Overview of Virginia Drug Treatment Courts

David Reynolds, Fiscal Analyst
House Appropriations Committee Retreat
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Virginia Drug Treatment Court History

• 1995: First drug treatment court established in 23rd Judicial Circuit (Roanoke area)
  • A total of 19 drug treatment courts were established between 1995 and 2003 using local funding and federal grants
  • No state funding was provided to drug treatment courts at this time

• 2004: General Assembly passed Drug Treatment Court Act
  • Placed oversight responsibilities with Supreme Court, as well as authority to distribute state funding
  • Established Drug Treatment Court Advisory Committee with authority to approve new drug treatment courts
  • Set requirements for jurisdictions seeking to establish drug treatment courts, as well as their authorities and responsibilities
  • Between 2004 and 2011, an additional 7 drug treatment courts established, bringing the total established to 26
  • $2.9 million in state funding provided to 14 of the 26 drug treatment courts according to policy established by Drug Treatment Court Advisory Committee

• 2012: Appropriation Act Language
  • Allowed for the establishment of drug treatment court programs even if not requesting state funds, or specifically authorized in the Code of Virginia
  • No new state funding for drug treatment courts was added between FY 2012 and FY 2016

• Currently, there are 38 drug treatment courts in Virginia operating or authorized to operate
  • 30 are Adult Drug Treatment Courts operating as circuit court dockets
  • 8 are Juvenile Drug Treatment Courts operating as J&DR court dockets
  • In FY 2016, $2.9 million in state funding was allocated to 14 drug treatment courts in accordance with allocation policy established by Drug Treatment Court Advisory Committee
  • All drug treatment courts receiving state funding were established before the 2004 Drug Treatment Court Act
  • The 2016 General Assembly provided additional funding of $300,000 in FY 2017 and $960,000 in FY 2018
DRUG TREATMENT COURT FUNDING
**Allocation of State Funding for Drug Treatment Courts**

- $2.9 million in state funding is allocated under policy adopted by the Drug Treatment Court Advisory Committee in May 2010.
- To receive funding, programs must meet minimum caseload thresholds, provide a 25% local match, and comply with other Supreme Court requirements.
- Advisory Committee recommended average funding per participant of $5,000 for adult programs and $12,500 for juvenile programs.
  - In FY 2015, range was $1,250 to $4,100 per participant for adult courts.
  - In FY 2015, range was $7,800 to $11,700 per participant for juvenile courts.

### Adult Funding

<table>
<thead>
<tr>
<th># of Active Adult Participants</th>
<th>Maximum GF Grant Award</th>
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</thead>
<tbody>
<tr>
<td>0 to 24</td>
<td>$0</td>
</tr>
<tr>
<td>25 to 30</td>
<td>$165,000</td>
</tr>
<tr>
<td>31 to 41</td>
<td>$205,000</td>
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<tr>
<td>42+</td>
<td>$250,000</td>
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</tbody>
</table>

### Juvenile Funding

<table>
<thead>
<tr>
<th># of Active Juvenile Participants</th>
<th>Maximum GF Grant Award</th>
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</thead>
<tbody>
<tr>
<td>0-9</td>
<td>$0</td>
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<tr>
<td>10+</td>
<td>$165,000</td>
</tr>
</tbody>
</table>
## Drug Treatment Courts State Funding Status, FY 2016

