

**REPORT OF THE  
VIRGINIA COMMISSION ON YOUTH ON**

**The Study of the Feasibility of  
Mandatory Monitoring of Juvenile  
Sex Offenders for Ten Years**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 73**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1994**



# COMMONWEALTH of VIRGINIA

## Commission on Youth

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January 18, 1994

TO: The Honorable George F. Allen, Governor of Virginia  
  
and  
  
Members of the Virginia General Assembly

The 1993 General Assembly, through House Joint Resolution 467, requested the Virginia Commission on Youth to "study the feasibility of mandatory monitoring of juvenile sex offenders for ten years."

Enclosed for your review and consideration is the report which has been prepared in response to this request. The Commission received assistance from all affected agencies and gratefully acknowledges their input in this report.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "R. Houck".

R. Edward Houck  
Chairman

Senator Robert L. Calhoun  
Delegate L. Karen Darnier  
Delegate R. Creigh Deeds

Delegate Arthur R. Giesen, Jr.  
Delegate Thomas M. Jackson, Jr.  
Senator Yvonne B. Miller  
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Ms. Thomasina T. Binga  
Ms. Elizabeth N. Miner  
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## **I. Authority for Study**

§9-292 of the *Code of Virginia* establishes the Commission on Youth and directs it to "...study and provide recommendations addressing the needs of and services to the Commonwealth's youth and their families." §9-294 provides that the Commission has the powers and duties "to undertake studies and gather information and data in order to accomplish its purposes ... and to formulate and present its recommendations to the Governor and the General Assembly."

The 1993 General Assembly session passed Delegate Thomas G. Baker's (Pulaski) House Joint Resolution 467 directing the Commission on Youth to conduct a study on the feasibility of mandatory monitoring of juvenile sex offenders for ten years. The Commission on Youth, in fulfilling its legislative mandate, undertook the study.

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## **II. Members Appointed to Serve**

For the studies enacted in 1993, the Commission on Youth formed three subcommittees to provide oversight and direction for the topics assigned. These three subcommittees were Prevention, Juvenile Justice, and Treatment. At the May 7, 1992 meeting, Senator R. Edward Houck (Spotsylvania), Chairman, assigned the study on the feasibility of mandatory monitoring of juvenile sex offenders for ten years to the Commission's Juvenile Justice Subcommittee. Serving on the Juvenile Justice Subcommittee are Delegate Jerrauld C. Jones (Norfolk), Subcommittee Chairman, Delegate R. Creigh Deeds (Bath County), Delegate Thomas M. Jackson, Jr. (Carroll County), Elizabeth N. Miner (Reva), and Robert E. Shepherd, Jr. (Richmond).

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## **III. Executive Summary**

House Joint Resolution 467 was enacted during the 1993 General Assembly session as part of the recommendations made by the Commission on the Reduction of Sexual Assault Victimization in Virginia.

House Joint Resolution 467 requested the Commission on Youth, with the assistance of the Departments of Mental Health, Mental Retardation and Substance Abuse Service, Youth and Family Services, and Criminal Justice Services, and the Executive Secretary of the Supreme Court of Virginia, to study the feasibility of a mandatory ten year follow-up program for juveniles convicted of sexual offenses. The Offender Subcommittee of the Commission on the Reduction of Sexual Assault Victimization in Virginia made this recommendation based on its findings that on-going support, aftercare, and monitoring are essential to maintaining treatment gains after successful completion of an offender-specific treatment program. However, most juvenile offenders are reluctant to participate in treatment and monitoring once they are

beyond the jurisdiction of the juvenile court and there is no threat of sanctions. This study mandated the examination of the legal, policy and fiscal impact of establishing a ten year, court-based follow-up for juvenile sex offenders.

Nationally, approximately 20% of rapes are perpetrated by juveniles (Uniform Crime Report, United States Department of Justice, 1985). Data from Virginia indicates that juveniles are responsible for 10-13% of sexual assaults. The scope of the problem becomes more apparent when the number of adjudicated juvenile sex offenders is examined. In Fiscal Year 1992, 370 juveniles were adjudicated for sexual offenses. It is projected that by the year 2000 there will be approximately 892 newly-adjudicated sex offenders.

Research on treatment for juvenile sex offenders is a relatively new field and still in a developmental stage. Advances in treatment for sex offenders which have occurred in the last ten years are just now beginning to be evaluated. As with any new field, these advances are more likely to produce results than earlier, less sophisticated efforts. At this point, however, there is little research on the efficacy of treatment, and much less is known about intensive supervision (monitoring). There is, however, a hint of optimism, especially for adolescent sex offenders who are diagnosed and treated in the early phases of sexual offending. Communication between service providers at all stages of the juvenile sex offender's involvement with the justice system is critical to effective dispositions.

Research clearly indicates the importance of psychological assessments, especially with techniques used to assess sex offender behavior and cognitions. An assessment can differentiate between normal sexual behavior and sexually deviant/offensive behavior. In addition, psychological assessments can aid in the determination of an appropriate setting based on the offender's risk to the public, as well as in determining the treatment needs of the juvenile.

Sex offender-specific treatment, coupled with intensive monitoring and gradual reintegration of the youth into the community, holds promise for reducing recidivism rates. Communities can facilitate the juvenile's reentry and public safety at the same time through the provision of services such as treatment programs for juvenile sex offenders. Increased community efforts and treatment options, as well as further clinical research on treatment and intensive supervision, may aid in the development of more effective treatment strategies. In addition, such information may help in the development of prevention strategies for reducing or eliminating sexually offending behavior from society.

On the basis of these findings, the Commission on Youth makes the following recommendations:

Recommendation 1

**There should be no change to the *Code of Virginia* to extend the jurisdiction of the juvenile court for juvenile sex offenders past the age of 21.**

Recommendation 2

**Fund a pilot program of intensive supervision and treatment for juvenile sex offenders placed in community based treatment.**

Recommendation 3

**Evaluate the pilot, comparing the target population to a control group of juvenile sex offenders receiving regular services, to determine the efficacy of increased monitoring and treatment.**

Recommendation 4

**Encourage judges to order sex offender-specific assessments prior to disposition of juvenile sex offenders.**

Recommendation 5

**Encourage judges, prosecutors, probation officers, Commonwealth's Attorneys, Department of Youth and Family Services staff and other individuals involved with prosecution and treatment of juvenile sex offenders to receive special training on sex offender issues, such as characteristics of sex offenders, assessment, treatment options and methods of effective monitoring. Additionally, judges should receive training on writing model court orders.**

Recommendation 6

**Encourage increased communication between local court service units and the Department of Youth and Family Services regarding the disposition of juvenile sex offenders.**

Recommendation 7

**Request Juvenile and Domestic Relations District Courts to improve their recording of offense and treatment histories for adjudicated juvenile sex offenders. These records need to be centrally available to judges and accessible to other court service units across the state.**

Recommendation 8

**Encourage communities to develop treatment programs and to implement follow-up supervision programs for juvenile sex offenders.**

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## **IV. Methodology**

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The findings of the 1993 Commission on Youth study are based on several different research methodologies. A work group representing each of the agencies mandated in the resolution and other disciplines dealing with juvenile sex offenders, convened on seven occasions. (See Appendix B for work group list.) Some of the issues discussed included the appropriate length of follow-up, the identification of offender subgroups which require follow-up, the degree of follow-up monitoring needed



and the appropriate agency to provide the monitoring, as well as the special training that would be required for this and other professionals working with juvenile sex offenders.

Relevant statutes and policies pertaining to juvenile sex offenders in the Commonwealth of Virginia and in other states were examined. Finally, the scientific and professional literature on the characteristics, treatment options and effectiveness of monitoring juvenile sex offenders was reviewed to determine the feasibility and potential benefits of a follow-up for juvenile sex offenders.

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## **V. Study Goals and Objectives**

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On the basis of the requirements of HJR 467, the study objectives were to:

- Review national and state laws pertaining to the adjudication of juvenile sex offenders;
- Review the current services systems for juvenile sex offenders;
- Determine the feasibility of a ten year follow-up for monitoring juvenile sex offenders based on the current clinical research;
- Examine the legal impact of extending jurisdiction of the juvenile courts for juveniles past the age of 21;
- Determine the appropriate type of monitoring and treatment for juvenile sex offenders, including identification of subgroups which would require follow-up and the appropriate degree and length of supervision and treatment for these subgroups;
- Determine special training that would be required for the agency providing monitoring and other professionals working with juvenile sex offenders; and
- Determine the fiscal and policy impact of a follow-up monitoring and treatment program for juvenile sex offenders.

In response to the study objectives, the Commission undertook the following activities:

- Collect information from other states on their laws and policies pertaining to the disposition of juvenile sex offenders;
- Review treatment and monitoring programs used in other states;
- Review the current public and private service systems for juvenile sex offenders in the Commonwealth of Virginia;

- Conduct a review of the scientific and professional literature on the characteristics, treatment options, and effectiveness of treatment and monitoring of juvenile sex offenders;
- Analyze court intake trends of juvenile sex offenders;
- Develop program models for intensive follow-up and supervision; and
- Develop cost projections for program model.

