

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

**FIRST-TIME DRUG  
OFFENDER STATUTE/§ 18.2-251**

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



**HOUSE DOCUMENT NO. 66**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1997**





# COMMONWEALTH of VIRGINIA

## VIRGINIA STATE CRIME COMMISSION

General Assembly Building

John R. Isom  
Executive Director

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Robert J. Humphreys

ATTORNEY GENERAL'S OFFICE  
James S. Gilmore, III

December 10, 1996

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

House Joint Resolution 6, agreed to by the 1996 General Assembly, directed the Virginia State Crime Commission to study the first-time drug offender statute, and to submit its findings and recommendations to the Governor and the 1997 session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission in 1996. I have the honor of submitting herewith the study report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clifton A. Woodrum".

Clifton A. Woodrum  
Chairman

CAW:sc



## **MEMBERS OF THE VIRGINIA STATE CRIME COMMISSION 1996**

### **From the Senate of Virginia:**

Janet D. Howell, Vice Chair

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### **Attorney General:**

James S. Gilmore, III



**Corrections Subcommittee Studying The First Time Drug Offender  
Statute §18.2-251**

**Corrections Subcommittee Members**

Delegate Raymond R. Guest, Sub-chairman

Delegate James F. Almand

Delegate Jean W. Cunningham

Delegate John J. Davies, III

Sheriff Terry W. Hawkins

Senator Kenneth W. Stolle

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**HJR 6: Study of the First Time Drug Offender Statute/§18.2-251**

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# **HJR 6: Study of the First Time Drug Offender Statute**

## **I. Authority for Study**

The 1996 General Assembly approved House Joint Resolution 6 (HJR 6/Davies) directing the Virginia State Crime Commission to conduct a study on Virginia's first-time drug offender law and determine if the law should be expanded to other drug offenses.

Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Section 9-127 of the Code of Virginia 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 Section 9-125, and to formulate recommendations to the Governor and the General Assembly." Section 9-134 authorizes the Commission to "conduct private and public hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of the first-time drug offender law, its current utilization, and the need to expand the law to cover more drug offenses.

Virginia first enacted a first-time drug offender statute in 1972 which provided that persons charged with a first offense of unlawful possession of controlled substances or marijuana could be placed on supervised probation, subject to terms and conditions set by the judge. If the offender successfully completed the probation, there would not be an entry of a judgment of guilt. Support for the flexibility afforded by this law has been expressed by several judges and attorneys.

There is also an increasing concern for the disproportionately high number of drug offenders in Virginia's prison population. The need for greater judicial flexibility in sentencing first-time drug offenders and the growing number of non-violent drug offenders entering the penal system in Virginia led to the request for a study to determine if the first-time drug offender statute could be expanded to offer judges more flexibility in disposition of first-time drug offenders and, possibly, ease the prison overcrowding in the Commonwealth.

## II. Members Appointed to Serve

At the May meeting of the Crime Commission, Chairman Clifton A. Woodrum, selected Delegate Raymond R. Guest to serve as Chairman of the Corrections Subcommittee, which was directed to conduct the study of Virginia's first-time drug offender law. The following members of the Crime Commission were selected to serve on the subcommittee:

### Corrections Subcommittee

Delegate Raymond R. Guest, Sub-chairman

Delegate James F. Almand

Delegate Jean W. Cunningham

Delegate John J. Davies, III

Sheriff Terry W. Hawkins

Senator Kenneth W. Stolle

Delegate Clifton A. Woodrum

## III. Executive Summary

The Crime Commission staff focused first on the feasibility of expanding §18.2-251 to include other first time drug offenses beyond possession. As a part of that effort, staff developed a survey instrument to be sent to circuit court and general district judges, commonwealth attorneys, public defenders and a random sample of criminal defense attorneys (Appendix). The responses on the survey did not indicate significant support for expansion of the first offender statute.

### **\* Amendments to §18.2-251/Substance Assessment and Treatment**

The Task Force on Substance Abuse Services for Offenders, an interagency group composed of representatives from the Department of Corrections, the Department of Mental Health, Mental Retardation & Substance Abuse Services, and local community services boards, worked with the Commission staff to identify changes to §18.2-251 which would strengthen treatment services for substance abusers who commit drug offenses. As a result of this work, staff recommended that the Code be amended to require a substance abuse assessment for offenders charged under §18.2-251 and to require treatment for the offender, if indicated. The amendment would also require offender reimbursement based upon his ability to pay.

### **\* Amendments to §18.2-258.1/Reduction of Charge on First Offense for Prescription Fraud**

During the discussion regarding changes to the first offender statute the Corrections Subcommittee

agreed to amendments to §18.2-258.1 (prescription fraud) which would reduce the first offense to a Class I misdemeanor. Members of the Subcommittee pointed out that many individuals guilty of prescription fraud or forgery are committing the offense to support an addiction which began with a legally prescribed drug. Demographic profiles of these offenders indicate that they are more often employed, educated, have stable families than many of the other types of drug offenders.

**\* Amendments to §53.1-20-B1/Local vs. State Responsible Offenders**

As a part of the survey sent to judges, commonwealth attorneys, and public defenders, a question was included regarding the definition of a state versus local responsible offender. Currently the Code defines a state responsible offender as one who has an active sentence of over six months. The survey results indicate support for changing this to an active sentence of over one year. The Corrections Subcommittee adopted this proposal. The Sheriffs' Association is on record in support of this amendment.

**\* Two Drug Court Pilots/Richmond and Charlottesville**

As a corollary of this study effort, the staff examined other issues which relate to drug offending and drug abuse. Among these were: the feasibility of expanding the drug court model to several jurisdictions, amendments to §18.2-251 relating to substance abuse assessment and treatment, offender reimbursement for substance abuse treatment, and the threshold for who is designated state and local responsible offenders. The staff met with judges, commonwealth attorneys, probation & parole staff, and staff of the community services boards of Richmond and Charlottesville to discuss the implementation of a drug court model in these two jurisdictions. Both localities expressed support for such a project. Working with staff from House Appropriations, a drug court budget proposal was developed as a recommendation of the study(Appendix F & G). The Corrections Subcommittee adopted the proposal.

**\* Crime Commission Study on Substance Abuse Treatment Funding Models**

Substance abuse treatment for offenders is in great demand but resources are very limited. Community corrections for both state and local responsible offenders have scarce treatment dollars to serve significant numbers of offenders in the community. The Department of Mental Health, Mental Retardation & Substance Abuse Services is the state agency charged by statute with providing substance abuse services in the Commonwealth (§37.1-204). The local community services boards provide substance abuse treatment services to offenders; however, the level of support for this population from fees and other funding sources cannot be determined.

The Corrections Subcommittee recommended that the Crime Commission conduct a study in 1997, in collaboration with House Appropriations, Senate Finance, Department of Mental Health, Mental Retardation & Substance Abuse Services, Department of Criminal Justice Services, Department of Corrections and the Virginia Alcohol and Safety Program, to examine the funding issue for substance abuse treatment services for offenders and to make recommendations to the 1998 General Assembly.

The criminal justice system can take substance abusers off the streets, but it cannot keep them off the streets. If we are to stop the revolving door of incarceration and release and incarceration once again, the system must serve to break the cycle of substance abuse, not merely interrupt it. Sanctions must repond to the underlying addiction driving the criminal behavior. The recommendations of the HJR 6 study of the first time drug offender statute provide a comprehensive approach within the criminal justice system to addressing the intrinsic causes of the many criminal drug offenses clogging our court dockets today.

#### **IV. Background**

In 1991 more than one million persons were arrested nationwide on drug offenses-an increase of 56 percent since 1982.<sup>1</sup> By 1993 the number of incarcerated drug offenders had risen by 510% since 1983.<sup>2</sup> Approximately two-thirds of these arrests were for illegal possession of drugs, and one-third was for the manufacture and sale of illegal drugs, according to the U.S. Department of Justice. The 1995 Virginia Department of Corrections' inmate statistical summary indicates that drug-related crimes constitute about thirty percent of the inmate offenses. This does not include drug-related offenses such as robbery, breaking and entering, fraud, and other crimes associated with the use of illegal drugs. Drugs have a direct impact on the user's behavior and are clearly connected to the violence generated through drug trafficking. The United States has put massive resources into drug control strategies such as interdiction and increased incarceration of offenders. These strategies have not yielded a significant reduction in the widespread use of illegal drugs. Obviously, the system must use a multi-pronged approach to the problem.

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Virginia State Crime Commission, The Feasibility of a Drug Court Pilot Project in Virginia, Senate Document 52, 1994, pg. 4.

Mauer, Marc, "Young Black Americans and the Criminal Justice System: Five Years Later.", The Sentencing Project, 1995.

One of Virginia's legislative approaches to address the increases in drug related crimes was the passage of the first-time drug offender statute, §18.2-251 in 1972 which provides that persons charged with a first offense of possession of a controlled substance or marijuana may have the judgment deferred and be placed on probation with certain terms or conditions. If the accused fulfills the terms or conditions set forth by the court, the court shall discharge the person and dismiss the proceedings against him. If the accused violates the conditions, the court may enter an adjudication of guilt and proceed with sentencing. The statute requires that the accused remain drug free during the period of probation and to submit to periodic drug screening during the probationary period. The court may require the accused to pay for such testing. The statute further requires the forfeiture of the accused's drivers license for six months, as set forth in §18.2-259.1 and §46.2-390.1. One of the terms or conditions the court may impose is participation in a screening, evaluation, and education program. The statute does not specify placement in a treatment program, per se, as a condition.

In a 1962 landmark decision, *Robinson v. California*, the Supreme Court stipulated that chemical addiction is an illness rather than a crime.<sup>3</sup> The Court ruled that States may force an addict into treatment and impose criminal sanctions for the failure to comply with the treatment program. This was consistent with the prevailing attitude that penal coercion was not an effective rehabilitation incentive. It was also during this time that community-based treatment was slowly gaining credibility. Virginia passed a statute in 1972, §18.2-254, which authorized the commitment of convicted persons to treatment for drug or alcohol treatment. The major differences in §18.2-251 and §18.2-254 that they are pre- and post-adjudication strategies, respectively. Under §18.2-254 the offender is placed into treatment as a sentencing option, once he is found guilty.

One other option is open to judicial discretion, §19.2-303, which allows for suspension or modification of sentence under the terms or conditions the court shall determine. This is applicable to all offenses, not solely drug offenses.

