



JUDICIAL SERVICES DEPARTMENT
SUPREME COURT OF VIRGINIA

ADULT DRUG TREATMENT COURT STANDARDS

SUPREME COURT OF VIRGINIA

Adopted

September 23, 2005

(REVISED 10/07)

PREFACE

During the past fifteen years, a quiet revolution has occurred within the criminal justice system. The first drug court was established in 1989 in Dade County, Florida in response to an epidemic of drug addiction and drug-related crime. Jurists in Dade County realized that the endless cycle of addiction, crime and recidivism had to be broken. Since then, drug courts have taken hold across the United States.

These specialized court dockets are part of an innovative judicial model in which offenders are held accountable for their actions while gaining the tools they need to break the patterns of drug abuse so damaging to their lives as well as the lives of others. The goals of most drug courts are: (1) to reduce drug use and associated criminal behavior, by engaging and retaining substance-abusing offenders in treatment services; (2) to address other offender needs through clinical assessment and effective case management; and (3) to remove certain drug cases from traditional courtrooms. Drug courts provide the most comprehensive and effective method to reduce the criminal conduct of drug court participants. Additional benefits that flow from drug courts include improved public health, increased child support, and increased employment. The results have been overwhelmingly positive. Today, there are more than 1,400 drug courts across the country, including 28 in the Commonwealth of Virginia. More are in the planning stage.

In 2004, the Virginia General Assembly enacted the Drug Treatment Court Act, Virginia Code §18.2-254.1, in recognition of the growing number of drug treatment courts in the Commonwealth. Pursuant to Code §18.2-254.1, the Supreme Court of Virginia is the administrative body with specific responsibility for implementation of the Drug Treatment Court Act. The Act requires the establishment of a state drug treatment court Advisory Committee to evaluate and recommend standards for the planning and implementation of all drug treatment courts in the Commonwealth. The Act also requires the state Advisory Committee to assist in conducting ongoing evaluations of the effectiveness and efficiency of all local drug treatment courts. Reports must be submitted to the General Assembly by December 1 of each year.

Standards were initially drafted by a Standards Committee made up of members of the Virginia Drug Treatment Court Advisory Committee, appointed by the Honorable Leroy Rountree Hassell, Sr., Chief Justice of the Supreme Court of Virginia. Members of the Standards Committee included: The Honorable Catherine C. Hammond, Judge, Henrico Circuit Court, Chair; The Honorable Margaret P. Spencer, Judge, Richmond Circuit Court; The Honorable Clarence N. Jenkins, Judge, Richmond Juvenile and Domestic Relations District Court; The Honorable David

Chapman, Commonwealth's Attorney, Charlottesville; Ms. Debra Gardner, Executive Director, VASAP; and Ms. Patty L. Gilbertson, President, Virginia Drug Court Association.

The state Advisory Committee, chaired by the Chief Justice, considered draft standards at its meetings in January, April and September 2005. On September 23, 2005 the Advisory Committee voted to recommend the following standards for adult drug treatment courts.

Differences presented by the important needs and characteristics of juvenile drug treatment courts and family courts are currently under examination by a subcommittee of the Standards Committee. That subcommittee is chaired by Judge Jenkins.

On September 23, 2005 the Advisory Committee also voted to recommend a written application for use by any new adult drug treatment court seeking permission to operate pursuant to Virginia Code §18.2-254.1 (O). Both the standards and the application for a new adult drug treatment court reflect the benchmarks outlined in *Defining Drug Courts: The Key Components* published by the U.S. Department of Justice, Office of Justice Programs. They have been modified for use within the Commonwealth of Virginia.

There are and will continue to be differences among individual drug treatment court programs based upon the unique needs and operational environments of the local jurisdictions and the target populations to be served. However, there is also a need for overall uniformity as to basic program components and principles. Therefore, this document is an attempt to outline those fundamental standards and practices to which all adult drug treatment courts in the Commonwealth of Virginia should subscribe.

