

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION ON**

**The Feasibility of a Drug Court
Pilot Project in Virginia**

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



SENATE DOCUMENT NO. 52

**COMMONWEALTH OF VIRGINIA
RICHMOND
1994**



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

FREDERICK L. RUSSELL
EXECUTIVE DIRECTOR

December 14, 1993

TO: The Honorable L. Douglas Wilder, Governor of Virginia,
and Members of the General Assembly:

Senate Joint Resolution 262, agreed to by the 1993 General Assembly, directed the Virginia State Crime Commission to study alternatives to incarceration for drug offenders and the feasibility of drug courts, and submit findings and recommendations to the Governor and the 1994 session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission. I have the honor of submitting herewith the study report of alternatives to incarceration for drug offenders and the feasibility of drug courts.

Respectfully submitted,

A handwritten signature in cursive script that reads "Robert B. Ball".

Robert B. Ball, Sr.
Chairman

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THE FEASIBILITY OF A DRUG COURT PILOT PROJECT IN VIRGINIA

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Study of the Feasibility of a Drug Court Pilot Project in Virginia

I. Authority for Study

During the 1993 General Assembly session, Senator Edgar S. Robb of Charlottesville successfully patroned Senate Joint Resolution 262, directing the Virginia State Crime Commission to study the feasibility of drug courts. SJR 262 specifically requested that the Commission "conduct an analysis of drug offender cases and to study alternatives to incarceration." (See Appendix A.) The Commission also was directed by House Joint Resolution 631, patroned by Delegate Bernard S. Cohen of Alexandria, to conduct a study of alternatives to incarceration and target populations eligible for alternative programs, such as drug offenders. As such, many of the incarceration alternatives issues have been addressed by the Commission in the HJR 631 study. In an attempt to focus on specific alternatives for drug offenders, the SJR 262 study has focused on the feasibility of drug courts as a way to promote court supervision of drug offenders in community corrections and treatment programs.

Code of Virginia §9-125 establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Code of Virginia §9-127 provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Code §9-125, and to formulate its recommendations to the Governor and the General Assembly." Code of Virginia §9-134 authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of the feasibility of drug courts.

II. Members Appointed to Serve

At the April 20, 1993 meeting of the Crime Commission, Chairman Robert B. Ball, Sr., of Henrico selected Delegate Jean W. Cunningham to serve as Chairman of the Corrections Subcommittee, which was directed to conduct the study of drug courts. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate Jean W. Cunningham, Richmond, Chairman
Delegate James F. Almand, Arlington
Delegate V. Thomas Forehand, Jr., Chesapeake
Delegate Raymond R. Guest, Jr., Front Royal
Senator Virgil H. Goode, Jr., Rocky Mount
Senator Edgar S. Robb, Charlottesville
Rev. George F. Ricketts, Richmond

III. Executive Summary

The Corrections Subcommittee held four meetings in Richmond in 1993 to conduct the drug court study. On May 25, 1993, Staff Attorney Dana Schrad presented an overview of different types of drug court projects that developed from a model initiated in Dade County, Florida. Although there are a variety of drug court models being implemented around the country, they share as their common goal that non-violent offenders who have substance abuse problems should be offered court-supervised treatment instead of serving time in crowded local jails. Additional information on drug court projects was presented by staff at the June 22, 1993, subcommittee meeting. At the August 24, 1993, meeting, staff reported on funding approaches that have been used to implement drug court projects. The subcommittee directed staff to research federal grant programs that possibly could fund pilot drug court projects, and to work with treatment and court officials to develop some options for a Virginia drug court project.

At the October 19, 1993, subcommittee meeting, staff presented a set of recommendations for consideration by the members. The recommendations and staff report were approved by the subcommittee for referral to the full Commission. In early December, Staff Attorney Dana Schrad and Ken Batten (DMHMRSAS) and Drew Molloy (DOC) attended a national conference on drug courts in Miami, Florida, sponsored by the U. S. Department of Justice, to gather additional information about how to plan and implement drug court programs. Ms. Schrad reported on the conference at the December 14, 1993, meeting of the Crime Commission, and the Commission approved the subcommittee report.

