

Office of the
Secretary of Public Safety

REPORT ON THE STATUS AND EFFECTIVENESS
OF OFFENDER DRUG SCREENING, ASSESSMENT
AND TREATMENT

To The General Assembly of Virginia



Commonwealth of Virginia
Richmond, December 31, 2004



COMMONWEALTH of VIRGINIA

Office of the Governor

John W. Marshall
Secretary of Public Safety

Robert P. Crouch, Jr.
Chief Deputy Secretary of Public Safety
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Deputy Secretary of Public Safety

December 31, 2004

Honorable Members of the General Assembly:

This Fiscal Year 2004 **Drug Screening, Assessment and Treatment Report** on the status and effectiveness of substance abuse services for offenders is submitted pursuant to requirements of Virginia Code §2.2-223. The Office of the Secretary of Public Safety (SPS) prepares and issues this report as the Commonwealth's most comprehensive statewide statistical benchmark of state-administered substance abuse screening, assessment and treatment services provided to offenders during the previous 12-month period. Instrumental in gathering, analyzing and compiling the bedrock data essential to completing this report is the multi-agency Drug Screening, Assessment and Treatment (DSAT) Work Group, under the leadership of the SPS. Throughout FY '04, the DSAT Work Group continued its regularly scheduled meetings and calendar of reporting activities.

Within the Commonwealth the state agencies with primary responsibility for offender screening, assessment and treatment are the Department of Corrections, the Department of Juvenile Justice, the Department of Criminal Justice Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services. The latter agency accomplishes this objective via the regional Community Services Boards. Significant, but required, budget and staff reductions have affected each of the principal agencies involved in collecting this data, making the consistent collection and reporting of reliable information more difficult. Although budget cuts have reduced the staff positions formerly devoted to this task, the agencies have continued their efforts to compile pertinent data by streamlining the process in some instances, adopting more uniform screening instruments and otherwise attempting to make this task more manageable for the fewer number of staff involved.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Marshall".

John W. Marshall

Table of Contents

Executive Summary	1
Authority	2
Background	3
Department of Corrections	7
Department of Criminal Justice Services	9
Virginia Alcohol Safety Action Program	10
Department of Juvenile Justice	11
Department of Mental Health, Mental Retardation and Substance Abuse Services	12
Appendices	
Appendix A: Relevant Statutes	14
Appendix B: Treatment Services Reference Guide	19

Executive Summary

In 1998, Virginia's General Assembly passed House Bill 664 and Senate Bill 317 (HB664/SB317) enacting the Drug Offender Screening, Assessment, and Treatment (DSAT) initiative. The DSAT legislation, subsequently amended in 1999, outlined specific substance abuse screening and assessment provisions that became effective for offenses committed on or after January 1, 2000. These provisions, contained in §§ 16.1-273, 18.2-251.01, 19.2-123(B), 19.2-299, and 19.2-299.2 of the *Code of Virginia*, target three offender groups: juveniles, adult felons, and adult misdemeanants. Because several different types of offenders are subject to the *Code* mandates, the initiative affects staff and clients of numerous agencies, including the Department of Juvenile Justice (DJJ), the Department of Corrections (DOC), local community-based probation and pretrial services programs administered by the Department of Criminal Justice Services (DCJS), the Commission on Virginia Alcohol Safety Action Program (VASAP), and the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS).

The Interagency Drug Offender Screening and Assessment Committee was created by § 2.2-223 (formerly § 2.1-51.18:3) to oversee the screening and assessment provisions contained in the *Code of Virginia*. The Interagency Committee, with representation from all affected agencies and the Virginia Criminal Sentencing Commission, is charged with ensuring the quality and consistency of the screening and assessment process across the Commonwealth. The Secretary of Public Safety serves as chairperson. The Interagency Committee serves to promote interagency coordination and cooperation. Under the auspices of the Interagency Committee, the multi-agency DSAT Work Group, through the leadership of the Office of the Secretary of Public Safety, continued to meet during 2004. The Interagency Committee is required by § 2.2-223 to submit a report each year to the General Assembly.

Significant, but required, budget and staff reductions have affected each of the principal agencies. In response to cuts in funding since 2001, particularly the elimination of Substance Abuse Reduction Effort (SABRE) funds, agencies involved in screening and assessment activities have re-examined protocols and developed alternative strategies to maximize the use of remaining resources. Despite the elimination of a substantial number of staff positions formerly devoted to this task, the agencies have continued their efforts to address offender's substance abuse needs by streamlining the process in some instances, utilizing other screening instruments and otherwise attempting to make this task more manageable for the fewer number of staff involved.

Authority

The Interagency Drug Offender Screening and Assessment Committee was created by § 2.2-223 (formerly § 2.1-51.18:3) of the *Code of Virginia* to oversee the drug screening, assessment and treatment provisions of §§ 16.1-273, 18.2-251.01, 19.2-123(B), 19.2-299 and 19.2-299.2. The Interagency Committee is composed of representatives of the Directors or Commissioners for the Department of Corrections, the Department of Criminal Justice Services, the Department of Juvenile Justice, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Alcohol Safety Action Program and the Virginia Criminal Sentencing Commission. The Secretary of Public Safety serves as chairperson.