<table>
<thead>
<tr>
<th>Adult, Funded (11 total, $2.3 million GF)</th>
<th>Adult, Not Funded (19 total)</th>
<th>Juvenile, Funded (3 total, $600,000 GF)</th>
<th>Juvenile, Not Funded (5 total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Chesterfield/Colonial Heights</td>
<td>• 30&lt;sup&gt;th&lt;/sup&gt; District (Lee, Scott, Wise)</td>
<td>• Chesterfield/Colonial Heights</td>
<td>• 30&lt;sup&gt;th&lt;/sup&gt; District (Lee, Scott, Wise)</td>
</tr>
<tr>
<td>• Henrico</td>
<td>• Arlington</td>
<td>• Newport News</td>
<td>• Franklin</td>
</tr>
<tr>
<td>• Norfolk</td>
<td>• Bristol</td>
<td>• Rappahannock Regional</td>
<td>• Hanover</td>
</tr>
<tr>
<td>• Rappahannock Regional</td>
<td>• Buchanan, Russell, Tazewell</td>
<td>• Fredericksburg, Caroline, King George, Spotsylvania, Stafford)</td>
<td>• Henrico</td>
</tr>
<tr>
<td>(Fredericksburg, Caroline, King George, Spotsylvania, Stafford)</td>
<td>• Chesapeake</td>
<td>• Lynchburg</td>
<td>• Montgomery</td>
</tr>
<tr>
<td>• Richmond City</td>
<td>• Dickenson</td>
<td>• Montgomery</td>
<td></td>
</tr>
<tr>
<td>• 23&lt;sup&gt;rd&lt;/sup&gt; Circuit (Roanoke City, Roanoke County, Salem)</td>
<td>• Floyd</td>
<td>• Prince George, Hopewell, Surry</td>
<td></td>
</tr>
<tr>
<td>• Charlottesville/Albemarle</td>
<td>• Giles</td>
<td>• Pulaski</td>
<td></td>
</tr>
<tr>
<td>• Newport News</td>
<td>• Halifax</td>
<td>• Smyth</td>
<td></td>
</tr>
<tr>
<td>• Hampton</td>
<td>• Hanover</td>
<td>• Suffolk</td>
<td></td>
</tr>
<tr>
<td>• Portsmouth</td>
<td>• Lynchburg</td>
<td>• Virginia Beach</td>
<td></td>
</tr>
<tr>
<td>• Staunton</td>
<td>• Montgomery</td>
<td>• Washington County</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Northwest Regional</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Winchester, Clarke, Frederick)</td>
<td></td>
</tr>
</tbody>
</table>
New State Funding for Drug Treatment Courts

• 2016 General Assembly provided additional funding of $300,000 in FY 2017 and $960,000 in FY 2018 for drug treatment courts
  • Total state funding for drug courts now $3.2 million in FY 2017 and $3.9 million in FY 2018
  • Intent of new funding was to provide support to existing programs experiencing high caseloads but not currently receiving state support

• In November, Drug Treatment Court Advisory Committee approved allocation of new FY 2017 funding to the following programs:
  • Chesapeake Adult - $95,000
  • Prince George/Hopewell/Surry Adult - $95,000
  • 30th Judicial Circuit Adult (Lee, Scott, Wise) - $50,000
  • Dickenson Adult - $45,000
  • 30th Judicial Circuit Juvenile (Lee, Scott, Wise) - $15,000
Allocation of New State Funding for Drug Treatment Courts

• According to Supreme Court staff, the following criteria were used to determine the allocation of new funding in FY 2017:
  • Program receives no state funding or federal grants
  • Program expresses need for state funding
  • Number of program participants at or near existing caseload requirements
  • Re-arrest rates were also considered, but were not a deciding factor

• Whether a locality receives federal grants being used as a factor for state funding allocation is a departure from existing funding policy
  • Federal grant status is not a factor for the 14 programs that already received state funding

• Chesapeake Adult and 30th Circuit Juvenile programs exceed minimum caseload requirements under current funding policy
  • Dickenson Adult, 30th Circuit Adult, and Prince George/Hopewell/Surry Adult programs did not meet minimum caseload requirements

• The allocation of $960,000 in new state funding in FY 2018 has not been determined
  • According to the Supreme Court, a subcommittee of the Drug Treatment Court Advisory Committee will be established to recommend revisions to the criteria used to allocate all state funding for drug treatment courts
Use of State Funds by Drug Treatment Courts

- Localities report that state funds are typically used for:
  - Salary and benefits for coordinators, state or local probation officers, CSB clinicians, and other office staff
  - Treatment provided by CSBs or contract providers
  - Overhead (rent, phones, supplies)
  - Drug testing supplies or services
- The use of state funds by localities varies according to the needs of particular drug treatment courts
- State funds may not be used to purchase food, conference, training or other events, association membership, or to purchase or lease vehicles
Local Funding for Drug Treatment Courts

- As a condition of receiving state funding, programs must identify a local cash or in-kind match equal to at least 25% of state funding provided
  - For the 11 adult programs receiving state funding, reported local matches equal to 70% of state funding in FY 2016
  - For the three juvenile programs receiving state funding, reported local funding equal to 38% of state funding in FY 2016

- Localities report that local support for drug treatment courts is most often provided for:
  - Salaries and benefits for DTC coordinators, probation officers, CSB clinicians, and administrative assistants
  - Lease and utility costs, IT, telephones
  - Treatment services provided by CSBs or contractors
  - Drug testing supplies and services

- Variation in local support leaves programs with differing resources and capacities
  - For example, while larger programs have a full-time coordinator to administer and oversee programs, many programs have a part-time coordinator and other staff, limiting their capacity to enroll participants