## V. Study Methodology

The Crime Commission staff developed a survey instrument to send to all Circuit Court judges,

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Bureau of Justice Assistance, Treatment Accountability for Safer Communities, November 1995, pg. 5.

General District Court judges, Commonwealth Attorneys, Public Defenders, and a random sampling of the defense bar. The Division of System Support of the House of Delegates provided technical support to the Commission through the development of a program to tabulate the survey results. There was approximately a 60% response rate on the survey. The survey and results are attached in the Appendix B.

The staff met with several Circuit Court judges to discuss the study implications. During the discussions focus was given to the drug court model, which will be discussed in detail in a subsequent section. As part of the drug court discussions, staff visited the drug court pilot in Roanoke and met with the presiding judge, Diane Strickland. It was determined that the study should include a review of the feasibility of expanding the drug court model to other judicial circuits. A technical advisory group was established to develop drug court options.

Finally, staff met with the Task Force on Substance Abuse Services for Offenders. The Task Force agreed to work with the Commission to identify what treatment resources are currently available and what additional resources may be needed if changes are made to §18.2-251 and the fiscal impact of any proposed changes.

## **VI. Virginia's Drug Picture**

The 1994 Uniform Crime Report for Virginia shows 5360 adult arrests and 726 juvenile arrests for the sale of illegal narcotics. Possession of illegal drugs is much higher: 16,609 adult arrests and 1882 juvenile arrests. Possession of marijuana is almost twice that of cocaine. However, sale of cocaine is more than twice as high as that of marijuana. Sale and distribution of cocaine is closely associated with the more violent crimes.

These figures do not include arrests for crimes which may be associated with drug use or sale. Assaults, breaking and entering, forgery, fraud, even murder, are often closely connected to the use or addiction to illegal narcotics. The impact on the criminal justice system is tremendous. Drug addiction and drug trafficking have become significant burdens for law enforcement, corrections, courts, and treatment providers.

Approximately one third of the prison beds in Virginia are occupied by drug offenders. At an average cost of \$17,000 per bed annually, incarceration for drug offenses is costing Virginians



about 90 million dollars annually. The human costs are incalculable. Neonatal unit costs for crack babies are extremely expensive. This is only one of many health costs associated with addiction. Loss of productivity due to addiction adversely impacts the economic health of our State and our country. Almost everyone at some point is affected by the deleterious effects of illegal drugs.

Virginia, like every other state in this nation, is grappling for solutions to stem the drug problem. Our legislature has imposed mandatory minimums for many drug offenses. But there is a growing realization that the “lock ‘em up and throw away the key” approach is not a panacea for the problem. Virginia’s criminal justice system must develop a comprehensive strategy which addresses the underlying causes of substance abuse and illegal drug trade.

## **VII. Treatment Efficacy**

There are programs in place to provide treatment to drug-involved offenders, both in an outpatient and residential setting. A limited number of beds are available in the institutional-based therapeutic communities for substance abuse treatment. Success is measured by an offender’s consistent participation in treatment, with observable progress toward decreasing and eliminating illicit drug use, and failure to commit new crimes.<sup>4</sup>

Much of the evaluative data on treatment effectiveness focuses on the curbing of drug abuse and preventing relapse. Less evaluative data is available on treatment impact on criminal recidivism. There is an assumption that, once a drug offender is successfully treated for his or her chemical dependency, the criminal behavior associated with the addiction will be abated. The issue is somewhat more complicated.

For most drug users, treatment needs include a variety of both social and medical services to aid recovery. The effectiveness of drug treatment will depend largely on a thorough assessment and integration of the needs of every individual entering treatment.<sup>5</sup> Matching client needs to the treatments and services available is essential to a treatment diversion success. This individualized

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Virginia State Crime Commission, Court Services for Drug Offenders, Senate Document No.30, 1995, pg. 5.

Office of National Drug Control Policy, Treatment Protocol Effectiveness Study, March, 1996, pp. 2-5.

case management may be time consuming and costly, but the long-term cost benefits are worthwhile the effort and investment. Drug offenders with good social skills and a means of financial support have a much better chance of long term success in terms of relapse in drug use and reoffense. Poor job skills and low self esteem inhibit the long-term effectiveness of drug treatment for many offenders. Therefore, it is important that treatment diversion be holistic and address the vocational, educational, and specific treatment needs of the offender.

Evaluation of any drug treatment efficacy should include the following indicators:

- \* Reduced crime;
- \* Reduced drug use;
- \* Reduced domestic violence;
- \* Reduced behavior at risk for HIV infection;
- \* Increased days of employment; and
- \* Positive changes in social values and networks.<sup>6</sup>

The Drug Abuse Treatment Outcome Study being conducted by the Office on National Drug Control Policy on patients admitted between 1991 and 1993 is a longitudinal study of 12,000 adult clients in more than 50 programs with a follow-up on 4,500 patients. The final results are unavailable at this time but preliminary data is providing important information on the needs of patients entering, who is and is not entering treatment, and some of the obstacles to successful treatment. There is a decline in the amount of services provided, based on early data.<sup>7</sup> The lack of a full array of services (medical, psychological, family, legal, educational, vocational, and financial services) during treatment will certainly impact the success of the treatment program.

The 1992 California Drug and Alcohol Treatment Assessment (CALDATA) studied the effectiveness, benefits, and costs of alcohol and drug treatment in California. The key findings of CALDATA demonstrate that treatment is a sound taxpayer investment and saves money in terms of real costs associated with drug-related crime, illness, and lost productivity. The cost of treating 150,000 participants was \$209 million while the benefits received during treatment and the next year was approximately \$1.5 billion, due mostly to a reduction in crime. The level of criminal activity declined by two-thirds from before treatment to after treatment. The study also found a

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Ibid., pg. 3.

Ibid., pg.6.

direct correlation in the time spent in treatment to the reduction in criminal activity. It also found that the longer an individual stayed in treatment the more positive the impact was on his or her employment.<sup>8</sup>

What treatment program works? The answer is elusive. There is no standardized research with comparable outcome measures to make a definitive answer. There are four major modalities: therapeutic communities, pharmacological treatment, outpatient drug-free treatment, and inpatient treatment.

Therapeutic communities (TC'S) are a residential, long-term, highly structured treatment model for hardcore drug users. Virginia has two therapeutic communities in correctional institutions: Botetourt and Indian Creek. There are also several private residential treatment programs which use a therapeutic community model. The environment of a TC is both supportive and confrontational and concentrates on making the offender aware of the role that his problems play in contributing to drug use. This treatment approach uses encounter groups, rule-setting and rule enforcement, rewards, and work to allow the offender to learn interpersonal, educational, and vocational skills and develop psychological, moral, and social strengths which are fundamental to living drug-free.<sup>9</sup> Therapeutic communities demonstrate a long-term, successful outcome one to two years after treatment. Offenders who are the program at least twelve months show the greatest gain.

In Virginia, judicial assignment to a correctional institution therapeutic community has not been the norm. Assignments are made primarily through the inmate classification process. The institutional therapeutic community is not an appropriate option for courts when the goal is to divert offenders from the correctional institutions. Having observed both of Virginia's correctional therapeutic communities first-hand, staff would recommend the elements of a TC be considered in a treatment program placement, especially for hard-core drug abusers.

Pharmacological treatment programs, such as methadone maintenance programs, are effective but should not be considered in isolation of other needed services. The outpatient drug-free treatment

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Ibid., pg. 7.

Ibid., pp. 7-8.

program is probably the most widely used modality for treatment, particularly in conjunction with §18.2-251. While the goal of these programs is to attain abstinence, a more realistic objective is reduced drug use. Relapse is common but, understanding addictive behavior, relapse does not necessarily mean treatment failure. Reducing criminal activity and improving employment status are more common benefits than abstinence. There is also success in less frequent use and use of less addictive drugs (i.e. use of marijuana instead of heroin).

Inpatient or residential treatment probably offers more lasting effect, but is also much more costly. A typical inpatient treatment program is 28 days. Those residential therapeutic community programs which last three or more months appear to have a greater deterrent on recidivism in both drug use and criminal activity. Recent research indicates that intensive outpatient programs are as effective as the traditional outpatient programs.

One serious consideration for judicial placement in a treatment program is availability of effective programs. It may be necessary to have independent evaluations on the community-based treatment programs in order for drug court judges to make informed decisions. In a recent interview with two Virginia Circuit Court judges regarding the drug court model, staff found that the bias against treatment dispositions was based upon a perception that a local inpatient treatment program was a “pharmacy” where the offender could get just about any drug he wanted. Obviously treatment outcomes are dependent upon the integrity of the treatment program itself. Public treatment dollars should not be funneled into programs which have poor or marginal outcomes. However, if treatment is done well, all the evidence indicates it is effective and can be a viable part of the State’s response to the problem of drugs and crime.

## **VIII. Drug Courts**

One of the strategies to address drug offenses used by the judiciary is a drug court. This judicial approach is based upon an addiction model which attempts to address the underlying addiction of the offender while applying a combination of treatment and graduated sanctions to the drug offense. It is primarily directed toward nonviolent drug offenders and offenders who voluntarily enter the program. Participating offenders who successfully complete the prescribed sanctions and treatment will have their sentence mitigated, charges dismissed, or other lessening penalties. The drug court model appears to be an effective judicial tool to address the burgeoning drug caseloads on Virginia’s court dockets.

Court systems across the United States experienced an increased inundation of felony drug cases in the 1980's. Between 1980 and 1989, drug arrests in the United States increased 134 percent, while the number of total arrests increased only 37 percent.<sup>10</sup> The National Institute of Justice research also indicates that drug abuse is prevalent among arrestees of non-drug related offenses as well. The response to this "drug crisis" was an increase in sentences for drug offenders. The results of the new "get tough on drugs" policies has led to serious overcrowding of the nation's jails and prisons.

Courts responded to the drug case surge by focusing on processing cases quickly in order to clear calendars and reduce pending felony caseloads. With the trend in mandatory sentences for repeat offenders and increased penalties for drug offenses, the pressure was on the courts to exercise no leniency on the drug offenders.

These drug caseload pressures led courts to initiate different strategies to improve the problem. One of the strategies was the introduction of special drug courts. The selective processing of felony drug cases allowed courts to relieve crowded felony dockets, reduce case processing time, and establish mechanisms for more creative and effective dispositions.<sup>11</sup> Many of the drug courts link defendants to community-based drug treatment programs. The increased use of alternatives to incarceration will, hopefully, result in a substantial reduction in the system's high costs for incarceration.