The Interagency Committee is required by § 2.2-223 to report on the status and effectiveness of offender screening, assessment, and treatment to the Virginia State Crime Commission and the House Courts of Justice, Senate Courts of Justice, House Appropriations, and Senate Finance Committees of the Virginia General Assembly by January 1 of each year. This document is the Interagency Committee's report for the year 2004.

Background

During its 1998 and 1999 sessions, the General Assembly adopted legislation to require many offenders, both adult and juvenile, to undergo screening and assessment for substance abuse problems related to drugs or alcohol. The goal of this legislation was to reduce substance abuse and criminal behavior among offenders by enhancing the identification of substance-abusing offenders and their treatment needs and by improving the delivery of substance abuse treatment services within the criminal and juvenile justice systems. Cuts in funding since 2001, however, have curtailed the implementation of the drug screening, assessment and treatment (DSAT) initiative.

The framework of this broad initiative is outlined in §§ 16.1-273, 18.2-251.01, 19.2-123(B), 19.2-299 and 19.2-299.2 of the *Code of Virginia*. These statutes target juvenile and adult offenders. Juvenile offenders adjudicated for a felony or any Class 1 or 2 drug offense misdemeanor, as well as any juvenile for whom a social history is ordered, fall under the screening and assessment requirements. Screening and assessment provisions apply to all felons convicted in circuit court. In addition, offenders convicted in general district court of a Class 1 misdemeanor drug offense are to be screened if the court orders a screening and the offender's sentence includes local community-based probation supervision or participation in a local Alcohol Safety Action Program. In addition, a judge, at his or her discretion, may order screening and assessment for any other Class 1 misdemeanor if substance abuse is suspected. As originally designed, specified offenders are to undergo a substance abuse screening. If the screening reveals key characteristics or behaviors likely related to drug use or alcohol abuse, the provisions call for a full assessment to be administered. Assessment is a thorough evaluation that provides a complete picture of the offender's substance abuse pattern and history, social and psychological functioning, and general treatment needs.

Within the Commonwealth, the agencies with primary responsibility for offender screening, assessment and treatment are the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), local pretrial services and community-based probation programs under the administration of the Department of Criminal Justice Services, and the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS). The latter agency accomplishes this objective via the regional Community Services Boards. For adult felons, screening, assessment and treatment falls under the purview of the DOC's probation and parole district offices. By *Code*, local offices of the Virginia Alcohol Safety Action Program (VASAP) may screen and assess adult misdemeanants, unless the offender is ordered to participate in a local community-based probation program. Experience to date has shown that local Alcohol Safety Action Programs have received few screening orders or referrals for misdemeanor offenders sentenced in Virginia's general district courts. In such cases, the local community-based probation program is designated to perform the screening and assessment, rather than the local Alcohol Safety Action Program (ASAP). Local community-based probation programs have handled the bulk of adult misdemeanants who have been screened and assessed. Screening,

assessment and treatment of juvenile offenders is performed by court service units serving the juvenile and domestic relations court system or by DJJ institutional personnel.

In 1999, the General Assembly authorized a six-month period (July through December 1999) to pilot test the implementation of the screening and assessment provisions. Nine DOC probation and parole districts, nine local ASAP agencies, nine local community-based probation programs, and seven DJJ court service units participated in the pilot project. A variety of implementation models were piloted, and the most effective methods were chosen to implement statewide. Statewide implementation began January 1, 2000. Offenders who committed their crimes on or after January 1, 2000, were subject to screening and assessment provisions.

The Interagency Drug Offender Screening and Assessment Committee was created by the 1999 General Assembly to oversee the implementation and subsequent administration of this program. Chaired by the Secretary of Public Safety, the Interagency Committee is composed of representatives of DOC, DCJS, DJJ, the Commission on VASAP, DMHMRSAS, and the Virginia Criminal Sentencing Commission. Under § 2.2-223, the Interagency Committee is charged with (i) assisting and monitoring agencies in implementing the drug screening, assessment and treatment provisions of §§ 16.1-273, 18.2-251.01, 19.2-123(B), 19.2-299 and 19.2-299.2, (ii) ensuring quality and consistency in the screening and assessment process, (iii) promoting interagency coordination and cooperation in the identification and treatment of drug abusing or drug dependent offenders, (iv) implementing an evaluation process and conducting periodic program evaluations, and (v) making recommendations to the Governor and General Assembly regarding proposed expenditures from the Drug Offender Assessment Fund. Representatives from each member agency comprise a multi-agency Work Group that meets on a more frequent basis to discuss operational issues related to this initiative.

The Interagency Committee has provided assistance to and has monitored agencies involved in screening and assessment activities. The Interagency Committee collaborated with agencies to develop screening and assessment policies and procedures, as well as protocols related to confidentiality. The Interagency Committee approved the use of certain instruments for screening and assessing offenders for substance abuse problems. This was done to promote consistency in the screening and assessment process and to enhance the coordination among the various agencies involved in the identification and treatment of substance-abusing offenders. In 1999 and 2000, members of the Interagency Committee conducted numerous informational presentations for judges, prosecutors, public defenders and defense attorneys. The Interagency Committee organized and facilitated seminars to train more than 1,500 staff across agencies on the utilization of selected screening and assessment instruments. DMHMRSAS, in conjunction with the Interagency Committee, arranged for the Legal Action Center (a nationally recognized nonprofit organization specializing in confidentiality issues) to conduct training seminars that focused specifically on issues related to the new roles of criminal justice workers in screening and assessing offenders for substance abuse.

