

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 940

8-29 agency notified that we will need new Order Adopting

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-17-83
DATE FOR REVIEW 8-26
DATE DUE 8-31

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 8-31 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 9-9 Revisor approved 8.19.83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

? Order Adopting 8.12.83 Date incorrect citation to stat authority, should be 401.03 or .06

✓ Notice of Intent to Solicit Outside Opinion SR. 6.13.83.

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
6.30.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
7.11. At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

? Notice of Submission to the Attorney General
mistaken comment period

Modifications
SF-00006-02

STATE OF MINNESOTA

DEPARTMENT REVISOR OF STATUTES

Office Memorandum

TO : Mr. Jeffrey R. Martin
Department of Corrections

DATE: September 6, 1983

FROM : Robert P. Kittel
Senior Assistant Revisor

PHONE: 296-0218

SUBJECT: Rules Governing Implementation and Operation of Community Corrections Act

Enclosed are four copies of your rule with the modifications you requested.

Please submit the rules to the Attorney General for final approval.

If you have any questions or need further modifications, please call.

Robert P. Kittel

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Orville B. Pung, Commissioner

Attn: JAMES N. BRADFORD
Assistant Attorney General

DATE: 8/31/83

FROM : MARTHA J. CASSERLY MJC
Legal Assistant

PHONE: 296-4347

SUBJECT: In the Matter of the Proposed Adopting of Rules Governing Implementation and Operation of Community Corrections Act

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.
MJC/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Corrections

Adopted Rules Governing Implementation and Operation of Community Corrections Act

Rules as Adopted

11 MCAR S 2.001 Introduction.

A. Authority. Minnesota Statutes, section 401.03 provides that the commissioner of corrections promulgate rules for the implementation of Minnesota Statutes, sections 401.01 to ~~401.06~~ 401.16. The rules which follow are intended to meet that requirement.

B. Purpose. The purpose of these rules is to provide a framework within which services will be delivered and coordinated in the various areas of the state where the Community Corrections Act is operational.

C. Responsibility for planning. The Community Corrections Act places responsibility for correctional planning and implementation at the local level of government. These rules are intended to ensure that the various planning efforts are compatible with one another and with the basic requirements of the state's correctional system.

11 MCAR S 2.002 Definitions.

A. For the purposes of these rules:

1. "Commissioner" means the commissioner of corrections or his designee.

2. "Comprehensive plan" means the working document developed by the local corrections advisory board and approved by the county board or boards or joint board for the implementation and operation of community based correctional programs pursuant to Minnesota Statutes, section 401.01, subdivision 1.

3. "Community corrections system" means the organizational structure or network which exists or is proposed to exist within the county which will enable the local criminal

justice system and other elements of the community to utilize the correctional programs and services outlined in the comprehensive plan.

4. "Planning county" means one or more contiguous counties subject to the provisions of Minnesota Statutes, sections 401.02, subdivision 1 and 401.02, subdivision 2, which has established a local corrections advisory board for the purpose of developing a comprehensive plan.

5. "Participating county" means one or more contiguous counties subject to the provisions of Minnesota Statutes, section 401.01, subdivision 1 which has been designated by the commissioner to receive funds under Minnesota Statutes, sections 401.01 to 401.16 through the approval of the comprehensive plan.

6. "Unit of service" means each project, program, or activity outlined in the comprehensive plan including, but not limited to, probation/parole/supervised release services, court service activities, jail programs, evaluation services, training programs and residential programs.

7. "Act" means the Community Corrections Act.

11 MCAR S 2.003 Application for participation.

A. Application. Application for participation by a county or group of counties pursuant to Minnesota Statutes, section 401.02, subdivision 1 shall consist of a resolution of intent to participate under the provisions of the Community Corrections Act, provided subsidy funds are available.

B. Approval. Approval of the application by the commissioner shall designate the county as a planning county pursuant to Minnesota Statutes, section 401.02, subdivision 2 and shall establish that calendar year as the basis for determining the current level of spending referred to in Minnesota Statutes, section 401.12.

11 MCAR S 2.004 Development of comprehensive plan.

A. Technical assistance. The commissioner shall ensure that the local units of government are provided with technical assistance from the Minnesota Department of Corrections in the

development of a comprehensive plan.

B. Submittal of plan. The comprehensive plan must be submitted to the commissioner:

1. 30 days prior to initial participation under the provisions of the Community Corrections Act; and

2. 30 days prior to the beginning of each subsequent calendar year in a format designated by the commissioner.

C. Long format. At the time of initial participation under the provisions of the Community Corrections Act and every fourth year after that the comprehensive plan must be in a long format. ~~The long format plan must include the following elements:~~

~~1. mission statement;~~

~~2. administrative structure;~~

~~3. action plan;~~

~~4. service description;~~

~~5. agreement page;~~

~~6. budget on forms provided by commissioner; and~~

~~7. assurance of rules, policies, and procedures.~~

D. Short format. For each year not requiring the long format, the comprehensive plan must be in a short format ~~and include the following elements:~~

~~1. administration;~~

~~2. program changes;~~

~~3. action plan;~~

~~4. agreement page; and~~

~~5. budget on forms provided by commissioner.~~

E. ~~Alteration of format. The comprehensive plan format is subject to being altered at the discretion of the commissioner following consultation with the participating counties~~ Format forms. Both short and long forms shall be provided by the commissioner.

11 MCAR S 2.005 Changes in comprehensive plan and budget.

When participating counties wish to change the comprehensive plan during the calendar year, it shall be done by amendment, reallocation, or transfer.

1. Amendments will be required when new units of service are added to or existing units are deleted from a comprehensive plan during a calendar year. Amendments will be processed in the same manner, and will require the same approvals as the comprehensive plan submitted for each calendar year.

2. Reallocation will be required when a community corrections system shifts funds between identified units of service, and the funds exceed ten percent of the approved budget for either unit of service, and also exceed $5,000. The ten percent will apply to individual reallocations and to cumulative shifts during a calendar year. Reallocation will require the advance approval of the administrator of the community corrections system, the corrections advisory board, and the commissioner.

3. Transfer of funds not constituting reallocation as specified in 2., require the advance approval of the administrator of the community corrections system, and are to be reported to the commissioner at the end of the calendar quarter on forms provided by the commissioner.

