

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**

**2010**



---

## Table of Contents

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 Behavioral Health and Developmental Services.....	12
Appendix A: Relevant Statutes .....	14

---

## 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, 19.2-299, 19.2-299.2 and 19.2-123(B) [effective 07/01/2000], 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 agencies administered by the Department of Criminal Justice Services (DCJS), the Commission on Virginia Alcohol Safety Action Program (VASAP), and the Department of Behavioral Health and Developmental Services (DBHDS).

The Interagency Drug Offender Screening and Assessment Committee (the 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 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 and 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, agencies have continued their efforts to address offenders' substance abuse needs by streamlining the process utilizing other screening instruments and otherwise attempting to make this task manageable for the fewer number of staff involved. The number and type of services available have decreased significantly.

The grievous effect of the lack of resources on the number and type of services offered has also greatly limited the need and ability to coordinate services across agencies. Thus, the Committee, or workgroup associated did not meet in FY2008. It is recommended that, unless funding, and thus services, are increased legislation surrounding the DSAT Initiative [§§ 16.1-273, 18.2-251.01, 19.2-123(B), 19.2-299, and 19.2-299.2 of the *Code of Virginia*] should be revisited.

\* NOTE: §§ 18.2-251, 252 and 254 were also amended to support screening and assessment in drug offense cases or where substance abuse was indicated.

---

## 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, 19.2-299 and 19.2-299.2. The Interagency Committee is composed of representatives of the Directors or Commissioners of the Departments of Corrections, Criminal Justice Services, Juvenile Justice, the Department of Behavioral Health and Developmental Services, the Virginia Alcohol Safety Action Program (VASAP) 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 represents the Interagency Committee's report for the year 2010.

---

## 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 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, 19.2-299 and 19.2-299.2 of the *Code of Virginia*. These statutes target all felons convicted in circuit court as well as offenders convicted in general district court of a Class 1 misdemeanor drug offense who receive a sentence that includes 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 misdemeanant if the court has reason to believe the defendant has a substance abuse or dependence problem. Juvenile offenders adjudicated for a felony or any Class 1 or 2 misdemeanor drug offense, as well as any juvenile for whom a social history is ordered, also fall under the screening and assessment requirements. 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 DOC, DJJ, local community-based probation and pretrial services agencies under the administration of the DCJS and DBHDS agency accomplishes this objective via the regional Community Services Boards (CSBs). For adult felons, screening, assessment and treatment falls under the purview of the DOC's probation and parole offices. By statute, local offices of VASAP may screen and assess adult misdemeanants, unless the offender is ordered to local community-based probation. Experience to date has shown that local Alcohol Safety Action Programs have received few screening orders or referrals for misdemeanant offenders sentenced in Virginia's general district courts. In such cases, the local community-based probation agency is designated to perform the screening and assessment, rather than the local ASAP. Local community-based probation agencies 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 test-pilot the implementation of the screening and assessment provisions. Nine DOC probation and parole districts, nine local ASAP agencies, nine local community-based probation

agencies 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, and offenders who committed their crimes on or after this date were subject to screening and assessment provisions.

The 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 Committee is composed of representatives of DOC, DCJS, DJJ, the Commission on VASAP, DBHDS, and the Virginia Criminal Sentencing Commission. Under § 2.2-223, the 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, 19.2-299 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 (the Fund).

Before required budget cuts in 2001, the Committee provided assistance to and has monitored agencies involved in screening and assessment activities. The Committee collaborated with agencies to develop screening and assessment policies and procedures, as well as protocols related to confidentiality. The 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 coordination among various agencies involved in the identification and treatment of substance-abusing offenders. In 1999 and 2000, members of the Committee conducted numerous informational presentations for judges, prosecutors, public defenders and defense attorneys and organized and facilitated seminars to train more than 1,500 staff across agencies on the utilization of selected screening and assessment instruments. DBHDS, in conjunction with the 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 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 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 Committee implemented an evaluation process to examine DSAT, activities across the Commonwealth. The Secretary of Public Safety's Office directed the DCJS Criminal Justice Research Center to conduct the evaluation. 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, 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, this evaluation was not carried out.