To enhance interagency communication and cooperation, the Interagency Committee developed a protocol outlining specific procedures for the exchange of information among agencies and service providers. The protocol also included the creation of a one-page "Consent" form, which provides authorization for the exchange of information regarding an offender.

The Interagency Committee guided the development and enhancement of interagency Memorandums of Agreement (MOAs) and Memorandums of Understanding (MOUs) to promote the referral of offenders for treatment and to improve the delivery of treatment services for offenders.

Per its legislative charge, the Interagency Committee implemented an evaluation process to examine DSAT activities across the Commonwealth. The Secretary of Public Safety's office directed the Department of Criminal Justice Services's (DCJS) Criminal Justice Research Center to conduct the evaluation of this initiative. The Criminal Justice Research Center developed a two-phase evaluation plan. Phase 1, an assessment of program implementation during the first 2½ years of operation, began in 2001. DCJS reviewed the development of state and local protocols guiding DSAT implementation, examined the utility of the screening and assessment tools, described variations in operations across state agencies and localities, assessed adherence to *Code of Virginia* directives, and identified obstacles faced by agencies charged with screening, assessing and treating offenders. This evaluation of DSAT implementation was completed in 2002. The findings are contained in the report *Implementation Evaluation of the Drug Offender Screening, Assessment, and Treatment Initiative* (2002). Copies of the report are available from the DCJS Criminal Justice Research Center. Phase 2 of the evaluation plan was designed to examine program outcomes and the success of DSAT in achieving its objectives. However, due to subsequent budget cuts and uncertain legislative action, the nature and scope of the outcome evaluation has not been pursued.

During its 1998 and 1999 sessions, the General Assembly established specialized staff positions within the Department of Corrections and Department of Juvenile Justice to support screening and assessment activities in those agencies. The newly-created full-time positions, known as "certified substance abuse counselors," or CSACs, require specialized training and education in the field of substance abuse, and individuals in those positions must receive certification from the state's Board of Professional Counselors. These specialized CSAC personnel were to provide a level of "quality assurance" for the screening and assessment process. In addition, prior to 2002, both DOC and DJJ established regional supervisor positions charged with the responsibilities of overseeing the screening and assessment program in their respective regions. In 2002, reductions in funding forced DJJ to cut all of their CSAC positions. Due to the constraints on personnel, CSACs at DOC have had to assume a variety of offender supervision and caseload management duties.

The screening and assessment legislation also established the Drug Offender Assessment Fund, now the Drug Offender Assessment and Treatment Fund (§ 18.2-251.02). Offender fees are collected and deposited into the fund. Offenders convicted of drug crimes are assessed \$150 for felonies and \$75 for misdemeanors. Prior to 2002, these funds were used, in part, to support the training of staff to administer the screening and assessment instruments. Previously, monies from the fund also paid for six CSAC positions within DOC. DJJ has used a portion of the Drug Offender Assessment Fund to purchase its screening and assessing tools, which are proprietary; DJJ also used a portion of its proceeds from the Fund to monitor offenders through drug testing and other operational services that support screening and assessment activities. In 2003, the General Assembly authorized another agency, the Department of Criminal Justice Services, to receive proceeds from this fund to support screening and assessment efforts of community-based

probation and local pretrial services programs. The following year, legislation provided that this fund could be used by the Supreme Court of Virginia for the support of drug treatment court programs in the Commonwealth.

Many of the screening and assessment protocols described here were developed prior to the budget reductions experienced in 2002. In response to cuts in funding, agencies involved in screening and assessment activities have re-examined protocols and developed alternative strategies to maximize the use of remaining resources. Despite the elimination of a substantial number of staff positions formerly devoted to this task, the agencies have continued their efforts to address offender's substance abuse needs by streamlining the process in some instances, utilizing other screening instruments and otherwise attempting to make this task more manageable for the fewer number of staff involved.

The activities of each participating agency during 2004 are summarized throughout the remainder of this report.

Department of Corrections

Community Corrections extended the substance abuse screening, assessment, testing and treatment (DSAT) program to all felon offenders who committed his/her offense on or after January 1, 2000. This has been a major system undertaking. These activities were integrated into the Substance Abuse Reduction Effort (SABRE) initiative. Funding for substance abuse staff and services was significantly reduced in fiscal year (FY) 2003.

In FY2004, more than 14,766 screenings and 4,131 assessments were completed. Of the offenders assessed, 3,707 (89.7%) needed education services or treatment services. Many of them also had significant mental health problems.

Most Probation and Parole Districts, Day Reporting Programs and Facilities have a memorandum of agreement with their respective Community Services Boards (CSB) for substance abuse treatment services. There are 7 contractual vendors providing inpatient substance abuse services, and 27 vendors who offer outpatient services. About 16,000 offenders entered education or treatment services during the year.