Segregation of drug cases is seen as an effective case management tool. First, judges, prosecutors, and public defenders assigned to drug courtrooms become specialists and are able to process cases more rapidly and efficiently.<sup>12</sup> This, in effect, reduces pending caseloads and relieves crowded drug dockets. Segregation of cases can also speed the processing of both drug and nondrug cases.

The nature of street-level anti-drug law enforcement which characterizes many police responses to

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Bureau of Justice Assistance, Special Drug Courts-Program Brief, NCJ 144531, November 1993, pg. 1.

Ibid., pg. 2.

Ibid., pg. 2.

drug-related crime has resulted in large numbers of fairly standardized cases with strong evidence and witnesses.<sup>13</sup> This reduces the likelihood of a trial, streamlines case preparation by prosecutors, and establishes mutually understood and accepted “rates” or sentences for drug cases.

Two types of drug courts have emerged in the process. Some courts use court-monitored drug treatment under a diversion, deferred prosecution, or deferred sentencing arrangement which is designed to change the defendants’ drug-using behavior. Another model uses differentiated case management or other special case processing procedures to expedite the disposition of drug cases.

New York City, in the early ‘70’s, was the first jurisdiction to use special drug courts.<sup>14</sup> These were established in conjunction to the passage of harsher drug laws. The courts gradually begin to process nondrug felonies as well. In 1987, new drug courts were set up in four of the five New York boroughs.<sup>15</sup>

The special drug court in Dade County (Miami) was the first to incorporate drug treatment into the processing of drug felonies in June, 1989. The Miami project became a model which was adopted by a number of other jurisdictions. By 1993 there were at least 20 drug courts operating around the United States.<sup>16</sup> The drug courts took on several variations:

- \* Drug courts designed to reduce disposition time;
- \* Treatment diversion or deferred prosecution courts where cases are dismissed if the defendant successfully completes treatment; and
- \* A combination of both of these.

The expedited case processing model has several goals which include: concentration of drug case expertise in one courtroom, reduce the time of disposition, reduce the pending drug felony caseload, and relieve pressures on nondrug caseloads through case diversion. The dedicated drug treatment and case management model for the drug court shares some of the same goals, such as,

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Ibid., pg. 3.

Ibid., pg. 4.

Ibid., pg. 4.

Ibid., pg. 4.

concentration of drug case expertise, relief of nondrug caseloads and improve trial capacity. This model emphasizes linkage of the defendant to treatment services, reduction of drug use and recidivism and addressing the defendant's needs through case management as well. The Roanoke pilot drug court primarily utilizes the treatment diversion model.

The 1993 Virginia General Assembly, through House Joint Resolution 262, directed the Virginia State Crime Commission to study alternatives to incarceration for drug offenders and the feasibility of drug courts. The result of this study was the recommendation to establish a pilot drug court in Roanoke, Virginia. The drug court has been operational about one and a half years. No evaluative data is available as yet but anecdotal data appears very positive.

One key element to the successful implementation of this pilot was the participation of all involved entities in the initial planning phase. The Supreme Court, the Public Defender Commission, the Commonwealth Attorneys Training Council, the Department of Mental Health, Mental Retardation & Substance Abuse Services, the Department of Corrections, and the Virginia State Bar were active in developing the pilot model. Funding was provided by the General Assembly for additional treatment services and an additional probation & parole officer in Roanoke. Many of the services associated with drug treatment case management, such as drug screens and outpatient treatment, were provided through the Roanoke Day Reporting Center.

The total commitment of the Circuit Court judge directing the Roanoke pilot project appears to have a direct impact on the success of the project. As an observer of the drug court pilot in Roanoke, staff found Judge Strickland's role to be crucial to its operation. It is important to note this subjective element when determining the feasibility of expanding the drug court model to other judicial circuits.

As a component of this study, staff has worked with judges from the Richmond Circuit Court on developing a drug court model. Richmond has a day reporting center which works closely with the Circuit Court judges on diversions to drug treatment and other educational and vocational programs. Staff recommended that the Crime Commission support the funding necessary for Richmond to initiate a Drug Court. During the work on this project staff was made aware of a drug court project under development in the Charlottesville Circuit Court. Charlottesville has completed the planning phase for its drug court and is seeking support for the implementation. Staff recommended that the Crime Commission include Charlottesville in its support for drug court

monies. Funding these two pilots will provide a good picture of three diverse areas: a mid-size city, a small city and rural area, and a large urban area. Evaluation data from the three will provide important information on the effectiveness of the drug court approach in differing demographic populations. It will also provide valuable data on differing drug court models.

## **IX. Community Corrections**

In 1995 the Virginia General Assembly passed the Comprehensive Community Corrections Act for State and Local Responsible Offenders. This established a statewide system of community-based options for sentencing offenders with a nonviolent offense to programs within the community as an alternative to incarceration. The demarcation of determination if an offender is "local-responsible" is the length of sentence. A sentence of six months or less defines the "local-responsible" offender. Offenders with over six months become the responsibility of the State corrections. The survey indicated that there is support for expanding the definition of "local responsible" offender to give more sentencing options to the judiciary. The choices given on the survey were:

- \* 6 months to one year;
- \* six months to eighteen months; and
- \* six months to two years.

The majority of the respondents favoring an expansion support extending the sentence threshold to two years. Staff recommended an increase to one year to allow for an incremental increase in resources in the local community corrections program which would be needed if the criteria is changed.

## **X. Diversion to Drug Treatment**

As previously stated, §18.2-251 does not require that participating offenders be remanded into treatment. It was the consensus of the Task Force on Substance Abuse Services for Offenders that an evaluation for substance abuse should be a requisite part of the statute. If the evaluation indicates the need, the offender should be required to participate in treatment as a prerequisite to participation under §18.2-251.



The attached legislative draft addresses the proposed changes. It also clarifies the offender's responsibility for paying for treatment. The draft further clarifies that diversion to treatment in a jurisdiction outside the sentencing court's jurisdiction can only be done if the resources are available. Some judges are sending offenders to treatment in other localities but the resources do not follow the offenders. This is placing an undue burden on certain localities to meet the treatment needs of individuals who reside in that jurisdiction.

## **XI. Expansion of §18.2-251**

Several options for expansion of §18.2-251 were provided in the survey sent by Commission staff to judges, public defenders, commonwealth attorneys, and the defense bar. These included the following:

- \* Expansion to cover any first drug offense of any nature?
- \* Expansion to include the first time sale of small quantities of marijuana (i.e. less than one ounce)?
- \* Expansion to include the first time sale of small quantities of Schedule I and II drugs (less than one gram)?

The results of the survey did not indicate support for inclusion of these additional offenses. Staff did note that several respondents added a category of prescription fraud for consideration. A recent study by the Sentencing Commission on the demographic profile of drug offenders would suggest that these offenders are more likely to hold jobs, be educated, have a family. Prescription fraud is often the result of an addiction which started from legally prescribed drugs. Staff recommended that the Corrections Subcommittee consider adding §18.2-258.1 (prescription fraud) to the first offender statute. The Corrections Subcommittee recommended an amendment to §18.2-258.1 which would reduce the first offense charge to a misdemeanor and require a substance abuse assessment and treatment for those who are convicted of a first-offense prescription fraud charge.

Consideration was also given to expanding §18.2-251 to include other offenses. This would enhance the discretion of the judiciary to determine when a case is appropriate to be considered under 18.2-251 but does not mandate that the enumerated offenses must be considered for dismissal of charges. The Corrections' Subcommittee did not approve expanding the offenses included in §18.2-251.

## **XII. Funding Treatment Services**

One major obstacle to local jurisdictions is the inadequate funding provided for substance abuse treatment for offenders. Substance abusers whose addiction is not addressed present a continuing public safety risk. Statistics clearly demonstrate that incarceration or other sanctions which do not affect the underlying addiction driving the criminal behavior does little to reduce the offender's propensity to reoffend. The state agency charged with the responsibility for the provision of substance abuse services, the Department of Mental Health, Mental Retardation, & Substance Abuse Services through the local community services boards (§37.1-204), provides services to approximately 19,000 individuals involved in the state's criminal justice system. It is unclear what proportion of the federal block grant funds available for substance abuse services are actually directed toward offenders. Currently local probation & parole districts often purchase substance abuse treatment services from the local community services board or from a private provider. Probation & parole has only \$1.5 million available for treatment services for approximately 35,000 community supervisees. This includes mental health, sex offender treatment, and substance abuse treatment services for all probationers & parolees, which is clearly inadequate to meet the need.

Money was provided in the state budget to the Department of Mental Health, Mental Retardation & Substance Abuse Services to provide substance abuse services in the jails throughout the Commonwealth through the forty community services boards. The Department of Criminal Justice Services has a grant program for therapeutic communities for substance abuse treatment in the jails. The Department of Criminal Justice Services has also funded two therapeutic communities in the state penal system. Funding for substance abuse treatment services is fragmented and quite inadequate to meet the demand in the criminal justice system. A study to determine the most cost effective method to provide adequate funding to meet the need was considered and approved by the Corrections Subcommittee. The Corrections Subcommittee approved changes to §18.2-251 which would require the offender to pay for assessments and treatment based upon his or her ability to pay.

## **XIII. Findings and Recommendations**

Approximately one-third of the prison beds in Virginia are occupied by drug offenders. Our legislature has imposed mandatory minimums for many drug offenses. But there is a growing realization that the "lock 'em up and throw away the key" approach is not a panacea for the

problem. Virginia's criminal justice system must develop a comprehensive strategy which addresses the underlying causes of substance abuse and illegal drug trade.

In a 1962 landmark decision, *Robinson v. California*, the Supreme Court stipulated that chemical addiction is an illness rather than a crime.<sup>17</sup> The Court ruled that States may force an addict into treatment and impose criminal sanctions for the failure to comply with the treatment program. Much of the evaluative data on treatment effectiveness focuses on the curbing of drug abuse and preventing relapse. Less evaluative data is available on treatment impact on criminal recidivism. There is an assumption that, once a drug offender is successfully treated for his or her chemical dependency, the criminal behavior associated with the addiction will be abated.

§18.2-251 does not require that participating offenders be remanded into treatment. It was the consensus of the Task Force on Substance Abuse Services for Offenders that an evaluation for substance abuse should be a requisite part of the statute. If the evaluation indicates the need, the offender should be required to participate in treatment as a condition of the court under §18.2-251. The Corrections Subcommittee approved this proposal.

