June 29, 1993.

0420-2-2-.13 REPEALED.

Authority: T.C.A. Sections 40-36-105, 40-36-303, 40-36-304 and 40-36-305. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Repeal filed March 8, 1993; effective June 29, 1993.