



COMMONWEALTH of VIRGINIA

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Division of Community Corrections

**Report on the Direct Referral of Probation and Postrelease
Technical Violators to Diversion and Detention Center Incarceration Programs**

Authority

In accordance with Item 415-C of the 2004 Appropriations Act, Chapter 1042, the Division of Community Corrections in partnership with the Office of the Executive Secretary of the Supreme Court and the Virginia Criminal Sentencing Commission initiated a pilot project which, notwithstanding, Code of Virginia Sections 19.2-316.2 and 19.2-316.3 would allow the direct referral of non-violent technical violators of probation and postrelease supervision conditions to Diversion and Detention Center Incarceration Programs without initiating a court hearing. The enabling language required the Department of Corrections to provide the “2004 Session of the General Assembly with a preliminary report on the implementation and effectiveness of this initiative”. This report was submitted on December 11, 2003.

The 2004 General Assembly continued the pilot project in the FY 2005-2006 Appropriations Act, Chapter 4, Item 415-C. The continuation did not include the Supreme Court and Virginia Criminal Sentencing Commission partnership, although the Department of Corrections continues to keep them informed of actions and progress including a presentation to the full Criminal Sentencing Commission on June 21, 2004.

Implementation

The Division of Community Corrections (767) developed an action plan and immediately began to implement the pilot project as follows:

- 1. identified the initial nine (9) pilot site Probation and Parole Districts. There were three from each of the administrative regions:

East

Norfolk
Portsmouth
Hampton

Central

Arlington
Winchester
Fairfax

West

Lynchburg
Bedford
Martinsville

- 2. four (4) additional Districts were added;

3. violation procedures were reviewed and retained;
4. the offender “voluntary participation” forms and procedures were developed and approved by the Attorney General and were acceptable to our partners – the Supreme Court and the Virginia Criminal Sentencing Commission;
5. project spreadsheets to record information were created;
6. all participating Districts and Facilities received training;
7. judicial officials were briefed and there was no significant opposition reported;
8. operation questions were generated and answers provided to project participants;
9. a survey to assess results to date was completed in November 2003;
10. between May 1 and June 1, 2004, twenty (20) additional Districts were added. Currently, thirty-three (33) of forty-three (43) Districts, seven (7) of ten (10) Day Reporting Programs and twenty-eight (28) of thirty-two (32) Judicial Circuits are participating in the project. A list of participating sites is enclosed;
11. a second survey to assess results was completed in July 2004.

Effectiveness

The pilot project has operated efficiently to date. The preliminary findings generally have been positive and include:

1. an increase in the number of active program participants from the pilot site Districts was reported in November 2003 by both Diversion and Detention Center Incarceration Programs. This increase has continued through June 2004.

Note: The pilot project did not increase the number of potential technical violators.
2. the expansion of sanctions available to supervising Districts has been well received by field staff;
3. efficiencies in the referral process including reduced time in court and the time of Judges, Commonwealth Attorneys, Public Defenders, other defense attorneys, clerks, bailiffs and Probation and Parole Officers was frequently reported;
4. there are some reductions in paperwork such as preparation of a “show cause” request, Sentencing Revocation Report, technical violator guidelines, etc.;
5. there appears to be some slight savings in jail time for violators who would have otherwise remained locked up pending court hearings;
6. the likelihood of program suitability seems enhanced;
7. the most frequently cited violation was Condition 8 which forbids the use, possession and distribution of illegal substances;

8. voluntary participation was offered to **257** alleged violators and **227** chose to participate;
9. the total number of violators referred to the facilities was **222**. Of these, **196** were found eligible and suitable for participation;
10. **196** were accepted into the programs, **110** have successfully completed the program, **33** have been unsuccessfully terminated and **53** are currently active.

Recommendation

The Department of Corrections recommends the amendment of Code Sections 19.2-316.2 and 19.2-316.3 to allow the supervising Probation and Parole Officers to refer eligible and suitable non-violent technical probation, parole and postrelease violators to the Detention and Diversion Center Incarceration Programs. The alleged violators could choose to voluntarily participate in lieu of a Court or Parole Board violation hearing.

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August 26, 2004
Date

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August 26, 2004
Date