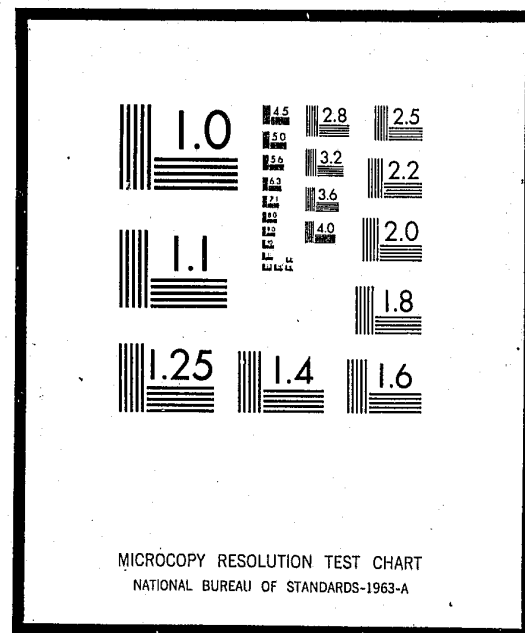


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STATUTORY REVIEW
OF THE USE OF VOLUNTEERS
IN THE COURT

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STATUTORY REVIEW OF THE USE OF VOLUNTEERS
IN THE COURT

Rehabilitation has always been one of the prime goals of our present criminal system. The problem of recidivism harms not only the individual miscreant but the society as a whole.

The need for sufficient well-trained personnel to work as probation counselors has been recognized as an essential factor in eliminating the problem of the recurrent offender and in achieving the goal of successful rehabilitation in as many cases as possible. Today, this need is being filled increasingly by the volunteer citizen who realizes the importance of rehabilitating potential offenders and helping them become constructive members of society. At the present time, approximately 75,000 to 100,000 unpaid citizens provide volunteer probation services in at least 700 courts.

The rapid growth in the use of volunteers has caused a gap to grow between the implementation of volunteer programs and availability of material on the use of volunteers and guidebooks offering suggestions to help beginning programs function smoothly. This gap is now being narrowed.

Volunteers in Probation, Inc.,¹ formerly Project Misdemeanant Foundation, Inc., headed by Judge Keith J. Leenhouts, is actively engaged in stimulating and guiding citizen participation in court-related rehabilitative programs. Stemming from Judge Leenhouts' pioneering work in Royal Oak, Michigan, Volunteers in Probation, Inc., has expanded into a nationwide organization devoted to the implementation and successful utilization of programs involving citizen volunteers within the framework of state court probation services. Its activities range from providing interested individuals with literature to actual visits by representatives of the foundation to communities which are organizing fledgling volunteer programs. The Foundation has also prepared a film entitled, Big Help For Small Offenders, which presents various phases of volunteerism and contains interviews with probationers and their volunteer sponsors. This film has been shown at many state court, church and correctional conferences by members of the foundation.

1. Volunteers in Probation, Inc. 200 Washington Square Plaza. Royal Oak, Michigan 48067

The National Information Center on Volunteers,² directed by Dr. Ivan Scheier, also does valuable work in this field. Besides acting as a national clearing house for information on the use of volunteers, it also publishes a monthly newsletter and offers consultation services to interested communities.

A number of excellent books have recently been published on the topic of court volunteer probation programs. First Offender³ by Joe Alex Morris details the growth of the Royal Oak Program and its subsequent expansion to a nationwide program for aiding probationers. Volunteer Programs in Court and Using Volunteers in Court Settings,⁴ both distributed by the United States Department of Health, Education and Welfare, are companion volumes which together present a comprehensive, "how-to-do-it" plan for utilizing volunteers. Volunteer Courts in America, the End of a Decade,⁵ prepared by Dr. Scheier and distributed by the National Information Center, contains a directory of all volunteer courts in the United States together with a listing of resource organizations and an annotated reference list of useful material to anyone interested in the volunteer movement.

In addition to these books, numerous articles and studies have been written in the last few years which have acquainted the general public with the opportunities inherent in volunteer programs and have also offered suggestions for the successful utilization of volunteer resources.

