

EXECUTIVE SECRETARY
KARL R. HADE

**ASSISTANT EXECUTIVE SECRETARY &
LEGAL COUNSEL**

EDWARD M. MACON

COURT IMPROVEMENT PROGRAM
SANDRA L. KARISON, DIRECTOR

EDUCATIONAL SERVICES
CAROLINE E. KIRKPATRICK, DIRECTOR

FISCAL SERVICES
BARRY M. WENZIG, DIRECTOR

HUMAN RESOURCES
RENÉE FLEMING MILLS, DIRECTOR

SUPREME COURT OF VIRGINIA



OFFICE OF THE EXECUTIVE SECRETARY
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219-2334
(804) 786-6455

JUDICIAL INFORMATION TECHNOLOGY
MICHAEL J. RIGGS, SR., DIRECTOR

JUDICIAL SERVICES
PAUL F. DELOSH, DIRECTOR

LEGAL RESEARCH
STEVEN L. DALLE MURA, DIRECTOR

LEGISLATIVE & PUBLIC RELATIONS
ALISA W. PADDEN, DIRECTOR

MAGISTRATE SERVICES
JONATHAN E. GREEN, DIRECTOR

November 22, 2022

The General Assembly of Virginia
900 East Main Street
The Pocahontas Building
Richmond, VA 23219

Dear Senators and Delegates:

The Virginia Behavioral Health Docket Act (Virginia Code 18.2-254.3) directs the Office of the Executive Secretary of the Supreme Court of Virginia, with the assistance of the state behavioral health docket advisory committee, to develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local behavioral health dockets established in accordance with the Rules of Supreme Court of Virginia. Please find attached the current annual report.

If you have any questions regarding this report, please do not hesitate to contact me.

With best wishes, I am

Very truly yours,

Handwritten signature of Karl R. Hade in black ink.

Karl R. Hade

KRH:atp

Enclosure

cc: Division of Legislative Services

2022 Virginia Behavioral Health Dockets Annual Report

**Office of the Executive Secretary
Supreme Court of Virginia**

PREFACE

Virginia Code §18.2-254.3 (Appendix A) requires the Office of the Executive Secretary of the Supreme Court of Virginia (OES), with the assistance of the state behavioral health docket advisory committee, [to] develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all behavioral health dockets. The Act further directs the OES to submit an annual report of these evaluations to the General Assembly by December 1 of each year. This report reflects fiscal year 2022 data.¹

¹ Va. Code §18.2-254.2 directs OES to develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets established in accordance with the Rule of Supreme Court of Virginia. The following behavioral health docket report also satisfies a component of the requirement.

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BEHAVIORAL HEALTH DOCKETS

Background

Behavioral Health dockets are modeled after drug treatment court dockets and were developed in response to the overrepresentation of individuals with behavioral health disorders in the criminal justice system. Such programs aim to divert eligible defendants with diagnosed mental health disorders into judicially supervised, community-based treatment, designed and implemented by a team of court staff and mental health professionals. These dockets are distinguished by several unique elements: a problem-solving focus, team approach to decision making, integration of social services, judicial monitoring of the treatment process, direct interaction between defendants and the judge, community outreach, and a proactive role for the judge. Through voluntary admission, eligible defendants are invited to participate in the Behavioral Health dockets following a specialized screening and assessment. For those who agree to the terms and conditions of community-based supervision, a team of docket and treatment professionals work together to develop service plans and supervise participants. Preliminary research, although still very limited, demonstrates that Behavioral Health docket participants tend to have lower rates of criminal activity and increased linkages to treatment services when compared to defendants with mental illnesses who go through the traditional court system. Together, these resources, coupled with community supervision, lower the likelihood of criminal activity among docket participants when compared to those who go through the traditional court system (Steadman, 2005; Thomas, Osher, & Tomasini-Joshi, 2008; VADBHDS, 2016).

Behavioral health dockets integrate treatment services with justice system case processing to promote public safety while protecting participants' due process rights. The dockets help to slow the "revolving door" of criminal justice involvement while addressing the underlying problems that contribute to criminal behavior and seek to improve court outcomes for victims, litigants, and our communities. Behavioral health dockets offer substance use and mental health treatment to justice-involved offenders as an alternative to traditional case processing. They also often include alternatives to incarceration, case dismissal, reduction in charges, and reduction in supervision.

Mental illnesses are common affecting millions of people each year. Over 1,200,000 adults in Virginia have a mental health condition.² One (1) American dies by suicide every 12 minutes. In Virginia, the 2019 rate of suicide for the general public was 13.6 deaths per 100,000.³

According to the National Institute on Mental Health at the National Institutes of Health substance use disorders are a mental disorder that affects a person's brain and behavior, leading to a person's inability to control their use of substances such as legal or illegal drugs, alcohol, or medications. But being a brain disease does not exclude substance use disorder from being a mental health condition, as well. These terms are synonymous, describing the way excessive drug use can affect and change the brain, and affect both thinking and behavior. Nearly a quarter million adults in Virginia live with co-occurring mental health and substance use disorders.⁴ About 70 - 80% of participants in a

² NAMI Virginia, available at <https://namivirginia.org/data-on-mental-health/>

³ <https://www.vdh.virginia.gov/content/uploads/sites/18/2021/06/Annual-Report-2019-FINAL.pdf>

⁴ SAMHSA National Survey on Drug Use and Health (NSDUH), available at

Veterans Treatment, Behavioral Health or Drug Treatment Court Docket have a co-occurring disorder. People experiencing mental illness and substance use disorders are disproportionately likely to encounter law enforcement officers, which does not result in increased access to appropriate care but rather results in their over-representation within the criminal justice system. Behavioral health dockets incorporate evidence-based strategies in a public health approach to accommodate offenders with specific problems and needs that are not or could not be adequately addressed in the traditional court setting resulting in increased public safety by integrating the criminal justice system with treatment systems and community resources.

Understanding the Behavioral Health docket means recognizing there are multiple options available for improving the court's response to defendants with behavioral health issues. In Virginia, these specialized dockets are designed to fulfill a local need utilizing local resources. A circuit, general district, or juvenile and domestic relations district court that intends to establish one or more behavioral health dockets must petition the Supreme Court of Virginia for authorization prior to initiating the operation of the docket.

Both the Behavioral Health Docket application and standards incorporate the Essential Elements of a Mental Health Court⁵, which include the following components:

1. Planning and Administration
2. Target Population
3. Timely Participant Identification and Linkage to Services
4. Terms of Participation
5. Informed Choice
6. Treatment Supports and Services
7. Confidentiality
8. Docket Team
9. Monitoring Adherence to Docket Requirements
10. Sustainability

In November 2017, the Council of State Governments (CSG) Justice Center convened the “50-State Summit on Public Safety” in Washington, D.C. to help teams from each state learn more about criminal justice system trends and the latest best practices in the field. Each state team included

<https://www.samhsa.gov/data/data-we-collect/nsduh-national-survey-drug-use-and-health>.