The findings and recommendations of the drug court pilot project feasibility study, as approved by the Crime Commission, are as follows:

Finding: For a drug court pilot project to be successful, an implementation plan must be developed that is tailored to Virginia drug offense laws and the state court system. All efforts must be made to design a drug court project that is efficient and oriented toward the goal of court-directed case management of drug offenders through a community corrections and treatment program. Corrections Subcommittee members stressed that a Virginia drug court project should not

divert offenders away from the adjudication process by setting aside charges, but rather should operate to adjudicate the drug offender and develop an alternative sentencing disposition that places the offender in community corrections supervision and treatment appropriate to the offender.

Recommendation 1: An implementation and design plan for a pilot drug court project for a local Virginia court should be developed cooperatively by representatives from the Supreme Court of Virginia, the Public Defender Commission, the Virginia Commonwealth Attorneys Association, the Department of Corrections, the Office of Substance Abuse Services in the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Virginia State Bar. The plan should be developed for project implementation as soon as project funding can be secured. The Virginia State Crime Commission will monitor the development of the implementation and design plan, and will request periodic reports on its progress.

Finding: It is critically important to the success of a pilot drug court project that it be located in a jurisdiction that is supportive of the drug court concept, and has demonstrated a willingness to participate in a pilot project. The selection of an appropriate pilot site may be dependent on criteria set by the funding source, such as a federal government agency. An appropriate pilot site also may depend on the type of drug court design developed for the pilot project, and the compatibility of the design with the selected local court.

Recommendation 2: The Supreme Court of Virginia, the Public Defender Commission, the Virginia Commonwealth Attorneys Association, the Office of Substance Abuse Services in the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Corrections and the Virginia State Bar, in developing a pilot drug court project, should consider and recommend possible pilot sites appropriate to the planned design. The site recommendations should take into consideration drug caseload, receptiveness of the local court and prosecutor to a pilot drug court project, and the availability of drug treatment services to the court.

Finding: An efficient and cost-effective drug court project will incorporate means to generate self-supporting funding. However, start-up funds for a pilot drug court usually are required to establish the project. The opportunities for securing federal grant funds to support a pilot drug court project in Virginia should be explored further, as well as possible avenues for state funding.

Recommendation 3: Upon completion of an implementation and design plan, grant applications to appropriate federal funding sources should be developed by the localities recommended for a pilot drug court project, with the assistance of the pilot project developers.

Finding: It is critical that an operational pilot drug court project collect and maintain data on its progress so that the success or failure of the project can be evaluated and documented. Such evaluation is necessary if a successful project is to be replicated in another locality.

Recommendation 4: Upon the implementation of a drug court pilot project, the Crime Commission shall monitor its progress and request **periodic evaluation reports** to determine its cost-effectiveness and efficiency in diverting non-violent drug offenders from incarceration into supervised and court-ordered treatment for substance abuse.

IV. Background

In 1991, more than one million persons were arrested nationwide on drug offenses - a increase of 56% since 1982. According to the U.S. Department of Justice, two-thirds of these arrests were for illegal possession of drugs, and one-third were for manufacturing or selling drugs. The 56% increase in the number of drug offenses prosecuted in state and federal courts in the United States has been greater than the increase for any other type of offense. Drug cases generally make up the largest share of all cases in criminal courts.

The median time from arrest to disposition in most urban trial courts for drug trafficking cases averages 3.9 months; the median time for processing in drug possession cases is 4 months. (Source: U.S. Department of Justice.) "Some research reports that State trial court resources are being diverted from the civil caseload to meet the increasing drug caseload. The Federal Courts Study Committee found that districts with heavy drug caseloads were virtually unable to hear civil cases because courts must give priority to criminal over civil cases under the Speedy Trial Act." Drugs, Crime and the Justice System, December, 1992.