- However, program budgets are not tracked or reported for all drug treatment courts, so no data is available for programs not receiving state funding
Federal Grants for Drug Treatment Courts

- Several federal agencies have provided grants to the state or Virginia localities for drug treatment courts, including:
  - Bureau of Justice Assistance
  - Office of Juvenile Justice and Delinquency Programs
  - Substance Abuse and Mental Health Services Administration

- Federal grants are typically awarded in one of three categories:
  - Implementation grants – for jurisdictions that have completed most planning and are ready to implement an adult drug court
  - Enhancement grants – for jurisdictions operational for at least one year, used to improve program through additional services, evaluations, to meet special needs of population, etc.
  - Statewide grant – for state agencies to enhance or expand services statewide; can be used for training or technical assistance for drug court teams, tracking or dissemination drug court information, statewide evaluations, and other activities

- Federal grants are typically awarded for a 3-year period, and may be extended if not all funds are expended at end of the grant period
  - Grants require at least a 25% match from the locality or state
## Drug Treatment Courts Have Received $4.7 million in Federal Grants Since 2012

<table>
<thead>
<tr>
<th>Year</th>
<th>Court</th>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>Statewide (Supreme Court)</td>
<td>BJA – Statewide</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>2012</td>
<td>Tazewell, Buchanan, Russell</td>
<td>SAMHSA/CSAT</td>
<td>$324,883</td>
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<tr>
<td>2012</td>
<td>Tazewell, Buchanan, Russell</td>
<td>BJA/CSAT</td>
<td>$286,316</td>
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<tr>
<td>2013</td>
<td>Chesterfield Adult</td>
<td>BJA – Enhancement Grant</td>
<td>$200,000</td>
</tr>
<tr>
<td>2013</td>
<td>Richmond Adult</td>
<td>BJA – Enhancement Grant</td>
<td>$200,000</td>
</tr>
<tr>
<td>2013</td>
<td>Arlington Adult</td>
<td>BJA – Enhancement Grant</td>
<td>$350,000</td>
</tr>
<tr>
<td>2013</td>
<td>Norfolk</td>
<td>SAMHSA/CSAT</td>
<td>$324,876</td>
</tr>
<tr>
<td>2014</td>
<td>Bristol</td>
<td>SAMHSA/CSAT</td>
<td>$295,956</td>
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<tr>
<td>2015</td>
<td>Tazewell, Buchanan, Russell</td>
<td>BJA – Enhancement</td>
<td>$199,828</td>
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<tr>
<td>2015</td>
<td>Pulaski</td>
<td>BJA – Implementation</td>
<td>$345,617</td>
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<tr>
<td>2015</td>
<td>Richmond Adult</td>
<td>SAMHSA/CSAT</td>
<td>$300,000</td>
</tr>
<tr>
<td>2015</td>
<td>Tazewell, Buchanan, Russell</td>
<td>SAMHSA/CSAT</td>
<td>$324,327</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$4.7 million</strong></td>
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</table>
PROGRAM DESIGN AND PERFORMANCE
Drug Treatment Courts in Virginia

• Drug treatment courts are specialized programs established in circuit or juvenile and domestic relations courts

• As defined in the *Code of Virginia*, the goals of drug treatment courts are:
  • Providing substance abuse treatment, intensive supervision, and ancillary services
  • Reducing addiction and drug dependency among offenders, recidivism, and drug-related court workloads
  • Increasing personal, familial and societal accountability among offenders
  • Promoting effective planning and use of resources among the criminal justice system and community agencies

• In addition to meeting the goals outlined in the *Code of Virginia*, programs must comply with 12 standards adopted by the Drug Treatment Courts Advisory Committee
  • Standards are tailored to Virginia programs, but largely based upon National Association of Drug Court Practitioners “10 Key Components of Drug Courts”
  • Standards provide framework for activities such as planning, treatment services, eligibility criteria, and evaluation and monitoring of programs
Drug Treatment Court Design

• The goals and standards for drug treatment court programs have created an alternative to incarceration for individuals with substance use disorders in the localities they operate in
  • Coordinated intensive judicial oversight and probation supervision involving judges, prosecutors and defense attorneys, local and state community corrections, CSB clinicians, and law enforcement
• Within the framework established by the Code of Virginia and drug court standards, drug treatment courts are designed to meet local needs and priorities
• Therefore, there is diversity among drug treatment courts in terms of:
  • Program capacity and number of active participants
  • Eligibility criteria, including when in court process potential participants are identified
  • Mix of treatment and ancillary services provided
  • Use of sanctions and incentives
Selection of Drug Treatment Court Participants