DOC institutions continue to operate prison therapeutic communities (TC) with state and federal funds. DOC has consolidated the women's TC programs at the Virginia Correctional Center for Women. As successful TC participants near release, they are screened for placement in the community-based contract facilities for a six (6) month residential transition therapeutic community (TCC) stay. The TTC program was piloted with state funds, expanded with federal grant funds, and will be continued and expanded in FY2005 with state funding.

Urinalysis is done on a random basis, both on site and with laboratory testing. Samples are collected on site and in the field. In FY2004, about 300,000 samples were tested for illegal substances or alcohol. DOC institutions conduct random sampling of the inmate population.

Canine (K-9) officers and drug dogs coordinate and conduct random searches of Community Correctional facilities, contract residential programs and institutions. Eighty-eight (88) such searches were conducted in FY2004.

The Governor and General Assembly approved approximately **\$2.14 million** replacement funding for expiring Byrne grants in the FY2005 and FY2006 biennium.

The major issues facing the Department of Corrections include:

- the loss of clinical supervision staff, which has a major impact on the capacity to provide clinical oversight to DOC's Certified Substance Abuse Counselors (CSAC), as well as an inability to provide quality-controlled service delivery and offer training and technical assistance to field staff.

- the need to continue funding from the Drug Offender Assessment and Treatment Fund, which supports 14 FTE dedicated to substance abuse services.
- The need to increase the availability of “evidence-based practices” programs and services for offenders with substance abuse problems as well as those with co-occurring mental disorders.

Department of Criminal Justice Services

For FY2004, the Department of Criminal Justice Services (DCJS) provided local units of government approximately \$17.1 million in general funds annually to support operations in 37 community-based probation offices and 30 local pretrial services agencies. During FY2004, the amount requested by localities for substance abuse testing, education, and treatment was \$150,000. The majority of operating funds have been dedicated to personnel costs since operating funds for Local Pretrial and Community-based Probation Services have remained level since FY 2000.

Effective July 1, 2003, the requirement to prepare and submit monthly reports of substance abuse screenings and assessments to state administrative agencies was terminated. During FY2004, DCJS began a systematic roll-out of the Virginia Risk Assessment Instrument. Preparatory to each of the training sessions, an examination of the investigation procedures of the 30 pretrial services agencies is conducted. Twenty of the 30 still have approval for, and continue to use, the substance abuse screening tool known as the Simple Screening Instrument (SSI) as part of their investigation procedures. Screenings also continue in most local probation programs, through the continued use of the SSI. The Adult Severity Index (ASI), the instrument approved by the Interagency Committee for conducting full-scale substance abuse assessments, continues to be completed in-house by about 6 programs, with 4 paying for privately prepared ASIs under contract. The remaining 27 rely on referrals to Community Services Boards to conduct their own "assessments." The scheduling for these assessments is taking longer and longer, and the waiting periods for substance abuse treatment is severely backlogged. In addition, the loss of DOC CSAC positions has reduced the availability of individuals qualified to provide training on both the SSI and ASI instruments.

During FY2004, courts placed 35,312 offenders on local community-based probation, resulting in an average daily caseload (ADC) of over 17,600. Pretrial services agencies investigated over 46,600 defendants and received about 15,961 placements on supervision for an ADC of about 3,642.

Substance abuse services have not ceased, although the lack of SABRE or other dedicated funding has severely hampered a systematic process of, and a means for paying, assessment, drug testing and treatment costs.

For FY2004, using grant funds, local supervision and intervention fees, and payments to providers for services by defendants and offenders, local pretrial and community-based probation agencies drug tested 5,686 defendants and 7,035 probationers during their period of supervision. In addition, 938 defendants and 2,286 probationers were provided substance abuse education; 819 defendants and 2,912 probationers were provided substance abuse counseling; and 42 defendants and 103 probationers were placed in short-term detox or in inpatient treatment facilities.

Virginia Alcohol Safety Action Program

During FY2004, the local Alcohol Safety Action Programs (ASAP) completed approximately 10,000 screenings using the Simple Screening Instrument (SSI). A small percentage of local programs reported that they make referrals to approved treatment providers that administer the Addiction Severity Index (ASI) for full assessments. The number of individuals screened remained consistent with the screening during FY2003, as the majority of local ASAP programs screen all individuals referred for services. Referrals to treatment programs also remained consistent throughout FY2004.

By survey of the 24 local programs, it is noted that in addition to using the SSI, a number of case managers are using the Michigan Alcohol Screening Test (MAST). The MAST is a screening tool that has been approved by the Commission on Virginia Alcohol Safety Action Programs (VASAP). It is significant to note that an increasing number of individuals are determined to be in need of mental health services in addition to alcohol education and treatment.

The Commission on VASAP does not expend any monies from the Drug Offender Assessment and Treatment Fund, as ASAP services – including screening, assessments and urinalysis testing – are funded entirely from offender fees.

Department of Juvenile Justice

In FY2003, budget reductions, expiration of federal grant funding and the elimination of the SABRE appropriations for treatment led to a drastic reduction of DJJ activities. All 32 substance abuse screening and assessment (CSAC) positions were abolished, effectively ending DJJ's capacity to continue to provide those activities as required in the Code of Virginia under § 16.1-273. As the Appropriations Act now relieves DJJ of meeting the requirements, DJJ also withdrew from participation in revenue draw down from the Drug Offender Assessment Fund.