The court system has become aware of a growing need for treatment services for drug addiction for some offenders. Diversion from incarceration into community-supervised treatment for substance-abusing offenders not only helps the offender deal with the underlying reason for his criminal behavior, it decreases the number of persons spending time in already-crowded jails and prisons.

Examples of Drug Courts

Dade County, Florida (Miami)

The city of Miami and the surrounding Dade County area in Florida answered its boom in drug cases with the creation of a court specifically to address drug offenders. One of the earliest drug courts, this project was initiated in June, 1989 by then-prosecutor Janet Reno. The special court was established to implement

the Diversion and Treatment Program, which is a three-phase program of assessment, treatment (including acupuncture) and educational and vocational training. Offenders graduate from the program and receive certificates. The program is primarily for first-time offenders.

Records are expunged for participants who remain crime- and drug-free for one year after completing the program. Participants are assessed a program fee on a sliding scale based on ability to pay. The program includes routine drug testing. The participant must have a number of clean urines, or he's required to reappear in court. If he fails the program, he returns to court, possibly adding contempt to the charges against him. The offender then is released from the program and a trial and conviction follows. The program was designed to handle 1,500 cases annually.

Cook County, Illinois (Chicago)

In 1989, the number of drug-related felony cases increased by 42 percent over 1988. Almost half of the criminal cases each year are drug-related. An evening narcotics court was established in October, 1989, which uses existing courtroom space and existing staff resources. The court was established utilizing five judges previously assigned to the municipal division. The program was developed jointly by the offices of the public defender, prosecutor, sheriff and court clerk. The court originally was opposed by the defense bar, which suggested that the evening court cases be reserved for those defendants represented by the public defender's office. This was rejected because of the perceived disparate treatment of indigent defendants, and because the expertise of the private defense bar would not be available.

The Chicago night court does not manage drug cases any differently than it did before, but the extension of the court day has reduced greatly the backlog of cases in circuit court. However, the court is implementing a modern case management system and alternative methods of case disposition. According to the Bureau of Justice Assistance in the U. S. Department of Justice, the Cook County project is the only drug night court operation in the country.

The greatest success of the Cook County drug court appears to be its ability to process drug cases quickly. During the first year of operation, the court disposed of 9,700 cases, almost twice as many as court officials had hoped to process. However, many drawbacks have been identified with a night court project. 57 percent of the night court staff in Cook County stated that access to information essential to adjudicating cases, such as other pending cases and probation or treatment history, was more difficult to obtain at night. Fatigue and security concerns also were raised as important issues for the night court project. Another concern raised was the presumed reluctance of private defense attorneys to appear in night courts.

Alameda County, California (Oakland)

The program is based on court diversion of offenders who have substance abuse problems, and focuses on curing rather than punishing addicts. The treatment program was modeled on behavior modification training used in smoking cessation and weight loss programs.

Adults arrested for drug possession who never have had a previous drug conviction, and have not been convicted of any other type of felony for the past five years, are rushed into a diversion program within two days of their first court appearance. Prior to this, diversion clients waited up to six weeks while their assessments were completed. Probation officers immediately present divertees with task contracts that require them to attend treatment sessions, drug and AIDS awareness education classes, random drug tests, meetings with probation officers and impose a schedule of administrative fees. The participants are graded on a points system for completing or failing tasks. The term of diversion can last from six months to two years, and costs the divertee between \$20 and \$225. When the program is successfully completed, the offense is expunged from the person's record.

During the first five months of the program, re-arrests were decreased by 49 percent. Prior to the program, the 104 offenders in traditional diversion accumulated another 85 arrests within five months of the initial arrest. The "speedy diversion" program recorded only 44 re-arrests during the same period of time. Since the Oakland Police Department estimates that each arrest costs about \$300, a successful speedy diversion program that results in decreased re-arrests could mean an annual savings of \$300,000 for the police department, not counting reduced court costs.