**The Commission recommended amendments to §18.2-251 which address treatment and offender reimbursement for services. Additionally, the Judicial Education division of the Supreme Court should be requested to include training in its curriculum to insure that records of charges under §18.2-251 are not expunged.**

The survey results did not indicate support for expansion of the offenses included in §18.2-251. There was, however, support for amending §18.2-258.1 dealing with prescription fraud. The Corrections Subcommittee pointed out that many of these offenders are actually addicted to a prescribed drug and commit forgeries to support that addiction. The Corrections Subcommittee recommended an amendment to §18.2-258.1 which would reduce the first offense for prescription fraud to a Class I misdemeanor.

**The Commission recommended an amendment to §18.2-258.1(Prescription fraud)which allows a judge to reduce the first offense to a**

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Bureau of Justice Assistance, Treatment Accountability for Safer Communities, November 1995, pg. 5.

**misdemeanor. The amendment will also require a substance abuse evaluation and treatment, if indicated.**

In 1995 the Virginia General Assembly passed the Comprehensive Community Corrections Act for State and Local Responsible Offenders. This established a statewide system of community-based options for sentencing offenders with a nonviolent offense to programs within the community as an alternative to incarceration. The demarcation of determination if an offender is "local-responsible" is the length of sentence. A sentence of six months or less defines the "local-responsible" offender. Offenders with over six months become the responsibility of the State corrections. The study survey to judges, prosecutors, public defenders, and defense attorneys indicated that there is support for expanding the definition of "local responsible" offender to give more sentencing options to the judiciary. The Crime Commission adopted this proposal.

**The Commission recommended amendments to §53.1-20 (b)(1) which define state and local responsible offenders. The definition of local-responsible offender should be expanded to a sentence of one year. A budget amendment should accompany this proposal to provide additional resources in the local community corrections program.**

One of the strategies to address drug offenses used by the judiciary is a drug court. This judicial approach is based upon an addiction model which attempts to address the underlying addiction of the offender while applying a combination of treatment and graduated sanctions to the drug offense. It is primarily directed toward nonviolent drug offenders and offenders who voluntarily enter the program. Participating offenders who successfully complete the prescribed sanctions and treatment will have their sentence mitigated, charges dismissed, or other lessening penalties. The drug court model appears to be an effective judicial tool to address the burgeoning drug caseloads on Virginia's court dockets. A pilot was implemented in Roanoke in 1995 as a result of a Crime Commission recommendation. This model should be expanded to other jurisdictions. The Crime Commission endorsed both the Richmond and Charlottesville drug court proposals.

**The Commission recommended an expansion of the drug court model now in place in Roanoke to the Richmond Circuit Court and to the Charlottesville Circuit Court.**

Finally, the resources available for community based treatment services for offenders are severely limited. There are approximately 35,000 offenders under community supervision. The Department of Corrections has \$1.5 million to provide treatment services to offenders in the community. This include substance abuse counseling, mental health counseling, and sex offender treatment. The Department of Mental Health, Mental Retardation, and Substance Services receives significant federal monies for substance abuse services but these are not targeted to offenders. Probation and parole must purchase services from the local community services boards from their very limited resources. The Department of Criminal Justice Services funds therapeutic communities in jails and has funded two in state correctional facilities. It is critical that offenders receive the treatment needed to break the cycle of substance abuse and the associated criminal behavior. The current system is underfunded and fragmented among agencies. One issue for consideration is whether a single agency should provide the services or the existing resources should be allocated between offenders under the state and local corrections system and other individuals in the community needing such services. Failure to provide these treatment services to offenders presents a serious public safety risk. Sanctions alone will not impact recidivism if the underlying addiction driving the criminal behavior goes unchecked. The Corrections Subcommittee recommended examining the VASAP model; the Subcommittee recommended a study by the Crime Commission to determine the most cost effective method of funding substance abuse treatment for offenders. The Crime Commission approved this proposal.

**The Commission recommended that the Crime Commission, in collaboration with House Appropriations, Senate Finance, the Virginia Alcohol Safety Action Program, the Department of Criminal Justice Services, the Department of Corrections, and the Department of Mental Health, Mental Retardation & Substance Abuse Services, conduct a study in 1997 on the issue of funding for substance abuse treatment for offenders and develop recommendations for the 1998 General Assembly.**

## **XIV. Acknowledgements**

**Mr. Ken Batten**  
Department of Mental Health, Mental Retardation & Substance Abuse Services

**Mr. Lloyd Young**  
Department of Criminal Justice Services

**Mr. Gene Johnson, Deputy Director**  
Department of Corrections

**Henry Altice**  
Hegira House, Roanoke

**Ms. B. J. Hice, Director**  
Richmond Day Reporting Center

**The Honorable Donald W. Lemons**  
Richmond Circuit Court

**The Honorable David Hicks**  
Commonwealth Attorney, City of Richmond

**The Honorable Diane Strickland**  
Roanoke Circuit Court

**The Honorable Jay Swett**  
Charlottesville Circuit Court

**The Honorable David Chapman**  
Commonwealth Attorney, City of Charlottesville

## **XV. Appendix**

**A. HJR 6 Resolution**

**B. Amendments to §18.2-2**

**C. Amendments to §18.2-258.1**

**D. Amendments to §53.20 B1**

**E. Richmond Circuit Court Drug Court Proposal**

**F. Charlottesville Circuit Court Drug Court Proposal**

**G. Crime Commission Study Resolution on Funding Substance Abuse Treatment for Offenders**





# **Appendix A**

## **HJR 6 Study Resolution**



1996 SESSION

961875198

HOUSE JOINT RESOLUTION NO. 6  
AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Rules  
on February 6, 1996)

(Patron Prior to Substitute—Delegate Davies)

Directing the Virginia State Crime Commission to study Virginia's first-time drug offender law and the need for continuation and expansion.

WHEREAS, § 18.2-251, first enacted in 1972, provides that the disposition in criminal proceedings involving persons charged with a first offense of unlawful possession of controlled substances or marijuana may be deferred and the person placed on probation, subject to terms and conditions, without the entry of a judgment of guilt; and

WHEREAS, many judges and lawyers believe that the flexibility afforded to the courts under this section enhances the ability of the judicial system to fairly and efficiently handle the ever-increasing number of drug cases being prosecuted, concentrating their efforts on more serious habitual offenders; and

WHEREAS, drug offenders are responsible for a large percentage of the current inmate population in Virginia, using up bed space which might more appropriately be made available to more violent offenders; and

WHEREAS, allowing judges greater flexibility in a greater number of drug cases may ease the prison crowding problems facing the Commonwealth, while allowing for a more appropriate disposition for some first-time drug offenders; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study Virginia's first-time drug offender law and the need for continuation and expansion. The Commission shall examine the effects of Virginia's current first-offender drug statute and the feasibility of expanding the current statute to provide more dispositional alternatives and to cover more criminal offenses.

All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1997 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

Passed By

The House of Delegates

- without amendment
- with amendment
- substitute
- substitute w/amdt

Passed By The Senate

- without amendment
- with amendment
- substitute
- substitute w/amdt

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the House of Delegates

\_\_\_\_\_  
Clerk of the Senate



# **Appendix B**

## **Survey Instrument and Results**



VIRGINIA STATE CRIME COMMISSION

SURVEY FOR HJR 6  
FIRST-TIME DRUG OFFENDER STATUTE §18.2-251

1. Estimate the number of cases you handled in the last year which were eligible for treatment under the first offender drug statute: §18.2-251.

- Less than 10
  - 10 - 25
  - 25 - 75
  - More than 75
- 

2. Of these cases, how many were disposed of pursuant to §18.2-251?

- Less than 25%
  - 25% - 50%
  - 51% - 75%
  - More than 75%
- 

3. In your estimation, what percentage of the offenders sentenced under §18.2-251, that you were involved with, successfully completed the probationary period?

- Less than 25%
  - 25% - 50%
  - 51% - 75%
  - More than 75%
- 

4. Would you favor any expansion of this statute to permit individuals charged with drug offenses other than possession to be eligible for the first offender statute?

- Yes
  - No
- 

5. If you favor any expansion of the first offender drug statute, would it be:  
[ Check all applicable boxes ]

- Expansion to cover any first drug offense of any nature?
- Expansion to include the first time sale of small quantities of marijuana (i.e. less than one ounce)?
- Expansion to include possession with intent to distribute Schedule I and II or marijuana?
- Expansion to include the first time sale of small quantities of Schedule I and II drugs (less than one gram)?

6. Have you ever prosecuted, defended, or sentenced a defendant in which §19.2-303 (formerly §53.272 - related to the suspension of the imposition of the sentence or the suspension of the sentence) was applied to first-time offenders?

- Yes
  - No
- 

7. If yes, do you feel this statute provides the court with the flexibility to address first-time drug offenders?

- Yes
  - No
- 

8. Do you feel that §53.1-20(b)(1), concerning the definitions for state- and local-responsible offenders, should be modified to provide more flexibility to the court by increasing diversion options and expanding the community corrections program (§53.1-180)?

- Yes
- No

If yes, would you favor the change as:

- From 6 months to one year.
  - From 6 months to 18 months.
  - From 6 months to 2 years.
  - Other \_\_\_\_\_
- 

9. What is your current position?

- |   |   |
|---|---|
| <input type="checkbox"/> Circuit Court Judge    | <input type="checkbox"/> Public Defender          |
| <input type="checkbox"/> General District Judge | <input type="checkbox"/> Private Defense Attorney |
| <input type="checkbox"/> Commonwealth Attorney  |   |
- 

10. Would you describe your jurisdiction as:

- Urban
- Suburban
- Rural

**Comments:**

Please complete and return in the enclosed envelope to the **Virginia State Crime Commission, General Assembly Building 910 Capitol Street, Suite 915, Richmond, Virginia 23219 by June 15, 1996.** If you have questions regarding this survey, please contact Judy R. Philpott at 804-225-4534. Thank you for your assistance in this effort.