11 MCAR S 2.006 Information systems and evaluation.

A. Information system. Each community corrections system must develop and implement an information system which is in compliance with applicable security and privacy regulations; and must annually provide data requested by the commissioner.

B. Evaluation and research designs. Each community corrections system shall develop and implement evaluation/research designs.

11 MCAR S 2.007 Training/Education.

A. Training. Each county or group of counties participating in the act shall implement training programs necessary to meet the needs of line staff, administrative staff, the local corrections advisory board, major components of the local criminal justice system, and the community at large.

B. Subsidy. A sum no less than the equivalent of two percent of the total subsidy shall be used to develop and

implement training and educational programs.

11 MCAR S 2.008 Fiscal management.

A community corrections system shall designate one person for the supervision of all fiscal matters related to the subsidy received under the provisions of Minnesota Statutes, sections 401.01 to 401.16. This person shall comply with state and county rules governing the management of county funds and shall provide information to the corrections advisory board and the commissioner at least quarterly on forms provided by the commissioner.

11 MCAR S 2.009 County assumption of state probation and parole/supervised release cases.

A. Service. Each county participating under the act shall provide service to all interstate and intrastate probation and parole/supervised release clients.

B. Training. The commissioner shall provide necessary orientation training for counties to assume probation and parole/supervised release services previously provided by the state.

C. Forms. The commissioner shall provide forms for a county's compliance with B.

11 MCAR S 2.010 Use of existing community resources.

A. Local resources. Each community corrections system shall utilize agencies and organizations established in the community to deliver medical and mental health care, education, counseling and rehabilitative services, employment services and other similar social services. The local community corrections system shall, in planning its total range of correctional programs and projects, establish a presumption in favor of resources already existing in the community.

B. Duplication of services. If the community corrections system intends to initiate services or programs which duplicate those already existing in the community, clear evidence must be presented in the comprehensive plan to demonstrate that existing services are either inappropriate or unavailalbe to meet

identified correctional needs.

C. Access to services. Each community corrections system shall take steps to ensure that all clients of programs or projects under its jurisdiction have access to the same services, activities, and opportunities available to citizens generally, provided that this access is consistent with the demonstrated needs of the program or project and the necessity to protect the public safety.

11 MCAR S 2.011 Program relevance to correctional objectives.

Each program specified in the comprehensive plan or designated to receive Community Corrections Act funds shall have a clear relationship to correctional objectives. Programs for which no such relationship can be demonstrated will not be eligible for Community Corrections Act funds.

11 MCAR S 2.012 Local programs and services.

A. Program requirements. Each community corrections system shall take such action as necessary to assure that programs utilized by the system are in compliance with 1.-4. and will provide written assurance of the existence of these four points and their availability to the commissioner upon request.

1. All programs, other than conventional probation and parole/supervised release supervision, shall develop and make available to referral sources, written client eligibility criteria. The community corrections system shall regularly advise courts and sentencing judges of the extent and availability of services and programs within its system to permit proper sentencing decisions and realistic evaluation of alternatives.

2. A single case record for each individual admitted to a program or served by an agency shall be maintained by the agency or program director to contain clear, concise, and accurate case information. Individual case records shall be maintained on a current basis and updated at least quarterly. Each client shall have access to all material in his or her file, with the exception of that information classified confidential by law.

3. The rights of offenders receiving service from any program included in the comprehensive plan must be protected.

4. All programs included in the comprehensive plan must be in compliance with applicable provisions of these rules and local, state, and federal laws.

B. Written assurance. The above mentioned written assurance of rules, policies, and procedures shall be included in the first comprehensive plan submitted to the commissioner.

APPROVED AS TO FORM AND LEGALITY

August 31 1983

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Matthew Casserly
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 9 1983
Joan Anderson Growe
Secretary of State

9:15 AM

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Rules Governing Implementation and Operation of Community Correction Act

Order Adopting Rules

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on July 11, 1983 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes Section 15.0412, Subdivision 4 on June 30, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice and receiving no written requests for a public hearing within a 30 day comment period;

Now, therefore, it is ordered that the rules identified as Rules Governing Implementation and Operation of Community Corrections Act are adopted the 12th day of August, 1983 pursuant to the authority vested by Minnesota Statutes section 401.06.

STATE OF MINNESOTA

Orville B. Pung
COMMISSIONER OF CORRECTIONS

DEPARTMENT OF CORRECTIONS

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Implementation and Operation of Community Corrections Act.

Notice is hereby given that the Department of Corrections is seeking information or opinions from sources outside the agency in preparing to promulgate amended rules governing implementation and operation of the Community Corrections Act. The promulgation of these rules is authorized by Minnesota statutes, section 401.03, which requires the Commissioner of Corrections to promulgate rules for the implementation of Minnesota Statutes, Section 401.01 to 401.06.

The Minnesota Department of Corrections requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

Jeff Martin
430 Metro Square Building
7th & Robert Streets
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-1891 and in person at the above address.

All statements of information and comment shall be accepted until July 25, 1983. Any written material received by the Department of Corrections shall become part of the record in the event that the rules are promulgated.

State of Minnesota

DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules Governing Implementation and Operation of Community Corrections Act

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING.

It is ORDERED this 27th day of June, 1983 that a Notice of Intent to Adopt Rules Without Public Hearing in the above entitled matter be given to all persons who have registered their name with the Minnesota Department of Corrections for that purpose and be published in the State Register.

State of Minnesota

Orville B. Pung
Commissioner of Corrections

State of Minnesota
DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules Governing Implementation and Operation of Community Corrections Act.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING.

Notice is hereby given that the Department of Corrections proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, Subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, Subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Jeff Martin, Minnesota Department of Corrections, 430 Metro Square Bldg., 7th and Robert Streets, St. Paul, Minnesota 55101.

Authority for the adoption of these rules is contained in Minnesota Statutes section 401.03. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the

proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Jeff Martin, 430 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101 upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Jeff Martin, 430 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

A copy of the proposed rules are attached to this notice.

The rules proposed for adoption amend existing rules.