In 1991, the 1,200 participants in the Oakland program spent approximately 27,000 fewer days in custody than before the program was instituted. This resulted in a savings of \$1.5 million dollars to the county, and a reduction in felony recidivism of approximately 50 percent.

Oakland Judge Jeffrey Tauber wrote a series of policy papers supporting the drug court project, and developed the following principles for drug case management and offender treatment:

1. A drug addict is most vulnerable to successful intervention when he or she is in crisis, i.e., immediately after initial arrest and incarceration. Therefore, intervention should be immediate and front-loaded.
2. Relapse and intermittent progress are part of most successful drug rehabilitation programs. The court must apply a patient, flexible approach to monitoring treatment compliance.
3. The goal of the court should be smart punishment, i.e., the achievement of the twin goals of reduced criminality and drug usage. Progressive sanctions that imposes more severe sanctions with the number and seriousness of

program failures should be adopted.

Berrien County, Michigan

Drug arrests were escalating and had become 60% of the total caseload. Since October, 1991, a special drug court that combines elements of district and circuit court exclusively has handled drug cases. The objective of the court is to move felony narcotics cases quickly, and get treatment for those who need it, ideally within one week of arrest. In the first month, the special court handled 25 cases, resulting in 23 convictions. The yearly average is 300 cases. The project is funded by a \$145,000 state grant.

In the drug court model, if the defendant pleads guilty, the initial arraignment and circuit court arraignment are collapsed into the same procedure, and a sentencing date is set. The defendant may demand a preliminary hearing, be bound over and go to trial. Plea agreements are made in the form of the initial charge as the "best offer." The result is a high number of pleas entered in the early phase of case processing. For the defendant, there is no advantage gained in delaying the disposition. From arrest to sentencing, the court averages less than 30 days per case. Before the drug court experiment, drug cases took approximately four months to process.

Kent County, Michigan (Grand Rapids)

The court was experiencing a backlog of civil and criminal cases, and had witnessed a 141% increase in drug arrests between 1987 and 1991. The Berrien County drug court model was implemented, but in Kent County it was decided that no judge would preside over a special drug court for more than six months at a time. The project is funded by a \$103,000 federal grant, and \$34,000 in matching state and city funds.

Within three weeks of arrest, the defendant meets with the prosecutor, defense lawyer, police investigator and judge in a 15 minute pretrial conference. Previously, judges usually did not attend these conferences. The defendant gets one opportunity for a plea bargain. If he accepts the plea offer, the plea is entered in court the same day. If the defendant rejects the plea offer, a trial date is set. Public defenders have supported the drug court because it has resulted in more consistent plea bargains and has eased jail crowding.

The feasibility of drug courts

While these are just a few of the drug court models that have been implemented, they all share certain characteristics and certain results, including:

1. Case management is improved;
2. The trial process is quicker;
3. Offenders receive needed treatment;

4. Case backlog is diminished;
5. After an initial investment, cost savings are realized in fewer re-arrests and less time spent in crowded jails;
6. More consistency in drug crime sentences; and
7. Prosecution is enhanced and more professional, due to specialization.

Some locales have implemented improved case management in their existing court system by adapting techniques from the drug court model. This has proved to have similar benefits to the specific drug court approach.

The problems associated with the implementation of drug courts have been identified as follows:

1. Recruitment and training of special judges and prosecutors to preside over and prosecute in drug courts needs to be expanded.
2. Drug courts and treatment programs linked directly to courts traditionally have not been supported by federal funding agencies.
3. Not every jurisdiction needs a drug court. However, court-ordered rehabilitation and case management techniques can be applied by existing courts to better manage drug cases.

Development of a drug court pilot project

If a drug court project were to be piloted in Virginia, several tasks would have to be completed, including:

1. the identification of potential grant funds to initiate a pilot project, and estimation of the related costs;
2. the design of a training package for judges, prosecutors and court administrators for courts that would adopt a more streamlined and treatment-oriented drug case disposition process;
3. the design of a drug court implementation plan that takes into consideration the Virginia court structures and laws related to drug offenses.