## Crime Commission Survey Results for HJR 6

Total Responses: 287

July 17, 1996

1. Estimate number of cases handled in last year eligible for treatment under the first offender statute.
  - A. Less than 10 — 41
  - B. 10 to 25 — 75
  - C. 25 to 75 — 84
  - D. More than 75 — 87
  
2. Of these, how many were disposed of pursuant to §18.2-251?
  - A. Less than 25 percent — 77
  - B. 25 percent to 50 percent — 47
  - C. 51 percent to 75 percent — 59
  - D. More than 75 percent — 100
  
3. What percentage of offenders sentenced under §18.2-251 that you were involved with, successfully completed probationary period?
  - A. Less than 25 percent — 23
  - B. 25 percent to 50 percent — 50
  - C. 51 percent to 75 percent — 78
  - D. More than 75 percent — 127
  
4. Would you favor expansion of this statute to permit individuals charged with drug offenses other than possession to be eligible for the first-offender statute?

Y — 103    N — 177
  
5. If you favor expansion of the first-offender statute, would it be:
  - A. Expansion to cover any first drug offense of any nature? — 39
  
  - B. Expansion to include the first-time sale of small quantities of marijuana? — 93
  
  - C. Expansion to include possession with intent to distribute Schedule I and II or marijuana? — 40
  
  - D. Expansion to include the first-time sale of small quantities of

Schedule I and II drugs (less than one gram)? — 50

3. Have you ever prosecuted, defended or sentenced a defendant where §19.2-303 (formerly §53.272 - related to the suspension of the imposition of the sentence or the suspension of the sentence) was applied to first-time offenders?  
Y — 186 N — 92

7. If yes, do you feel this statute provides the court with the flexibility to address first-time offenders?  
Y — 153 N — 57

8. Do you feel that §53.1-20(b)(1), concerning the definitions for state- and local-responsible offenders, should be modified to provide more flexibility to the court by increasing diversion options and expanding the community corrections program (§53.1-180)?

Y — 144 N — 114

If yes, would you favor the change as?

- A. From 6 months to one year — 50
- B. From 5 months to 18 months — 16
- C. From 6 months to 2 years — 73
- D. Other — 4

9. What is your current position?

- A. Circuit Court Judge — 99
- B. General District Judge — 66
- C. Commonwealth Attorney — 82
- D. Public Defender — 16
- E. Private Defense Attorney — 19

10. Would you describe your jurisdiction as:

- A. Urban — 95
- B. Suburban — 73
- C. Rural — 115

August 6, 1996

MEMORANDUM

To: Members of the Corrections Subcommittee/State Crime Commission  
From: Judy R. Philpott, Policy Analyst  
RE: HJR 6/First-Time Drug Offender Statute §18.2-251

As a follow-up to the July 30th meeting, I have further analyzed the results of the survey sent to Circuit Court Judges, General District Judges, Commonwealth Attorneys, Public Defenders, and selected members of the Defense Bar regarding expansion of the first-time drug offender statute, §18.2-251. The subcommittee members were interested in the specific responses of judges, commonwealth attorneys, and the public defenders/defense attorneys. The following data is for your information:

Question #4 "Would you favor any expansion of this statute to permit individuals charged with drug offenses other than possession to be eligible for the first offender statute?"

Judges (Both Circuit and General District):

Yes: 60  
No: 106

Commonwealth Attorneys:

Yes: 12  
No: 74

Public Defenders/Defense Attorneys:

Yes: 32  
No: 2

I hope this information is helpful to you. We will be developing several proposals for your consideration to address this issue.



# **Appendix C**

**Amendments to §18.2-251**



Proposed Legislation for HJR 6: Study of the First Time Drug Offender Statute

Amendment to §18.2-251

Persons charged with first offense may be placed on probation; condition; screening, evaluation, ~~and~~ education; *and treatment*; drug tests; costs and fees; violations; discharge.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under §18.2-250 or to possession of marijuana under §18.2-250.1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court ~~may~~ *shall* require the accused to *be evaluated and* enter a ~~screening, evaluation and~~ *treatment and or* education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by a program certified or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The court ~~may~~ *shall* require the person entering such program under the provisions of this section to pay *all or part of the* costs of the program, including the costs of the screening and evaluation, *based upon the person's ability to pay.*

As a condition of *supervised* probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any ~~screening, evaluation, and education~~ program to which the person is referred *or by the supervising agency.* In addition to any other costs, the cost of such testing may be charged to the person ~~in addition to the fee for the education program.~~

The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§18.2-259.1 and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to §16.1-278.9 for the same offense.



# **Appendix D**

**Amendments to §18.2-258.1**



## Code of Virginia

### §18.2-258.1

Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery

A. It shall be unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance or marijuana: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; or (ii) by the forgery or alteration of a prescription or of any written order; or (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It shall be unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by Chapter 34 of Title 54.1.

C. It shall be unlawful for any person to use in the course of the manufacture or distribution of a controlled substance or marijuana a license number which is fictitious, revoked, suspended, or issued to another person.

D. It shall be unlawful for any person, for the purpose of obtaining any controlled substance or marijuana, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other authorized person.

E. It shall be unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It shall be unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized representatives file with the Board such information as the Board may deem appropriate.

H. Any person who shall violate any provision herein shall be guilty of a Class 6 felony. However, whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to the court, to §18.2-258.1, upon such plea if the facts found by the court would justify a finding of guilt, the court may reduce the charge to a Class 1 misdemeanor and place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by a program certified or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening and evaluation, based upon the person's ability to pay.

As a condition of supervised probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and education program to which the person is referred or by the supervising agency. In addition to any other costs, the cost of such testing may be charged to the person in addition to the fee for the education program.

The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.



# **Appendix E**

**Amendments to §53.20 B1**





**Code of Virginia**

**§ 53.1-20**

**Commitment of convicted persons to custody of Director**

**A. Beginning July 1, 1996, every person convicted of a felony committed before January 1, 1995, and sentenced to the Department for a total period of more than two years shall be committed by the court to the custody of the Director of the Department. The Director shall receive all such persons into the state corrections system within sixty days of his receipt of the complete final order from the clerk of the committing court.**

**A1. Beginning July 1, 1996, every person convicted of a felony committed on or after January 1, 1995, and sentenced to the Department for a total period of one year or more or sentenced to confinement in jail for more than six months shall serve such sentence in the custody of the Department. The Director shall receive all such persons into the state corrections system within sixty days of his receipt of the complete final order from the clerk of the committing court.**

**B. Until July 1, 1996, persons convicted of felonies committed before January 1, 1995, and sentenced to the Department shall be committed to the custody of the Department and received by the Director into the state corrections system within sixty days of his receipt of the complete final order from the clerk of the committing court as follows:**

**1. From July 1, 1991, through June 30, 1992, all persons sentenced for a total period of more than six years.**

2. From July 1, 1992, through June 30, 1993, all persons sentenced for a total period of more than five years.

3. From July 1, 1993, through June 30, 1994, all persons sentenced for a total period of more than four years.

4. From July 1, 1994, through June 30, 1996, all persons sentenced for a total period of more than three years.

5. From July 1, 1996, ~~and thereafter~~, all persons sentenced for a total period of more than two years.

6. From July 1, 1997, and thereafter, all persons sentenced for a total period of more than one year. The Director of the Department shall receive all such persons into the state corrections system within sixty days of the sentencing date to be faxed or mailed by the clerk of the committing court to the Department immediately following the entering of the final order.

B1. Until July 1, 1996, persons convicted of felonies committed on or after January 1, 1995, and sentenced to the Department or sentenced to confinement in jail for more than six months shall be placed in the custody of the Department and received by the Director into the state corrections system within sixty days of his receipt of the complete final order from the clerk of the committing court as follows:

1. From January 1, 1995, through June 30, 1996, all persons sentenced for a total period of one year or more.

2. From July 1, 1996, and thereafter, all persons sentenced for a total period of more than six months.

C. If the Governor finds that the number of prisoners in state facilities poses a threat to public safety, it shall be within the discretion of the Director to determine the priority for receiving prisoners into the state corrections system from local correctional facilities.

D. All felons sentenced to a period of incarceration and not placed in an adult state correctional facility pursuant to this section shall serve their sentences in local correctional facilities which shall not include a secure facility or detention home as defined in  $\beta$  16.1-228.

E. Felons committed to the custody of the Department for a new felony offense shall be received by the Director into the state corrections system in accordance with the provisions of this section without any delay for resolution of (i) issues of alleged parole violations set for hearing before the Parole Board or (ii) any other pending parole-related administrative matter.