During its 1998 and 1999 sessions, the General Assembly established specialized staff positions within DOC and DJJ to support screening and assessment activities in those agencies. The newly-created full-time positions, known as “certified substance abuse counselors” (CSACs), require specialized training and education in the field of substance abuse, and individuals in those positions 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 Fund to purchase its screening and assessing tools, which are proprietary; and monitor offenders through drug testing and other operational services that support screening and assessment activities. In 2003, the General Assembly authorized DCJS to receive proceeds from this Fund to support screening and assessment efforts of community-based probation and local pretrial services programs; however, DCJS has never been approved to access these funds. 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 [vid. § 18.2-254.1, *Code of Virginia*] 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 FY2010 are summarized throughout the remainder of this report.

---

## Department of Corrections (DOC)

The Department of Corrections (DOC) provides a tiered substance abuse services approach to address varying offender treatment needs based on the severity of the problem. DOC is organized into two primary operating Divisions: Community Corrections and Operations.

The Division of Community Corrections (DOC-DCC) encompasses adult Probation and Parole services, Detention and Diversion Community Corrections Facilities, and Community Residential Programs.

DOC-DCC contracts for many of its treatment services with CSBs and private vendors. As of June 30, 2010, there were approximately 59,616 offenders under active supervision. They are preponderantly adult felons. An estimated 80% of those under active supervision, which would equate to 47,600 probationers/parolees, have some history of substance abuse. Most Probation and Parole Districts (43) and Community Corrections Facilities (7) have either an MOA or contract services for substance abuse services. There are 26 contracted service providers plus 41 MOAs with CSBs for outpatient services.

DOC has endorsed and begun implementation of the COMPAS risk/needs assessment to enhance the identification of high risk offenders and place them into the appropriate level of supervision. Staff training for all districts and institutions has begun and will be completed in the fall of 2010.

Urinalysis screenings are done on a random basis, in the District Probation and Parole Offices, Detention and Diversion programs, and ten Community Residential Programs. Samples are collected on site and in the field with off-site laboratories completing the testing or the use of handheld testing devices.

Over 300,000 substance abuse tests are conducted annually. Urinalysis results indicate a variety of illegal substance and being used. Marijuana, cocaine and opiate represent the three substances most often resulting in a positive screen. Results from community-based programs continue to indicate some regional issues, including methamphetamine as a problem along the I-81 corridor. Positive screens for benzodiazepines, suboxone, buprenorphine are also fairly prevalent.

In addition to urinalysis of individuals in the programs, the use of drug canines continues in Community Corrections. They have participated in Operation Consequences, other special operations, and make unannounced visits to Diversion Centers and Detention Centers. These visits were expanded to contract adult community residential centers and to Probation and Parole district offices.

DOC is in the process of introducing the concept of Evidence-Based Practices (EBP) into our programs and services. EBP incorporates a cognitive behavioral approach identified by research to be effective in altering criminal behaviors, producing pro-social outcomes, and reducing overall recidivism. EBP protocols, procedures and forms have been expanded to nine Probation and Parole Services District offices-Portsmouth District 2, Charlottesville District 9, Winchester District 11, Lynchburg District 13, Roanoke Valley District 15, Fredericksburg District 21, Chesapeake District 31, Williamsburg District 34 and Tazewell District 43. Other district offices are scheduled for training and implementation.

Additionally, three Community Corrections Facilities – Harrisonburg Diversion Center, White Post Diversion Center, and Chesterfield Detention /Diversion Center have incorporated EBP procedures and treatment programming. However, all Community Corrections Facilities offer substance abuse programming and treatment. Finally, we are modifying the “Purpose” in our MOA and as we renew and re-issue service arrangements. Alcohol and other drug service outpatient and residential service contract are being modified to require that the contractual services be EBP.

The major issues facing the DOC-DCC include:

- Replacement of clinical supervision staff that would be a major impact in the ability to provide clinical oversight to CSACs within the DOC, to enhance quality control service delivery and to offer training and technical assistance to field staff.
- Continued funding from the Fund.
- Increased availability of EBPs and services for offenders with substance abuse problems, as well as those with co-occurring mental disorders.
- Accommodating a projected annual caseload growth rate of about 4%

As of June, 2010 the Division of Operations includes 43 institutions across the State with a population of 31,835. Incoming prisoners are typically screened for substance abuse during reception and classification.

The facilities range from maximum security housing the most serious offenders, to minimum security and work centers housing less violent offenders. Over 12,870 offenders were released to the community in FY2010.

There are five programming tiers to DOC institution-based substance abuse treatment services: Orientation; Psycho-Education; Substance Abuse Counseling; Support Programs, such as Alcohol Anonymous and Narcotics Anonymous.