⁵ Essential Elements of Mental Health Courts were developed as part of a technical assistance program provided by the Council of State Governments (CSG) Justice Center through the Bureau of Justice Assistance (BJA) Mental Health Courts Program. The BJA Mental Health Courts Program, which was authorized by America's Law Enforcement and Mental Health Project (Public Law 106-515), provided grants to support the development of mental health courts in 23 jurisdictions in FY 2002 and 14 jurisdictions in FY 2003. The Justice Center currently provides technical assistance to the grantees of BJA's Justice and Mental Health Collaboration Program, the successor to the Mental Health Courts Program.

representatives from law enforcement, behavioral health, corrections and the legislature. Virginia was represented by Senator Creigh Deeds (D-25th), Senator Charles Carrico (R-40th), Virginia Department of Corrections Director, Harold Clarke, and Richmond Commonwealth’s Attorney, Michael Herring. The Virginia contingent expressed an interest in using a Justice Reinvestment approach. The Center for Behavioral Health and Justice operated by the Department of Behavioral Health and Developmental Services (DBHDS), was created in 2016 by Executive Order. The Center for Behavioral Health and Justice was a center of excellence in the Commonwealth of Virginia designed to address the evolving changes that exist in coordinating and collaborating across the behavioral health and criminal justice systems.⁶ The Executive Order establishing the Center for Behavioral Health and Justice was not re-authorized. As a result, oversight of the Center’s work transitioned to DBHDS’ Office of Forensic Services.

Behavioral Health Dockets in Virginia

Effective January 16, 2017, Supreme Court Rule 1:25, Specialty Dockets, set forth the type of court proceedings appropriate for grouping in a specialty docket as “those which (i) require more than simply the adjudication of discrete legal issues, (ii) present a common dynamic underlying the legally cognizable behavior, (iii) require the coordination of services and treatment to address that underlying dynamic, and (iv) focus primarily on the remediation of the defendant in these dockets. The treatment, the services, and the disposition options are those which are otherwise available under law.”

The Virginia General Assembly enacted the Behavioral Health Docket Act in 2020. (see Appendix A). Administrative oversight of the implementation of behavioral health dockets lies with the Supreme Court of Virginia. Oversight responsibilities include the following: “(i) providing oversight of the distribution of funds for behavioral health dockets; (ii) providing technical assistance to behavioral health dockets; (iii) providing training to judges who preside over behavioral health dockets; (iv) providing training to the providers of administrative, case management, and treatment services to behavioral health dockets; and (v) monitoring the completion of evaluations of the effectiveness and efficiency of behavioral health dockets in the Commonwealth” (Va. Code § 18.2-254.3(E)).

The Behavioral Health Docket Advisory Committee (see Appendix B) established by Chief Justice Donald W. Lemons, reviews all applications requesting authorization according to the approved Virginia Behavioral Health Docket Standards and National Best Practice Standards for Adult Drug Courts. The Behavioral Health Docket Advisory Committee developed an application process (see Appendix C) and Standards for Behavioral Health Dockets in Virginia (see Appendix D) for evaluating requests from any locality seeking permission to establish a behavioral health docket. All applications are required to be submitted to OES.

Behavioral Health Docket Standards

Planning and administration of a behavioral health docket should reflect extensive collaboration among practitioners from each system, as well as community members. Virginia’s Standards for Behavioral Health Dockets provide guidance that helps to ensure the highest levels of access, fairness,

⁶ <https://dbhds.virginia.gov/behavioral-health/center-for-behavioral-health-and-justice>

timeliness, accountability, and the use of evidence-based practices for criminal justice and behavioral health care providers.

Virginia's Standards for Behavioral Health Dockets have been developed to:

- Aid with planning and implementation of new Behavioral Health dockets;
- Inform training efforts for key team members and other collaborators;
- Establish a method to ensure accountability;
- Provide a structure that ensures continuity for dockets navigating transitions in judicial or administrative leadership;
- Demonstrate dockets' effectiveness at meeting their stated goals;
- Provide dockets with a framework for internal monitoring (e.g., performance measures); and
- Ensure that dockets adhere to a model based on research and evidence-based best practices.

Virginia's Standards for Behavioral Health Dockets appear in Appendix D. The thirteen standards distill the best of research and practice into operating standards that foster high-quality programming and accountability for behavioral health dockets.

Behavioral Health Dockets In Operation

This report reviews the basic operations and outcomes of Virginia's behavioral health dockets during FY 2022. The analyses provided in this report are based on data for participants who were enrolled in a behavioral health docket program at any point from July 1, 2021 – June 30, 2022. The current annual report includes measures of program participants such as demographics, program entry offenses, length of program participation, and program completion. All data provided in this report are based on data extracted from the Specialty Docket Database developed and maintained by OES.

Behavioral health dockets employ evidence-based practices to diagnose mental illness and provide appropriate treatment, enhance public safety, reduce recidivism, ensure offender accountability, and promote offender self-management of their illness in the community.

Fifteen behavioral health dockets were operating in Virginia during FY 2022. Of the 15 dockets, 12 operate in general district courts. Two operate in circuit courts, while one docket operates in a juvenile and domestic relations district court. See Figure 1 and Table 1.