# **Appendix F**

## **Richmond Circuit Court Drug Court Proposal**



# **RICHMOND**

**PARTNERSHIP  
TO  
REDUCE**

**OFFENDER**

**ADDICTION  
THROUGH  
COORDINATED**

**TREATMENT  
AND  
SUPERVISION**



**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF CORRECTIONS  
RICHMOND DAY REPORTING CENTER**

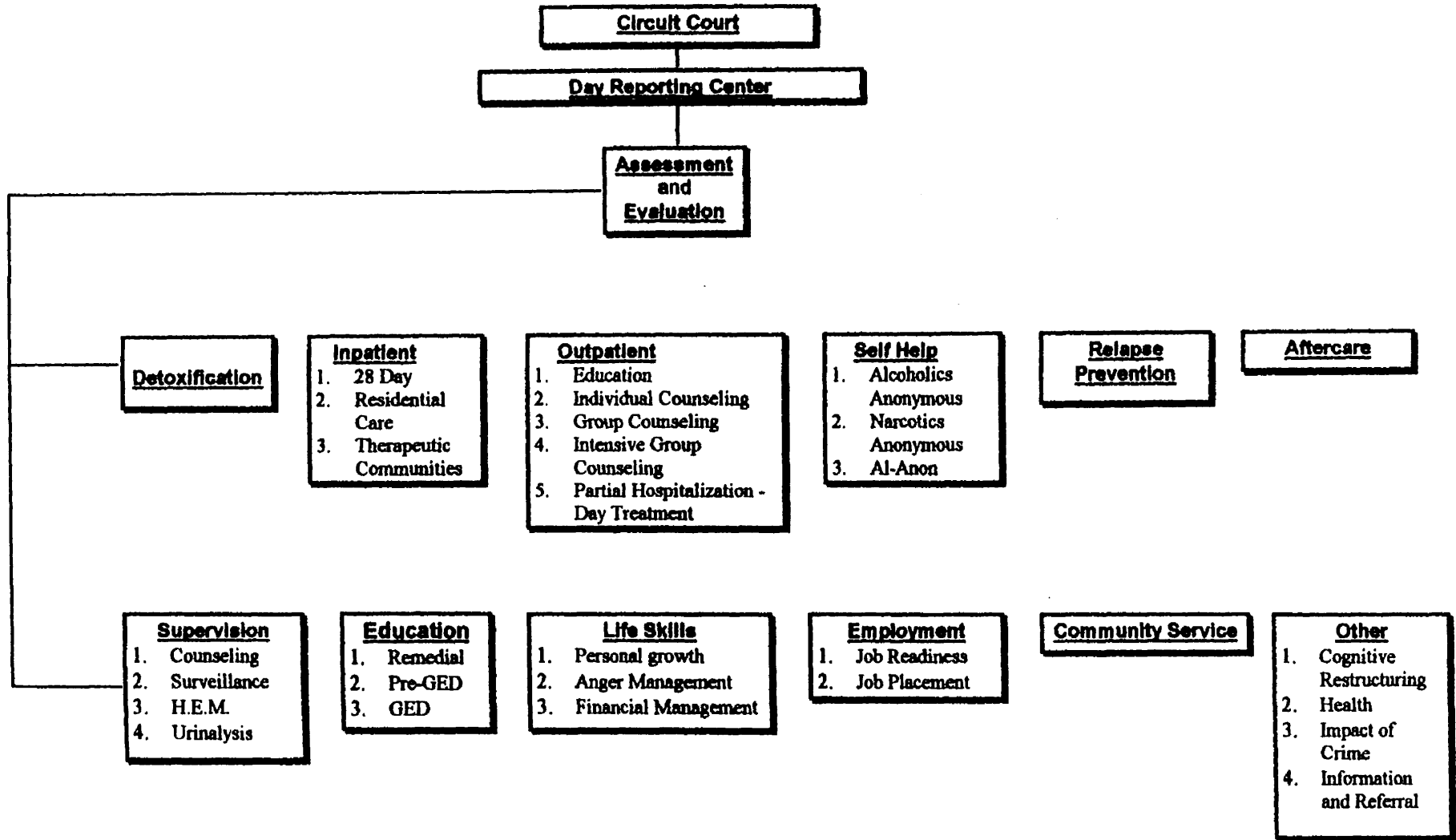


**CIRCUIT COURT OF THE  
CITY OF RICHMOND, VIRGINIA**

# Richmond PROACTS

## Service Continuum

E-2



**NOTE:**  
 Frequent Urinalysis conducted throughout Continuum to:

1. Detect use
2. Identify substance of choice
3. Deter relapse
4. Promote sobriety





# Richmond Day Reporting Center / Drug Court Weekly Schedule



	Monday	Tuesday	Wednesday	Thursday	Friday
<b>9</b> :00 :15 :30 AM :45	9:00 AM - 11:30 AM School GED Program	9:00 AM - 11:30 AM School GED Program	9:00 AM - 10:00 AM SA Therapy (Men) 9:00 AM - 11:30 AM School GED Program	9:00 AM - 11:30 AM School GED Program	9:00 AM - 10:00 AM SA Therapy (Men) 9:00 AM - 11:30 AM School GED Program
<b>10</b> :00 :15 :30 AM :45	10:00 AM - 11:00 AM Life Skills 1	10:00 AM - 11:00 AM Life Skills 1	10:00 AM - 11:00 AM Life Skills 1 10:00 AM - 11:00 AM SA Therapy (Women)	10:00 AM - 11:00 AM Life Skills 1	10:00 AM - 11:00 AM Life Skills 1 10:00 AM - 11:00 AM SA Therapy (Women)
<b>11</b> :00 :15 :30 AM :45	11:45 AM - 1:15 PM Mant. Group	11:45 AM - 1:15 PM Mant. Group	11:45 AM - 1:15 PM Mant. Group		11:45 AM - 1:15 PM Mant. Group
<b>12</b> :00 :15 :30 PM :45					12:30 PM - 1:15 PM Mant. Group
<b>1</b> :00 :15 :30 PM :45	1:15 PM - 2:00 PM Women's Therapy Group	1:15 PM - 2:00 PM Women's Therapy Group	1:15 PM - 2:00 PM Women's Therapy Group	1:00 PM Weekly Staffing	1:15 PM - 2:00 PM Women's Therapy Group
<b>2</b> :00 :15 :30 PM :45	2:00 PM - 3:30 PM SA Fed. Workbook P1	2:00 PM - 3:30 PM SA Fed. Workbook P1 2:00 PM - 3:30 PM Therapy Group P2	2:00 PM - 3:30 PM SA Fed. Workbook P1 2:00 PM - 3:30 PM Therapy Group P2	2:00 PM - 3:30 PM SA Fed. Workbook P1 2:00 PM - 3:30 PM Therapy Group P2	2:00 PM - 3:30 PM SA Fed. Workbook P1
<b>3</b> :00 :15 :30 PM :45	3:30 PM - 5:00 PM Therapy Group 1	3:30 PM - 5:00 PM Therapy Group 1 P1	3:30 PM - 5:00 PM Therapy Group 1 P1	3:30 PM - 5:00 PM Therapy Group 1 P1	3:30 PM - 5:00 PM Therapy Group 1 P1
<b>4</b> :00 :15 :30 PM :45					
<b>5</b> :00 :15 :30 PM :45					
<b>6</b> :00 :15 :30 PM :45	6:00 PM - 7:30 PM P2e Therapy Group	6:00 PM - 7:30 PM Inpatient Aftercare P3	6:00 PM - 7:30 PM P2e Therapy Group	6:00 PM - 7:30 PM Inpatient Aftercare P3 6:00 PM - 9:00 PM Breaking Barriers	6:00 PM - 7:30 PM P2e Therapy Group
<b>7</b> :00 :15 :30 PM :45			7:30 PM - 9:00 PM Life Skills 2		
<b>8</b> :00 :15 :30 PM :45					
<b>9</b> :00 :15 :30 PM :45					
	Program Hours: 8 AM - 9 PM Monday - Friday	STD Program delivered quarterly by Fan Free Clinic	Community Service hours scheduled individually.	Job Development sessions scheduled individually.	Breaking Barriers: This program will be delivered monthly in a 2.5 day session, in addition to evening sessions.

## Budget Detail Worksheet

**A. Personnel**—List each position by title and name of employee, if available. Show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization.

Name/Position	Salary Computation	Cost
B. J. Hice, Program Director	\$39,060 x 50%	\$19,530
Senior Probation Officer	\$29,899 x 100%	\$29,899
Probation Officer	\$27,350 x 100%	\$27,350
Surveillance Officer	\$19,582 x 100%	\$19,582
Surveillance Officer	\$19,582 x 100%	\$19,582
Offender Services Specialist	\$21,407 x 50%	\$10,703
Secretary Senior	\$23,929 x 50%	\$11,964
Office Services Assistant	\$15,327 x 100%	\$15,327

**TOTAL** \$153,937

**B. Fringe Benefits**—Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for the personnel listed in budget category (A) and only for the percentage of time devoted to the project.

Name/Position	Benefits Computation	Cost
All positions listed in section A		
Health Insurance; Retirement; FICA; Life Insurance	State Formula \$153,937 x 30%	\$46,181

**TOTAL** \$46,181

**Travel**—Itemize travel expenses of project personnel by purpose (e.g., staff to training, field interviews, advisory group meeting, etc.). Show the basis of computation (e.g., six people to 3-day training at \$X airfare, \$X lodging, \$X per diem). In training projects, travel and meals for trainees should be listed separately. Show the number of trainees and the unit costs involved. Identify the destination of travel, if known.

Purpose of Travel	Destination	Item	Computation	Cost
Travel for Training Purposes (to include mileage and Commonwealth of Va. lodging rates and per diems				\$2,000
<b>TOTAL</b>				<u>\$2,000</u>

**D. Equipment**—List nonexpendable items that are to be purchased. Nonexpendable equipment is tangible property having a useful life of more than 2 years and an acquisition cost of \$5,000 or more per unit. Explain how the equipment is necessary for the success of the project. Attach a narrative describing the procurement method to be used. *Note:* Expendable items should be included either in the “Supplies” category or in the “Other” category. Applicants should analyze the cost benefits of purchasing versus leasing equipment, especially high-cost items and those subject to obsolescence due to rapid technical advances. Rented or leased equipment costs should be listed in the “Consultants/Contracts” category.

Item	Computation	Cost
6 Computers: Pentium Processors; Network Card; Line Drops; Modems; Software	\$4,000 x 6	\$24,000
Server (1)	\$9,000	\$9,000
Port Printer (1)	\$400	\$400
Network Laser Printer (1)	\$1,500	\$1,500
12 Passenger Van	\$20,000	\$20,000
<b>TOTAL</b>		<u>\$54,900</u>

D. Equipment, Continued

All purchases will comply with Virginia Department of Corrections policies and procedures pertaining to the procurement of goods and services. The authority for these policies are found in the Code of Virginia, Sections

11-35 through 11-80, Virginia Public Procurement Act

53.1-10, Powers and Duties of Director

53.1-179, Purchase of Services Authorized

**E. Supplies**—List items by type (e.g., office supplies, postage, training materials, copying paper, and expendable equipment items costing less than \$5,000, such as books, hand-held tape recorders) and show the basis for computation. Generally, supplies include any materials that are expendable or consumed during the course of the project.

Supply Items	Computation	Cost
Office Supplies	\$200/month x 12	\$2,400
Printing	\$100/month x 12	\$1,200
Postage	\$50/month x 12	\$600
Training Materials/ Workbooks	\$15 x 100 offenders	\$1,500
Telephone	\$350/month x 12	\$4,200
		<b>TOTAL \$9,900</b>

**F. Construction**—As a rule, construction costs are not allowable. In some cases, minor repairs or renovations may be allowable. Check with the program office before budgeting funds in this category.

Purpose	Description of Work	Cost
None		
		<b>TOTAL _____</b>

**G. Consultants/Contracts**

**Consultant Fees:** For each consultant enter the name, if known; service to be provided; hourly or daily fee (8-hour day); and estimated time on the project. Consultant fees in excess of \$250 per day require additional justification.

Name of Consultant	Service Provided	Computation	Cost
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None

*Subtotal* \_\_\_\_\_

**Consultant Expenses:** List all expenses to be paid from the grant to the individual consultants in addition to their fees (e.g., travel, meals, lodging, etc.)

Item	Location	Computation	Cost
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None

*Subtotal* \_\_\_\_\_

**Contracts:** Provide a description of the product or service to be procured by contract and an estimate of the cost. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source contracts in excess of \$100,000.