## **VI. Background**

### **LITERATURE REVIEW**

There is increasing public recognition of the problem and scope of sexual assault. Prior to the past ten to fifteen years, the focus had been on adult perpetrators of sexual assault. Although practitioners have been aware of the scope and seriousness of adolescents' sexual offending and violent behavior, the problem has generally been hidden, ignored or neglected (Knopp, 1982). Often in the past and to a certain degree even today, sexual assault by adolescents is dismissed or minimized by the attitude that "boys will be boys," or viewed as situational in nature or a manifestation of experimentation and exploration of the adolescents' emerging sexuality rather than offending behavior.

The alarming statistics on juvenile sex offenders no longer allow sexual assault by adolescents to be dismissed. Statistics from official sources such as *The Uniform Crime Report (UCR) of the Federal Bureau of Investigation* and *The National Crime Survey (NCS)* indicate that about 20% of rapes are committed by individuals 18 years old or younger (Brown, Flanagan & McLeod, 1984). Evidence suggests that the incidence of sex offenses committed by adolescents is much higher than that reported by the UCR or the NCS. Under-reporting of such offenses is widespread and attributable to a variety of factors. The UCR includes limited information on the types of offenses and age of offenders. For example, the UCR includes only the category of rape or attempted rape, not child molestation. In addition, information is not included on offenders under the age of twelve. A large number of cases of sexual assault go unreported in official court records. In many circumstances, even if the offense is revealed, victims and their families are reluctant to report it to police because of the age of the offender and the likelihood that he is known to the family (Groth & Lored, 1981). Furthermore many individuals choose not to report sexual abuse because of the personal shame and humiliation they feel as a result of the experience.

Data from unofficial sources indicate a relatively higher percentage of sex offenses perpetrated by adolescents than that provided by the UCR. Sexual assault centers and hospitals treating child assault victims report that between 42 to 56% of

their cases involve adolescent perpetrators (Deisher, Wenet, Papery, Clark & Fehrenbach, 1982). Similar data collected by treatment programs for adult sex perpetrators further indicates the extent of sexual assault by adolescents. One large study of adult sexual offenders in treatment reveals that 50% of voyeurs, non-incest pedophiles, frotteurs, and exhibitionists, 40% of male incest pedophiles, and 30% of rapists admit committing their first offense as teenagers (Abel, Mittleman & Becker, 1984).

### ***Characteristics of Juvenile Sex Offenders***

Juvenile sex offenders are a heterogeneous group. Unlike profiles developed for adult sex offenders, there is no comprehensive or empirically derived typology of juvenile sex offenders (Becker & Hunter, in press). The research literature has, however, identified some prevalent characteristics of the individual and family environment. Individual characteristics include lack of social and assertiveness skills, history of delinquent behavior, low academic performance, lack of impulse control and lack of proper sex education.

Clinical observations indicate adolescent sex offenders lack appropriate social skills and social competence (Becker & Kaplan, 1988; Becker, Harris, Sales, in press; Becker & Hunter, in press). The individual may find it difficult to relate to both adults and peers and, in turn, become socially isolated. About 30% of offenders report having no friends and about 46% are described by their parents as loners (Fehrenbach, Smith, Monastersky & Deisher, 1986; Awad, Saunders & Levene, 1984).

Non-sexual delinquency is another common characteristic. Studies indicate that 40 to 60% of adolescent sex offenders have a history of prior non-sexual delinquent behavior ranging in seriousness from trespassing, truancy and petty theft to violent felonies such as robbery and assault (Aljazireh, 1993; Becker, Harris & Sales, in press; Becker & Hunter, in press).

Data on the intellectual functioning or academic performance of juvenile sex offenders is mixed. Some studies have found no differences in IQ between sex offenders and other juvenile delinquents (Aljazireh, 1993). Other studies have found that juvenile sex offenders have a greater incidence of IQ scores below 80 (Awad *et. al.*, 1984; Saunders & Awad, 1986).

Another prevalent characteristic is lack of impulse control. Many juvenile sex offenders have a tendency to act out impulsively and have poor anger management and control skills (Becker & Hunter, in press).

Juvenile sex offenders also lack knowledge about sex and, in particular, about positive and consensual sex. Juvenile sex offenders often have distorted opinions and attitudes concerning sexuality. Lack of proper sex education and misperception may contribute to the thought disorders, deviant sexual fantasies and arousal patterns experienced by juvenile sex offenders (Becker, Harris & Sales, in press).

Ryan and Lane (1991) make several conclusions about the demographic characteristics of adolescent sex offenders based on their review of prior studies. The largest group of offenders is male (91 to 93%). The most frequent age for offending behavior is 14. Although some studies indicate that the majority of adolescent sex offenders are Caucasian, when the age of the population is taken into account, no one racial, ethnic, socio-economic or religious group has been found to commit a significantly larger number of offenses (Schram, Milloy & Rowe, 1991; Ryan & Lane, 1991).

Several family characteristics, such as unstable home environment, witnessing family violence and a history of sexual and physical abuse, are commonly found in the history of adolescent sex offenders. The Uniform Data Collection Systems of the National Adolescent Perpetrator Network reports that 57% of juvenile sex offenders had experienced parental loss through death, divorce or separation (Ryan & Lane, 1991). Twenty-eight percent of the juvenile sex offenders reported witnessing parental violence or parental substance abuse. In addition, 62% of the juvenile sex offenders did not live with both natural parents at the time of the offense. Several studies also indicate parental involvement in the criminal justice system (Aljazeera, 1993).

Many juvenile sex offenders have been the victims of sexual and physical abuse or neglect. Although studies vary in terms of the sample population used, it is estimated that between 49 and 97% of juvenile sex offenders were sexually abused as children (Aljazeera, 1993). Rates of physical abuse vary similarly from 14 to 75%, depending on the specific population. Although sexual and physical abuse are common in other juvenile delinquents, they are more prevalent among juvenile sex offenders and other violent juvenile delinquents. In addition to actual physical abuse, parents of juvenile sex offenders are more likely to use physically punitive discipline practices (Davis & Leitenberg, 1987). An important caveat to these conclusions is that the characteristics cited are not specific to juvenile sex offenders, but are rather seen in the broader group of juvenile delinquents.

### ***Virginia Demographics***

According to the Department of Criminal Justice Services, 10 to 13% of sexual assaults in the Commonwealth of Virginia are perpetrated by juveniles. As indicated by *Table 1*, 522 cases were filed in juvenile court in 1992. Of these petitions, 71% (n=370) received formal adjudication to learning centers, private vendors, intensive supervision or other formal involvement such as probation or other formal involvement. The nature of the sexual offense for which the youths are adjudicated covers a broad spectrum, from misdemeanors such as indecent exposure to violent felonies such as aggravated sexual battery. Of these 370 petitions filed, 22% resulted in commitment to learning centers, 3% were disposed of by private vendors representing special placement and less than 1% involved intensive supervision. Seventy-five percent of the petitions involved formal involvement such as court-ordered supervision, aftercare, court-ordered family counseling, court-ordered group counseling, work alternative programs, volunteer services, educational services, or wilderness/recreational programs.

Extrapolating from data supplied by the Department of Youth and Family Services for the years 1991-1992, it is estimated that the number of newly-adjudicated juvenile sex offenders in the Commonwealth will increase by about 13% each year. Statewide projections (*Table 2*) indicate that the number of newly-adjudicated juvenile sex offenders will increase each year from an estimated 428 in 1994 to 892 in the year 2000.

**Table 1**  
**Dispositions for Juvenile Sexual Offenses in Virginia in Fiscal Year 1992**

DYFS Offense Code	Offense Description	Dispositions Diverted from Official System	Committed to Learning Center	Private Vendor	Intensive Supervision	Other Formal Involvement e.g., Probation	Total per offense
R01	Aggravated sex battery	17	5	2	0	38	62
R02	Aggravated sex battery - victim under 13	36	19	3	1	46	105
R04	Sexual battery	21	6	3	0	58	88
R05	Carnal knowledge, non-force, victim 13,14	1				5	6
R06	Carnal knowledge, victim 13,14; accused 3 yrs senior	3	2	0	0	6	11
R10	Inanimate object penetration, victim under 13	0	1	1	0	2	4
R12	Forcible rape - mental incapacity, or helplessness of victim	2	2	0	0	10	14
R13	Forcible rape - by threat, force, or intimidation	18	16	2	2	28	66
R14	Forcible rape - victim under 13	7	10	0	0	20	37
R17	Forcible sodomy	2	5	0	0	11	18
R18	Forcible sodomy, victim under 13	18	11	0	0	17	46
R21	Attempted sexual assault	4	1	0	0	4	9
S02	Incest	1	0	0	0	0	1
S23	Non-forcible sodomy	5	2	0	0	7	14
S30	Attempted sex offense	2	0	0	0	1	3
X06	Indecent exposure	15	2	0	0	21	38
<b>Totals per disposition</b>		152	82	11	3	274	522