Despite the growing interest in and use of volunteers and the literature devoted to their successful implementation, very little has been done to procure specific statutory authorization for volunteer programs. This could al-

2. The National Information Center on Volunteers in Courts.
Boulder County Juvenile Court Hall of Justice, Division C., Boulder, Colorado 80302

3. Funk and Wagnalls, New York, New York (1970).

4. U.S. Government Printing Office, Washington, D.C. 20402

5. The National Information Center, Boulder County Court Hall of Justice, Division C., Boulder, Colorado 80302

leviate the possible problem of individual liability resulting directly from service as a volunteer. Even if immunity is not expressly conferred by statute, the existence of a statutory scheme authorizing a volunteer program, could encourage insurance companies to develop special insurance policies to protect both the volunteers and the probationers at reasonable rates. Legal recognition of volunteer programs could also affect the attainment of necessary funding.

Statutory authorization could also serve as a basis for an uniform state-wide program of court volunteer workers. The possible advantages stemming from this type of system are numerous. Cooperation and exchange of ideas between court systems in a single state would be beneficial to all concerned. Funding, not only from state sources, but also through federal grants may be more strongly emphasized to the individual volunteer worker if his job were recognized by the law of his state. The friction which sometimes exists between professional probation workers and volunteers would be lessened if the professionals knew that the volunteers were legally recognized as being part of the state probation system. Finally, and most important, the probationers themselves would benefit more from a coordinated, well funded, harmonious volunteer program.

In considering what an adequate state act on the use of volunteers in the courts should contain, a number of factors should be taken into consideration. The following general suggestions for a "model act", which are based heavily on the constructive work of Dr. Ivan H. Scheier of the National Information Center on Volunteers in Courts, attempt to embody all the necessary essentials of a workable legislative model:

A. The establishment of a state coordinating agency is the first step in providing an unified state court volunteer program. Staffed by five or six consultants who are skilled and experienced in the court volunteer area, the agency would be empowered both to apply for federal funds and to distribute these funds as well as any state funds to various local courts upon their expressing interest in using volunteer programs. The existing funds, distributed on a first-come, first-serve basis would be granted by the agency to courts which submit plans for approval which explain:

- a. A job description of what volunteers will do in their courts.
- b. How many volunteers they expect to begin with and how many they plan to have after the first year.
- c. The number of cases the courts estimate will profit from the use of volunteers.
- d. Detailed provisions for recruiting, screening, training, and supervising of the volunteers.

- e. The scope of anticipated community contributions which may be in the form of office space or equipment donations or locally raised matching funds.
- f. A detailed budget of the specific costs for each of the above items.

B. While the initial work of the agency would involve acquiring and distributing funds for local volunteer programs, the act should require that agency to take an active part in the development of a state coordinated volunteer program in the following additional ways:

- a. Act as a storehouse of informative materials, such as management manuals and volunteer training aids, particularly those which would be too expensive for the courts to purchase themselves. These would be used and reused on a loan basis.
- b. Conduct regular training institutes on the management of court volunteer programs in the form of three to five day workshops.
- c. Consult with local courts regarding volunteer program management and help improve their services on a local level.
- d. Conduct spot-checks of individual court volunteer programs. This monitoring would include making constructive suggestions after evaluation studies have been completed and disseminating information on a state-wide basis regarding specific procedures that have proven successful.
- e. Establish an effective liaison with the state legislature to work on legislation not only for funding volunteer programs but also to obtain official status for court volunteers, provide them with protection from liability and insure them confidentiality of their reports.

C. Finally, the act should guarantee that the agency have at least a three to five year life span. Only in this way can a workable state program be achieved. A shorter period not only would diminish the advantages of local feedback on which this type of system depends but would jeopardize seriously the chances of obtaining additional funds from either federal or local sources.

In light of what a model act should contain, the results of a survey of what has been done statutorily is disappointing. Only Florida and Tennessee have adopted anything similiar to what is contemplated in the model act. For the most part state statutes, when they deal with the topic at all, do so only in a cursory and inadequate manner. In general, the initiative is placed in the hands of individual court judges, who are empowered to appoint volunteer workers as they see fit. The following is a brief summary of individual state

legislation. The full texts are included in Appendix One. With the attendant advantages of statutory authorization it is hoped that more states will begin to utilize the benefits of successful volunteer programs.

1. Arkansas
The Juvenile County Court has authority to appoint any number of persons of good moral character to serve as probation officers.
2. Florida
The Florida Probation and Parole Commission, created in 1965, is empowered to form a department of community services which shall organize and train local committees of selected volunteer citizens to advise and assist field supervisors of probationers and parolees.
3. Georgia
The judge of a Georgia Juvenile Court may appoint volunteer probation officers. When the court finds a child comes within its jurisdiction and the child is found to be in a state of neglect, dependency, under insufficient and improper guardianship or in a state of delinquency; the court may place the child on probation in the custody of a suitable person.
4. Kentucky
In any county, the county judge may appoint one or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile court without compensation.
5. Massachusetts
Both Judges of Superior Courts and Justices of District Courts may appoint unpaid deputy probation officers for children under the age of seventeen. These deputy probation officers shall operate directly under the direction of regular probation officers. The Administrative Committee of the District Courts are authorized to apply for Federal Grants to obtain funds for defraying the cost of additional equipment, books and other expenses.
6. Michigan
The Judge of the juvenile division in each county may appoint probation officers who shall receive no compensation from the county treasury for duties performed under such appointments.