ADULT DRUG TREATMENT COURT STANDARDS

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PURPOSE

These standards are recommended to provide a general framework of common principles, policies and practices for the approval of new adult drug treatment courts in the Commonwealth of Virginia. They present a single orientation from which the judicial branch, including judges and all court personnel, can work with prosecutors, the defense bar, corrections officials, local government, law enforcement, and public and private treatment providers to address problems of substance abuse which pervade the court system's criminal caseload. Each standard includes practices or recommended steps, consistent with public safety, for courts to take in responding effectively to the toxic mix of substance abuse and crime. The steps are stated broadly in order to leave room for each drug treatment court to meet local needs. This structure of standards and practices will:

- Minimize duplication of efforts and ensure greater coordination among all court supervised drug treatment programs throughout the Commonwealth;
- Maximize coordination and sharing of scarce treatment resources;
- Strengthen efforts to obtain federal funding; and
- Facilitate development of coordinated long-range plans for financing drug treatment court operations.

In addition to the standards and practices set forth in this document, localities seeking to establish a drug treatment court must meet all requirements set forth in Va. Code §18.2-254.1. The two significant statutory requirements are: (1) local officials must form local drug treatment court advisory committees composed of the persons specified in §18.2-254.1.G and set forth the means by which the local committees will ensure quality, efficiency and fairness in the planning, implementation, and operation of the program, and (2) local advisory committees must establish criteria for the eligibility and participation of offenders in the programs, including screening for violent offenders, as required in §18.2-254.1.H., and the amount of contributions required of offenders/participants to pay for substance abuse treatment services. An application for new adult drug treatment courts is available from the Office of Executive Secretary. It includes all standards and statutory requirements. Assistance in understanding these criteria is available from the Office of Executive Secretary.

STANDARD I

Drug treatment courts depend upon a comprehensive and inclusive planning process.

PRACTICE

- 1.1 The drug treatment court has demonstrated participation in a planning process to ensure a coordinated, systemic and multidisciplinary approach. New drug courts are encouraged to participate in the planning process available through the U.S. Department of Justice.
 - 1.2 The planning group includes the judge, court administrator, clerk, prosecutor, public defender or defense attorney, and representatives from the local government, the local community services board or other clinical services provider, law enforcement, jails, probation services, and any other organization which has an interest in the success of the program.
 - 1.2 The planning group has a written work plan addressing the program's needs for budget and resources, operations, information management, staffing, community-relations, and ongoing evaluation. The work plan has specific descriptions of roles and responsibilities of each program component. For example, eligibility criteria, screening, and assessment procedures are established.
 - 1.3 Management information systems are developed for court information and treatment information.
 - 1.4 Graduated responses to the participant's compliance and noncompliance are defined.
 - 1.5 Treatment requirements and expectations are understood and agreed upon by the planning group.
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STANDARD II

Drug treatment courts integrate substance abuse treatment services with adjudication of the case(s) before the court.

PRACTICE

- 2.1 The drug treatment court has a program description defining the court's mission, goals, eligibility criteria, operating procedures, and performance measures, that have been collaboratively developed, reviewed, and agreed upon by the planning team.
- 2.2 Abstinence and law-abiding behavior are goals, with specific and measurable criteria that mark progress. Criteria may include compliance with local program requirements, participation in treatment, employment, educational achievement, family reunification, restitution to the victim or to the community, and declining incidence of alcohol and/or other drug use, with eventual long-term recovery.
- 2.3 The court, supervision, and treatment providers maintain ongoing communication, including frequent exchanges of timely and accurate information about the individual participant's overall performance.
- 2.4 The judge plays an active role in the team process, frequently reviewing the participant's behavior and incidence of compliance with treatment options.
- 2.5 Interdisciplinary education is provided for every person involved in drug treatment court operations, in order to develop a shared understanding of the values, goals, and operating procedures of both the treatment and justice system components.
- 2.6 Mechanisms for sharing decision making and resolving conflicts among drug treatment court team members, such as multidisciplinary committees, are established, emphasizing professional integrity.