Figure 1. Approved Behavioral Health Dockets in Virginia, FY 2022

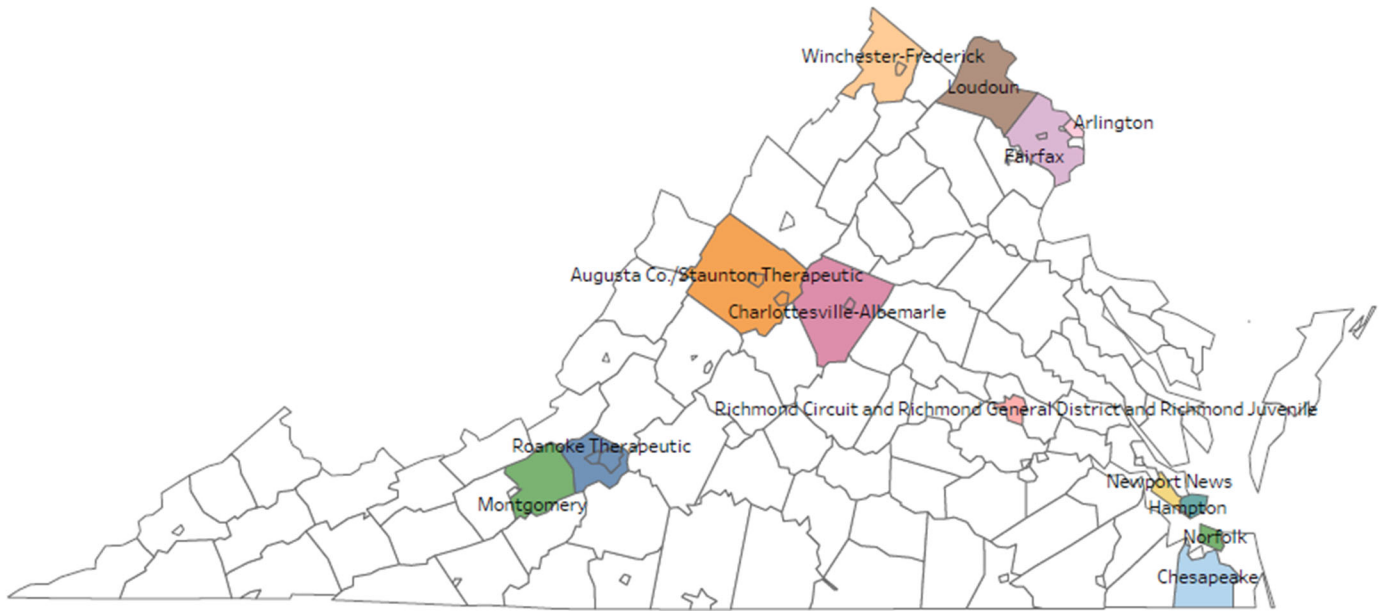


Table 1. Approved Behavioral Health Dockets in Virginia, FY 2022

Behavioral Health Dockets		
Arlington	Hampton	Richmond City (Circuit)
Augusta/Staunton	Loudoun	Richmond City (General District)
Charlottesville/Albemarle	Montgomery	Richmond City (Juvenile)
Chesapeake	Newport News	Roanoke
Fairfax	Norfolk	Winchester/Frederick

Summary of Behavioral Health Docket Activity

Referral and Admissions: There were 334 referrals to behavioral health docket in FY 2022. Of these referrals, 185 were accepted resulting in a 55.4% acceptance rate.

Gender: The majority of the 316 active behavioral health docket participants in FY 2022 were male (201 or 63.6%); 114 (36.1%) were female. One participant identified as non-binary (see Table 2).

Race: The majority of participants self-identified as White (153 or 48.4%) or Black/African-American (146 or 46.2%). Less than two percent self-identified as Asian, and nearly 4% self-identified as Other race.

Age: The majority of active participants were between 18-29 years old and 30-39 years old (36.4% and 33.2% respectively). The median age was 33 years.

Marital Status: The majority of active participants (173 or 54.7%) reported being single at the time of referral. The next most frequent known marital status was divorced (27 participants, 8.5%) (see Table 3).

Employment: The majority of active participants (114 or 36.1%) reported being unemployed at the time of referral followed by 46 participants (14.6%) who report being disabled as the second largest known category.

Education: Seventy-two participants (22.8%) reported less than a high school diploma or equivalency. The second largest known category was some college education (68, or 21.5%), followed by a high school education or equivalent (66, or 20.9%).

Table 2. Demographics of Active Behavioral Health Docket Participants, FY 2022

Gender	#	%
Male	201	63.6
Female	114	36.1
Non-Binary	1	0.3
Race		
White	153	48.4
Black/African American	146	46.2
Asian/Pacific Islander	4	1.3
Other	12	3.8
Unknown	1	0.3
Ethnicity		
Hispanic	14	4.4
Non-Hispanic	300	94.9
Unknown	2	0.6
Age at Start of Program		
< 18 years-old	5	1.6
18-29 years-old	115	36.4
30-39 years-old	105	33.2
40-49 years-old	46	14.6
50-59 years-old	29	9.2
60 years and older	14	4.4
Unknown	2	0.6
Total	316	100.0

Note: Data reflect reported demographics at the time of referral.

Table 3. Social Characteristics of Active Behavioral Health Docket Participants, FY 2022

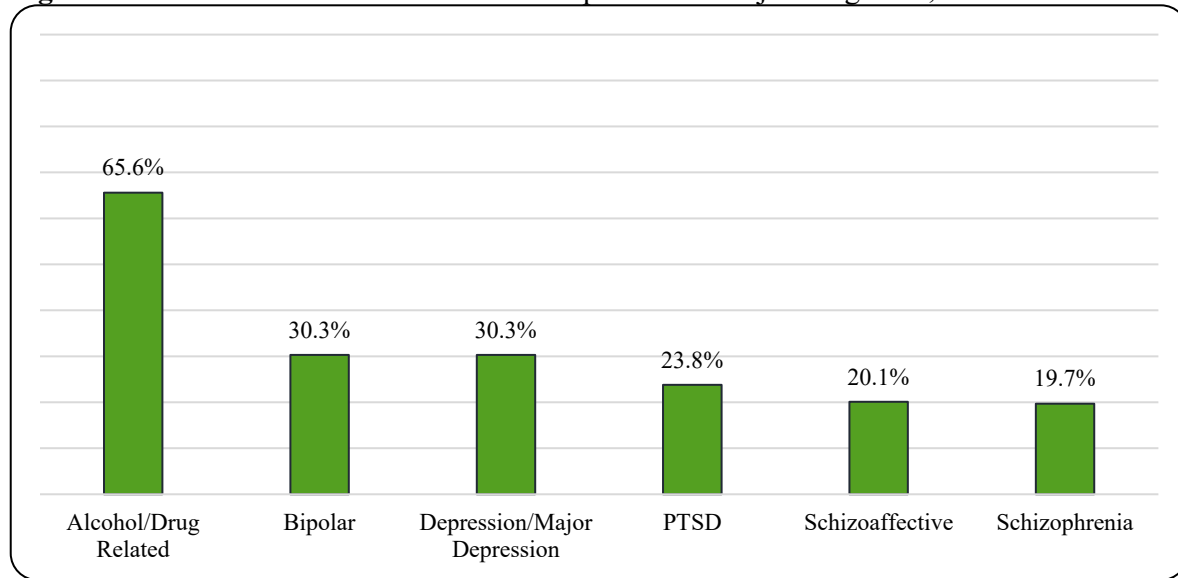
Marital Status	#	%
Single	173	54.7
Divorced	27	8.5
Married	24	7.6
Separated	8	2.5
Cohabiting	5	1.6
Widowed	2	0.6
Other	1	0.3
Unknown	76	24.4
Employment		
Unemployed	114	36.1
Disabled	46	14.6
32+ hours/week	34	10.8
Less than 32+ hours/week	24	7.6
Full-Time w/Benefits	21	6.6
Seasonal Employment	6	1.9
Unknown	71	22.5
Education		
Less than High School	72	22.8
Some College	68	21.5
High School/GED	66	20.9
Bachelor's Degree	16	5.1
Vocational Training	6	1.9
Associates Degree	4	1.3
Post-Bachelor's	4	1.3
Unknown	80	25.3
Total	316	100.0

Note: Data reflect self-reported characteristics at the time of referral.