DJJ has responded to the ongoing substance abuse issues of juveniles before the court in the following ways during FY 2004:

- A significant number of Court Service Units continue to perform substance abuse screenings with available staff resources. During FY 2004, there were 2,532 screenings and 379 assessments completed. DJJ continues to supply screening instruments [Substance Abuse Subtle Screening Inventory (SASSI)] to its Court Service Units. This number of screenings represents approximately 25% of the number completed annually during the period of full implementation.
- With the advent of DJJ's Title IV-E federal reimbursement initiative, many Court Service Units have dedicated significant amounts of those revenues to the purchase of substance abuse assessment and treatment services, at least partially offsetting the loss of the SABRE treatment funding. Substance abuse services are perhaps the most prevalent type of service obtained through the use of Title IV-E funds.
- DJJ continues to provide support for monitoring of substance use for juveniles on community supervision by allocating general funds for the purchase of urine drug-testing materials.
- All juveniles committed to the state receive a substance abuse screening, assessment and, as needed, treatment services through the Division of Institutions.
- Juveniles released to parole supervision are eligible for funding for (primarily out-patient) substance abuse treatment services through the Department's transitional services program.

Department of Mental Health, Mental Retardation and Substance Abuse Services

The Department of Mental Health, Mental Retardation and Substance Abuse Services's (DMHMRSAS) service capability (assessment and treatment) for offenders with alcohol and other drug abuse problems was significantly impacted by the SABRE budget reductions experienced in 2002. The system impact of reductions in substance abuse services has resulted in:

- Loss of 92 Full Time Equivalent (FTE) positions,
- Loss of 107,296 Out-Patient (OP) hours of service,
- Loss of 9,696 bed days of residential services,
- 6,425 youth no longer served,
- 6,736 adults no longer served,
- 36 service programs eliminated, and
- An average increase in waiting for services to +20 days.

While many Community Service Boards continue to have written agreements with DOC's Probation and Parole Districts and Day Reporting Centers for substance abuse treatment services, the system is no longer able to provide dedicated personnel to meet the need of the criminal offender with substance abuse issues as a priority or special population. However, the DMHMRSAS services system continues to provide assessment and treatment services to criminal justice offenders on a first-come, first-served basis along with its normal general population. System-wide, the CSB waiting list for consumers needing substance abuse services has risen to over 3,000.

A critical element to the provision of services to offenders is the ability to connect individuals to treatment programs as soon as possible following identification (screening and assessment) of the need for substance abuse treatment services. Due to the reduction of treatment capacity, the services system no longer can provide treatment services on demand and in a timely manner.

Appendices

Appendix A
Relevant Statutes

§ 2.2-223. Interagency Drug Offender Screening and Assessment Committee.

The Secretary shall establish and chair an Interagency Drug Offender Screening and Assessment Committee to oversee the drug screening, assessment and treatment provisions of §§ [16.1-273](#), [16.1-278.1](#), [16.1-278.8](#), [18.2-251.01](#), [18.2-251](#), [18.2-252](#), [19.2-299](#) and [19.2-299.2](#) for defendants convicted in the criminal courts of the Commonwealth. The Committee shall include the Directors or Commissioners of the Department of Corrections; Department of Criminal Justice Services; Department of Juvenile Justice; Department of Mental Health, Mental Retardation and Substance Abuse Services; the Virginia Alcohol Safety Action Program; and the Virginia Criminal Sentencing Commission. The Committee shall have the responsibility to: (i) assist and monitor agencies in implementing the above-listed Code of Virginia sections, (ii) ensure quality and consistency in the screening and assessment process, (iii) promote interagency coordination and cooperation in the identification and treatment of drug abusing or drug dependent offenders, (iv) implement an evaluation process and conduct periodic program evaluations, and (v) make recommendations to the Governor and General Assembly regarding proposed expenditures from the Drug Assessment Fund. The Committee shall report on the status and effectiveness of offender drug screening, assessment and treatment to the Virginia State Crime Commission and the House Committees on Courts of Justice and Appropriations, and the Senate Committees on Courts of Justice and Finance by January 1 of each year.

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may include the physical, mental and social conditions, including an assessment of any affiliation with a youth gang as defined in § [16.1-299.2](#), and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be a felony if committed by an adult, or a violation under Article 1 (§ [18.2-247](#) et seq.) or Article 1.1 (§ [18.2-265.1](#) et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § [54.1-3500](#) employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § [19.2-299.1](#) if the court determines that the victim may have suffered significant physical, psychological or economic injury as a result of the violation of law.

§ 18.2-251.01. Substance abuse screening and assessment for felony convictions.

A. When a person is convicted of a felony, not a capital offense, committed on or after January 1, 2000, he shall be required to undergo a substance abuse screening and, if the screening indicates a substance abuse or dependence problem, an assessment by a certified substance abuse counselor as defined in § [54.1-3500](#) employed by the Department of Corrections or by an agency employee under the supervision of such counselor. If the person is determined to have a substance abuse problem, the court shall require him to enter a treatment and/or education program, if available, which, in the opinion of the court, is best suited to the needs of the person. This program may be located in the judicial district in which the conviction was had or in any other judicial district as the court may provide. The treatment and/or education program shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or shall be a similar program which is made available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of twelve months or less, by a similar program available through a local or regional jail, a community-based corrections program established pursuant to § [9.1-174](#), or an ASAP program certified by the Commission on VASAP. The program may require the person entering such program under the provisions of this section to pay a fee for the education and treatment component, or both, based upon the defendant's ability to pay.