STANDARD III

Drug treatment courts have published eligibility criteria that have been collaboratively developed, reviewed, and agreed upon by members of the drug treatment court team.

PRACTICE

- 3.1 Persons with a prior conviction or adjudication of not innocent for a violent offense (as defined in Va. Code §17.1-805 or §19.2-297.1) within ten years are not eligible to participate.

- 3.2 Participation in a drug treatment court is voluntary and requires a written agreement among the defendant, the Commonwealth and the judge.
- 3.3 Risk assessment factors that are crucial in determining a defendant's suitability for the drug treatment court, such as family and community ties, mental health status, employment status, educational status and prior criminal history are weighed by the drug treatment court judge on a case-by-case basis.

STANDARD IV

Drug treatment courts incorporate a non-adversarial approach in which the judge, the Commonwealth's Attorney and the defense attorney promote public safety while protecting the rights of participants.

PRACTICE

- 4.1 Commonwealth's Attorneys and Public Defenders or defense counsel participate in the design of the drug treatment court, including criteria for screening, eligibility, and policies and procedures, to safeguard due process rights and make sure public safety needs are served.
- 4.2 For consistency and stability in the early stages of drug treatment court operations, the judge, prosecutor, and defense counsel are assigned to the drug treatment court for a sufficient period of time to build a sense of teamwork and to reinforce a non-adversarial atmosphere.
- 4.3 Each drug treatment court has a written agreement setting forth the terms of collaboration among the Commonwealth's Attorney, the Public Defender or defense counsel, the clinical treatment provider, the Judge, and any other public agency.

STANDARD V

Drug treatment courts emphasize early identification and placement of eligible participants.

PRACTICE

- 5.1 Eligibility screening is based on established written criteria pursuant to Va. Code § 18.2-254.1. Criminal justice officials or others (e.g., pretrial services, probation) are designated to screen cases and identify potential drug treatment court participants. Certified or licensed addictions/mental health professionals provide additional screening for substance use disorders and suitability for treatment.
- 5.2 Once accepted for admission, the defendant is enrolled immediately in substance abuse treatment services and placed under supervision to monitor compliance.
- 5.3 An approved consent form is completed, to provide communication regarding participation and progress in treatment and compliance with 42 CFR, Part 2 (regulations governing confidentiality of substance abuse treatment records) applicable state statutes, and HIPAA regulations.

STANDARD VI

Drug treatment courts provide access to a comprehensive continuum of substance abuse treatment and rehabilitation services.

PRACTICE

- 6.1 Participants are initially screened and thereafter periodically assessed by both court and treatment personnel to ensure that treatment services and individuals are suitably matched.
- 6.2 All substance abuse and mental health treatment services are provided by programs licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services pursuant to Va. Code § 37.1-179, or persons licensed by the Virginia Department of Health Professions.
- 6.3 Each participant contributes to the cost of the substance abuse treatment he/she receives while participating in the drug treatment court.
- 6.4 Treatment services are comprehensive.

STANDARD VII

Abstinence is monitored by frequent alcohol and other drug testing.

PRACTICE

- 7.1 Drug treatment courts have written policies and procedures for the frequency of drug screening, sample collection, sample analysis, and result reporting.
- 7.2 The testing policies and procedures include a coordinated strategy for responding to noncompliance, including prompt responses to positive tests, missed tests, and fraudulent tests.
- 7.3 The testing policies and procedures address elements that contribute to the reliability and validity of a urinalysis testing process. The scope of testing is sufficiently broad to detect the participant's primary drug of choice as well as other potential drugs of abuse, including alcohol.
- 7.4 Each drug treatment court program has breathalyzer capability.
- 7.5 Test results are available and communicated to the court and the participant within a brief period, recognizing that the drug treatment court functions best when it can respond immediately to noncompliance.

