

**REPORT OF THE
SECRETARY OF PUBLIC SAFETY**

Plan to Expand Sanctions for Violators and Low Risk Offenders

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



HOUSE DOCUMENT NO. 77

**COMMONWEALTH OF VIRGINIA
RICHMOND
2005**

INTRODUCTION

Item 403-B of the 2005 Appropriations Act calls for the Secretary of Public Safety in conjunction with the Department of Corrections to “develop a plan to expand the future availability and utilization of minimum security facilities for probation, parole (and postrelease) violators, or other offenders, identified as having low risk of reoffending, consistent with the sentencing (and probation violation) guidelines developed by the Virginia Criminal Sentencing Commission.”

Note that this report was developed as part of the Department of Corrections’ planning and portions of this report are reflected in the following 2005 Appropriations Act requirements which are attached for reference:

- **Item 403-A** – State and Local Juvenile and Adult Offender Forecasts
- **Item 403-B** – Report on Technical Violators and Lower Risk Offenders
- **Item 410-E** – Report on Substance Abuse Treatment Programs
- **Item 410-I** – Proposed Prison Construction (Master Plan)
- **Item 413** – Report on the Statewide Community-Based Corrections System
- **Item 414** – Report on Day Reporting Programs
- **Item 415 C and D** – Report on Return-To-Custody Programs

The draft report was shared with and input sought from:

- Board of Corrections
- Virginia Sheriffs’ Association
- Virginia Association of Regional Jails
- State Compensation Board
- Office of Attorney General
- Supreme Court of Virginia
- Virginia Criminal Sentencing Commission
- Commonwealth Attorneys’ Services Council
- Virginia Indigent Defense Commission

FACTORS TO CONSIDER

- The revised FY 2006 through FY 2011 juvenile and adult offender forecast has been finalized. The number of adult probation, parole and postrelease technical violators is expected to average about **1,417**, new state responsible admissions annually through 2011. About **17%** of these violators are women.
- Of the estimated **1,417** new technical violators, about **312 (22%)** of them have an instant or previous conviction for a violent crime. These may not be at low risk for re-offending and may present additional security risks. Also, the use of alternatives for this group might conflict with the General Assembly's intent to enhance penalties for violent offenders.
- Note that if the proposals to intensify sex offender registration and monitoring are adopted, there is likely to be a significant increase in new law violators.
- Of the estimated **1,417** new technical violators, about **213 (15%)** have a serious mental illness (SMI) which requires Qualified Mental Health Professional (QMHP) intervention. Currently, staffing limitations do not allow the assignment of SMI offenders to lower security level facilities.
- An estimated additional **142 (10%)** of new technical violators will require medical intervention requiring **24/7** medical staff coverage which is not generally available at lower level security facilities.
- Our best estimate suggests that approximately **750** new statewide responsible technical violators would be included in the new admissions population annually.

In sum, our planning projects an annual potentially divertable pool of about **750** adult technical violators.

PLANNING, EXPANSION AND PROGRAM DEVELOPMENT

The Department of Corrections continues its strategic planning to increase state responsible capacity throughout the agency and to strengthen its programming so that the risks to public safety posed by state responsible offenders are reduced.

The Department has initiated a number of actions designed to achieve these goals:

- Facility Expansion – **820** Beds
 - Replace Trailers at Bland Correctional Center – **128** Beds
 - Replace Trailers at Marion Correctional Treatment Center – **52** Beds
 - Renovate Geriatric Building at Marion Correctional Treatment – **40** Beds
 - Expand Deerfield Correctional Center – **600** Beds

- * Facility Construction – **4,096** Beds
 - Chatham
 - Tazewell County
 - Mount Rogers
 - Charlotte County

- Expand Medical and Mental Health Capacity at Powhatan Correctional Center

- Rebuild Mental Health Services Staff – **17** QMHP

- Complete Study of Institutional Classification System

- Review and Adopt Systemwide Risk and Needs Assessment Instrument

- Increase Utilization of Level I Facilities – **4,254** Beds

- Increase Utilization of Jail Contract Work Release - **816** Beds

- Maintain and Expand Offender Re-Entry Programs - **269** Beds

- Sustain the Violent and Serious Offender Re-Entry Initiative (VASAVOR)
 - Fairfax County Detention Center – **151** Beds
 - Newport News City Jail – **12** Beds