B. As a condition of any suspended sentence and probation, the court shall order the person to undergo periodic testing and treatment for substance abuse, if available, as the court deems appropriate based upon consideration of the substance abuse assessment.

§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.

There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund which shall consist of moneys received from fees imposed on certain drug offense convictions pursuant to subdivisions A 10 and A 11 of § [17.1-275](#) and § [16.1-69.48:3](#). All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the offender substance abuse screening and assessment program; the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

§ 19.2-123. Release of accused on secured or unsecured bond or promise to appear; conditions of release.

A. Any person arrested for a felony who has previously been convicted of a felony, or who is presently on bond for an unrelated arrest in any jurisdiction, or who is on probation or parole, may be released only upon a secure bond. This provision may be waived with the approval of the judicial officer and with the concurrence of the attorney for the Commonwealth or the attorney for the county, city or town. Subject to the foregoing, when a person is arrested for either a felony or a misdemeanor, any judicial officer may impose any one or any combination of the following conditions of release:

1. Place the person in the custody and supervision of a designated person, organization or pretrial services agency which, for the purposes of this section, shall not include a court services unit established pursuant to § [16.1-233](#);

2. Place restrictions on the travel, association or place of abode of the person during the period of release and restrict contacts with household members for a period not to exceed seventy-two hours;

2a. Require the execution of an unsecured bond;

3. Require the execution of a secure bond which at the option of the accused shall be satisfied with sufficient solvent sureties, or the deposit of cash in lieu thereof. Only the actual value of any interest in real estate or personal property owned by the proposed surety shall be considered in determining solvency and solvency shall be found if the value of the proposed surety's equity in the real estate or personal property equals or exceeds the amount of the bond;

3a. Require that the person do any or all of the following: (i) maintain employment or, if unemployed, actively seek employment; (ii) maintain or commence an educational program; (iii) avoid all contact with an alleged victim of the crime and with any potential witness who may testify concerning the offense; (iv) comply with a specified curfew; (v) refrain from possessing a firearm, destructive device, or other dangerous weapon; (vi) refrain from excessive use of alcohol, or use of any illegal drug or any controlled substance not prescribed by a health care provider; and (vii) submit to testing for drugs and alcohol until the final disposition of his case; or

4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to assure his good behavior pending trial, including a condition requiring that the person return to custody after specified hours or be placed on home electronic incarceration pursuant to § [53.1-131.2](#).

Upon satisfaction of the terms of recognizance, the accused shall be released forthwith. In addition, where the accused is a resident of a state training center for the mentally retarded, the judicial officer may place the person in the custody of the director of the state facility, if the director agrees to accept custody. Such director is hereby authorized to take custody of such

person and to maintain him at the training center prior to a trial or hearing under such circumstances as will reasonably assure the appearance of the accused for the trial or hearing.

B. In any jurisdiction served by a pretrial services agency which offers a drug or alcohol screening or testing program approved for the purposes of this subsection by the chief general district court judge, any such person charged with a crime may be requested by such agency to give voluntarily a urine sample, submit to a drug or alcohol screening, or take a breath test for presence of alcohol. A sample may be analyzed for the presence of phencyclidine (PCP), barbiturates, cocaine, opiates or such other drugs as the agency may deem appropriate prior to any hearing to establish bail. The judicial officer and agency shall inform the accused or juvenile being screened or tested that test results shall be used by a judicial officer only at a bail hearing and only to determine appropriate conditions of release or to reconsider the conditions of bail at a subsequent hearing. All screening or test results, and any pretrial investigation report containing the screening or test results, shall be confidential with access thereto limited to judicial officers, the attorney for the Commonwealth, defense counsel, other pretrial service agencies, any criminal justice agency as defined in § [9.1-101](#) and, in cases where a juvenile is screened or tested, the parents or legal guardian or custodian of such juvenile. However, in no event shall the judicial officer have access to any screening or test result prior to making a bail release determination or to determining the amount of bond, if any. Following this determination, the judicial officer shall consider the screening or test results and the screening or testing agency's report and accompanying recommendations, if any, in setting appropriate conditions of release. In no event shall a decision regarding a release determination be subject to reversal on the sole basis of such screening or test results. Any accused or juvenile whose urine sample has tested positive for such drugs and who is admitted to bail may, as a condition of release, be ordered to refrain from use of alcohol or illegal drugs and may be required to be tested on a periodic basis until final disposition of his case to ensure his compliance with the order. Sanctions for a violation of any condition of release, which violations shall include subsequent positive drug or alcohol test results or failure to report as ordered for testing, may be imposed in the discretion of the judicial officer and may include imposition of more stringent conditions of release, contempt of court proceedings or revocation of release. Any test given under the provisions of this subsection which yields a positive drug or alcohol test result shall be reconfirmed by a second test if the person tested denies or contests the initial drug or alcohol test positive result. The results of any drug or alcohol test conducted pursuant to this subsection shall not be admissible in any judicial proceeding other than for the imposition of sanctions for a violation of a condition of release.