*Of these 522 petitions, 71% (n=370) received formal adjudication.*

Source: Virginia Department of Youth and Family Services

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**Table 2**

**Statewide Projections of Adjudicated Juvenile Sex Offenders Eligible  
For Two and Five Year Pilot**

<b>Fiscal Year</b>	<b>Projected Number of Juvenile Sex Offenders In Two Year Follow-up</b>	<b>Projected Number of Juvenile Sex Offenders In Five Year Follow-up*</b>
<b>1993</b>	<b>380</b>	<b>258</b>
<b>1994</b>	<b>428</b>	<b>291</b>
<b>1995</b>	<b>484</b>	<b>329</b>
<b>1996</b>	<b>547</b>	<b>372</b>
<b>1997</b>	<b>618</b>	<b>420</b>
<b>1998</b>	<b>699</b>	<b>474</b>
<b>1999</b>	<b>789</b>	<b>537</b>
<b>2000</b>	<b>892</b>	<b>606</b>

*\* This number is 68% of those in the two year follow up. The estimate is based on data from FY 1992 and FY 1993 using only the number of violent felony sex offenses. This is likely to be an underestimate of the actual number of juvenile sex offenders (JSOs) who will be in the five year follow-up because there may be JSOs who fit the other four criteria. Data on JSO regarding the other four criteria is not centrally available at this time.*

**Source: Virginia Commission on Youth graphic of Department of Youth and Family Services analysis, 1993**

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## **Assessment**

There is near consensus in the literature and among sex offender experts that successful treatment with juvenile sex offenders requires specialized assessment as well as treatment (Bengis, 1986). Specialized assessments serve many different functions. Knopp (1982) indicates that assessments can: 1) differentiate between normative sexual activity or situationally determined behavior as opposed to deviant sexual behavior, 2) identify inappropriate sexual activity of a non-aggressive nature and 3) assess sexually assaultive behavior that poses some risk of harm to another person. A comprehensive assessment can aid in determining the extent and frequency of the deviant sexual behavior. In addition, it can identify the related treatment needs of the juvenile sex offender, as well as determine the degree of public safety risk the offender represents (Otey & Ryan, 1985; Knopp, 1985). An assessment is virtually mandatory in determining appropriate candidates for treatment in community settings and those requiring a more restrictive or protective environment (Steen & Monnette, 1989; Knopp 1985).

Bengis (1986) notes that, along with standard assessment, specialized sex offender evaluation is needed to assess the degree of risk posed by the juvenile sex offender. Special information needed to assess risk includes: honesty; deviant arousal and offense pattern; degree of fixation; frequency and target of offenses; other abusive, addictive and related behaviors; external controls and support systems; potential for re-socialization; relevant criminal and incarceration history; and the offender's willingness to change (Bengis, 1986, p.8).

In addition to the above factors which facilitate assessment of public safety risk, other behavioral components have been suggested to help formulate specific treatment recommendations.

According to Becker (1990) these factors include:

- Adolescent's sexual behavior and fantasies (both consensual and deviant);
- Exact nature of sexual offense and the details of the events preceding and succeeding the offense;
- Whether the adolescent was a victim of physical, sexual or emotional abuse;
- Intellectual and cognitive ability;
- History of prior behavior problems and hospitalization;
- History of non-sexual, norm-violating behavior;
- Sexual knowledge, peer relations, empathy and the ability to deal with stress and anger; and



- Offender's family dynamic and behaviors contributing to offender's behavior.

Because the sex offender may be non-compliant and attempt to deny or minimize his behavior, it is essential that the clinician gather information from various sources, including court records, victim statements, prior treatment reports and psychological evaluations, and the adolescent's parents (Becker, 1990).

Juvenile sex offending is often a precursor of serious sexual offending behavior as an adult. Data indicate that 50 % of adult sexual offenders committed their first offense during adolescence (Abel *et.al.*, 1984). There is also evidence indicating that some juvenile offenders committing non-violent sex crimes may escalate their offending behavior to serious sexual offenses in adulthood (Longo & McFaden, 1981). One frequently-cited study found that youth under 18 years old had an average of 6.75 victims, compared to an average of 380 victims for adult sex offenders (Abel, Mittleman & Becker, 1984).

Abel (*et.al.*, 1984) notes that many sex offenders have deviant sexual arousal and fantasies at about 12 or 13 years old, but have yet to commit a crime. These researchers and clinicians strongly suggest that, in order to stop sexual assault, children and adolescents need to be treated before deviant arousals become reinforced and habitual.

Targeting adolescents for treatment may help in determining the etiology and other contributing factors that interact to product sexual offending behavior in adulthood. Studies conducted to date have relied on adult sex offenders' recollection of their behavior as adolescents. By targeting adolescents whose experiences are recent and whose problems are current, researchers can gain insight into factors that may lead to sexual deviancy in childhood (Freeman-Longo, 1985). Along the same lines, Knopp (1985, p.11) offers several rationale for early therapeutic intervention:

- Deviant sexual patterns are less ingrained and therefore easier to disrupt;
- Adolescents are still experimenting with a variety of patterns of sexual satisfaction. At this stage, alternatives can be offered to replace deviant patterns;
- Distorted thinking patterns are less deeply entrenched and can be redirected;
- Youth are good candidates for learning new and acceptable social skills;
- Public safety is improved by preventing further victimization; and
- Fiscal economy is enhanced.

## **Treatment Services**

The increasing number of juvenile sex offenders apprehended and entering the juvenile justice system has resulted in an unprecedented interest in establishing treatment programs for juvenile sex offenders (O'Brian, 1985). Despite the newness of the field of research on juvenile offenders and the absence of a single theory guiding treatment for either juvenile or adult sex offenders, some principles have been established. Clinicians and researchers agree that sex offender treatment must contain multiple components to address the complex array of factors contributing to sexual offending behavior. Many treatment programs for juvenile sex offenders include one or more of the following components: individual, group, family therapy and relapse prevention. In a few programs, these treatment modalities are used simultaneously.

Treatment often begins with individual therapy. Issues that the juvenile sex offender must deal with include:

- Accepting responsibility for the offenses and decreasing denial/minimization of the sexual offense;
- Awareness and expression of anger;
- Victimization issues (how his own sexual and physical abuse are related to his sexual offending behavior);
- Developing victim empathy;
- Understanding the sex offense in terms of stress, power and compulsion;
- Understanding the sex offense cycle and how to prevent relapse; and
- Psycho educational component that focuses on sex education, sex role stereotyping, social skills, assertiveness skills, and modifying sexual arousal patterns and fantasies (Steen & Monnette, 1989; Utah Report on Juvenile Sex Offenders, 1989).

Group therapy is unquestionably one of the most effective modalities in working with adolescent sex offenders (Steen & Monnette, 1989). The group setting provides the offender with a safe environment in which to explore his functioning, his sex offenses and his own victimization. Through peer pressure and other means, more experienced members of the group can help new members break down minimization and denial tendencies. This environment is also conducive to the development and internalization of treatment objectives. By sharing problems, receiving acknowledgment and requesting assistance, group members build relationships and begin the process of re-socialization (Steen & Monnette, 1989). While group treatment is effective with all sex offenders, due to the importance of peer acceptance at this stage, it is particularly potent with juvenile sex offenders.

Almost all studies on juvenile sex offenders note the tremendous influence of the family in the development of offending behavior (Otey & Ryan, 1985). Factors such as increased family trauma, lack of adequate emotional support, confounded family relationships, poor parenting, poor family management skills, and sexual and physical abuse by parents have been linked to juvenile sex offenses, specifically, and juvenile delinquency in general.

Family therapy is a necessity, as these family dysfunctions often generate and exacerbate the problems of the adolescent sex offender. In treatment, the family and therapist work together to identify behaviors that contribute to the adolescent's sexually abusive behavior. Family members learn to express their emotions and needs and their feelings about the offender and his sexual offenses. In treatment, the family explores family roles and relationships and learns more effective family communication skills. A relapse component for the family is sometimes included. By identifying family functioning and dynamics, especially those behaviors occurring before the adolescent's sexual offense, the family can learn to identify factors that may help the offender to prevent a relapse into his old pattern of sexual offending (Ofey & Ryan, 1985).

Relapse prevention is an integral component of all stages of treatment. Relapse prevention was originally developed in work with alcoholics, but has quickly been integrated into treatment programs for other addictive behaviors such as sexual assault. In relapse prevention, sexual offenders are taught to identify and cope with situations that may undermine their control and result in a return to their old patterns of behavior. By identifying the specific pattern of the offense cycle, sex offenders are taught to avoid those situations that place them at risk for reoffending. In addition, they are instructed how to stop or intervene if the cycle is initiated. Relapse prevention is based on the notion that addictive behaviors can only be controlled, not completely cured. Therefore, relapse prevention deals specifically with long-term maintenance of behavioral changes (Pithers, Buell, Kashima, Cumming & Beal, 1987).

### **Recidivism**

Currently, there is no *clear* empirical basis for assessing which sex offenders present the most immediate risk for reoffending. Recidivism research on adolescent sex offenders is fairly sparse and many of the existing studies are fraught with methodological inadequacies. Some of the problems with existing research include: differing definitions of recidivism (e.g. use of juvenile court records versus self report and conviction of any crime versus a sexual offense); failure to use a control group along with a sex offender group in outcome measures; differing lengths of follow-up; and lack of differentiating follow-up for those who complete treatment versus those who drop out or receive no treatment.