Mental and Behavioral Health Diagnosis Information

Common diagnoses included bipolar disorder (74, 30.3%), depression/major depressive disorder (74, 30.3%), and post-traumatic stress disorder (58, or 23.8%). While the most common diagnosis was a disorder related to the use of drugs and/or alcohol (160 participants, 65.6%), it is not a primary diagnosis. (see Figure 2).

Figure 2: Percent of Behavioral Health Participants with Major Diagnoses, FY 2022

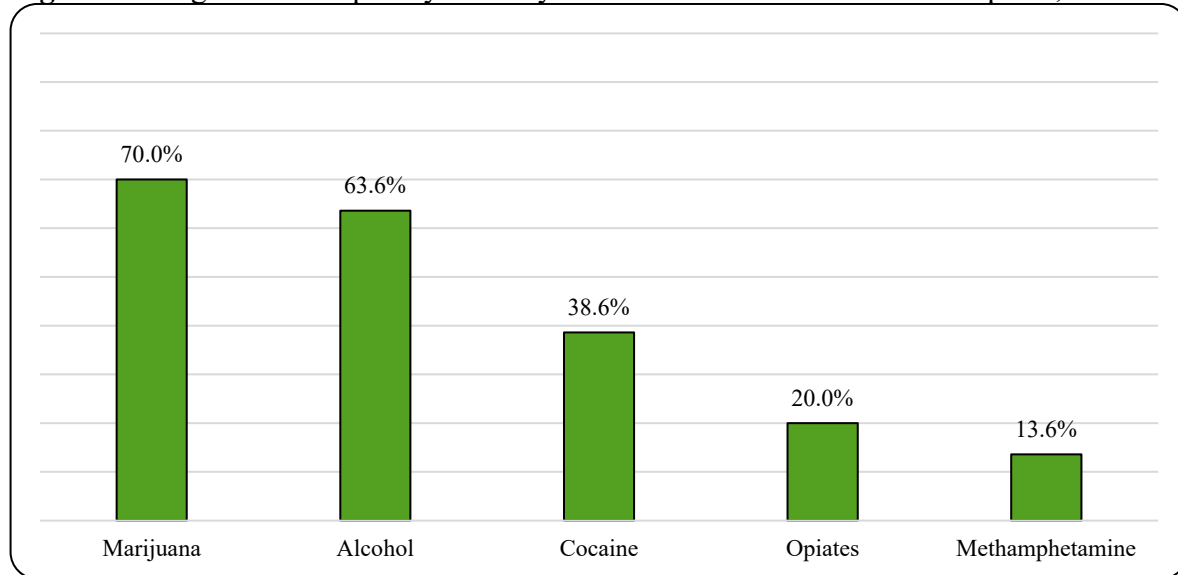


Note. Percentages equal more than 100% because participants may have multiple diagnoses.

Drug History and Drug Screens

Drug History: When referred to a behavioral health docket, participants were asked to disclose previously used drugs. Participants may have used multiple drugs. The most frequently reported drugs (see Figure 3) were marijuana (98 participants, 70.0%), alcohol (89 participants, 63.6%), and cocaine (54 participants, 38.6%).

Figure 3. Drugs Most Frequently Used by Behavioral Health Docket Participants, FY 2022



Note: Figure 3 should be interpreted with caution. Data are based on self-reported drug use. Participants may report using more than one drug or may choose to not disclose previous drug use.

Program Drug Screenings: In behavioral health dockets, 791 drug screens were conducted for the 74 participants for whom data were available. This resulted in an average of 10.7 drug screens per participant. Of the 791 drug screens, 529 (66.9%) were negative (see Table 4).

Table 4. Behavioral Health Docket Drug Screens, FY 2022

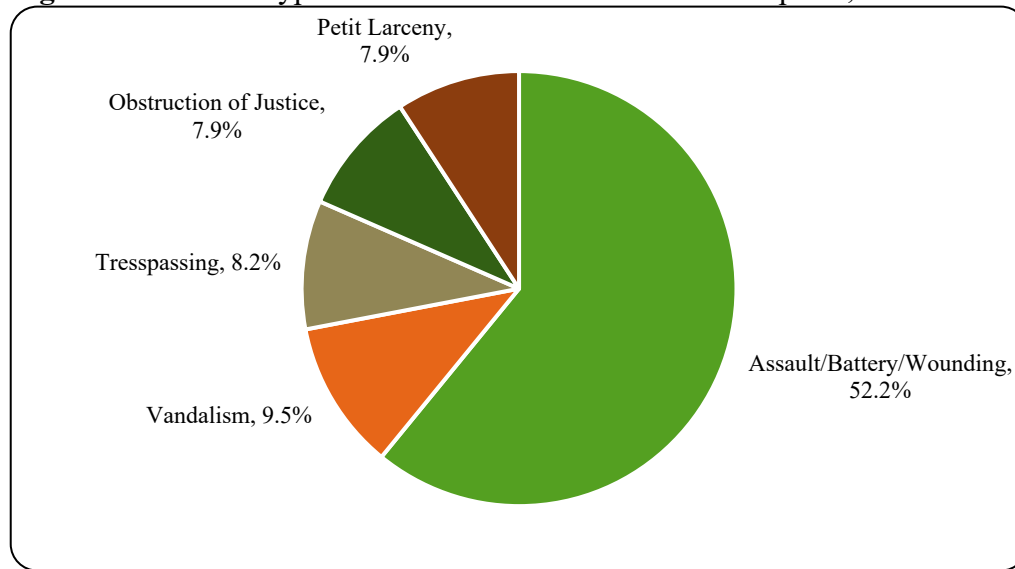
	#	%
Negative	529	66.9
Positive	258	32.6
Administrative Positive*	4	0.5
Total Screens	791	100.0

* An Administrative Positive screen is where a participant fails to appear for screening and is assumed to be positive.

