

# **Immediate Sanction Probation Pilot Program**



**Presented to the  
House Appropriations Committee  
September 16, 2013**

**Meredith Farrar-Owens  
Virginia Criminal Sentencing Commission**

# Directive for Immediate Sanction Probation Pilot Program

- **The 2012 General Assembly directed the Virginia Criminal Sentencing Commission to implement an Immediate Sanction Probation Program in up to 4 pilot sites (Chapter 3 of the 2012 Acts of Assembly, Special Session I - adopted May 22, 2012).**
- **The program is designed to target nonviolent offenders who violate the conditions of probation but have not been charged with a new crime.**
  - **These are often called technical violators.**



# Directive for Immediate Sanction Probation Pilot Program

- **The Sentencing Commission was assigned the responsibility of selecting the jurisdictions to serve as pilot sites (with the concurrence of the Chief Judge and the Commonwealth's Attorney in each locality).**
- **The Sentencing Commission was also charged with implementing the programs and evaluating the results.**



# Program Objective

- **The goal is to reduce recidivism and improve compliance with the conditions of probation by applying swift and certain sanctions for each and every violation. Violations have immediate consequences.**
- **Ultimately, lowering recidivism rates and improving compliance reduces the likelihood that an offender will end up in prison.**



# The Logic behind Swift and Certain Sanctions

- **The threat of even a mild punishment imposed reliably and immediately is likely to have a much greater deterrent effect than the threat of a severe punishment that is deferred and may not be imposed.**
- **Delivering a relatively mild sanction swiftly and consistently is more effective in changing behavior for certain offenders.**