While the literature on the effectiveness of sex offender treatment is far from definitive (Furby, Weinrott & Blackshaw, 1989) there is preliminary evidence from treatment programs supporting the relative effectiveness of sex offender treatment with adolescents. Fay Honey Knopp, Director of the Safer Society Program in Orwell,

Vermont and a national expert on sex offender treatment concludes: "There is no question that treatment holds the most promise for juvenile sex offenders, more so than for adults."

Knopp (1985) presents data from treatment programs which suggests a positive prognosis for adolescent sex offenders who receive treatment. The Program for Healthy Adolescent Sexual Expression (PHASE), a community-based treatment program in Minnesota, reports that only 7 of 200 sex offenders who have completed their program have committed subsequent sexual offenses. The Closed Adolescent Treatment Center in Denver, Colorado is a secure residential program for the most serious offenders who have committed sexual and other violent crimes. This program reports that only 1 of the 19 adolescent sexual offenders who completed their program from 1979-1986 is known to have reoffended sexually. The Hennepin County Home School in Minnetonka, Minnesota, a low security residential facility for serious sex offenders, reports that only 3 of 100 offenders who have completed their juvenile sex offender program are known to have committed a sexual offense after release (Knopp, 1985).

The Pines Treatment Center, a community-based program in Virginia, is currently conducting a pilot program and has collected follow-up data on 75 children. John Hunter, Clinical Director, reports a recidivism rate of 7.3% for the 70% of the youth completing their program, compared to a recidivism rate of 37.5% for those youth who failed to complete treatment. Such clinical data support the efficacy of treatment for juvenile sex offenders. Research using comparisons groups may further strengthen clinical data on adolescent sexual offenders.

### ***Intensive Probation Supervision and Aftercare***

Probation supervision has been used in the recent past; however, it has produced mixed results (General Accounting Office, 1993). This may be due to a lack of an appropriate level of supervision and an emphasis on control of the offender without a rehabilitative component. Currently, intensive probation supervision models are being reexamined for use with both adult and juvenile offenders. Such models are being restructured with the realization that close and persistent supervision is often the only means of ensuring the offender's compliance with court orders (Byrne, 1985). The increased popularity of intensive probation supervision can be attributed to a number of factors. Perhaps one of the most important factors is its cost, relative to the cost of incarceration. Intensive probation supervision is attractive because it combines diversion, punishment and control. Intensive probation supervision is often a form of immediate sanction, more severe than standard probation, yet less severe than traditional incarceration (General Accounting Office, 1993).

While the levels of supervision may vary with the offender and the particular offense, intensive probation supervision involves frequent contact between the program officers and offenders. To compensate for the intensive supervision, caseloads for probation officers are often decreased.

Intensive probation supervision programs are increasingly being implemented for juvenile delinquents committing various types of offenses. Intensive probation supervision may be used as an alternative to residential treatment for youths deemed to be "low risk" and is also being used in aftercare programs to facilitate reintegration into the community. Intensive probation supervision is gaining particular popularity in relapse prevention program treating sexual offenders. In these programs, relapse prevention provides internal self management while intensive probation supervision provides external management (Freeman-Longo & Knopp, 1992). Pithers, Martin & Cummings (1989) cite the following functions of this external supervisory dimension: 1) enhanced efficacy of probation or parole supervision by monitoring specific offense precursors; 2) increased efficacy of supervision by the creation of an informed network of collateral contacts to assist in monitoring the offender's behaviors; and 3) creating a collaborative relationship between probation officers and mental health professionals conducting therapy with the offender. According to Marques, Day and Nelson (in press), there is "definite consensus regarding the importance of aftercare/supervision in sex offender treatment."

The community, however, must also be involved. Altschuler (1984) notes that it is unrealistic to expect that comprehensive treatment and intensive supervision can be provided without the active involvement of the community and linkage of the offender to social networks. His intensive aftercare model for juvenile delinquents emphasizes the importance of community involvement in providing transitional services to youth. Altschuler believes that reinforcement and support from families, peers, teachers employers and others in the community are the keys to the youth's successful readjustment to community life and maintenance of treatment gains achieved in institutional and aftercare programs. Thus communities can play a large role in increasing public safety through the development of treatment programs and other community resources that facilitate the youth's transition back into the community.

### ***Prevention***

While intensive supervision, treatment for juvenile sex offenders, and the development of community services may prevent recidivism, an equally laudable goal is the prevention of an initial occurrence of sexual offending behavior. Prevention may occur on a variety of levels.

On a broad level, there must be changes in society's attitudes toward sexuality and acceptance of sexually abusive behaviors considered "normal adolescent behavior." A study by Malamuth, Haber and Feshbach (1980) typifies current attitudes among young men. These researchers found that over 50% of male college students acknowledged that they might rape if they could be assured that they would not be caught. In a similar study of high school students, Goodchilds and Zelman (1984) found that a majority of male adolescents reported that date rape is acceptable under a variety of circumstances. Society encourages and sanctions such attitudes either indirectly by not correcting them or directly by accepting them (Darke, 1989).

In addition to accepting such beliefs and behaviors from adolescents, society as a whole must change its attitudes about sexuality. Mixed messages about sexuality are prevalent. On one hand, our society, especially the media, bombards us with sexual images and behavior. On the other hand, there is still a prevalent attitude that sexuality is not to be discussed openly or that it is dirty and degrading (Knopp, 1985). Open discussion and education of appropriate sexual behavior may help in decreasing the association of sex with degrading or dirty images, and thereby decrease its use to humiliate women and children in society (Darke, 1989).

Another strategy for preventing sexual assault may be to eliminate factors contributing to sexual offending behavior. One such example may be educating individuals about positive parenting before they have children. As mentioned earlier, poor family management skills, the use of punitive physical discipline, and emotional, physical and sexual abuse may all influence the adolescent's offending behavior. If individuals were to receive parent education on a routine basis in high school and through community programs, they may learn the appropriate techniques to discipline and raise their children in general. They may also learn how to cope with problems and deal with them directly at an early stage, when such problems are manageable.

Professionals who frequently come in contact with juvenile sex offenders must also change their attitudes and tolerance of sexual offending adolescents. Bengis (1986) notes that professionals not trained in sex offender characteristics and behavior may unknowingly dismiss adolescent sexual offenses. Police officers, often the first in the criminal justice system to have contact with adolescent sex offenders, may view such behavior as an isolated incident of "normal adolescent behavior." Further along in the criminal justice system, the youthful sex offender may be allowed under a plea bargain to plead guilty to a lesser sexual offense or even a property crime, and is not prosecuted for the sexual assault that may have occurred. Such practices, while legally commonplace, contribute to the lack of accountability in adolescent sexual offenses and also to the problem of diagnosing and identifying these adolescents. A delay in identifying adolescent sex offenders may ultimately place more victims at risk and, at the same time, prevent adolescents from receiving appropriate treatment to stop the offending behavior.

Finally, while there is growing awareness of the prevalence of sexual, emotional and physical abuse, communities need to further educate the public on the recognition and reporting of abuse. All too often, parents and others fail to recognize signs of abuse in children. If such signs are recognized, there may be failure to report it to the proper authorities or to seek treatment. Such behavior may be due to the parents' own feelings of shame and guilt. Through early recognition and treatment of sexual abuse in childhood, the cycle of abuse may be interrupted.

## **LEGAL ISSUES**

Currently, in *Virginia Code* §16.1-242, the Juvenile and Domestic Relations Court of Virginia may retain jurisdiction of juveniles brought before the court up to their 21st birthday, unless they are in the custody of the Department of Youth and Family Services, or they are transferred to the adult system under the provisions of *Virginia Code* §16.1-269.

To determine the legal feasibility of extending the jurisdiction of Juvenile and Domestic Relations Courts, it is necessary to determine by what authority the General Assembly may do so. Additionally, it will be useful to review the jurisdiction of other states' juvenile courts to help in determining positive and negative aspects of extending jurisdiction. Lastly, it is necessary to consider any constitution limitations on extending jurisdiction for juvenile sex offenders.

### ***Establishing and Regulating Jurisdiction***

Article VI, §1 of the Constitution of Virginia provides that "[t]he Judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as *the General Assembly may from time to time establish*" (emphasis added). Additionally, Article IV, §14 states that

the authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted; and a specific grant of authority in this Constitution upon a subject shall not work a restriction of its authority upon the same or any other subject. The omission in this Constitution of specific grants of authority heretofore conferred shall not be construed to deprive the General Assembly of such authority, or to indicate a change of policy in reference thereto, unless such purpose plainly appear.

Section 14 of Article IV goes on to enumerate specific limitations on the powers of the General Assembly. As it relates to jurisdiction of the courts of the Commonwealth, §14 states that "[t]he General Assembly shall not enact any local, special, or private law in ... (3) [r]egulating ... the jurisdiction of ... any judicial proceedings or inquiries before the courts or other tribunals..." Thus, the General Assembly is vested with the power of establishing and regulating jurisdiction of its courts which are subordinate to the Supreme Court, subject to certain limitations by the Constitution of Virginia. These limitations are identified in subsequent pages of this report.

An example of the use of this power is the establishment of Juvenile and Domestic Relations Courts. In 1914, the General Assembly passed an act to establish "a special justice of the peace, to be known as the justice of the juvenile and domestic

relations court, and to prescribe his jurisdiction and duties." This was the first time the legislature made an effort to establish separate jurisdiction for juvenile and family law.