- Increase Utilization of Diversion and Detention Centers - **972** Beds

- Build Women’s Detention Center Addition at Chesterfield and Use the Richmond Facility for Re-Entry / Violators – **40** Beds
- Increase Utilization of Institutional Therapeutic Communities – **1,567** Beds
 - Indian Creek Correctional Center
 - Botetourt Correctional Center
 - Virginia Correctional Center for Women
 - Lawrenceville Correctional Center (Private)
- New Residential Program Contract Vendors Have Been Added
 - Community Residential Programs – **127** Beds
 - Residential Transition Therapeutic Communities – **200** Beds
- Increase Utilization of Community Residential Program – **127** Beds
- Increase Utilization of Residential Transition Therapeutic Communities – **200** Beds
- Pilot Return-To-Custody Programs – **250** Beds
 - Jail Based Programs (30 Days) – **100** Beds
 - DOC Based Programs (30-60 Days) – **150** Beds
- Work with the State Compensation Board and Regional Jails with Federal Inmate Facilities to Consider Contracting to Use Space for DOC Violator or Re- Entry Programs
- Open Additional Day Reporting Programs – **150** Capacity
 - Tazewell Probation and Parole District 43 – **75** Capacity
 - Winchester Probation and Parole District 11 – **75** Capacity
- Expand Probation and Parole’s Sex Offender Containment Supervision to Five (5) Additional Districts – **300** Capacity
- Continue to Pilot and Expand the Use of Evidence-Based Practices (EBP) in Programs and Services to Achieve Improved Outcomes

Signed Copy on File

10 – 13 - 2005

John W. Marshall
Secretary of Public Safety

Date

10 – 12 – 2005

Gene M. Johnson
Director of Corrections

Date

ATTACHMENTS

These are interrelated reports referenced in the 2005 Appropriations Act:

- **Item 403-A** – State and Local Juvenile and Adult Offender Forecasts
- **Item 403-B** – Report on Technical Violators and Lower Risk Offenders
- **Item 410-E** – Report on Substance Abuse Treatment Programs
- **Item 410-I** – Proposed Prison Construction (Master Plan)
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- **Item 415 C and D** – Report on Return-To-Custody Programs

Authority: Title 2.2, Chapter 2, Article 8, and § 2.2-201, Code of Virginia.

A. The Secretary shall present revised state and local juvenile and state and local responsibility adult offender population forecasts to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairmen of the House and Senate Courts of Justice Committees by October 15, 2004, for each fiscal year through FY 2010 and by *September 30, 2005*, for each fiscal year through FY 2011. *The Secretary shall ensure that the revised forecast for state-responsible adult offenders shall include an estimate of the number of probation violators included each year within the overall population forecast through fiscal year 2011 who may be appropriate for alternative sanctions, including return-to-custody facilities.*

B. The Secretary of Public Safety, in conjunction with the Department of Corrections, shall develop a plan to expand the future availability and utilization of minimum security facilities for sanctions appropriate for probation and parole violators, or other offenders, identified as having low risk of reoffending, consistent with the sentencing guidelines developed by the Virginia Criminal Sentencing Commission. The plan shall identify potential locations for such facilities, including jails, nonprofit or privately operated facilities, and shall include recommendations to address the punishment, treatment and other needs for such offenders. In developing this plan, the Secretary shall consult with the State Board of Corrections, the Virginia Sheriffs Association, the Virginia Association of Regional Jails, the Virginia Association of Commonwealth's Attorneys, the State Compensation Board, the Office of the Attorney General, the Executive Secretary of the Supreme Court of Virginia, the Virginia Indigent Defense Commission, and the Virginia Criminal Sentencing Commission. Copies of this plan shall be provided to the Chairmen of the Senate Finance and House Appropriations Committees by October 15, 2005.