Offenses

Analyses of types of offenses that lead to docket referral for a behavioral health docket show that the most common offense was some form of assault, battery, or wounding (165 participants or 52.2%) (see Figure 4). Other common offenses were vandalism (30 participants, 9.5%) and trespassing (25 participants or 8.2%)

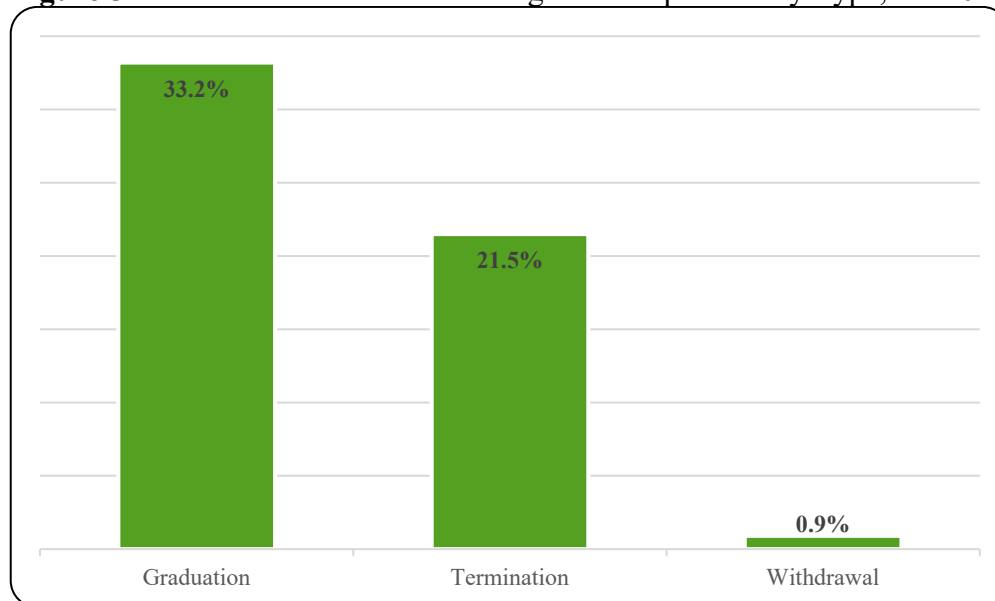
Figure 4. Offense Types: Behavioral Health Docket Participants, FY 2022



Summary of Departures

Graduation and Termination Rates: Among the active behavioral health docket participants, 176 exited the program by graduation, termination, or withdrawal in FY 2022. Of those exiting the program, the graduation rate was 33.2% (105 participants). The termination rate was 21.5% (68 participants). A small number of persons (3 or 0.9%) voluntarily withdrew from the docket (see Figure 5).

Figure 5. Behavioral Health Docket Program Completions by Type, FY 2022



Length of Stay: Length of stay was calculated as the number of days from program entry to departure (graduation, termination, or withdrawal). The mean length of stay for graduates was 372 days compared to 295 days for those who were terminated and 259 days for those who voluntarily withdrew (see Table 5).

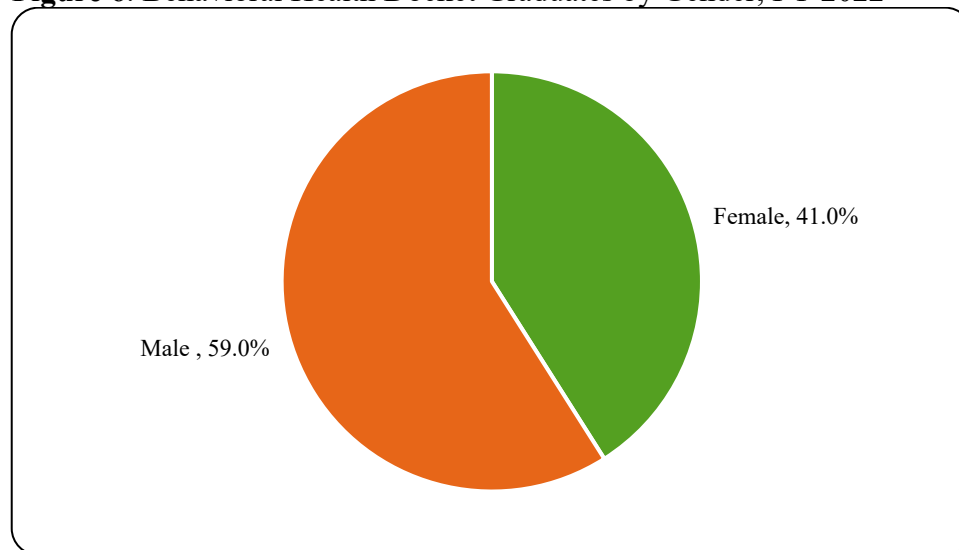
Table 5. Behavioral Health Docket Length of Stay, Departures, FY 2022

Mean Length of Stay (Days)	
Graduates	372
Terminations	295
Withdrawals	259

Departures by Gender

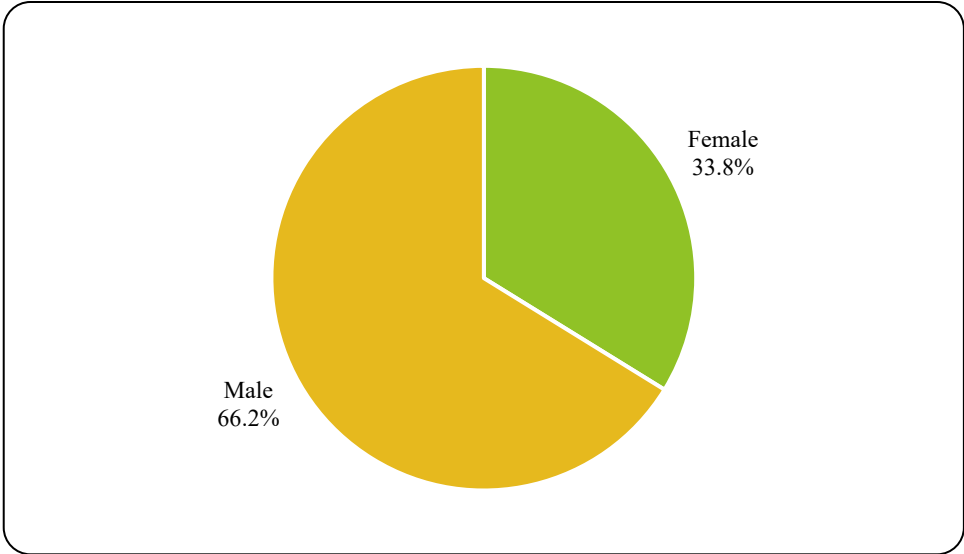
Of the 105 graduates, 43 (41.0%) were female, while 62 (59.0%) were male (see Figure 6).

Figure 6. Behavioral Health Docket Graduates by Gender, FY 2022



Additionally, a total of 71 participants were terminated or withdrew from a program during FY 2022. Males had a slightly higher termination rate (22.4%) than females (20.2%) (see Figure 7).