Another example is the legislation enacted during the 1993 Session to create the Family Court system, effective January 1, 1995. (See Senate Document No. 22.) This system, if instituted, would combine the jurisdiction of the Juvenile and Domestic Relations Court as it currently exists, with that over divorce, annulment and affirmation of a marriage, separate maintenance, adoption, change of name, as well as custody, visitation, support and property matters incidental thereto. (The implementation of the Family Court is contingent on the General Assembly's providing funding for the system.)

### ***Juvenile Jurisdiction in Other States***

Generally, the upper age limit of jurisdiction of juveniles by the juvenile courts system ranges from 18 to 25 years of age. The majority of states (approximately 27) have established 21 years of age as the upper limit of jurisdiction for juveniles by their juvenile courts; however, it is important to note that the extension of jurisdiction is not absolute. Alabama, Idaho and the District of Columbia provide that, if the person under the jurisdiction of the juvenile court is convicted of a crime committed after the age of 18, the jurisdiction of the juvenile court shall terminate. Arkansas and Florida provide for the extension of jurisdiction to the age of 21 only for juveniles committed to their juvenile correctional agency. In Illinois and Tennessee, a juvenile must be convicted more than once or twice as a juvenile for the jurisdiction to extend to the age of 21.

Many states provide that jurisdiction of the juvenile court extends to age 21 for juveniles convicted of particular serious offenses, generally those that include violence, threat, force, etc. or those that would be felonies if committed by adults. Finally, most of these states provide for the extension of juvenile court jurisdiction beyond the age of 18 only for the purposes of enforcing court orders that were entered into prior to the juvenile's 18th birthday.

There are two states that provide for extension of juvenile court jurisdiction up to the juvenile's 25th birthday, California and Wisconsin. Not surprisingly, there are conditions and limitations of this extension of jurisdiction. California law provides that the juvenile court may retain jurisdiction over any person who is found to have violated certain offenses before reaching the age of 18 years until that person attains the age of 25 years if the person was committed to the California Youth Authority. The offenses referred to are serious crimes that include, but are not limited to the following: murder; arson of an inhabited building; rape or sodomy by force or violence or threat of great bodily harm; kidnapping for ransom, purpose of robbery or with bodily harm; and assault with intent to murder, or with a firearm or destructive device, or by any means or force likely to produce great bodily injury.

Wisconsin law provides that if a person is adjudged delinquent for the commission of 1st Degree Intentional Homicide, and that person is transferred to the



legal custody of the specified department for placement in a secured correctional facility and has been found to be a danger to the public and in need of restrictive custodial treatment, the court shall enter an order extending its jurisdiction up to the time the person reaches the age of 25 years.

In summary, a majority of the states have extended juvenile jurisdiction to the same limit that Virginia has, although some have lower limits and two have extended their juvenile courts' jurisdiction to 25 years. It is apparent that many states have decided that the overriding factor in extending jurisdiction of the juvenile courts beyond the age of 18 years is the seriousness of the act committed, in terms of violence or risk of serious injury to others.

### ***Possible Constitutional Limitations on the Extension of Jurisdiction***

There are two potential constitutional limitations on the extension of the Juvenile and Domestic Relations Court's jurisdiction over juvenile sex offenders beyond the age of 21. There is the potential for an equal protection challenge, which exists because the extension of jurisdiction for a particular group begs the question of whether the members of such group are being discriminated against. There is also the possibility of the constitutional prohibition on enacting ex post facto laws. This limitation arises because of the possibility of changing the substance of the dispositions available to juveniles adjudicated delinquent for the commission of sex offenses subsequent to their committing the act for which they are adjudicated.

Equal protection rights are guaranteed by the anti-discrimination clause in Article I, §11, and the prohibitions against special legislation in Article 4, §14 of the Virginia Constitution. Neither clause provides stronger protection than the equal protection clause of the 14th Amendment to the U.S. Constitution. Boyd v. Bulala, 647 F. Supp. 781 (W.D. Va. 1986), rev'd on other grounds, 905 F.2d 764 (4th Cir. 1990). The task of the courts in passing on the validity of a classification under the standard equal protection test is not to determine if it is the best way, or even a good way, of accomplishing a legitimate state interest. A court's task is to determine only whether the classification makes sense in light of the intent; beyond that point, the wisdom of the state must be allowed to prevail. Denis J. O'Connell High School v. Virginia High School League, 581 F.2d 81 (4th Cir. 1978), cert. denied, 440 U.S. 936, 99 S. Ct. 1280 (1979).

If the Virginia General Assembly is to extend the jurisdiction of the juvenile courts for juvenile sex offender, it must demonstrate that its classification of juvenile sex offenders passes constitutional scrutiny under equal protection analysis. When the classification involves a fundamental right, a suspect classification or the characteristics of alienage, sex, or legitimacy, they are subject to close judicial scrutiny. Salama v. Com., 8 Va. App. 320, 380 S.E.2d 433 (1989). Such classifications are permissible only when designed to achieve an important, compelling or overriding governmental objective, or, in some cases, when the classification bears a substantial relationship to an important governmental objective.

The classification of juvenile sex offenders for extended jurisdiction would be based on the rationale that sex offenders have much higher rates of recidivism than other offenders, and that juveniles are more malleable and are more likely to respond to treatment and disincentives to reoffend than are adults. The purpose behind such extension of jurisdiction would be to provide for added public safety and to encourage rehabilitation of such offenders. The primary function of the juvenile courts is juvenile rehabilitation and crime prevention. Kiracofe v. Com., 198 Va. 833, 97 S.E.2d 14 (1957). Thus, the purpose of the extension of jurisdiction is a legitimate governmental objective, and the classification does bear a reasonable relation to the objective. While some may argue that the jurisdiction of the juvenile courts should be extended to all serious juvenile offenders, the equal protection clause does not require that a state must choose between attacking every aspect of a problem or not attacking the problem at all. Calvert v. West Virginia Legal Servs. Plan, Inc., 464 F. Supp. 789 (S.D.W. Va. 1979).

Laws fall into the meaning of "ex post facto" when they impose a punishment for previous acts which were not punishable at all when committed, or not punishable to the extent or in the manner prescribed or when they change the rules of evidence so that less or different testimony is required to convict. Morgan v. Com., 98 Va. 812, 35 S.E. 448 (1900); Marshall v. Garrison, 659 F.2d 440 (4th Cir. 1981). In its most comprehensive definition, ex post facto laws include all retrospective laws, or laws governing or controlling past transactions, whether they are of a civil or a criminal nature. Jones v. Com., 88 Va. 661, 10 S.E. 1005 (1892). In the special sense, they relate to criminal proceedings which inflict punishments or forfeitures and not civil proceedings which affect private rights [e.g., contractual rights] Bain v. Boykin, 180 Va. 259, 23 S.E.2d 127 (1942).

Historically, in Virginia, juvenile court proceedings have been viewed as civil, rather than criminal in nature. Lewis v. Howard, 374 F. Supp. 446, 447 (W.D. Va. 1974). In Lewis, the 4th Circuit found that, despite the view of juvenile proceedings as civil versus criminal, the constitutional prohibition against double jeopardy did apply to juvenile adjudications such that a juvenile adjudicated a delinquent could not be tried for the exact same crime in the circuit court. Virginia has not yet addressed the issue of whether the constitutional prohibition on ex post facto laws applies to juveniles, but other states have done so. See People ex rel. Carey v. Chrastka 83 Ill.2d 67, 413 N.E.2d 1269 (1980); In re Mycuta A., 97 Misc.2d 670, 412 N.Y.S.2d 96 (1979), rev'd on other grounds, 428 N.Y.S.2d 211, 75 A.D.2d 774, (1980); Myers v. District Ct., Fourth Judicial District, 184 Colo. 81, 518 P.2d 836 (1974); Johnson v. Morris, 87 Wash.2d 922, 557 P.2d 1299 (1976).

In Johnson v. Morris, the Supreme Court of Washington held that the commitment of petitioner, an adjudicated juvenile delinquent past his 18th birthday, constituted an ex post facto application of a statute extending juvenile court jurisdiction over delinquent juveniles from age 18 to 21, because the act giving rise to the adjudication occurred prior to the effective date of the statute.

This is the precise issue which any extension of juvenile court jurisdiction in Virginia may raise. If jurisdiction of the Juvenile and Domestic Relations Court is to be extended for juvenile sex offenders, and the dispositions which these juveniles face are made harsher than they are currently, then the jurisdictional extension should probably be made prospectively. This would mean that only juveniles adjudicated delinquent for the commission of a sex offense after the extension of jurisdiction would be subject to the new jurisdictional parameters. While it is not certain that Virginia courts would apply the prohibition on ex post facto laws to juvenile court proceedings, in light of the holding in Lewis, it is a distinct possibility.

Despite the legal viability of extending jurisdiction of the juvenile court for juvenile sex offenders past the age of 21, there is not sufficient data to support the effect of a pre-identified number of years of court monitoring. In other words, in the absence of a clinically-validated model supporting a period of monitoring which would extend past current juvenile court jurisdiction, there is no reason to do so.