Funding Opportunities and Estimated Costs

The Department of Justice/Bureau of Justice Assistance is promoting specialized drug courts and differentiated court management techniques to address the backlog of drug-related prosecutions in state courts. The Bureau provided funding for several differentiated court management pilot projects around the country in order to assess the effectiveness of this approach to streamlining caseload management in courts. The Bureau's evaluation research indicates that, when successfully implemented, differentiated court management techniques can lead to more efficient prosecution of special types of cases.

The Bureau also is promoting the development of drug courts as a pre-trial

diversion alternative for non-violent drug offenders who would benefit from court-supervised drug abuse treatment. The best-evaluated and most studied example of a drug court is the Miami/Dade County drug court project. The Bureau provides federal discretionary grant funds for innovative local programs that work to reduce drug abuse and drug-related crime.

The federal money appropriated directly to the states through the Anti-Drug Abuse Act of 1988 may provide another source of grant funds to initiate a drug court project. The federal grants generally fund projects on the July-to-July fiscal year calendar, and grant applications are due to the funding or flow-through agencies by March of the preceding fiscal year.

Additionally, the Center for Substance Abuse Treatment in the U. S. Department of Health and Human Services has provided funding to initiate a drug court project in the District of Columbia Superior Court. (See Appendix B.) Approximately five million dollars over a five year period will be granted by the Center for Substance Abuse Treatment to operate and evaluate a treatment demonstration project for offenders. The Center reportedly is planning to make grant funds available to states that are interested in developing drug court pilot projects.

The Miami drug court project provides one example for estimating the cost of establishing a drug court pilot project:

1. The Diversion and Treatment Program: an integral part of the drug court model, Miami officials estimated that diversion and treatment services averaged \$800.00 per offender per year, which is approximately the Miami cost of jailing an offender for 9 days. Dade County officials developed a method to redistribute income from traffic offense fees, which generated about \$1 million annually to fully fund this program.

2. Urinalysis: a one-time contribution from Miami's seized assets fund was used to pay start-up costs for this program. Clients in the program are assessed a fee determined on a sliding scale based on the offender's ability to pay.

3. Other costs: cost estimates for other expenses related to the Miami drug court project were not available. However, the judge selected to preside over the drug court received special training in drug case disposition and treatment modalities. Additionally, depending on the locality, there may be space and staff limitations within any given district or circuit court that would make it difficult to establish a drug court without hiring an additional court administrator, clerks, etc.

Explanation of the Miami Drug Court's treatment program

While many differentiated court management programs specialize in certain

types of cases, the key difference in the Miami drug court project is its Diversion and Treatment Program component. This court takes the original concept of diversion one step further by providing a year or more of court supervised and ordered treatment and case management services. These services include counseling, acupuncture and urinalysis, education courses and vocational services, accompanied by strict court supervision. The incentive for defendants to complete the program is a chance to have their criminal cases dismissed.

The Miami drug court established eligibility criteria for offenders considered for participation in the program. A pretrial screening is conducted to determine eligibility based on the following:

1. The offender must be charged with a non-violent possession or purchase offense;
2. The prosecutor must agree to the offender's participation in the program (programs can be limited to certain types of drug offenses, such as cocaine and crack, to best utilize the available treatment resources committed to the project);
3. The participant does not have to be a current drug user;
4. Program non-compliance can result in intermediate sanctions or prosecution and sentencing on the pending charges.