Figure 7. Behavioral Health Docket Terminations by Gender, FY 2022



REFERENCES

- Rivard, J. C., Ganju, V. K., et al. The dissemination of evidence-based practices by federal and state mental health agencies. In *Dissemination and Implementation of Evidence-Based Psychological Interventions*. Oxford University Press, 2012.
- Steadman, Henry J. *A Guide to Collecting Mental Health Court Outcome Data*. New York: Council of State Governments, 2005. Retrieved on November 1, 2022, from <https://csgjusticecenter.org/publications/a-guide-to-collecting-mental-health-court-outcome-data-2/>
- Thompson, Michael, Fred C. Osher, and Denise Tomasini-Joshi. *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court*. New York, NY: Council of State Governments Justice Center, 2008. Available at: <https://csgjusticecenter.org/publications/improving-responses-to-people-with-mental-illnesses-the-essential-elements-of-a-mental-health-court/>
- Virginia Department of Behavioral Health and Developmental Services. *The Center for Behavioral Health and Justice*. Retrieved on November 9, 2021, from <http://www.dbhds.virginia.gov/behavioral-health/center-for-behavioral-health-and-justice>
- Virginia Department of Behavioral Health and Developmental Services. *The Essential Elements of Mental Health Dockets in Virginia*. Richmond, Virginia, December 2016. Available at: <http://www.dbhds.virginia.gov/library/forensics/ofo%20-%20mental%20health%20docket%20report%20final.pdf>

APPENDICES

Appendix A: § 18.2-254.3. Behavioral Health Docket Act.

A. This section shall be known and may be cited as the "Behavioral Health Docket Act."

B. The General Assembly recognizes the critical need to promote public safety and reduce recidivism by addressing co-occurring behavioral health issues, such as mental illness and substance abuse, related to persons in the criminal justice system. It is the intention of the General Assembly to enhance public safety by facilitating the creation of behavioral health dockets to accomplish this purpose.

C. The goals of behavioral health dockets shall include (i) reducing recidivism; (ii) increasing personal, familial, and societal accountability among offenders through ongoing judicial intervention; (iii) addressing mental illness and substance abuse that contribute to criminal behavior and recidivism; and (iv) promoting effective planning and use of resources within the criminal justice system and community agencies. Behavioral health dockets promote outcomes that will benefit not only the offender but society as well.

D. Behavioral health dockets are specialized criminal court dockets within the existing structure of Virginia's court system that enable the judiciary to manage its workload more efficiently. Under the leadership and regular interaction of presiding judges, and through voluntary offender participation, behavioral health dockets shall address offenders with mental health conditions and drug addictions that contribute to criminal behavior. Behavioral health dockets shall employ evidence-based practices to diagnose behavioral health illness and provide treatment, enhance public safety, reduce recidivism, ensure offender accountability, and promote offender rehabilitation in the community. Local officials shall complete a planning process recognized by the state behavioral health docket advisory committee before establishing a behavioral health docket program.

E. Administrative oversight of implementation of the Behavioral Health Docket Act shall be conducted by the Supreme Court of Virginia. The Supreme Court of Virginia shall be responsible for (i) providing oversight of the distribution of funds for behavioral health dockets; (ii) providing technical assistance to behavioral health dockets; (iii) providing training to judges who preside over behavioral health dockets; (iv) providing training to the providers of administrative, case management, and treatment services to behavioral health dockets; and (v) monitoring the completion of evaluations of the effectiveness and efficiency of behavioral health dockets in the Commonwealth.

F. A state behavioral health docket advisory committee shall be established in the judicial branch. The committee shall be chaired by the Chief Justice of the Supreme Court of Virginia, who shall appoint a vice-chair to act in his absence. The membership of the committee shall include a behavioral health circuit court judge, a behavioral health general district court judge, a behavioral health juvenile and domestic relations district court judge, the Executive Secretary of the Supreme Court or his designee, the Governor or his designee, and a representative from each of the following entities: the Commonwealth's Attorneys' Services Council, the Virginia Court Clerks' Association, the Virginia Indigent Defense Commission, the Department of Behavioral Health and Developmental Services, the Virginia Organization of Consumers

Asserting Leadership, a community services board or behavioral health authority, and a local community-based probation and pretrial services agency.

G. Each jurisdiction or combination of jurisdictions that intend to establish a behavioral health docket or continue the operation of an existing behavioral health docket shall establish a local behavioral health docket advisory committee. Jurisdictions that establish separate adult and juvenile behavioral health dockets may establish an advisory committee for each such docket. Each local behavioral health docket advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the behavioral health dockets that serve the jurisdiction or combination of jurisdictions. Advisory committee membership may include, but shall not be limited to, the following persons or their designees: (i) the behavioral health docket judge; (ii) the attorney for the Commonwealth or, where applicable, the city or county attorney who has responsibility for the prosecution of misdemeanor offenses; (iii) the public defender or a member of the local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the behavioral health docket is located; (v) a representative of the Virginia Department of Corrections or the Department of Juvenile Justice, or both, from the local office that serves the jurisdiction or combination of jurisdictions; (vi) a representative of a local community-based probation and pretrial services agency; (vii) a local law-enforcement officer; (viii) a representative of the Department of Behavioral Health and Developmental Services or a representative of local treatment providers, or both; (ix) a representative of the local community services board or behavioral health authority; (x) the behavioral health docket administrator; (xi) a public health official; (xii) the county administrator or city manager; (xiii) a certified peer recovery specialist; and (xiv) any other persons selected by the local behavioral health docket advisory committee.

H. Each local behavioral health docket advisory committee shall establish criteria for the eligibility and participation of offenders who have been determined to have problems with drug addiction, mental illness, or related issues. The committee shall ensure the use of a comprehensive, valid, and reliable screening instrument to assess whether the individual is a candidate for a behavioral health docket. Once an individual is identified as a candidate appropriate for a behavioral health court docket, a full diagnosis and treatment plan shall be prepared by qualified professionals.

Subject to the provisions of this section, neither the establishment of a behavioral health docket nor anything in this section shall be construed as limiting the discretion of the attorney for the Commonwealth to prosecute any criminal case arising therein that he deems advisable to prosecute, except to the extent that the participating attorney for the Commonwealth agrees to do so.

I. Each local behavioral health docket advisory committee shall establish policies and procedures for the operation of the docket to attain the following goals: (i) effective integration of appropriate treatment services with criminal justice system case processing; (ii) enhanced public safety through intensive offender supervision and treatment; (iii) prompt identification and placement of eligible participants; (iv) efficient access to a continuum of related treatment and rehabilitation services; (v) verified participant abstinence through frequent alcohol and other drug testing and mental health status assessments, where applicable; (vi) prompt response

to participants' noncompliance with program requirements through a coordinated strategy; (vii) ongoing judicial interaction with each behavioral health docket participant; (viii) ongoing monitoring and evaluation of program effectiveness and efficiency; (ix) ongoing interdisciplinary education and training in support of program effectiveness and efficiency; and (x) ongoing collaboration among behavioral health dockets, public agencies, and community-based organizations to enhance program effectiveness and efficiency.