• Potential drug treatment court participants are identified by defense or prosecuting attorneys, and state or local probation offices

• Participation is voluntary and individuals selected are non-violent offenders meeting the following criteria:
  • Demonstrated substance use disorders (clinical assessment and self-reported)
  • Some programs focus on probation violators (show cause order)
  • Typically required to have stable mental health other than substance use disorder
  • Typically required to live within region or locality of program due to CSB residency requirements
  • Identified as high-risk and high-need according to Risk and Needs Triage (RANT) screening

• Participants are placed into programs at different stages of judicial process depending upon design of program: post plea, probation violators

• Exclusion criteria most commonly cited for not allowing an individual to participate in program:
  • Sex offender status
  • Severe mental health issues
  • Drug trafficking convictions
  • Low-risk or low-need according to RANT screening
Treatment and Supervision of Drug Court Participants

- Program treatment is arranged in phases, with more intensive treatment earlier in the program that lessens in intensity as individuals make progress. Treatment activities include:
  - Medication-assisted treatment and recovery if provided by CSB
  - Individual treatment sessions
  - Intensive outpatient counseling – group, individual, family/support, Moral Reconation Therapy, psychiatric assistance, narcotics anonymous attendance

- Supervision is also intensive and phased depending upon a participant’s progress, and includes:
  - Drug testing one or more times per week, conducted by probation and parole officer, sheriff’s deputy, clinician, or coordinator
  - Probation meetings one or more times per week depending upon participant’s progress
  - Court appearances, ranging from weekly to monthly depending upon participant’s progress
  - Curfew monitoring, including calls, home visits and community contacts one to two times per month

- Programs may also provide ancillary services such as anger management counseling, housing assistance, and transportation assistance
Incentives and Sanctions for Participants

- Incentives and sanctions are used to reward or punish compliance and non-compliance with drug treatment court requirements
  - Examples include changes in reporting requirements, curfew, fines, drug testing obligations, community services requirements, or incarceration may also be used
  - Use varies across state, as programs establish their own incentives and sanctions within framework of drug court goals and standards
- Repeated non-compliance may result in program termination
  - Judge makes final determination based upon staff recommendations regarding individual’s progress to date and the nature of their non-compliance
  - In most programs, automatic termination may result from certain actions such as a violent act, possessing a firearm, or arrest for a new felony offense
  - Program termination results in incarceration for either pending charges of serving remaining portion of suspended sentence
- Successful completion of drug treatment court programs requires participation for 12 to 18 months
  - Graduation occurs after meeting program benchmarks, include some period of clean drug test results
  - Some programs may also provide or require post-graduation check-ins to monitor progress
State Oversight and Monitoring of Performance

- Department of Judicial Services within the Office of the Executive Secretary is responsible for allocating state funding, managing reporting, and oversight of drug treatment court performance
  - Three staff responsible for drug treatment courts: a statewide coordinator and two analysts
  - Provide staffing to Drug Treatment Court Advisory Committee
  - Oversee allocation of state funding to programs
  - Database administration and training for local departments
  - Conduct required state and federal reporting
  - Under proposed Rule of Court, would also staff Specialty Dockets Advisory Committee, which would oversee behavioral health and veterans dockets in addition to drug treatment courts
- Supreme Court tracks limited performance data in annual reports
  - Supreme Court annually reports on statewide drug treatment court graduation, termination, and re-arrest rates
  - Important outcome statistics, such as recidivism and employment rates, are not tracked systematically as data is maintained by other state agencies
- Ability of the Supreme Court to conduct ongoing oversight of drug treatment courts is limited
  - In addition to staff limitations, budget for third-party evaluation of drug treatment courts only allows periodic reviews of performance, with the last third-party review completed in 2012
Drug Treatment Court Graduation Rates

- In FY 2015, 41% of Virginia drug treatment court participants graduated, while 59% had participation terminated.
- In that same year, graduation rates at adult drug treatment courts ranged from 17% to 67%.
- On the surface, variation in graduation rates does not appear to be related to:
  - Number of participants in the program
  - At what point in court process individuals are enrolled
  - Whether or not the program receives state funding or federal funding
- Possible explanations for variation might include:
  - Differences in program design, such as providing different mixes of services
  - Variation in use of sanctions and incentives
  - Differences in supervision intensity and thresholds for program termination
  - Some programs may enroll individuals with higher likelihood of graduating relative to other programs
- Explaining this variation in Virginia drug treatment court graduation rates would require a deeper dive into the programs themselves to identify the factors that are driving differences in performance.
  - Identifying these factors will be necessary in order to find ways that courts can improve their graduation rates.
Graduation Rates Vary Across Adult Drug Court Programs