STANDARD VIII

A coordinated strategy governs responses from the drug treatment court to each participant's performance and progress.

PRACTICE

- 8.1 A participant's progress through the drug treatment court experience is measured by his or her compliance with the treatment and supervision regimen.
- 8.2 Treatment providers, the judge, supervision staff and other program staff maintain frequent, regular communication to provide timely reporting of progress and noncompliance and to enable the court to respond immediately. Procedures for reporting noncompliance are clearly defined in the drug court's operating documents.

- 8.3 Responses to compliance and noncompliance (including criteria for expulsion) are explained orally and provided in writing to drug treatment court participants during their orientation. Periodic reminders are given throughout the treatment process.
- 8.4 Coordinated responses for compliance or noncompliance are graduated and consistent with the infraction or accomplishment.

STANDARD IX

Ongoing judicial interaction with each participant in the drug treatment court is essential.

PRACTICE

- 9.1 Regular status hearings are used to monitor participant performance:
- a. *Frequent status hearings during the initial phases of each participant's program establish and reinforce the drug treatment court's policies and ensure effective supervision of each drug treatment court participant. Frequent hearings also give the participant a sense of how he or she is doing in relation to others.*
 - b. *Having a significant number of drug treatment court participants appear at a single session gives the judge the opportunity to educate both the offender at the bench and those waiting as to the benefits of program compliance and consequences for noncompliance.*
- 9.2 The court imposes appropriate incentives and sanctions to match the participant's treatment progress.
- 9.3 Payment of fees, fines and/or restitution is part of the participant's treatment. The court supervises such payments and takes into account the participant's financial ability to fulfill these obligations.

STANDARD X

The drug treatment court has results that are measured, evaluated, and communicated to the public.

PRACTICE

10.1 The goals of the drug treatment court program are described concretely and in measurable terms. Minimum goals are:

- a. Reducing drug addiction and drug dependency among offenders;*
- b. Reducing crime*
- c. Improving public safety, including highway safety;*
- d. Reducing recidivism;*
- e. Reducing drug-related court workloads;*
- f. Increasing personal, familial, and societal accountability among offenders; and*
- g. Promoting effective planning and use of resources among the criminal justice system and community agencies.*

10.2 The drug treatment court has an evaluation and monitoring protocol describing measurement of progress in meeting operational and administrative goals, effectiveness of treatment, and outcomes.

10.3 Information systems adhere to written policies consistent with state and federal guidelines that protect against unauthorized disclosure.

10.4 The drug treatment court must use and maintain current data in an information technology system as prescribed by the Office of the Executive Secretary.

STANDARD XI

The drug treatment court requires continuing interdisciplinary education, training and program assessment.

PRACTICE

11.1 Key personnel have attained a specific level of basic education, as defined in staff training requirements and in the written operating procedures. The operating procedures define requirements for the continuing education of each drug treatment court staff member.

- 11.2** All drug treatment court personnel attend continuing education programs. Regional and national drug court training programs provide critical information on innovative developments across the nation. Sessions are most productive when drug treatment court personnel attend as a group.
- 11.3** Continuing education institutionalizes the drug treatment court and moves it beyond its initial identification with the key staff that may have founded the program and nurtured its development.

STANDARD XII

The local advisory committee interacts in a vital and meaningful way with the drug treatment court team.

PRACTICE

- 12.1** Each local advisory committee membership shall include the people identified in 18.2-254.1.G.
- 12.2** The local advisory committee conducts regular meetings attended by drug treatment court staff.
- 12.3** Representatives of the court, community organizations, employers, law enforcement, corrections, prosecution, defense counsel, supervisory agencies, treatment and rehabilitation providers, educators, health and social service agencies, and the faith community have opportunity to contribute to the ongoing improvement of the drug treatment court program.
- 12.4** Staff of the drug treatment court engages in community outreach activities to build partnerships that will improve outcomes.