Additional copies of this Notice and the proposed rules are available and may be obtained by contacting Jeff Martin, 430 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

State of Minnesota

Orville B. Pung
Commissioner of Corrections

State of Minnesota

DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules Governing Implementation and Operation of Community Corrections Act

AFFIDAVIT OF MAILING

State of Minnesota)
) SS.
County of Ramsey)

Ruth Ann Kraemer, being first duly sworn, deposes and says:

That on the 30th day of June, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Corrections for the purpose of receiving notice of the proposed adoption of rules by this agency.

Ruth A. Kraemer

Subscribed and sworn to before me this 30 day of June, 1983

Joseph A. Sauro

JOSEPH A. SAURO
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Dec. 11, 1987

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF CORRECTIONS GOVERNING IMPLEMENTATION AND OPERATION OF THE COMMUNITY CORRECTIONS ACT.

CERTIFICATE OF MAILING

I hereby certify that the mailing list used for the above-titled matter constituted the accurate and complete list of persons, associations and other interested groups who, as of 9:00 a.m. this 28th day of June, 1983, have requested, pursuant to Minn. Stat. §15.0412, subd. 4, that their names be placed on file with the Minnesota Department of Corrections for the purpose of receiving notice of the proposed adopted rules by the Department of Corrections.

Ruth A Kraemer

Date: 6/28/83

STATE REGISTER

STATE OF MINNESOTA



VOLUME 8, NUMBER 2

July 11, 1983

Pages 53-72

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 8		
3	Friday July 1	Monday July 11	Monday July 18
4	Monday July 11	Monday July 18	Monday July 25
5	Monday July 18	Monday July 25	Monday Aug 1
6	Monday July 25	Monday Aug 1	Monday Aug 8

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Rudy Perpich
Governor

Sandra J. Hale
Commissioner
Department of Administration

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Carol Anderson Porter
Editor

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
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PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Corrections

Proposed Rules Governing Implementation and Operation of Community Corrections Act

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Corrections proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

6/83

Unless seven or more persons submit requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Jeff Martin
Minnesota Department of Corrections
430 Metro Square Bldg.
7th and Robert Streets
St. Paul, Minnesota 55101.

Authority for the adoption of these rules is contained in Minnesota Statutes section 401.03. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Jeff Martin, 430 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101 upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Jeff Martin, 430 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A copy of the proposed rules are attached to this notice.

The rules proposed for adoption amend existing rules.

Additional copies of this notice and the proposed rules are available and may be obtained by contacting Jeff Martin, 430 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

Orville B. Pung
Commissioner of Corrections

Rules as Proposed

11 MCAR § 2.001 Introduction.

A. ~~The Community Corrections Act of 1973 (Minnesota Statutes Sections 401.01 to 401.16)~~ Authority. Minnesota Statutes, section 401.03 provides that the commissioner of corrections promulgate rules ~~and standards relative to the implementation and operation of the Act~~ for the implementation of Minnesota Statutes, sections 401.01 to 401.06. The rules which follow are intended to ~~fulfil~~ meet that requirement.

B. Purpose. The purpose of these rules is ~~to facilitate the implementation of the Act and~~ to provide a framework within which services will be delivered and coordinated in the various areas of the state where the Community Corrections Act ~~becomes~~ is operational.

C. Responsibility for planning. The Community Corrections Act places ~~a great deal of~~ responsibility for correctional planning and implementation at the local level of government. These rules are ~~not~~ intended to ~~interfere with that process but rather to~~ ensure that the various planning efforts are compatible with one another and with the basic requirements ~~of all segments~~ of the state's correctional system.

11 MCAR § 2.002 Definitions.

A. For the purposes of these rules:

1. ~~The~~ "Commissioner" ~~shall mean~~ means the commissioner of corrections or his designee.

2. ~~The~~ "Comprehensive plan" ~~shall mean~~ means the working document developed by the local corrections advisory board and approved by the county board or boards or joint board for the implementation and operation of community based correctional programs pursuant to Minnesota Statutes, section 401.01, ~~subd.~~ subdivision 1 ~~and providing for the central administration of the services and programs outlined in the document.~~

3. ~~The~~ "Community corrections system" ~~shall mean~~ means the organizational structure or network which exists or is proposed to exist within the county which will enable the local criminal justice system and other elements of the community to utilize the correctional programs and services outlined in the comprehensive plan.

4. "Planning county" ~~shall mean~~ means one or more contiguous counties subject to the provisions of Minnesota Statutes, sections 401.02, ~~subd.~~ subdivision 1 and 401.02, ~~subd.~~ subdivision 2, which has established a local corrections advisory board for the purpose of developing a comprehensive plan.

5. ~~A~~ "Participating county" ~~shall mean~~ means one or more contiguous counties subject to the provisions of Minnesota Statutes, section 401.01, ~~subd.~~ subdivision 1 which has been designated by the commissioner to receive funds under Minnesota Statutes, sections 401.01 to 401.16 through the approval of the comprehensive plan.

6. ~~A~~ "Unit of service" ~~shall mean~~ means each project, program, or activity outlined in the comprehensive plan including, but not limited to, probation/parole/supervised release services, court service activities, jail programs, evaluation services, training programs and residential programs.

7. "Act" means the Community Corrections Act.

11 MCAR § 2.003 Application for participation.

A. Application. Application for participation by a county or group of counties pursuant to Minnesota Statutes, section 401.02, ~~subd.~~ subdivision 1 shall consist of a resolution ~~expressing~~ of intent to participate under the provisions of the Community Corrections Act, ~~(hereafter called the Act)~~ provided subsidy funds are available.

B. Approval. Approval of the application by the commissioner shall designate the county as a planning county pursuant to Minnesota Statutes, section 401.02, ~~subd.~~ subdivision 2 and shall establish that calendar year as the basis for determining the current level of spending referred to in Minnesota Statutes, section 401.12.

11 MCAR § 2.004 Development of a comprehensive plan.

A. Technical assistance. The commissioner shall ensure that the local ~~corrections advisory board and administrative~~

~~(correctional) staff of the county~~ units of government are provided with ~~all necessary and available~~ technical assistance ~~and resources of~~ from the ~~State~~ Minnesota Department of Corrections in the development of a comprehensive plan.