7. South Dakota

The Juvenile County Court has authority to appoint any number of discreet persons of good moral character to serve without compensation as probation officers. These probation officers are entitled to actual office expenses.

8. Tennessee

The Office of Community Contact, created in 1970, is empowered to recruit and train volunteer citizens for work in juvenile probation programs. The director is also authorized to apply for both federal and local funds.

PRESENT STATUTORY

AUTHORIZATION

ARKANSAS STATUTES

1947

TITLE 45

JUVENILE DELINQUENTS

CHAPTER.

1. PROTECTION OF INFANTS, § 45-101.
2. JUVENILE COURTS, §§ 45-201—45-244.

CHAPTER.

3. INTERSTATE COMPACT ON JUVENILES,
§§ 45-301—45-307.

45-218. Probation officers.—The county courts of the several counties of the State shall have authority to appoint any number of discreet persons of good, moral character to serve as probation officers, to receive no compensation from the county treasury, except as herein provided. It shall be the duty of the clerk of the court, if practical, to notify the said probation officer to make investigation of such case; to be present in court to represent the interest of this child when the case is heard; to furnish to such court such information and assistance as the court or the judge may require, and to take charge of any child before and after the trial as may be directed by the court. [Acts 1911, No. 215, § 6 (1st par.), p. 166; 1919, No. 432, § 1 (1st par.), p. 319; C. & M. Dig., § 5765; Pope's Dig., § 7477.]

FLORIDA STATUTES

Annotated

CORRECTIONAL SYSTEM

CHAPTER 947

PAROLE AND PROBATION COMMISSION

Sec.
947.081 Department of community
services [New].

947.081 Department of community services

(1) The Probation and Parole Commission shall establish a Department of Community Services which shall:

(a) Organize and train local committees of selected volunteer citizens to advise and assist field supervisors of probationers and parolees, with special reference to adult education, vocational-technical education, and work-study participation;

(b) Maintain liaison with all appropriate municipal, county, state, and federal agencies whose services aid in the reintegration of offenders into a free society; and

(c) Stimulate community programs relating to persons released under probation, parole, and mandatory release supervision.

(2) The Probation and Parole Commission may employ a director of the Department of Community Services and deputy directors for the seven (7) organizational areas of the commission.

Added Laws 1968, Ex. Sess., c. 68-30, § 1, eff. July 1, 1968.

CODE OF GEORGIA

Annotated

PART V.

JUVENILE COURTS

24-2406. Volunteer probation officers.—The judge may appoint volunteer probation officer or officers to serve without compensation, subject to such regulations and direction as the court may deem proper. (Acts 1951, pp. 291, 297.)

24-2421. Findings, decrees, and orders; probation.—When a child is found by the court to come within its jurisdiction, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over such child.

(1) Upon finding the child a delinquent child, the court may by order duly entered proceed as follows:

(a) Place the child on probation or under supervision in his own home or in the custody of a suitable person elsewhere upon such conditions as the court shall determine. Probation shall mean casework services during a continuance of the case. Probation shall not be ordered or administered as a punishment but as a measure for the protection, guidance and well-being of the child and his family. Probation methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community.

(b) Commit the child to the custody or to the guardianship of a public or private institution or agency authorized to care for children or to place them in family homes, or under the guardianship of a suitable person. Such commitment shall be for an indeterminate period but in no event shall continue beyond the child's 21st birthday. Whenever the court shall commit a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning such child as the court may at any time require.

(c) The court may cause any child concerning whom a petition has been filed to be examined or treated by a physician, psychiatrist, or psychologist, and for such purpose may place the child in a hospital or suitable facility.

(d) Order such other care and treatment as the court may deem to be for the best interest of the child. In support of any order or decree the court may require the parents or other persons having the custody of the child or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this Chapter to do or cease from doing any such acts required or forbidden by law when the judge deems such requirement necessary for the welfare of the child. In cases of failure to comply with the requirements, the court may proceed against such parties for contempt of court.

(e) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.