C.]Repealed.[

D. Nothing in this section shall be construed to prevent an officer taking a juvenile into custody from releasing that juvenile pursuant to § [16.1-247](#). If any condition of release imposed under the provisions of this section is violated, a judicial officer may issue a capias or order to show cause why the recognizance should not be revoked.

§ 19.2-299. Investigations and reports by probation officers in certain cases.

A. Unless waived by the court and the defendant and the attorney for the Commonwealth, when a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § [18.2-57](#) or § [18.2-57.2](#), stalking in violation of § [18.2-60.3](#), sexual battery in violation of § [18.2-67.4](#), attempted sexual battery in violation of § [18.2-67.5](#), or driving while intoxicated in violation of § [18.2-266](#), and is adjudged guilty of such charge, the court may, or on motion of the defendant shall, or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall when the defendant pleads guilty without a plea agreement or is found guilty by the court after a plea of not guilty, or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of §§ [18.2-46.2](#), [18.2-46.3](#), [18.2-61](#), [18.2-63](#), [18.2-64.1](#), [18.2-64.2](#), [18.2-67.1](#), [18.2-67.2](#), [18.2-67.2:1](#), [18.2-67.3](#), [18.2-67.4:1](#), [18.2-67.5:1](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [18.2-361](#), [18.2-362](#), [18.2-366](#), [18.2-368](#), [18.2-370](#), [18.2-370.1](#), or § [18.2-370.2](#), or any attempt to commit or conspiracy to commit any felony violation of §§ [18.2-67.5](#), [18.2-67.5:2](#), or § [18.2-67.5:3](#), direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § [18.2-46.1](#), and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § [9.1-101](#), of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person is charged with a felony subsequent to the time of the preparation of the report. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a

written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § [53.1-155](#).

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § [18.2-251.01](#).

§ 19.2-299.2. Alcohol and substance abuse screening and assessment for designated Class 1 misdemeanor convictions.

A. When a person is convicted of any offense committed on or after January 1, 2000, under Article 1 (§ [18.2-247](#) et seq.) or Article 1.1 (§ [18.2-265.1](#) et seq.) of Chapter 7 of Title 18.2, and such offense is punishable as a Class 1 misdemeanor, the court shall order the person to undergo a substance abuse screening as part of the sentence if the defendant's sentence includes probation supervision by a local community-based probation program established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1 or participation in a local alcohol safety action program. Whenever a court requires a person to enter into and successfully complete an alcohol safety action program pursuant to § [18.2-271.1](#) for a second offense of the type described therein, or orders an evaluation of a person to be conducted by an alcohol safety action program pursuant to any provision of § [46.2-391](#), the alcohol safety action program shall assess such person's degree of alcohol abuse before determining the appropriate level of treatment to be provided or to be recommended for such person being evaluated pursuant to § [46.2-391](#).

The court may order such screening upon conviction as part of the sentence of any other Class 1 misdemeanor if the defendant's sentence includes probation supervision by a local community-based probation program established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1, participation in a local alcohol safety action program or any other sanction and the court has reason to believe the defendant has a substance abuse or dependence problem.

B. A substance abuse screening ordered pursuant to this section shall be conducted by the local alcohol safety action program. When an offender is ordered to enter programming under the local community-based probation program established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1, rather than the local alcohol safety action program, the local community-based probation program shall be responsible for the screening. However, if a local community-based probation program has not been established for the locality, the local alcohol safety action program shall conduct the screening as part of the sentence.

C. If the screening indicates that the person has a substance abuse or dependence problem, an assessment shall be completed and if the assessment confirms that the person has a substance abuse or dependence problem, as a condition of a suspended sentence and probation, the court shall order the person to complete the substance abuse education and intervention component, or both as appropriate, of the local alcohol safety action program or such other treatment program, if available, such as in the opinion of the court would be best suited to the needs of the person. If the referral is to the local alcohol safety action program, the program may charge a fee for the education and intervention component, or both, not to exceed \$300, based upon the defendant's ability to pay.