Item	Cost
------	------

Substance Abuse Counselors (2) includes salaries, clinical supervision for 2 full-time substance abuse counselors to conduct all assessments and therapy groups on-site	\$78,375
--	----------

See Attachment\*\*

*Subtotal* \_\_\_\_\_

**TOTAL** \$118,539

G. Contracts, Continued

Residential Services - Detox (7 offenders x \$51.25/daily x 5 days)	\$1,794
Residential Service (7 offenders x \$55/daily x 28 days)	\$10,780
On-Trak Drug Test Kits and Supplies (\$1,000/monthly x 12)	\$12,000
Drug Testing - Lab Confirmations (\$420/month x 12)	\$5,040
Teacher (\$21,100 x 50%)	\$10,550

**TOTAL** \$118,539

**H. Other Costs**—List items by major type (e.g., rent, reproduction, telephone, janitorial or security services, and investigative or confidential funds) and the basis of the computation. For example, provide the square footage and the cost per square foot for rent, or provide a monthly rental cost and how many months to rent.

Description	Computation	Cost
Facility Leasing	3,000 sq. feet at \$9.58 per sq. feet - \$2,395 per month x 12 months	\$28,740
<u>Furniture</u>		
6 Desks	\$358 x 6	\$2,148
1 Clerical Desk	\$300	\$300
7 Desk Chairs	\$293 x 7	\$2,051
4 File Cabinets	\$282 x 4	\$1,128
Telephone (System & Installation)	\$5,500	\$5,500
		<b>TOTAL</b> <u>\$39,867</u>

**I. Indirect Costs**—Indirect costs are allowed only if the applicant has a federally approved indirect cost rate. A copy of the rate approval (a fully executed, negotiated agreement) must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant Federal agency, which will review all documentation and approve a rate for the applicant organization, or if the applicant's accounting system permits, costs may be allocated in the direct cost categories.

Description	Computation	Cost
Indirect cost rate for administrative program support	\$315,140 x .0362	\$11,408
		<b>TOTAL</b> <u>\$11,408</u>



# **Appendix G**

## **Charlottesville-Albemarle Circuit Court Drug Court Proposal**



*Charlottesville-Albemarle  
Circuit Court  
Drug Court Proposal*

(1)

\*\*\*Federal "Cost" requests are reflected in bold print throughout\*\*\*

A. **PERSONNEL** - List each position by title and name of employee, if available. Show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees in grant activities must be consistent with that paid for similar work within the applicant organization.

<b>Name/Position</b>	<b>Salary Computation</b>	<b>Cost</b>
<u>Drug Court Employees</u>		
Case Manager Dept. of Probation and Parole, Grade 10 probation officer,	\$25,582/yr. X 1.5 yr.	\$38,373
Case Manager Offender Aid & Restoration, Case Manager	\$25,441/yr. X 1.5 yr.	38,162
Substance Abuse Coordinator Region Ten Community Services Board, Senior Substance Abuse Counselor	\$26,711/yr. X 1.5 yr.	40,066
Substance Abuse Counselor Region Ten Community Services Board Substance Abuse Counselor	\$23,398/yr. X 1 yr.	23,398
Secretary - 1/2 time Dept. of Probation and Parole, Grade 4 Administrative Services Specialist	\$8,500/yr. X 1.5 yr.	12,750
Cost of Living	2.5% X \$109,632/yr. X .5 yr.	1,370

These positions supplement existing personnel in the locality for the purpose of implementing a drug court. Each position is dedicated to full-time Drug Court case management, treatment, or secretarial support. One substance abuse counselor will be hired after the Drug Court has been in operation for 6 months and excess demand for treatment overtakes existing capacity. Each position is based upon the current, regular rate of pay for each function within the indicated agency. Each position reflects the recommended level or grade. Probation & Parole is the District 9 Office of the Commonwealth of Virginia, Department of Corrections, Division of Community Corrections, which provides probation supervision for state-responsible felony offenders. Offender Aid and Restoration is a nonprofit agency which provides offender services, including probation supervision for local-responsible felony offenders. The Region Ten Community Services Board is the region's mental health, mental retardation, and substance abuse services agency and is a part of the statewide network of agencies which are chartered for this purpose. Each of these three agencies participated in the locality's Drug Court Planning Grant and is actively participating on the Drug Court Advisory Board. A 2.5% cost of living is planned for each position six months before the end of the grant period.

(2)

Other Drug Court-related Personnel

Judge of the Drug Court Hon. Jay T. Swett, Judge Charlottesville Circuit Court	10% of \$90,000/yr. X 1.5 yr. Minimum 4-5 hours/wk. for preparation, presiding in court, Advisory Board participation	13,500
Clerk of the Drug Court David Schmidt, Deputy Clerk Charlottesville Circuit Court	12.5% of (\$8.26/hr. X 2080 hr.) X 1.5 yr.. Minimum 5 hrs/wk in court, date entry and file management	3,222
Assistant Prosecutor Richard E. Moore Deputy Comm. Atty. City of Charlottesville	10% of \$51,008/yr. X 1.5 yr. Minimum 4 hrs./wk.	7,652
Assistant Prosecutor Ford Childress Asst. Comm. Atty. County of Albemarle	5% of \$54,679/yr. X 1.5 yr. Minimum of 4 hrs./wk.	4,100

The assistant prosecutors in Charlottesville and Albemarle will assist in case preparation and will facilitate defense counsel in learning about the evidence so that informed waivers of preliminary hearing, indictment, and trial can be made by participants, who enter guilty pleas on the basis of stipulated evidence. The assistant prosecutors will screen potential participants for eligibility based on concern for community safety. They will also monitor the progress of participants after entry and assist in the continuing evaluation of the Drug Court.

Screening and Eligibility Case Managers Offender Aid & Restoration	17% of \$72,760/yr. X 1.5 yr..	18,554
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Offender Aid & Restoration provides 3 full-time pretrial case managers for local courts. Their combined salaries total \$72,760/yr. and are funded by the state. These pretrial case managers will provide bond supervision and eligibility screening for potential Drug Court participants from the time of their arrest until their Drug Court enrollment occurs. These personnel will coordinate substance abuse screening of potential participants and report to prosecutors, defense counsel and the General District Court Judges concerning each candidate's eligibility. Drug Court-eligible offenders make up a significant portion of the pretrial caseload. Taking into consideration the number of offenders who will be screened for participation, monitored, and tested pending their election whether or not to participate, it is estimated that 17% of the current pretrial caseload of these personnel will be devoted to the Drug Court.

(3)

Supervisor of Case Management Stan Powell, Deputy Chief Prob. Officer, District 9 Probation & Parole	10% of \$47,630 X 1.5 yr.	7,145
Supervisor of Eligibility, Screening and Pretrial Supervision Patricia Smith, Director Offender Aid and Restoration	10% of \$48,894 X 1.5 yr.	7,334
Supervisor of Treatment Services Kathy Philhour, Team Leader, Region Ten Community Services Board, West Main Street Intensive Outpatient Treatment Services	10% of \$34,517 X 1.5 yr.	5,177

These agency heads, or senior administrators, already work in our locality. The portion of their time devoted to the Drug Court, 10% in each instance, reflect the amount of time the Drug Court Planning Grant has required of them personally, or from their agency's representative on the Advisory Board. Reporting to the Advisory Board, these three senior administrators will collaborate as a committee to oversee the implementation by their service sectors of an effective continuum of services from the time of arrest of a potential participant until the completion of his or her involvement with the Drug Court. Each individual will participate on the Advisory Board as a part of the continuing evaluation of the Drug Court.

**TOTAL \$220,803**

**B. FRINGE BENEFITS** - Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for the personnel listed in budget category (A) and only for the percentage of time devoted to the project.

<b>Name/Position</b>	<b>Benefits Computation</b>	<b>Cost</b>
<hr/>		
FICA/Retirement/Insurance/Medical - Formula and/or fixed price		
<u>Drug Court Employees</u>		
Case Manager Probation & Parole	17.25% of \$25,582 + \$3042 medical/yr. X 1.5 yr.	\$11,183

(4)

Case Manager Offender Aid & Restoration	16.95% of \$25,441 X 1.5 yr.	6,468
Substance Abuse Coordinator Region Ten Comm. Services Board.	12.65% of \$26,711 + \$3,202 medical/yr. X 1.5 yr.	9,872
Substance Abuse Counselor Region Ten Comm. Services Board.	12.65% of \$23,398 + \$3,202 medical/yr. X 1 yr.	6,161
Secretary Probation & Parole	17.25% of \$8,500 + \$1521 medical/yr. X 1.5 yr.	4,481

Other Drug Court-related Personnel

Judge	10% of (20% of \$90,000 X 1.5 yr.)	2,700
Clerk	12.5% of (\$2.98/hr. X 2080 hr./yr. X 1.5 yr.)	1,163
Prosecutor - Charlottesville	10% of (19% of \$51,008 X 1.5 yr.)	1,454
Prosecutor - Albemarle	5% of (19% of \$54,679 X 1.5 yr.)	780
Screening & Eligibility Case Mgrs. Offender Aid & Restoration	17% of (16.95 % of 72,760 X 1.5 yr.)	3,145
Supervisor of Case Management Probation & Parole	10% of ((17.25% of \$47,630) + \$3,042 medical/yr. X 1.5 yr.))	1,689
Supervisor of Eligibility, Screening, and Pretrial Supervision Offender Aid & Restoration	10% of (16.95% of \$48,894 X 1.5 yr.)	1,244
Supervisor of Treatment Services Region Ten Community Services Board	10% of (12.65% of \$34,517 + \$3,202 medical/yr. X 1.5 yr.)	1,136

These benefits calculations are based on the formula and/or fixed cost components of the benefits packages of the indicated agencies.

**TOTAL \$51,476**

(5)

C. TRAVEL - Itemize travel expenses of project personnel by purpose (e.g. staff to training, field interviews, advisory group meeting, etc.). Show the basis of computation (e.g. six people to 3-day training at \$X airfare, \$X lodging, \$X per diem). In training projects, travel and meals for trainees should be listed separately. Show the number of trainees and the unit costs involved. Identify the destination of travel, if known.