B. Submittal of plan. The comprehensive plan must be submitted to the commissioner:

1. 30 days prior to initial participation under the provisions of the Community Corrections Act; and

2. 30 days prior to the beginning of each subsequent calendar year in a format designated by the commissioner.

C. Long format. At the time of initial participation under the provisions of the Community Corrections Act and every fourth year after that the comprehensive plan must be in a long format. The long format plan must include the following elements:

1. mission statement;

2. administrative structure;

3. action plan;

4. service description;

5. agreement page;

6. budget on forms provided by commissioner; and

7. assurance of rules, policies, and procedures.

D. Short format. For each year not requiring the long format, the comprehensive plan must be in a short format and include the following elements:

1. administration;

2. program changes;

3. action plan;

4. agreement page; and

5. budget on forms provided by commissioner.

E. Alteration of format. The comprehensive plan format is subject to being altered at the discretion of the commissioner following consultation with the participating counties.

11 MCAR § 2.005 Changes in the comprehensive plan and budget.

~~A.~~ When ~~a county wishes~~ participating counties wish to change the comprehensive plan during the calendar year, it ~~may do so~~ shall be done by ~~either~~ amendment, reallocation, or transfer.

1. ~~Amendments. Amendments shall be required when:~~

~~a. Units of service are being added or deleted from a Comprehensive Plan.~~

~~b. Subsidy funds which exceed $5,000 or 5% of the total annual subsidy, whichever is less, are being reallocated within or between units of service identified in the comprehensive plan.~~

~~c. Amendments to the comprehensive plan shall be processed and submitted in the same manner as the comprehensive plan, and shall be submitted at the end of any calendar quarter on forms provided by the Commissioner.~~

~~2. Transfers. Any reallocation of subsidy funds within or between units of service identified in the comprehensive plan, which will not exceed $5,000 or 5% of the total annual subsidy, whichever is less, shall be accomplished by transfer on forms provided by the Commissioner. The transfer process requires only the approval of the administrator or director of the local community corrections system. All transfers of subsidy funds must be attached to the quarterly financial report for the period in which the transfer was made~~ Amendments will be required when new units of service are added to or existing units are

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deleted from a comprehensive plan during a calendar year. Amendments will be processed in the same manner, and will require the same approvals as the comprehensive plan submitted for each calendar year.

2. Reallocation will be required when a community corrections system shifts funds between identified units of service, and the funds exceed ten percent of the approved budget for either unit of service, and also exceed $5,000. The ten percent will apply to individual reallocations and to cumulative shifts during a calendar year. Reallocation will require the advance approval of the administrator of the community corrections system, the corrections advisory board, and the commissioner.

3. Transfer of funds not constituting reallocation as specified in 2., require the advance approval of the administrator of the community corrections system, and are to be reported to the commissioner at the end of the calendar quarter on forms provided by the commissioner.

11 MCAR § 2.006 Information systems and evaluation.

A. Information system. Each community corrections system ~~shall~~ must develop and implement an information system which ~~shall be~~ is in compliance with applicable security and privacy regulations; ~~shall be an offender based tracking system, including minimum data elements required for State and National reporting;~~ and ~~shall~~ must~~, on a quarterly basis,~~ annually provide ~~such~~ data ~~as may reasonably be~~ requested by the ~~Department of Corrections~~ commissioner.

B. Evaluation and research designs. Each community corrections system shall develop and implement evaluation/research designs ~~and processes. All Research and information Systems designs must be approved by the Commissioner prior to implementation.~~

~~C. A sum of no less than the equivalent of 5% of the total subsidy amount made available according to the provision of the Act shall be used to develop and implement the Information System and Evaluation/Research.~~

11 MCAR § 2.007 Training/Education.

A. Training. Each county or group of counties participating in the act shall implement ~~training/education~~ training programs necessary to meet the ~~appropriate~~ needs of line staff, administrative staff, the local corrections advisory board ~~or~~, major components of the local criminal justice system, and the community at large.

B. Subsidy. A sum no less than the equivalent of ~~5%~~ two percent of the total subsidy ~~amount made available through the provisions of the Act~~ shall be used to develop and implement ~~this component of the comprehensive plan~~ training and educational programs.

11 MCAR § 2.008 Fiscal management.

A ~~county~~ community corrections system shall designate one ~~(1)~~ person ~~responsible~~ for the supervision of all fiscal matters related to the subsidy received under the provisions of Minnesota Statutes, sections 401.01 to 401.16. ~~Said~~ This person shall comply with state and county rules governing the management of county funds and shall provide information to the corrections advisory board and the commissioner at least quarterly on forms provided by the commissioner.

11 MCAR § 2.009 County assumption of state probation and parole /supervised release cases.

A. Service. Each county participating under the act shall provide service to all interstate and intrastate probation and parole/supervised release clients.

B. Training. The commissioner ~~will~~ shall provide necessary orientation training for counties to assume probation and parole /supervised release services previously provided by the state.

C. Forms. The commissioner shall provide forms for a county's compliance with B.

11 MCAR § 2.010 Use of existing community resources.

A. Local resources. Each community corrections system shall utilize ~~whenever possible~~ agencies and organizations established in the community to deliver medical and mental health care, education, counseling and rehabilitative services, employment services and other similar social services. The local community corrections system shall, in planning its total range of correctional programs and projects, establish a presumption in favor of resources already existing in the community.

B. Duplication of services. If the community corrections system intends to initiate services or programs which duplicate those already existing in the community, clear evidence must be presented in the comprehensive plan to demonstrate that ~~such~~ existing services are either inappropriate or unavailable to meet identified correctional needs.

C. Access to services. Each community corrections system shall take steps to ensure that all clients of programs or projects under its jurisdiction have access to the same services, activities, and opportunities available to citizens generally, provided that this access is consistent with the demonstrated needs of the program or project and the necessity to protect the public safety.

11 MCAR § 2.011 Program relevance to correctional objectives.

~~A.~~ Each program specified in the comprehensive plan or designated to receive Community Corrections Act funds shall have a clear relationship to correctional objectives. Programs for which no ~~direct~~ such relationship can be demonstrated ~~between its activities and the protection of public safety or the prevention or reduction of criminal or delinquent behavior shall~~ will not be eligible for ~~funds under the~~ Community Corrections Act funds.