Source: <http://leg1.state.va.us/051/bud/TOC2106.HTM>

Authority: Title 53.1, Chapter 1; § 9.1-102, Code of Virginia.

E. The Department of Corrections shall evaluate the impact of its substance abuse treatment programs on the recidivism of inmates participating in those programs. The Department shall report to the Secretary of Public Safety and the Department of Planning and Budget by September 1 of each year its evaluation of the program.

G. Notwithstanding the provisions of § 53.1-20 A. and B., Code of Virginia, the director of the Department of Corrections shall receive offenders into the state correctional system

from local and regional jails at such time as he determines that sufficient, secure and appropriate housing is available, *placing a priority on receiving inmates diagnosed and being treated for HIV, mental illnesses requiring medication, or Hepatitis C.* The director shall maximize, consistent with inmate and staff safety, the use of bed space in the state correctional system. The director shall report monthly to the Secretary of Public Safety and the Secretary of Administration on the number of inmates housed in the state correctional system, the number of inmate beds available, and the number of offenders housed in local and regional jails that meet the criteria set out in Code Sections 53.1-20A. and B.

Authority: Title 53.1, Chapter 1; § 9.1-102, Code of Virginia.

E. The Department of Corrections shall evaluate the impact of its substance abuse treatment programs on the recidivism of inmates participating in those programs. The Department shall report to the Secretary of Public Safety and the Department of Planning and Budget by September 1 of each year its evaluation of the program.

G. Notwithstanding the provisions of § 53.1-20 A. and B., Code of Virginia, the director of the Department of Corrections shall receive offenders into the state correctional system from local and regional jails at such time as he determines that sufficient, secure and appropriate housing is available, *placing a priority on receiving inmates diagnosed and being treated for HIV, mental illnesses requiring medication, or Hepatitis C.* The director shall maximize, consistent with inmate and staff safety, the use of bed space in the state correctional system. The director shall report monthly to the Secretary of Public Safety and the Secretary of Administration on the number of inmates housed in the state correctional system, the number of inmate beds available, and the number of offenders housed in local and regional jails that meet the criteria set out in § 53.1-20 A. and B.

I.1. The Department of Corrections shall develop preliminary plans for construction of a medium security prison, in addition to those authorized in this act, and shall present such plans to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees no later than December 1, 2004. The plans may consider either or both construction and operation of such prison under this act, the Public Private Education and Infrastructure Act, the Corrections Private Management Act, or such other means as may be appropriate. The Department shall give first priority consideration to locating such prison within the Mount Rogers Planning District. The next priority for the location of a subsequent facility shall be given to a location within Charlotte County.

2. *The Department shall develop a plan, consistent with the reports required pursuant to Item 403, paragraphs A. and B. of this act to finance, construct and operate additional correctional facilities for the Department, utilizing either or both construction and operation of such facilities under this act, the* inmates housed in the state correctional system, the number of inmate beds available, and the number of offenders housed in local and regional jails that meet the criteria set out in § 53.1-20 A. and B.

I.1. The Department of Corrections shall develop preliminary plans for construction of a medium security prison, in addition to those authorized in this act, and shall present such plans to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees no later than December 1, 2004. The plans may consider either or both construction and operation of such prison under this act, the Public Private Education and Infrastructure Act, the Corrections Private Management Act, or such other means as may be appropriate. The Department shall give first priority consideration to locating such prison within the Mount Rogers Planning District. The next priority for the location of a subsequent facility shall be given to a location within Charlotte County.

2. The Department shall develop a plan, consistent with the reports required pursuant to Item 403, paragraphs A. and B. of this act to finance, construct and operate additional correctional facilities for the Department, utilizing either or both construction and operation of such facilities under this act, the Public-Private Education and Infrastructure Act, or such other means as shall be appropriate, as required to meet projected bedspace requirements through fiscal year 2011. The plan shall include capital and operating cost estimates as well as the necessary timetables for financing and construction. Such facilities shall include: as a first priority, a facility to be located in the Mount Rogers Planning District; and as a second priority, a facility to be located in Charlotte County. Copies of this plan shall be provided to the Chairmen of the Senate Finance and House Appropriations Committees by October 15, 2005.