Appendix B
Treatment Services Reference Guide

SUBSTANCE ABUSE SERVICES REFERENCE GUIDE*

GENERALLY AVAILABLE COMMUNITY SERVICES

SERVICE	PROGRAM DESCRIPTION
EMERGENCY SERVICES	
Crisis Stabilization	Services, available 24 hours per day and seven days per week, that provide crisis intervention, stabilization
INPATIENT SERVICES	
Community Based Medical Detoxification	24-hour staff monitored medical setting detox, supervised by health care professionals and medical backup. Referral to continuing care and Case Management included.
RESIDENTIAL SERVICES	
Intensive	24-hour supervision of up to 30 days. Treatment includes: group and individual counseling, SA education, discharge planning, follow-up care plan, case management and drug/alcohol screens.
Social Detoxification (Highly Intensive Services)	24-hour staff monitored social setting detoxification. Referral to continuing care and Case Management services included.
Halfway House	24-hour supervision. Group and individual counseling, self help, vocational, occupational, educational and SA education services. Discharge planning, follow-up care plan, case management and drug/alcohol.
Supervised Services	Less intensive residential services which may include: supervised apartments and domiciliary care.
Long-Term Habilitation, Therapeutic Community	Multi-phase approach over time. Highly-structured residential program designed to habilitate drug users through development of individual accountability, pro-social values and attitudes usually consists of Re-socialization, Maturation Role Modeling, Community Re-Entry phase which includes employment is an integral part of the program. Length of stay based on progress.
OUTPATIENT AND CASE MANAGEMENT SERVICES	
Education	Usually consists of didactic groups which may address the following: addictive process, physiological and psychological effects of addiction and substance abuse, effects of substance abuse on others, addiction and criminality, behavior change, denial and defense mechanisms, twelve step/support programs, recovery, HIV/AIDS prevention, relapse prevention and the treatment process.
Outpatient	Provided to consumers on an hourly schedule, on an individual, or family basis, and usually in a clinic or similar facility or in another location.
Intensive Substance Abuse Outpatient Services	Intensive outpatient services include multiple group therapy sessions during the week, as well as individual and family therapy, consumer monitoring, and case management
Intensive In-home (adolescents)	These services provide crisis treatment; individual and family counseling; life, parenting, and communication skills; case management activities and coordination with other required services; and 24 hour per day emergency response.
Motivational Treatment	A course of motivational treatment may involve a single session, but more typically four or eight sessions; and it may be repeated, if necessary, as long as repetition is clinically indicated.
Methadone Detoxification	Outpatient treatment combined with the tapering administration of methadone.
Methadone Maintenance	Outpatient treatment combined with the administering of methadone as a substitute narcotic drug .
Case Management	Services include: identifying and reaching out to potential consumers; assessing needs and planning services; linking the individual to services and supports; assisting the person directly to locate, develop or obtain needed services and resources; coordinating services with other providers; enhancing community integration.
DAY SUPPORT SERVICES	
Day Treatment/Partial Hospitalization	Provides structured programs of mental health, mental retardation, or substance abuse treatment, activity, or training services, generally in clusters of two or more continuous hours per day, multiple days per week to groups or individuals in a non-residential setting.
ADJUNCT SERVICES	
Drug/Alcohol Testing	Unannounced, random sampling and urinalysis throughout treatment and supervision period.
Relapse Prevention	Open enrollment group at least 12 weeks of offenders who have completed an SA treatment program. Includes education in identifying high-risk drug use situations and opportunities to plan a strategy to cope with and manage these high-risk situations.
Self Help	Participants organize, form and conduct groups to assist and support each other to maintain sobriety and sustain recovery.

SPECIALIZED DOC SERVICES

SERVICE	PROGRAM DESCRIPTION
DOC RESIDENTIAL (INSTITUTIONAL)	
Therapeutic Community	Minimum one-year highly structured institutional learning program designed to habilitate drug users through development of individual accountability, pro-social values and attitudes. Services include re-socialization, maturation role modeling, and community re-entry skill development.
Transitional Therapeutic Community	Phase V- Highly structured residential program for TC graduates. Preferred stay of six months. Gradual release process based on responsible behavior. Includes employment and development of peer support group skills.
DOC RESIDENTIAL (COMMUNITY)	
Detention Center	Four to six months military style regimen for those who do not perform well in the community but who do not require long-term incarceration. Provides structure and discipline, remedial education (GED), life skills development and substance abuse education. Work on public projects is an integral part of the program. Intensive supervision upon release.
Diversion Center	Four to six month minimum-security facility designed for those who do not require long term incarceration but who may not do well in community setting without intervention. Provides remedial education (GED), substance abuse education, life skills, e.g., job readiness, parenting and other special topic groups. Employment in private sector and community service is an integral part of the program. Intensive supervision upon release.
Boot Camp	A 120-day military-style regimen. Provides basic education services (GED), substance abuse education and life skills development. Public service work while at Camp is an integral part of the program. Intensive supervision is provided upon release.
DOC OUTPATIENT (COMMUNITY)	
Peer Support Groups	Treatment support groups for TC graduates offered as a support and maintenance program. Led by former TC program participants following an established format. Facilitated by trained Probation and Parole Officers. Includes personal sharing, problem solving, group planning, continued behavior change, social support and helping self by helping others.

**SPECIALIZED DJJ SERVICES
DJJ RESIDENTIAL (INSTITUTIONAL)**

Therapeutic Community	<p>Barrett Juvenile Correctional Center - Treatment services at Barrett Juvenile Correctional Center are modeled after a traditional therapeutic community but have been modified to meet the needs of the juvenile population. The DJJ LEADER behavioral management program has also been integrated into this specialized treatment program. Cadets spend at least six months at Barrett completing their treatment services.</p> <p>Culpeper Juvenile Correctional Center – This six-month program is designed to provide intensive residential substance abuse treatment services for female juvenile offenders. It addresses substance abuse, co-existing disorders, and gender specific issues.</p>
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SPECIALIZED VASAP SERVICES

Substance Abuse Intensive Education	A 20-hour program for first-time drug offenders. Usually consists of a combination of monitoring and substance abuse education. Focuses on offenders making an accurate evaluation of their alcohol/drug use and appropriate behavior changes. Alcohol/drug testing at every session.
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