11 MCAR § 2.012 Local programs and services.

A. Program requirements. Each community corrections system shall ~~develop and make available to the directors of all programs utilized by the system, written rules, policies and procedures which will provide for at least the following:~~ take such action as necessary to assure that programs utilized by the system are in compliance with 1.-4. and will provide written assurance of the existence of these four points and their availability to the commissioner upon request.

1. ~~Intake Criteria. That~~ All programs, ~~(~~other than conventional probation and parole/supervised release supervision~~)~~, shall develop and make available to ~~appropriate~~ referral sources, ~~a~~ written ~~policy establishing~~ client eligibility criteria. The community corrections system shall regularly advise courts and sentencing judges of the extent and availability of services and programs within its system to permit proper sentencing decisions and realistic evaluation of alternatives.

2. ~~Client case reporting. That~~ A single case record for each individual admitted to a program or served by an agency shall be maintained by the agency or program director ~~so as~~ to contain clear, concise, and accurate case information. Individual case records shall be maintained on a current basis and updated at least quarterly. Each client shall have access to all material in ~~his/her~~ his or her file, with the exception of that information ~~determined to be~~ classified confidential by law.

3. ~~Rights of offenders. That~~ The rights of offenders ~~placed in, or~~ receiving service from~~,~~ any program included in the comprehensive plan ~~shall~~ must be ~~adequately~~ protected.

4. ~~Compliance with rules. That~~ All programs included in the comprehensive plan ~~are~~ must be in compliance with ~~the~~ applicable provisions of these rules ~~as well as relevant~~ and local, state, and federal laws.

B. Written assurance. The above mentioned written assurance of rules, policies, and procedures shall be included in the first comprehensive plan submitted to the commissioner ~~following the formal promulgation of these present rules. Modifications shall be noted in subsequent comprehensive plans.~~

SUPREME COURT

Decisions Filed Friday, July 1, 1983

Compiled by Wayne Tschimperle, Clerk

C7-82-761 Ricky Hegna, petitioner, Appellant, v. State of Minnesota. Mower County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

C3-82-1339 Richard Dale Sherer, petitioner, Appellant, v. State of Minnesota. Ramsey County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

C2-83-80 State of Minnesota, Plaintiff, v. Darold John Gross, Defendant. Crow Wing County.

Trial court did not err in denying motion to suppress evidence of result of breath test in prosecution of defendant for aggravated DWI, nor did court err in concluding that aggravated DWI statute is not an impermissible *ex post facto* law.

Remanded for trial. Amdahl, C. J.

C2-83-290 Dwight Louis Shaw, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court acted properly in summarily denying petition for resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

C6-81-1289, C3-82-529 Barr/Nelson, Inc. v. Tonto's, Inc., *et al.*, Richard Larsen, *et al.*, and Tonto's, Inc., *et al.*, third party plaintiffs, v. Balboa Insurance Company, *et al.*, third party defendants, Appellants, and Barr/Nelson, Inc., third party plaintiff, v. Hollenback and Nelson, Inc., third party defendant, Key Plumbing and Heating, third party defendant, Volk Trucking and Excavation, Inc., third party defendant, Ko-Son Piping Company, Inc., third party defendant, Bituminous Roadways, Inc., third party defendant. Hennepin County.

Pierringer-type settlement agreements are a proper means to resolve construction contract disputes.

Under the approved settlement agreement as presented, unaddressed claims remained against the non-settling surety.

The trial court did not err in refusing instructions whose substance is adequately contained in the general charge. The court's instructions on fraudulent misrepresentation accurately reflected Minnesota law.

Trial court did not err in refusing to find acts of the surety fraudulent as a matter of law. It is a question of fact whether a defendant has misrepresented material facts and whether the misrepresentations proximately caused plaintiff's injury.

Unless willful and malicious conduct by a surety constitutes an independent tort, Minnesota law does not permit recovery of punitive damages.

General damages are recoverable from a surety for breach of the obligation of good faith only if they are the kind of damages which normally flow from a breach of contract.

Where all of the contracting parties signed a settlement agreement releasing their claims under the contract, the owner, who hired a contractor to construct a fast-food restaurant, cannot recover general damages from a surety who guarantees the contractor's performance, if damages are solely those which flow from a breach of contract.

Minn. Stat. § 549.21 (1982), codifies an exception to the general rule that attorney's fees are not awarded absent an authorizing contract or statute. The exception provides that, where a party or attorney acted in bad faith as to an issue in litigation, attorney fees may be rewarded.

Affirmed in part, reversed in part. Todd, J.

CX-82-1645, C3-83-198 Milo E. Heddan, *et al.*, Appellants, v. CX-82-1645 Kenneth K. Dirkswager, *et al.*, and Milo E. Heddan, Appellant, v. C3-83-198 John Sposic, Commissioner of Public Safety. Ramsey County and Hennepin County.

The prehearing license revocation provisions of Minn. Stat. § 169.123 (1982) do not violate due process of law as guaranteed by the United States and Minnesota Constitutions.

Minn. Stat. § 169.123 (1982) does not compel persons to incriminate themselves in violation of their Fifth Amendment privilege against self-incrimination.

Affirmed. Scott, J. Conc. specially, Yetka, J., and Wahl, J.

C1-82-755 State of Minnesota v. Michael Joseph Filippi, Appellant. St. Louis County.

Defendant was properly held criminally liable for assaults committed by accomplice to crime of burglary, where the assaults were committed in furtherance of the burglary and were reasonably foreseeable as a probable consequence of the commission of the burglary.

Trial court did not err in admitting other-crime evidence.

Trial court, in sentencing defendant, correctly assumed that its options were to sentence defendant to two 54-month concurrent terms or an aggregate term of 108 months.

Affirmed. Simonett, J.

C5-82-774 State of Minnesota v. Alvin Duke, Appellant. Hennepin County.

Defendant received a fair trial, and state met its burden of proving that defendant intentionally and unjustifiably killed the victim.