Recommended Components of a Drug Court model for Virginia

1. **Qualified participants** who have been pre-screened and who indicate a high degree of willingness to participate in the program.
2. A **judge** committed to the program who is willing to receive special training in treatment programs and drug case management. Since the drug court project requires the offender to appear before the judge frequently for progress reports, the judge must be willing to be involved in long-term case management on a one-to-one basis with the offender.
3. A **prosecutor** who is trained to help identify potential participants in the program, and who is willing to assist the judge in developing the drug court model and staffing it accordingly. The average daily case load in Miami, for example, is 80 cases. The prosecutor, the judge and even the public defender effectively are all on the same side of the case...the side that promotes the rehabilitation of the offender.
4. A **public defender** who is willing to work with the judge and the prosecutor to identify offenders who are eligible for the drug court program, and who is dedicated to the goal of providing treatment for addicted offenders.
5. **Computer support** to track the offender's participation in the mandated treatment and counseling programs, and to document the frequent court appearances.

6. A treatment program that directs the offender through detoxification, stabilization and aftercare. The Miami drug court, for example, uses the following treatment approach:

Phase I- detoxification in an 12 to 14 day outpatient program

Phase II- stabilization with 12 counseling sessions and 7 consecutive clean urines (14 to 16 weeks)

Phase III- aftercare with support counseling, education and employment opportunities (36 weeks)

The entire program commitment for the offender in Miami is about 54 weeks, almost one year.

Sources of Program Strength:

1. Comprehensive treatment and case management services are made available to the offender.
2. A range of public agencies participate in a cooperative effort to meet the needs of the offender.
3. The judge provides personal attention to the offender and motivates him toward successful completion of the program.
4. Offenders who want treatment successfully complete the program, even attending treatment sessions after the court-ordered supervision ends.

Possible Pilot Sites in Virginia

To effectively test the drug court model in Virginia, a pilot project would need to be located in a jurisdiction in which the district or circuit court handles a sizable number of drug-related cases. Two jurisdictions which handle a greater-than-average number of drug-related cases are the cities of Norfolk and Richmond. Either city could be a successful candidate for a drug court project. However, other cities in Virginia also should be considered if the key local personnel are supportive of the drug court approach. Almost more important than caseload-related need is the desire and willingness of the locale to adopt and fully implement a drug court pilot project that is overseen by a judge who is dedicated to the successful rehabilitation of drug offenders.

Finding treatment services may be difficult in any proposed site. Two options for purchase of services:

1. Provide direct funding to the Community Services Board for the express

purpose of providing treatment services to the drug court project; or
2. Contract for purchase of services with a private treatment provider.

Conclusion

A variety of drug court and differentiated court management models have been attempted in local courts around the country. The success or failure of a drug court project depends heavily on the quality of the drug court design and the dedication of the pilot site court to the project. It is not intended by the Crime Commission that a specialty court be established that in any way interferes with the criminal court prosecution and adjudication process. A pilot drug court project should be designed that can be incorporated into existing local court structures, and that offers an alternative way of processing those drug offenders who are most amenable to supervision in a community corrections setting and will benefit from court-ordered drug treatment. The goal of a successful drug court project is to reduce the recidivism rate of non-violent drug offenders by punishing them for their crimes, but also by providing them with a path to rehabilitation.

V. Findings and Recommendations

Finding: For a drug court pilot project to be successful, an implementation plan must be developed that is tailored to Virginia drug offense laws and the state court system. All efforts must be made to design a drug court project that is efficient and oriented toward the goal of court-directed case management of drug offenders through a community corrections and treatment program. Corrections Subcommittee members stressed that a Virginia drug court project should not divert offenders away from the adjudication process by setting aside charges, but rather should operate to adjudicate the drug offender and develop an alternative sentencing disposition that places the offender in community corrections supervision and treatment appropriate to the offender.

Recommendation 1: An implementation and design plan for a pilot drug court project for a local Virginia court should be developed cooperatively by representatives from the Supreme Court of Virginia, the Public Defender Commission, the Virginia Commonwealth Attorneys Association, the Department of Corrections, the Office of Substance Abuse Services in the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Virginia State Bar. The plan should be developed for project implementation as soon as project funding can be secured. The Virginia State Crime Commission will monitor the development of the implementation and design plan, and will request periodic reports on its progress.