---

## Department of Criminal Justice Services (DCJS)

For FY 2010, DCJS provided localities over \$23 million in general funds to support operations in 37 community-based probation and 29 local pretrial agencies. About 91% of the total is dedicated to personnel costs and less than 5% to other operating costs only a portion of which supports drug testing.

The majority of local agencies have incorporated the questions in the Substance Screening Instrument (SSI) into their pretrial investigation or defendant and offender intake interview procedures.

The Addiction Severity Index (ASI), as a general practice, is no longer completed in-house. When assessments are indicated, local probation and pretrial services agencies must rely on referrals to private counseling services by contract or Community Service Boards (CSBs) who conduct their own assessments as part of substance abuse education or treatment services.

During the past year, there were 39,042 offenders directly placed by courts on local community-based probation resulting in an Average Daily Caseload (ADC) of 21,152. Pretrial services agencies investigated 48,491 defendants and received 17,347 total placements on supervision for an ADC of 4,547.

While the provision of substance abuse services has not ceased, the lack of SABRE or other dedicated funding has severely hampered a systematic process for identifying defendants and offenders with substance abuse problems and for paying for assessments and services. It appears that only 14.3% of defendants and offenders placed under pretrial or local community based probation supervision (8,632 of 60,194) last year participated in substance abuse education and/or treatment. Based on the amounts reported in grant applications for these substance abuse services, it appears that defendants and offenders paid for the major portion of assessment and education and treatment services received.

During FY 2010, local pretrial and community-based probation agencies referred:

- 6,825 defendants and 11,364 probationers for drug testing during their period of supervision.
- 478 defendants and 4,317 probationers to substance abuse education
- 979 defendants and 2,858 probationers to substance abuse counseling
- 14 defendants and 19 probationers into short-term detoxification
- 32 defendants and 63 probationers into inpatient treatment facilities ( 28+ days)

---

## Virginia Alcohol Safety Action Program (VASAP)

The Commission on VASAP does not utilize general fund dollars to provide ASAP services. Services including screening, assessments and urinalysis testing are funded completely from offender fees.

Individuals referred to any of the 24 local Alcohol Safety Action Programs (ASAP) are screened by case managers using the Commission approved screening tools. If the initial screening indicates a need for further assessment; individuals are referred to licensed treatment providers or persons certified by the Department of Health Professions to provide substance abuse treatment. It is significant to note that the number of individuals determined to be in need of mental health services in addition to alcohol education and treatment has been steadily increasing. Assessment and treatment services are provided by both private treatment providers and local community services boards.

Governor Warner's DUI Task Force Report of 2003 recommended that the Substance Abuse Services Council, in partnership with VASAP and the Virginia Department of Behavioral Health and Developmental Services develop a plan to identify and promote standardized assessment tools. These tools could be used by all service providers to help match individuals to appropriate intervention and treatment programs and to identify best practices for effective intervention with repeat offenders. Federal grant funding was provided and used to support training of screening and assessment tools and techniques for ASAP staff. Training was also provided to the treatment providers using the American Society of Addiction Medicine (ASAM) placement criteria in working with high risk DUI offenders

The Commission on VASAP will continue to explore best practices in the areas of screening and assessment especially when related to high risk offenders. Placing these offenders in the most appropriate level of intervention is critical to offender success.

---

## Department of Juvenile Justice (DJJ)

### **Division of Community Programs**

Budget reductions and the expiration of federal grant funding and elimination of the SABRE appropriations for treatment led to a drastic reduction in DJJ activities starting in FY2003. All 32 substance abuse screening and assessment positions were abolished, effectively ending DJJ's capacity to continue to provide activities as required by the *Code of Virginia* under §16.1-273. As the Appropriations Act now relieves DJJ of meeting these requirements, DJJ withdrew from participation in revenue drawn from the Funds.

DJJ responded to the ongoing substance abuse issue of juveniles before the court in the following ways during FY2010:

- Court Service Units (CSUs) continued to perform substance abuse screening with available staff resources. There were 1,975 screenings and 355 assessments reported as completed in the DJJ automated caseload management system. DJJ continues to supply screening instruments (SASSI-A2) to its CSUs through General Funds.
- The Division of Community Programs utilized \$46,974 of funds appropriated by the General Assembly to support substance abuse assessment and/or treatment for 65 juveniles in community-based outpatient settings and 1 placement in residential substance abuse treatment facilities. Funds for this purpose were reduced from FY2008 due to budget reductions and which prevented any residential treatment placements.
- DJJ continued to provide support for monitoring substance abuse by juveniles on community supervision by allocating general funds of \$51,572 for the purchase of urine drug testing materials.
- All juveniles committed to the state received a substance abuse screening, assessment and indicated treatment services through the Division of Institutions.
- Juveniles released on parole supervision were eligible for funding for (primarily outpatient) substance abuse treatment services through the Department's transitional services program.