Affirmed. Coyne, J.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration

Notice of State Surplus Property Sale

In compliance with Minn. Stat. § 94.09, *et seq*, the Commissioner of Administration offers for sale by sealed bids two parcels of real estate comprising the former fisheries headquarters in Grand Rapids, Minnesota. Tract "A" consists of a 2.75 acre site with 400 feet of frontage on Old Golf Course Road and is improved with a two story office building (44 × 80), a two story house converted to office use, and miscellaneous garages and shed. Appraised value and minimum bid is $183,775. Tract "B" consists of approximately 19 acres of unimproved land with approximately 1030 feet of frontage along 3rd Avenue S.W. Appraised value and minimum bid is $69,984.

The property will be made available for inspection by appointment only. Arrangements for showing may be made by contacting:

John Chell, Regional Admin.
1201 East Highway 2
Grand Rapids, MN 55744
Tele. (218) 327-1702

The bids will be opened and read aloud publicly at Room G-22 Administration Bldg., 50 Sherburne Avenue, St.Paul, MN on July 26, 1983 at 2:30 p.m.

Bidders shall be required to submit a cashier's check with their bids in an amount not less than 10% of the bid. The checks of unsuccessful bidders will be returned. The successful bidder will have the choice of making payment of the balance remaining after the down payment by one of the following two methods:

1. Payment in full of the balance no later than October 24, 1983, or

2. Payment of the remaining balance in lot less than equal annual installments for not to exceed 5 years, with principal and interest payable annually in advance at the rate of 8% per annum on the unpaid balance, by certified check or cashier's check payable to the State Treasurer on or before June 1 of each year.

For details and bid forms contact:

Real Estate Management Division
Department of Administration, G-22
50 Sherburne Avenue
St. Paul, Minnesota 55155
Tel: (612) 296-6674

Department of Agriculture
Plant Industry Division

Notice of Meeting

A Meeting of the Seed Potato Certification Task Force will be held at 9:00 a.m., July 22, 1983 at the Border View Lodge, Baudette, Minnesota.

Department of Agriculture
Dairy Industries Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Temporary Rules Governing the Administration of Investment Reimbursement Grants for Manufactured Milk Producers

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to promulgate new temporary rules governing the administration of investment reimbursement grants for manufactured milk producers. The promulgation of these rules is authorized by Laws 1983, chapter 232, section 1. The rules must provide reimbursement application and payment procedures, and eligibility criteria based on an applicant's need for a reimbursement. Reimbursements will not be made unless the applicant provides receipts for the expenditures, an inspector of the Department verifies that the expenditures resulted in standards being met, and the expenditures were made between June 2, 1983 and July 1, 1983.

The department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements of information and comment should be addressed to:

Gerald Heil
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-1486, and in person at the above address.

All statements of information and comment must be received by July 25, 1983. Any written material received by the Department shall become part of the record submitted to the Attorney General.

July 1, 1983

Jim Nichols
Commissioner of Agriculture

Department of Agriculture
Planning Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Temporary Rules Governing the Administration of Grants and Contracts for Agricultural Commodity Promotion Activities

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to promulgate new temporary rules governing the administration of grants and contracts for agricultural commodity promotional activities. The promulgation of these rules is authorized by Laws 1983, chapter 293, section 29. At a minimum, the rules must specify eligibility criteria for the grants, application procedures, provisions for reviewing applications and approving projects, and provisions for monitoring and reviewing all approved grants and contracts. The rules may also include other provisions the commissioner finds necessary, including uniform methods of accounting to be used by grant recipients. Grants may be awarded for the purposes of advertising Minnesota agricultural products, assisting state agricultural commodity organizations, developing methods to process and market agricultural commodities, investigating new market technology, evaluating livestock marketing opportunities, developing markets for Minnesota agricultural commodities, studying the conversion of raw agricultural products into manufactured products and assisting agricultural businesses desiring to sell their products in national and international markets.

The department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements of information and comment should be addressed to:

Gerald Heil
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-1486, and in person at the above address.

All statements of information and comment must be received by July 25, 1983. Any written material received by the department shall become part of the record submitted to the Attorney General.

July 1, 1983

Jim Nichols
Commissioner of Agriculture

Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Insurance Agents' Practices

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing insurance agents' practices. Promulgation of these rules is authorized by Minnesota Statutes, section 60A.17, subd. 15.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Dale McDonnell, Department of Commerce, 500 Metro Square Building, St. Paul, MN, 55101, (612) 297-3301.

All statements of information and comment shall be accepted until September 1, 1983. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Thomas L. O'Malley
Assistant Commissioner

Department of Commerce Insurance Division

Meeting Notice

Minnesota Comprehensive Health Association
Board of Directors
Annual Meeting
Tuesday, September 13, 1983, at 9:00 A.M.
Federated of Owatonna
Owatonna, MN

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the office of the Insurance Division, and may be obtained by telephone from the Life and Health Section, telephone (612) 296-2202.

Department of Commerce Banking Division

Bulletin No. 2790 Regarding Maximum Lawful Rate of Interest for Mortgage and Contracts for Deed for the Month of July 1983

Notice is hereby given that pursuant to Section 47.20, Subd. 4a, Minnesota Statutes 1982, as amended by Chapter 288, 1983 Session Laws, the maximum lawful rate of interest for conventional home mortgages for the month of July 1983 is fourteen (14.00) percentage points. Further, the maximum lawful rate of interest for contracts for deed for the month of July 1983 is fourteen (14.00) percentage points.

It is important to note that this maximum lawful interest rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

This is based on the Federal Home Loan Mortgage Corporation (FHLMC) June 14, 1983, auction results and a weighted average yield for 8 month conventional mortgage commitments of 13.401%. This result plus three-eights (3/8) percent totals 13.776% and is rounded off to the next highest one-quarter of one percent per annum. Current rates regarding the monthly publication are available by telephoning the Banking Division's 24-hour information number (612) 297-2751.

June 27, 1983

John D. Chisholm
Commissioner of Banks

Metropolitan Commissions

Public Hearing

The Metropolitan Council will hold three public hearings in July to hear presentations by applicants for positions on the policy boards of the Metropolitan Waste Control Commission, Metropolitan Transit Commission and Metropolitan Parks and Open Space Commission. Members of the public can also make statements about the candidates for the positions.