<b>Purpose of Travel</b>	<b>Destination</b>	<b>Item</b>	<b>Computation</b>	<b>Cost</b>
Case Management/ Treatment	Local jail, job sites, home visits	Mileage	4 X 500 mi./yr. @ \$.31/mi. X 1.5 yr.	930
NADCP Conference	Washington, D.C.	Hotel	6 people X \$125 X 3	2,250
		Tax	13% + \$1.50/night/person	320
		Meals	6 people X \$34/day X 3	612
		Mileage	225 mi. X 3 veh. @ \$.31/mi.	210
Implementation Workshop Unknown destination		Air fare	6 people X \$1,000	6,000
		Hotel		
		Meals		

Based on the experience of area case management personnel it is estimated that case management and treatment personnel will drive an average of 500 miles per year conducting home, job site, and Albemarle-Charlottesville Regional Jail visitations with clients and their families. It is anticipated that the Advisory Board will send a team of staff and Board members to the NADCP annual conference as a part of our continuing commitment to evaluation, education, training. The estimate for the annual conference is based on the actual cost of the conference under our Planning Grant. It is also anticipated that there will be an implementation workshop to which a delegation will be sent. This expense estimate is based on the recommendation of personnel of the Drug Courts Program Office, who suggested \$1,000 per person for an implementation workshop.

**TOTAL \$10,322**



(6)

**D. EQUIPMENT** - List nonexpendable items that are to be purchased. Nonexpendable equipment is tangible property having a useful life of more than 2 years and an acquisition cost of \$5,000 or more per unit. Explain how the equipment is necessary for the success of the project. Attach a narrative describing the procurement method to be used. Note: Expendable items should be included either in the "Supplies category or in the "other" category. Applicants should analyze the cost benefits of purchasing versus leasing equipment, especially high-cost items and those subject to obsolescence due to rapid technical advances. Rented or leased equipment costs should be listed in the "Consultants/Contracts" category.

<b>Item</b>	<b>Computation</b>	<b>Cost</b>
<b>Computer Equipment</b>		<b>\$3,000</b>
Dell Pentium (100mhz, 16MB-RAM)	1 X \$1,900	
NEC 15 in. Monitor	1 X \$400	
HP Deskjet Printer w/ cable	1 X \$300	
Lotus Smartsuite Software on CD-ROM	1 X \$400	

One computer already is dedicated for use by Drug Court staff from our Planning Grant. One more will be necessary to permit both case management and treatment personnel to accomplish necessary court and programmatic record keeping, word processing, and data collection and analysis. This desktop system is fully compatible with the existing computer. It will be purchased from the state contract.

**Misc. Office Equipment - Dist. 9 Probation  
& Parole**

Desk Chairs	2 X \$294	588
Desks	2 X \$628	1,256
File cabinet	3 X \$144	432
Office chairs	4 X \$190	760
Vertical file organizer	2 X \$56	112
Secretary desk	1 X \$698	698
Secretary desk chair	1 X \$172	172

In addition to providing space for the Drug Court Case Managers, the District 9 Office of Probation and Parole is providing ordinary office equipment for the two Case Managers and the Secretary. Purchases will be made from the state contract.

**TOTAL \$7,018**

(7)

**E. SUPPLIES** - List items by type (e.g., office supplies, postage, training materials, copying paper, and expendable equipment items costing less than \$5,000, such as books, hand-held tape recorders) and show the basis for computation. Generally, supplies include any materials that are expendable or consumed during the course of the project.

<b>Supply Items</b>	<b>Computation</b>	<b>Cost</b>
Postage	3 people X \$162.50/yr./person X 1.5 yr.	<b>\$731</b>
	1 person X 162.50/yr./person X 1 yr.	<b>163</b>
Office Supplies	3 people X \$525/yr./person X 1.5 yr.	<b>2363</b>
(note pads, copy paper, pens, pencils, etc...)	1 person X. \$525/yr./person X 1 yr.	<b>525</b>
Printing	3 people X 87.50/yr./person X 1.5 yr.	<b>394</b>
(Envelopes, stationary)	1 person X 87.50/yr./person X 1 yr.	<b>88</b>

These supplies are needed for the general operation of the business of the Drug Court. The cost data are based on the average expenditure per year during the last two years for each professional employee in the Charlottesville Office of Commonwealth's Attorney.

**TOTAL \$4,264**

### **G. CONSULTANTS/CONTRACTS**

**CONTRACTS:** Provide a description of the product or service to be procured by contract and an estimate of the cost. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source contracts in excess of \$100,000.

<b>Item</b>		<b>Cost</b>
Inpatient Treatment	10 people/yr.X \$406/person X 1.5 yr.	<b>\$6,090</b>

It is anticipated that a limited number of participants will require inpatient treatment each year. The Boxwood Treatment Center in Culpepper, Virginia, will be used for Drug Court clients at the rate of \$406/person for 28 days. Boxwood is used currently for client inpatient services by probation supervisors in this locality.

**TOTAL \$6,090**

(8)

H. OTHER COSTS - List items by major type (e.g., rent, reproduction, telephone, janitorial or security services, and investigative or confidential funds) and the basis of the computation. For example, provide the square footage and the cost per square foot for rent, or provide a monthly rental cost and how many months to rent.

Description	Computation	Cost
Rent		
Treatment - 300 West Main St/ Region Ten Community Services	400 sq.ft. at \$8.40/sq.ft. X 1.5 yr.	\$5,040
Case Management - Dist. 9 Office/ Probation & Parole	800 sq.ft. at \$13.25/sq.ft. X 1.5 yr.	15,900

Additional treatment space will be needed at 300 West Main Street Intensive Outpatient Program for the Drug Court's Substance Abuse Counselors. There is a 400 sq.ft. room available at this location which can be rented for this purpose. The District 9 Office of Probation and Parole will provide two offices and secretarial space adjacent to its current office for use by the Drug Court Case Managers.

Education		
Continuing Education	4 people X \$250/person/yr.	1,000

\$250 per year per professional employee is currently budgeted by the 300 West Main Street Intensive Outpatient Program for continuing professional education.

NADCP Tuition/Registration	6 people X \$275/person	1,650
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This is based on last year's registration expense for the annual conference.

Drug Testing	20 people X \$708 (1.5 yr.)	14,160
	20 people X \$552 (1 yr.)	11,040
	20 people X \$360 (.5 yr.)	4,600

It is estimated by treatment and case management personnel on the Advisory Board that the frequency of testing will be in stages. It is expected the first eight weeks of participation will involve testing not less frequently than 3 times per week at the cost of \$6 per test. The next 24 weeks will include testing not less frequently than 2 times per week at \$6 per test. The final stage of participation will include 46 weeks of testing at \$6 per test. Using this formula, the cost per participant of testing for 18 months is \$708, the cost per participant of testing for

(9)

12 months is \$552, and the cost per participant of testing for 6 months is \$360. The overall estimate assumes enrollment by participants will be staggered over the period of the grant, rather than occurring all at once.

Detoxification	\$865/person X 50 X 1.5 yr.	64,875
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It is estimated that 50 people, or approximately one-half to two-thirds of Drug Court participants will require detoxification services during their participation. This service will be provided at the M.O. Mohr Center. The Mohr Center serves 460 clients per year and has an annual budget of \$409,800, of which \$398,109 is provided by state and local funds. The per capita cost of the state and local funding of the Mohr Center is \$865 per person.

Telephone

#1- 300 West Main St./ Region Ten	1 X \$22/mo. X 1.5 yr. 1 X \$22/mo. X 1 yr.	396 264
#2- Dist. 9 Probation & Parole	3 X \$22/mo. X 1.5 yr.	1,188

Telephone service will need to be established at the 300 West Main Street Intensive Outpatient Program to serve the Drug Court Substance Abuse Counselors. The District 9 Office of Probation and Parole will provide telephone service for the Drug Court Case Managers and Secretary.

Copying	\$150/mo. X 1.5 yr.	2,700
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An 18 month lease on a copier suitable for an office of four professionals whose demand falls within 2,000 copies per month, including supplies, will cost \$150 per month.

**TOTAL \$123,813**

**J. BUDGET SUMMARY** - When you have completed the budget worksheet, transfer the totals for each category to the spaces below. Compute the total direct costs and the total project costs. Indicate the amount of federal funds requested and the amount of non-Federal funds that will support the project.

<b>Budget Category</b>	<b>Amount</b>
<b>A. Personnel</b>	<b>\$220,803</b>
<b>B. Fringe Benefits</b>	<b>\$51,476</b>
<b>C. Travel</b>	<b>\$10,322</b>
<b>D. Equipment</b>	<b>\$7,018</b>
<b>E. Supplies</b>	<b>\$4,264</b>
<b>F. Construction</b>	<b>\$0</b>
<b>G. Consultants/Contracts</b>	<b>\$6,090</b>
<b>H. Other</b>	<b><u>\$122,813</u></b>
<b>Total Direct Costs</b>	<b>\$422,786</b>
<b>I. Indirect Costs</b>	<b><u>\$0</u></b>
<b>TOTAL PROJECT COSTS</b>	<b>\$422,786</b>
<b>Federal Request</b>	<b>\$256,810</b>
<b>Non-Federal Request</b>	<b>\$165,976</b>



# **Appendix H**

## **Study Resolution on Funding Substance Abuse Treatment for Offenders**





**DRAFT LEGISLATION**  
**House/Senate Joint Resolution No. -----**

*Directing the Virginia State Crime Commission to study cost effective models of providing substance abuse treatment services to offenders individuals involved in the criminal justice system.*

*WHEREAS, arrests related to alcohol and other drug use increased by 126 percent during the last decade; and*

*WHEREAS, more than half the inmates in local jails report being under the influence of drugs and alcohol at the time of their offense; and*

*WHEREAS, over one third of prison beds in Virginia are occupied by drug offenders; and*

*WHEREAS, treatment of offenders with substance abuse problems has been shown to be effective in reducing criminal activity; and*

*WHEREAS, there are several state agencies which expend funds to provide substance abuse treatment to offenders; and*

*WHEREAS, the current funding for substance abuse treatment and education for offenders is inadequate to meet the demand; now, therefore, be it*

*RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to conduct a study of the various agencies and programs that provide treatment services to drug offenders, review the current and new funding mechanisms for such programs and recommend cost effective models of providing community-based treatment to individuals involved in the criminal justice system.*

*The Crime Commission shall seek assistance from the Department of Mental Health, Mental Retardation & Substance Abuse Services, Department of Criminal Justice Services, Department of Corrections, Commission on the Virginia Alcohol Safety Action Program, Senate Finance Committee and House Appropriations Committee.*

*The State Crime Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.*