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## **VII. Federal/Other States' Policies**

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Although there are no federal policies or statutes which deal specifically with juvenile sex offenders, there is federal guidance on a general level with the Juvenile Justice and Delinquency Prevention Act and the Crime Control Act. Despite the lack of federal policy, there has been a recent increase in states' responses to juvenile sex offenders. The various issues that different states have and are currently addressing include: developing task forces to address the legal and treatment options, HIV testing, adult prosecution of juvenile sex offenders for specific sex offenses, maintenance and access to juvenile records, sex offender registries, and mandatory psychological assessments by highly-experienced or certified clinicians.

Due to the large number of statutes and laws concerning sex offenders in various states and an even larger number of unwritten policies, it is beyond the scope of this report to provide a detailed review. However, a brief overview of recently enacted statutes in different states is presented here. Much of the information that follows is based on legislative summaries from The National Conference of State Legislators (NCSL) from 1990-1993.

Several states recognize the growing number of juvenile sex offenders and associated problems. This awareness has led states such as Texas, California, Minnesota, Washington, Utah, Oklahoma, Arizona and Michigan to develop task forces to examine issues involving juvenile sex offenders. Other states, such as Vermont and Oregon, have conducted studies to determine the scope of the problem and assess the states' resources for dealing with these problems. In addition to these formal state task forces, many organizations and public groups have developed their own projects to examine and treat juvenile sex offenders. States and regions identified as having adolescent sex offender networks include California, Colorado, Illinois, Maryland, Michigan, New England, New Jersey, Ohio, Oregon, South Carolina, Tennessee,

Minnesota and Washington (National Adolescent Perpetrator Network, 1988). In a similar vein, several states, including Minnesota, Utah, Illinois and Missouri, provide for court-ordered treatment for juvenile sex offenders or mandate one or more state agencies to develop and implement pilot treatment programs for juvenile sex offenders.

Of particular note is the Special Sex Offender Disposition Alternative in Washington state. In specific circumstances this statute allows the court to suspend disposition of the juvenile sex offender and impose conditions of community supervision and sex offender treatment for a period of up to two years in an outpatient or inpatient treatment facility. The juvenile sex offender treatment provider is required to submit periodic reports of the youth's progress to probation officers and the juvenile court. Although no other state has such an elaborate program, there is increasing recognition of the importance of treatment services. California, for example, mandates family therapy for the juvenile sex offender and his parents.

Recent concerns regarding the spread of AIDS, HIV infection and other sexually transmitted diseases have prompted states such as Kansas, Indiana, Oregon, Texas, Utah, Louisiana and Virginia to require all sex offenders, including juveniles, to submit to testing for these diseases upon adjudication or conviction.

A few states have formally recognized the importance of psychological assessments and, in particular, assessments conducted by experienced or certified clinicians. Minnesota and Washington are two states that require psychological assessment by a qualified clinician prior to disposition.

While state governments are making efforts to increase services for juvenile sex offenders, the proliferation of treatment services for juvenile sex offenders is due in great part to community-based services. According to a nationwide survey of juvenile sex offender treatment programs (Safer Society, 1988), there were a total of 573 specialized juvenile sex offender treatment programs. Eighty percent of these were community-based (outpatient) services. While there are a number of treatment programs in the United States, they are not equally distributed across the country. Three states, Alabama, Arkansas and Mississippi, had no identified treatment services for adolescents in 1988. Five states, Alaska, Hawaii, New Mexico, Oklahoma, West Virginia, and the District of Columbia had only one identified treatment program. About half of the treatment services were concentrated in seven states: California, Washington, Ohio, Oregon, Massachusetts, Michigan and New York.

## **VIII. Current Service Structure in Virginia**

Juvenile delinquency cases may be handled formally or informally. If a case is handled informally, community agencies, including schools, parents and social services, are referred to for the provision of educational or treatment services. A case is handled formally before the court when the petition is filed requesting the court to adjudicate the juvenile's guilt or innocence or transfer to Circuit Court. Upon adjudication, the judge has several disposition options. The judge may divert cases from the official system, order supervision through formal probation services, order treatment by a private vendor, order the juvenile to be committed to a learning center, or order rehabilitation.

Upon commitment to a Department of Youth and Family Services (DYFS) learning center, the juvenile sex offender is first given a psychological evaluation for treatment planning. In 1990, the Department began to pilot specialized sex offender treatment services at one learning center. Now three of the learning centers house specialized sex offender programs. As of January 1994, placement in a particular learning center for juvenile sex offenders is dependent on the age of the adolescent. Juveniles 16 years or older are sent to the Beaumont Learning Center, juveniles who are 14 years old or younger receive treatment at the Hanover Learning Center, and for youth who are 15 years old, DYFS staff determine the appropriate learning center.

The major treatment modality in the residential sex offender programs at the learning centers is group process. The juvenile sex offender is required to participate in individual and group psychotherapy, psycho-educational groups on sex education and social skills. The length of time a juvenile sex offender remains in the learning center depends on individual achievement and progress in treatment. To be eligible for release, each juvenile sex offender must complete a number of treatment objectives specific to his sexually deviant behavior. The average length of stay for juvenile sex offenders in the learning center is between 16 and 18 months.

In a majority of cases in Virginia (75% of all cases petitioned), the judge orders formal court involvement. This involvement may include court-ordered supervision and probation, aftercare, education services, restitution or individual, group, and family counseling. Intensive supervision is usually provided by probation officers in individual court service units. Standard probation consists of a monthly face-to-face meeting between the juvenile, his parents and the probation officer. Increased supervision, which is often required for juvenile sex offenders, may entail face-to-face contact between the juvenile sex offender and the probation officer several times a week, in addition to meetings between parents and probation officers, and contact with community services providers such as school, work and therapists.

In cases in which individual, group or family counseling is ordered by the judge, there are limited options on the community level. Currently, only 29 of the 40 Community Services Boards (CSBs) of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMH/MR/SAS) provide individual and family counseling. Only 11 of the 40 provide group counseling to juvenile sex

offenders. Furthermore, most of the residential and other treatment programs for this population are concentrated in Northern Virginia. More programs are needed across the Commonwealth, especially in rural areas.

Outpatient counseling (individual, group and family) is offered through CSBs. The Department maintains a directory of Virginia programs and clinicians treating treat sex offenders. Of the 37 providers listed in the directory in 1990, 24 providers or programs offer special services for juvenile sex offenders.

Community-Based Services, Inc. is another outpatient sex offender program. Since 1989, this program has provided intensive, in-home services with group treatment for juveniles who are court-ordered to receive treatment. Some adolescents in these programs also receive individual therapy. An important aspect of this program is the family involvement which in-home services provide (Virginia Child Protection Newsletter, 1991).

There are also residential (in-patient) programs for juvenile sex offenders, such as that at the Pines Residential Treatment Center. The regional sex offender program at this facility is one of the largest sex-offender programs in the Commonwealth of Virginia. Since opening in 1991, this program has treated approximately 90 juvenile sex offenders. This program provides services including assessment, counseling and aftercare to juvenile sex offenders between the ages of 10 and 19. This program serves youth in Virginia, as well as those from other states.

## **IX. Related Studies on Juvenile Sex Offenders in Virginia**

Growing recognition of the need to address issues related to sex offenders is evident in three recent studies conducted in Virginia this year. Two of these studies resulted from recommendations made by the Commission on the Reduction of Sexual Assault in Virginia.

One of these studies deals with certification of mental health professionals who work with sex offenders. In the 1992 session, House Joint Resolution No. 41 requested the Department of Health Professions (DHP) to study the "need for certification or other special credentialing for providers of mental health and counseling services to sexual assault victims and offenders." The DHP task force on this study found no need for special credentialing of providers of mental health and counseling services to sexual assault victims when these professionals are licensed or certified by boards within the DHP. The task force did, however, find a need for better preparation of mental health and counseling professionals working with sexual assault victims, particularly preparation at the practice entry level. As a result, the DHP task force recommended that the State Council of Higher Education in Virginia and the Virginia Community College System study the need for professional education programs for practitioners treating sexual assault victims.

In addition, this DHP study found a need for special certification for providers of mental health and counseling services to sex offenders. The DHP task force recommended continuation of the work of the task force to develop a plan for certification of the above mentioned professionals. In response to this recommendation, the 1993 session of the Virginia General Assembly passed Senate Joint Resolution No. 399.

The final recommendations of the DHP task force to be presented to the 1994 Virginia General Assembly include the following:

- 1) Creation of an advisory committee of experts to recommend standards of certification of licensees;
- 2) Voluntary credentialing for providers already licensed by the DHP; and
- 3) Mandatory credentialing for professions practicing under supervision in exempt settings (*i.e.*, state government settings, including hospitals, CSBs and DYFS).

Another study resulting from the Commission on the Reduction of Sexual Assault Victimization in Virginia examined treatment services and training needs for child sexual abuse victims and child sexual offenders (Legislative Study 324.J, conducted by the DMH/MR/SAS). Only select findings concerning sex offenders are presented in this report.

In investigating the types of services provided by the 40 CSBs in Virginia, this study found that 29 CSBs offered individual and family counseling services. Eleven offered group counseling services to child and adolescent sex offenders. The length of treatment for 43% of offenders served by the CSBs was 5 to 12 months.