2015 Statewide Average - 41%
Drug Court Participation Improves Employment Outcomes

• In 2008, JLARC study found that 18 months after leaving Virginia drug treatment court programs, graduates:
  • Were three times more likely to have earnings than non-participants, and
  • Had average incomes more than twice as high as non-participants

• In 2012, NCSC also studied Virginia drug treatment court participant employment outcomes as part of its impact study
  • NCSC found that 35.6% of drug court participants were employed at program entry, with 45.8% unemployed
  • Upon leaving the program, 64.7% of participants were employed, 11.3% were unemployed, with the remainder retired, disabled, actively enrolled in educational coursework, or otherwise outside of the workforce

• Supreme Court is not tracking employment outcomes of drug court participants
  • Staff may wish to consider communicating with Department of Taxation in order to gain access to information they would need to begin tracking employment outcomes
Re-Arrest and Recidivism Rates for Drug Court Participants

Re-Arrest Rates

- The Supreme Court tracks re-arrest rates for drug court programs
  - Re-arrest rates include arrests of program participants for any misdemeanor or felony offense within a given year
- In 2016, based upon local data the Supreme Court reported that 11% of participants were re-arrested
- 2012 NCSC study found lower long-term re-arrest rates for drug court participants than individuals handled through standard case processing
  - 52.2% of drug court participants were re-arrested within 3 years of program placement
  - 61.9% of non-participant comparison group were re-arrested within 3 years of previous sentencing event

Recidivism Rates

- In 2012, NCSC found that for Virginia drug courts:
  - Graduates had 5.6% felony recidivism rate
  - Those terminated from participation had a 24.4% felony recidivism rate
  - A matched group of non-participants had a 26.1% felony recidivism rate
  - Drug court participants had substantially lower recidivism rates for all offense types (property, drug, public order, probation violations)
- Drug treatment court recidivism has not been regularly tracked by the Supreme Court
  - Supreme Court hired data analyst in August 2016 with the intent to begin tracking recidivism rates in future reports
Cost-Benefit Analyses of Drug Treatment Courts

- National studies have found that drug treatment courts lower criminal justice and societal costs by between $1,000 and $15,000 per participant.
- In 2012, NCSC conducted a cost-benefit analysis of drug courts in Virginia:
  - Estimated total savings of $19,000 per participant relative to similar individuals that went through traditional case processing.
  - While court costs higher in short term, significant savings seen post-placement due to substantially lower incarceration costs for drug court participants.
  - NCSC also found significantly lower victimization costs due to lower recidivism rate for drug court participants.
  - NCSC findings re-affirmed similar findings of 2008 JLARC study of substance abuse services.
CONSIDERATIONS FOR DRUG TREATMENT COURTS
Considerations Regarding Drug Treatment Court Funding

• Allocation of state funding for drug courts bears reconsideration given increased funding and growing number of programs that receive no state funding
  • Current funding policy creates artificial cut-offs for state funding, creating haves and have-nots based upon caseload tiers with no clear tie to performance

• When considering revisions to the funding allocation policy for FY 2018, the Drug Treatment Court Advisory Committee may wish to consider:
  • Adopting a policy that affects the allocation of all state funding for drug courts, not just the additional funding added in the 2016 General Assembly Session
  • Requiring factors as graduation, employment, recidivism, or other performance metrics to be used in allocating funding
  • Using funding approach which could ensure all qualifying drug treatment court programs receive state funding, such as allocating funding on a per-participant basis
Considerations for Drug Treatment Court Programs

• Resources needed to enhance oversight, monitoring, and reporting on drug treatment court performance should be identified by the Supreme Court
  • While oversight resources have grown modestly, number of operational drug treatment courts has nearly doubled since 2012
  • Proposed Rule of Court would increase responsibilities of existing staff, as it would require them to support oversight activities related to behavioral health and veterans dockets

• Lack of detailed program performance data limits ability of General Assembly to ensure state funds are being used effectively
  • In 2010, Supreme Court stated that “process, outcome, and cost/benefit analysis must be continual to demonstrate the efficacy of all Virginia programs”

• Systematic tracking of drug treatment court performance outcomes – such as recidivism – will enhance ability of Supreme Court to identify high and low performing programs, and identify possible improvements