(2) Upon finding the child to be in a state of neglect, dependency, or living under insufficient and improper guardianship; or to be the subject of controversy as to his legal custody; or to be a person in need of supervision; the court may, by order duly entered, proceed as follows:

(a) Take custody of the child and place the child under supervision in his own home or in the custody of a suitable person or agency upon such conditions as the court shall determine.

(b) When conditions and circumstances warrant the termination of parental rights, the courts may take custody of the child or children involved for suitable placement or adoption and may act in loco parentis in all matters pertaining to their interests. In such cases the court shall act as guardian of the person and property of the child or children involved.

(c) The court may cause the child concerning whom a petition has been filed to be examined or treated by a physician, psychiatrist, or psychologist, and for such purpose may place the child in a hospital or suitable facility.

(d) Order such other care and treatment as the court may deem to be for the best interest of the child. In support of any order or decree the court may require the parents or other persons having the custody of the child or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this Chapter to do or cease from doing any such acts required or forbidden by law when the judge deems such requirement necessary for the welfare of the child. In cases of failure to comply with the requirements, the court may proceed against such parties for contempt of court.

(e) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.

(Acts 1951, pp. 291, 303; 1968, pp. 1013, 1028.)

KENTUCKY REVISED STATUTES

TITLE XVII

Economic Security and Public Welfare

Chapter 208

JUVENILE COURTS

Commitment and Care of Children

208.320 Chief probation officers and assistants in county having city of first or second class; volunteer probation officers.

(1) In counties containing a city of the first or second class, the county judge may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge. The officers shall be peace officers, with all the powers of the sheriff in making arrests and carrying out the purposes of this chapter. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his or her probation, and detain such child for appropriate action by the court.

(1962 c 212, § 8. Eff. 6-14-62. 1956 c 157, § 35; 1954 c 193, § 6; 1952 c 161, § 32)

(2) In any county, the county judge may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile court. Such officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court may authorize the payment of compensation and reasonable expenses out of the county treasury of any such officers. Representatives of the Department of Child Welfare may be appointed or designated as such volunteer probation officers, but without compensation from county funds.

(1962 c 212, § 8. Eff. 6-14-62. 1956 c 157, § 32. 1952 c 161, § 32)

(3) A child welfare worker may be, upon the recommendation of the Commissioner of the Department of Child Welfare, appointed by the Governor to act as a peace officer in carrying out the purpose of this chapter and KRS 199. If the Department deems it necessary, it may appoint a child welfare worker to cooperate with the court. (1962 c 212, § 8. Eff. 6-14-62. 1956 c 157, § 35)

This section does not grant voluntary probation officers of juvenile courts the power to make arrests. 1956 OAG 39,230.

208.330 Duties of probation officers.

Probation officers of the juvenile court shall:

(1) Make investigations as provided in KRS 208.140.

(2) Be present in court to represent the interest of the child when the cases investigated by them are heard; furnish such information as may be required; advise with the court as to the proper disposition of the case; and take such charge of the child before and after the hearing as may be ordered.

(3) Visit and supervise children placed on probation, and as far as practicable, aid and encourage such children, by friendly advice and admonition, to keep the terms of their probation, and provide for their rehabilitation.

(4) Make such reports and records as may be required by the court.

(5) Supervise the transfer of children to and from homes or institutions, as directed by the court.

(6) Work in cooperation with the representatives of the department and of the Department of Economic Security. (1956 c 157, § 36. Eff. 2-27-56. 1952 c 161, § 33.)

ANNOTATED LAWS OF MASSACHUSETTS

CHAPTER 276

Probation Officers and Board of Probation

§ 89A. Unpaid Deputy Probation Officers, etc.

The superior court or the justice of a district court may appoint deputy probation officers who shall serve without compensation as counsellors to children under the age of seventeen who have been placed in the care of probation officers under section eighty-seven in order that such children may receive to a greater degree individual attention and guidance. Deputy probation officers shall perform their services under the direction of probation officers. Deputy probation officers may be reimbursed by the county in which they serve upon voucher approved by the court to which they are assigned for necessary expenses incurred by them in the course of their duties.

The administrative committee of the district courts, in consultation with the commissioner of probation, may apply for and accept federal grants or assistance for the purpose of defraying the costs of additional clerical assistance, equipment, books, materials and other expenses incident to the services which such deputy probation officers perform. (1967, 401, approved June 26, 1967, effective 90 days thereafter.)