This study also examined various demographic variables of juvenile sex offenders served by CSBs. A total of 444 offenders were served in Fiscal Year 1993. Of these juvenile sex offenders, 22.5% were between the ages of 3 and 12, 53.5% were between ages 13 and 17, and 23.8% were between the ages of 18 and 22. In terms of gender, 93% of offenders were male and 7% were female.

Data from active cases and individuals on waiting lists to receive services reveal interesting findings. Twenty-four CSBs were found to have 19 or less active cases on juvenile sex offenders. As of mid-year 1993, 15 CSBs were found to have between 0 and 5 juvenile sex offenders on a waiting list. Four CSBs had a waiting list of 6 to 10 juvenile sex offenders awaiting treatment, and 2 CSBs had a waiting list of between 16 and 20 juvenile sex offenders. In terms of training needs, 26 of the 40 CSBs (65%) indicated more treatment modalities were needed for juvenile sex offenders.

Among the several recommendations from this legislative study, three are particularly relevant to juvenile sex offenders. These recommendations, dealing with budget requests, are as follows:

- 1) Funding for each of the 40 CSBs to provide or contract for one "appropriately trained professional" to serve as an evaluator, treatment provider and resource person for child victims and juvenile sex offenders;
- 2) Funding for one additional trained therapist in each of the ten CSBs with the highest child populations or the greatest need based on active treatment and waiting lists; and
- 3) Increased funding for the Comprehensive Services Act Trust Fund to support the development of comprehensive community-based treatment services for sexual assault victims and juvenile sex offenders.

The Governor's Commission on Violent Crime also examined issues relating to sex offenders. The proposals developed and considered by this Commission included:

- 1) Providing supervision training to probation/parole officers with the DYFS and the Department of Corrections who have responsibility for sex offenders on their caseloads;
- 2) A pilot program on intensive parole supervision in two or three localities with a high density of convicted sex offenders, in order to provide more intensive supervision, control, and treatment for sex offenders who have completed residential treatment,
- 3) A program to change the laws of Virginia such that sex offenders who are released from prison on mandatory parole have their community supervision extended beyond the maximum six months currently allowed;
- 4) A proposal to ensure that repeat adult sex offenders are incarcerated for the maximum lengths of time imposed by their sentence, in order to incarcerate repeat adult sex offenders longer than first time offenders; and
- 5) A proposal to encourage and facilitate the evaluation of the effectiveness of sex offender treatment programs for adults and juveniles.

Only one of these proposals--the pilot program on intensive parole supervision--was submitted as a budget amendment.

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## **X. Proposed Model Juvenile Sex Offender Program**

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Research literature provides no clear evidence of the effectiveness of a specified period follow-up for juvenile sex offenders. A ten-year timeframe is neither supported nor disproved. However, research does indicate that some degree of follow-up supervision and treatment (especially in the first 12-24 months post offense, when there is a greater risk of recidivism) does impact repeat offending rates.



The following model is proposed to support the need for effective supervision of these offenders:

- **Prior to disposition, the juvenile sex offender would receive a sex offender-specific assessment. Court would have access to previous record of offender.**
  1. Assessment would provide direction in determining appropriate setting and duration of treatment.
  2. Assessment would take offender's delinquent and treatment history into account.
- **Three different types of monitoring--standard, transitional, and intensive--would be used in combination with treatment services.**
  1. All forms of supervision would be provided by probation officers.
  2. The lengths of time prescribed are minimum amounts and can be increased if it is determined the offender remains at risk of re-offending or non-compliance with probation guidelines.
- **Disposition would consist of treatment and follow-up supervision of varying duration, depending upon offense characteristics.**
  1. All adjudicated juvenile sex offenders would receive supervision by a specialized probation officer.
  2. Treatment would be provided by a Community Service Board or other therapist contracted with by the court for a minimum two year period.
- **Levels of monitoring (two- and five-year) for juvenile sex offenders would be determined by offense characteristics and offense history.**
  1. The supervision of the juvenile sex offenders in the two- and five-year follow-up program will be provided by probation officers.
  2. The monitoring would entail the following:
    - Two-Year Supervision
      1. *Six months minimum of transitional monitoring;*
      2. *Standard probation for the remainder of the two- year period.*
    - Five-Year Supervision
      1. *Six months minimum of intensive monitoring for post-residential treatment;*
      2. *Six months minimum of transitional monitoring after intensive monitoring;*
      3. *Standard probation for the remainder of the five-year period.*
- **Specialized probation staff would provide monitoring.**
  - Intensive Monitoring would entail:
    1. Face to face contact 3-7 times per week with no more than 2 consecutive days without contact;
    2. Provide 24 hour crisis management services;
    3. *Monthly* contact with the juvenile sex offender's therapist to monitor progress in treatment;
    4. *Weekly* contact with the juvenile sex offender's family;
    5. *Monthly* contact with community service providers, *i.e.*, school or work.

Job qualifications of probation officers providing intensive monitoring:

1. Prior experience working with juvenile sex offenders;
2. Sex offender-specific training (40 hours/year in workshops/conferences/etc.) in order to establish effective rules and guidelines and to be aware of the juvenile's offense cycle, high risk situations, and warning signs to prevent recidivism;
3. Probation officers providing intensive supervision have no other probation responsibilities and carry a maximum caseload of 15 juvenile sex offenders.

Transitional monitoring would entail:

1. Face to face contact with juvenile sex offender *at least once per week*;
2. Provide 24 hour crisis management services;
3. *Monthly* contact with the juvenile sex offender's therapist to monitor progress in treatment;
4. *Monthly* contacts with family;
5. Monthly contact with significant others involved with the juvenile sex offender, *i.e.*, school or work.

Job qualifications of probation officers providing transitional monitoring:

Sex offender-specific training through 1-2 day workshops/conferences to help in establishing rules and guidelines for probation for the juvenile sex offender and especially to be aware of the juvenile sex offender's high risk behaviors and offense cycle.

Standard monitoring would entail:

1. One face to face contact *per month* with the juvenile sex offender;
2. *Monthly* contact with the juvenile's family;
3. *Quarterly* contacts with community service providers, *i.e.*, school and work.

Job qualifications for probation officers providing standard monitoring:

Training via a workshop or conference to help identify the sex offender's offense cycle and high risk behaviors.

- **Both residential and community-based treatment would include individual, group, and family sex offender-specific therapy.**
  1. Services would be provided by a Community Service Board therapist or other therapist contracted with by the court.
  2. The community and residential services would adhere to the guidelines and assumptions for treatment outlined by the National Adolescent Perpetrator's Network (1988).
  3. Residential services would be sex offender-specific treatment programs.
- **Juvenile sex offenders with one or more of the following characteristics would receive three additional years of follow-up intensive supervision and treatment:**
  - Committing a sex offense involving force and/or violence
  - Convicted for multiple sex offenses

- Convicted of multiple victims
- Prior sexual offense conviction
- Prior conviction for a violent felony offense against another person.

Juvenile sex offenders in this group would receive follow-up supervision and treatment for a period of five years or until they reach the age of 21. Therefore, a serious juvenile sex offender adjudicated at age 17 would receive follow-up services for only four years. (*The likely scenario of a 17 year old convicted of a sex offense with five characteristics would be a trial and sentence in Circuit Court.*)

### **PILOT PROGRAM**

Research indicates that fear of sanctions coupled with the provision of treatment can potentially reduce recidivism rates, especially for juveniles sex offenders whose behavior is less ingrained than adults. More controlled research is needed to determine what type and length of treatment and monitoring are effective for juvenile sex offenders.

A pilot program of intensive supervision and treatment is proposed to test the proposed model of follow-up and to add to the research on the efficacy of treatment for juvenile sex offenders. The pilot program would entail work with juvenile sex offenders in selected areas to test long-term follow-up coupled with specialized treatment services.

There are two sites recommended for the pilot program:

Suggested Site	Court Service Unit	Projected No. of Juveniles Two-Year Pilot	Projected No. of Juveniles Five-Year Pilot
Fredericksburg	15	6	14
Pulaski, Abingdon, Tazewell	27, 28 29	5	13

These two sites were chosen because they represent diverse localities with respect to population base and service capacity. Compared to other parts of the Virginia, both jurisdictions lack adequate treatment and intensive supervision services for juvenile sex offenders. Juvenile sex offenders in the above court service units would receive court-based follow-up supervision and treatment. To determine the efficacy of the pilot program in reducing recidivism rates, this group of juvenile sex offenders would be compared to a control group of offenders receiving regular services.