J. If there is cause for concern that a defendant was experiencing a crisis related to a mental health or substance abuse disorder then his case will be referred, if such referral is appropriate, to a behavioral health docket to determine eligibility for participation. Participation by an offender in a behavioral health docket shall be voluntary and made pursuant only to a written agreement entered into by and between the offender and the Commonwealth with the concurrence of the court. If an offender determined to be eligible to participate in a behavioral health docket resides in a locality other than that in which the behavioral health docket is located, or such offender desires to move to a locality other than that in which the behavioral health docket is located, and the court determines it is practicable and appropriate, the supervision of such offender may be transferred to a supervising agency in the new locality. If the receiving agency accepts the transfer, it shall confirm in writing that it can and will comply with all of the conditions of supervision of the behavioral health docket, including the frequency of in-person and other contact with the offender and updates from the offender's treatment providers. If the receiving agency cannot comply with the conditions of supervision, the agency shall deny the transfer in writing and the sending agency shall notify the court. Where supervision is transferred, the sending agency shall be responsible for providing reports on an offender's conduct, treatment, and compliance with the conditions of supervision to the court.

K. An offender may be required to contribute to the cost of the treatment he receives while participating in a behavioral health docket pursuant to guidelines developed by the local behavioral health docket advisory committee.

L. Nothing contained in this section shall confer a right or an expectation of a right to treatment for an offender or be construed as requiring a local behavioral health docket advisory committee to accept for participation every offender.

M. The Office of the Executive Secretary shall, with the assistance of the state behavioral health docket advisory committee, develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all behavioral health dockets. The Executive Secretary shall submit an annual report of these evaluations to the General Assembly by December 1 of each year. The annual report shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. Each local behavioral health docket advisory committee shall submit evaluative reports, as provided by the Behavioral/Mental Health Docket Advisory Committee, to the Office of the Executive Secretary as requested.

2020, c. [1096](#); 2021, Sp. Sess. I, c. [191](#).

**Appendix B: Behavioral Health Docket Advisory Committee
Membership Roster**

Chair:

The Honorable S. Bernard Goodwyn
Chief Justice
Supreme Court of Virginia

Vice-Chairs:

The Honorable Jacqueline F. Ward Talevi
Judge
23rd Judicial District of Virginia
Roanoke County General District Court

The Hon. Philip Hairston
Judge
13th Judicial Circuit of Virginia
Richmond Circuit Court

Members:

Sara Davis, MA
Forensic Operations Manager
Office of Forensic Services

The Hon. Llezelle Agustin Dugger
Clerk
Charlottesville Circuit Court
Virginia Circuit Court Clerks Association

The Hon. Erin Evans-Bedois
Judge
Chesapeake General District Court

Catherine French-Zagurskie
Chief Appellate Counsel
Virginia Indigent Defense Commission

Wendy Goodman
Administrator
Infrastructure Reentry and Programs
Unit

Virginia Department of Corrections
The Hon. Marilyn Goss-Thornton
Judge
Richmond Juvenile & Domestic Relations
District Court

The Hon. Nathan R. Green
Commonwealth's Attorney
Williamsburg, VA

Jennifer MacArthur
Manager
Division of Programs and Services
Adult Justice Programs

J. Martin Marsh
Network Program Director
Virginia Organization of Consumers
Asserting Leadership (VOCAL)

Leah Mills

Deputy Secretary
Office of Health & Human Resources

Heather Zelle, J.D., Ph.D.
Assistant Professor of Research
Department of Public Health Services
Associate Director of Mental Health Policy
Institute of Law, Psychiatry, Public Safety

Staff:

Paul DeLosh
Director
Department of Judicial Services
Office of the Executive Secretary

Anna T. Powers
Specialty Dockets Coordinator
Department of Judicial Services
Office of the Executive Secretary

Auriel Diggs
Specialty Dockets Grants Analyst
Department of Judicial Services
Office of the Executive Secretary

Brandon Felton
Specialty Dockets Administrative Assistant
Department of Judicial Services
Office of the Executive Secretary

Elisa Fulton
Specialty Dockets Training Coordinator
Department of Judicial Services
Office of the Executive Secretary

Marc Leslie
Specialty Dockets Analyst
Department of Judicial Services
Office of the Executive Secretary

Appendix C: Application for Behavioral Health Docket

Application
for
Behavioral Health Docket

Submitted by:

Signature of Judge

Signature of Coordinator

of

Name of Court

Date

APPLICATION GUIDELINES

The Supreme Court of Virginia has established a standardized review process to use in evaluating requests from any locality seeking permission to establish a behavioral health docket. The application should be completed by the local planning committee created to plan the docket. Applications should be submitted to the Supreme Court of Virginia. All application packages should be sent to:

Supreme Court of Virginia
Office of the Executive Secretary
100 North 9th Street
Richmond, Virginia 23219
Email: apowers@vacourts.gov

In order to evaluate the quality, efficiency and fairness of dockets requesting approval to establish a behavioral health docket the following information shall be submitted by the requesting local advisory committee.

Behavioral Health Docket Application

Jurisdiction Name: _____

Court: _____ Circuit _____ District

Problem Solving Docket Model: _____ Veterans _____ Behavioral Health

Supervising Judge:

Name: _____ Telephone: _____

Address: _____ E-mail: _____

Program Coordinator:

Name: _____ Telephone: _____

Address: _____ E-mail: _____

Target Population – (list all that apply):

Proposed Start Date: ____ / ____ / ____

Approved Docket Planning Training:

_____	_____	Veterans Treatment Court Planning Initiative (VTCPI)
Date	Location	
_____	_____	Developing a Mental Health Court: An Interdisciplinary Curriculum (CSG)
Date	Location	
_____	_____	Other: _____
Date	Location	Other: _____

Application Contact Person:

Name: _____

Telephone:

Address: _____

E-mail:

Please submit your policy and procedures manual, all forms and the following information as attachments to this application. If any of the information described in an attachment is included in the docket's policy and procedures manual, please reference its location in the policy and procedures manual on the application form.

Attachment A: Project Abstract and the Ten Essential Elements of Behavioral Health Dockets

This attachment must include the project abstract and how it will implement and comply with the Ten Essential Elements of Behavioral Health Dockets as well as incorporate evidence-based practices into the daily operations of the behavioral health docket.