Finding: It is critically important to the success of a pilot drug court project that it be located in a jurisdiction that is supportive of the drug court concept, and has demonstrated a willingness to participate in a pilot project. The selection of an appropriate pilot site may be dependent on criteria set by the funding source, such as a federal government agency. An appropriate pilot site also may depend on the type of drug court design developed for the pilot project, and the compatibility of the design with the selected local court.

Recommendation 2: The Supreme Court of Virginia, the Public Defender Commission, the Virginia Commonwealth Attorneys Association, the Office of Substance Abuse Services in the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Corrections and the Virginia State Bar, in developing a pilot drug court project, should consider and recommend possible pilot sites appropriate to the planned design. The site recommendations should take into consideration drug caseload, receptiveness of the local court and prosecutor to a pilot drug court project, and the availability of drug treatment services to the court.

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court usually are required to establish the project. The opportunities for securing federal grant funds to support a pilot drug court project in Virginia should be explored further, as well as possible avenues for state funding.

Recommendation 3: Upon completion of an implementation and design plan, grant applications to appropriate federal funding sources should be developed by the localities recommended for a pilot drug court project, with the assistance of the pilot project developers.

Finding: It is critical that an operational pilot drug court project collect and maintain data on its progress so that the success or failure of the project can be evaluated and documented. Such evaluation is necessary if a successful project is to be replicated in another locality.

Recommendation 4: Upon the implementation of a drug court pilot project, the Crime Commission shall monitor its progress and request periodic evaluation reports to determine its cost-effectiveness and efficiency in diverting non-violent drug offenders from incarceration into supervised and court-ordered treatment for substance abuse.

VI. Resources

"Drug Courts: The Next Steps," national conference sponsored by the National Institute of Justice and Metro Dade County, Florida, December 1-4, 1993, Miami, Florida.

"Jefferson County Drug Court/Diversion Project Program Description," published by Louisville-Jefferson County Crime Commission, Louisville, Kentucky, 1993.

"A Judicial Primer on Unified Drug Courts and Court-Ordered Drug Rehabilitation Programs," Judge Jeffrey S. Tauber, Oakland-Piedmont-Emeryville Municipal Court, as presented to the California Continuing Judicial Studies Program, Dana Point, California, August 20, 1993.

"S.T.O.P: An early drug intervention and case management program," Circuit Court Judge Harl Haas, Multnomah County, Oregon, January, 1993.

"Miami's Drug Court: A Different Approach," program focus, National Institute of Justice, NCJ 142412, June, 1993.

"Assessing the Impact of Dade County's Felony Drug Court," John S. Goldcamp and Doris Weiland, research in brief, National Institute of Justice, NCJ 145302, December, 1993.

"Special Drug Courts," program brief, Bureau of Justice Assistance, NCJ 144531, November, 1993.

"Strategies for Courts to Cope with the Caseload Pressures of Drug Cases," American Bar Association Criminal Justice Section, November, 1991.

"Specialized Courts: The Legislative Response," American University Law Review, Vol. 40:1003, 1991.

"Differentiated Case Management," program brief, Bureau of Justice Assistance, NCJ 140189, February, 1993.

"Assessment of the Feasibility of Drug Night Courts," monograph, Bureau of Justice Assistance, NCJ 142415, June, 1993.

VII. Acknowledgements

The members extend special thanks to the following agencies and individuals for their cooperation and valuable assistance to this study effort:

Senator Edgar S. Robb, Charlottesville

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Miami, Florida

Appendix A

1993 SESSION

LD9339728

SENATE JOINT RESOLUTION NO. 262
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Rules
on February 5, 1993)
(Patron Prior to Substitute—Senator Robb)

Directing the Virginia Crime Commission to conduct an analysis of drug offender cases and to study alternatives to prison and jail incarceration.