MICHIGAN COMPILED LAWS

Annotated

PROBATE CODE

Chapter 712A

JUVENILES, JUVENILE DIVISION

712A.9 Probation officers; appointment, compensation, duties; notification to social welfare department

Sec. 9. The judge of probate in each county may appoint 1 or more suitable persons of good character and qualified training or experience, other than the county agent or assistants, to act as probation officer, who shall receive such compensation as the board of supervisors may appropriate for that purpose, and who, at the discretion of the judge, may be authorized and empowered to perform county agent duties.

The judge of probate may also appoint other probation officers who shall receive no compensation from the county treasury for the duties performed under such appointment.

It shall be the duty of the judge of probate to notify the state department of social welfare of the appointment of all paid probation officers made by him under the provisions of this chapter. All probation officers shall hold office during the pleasure of the court and shall report to the said court upon all cases under their care.

SOUTH DAKOTA COMPILED LAWS

1967

Annotated

MINORS

CHAPTER 26-7

JUVENILE COURTS

26-7-7. Appointment of unpaid probation officers—Female appointees—Reimbursement of expenses.—The county court shall have authority to appoint any number of discreet persons of good moral character to serve without compensation as probation officers, during the pleasure of the court. In cases affecting girls, such probation officers shall be women. The probation officers shall be entitled to actual office expenses to be paid by the county involved upon duly itemized vouchers approved by the county judge.

1970

CUMULATIVE SUPPLEMENT

TENNESSEE CODE

Annotated

JUVENILES

CHAPTER 13—YOUTH INVESTMENT

SECTION.		SECTION.	
37-1301.	Short title.	37-1304.	Duties of director—Solicitation of volunteers — Rules and regulations.
37-1302.	Office of community contact—Creation — Director — Personnel.	37-1305.	Volunteers' duties—Reports.
37-1303.	Duties of office—Programs.	37-1306.	Application for funds — Authorization.

37-1301. Short title.—This chapter shall be known as the Youth Investment Act of 1970. [Acts 1970 (Adj. S.), ch. 602, § 1.]

37-1302. Office of community contact—Creation—Director—Personnel.—There is created within the department of education in the division of vocational rehabilitation, an office of community contact, which shall be headed by a director, appointed by the commissioner of education, to serve at the pleasure of the commissioner and at a salary to be fixed by him. The commissioner shall employ such stenographic assistance as is necessary to carry out the provisions of this chapter, and shall fix their salaries. [Acts 1970 (Adj. S.), ch. 602, § 2.]

Cross-References. Commissioner of education, § 49-103. Vocational rehabilitation, §§ 49-2801—49-2815.

37-1303. Duties of office—Programs.—The office of community contact shall establish programs to provide guidance, training and rehabilitation for juveniles committed to correctional institutions who have been released from such institutions or who are under the care or custody of the juvenile court. The office shall carry out such programs enlisting the use of volunteer citizens, who shall receive no compensation for their services. The director is authorized to recruit and train such volunteer citizens and to administer the programs authorized by this chapter. [Acts 1970 (Adj. S.), ch. 602, § 3.]

37-1304. Duties of director—Solicitation of volunteers—Rules and regulations.—It shall be the duty of the director to:

- (1) Solicit volunteer citizens from throughout the state, using the aid of civic and church groups at his discretion;
- (2) Work with the administrators of correctional institutions within the state and with state and local juvenile authorities;
- (3) Evaluate prospective volunteer citizens and establish screening procedures to make the final determination of which volunteers will be used in the contact program;
- (4) Coordinate and control the contact program and conduct training sessions for the volunteer citizens;
- (5) Formulate rules, regulations and procedures for the implementation of this chapter;
- (6) The director may appoint volunteer citizens as he thinks advisable to aid in these programs. [Acts 1970 (Adj. S.), ch. 602, § 4.]

37-1305. Volunteers' duties—Reports.—It shall be the duty of the director to recruit volunteers who will:

- (1) Write the juvenile to whom he is assigned approximately one (1) time per week during the period the juvenile remains within a correctional institution;
- (2) Personally contact the juvenile approximately one (1) time per week after the juvenile's release from the correctional institution and until the juvenile reaches the age of twenty-one (21);
- (3) Prepare periodic reports as required which shall be submitted to the director, evaluating the progress of the juvenile to whom he is assigned. [Acts 1970 (Adj. S.), ch. 602, § 5.]

37-1306. Application for funds—Authorization.—The director is authorized to make application for and to receive federal funds and funds from any public or private source. [Acts 1970 (Adj. S.), ch. 602, § 6.]

Effective Date. Acts 1970 (Adj. S.),
ch. 602, § 8. March 2, 1970.

END