— Monday, July 18, Hennepin County Government Center Auditorium, 300 S. 6th St., Minneapolis

— Wednesday, July 20, Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Sts., St. Paul

— Thursday, July 21, Plymouth City Hall, 3400 Plymouth Blvd., Plymouth

All hearings are at 7 p.m.

The Metropolitan Council is tentatively scheduled to appoint the members of the commissions at the July 28 Council meetings. Persons are encouraged to register in advance to speak by contacting Rosemarie Johnson at 291-6461.

Gerald J. Isaacs, Chairman

Department of Economic Security

Notice of a Public Meeting to Discuss Draft Rules Pertaining to the Minnesota Emergency Employment Development (MEED) Act

Notice is hereby given that a public meeting will be held in room 123 of the State Capitol at 1:00 p.m. on Thursday, July 14, 1983 to discuss Draft Rules on the Minnesota Emergency Employment Development Act. Authority to adopt these rules is provided by Minnesota Laws of 1983, chapter 312, section 3, subdivision 6.

Any interested person is invited to attend this public meeting and to provide comments about the draft rules at that time.

Copies of draft rules may be obtained by calling (612) 296-1194. Persons interested in making written comments prior to the public meeting may mail them to:

Mr. Donald M. Buckner
Minnesota Dept. of Economic Security
390 North Robert Street
St. Paul, MN 55101

After considering all written and oral comments, the department will issue a final rule which will be effective immediately upon the order of the commissioner.

Minnesota Pollution Control Agency Water Quality Division

Notice of MPCA Board Action on Metropolitan Council 208 Plan (Part 1) and Recommendation for Certification by the Governor

The Twin Cities Metropolitan Council has submitted its "Water Resources Management Development Guide" (Part 1 208) on sewage treatment and handling for the Seven County Metropolitan area to the Minnesota Pollution Control Agency (MPCA). In accordance with federal requirements the MPCA has 120 days to review and approve the Metropolitan Council's Plan. The MPCA will review the Council's 208 Plan at the July 26, 1983 Board meeting. After approval of the Plan by the MPCA Board and subsequent certification by the Governor the Plan will be forwarded to the U.S. Environmental Protection Agency.

Further notices will be made regarding MPCA Board action on the Plan and the Governor's certification.

Copies of the Metropolitan Council's 208 Part 1 Plan are on file at the MPCA (contact Dave Johnson (612) 296-7309) and the Metropolitan Council (John Harrington (612) 291-6359).

June 30, 1983

Sandra S. Gardebring
Executive Director

Minnesota Pollution Control Agency

Recommendaton by the Director Regarding the Intrinsic Suitability of a Proposed Solid Waste Disposal Site in Ramsey County

Notice of Continuance

You are hereby advised that the information gathering hearing concerning the intrinsic suitability of the proposed solid waste disposal site located in Section 19, T28N, R21W and Section 24, T28N, R22W, in Ramsey County scheduled for 7:00 p.m. July 12, 1983 at the Carver Elementary School has been continued indefinitely. When the hearing is rescheduled a new notice will be issued.

Questions concerning this hearing may be directed to Sandy Forrest, Solid and Hazardous Waste Division, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113, telephone: (612) 296-7273.

June 29, 1983

Sandra S. Gardebring, Director
Minnesota Pollution Control Agency

Department of Public Welfare
Support Services Bureau

Notice of First Meeting of the Interagency Board for Quality Assurance

Notice is hereby given that the first meeting of the Interagency Board for Quality Assurance will be held July 20, 1983 at 10:00 a.m. in Conference Room C, 4th Floor of the Centennial Office Building, 658 Cedar, St. Paul, Minnesota.

The Interagency Board for Quality Assurance deals with nursing home care and was instituted by Chapter 199 of the 1983 legislative session.

If you wish further information about this meeting, contact:

Linda Donahue
Bureau of Support Services
Department of Public Welfare
658 Cedar, 4th Floor
St. Paul, MN 55155
612/296-6633

Department of Transportation

Petition of City of Anoka for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the City Council of the City of Anoka made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for the rehabilitation of the existing Main Street Bridge over the Rum River (MSAS 134), and approximately 300 feet on each end of the structure.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 25 instead of a required 30 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 27th day of June, 1983

Richard P. Braun
Commissioner

Department of Transportation

Petition of City of Chisholm for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of Chisholm made a written request to the Commissioner of Transportation for a variance from minimum design standards for the reconstruction of First Avenue West from 9½ Street North to CSAH 66.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a street width of 44 instead of 46 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 27th day of June, 1983

Richard P. Braun
Commissioner

Department of Transportation
Technical Services Division

Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standards Variance Committee who will conduct a meeting on Thursday, July 28, 1983, at 9:30 a.m. in Room 410A, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State Aid roadway standards as governed by 14 MCAR § 1.5032 M.4.b., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978), as amended.

The agenda will be limited to these questions:

1. Petition of the City of Duluth for a variance from Standards for Street Width on First Street from Third Avenue East to Fifth Avenue West.

2. Petition of the City of Red Wing for a variance from Standards for Design Speed on Tile Drive crest vertical curve over the C.M.St.P. & P.R.R.

3. Petition of the City of St. Paul for a variance from Standards for Street Width on Payne Avenue from Whitall St. to Reaney Avenue Reconstruction of a bridge over the Chicago Northwestern Railroad and its approaches.

4. Petition of the City of St. Paul for a variance from Standards for Street Width on Arlington Avenue from Victoria Street to Dale Street.

5. Petition of the County of Lake of the Woods for a variance from Standards for Width on CSAH 34 from CSAH 8 to Zippel Bay State Park.

6. Petition of the County of Clearwater for a variance from Standards for Width on CSAH 28 from Burlington Northern Railroad to the Clearwater River Bridge (0.47 mile).

7. Petition of the City of Anoka for a variance from Standards for Design Speed on Main Street Bridge over the Rum River (MSAS 134) and approximately 300 feet of approaches on each side.