WHEREAS, inmate population in state prisons rose from 9,255 in 1981 to 19,851 in 1992, an increase of approximately 115 percent; and

WHEREAS, inmate population in state prisons is expected to increase an additional 38 percent to 27,360 by 1997; and

WHEREAS, the level of overcrowding in local and regional jails increased dramatically from 12 percent in 1985 to 60 percent in 1989; and

WHEREAS, the local-responsible prisoner population in jails is expected to increase from 10,604 in 1992 to 14,026 by 1997; and

WHEREAS, in 1992, drug offenders accounted for 30 percent of the new admissions to Virginia's penal system; and

WHEREAS, the vast increases in drug-related crimes threaten the ability of our criminal justice system to deal fairly and efficiently with other crimes; and

WHEREAS, judges and Commonwealth's attorneys are not required to obtain any special education or training to prepare them in dealing with drug offender cases; and

WHEREAS, alternatives to incarceration such as electronic home monitoring and community diversion programs have proven to be effective and economical; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Crime Commission be directed to conduct an analysis of drug offender cases and to study alternatives to incarceration. The analysis shall include, but not be limited to, a collection of data pertaining to (i) the volume of drug cases heard in juvenile, district and circuit courts; (ii) the number of drug cases in which additional offenses are involved and the seriousness of those offenses; (iii) the number of first-time and second-time drug offenders; (iv) any other factors which significantly affect the courts' caseloads and the incarceration of drug offenders and (v) any special education or training obtained by or available to judges and attorneys working with drug offender cases. The Commission shall study and recommend ways to increase the use of incarceration alternatives currently employed in the Commonwealth, such as community diversion incentive programs and electronic home monitoring and also determine if such alternatives would be appropriate for certain drug offenders.

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.

Official Use By Clerks	
Agreed to By The Senate without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>	Agreed to By The House of Delegates without amendment <input type="checkbox"/> with amendment <input type="checkbox"/> substitute <input type="checkbox"/> substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
_____ Clerk of the Senate	_____ Clerk of the House of Delegates

Appendix B

SUPERIOR COURT DRUG INTERVENTION PROGRAM

The Superior Court Drug Intervention Program is a five year demonstration project funded through an interagency agreement between The Center for Substance Abuse Treatment (CSAT), the Superior Court of the District of Columbia, and the Pretrial Services Agency. The purpose of this project is to develop and identify treatment interventions that will successfully break the vicious cycle of drugs and crime that is responsible for much of the serious criminal behavior in the District of Columbia.

Building on the Superior Court felony drug master calendaring system and the Pretrial Services Agency's Drug Test Management System, this program provides additional treatment interventions to felony defendants identified as having serious substance abuse problems. Drug testing is a key tool for monitoring the treatment progress of drug using defendants. The Drug Test Management System uses a computer network, bar codes, scanners, and an on-site drug testing analyzer to manage all aspects of urine sample collection and testing in a "paperless" environment. Linking this system to the courtroom computer network allows judges to have immediate access to drug test histories and treatment programming performance.

Providing this information to the judge is critical because the judge plays an important role in this program. By closely monitoring the defendant's treatment progress, the judge can use its authority to influence treatment outcomes through both positive encouragement when defendants are performing well and sanctioning defendants when they do not perform to the Court's expectations.

An important feature of this program is immediate, structured, and graduated responses to positive test results or treatment participation failures. For some defendants this will mean the imposition of an escalating series of previously agreed upon sanctions imposed by the judge. Other defendants will be placed in more intensive treatment regimens up to placement in a 30 day residential program. In either case, it is the defendant's behavior following arrest that determines the intensity of intervention by the program.

With the support of CSAT, a comprehensive community treatment program located in the court complex was created for defendants in this program. The treatment approach is a holistic one designed to provide the skills, self esteem and community resources necessary for drug dependant individuals to escape the drug using criminal lifestyle they have become accustomed to.

This treatment program is only one part of a coordinated strategy by District of Columbia agencies dealing with criminal offenders at various stages of the legal process. All the agencies are working toward the development of a comprehensive system encompassing a continuum of treatment services that will be available at all stages of the criminal justice process.

For further information, contact: Jay Carver, Director, (202) 727-2911