## **XI Recommendations**

### **Recommendation 1**

**There should be no change to the Code of Virginia to extend the jurisdiction of the juvenile court for juvenile sex offenders past the age of 21.**

*Discussion: The field of research on juvenile sex offenders is new. There is not enough evidence in the research literature and clinicians do not agree as to the efficacy of a specified period of follow-up for juvenile sex offenders. There is a dearth of research on the effectiveness of follow-up supervision and/or treatment. The few existing studies in this area do not provide clear direction due to methodological inadequacies. In the absence of a compelling argument to support a specified number of years for follow-up, expansion of juvenile court jurisdiction is not warranted.*

### **Recommendation 2**

**Fund a pilot program of intensive supervision and treatment for juvenile sex offenders placed in community based treatment.**

#### **Budget Request for Pilot Programs**

Intensive Supervision	\$150,000
(Includes salary and training for specialized probation officers)	

*Discussion: Research does indicate that fear of sanctions coupled with the provision of treatment can potentially reduce recidivism rates, especially for juveniles sex offenders whose behavior is less ingrained than adults'. More controlled research is needed to determine what type and length of treatment and monitoring are effective for juvenile sex offenders. Before making a decision on implementing a statewide program of intensive supervision and treatment, this model should be tested on a smaller scale in several sites. The ideal sites would be areas where there are adequate treatment and supervision services currently in place. The pilot would yield research on the efficacy of this model, as well as provide services to areas that do not currently have adequate resources.*

### **Recommendation 3**

**Evaluate the pilot, comparing the target population to a control group of juvenile sex offenders receiving regular services, to determine the efficacy of the pilot program.**

<u>Budget Request</u>	\$ 25,000
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*Discussion: There are few studies that have examined the effectiveness of intensive supervision and treatment. In order to determine if those receiving these services*

*will have lower recidivism rates, this group of juvenile sex offenders must be compared to a control group receiving regular services.*

#### **Recommendation 4**

**Encourage judges to order sex offender-specific assessments prior to disposition of juvenile sex offenders.**

*Discussion: There is consensus in the literature and among sex offender experts that successful treatment with juvenile sex offenders requires specialized assessment and treatment. Assessments can differentiate between normal adolescent sexual behavior and sexual offending behavior, aid in determining the degree of public safety risks the offender poses to the community, and aid in determining treatment goals and the level of intensive supervision that would maximally benefit the juvenile sex offender. Currently, juvenile sex offenders are not often given a general psychological evaluation or a sex offender specific assessment. This information may help assist the judge in the appropriate disposition of the juvenile, e.g. community-based probation, residential placement or commitment to the state.*

#### **Recommendation 5**

**Encourage judges, prosecutors, probation officers, Commonwealth Attorneys and other individuals involved with juvenile sex offenders to receive special training on sex offender issues, such as characteristics of sex offenders, assessment, treatment options and methods of effective monitoring. Additionally, judges should receive training on writing model court orders.**

*Discussion: Juvenile sex offenders (and sex offenders in general) are likely to minimize and deny their sexual offending behavior. They may easily deceive individuals who are not familiar with their specific characteristics. By better understanding the behavior, assessment and treatment options, judges can more effectively determine the appropriate disposition.*

#### **Recommendation 6**

**Encourage increased communication between local court service units and the Department of Youth and Family Services regarding the disposition of juvenile sex offenders.**

*Discussion: When juvenile sex offenders enter learning centers or receive court-ordered probation, they are often in the denial phase and it is difficult to obtain accurate information from their self reports. In addition, in many situations learning centers are not provided with information such as the police report, information on investigation of the sex offense or the initial allegations in situations where an offense is plea bargained to a less serious offense. All this information is necessary in conducting a thorough evaluation and developing treatment goals.*

### **Recommendation 7**

**Request Juvenile and Domestic Relations District Courts to improve their recording of offense and treatment histories for adjudicated juvenile sex offenders. These records need to be centrally available to judges and accessible to other court service units across the state.**

*Discussion: Juvenile sex offenders may commit sexual offenses in more than one jurisdiction. Information on prior offense history is an important variable influencing recidivism rates for juvenile sex offenders. By expanding the type of information that is included in the records for juvenile sex offenders and making it accessible to judges and court service units, and other professionals involved with sex offenders can make better-informed decisions about the disposition and treatment recommendation for these youths. The type information to be included would be complete records of prior treatment history and reconviction rates. In addition, closer tracking of the characteristics, disposition and reconviction rates of juvenile sex offenders will make it possible to determine the efficacy of different treatment approaches for juvenile sex offenders and determine the type of rehabilitation services that would best reduce recidivism.*

### **Recommendation 8**

**Encourage communities to develop treatment programs and to implement follow-up supervision programs for juvenile sex offenders.**

*Discussion: The number of adjudicated juvenile sex offenders is expected to increase by a minimum of 13% each year. Currently, many communities in Virginia have little or no treatment services or lack an adequate continuum of care for juvenile sex offenders. Many juvenile sex offenders return to their families and must adjust to life in the community after receiving initial sex offender treatment. Community treatment and other resources can facilitate the juvenile sex offenders re-entry into the community. By increasing community receptivity and providing follow-up supervision and treatment services, communities may improve public safety. In addition, data collected in different communities on juvenile sex offenders receiving follow-up supervision and treatment can supplement data from the pilot programs to determine the efficacy of such a program.*

## **XII. Acknowledgments**

In addition to individuals who served on the work group, the Commission on Youth extends its appreciation to the following agencies and individuals for their cooperation and assistance on this study:

Delegate Thomas G. Baker, Jr. of Pulaski

*Members of the Commission on the Reduction of Sexual Assault Victimization in Virginia*

*Department of Youth and Family Services*

Mr. Dan Brown, Data Management and Reporting Section

*National Center for Juvenile Justice*

Ms. Linda A. Szymanski, Esq., Director of Legal Research

*National Conference of State Legislatures*

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**GENERAL ASSEMBLY OF VIRGINIA--1993 SESSION**  
**HOUSE JOINT RESOLUTION NO. 467**

*Requesting the Commission on Youth to study the feasibility of monitoring juvenile sexual offenders for ten years.*

Agreed to by the House of Delegates, February 5, 1993  
Agreed to by the Senate, February 23, 1993

WHEREAS, the Commission on the Reduction of the Incidence of Sexual Assault Victimization in the Commonwealth has developed a multifaceted approach to reducing child sexual assault in Virginia; and

WHEREAS, a primary focus of this plan is the provision of rehabilitative treatment for child and adolescent perpetrators to minimize repeat sexual-assault behavior; and

WHEREAS, juveniles commit 30 to 60 percent of the cases of child sexual molestation and 20 to 30 percent of the rapes in the country each year; and

WHEREAS, studies of adults who commit sexual offenses show that as many as 60 to 80 percent report committing sexual offenses as adolescents; and

WHEREAS, state data parallels the larger national picture in documenting the rise in the number of juveniles committing sexual offenses, with the number of juveniles arrested for all sexual offenses (except for prostitution) increasing by 50 percent in Virginia; and

WHEREAS, available data suggests that without intervention these individuals will continue to commit sexual offenses and pose a risk to society; and

WHEREAS, successful intervention with juveniles is contingent upon early identification, assessment and provision of treatment services, ongoing support, and aftercare and monitoring; and

WHEREAS, a significant barrier to the monitoring and follow-up of juvenile sexual offenders arises because a juvenile and domestic relations court loses jurisdiction over the individual once he reaches the age of 21; and

WHEREAS, the extension of court monitoring of juvenile sexual offenders over the age of 21 conflicts with existing policy with respect to venue and jurisdiction of the district and circuit court systems; and

WHEREAS, the Commission on the Reduction of the Incidence of Sexual Assault in the Commonwealth has recommended a mandatory 10-year follow-up for all sexual offenders; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Commission on Youth be requested to conduct a feasibility study on establishing a mandatory 10-year follow-up service for all juvenile sexual offenders. The study should identify the legal, policy and fiscal impact of establishing such a program. To assist the Commission in its studies, the Commissioners of Mental Health, Mental Retardation and Substance Abuse Services and Social Services; the Directors of the Departments of Youth and Family Services and Criminal Justice Services; and the Executive Secretary of the Supreme Court shall serve as ex officio members. Additional expertise shall be provided by a representative from the Juvenile and Domestic Relations Court Judges Association, the Public Defender Office, and an individual with expertise in the treatment of juvenile sexual offenders, all to be appointed by the Governor.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1994 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.



**HJR 467  
Feasibility of a Mandatory Monitoring of  
Juvenile Sex Offenders for Ten Years  
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## Classification of Sex Offenses

### 1. Misdemeanor

- Sexual Battery
- Attempted Sex Offense
- Indecent Exposure

*N=90 adjudicated in 1992 , N=70 adjudicated first half of 1993*

### 2. Non-Violent Felony Sex Offenses

- Carnal Knowledge, non-forcible, victim age 13-14
- Carnal knowledge, non-forcible, victim age 13-14, perpetrator 3 yr. senior
- Carnal knowledge, non-forcible, court official

*N=13 adjudicated in 1992, N= 9 adjudicated in first half of 1993*

### 3. Violent Felony Sex Offenses

- Aggravated sexual battery
- Aggravated sexual battery, victim ages < 13
- Inanimate object penetration, force or threat
- Inanimate object penetration, victim age <13
- Rape, mentally incapacity or helpless victim
- Rape, by force
- Rape, by threat or intimidation
- Rape, nor clear from record
- Forcible sodomy, by threat or victim mental incapacity
- Forcible sodomy, victim age <13

*N= 275 adjudicated in 1992 , N=180 adjudicated in first half of 1993*

In our model of intensive supervision and treatment follow-up:

- All juvenile adjudicated for any sexual offense in the above three categories would be followed-up for two years.
- Any juvenile with a violent felony sex offense would be given follow-up supervision and treatment for a total of five years.  
(Note: Juveniles who fit the other four criteria would also be followed-up for five years; however, that type of information is not available.)

*Source: Classification based on statistics provided by the Virginia Department of Youth and Family Services 1993.*

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