### **Division of Institutions**

The substance abuse treatment needs of all youth committed to DJJ juvenile correctional centers (JCC) are evaluated and screened upon the youth's arrival at the Reception and Diagnostic Center. As a result, in FY 2010, 535 youth (81% of committed youth) required substance abuse treatment services. These services are primarily provided within the JCC's five substance abuse treatment units. Satellite services are also provided within the general population and other specialized treatment units for youth who do not enter a substance abuse treatment unit.

Substance abuse treatment programming within the JCC's utilizes EPBs. The general fund finances all treatment positions for these services, which are provided by the Behavioral Services Unit and select Case Management staff.

---

## Department of Behavioral Health and Developmental Services (DBHDS)

The Department of Behavioral Health and Developmental Services provides substance abuse treatment services through forty community services boards (CSBs) throughout the Commonwealth. In fiscal year 2010, DBHDS allocated \$39,977,621 in federal funding and \$47,628,306 in state general funds to the CSBs to provide community-based substance abuse treatment services to the residents of their respective catchment areas. CSBs are entities of local government, and provide an array of substance abuse services to approximately 44,000 individuals each year. Of those, about 39 percent are referred by some aspect of the criminal justice system.

DBHDS has not mandated specific screening or assessment instruments, but does promote the use of specific evidence-based tools by providing access to training and through other initiatives. The purpose of conducting a screening is to evaluate the possible existence of a problem for which further assessment is indicated. It does not establish definitive information about diagnosis and possible treatment needs. Screening for substance abuse usually occurs through a brief interview and/or the use of a screening instrument. The Department supports the use of the Substance Abuse Subtle Screening Inventory- Adolescent (SASSI-A2), the Global Appraisal of Individual Needs- Short Screen (GAINS-SS) and the self-administered CRAFFT questions as appropriate screening instruments for adolescents. The Alcohol, Smoking, and Substance Involvement Screening Test (ASSIST) is the recommended Perinatal Screening Instrument. The Alcohol Use Disorder Identification Tool (AUDIT) and the Drug Abuse Screening Instrument (DAST-A) are appropriate adult screening instruments. After screening, if it is determined that further assessment is recommended to determine diagnosis and treatment needs, the Addiction Severity Index (ASI) and Comprehensive Drinkers Profile (CDP) are two instruments recommended for assessment. DBHDS encourages CSBs to utilize the American Society of Addiction Medicine Patient Placement Criteria, Second Edition Revised (ASAM-PPC-2R) to determine the appropriate intensity of treatment. The ASAM assists in the standardization of placement and duration of treatment for persons with substance use disorders.

The Department of Behavioral Health Developmental Services (DBHDS) provides funding to eleven jail programs through general fund appropriations (\$1,253,626) and three jail programs with federal block grant funds (\$391,792)<sup>1</sup> to offer substance abuse treatment services. The treatment services are intended to insure connection to community services upon release from jail, and increase compliance with community based treatment plans.

Through memoranda of agreement, the Department of Corrections (DOC) partners with CSBs to provide substance use treatment services for persons transitioning back into the community or under community supervision with a local probation and parole office. CSBs also partner with adult, juvenile and family drug treatment court programs to provide treatment services, including screening, assessment, and treatment.

DBHDS has partnered with the Commission on Virginia Alcohol Safety Action Programs (VASAP) to provide training to VASAP providers on the CDP to address repeat offenders and

---

<sup>1</sup> These amounts are included in the federal and general fund totals provided in the first paragraph.

hard core drinking drivers. Many local ASAP programs also use CSBs as their major treatment provider.

DBHDS is represented on the Virginia Prisoner and Juvenile Offender Re-Entry Council, and has also included in its strategic planning initiative (Creating Opportunities: A Plan for Advancing Community Focused Services in Virginia, June 25, 2010) an implementation focus area targeting the provision of substance abuse treatment services to offenders in jails and returning to the community



---

## 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.

**§ 19.2-299. 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.