Source: <http://leg1.state.va.us/051/bud/TOC2106.HTM>

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Authority: §§ 53.1-12, Code of Virginia.

By September 1 of each year, the Department of Corrections shall provide a status report on the Statewide Community-Based Corrections System for State-Responsible Offenders to the Chairmen of the House Courts of Justice; Health, Welfare and Institutions; and Appropriations Committees and the Senate Courts of Justice; Rehabilitation and Social Services; and Finance Committees.

Source: <http://leg1.state.va.us/051/bud/TOC2106.HTM>

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Authority: §§ 53.1-179 through 53.1-185.1, Code of Virginia.

Included in this Item is \$658,486 the second year from the general fund to open and operate two additional day reporting centers. In identifying offices to house the new day reporting centers authorized in this paragraph, the Department shall give priority to the District serving the City of Winchester and Counties of Clarke, Frederick, Warren, and Shenandoah. Before opening these facilities, the Department of Corrections shall review the treatment services of its day reporting center program and revise that regimen of services, where appropriate, reflecting evidence-based practices, including cognitive processing and cognitive behavioral treatment, and eliminating those treatment approaches that research has shown are not effective. The agency shall submit a report to the Secretary of Public Safety setting out the results of this review and a schedule for implementing any changes identified as being needed in the treatment regimen of day reporting centers. Until the Secretary of Public Safety has approved that report and its proposed changes, the Department of Planning and Budget shall not allot any of the funds

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Authority: Title 53.1, Chapters 4 and 5, Code of Virginia.

C.1. The Department of Corrections shall establish a pilot program to achieve effective punishment, control, and rehabilitation of felony offenders who are under parole, post-release, or probation supervision and are found to be in technical violation of their supervisory conditions. No program shall be established without the agreement of the judge, commonwealth's attorney, and sheriff or regional jail superintendent of the relevant jurisdiction. Following a revocation hearing as required by §§ 19.2-295.2,

19.2-306, or 53.1-165, Code of Virginia, a judge, or the Virginia Parole Board, if the offender's supervision is under the Board's control, may order a violator to be confined in jail for thirty days to participate in the pilot program. For felons under probation supervision, candidates for the pilot program shall be those who are recommended by Virginia's sentencing guidelines for an active term of incarceration for the violation. While confined in jail, violators in the pilot program shall be eligible to participate in work-release, educational, or other rehabilitative programs as provided by § 53.1-131 of the Code of Virginia.

2. The Department and the sheriffs or regional jail superintendents of any jails in which the pilot program is conducted shall enter into an agreement regarding the number of beds and the rate at which the jail will be reimbursed for housing these offenders. The Department shall notify the Compensation Board, in a manner determined by the Compensation Board of the rate agreed upon by the Department and each sheriff or regional jail superintendent participating in the program. Such rate shall not exceed existing rates authorized in this act and the total statewide average daily number of offenders housed in jails under the provisions of this pilot project shall not exceed 150. The Compensation Board shall reimburse each jail participating in the pilot for such offenders housed, based on the agreed-upon rate.

D. 1. The Department shall, effective July 1, 2005, establish a Return-to-Custody Center program, with the capacity to hold a minimum of 100 offenders, utilizing one or more existing community corrections residential facilities. Such program shall provide for a period of residential supervision of 30-60 days, as specified by the sentencing judge, and shall include opportunities for work release, public service, treatment or other rehabilitative programs as provided in § 53.1-131 of the Code of Virginia.

2. Following a revocation hearing as required by § 19.2-295.2 or § 19.2-306 of the Code of Virginia, a judge may order a violator to be confined in a Return-to-Custody Center. For felons under probation or post-release supervision, candidates for placement in such a center shall be those who are recommended by Virginia's sentencing guidelines for an active term of incarceration for the violation. A violator placed into this program who fails to comply with supervision rules established by the Department for the program may be returned to the court for consideration of additional sanctions.

Source: <http://leg1.state.va.us/051/bud/TOC2106.HTM>