8. Petition of the City of Eveleth for a variance from Standards for Design Speed on Fayal Avenue from North Court to Park Avenue.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee:

9:30 a.m. — City of Duluth
9:50 a.m. — City of Red Wing
10:10 a.m. — City of St. Paul
10:30 a.m. — City of St. Paul
10:50 a.m. — Lake of the Woods County
11:10 a.m. — Clearwater County
11:30 a.m. — City of Anoka
11:50 a.m. — City of Eveleth

Dated this 5th day of July, 1983

Richard P. Braun
Commissioner

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules Governing Implementation and Operation of Community Corrections Act

Findings of Fact and Conclusion

The above-entitled matter was determined by the Department of Corrections to be of a non-controversial nature and therefore proposed for adoption using procedures set forth in Minnesota Statutes section 15.0412, Subdivision 4 h (1980).

After affording interested persons an opportunity to present written and oral data, statements and arguments and having received none and after considering all evidence adduced upon the record, files and procedures followed, I find the following:

A typing mistake was made on line 11. The statute citation is changed from ~~401.06~~ to 401.16.

STATE OF MINNESOTA

Orville B. Pung
COMMISSIONER OF CORRECTIONS

STATEMENT OF NEED AND REASONABLENESS

FOR

THE COMMUNITY CORRECTIONS ACT

June 3, 1983

STATEMENT OF NEED AND REASONABLENESS FORWARD

History and Background

Minnesota's Community Corrections Act, enacted in 1973, gives the Commissioner of Corrections authority to make subsidy grants to counties electing to provide a wide range of local correctional services.

Since the development of the Community Corrections Act, the Minnesota Association of Community Corrections Act Counties has worked closely with the Minnesota Department of Corrections in the adaptation and revision of 11 MCAR § 2.001. In the recent proposed changes in the proposed rules, the Minnesota Association of Community Corrections Act Counties has been very helpful and in agreement with the proposed changes.

STATEMENT OF NEED AND REASONABLENESS

11 MCAR § 2.001 INTRODUCTION

rationale: A. updates and more clearly defines the statutory provision to promulgate rules.

rationale: B. clarify language. The Act is past the implementation stage and into the operational stage.

rationale: C. is needed to clarify vague language.

11 MCAR § 2.002 DEFINITIONS

rationale: A.2. is needed to clarify language concerning a community corrections system which has the involvement of more than one county.

rationale: A.6. is needed to include a new title of community supervision for offenders sentenced under the Minnesota Sentencing Guidelines law. There is a further word added to differentiate training programs from residential programs.

rationale: A.7. is needed for further definition.

STATEMENT OF NEED AND REASONABLENESS

11 MCAR § 2.004 DEVELOPMENT OF A COMPREHENSIVE PLAN

rationale: A. needed to clarify language.

rationale: B. needed to clearly state an operational format for use by participating counties and the Minnesota Department of Corrections. Both the Department of Corrections and the Minnesota Association of Community Corrections Act Counties recommend this inclusion.

11 MCAR §§ 2.005 CHANGES IN COMPREHENSIVE PLAN AND BUDGET

rationale: 1. is needed to revise the process by which changes are made in the comprehensive plan and budget. This revision has been approved by the Department of Corrections and the Minnesota Association of Community Corrections Act Counties.

11 MCAR §§ 2.006 INFORMATION SYSTEMS AND EVALUATION

rationale: A. is needed as the information systems are presently operational in the corrections systems and such a detailed description is no longer necessary.

rationale: B. is needed as each community corrections system has developed and implemented their evaluation/research designs.

rationale: C. is needed as both the Department of Corrections and the Minnesota Association of Community Corrections Act Counties have agreed to eliminate a specific percentage of subsidy funds presently required for information systems and evaluation.

STATEMENT OF NEED AND REASONABLENESS

11 MCAR § 2.007 TRAINING/EDUCATION

rationale: B. is needed as the Department of Corrections and the Minnesota Association of Community Corrections Act Counties have agreed that a smaller percentage of subsidy funds for this unit of service is more realistic. Other proposed changes in this section are to clarify language.

11 MCAR § 2.008 FISCAL MANAGEMENT

rationale: is needed as some additional language adds to the clarity of this section.

11 MCAR § 2.009 COUNTY ASSUMPTION OF STATE PROBATION AND PAROLE / SUPERVISED RELEASE

rationale: is needed as under the Minnesota Sentencing Guidelines law a new category of supervision of offenders was begun.

11 MCAR § 2.011 PROGRAM RELEVANCE TO CORRECTIONAL OBJECTIVES

rationale: is needed as the correctional objectives are more clearly described in each community corrections system's comprehensive plan than stated in such general terms in § 2.011.

11 MCAR § 2.012 LOCAL PROGRAMS AND SERVICES

rationale: A. is needed to clear up language and to avoid potential misinterpretation in the future.

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

In the Matter of the
Proposed Adoption of Rules
Governing Implementation and
Operation of Community
Corrections Act

Statement of Compliance
with Rulemaking Procedures

I, James N. Bradford, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that based on my examination and my personal familiarity with the application procedures, the Administration Procedure Act, the rules of the Office of Administration Hearings, and the rules of the Attorney General have been followed.

James N. Bradford
Assistant Attorney General

Date: Aug 15, 1983

In the Matter of the Proposed Adoption of Rules Governing Implementation and Operation of Community Corrections Act

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Joan Lahti, being first duly sworn, deposes and says:

That on the 17th day of August, 1983, in the City of Saint Paul, County of Ramsey, State of Minneosta, she served the attached Notice of Submission to the Attorney General by depositing in the United States mail at said City of Saint Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules a the above-entitled matter have been submitted to the Attorney General.

Joan M. Lahti

Subscribed and sworn to before me
this 17 day of August, 1983
Mary A. Kahnke

MARY A. KAHNKE
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
My Commission Expires May 9, 1984

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules Governing Implementation and Operation of Community Corrections Act

Notice of Submission to the Attorney General

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above captioned rules have been submitted to the Office of the Attorney General on this date, August 17, 1983, for review as to form and legality. Pursuant to 1 MCAR § 1.206 B., the Attorney General will not approve the rules for at least ten calendar days after receipt of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 204 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-1288. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Jeff Martin, 430 Metro Square Building, Saint Paul, Minnesota 55101.

Orville B. Pung
COMMISSIONER OF CORRECTIONS