Attachment B: Statement of the Problem

Attachment C: Docket Goals and Objectives

This attachment must include a description of the behavioral health docket goals and objectives. Each docket goal should include measurable objectives and should reflect the docket's proposed operations.

Attachment D: Description of the Behavioral health docket

This attachment must include a case flow chart outlining a description of the docket's operational and administrative structure to include:

1. Screening and eligibility
2. Structure of the docket
3. Length of stay
4. Graduation requirements
5. Expulsion criteria

This attachment should include a detailed description of the legal eligibility for behavioral health docket participation as well as any other factors taken into consideration when determining eligibility.

Attachment E: Policy and Procedures Manual

This attachment must include a current copy of the behavioral health docket policy and procedures manual. The policy and procedures manual should incorporate the principles of problem-solving courts, the ten (10) essential elements of behavioral health dockets, and

include information related to participant eligibility, the screening and referral process, docket services and requirements, graduation criteria, case management procedures, judicial interaction, team meetings and court session schedule, incentives and sanctions, compliance monitoring, confidentiality policies and termination procedures. It should also include all docket forms, such as the participation agreement, consent for release of confidential information, orientation information, and referral agreements.

Attachment F: Estimated Budget

This attachment must include the estimated behavioral health docket budget including all projected income (user- fees, grants, county general funds) and expenses. All fees must be assessed and collected in compliance with financial management general principles.

Attachment G: Organizational Plan

This attachment must include an organizational chart and a description of the docket's operational and administrative structure to include:

Behavioral Health Docket Staff Requirements (For each staff position include the person's name, agency, address, telephone and fax numbers, and e-mail address.) This attachment must include documentation that the behavioral health docket coordinator, each case manager and any volunteer who performs one or more job functions for the docket is appropriately trained and credentialed. Use the Justice for Vets staff core competencies as a guide to design your staff position.

Treatment Provider Information (Include name, agency, address, telephone and fax numbers, and e-mail address for each treatment agency providing services to participants.)

Referring Courts/Dockets (names of other courts referring or transferring cases to the behavioral health docket)

Monitoring and Evaluation

Ongoing Interdisciplinary Education and Training

Ongoing Collaboration/Sustainability

Attachment H: Memoranda of Understanding (MOU)

This attachment must include information on each partner and a copy of their MOU with the docket. If the problem-solving docket is not using contractors, this attachment does not apply.

Attachment I: Certification and Assurances

Attachment J: Applicant Disclosure of Pending Grant Applications

Appendix D: Standards for Behavioral Health Dockets in Virginia

Standard 1: Goals. The goals of behavioral health dockets shall include (i) reducing recidivism; (ii) increasing personal, familial, and societal accountability among offenders through ongoing judicial intervention; (iii) addressing mental illness and substance abuse that contribute to criminal behavior and recidivism; and (iv) promoting effective planning and use of resources within the criminal justice system and community agencies. Behavioral health dockets promote outcomes that will benefit not only the offender but society as well.

Standard 2: Administration. A circuit or district court which intends to establish a behavioral health docket must petition the Supreme Court of Virginia for authorization before beginning operation of a specialty docket or, in the instance of an existing specialty docket, continuing its operation. A petitioning court must demonstrate sufficient local support for the establishment of this specialty docket, as well as adequate planning for its establishment and continuation. Each docket must have a policy and procedure manual that sets forth its goals and objectives, general administration, organization, personnel, and budget matters. The policies and procedures for the operation of the docket shall attain the goals as listed in §18.2-254.3.I.

Standard 3: Local Behavioral Health Docket Advisory Committee. Each local behavioral health docket advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the behavioral health dockets that serve the jurisdiction or combination of jurisdictions. Membership should include those as stated in §18.2-254.3.G. An offender may be required to contribute to the cost of treatment received while participating in a behavioral health docket pursuant to guidelines developed by the local advisory committee. An inability to pay shall not prohibit participation in the docket.

Standard 4: Docket Team. A behavioral health docket team should include, at a minimum, the judge, a representative from the local Behavioral Health Authority/Community Services Board, and a representative from community corrections. The Commonwealth's Attorney and the Defense Attorney are encouraged, but are not required, to participate as members of the court docket team.

Standard 5: Evidence-Based Practices. The docket should establish and adhere to practices that are evidence-based and outcome-driven and should be able to articulate the research basis for the practices it uses.

Standard 6: Voluntary and Informed Participation. All docket participants should be provided with a clear explanation of the docket process including sanctions and removal proceedings. Participation in the docket must be completely voluntary and made pursuant only to a written agreement entered into by and between the offender and the Commonwealth with concurrence of the court. Participants must have capacity to consent to participation in the docket.

Standard 7: Eligibility Criteria. Criteria regarding eligibility for participation in the docket must be well-defined and written and must address public safety and the locality's treatment capacity. The committee shall ensure the use of a comprehensive, valid, and reliable screening instrument to assess whether the individual is a candidate for a behavioral health docket. The criteria should focus on defendants whose mental illness is related to their current offenses.

Standard 8: Program Structure. A behavioral health docket program should be structured so that participants progress through phases which may include orientation, stabilization, community reintegration, maintenance, successful completion and transition out of the program.

Standard 9: Treatment and Support Services. Behavioral health dockets must provide prompt admission to continuous, comprehensive, evidence-based treatment and rehabilitation services to participants. Once an individual is identified as a candidate appropriate for a behavioral health court docket, a full diagnosis and treatment plan shall be prepared by qualified professionals. All treatment providers used by the docket should be appropriately licensed by the applicable state regulatory authority and trained to deliver the necessary services according to the standards of their profession.

Standard 10: Participant Compliance. Behavioral health dockets should have written procedures for incentives, rewards, sanctions, and therapeutic responses to participant behavior while under court supervision. These procedures must be provided to all team members and the participant at the start of a participant's participation in the program.

Standard 11: Confidentiality. Behavioral health docket programs must protect confidentiality and privacy rights of individuals and proactively inform them about those rights. Information gathered as part of a participant's court-ordered treatment program or services should be safeguarded in the event that the participant is returned to traditional court processing.

Standard 12: Evaluation and Monitoring. Behavioral health docket programs must establish case tracking and data collection practices as required by the Office of the Executive Secretary specialty dockets. At a minimum, data should be collected regarding 1) Characteristics of the Participants, 2) Clinical Outcomes, and 3) Legal Outcomes. All behavioral health docket programs are subject to annual fiscal and program monitoring and compliance review by the Office of the Executive Secretary.

Standard 13: Education. All team members, including the judge, should be knowledgeable about underlying medical or social-science research relevant to the docket. All team members should attend continuing education programs or training opportunities to stay current regarding the legal aspects of a behavioral health docket and the clinical aspects of mental illness and substance abuse.