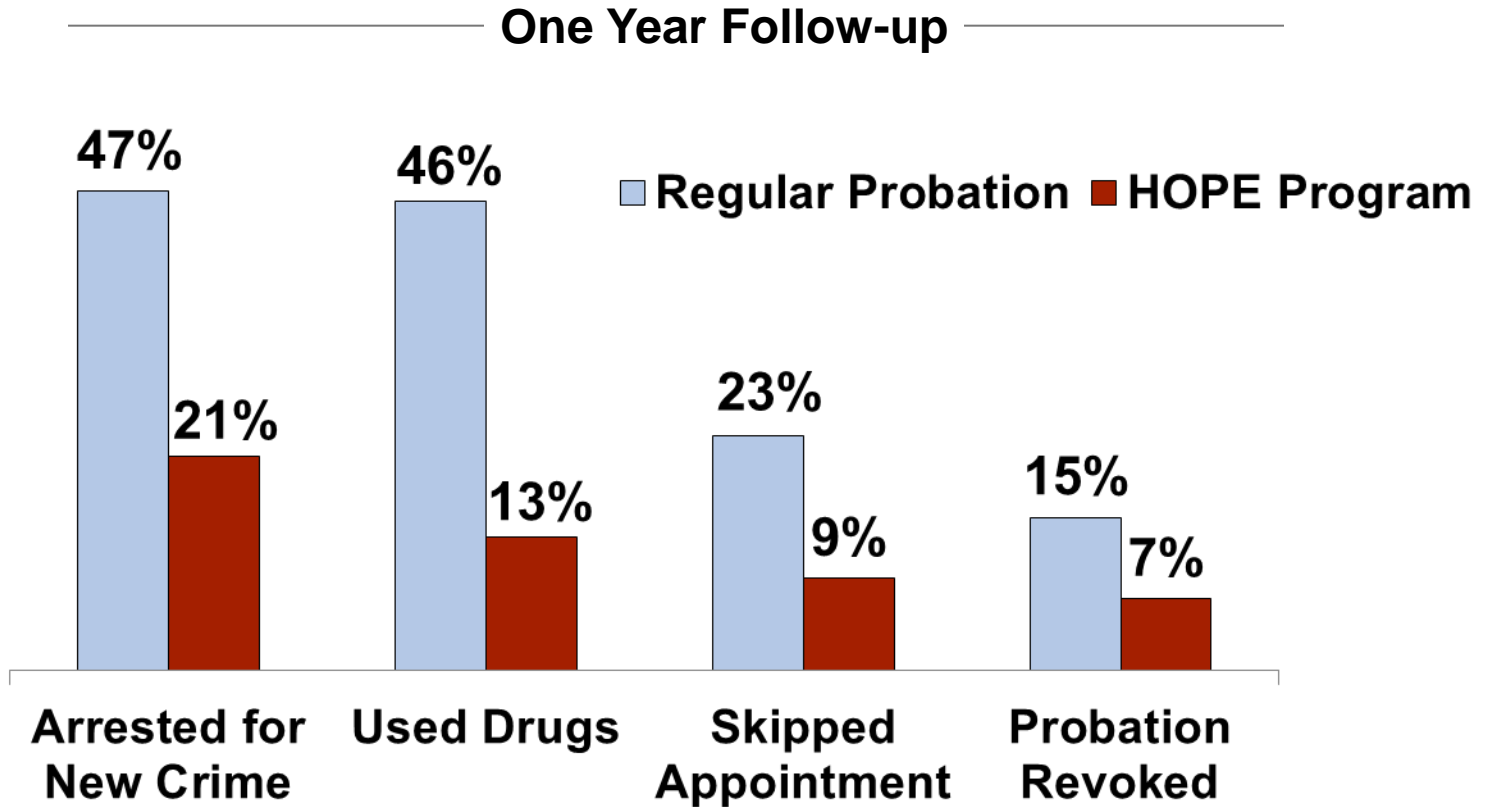


# Model for Virginia's Pilot Program

- **Key elements of Virginia's pilot program were modeled after Hawaii's Opportunity Probation with Enforcement (HOPE) program, established in 2004 by Judge Steven Alm of Hawaii's First Circuit.**
- **A federally-funded evaluation of HOPE found a significant reduction in technical violations and drug use among participants, as well as lower recidivism rates.**



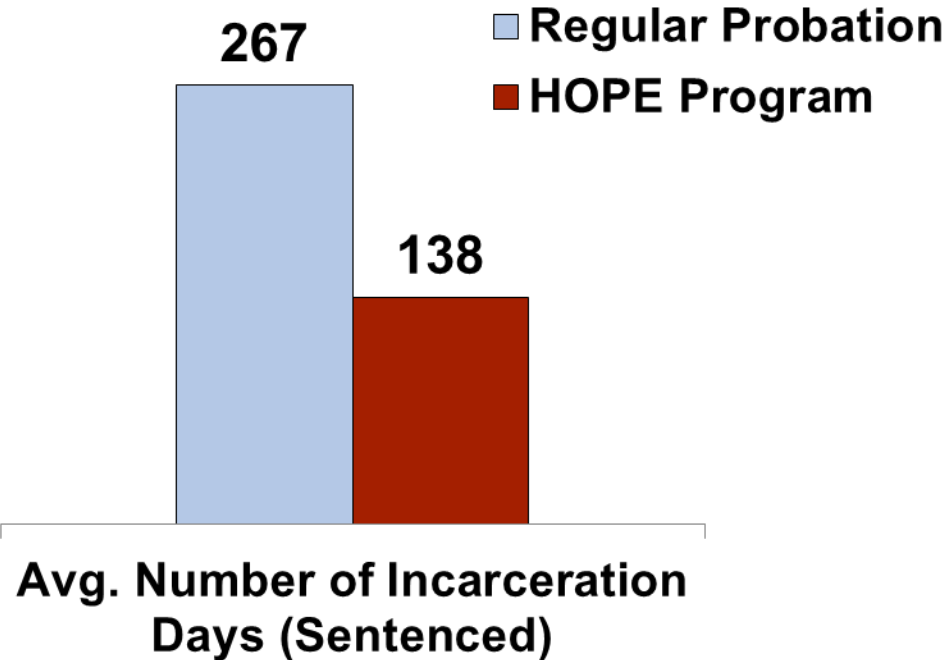
# HOPE Evaluation Outcomes



Source: Hawken, A. & Kleiman, M. (2009). Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE. [www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf)

# HOPE Evaluation Outcomes

## One Year Follow-up



**A separate study found that, on average, HOPE participants and regular probationers served about the same amount of time in jail for violations (approximately 20 days).**

**But, HOPE participants used significantly fewer prison beds than regular probationers.**





# Formula for Swift and Certain Sanctions

- **The judge gives an official warning that probation terms will be strictly enforced.**
- **The probation officer closely monitors the offender to ensure that there are no violations of rules or conditions.**
- **New participants undergo frequent, unannounced drug testing (4 to 6 times per month for first month).**
  - **For offenders testing negative, frequency of testing is gradually reduced.**



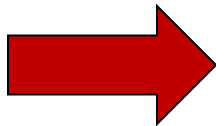
# Formula for Swift and Certain Sanctions

- **Offenders who violate the terms of probation are immediately arrested and brought to jail.**
- **The court establishes an expedited process for dealing with violations.**
  - **Violation hearings are held swiftly (usually within 3 business days).**
  - **Violation hearings last approximately 7-8 minutes.**
- **For each and every violation, the judge orders a short jail term (usually a few days).**



# Key Stakeholders

- **Judges**
- **Commonwealth's Attorney and Staff**
- **Probation Officers /  
Department of Corrections**
- **Public Defender's Office /  
Court-Appointed Attorneys**
- **Police Department and Sheriff's Office**
- **Clerk of Court and Staff**



**Extensive collaboration is necessary to implement this type of program successfully.**



# Eligible Offenders

## Eligibility Criteria

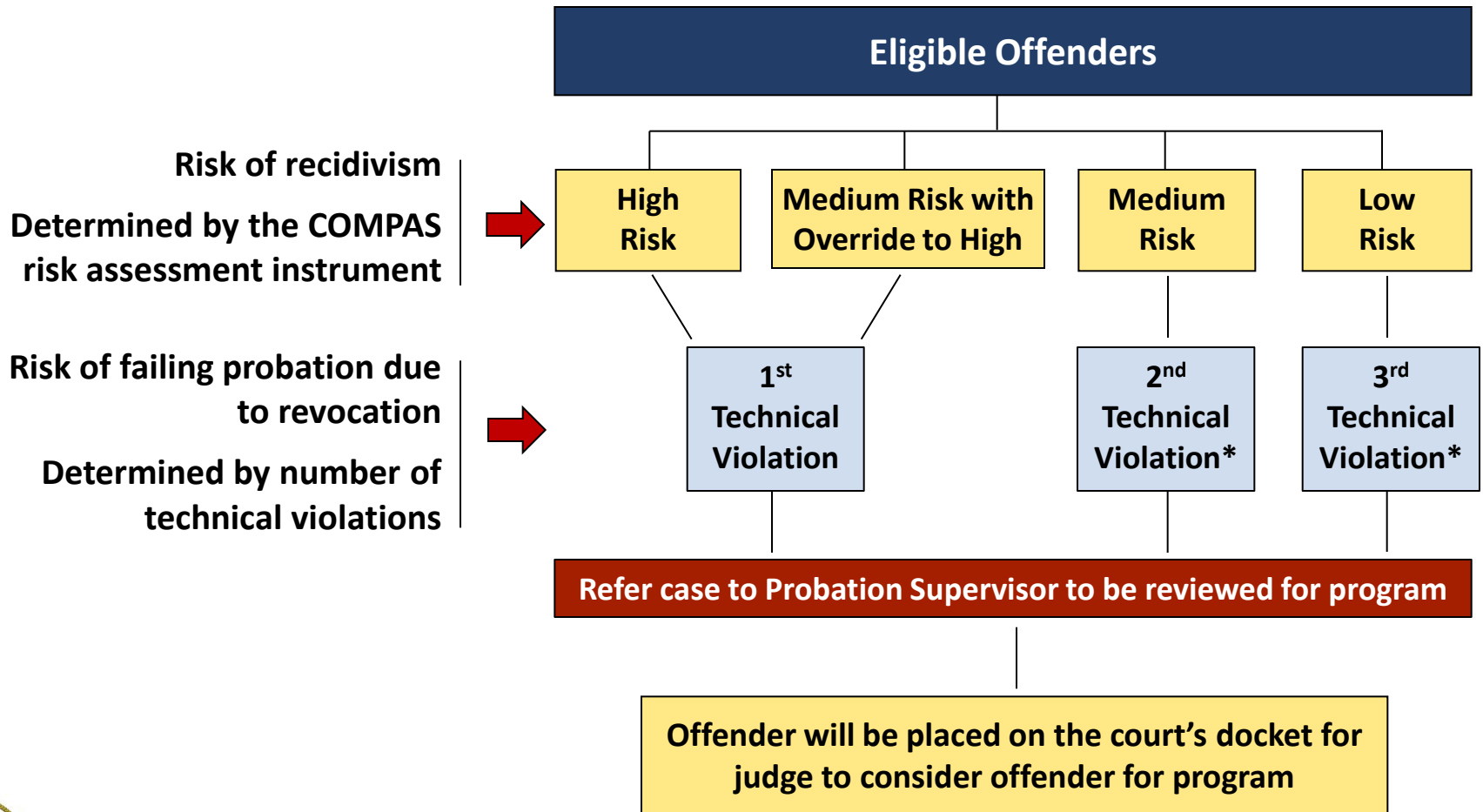
- **Adult**
- **On supervised probation**
- **Convicted of a nonviolent felony offense**
- **Under supervision in the same jurisdiction where offender was sentenced**

## Program focus

- **Higher risk probationers:**
  - **At-risk for committing a new offense, or**
  - **At-risk for having their probation revoked due to accumulation of technical violations**



# Identifying Higher Risk Probationers



\* Violations occurring on different dates

# Immediate Sanction Probation Pilot Sites

- **Henrico County (November 1, 2012)**
- **City of Lynchburg (January 1, 2013)**
- **Arlington County (October 1, 2013)**



# Activity in Henrico & Lynchburg

Locality	# of Current Participants (as of 9/10/13)	# of Participants who have Violated	# of Violations	Participants Removed	Pending Candidates
Henrico	22	12	17	2	2
Lynchburg	21	9	18*	0	2
<b>Total</b>	<b>43</b>	<b>21</b>	<b>35*</b>	<b>2</b>	<b>4</b>



1 offender was terminated and given a DOC sentence; the other offender moved out of the jurisdiction



\* 3 participants in Lynchburg have pending violations

# Activity in Henrico & Lynchburg

Number of Violations  
among Participants



Although all of the participants had a record of technical violations prior to being placed in the program, 24 of the 45 participants have not had any program violations.

Total number of offenders placed in program = 45

Current participants = 43





# Measures of Swiftness

	Lynchburg	Henrico	Total
Percent of violation hearings held w/in 3 days of violation	46.2%	66.7%	56%
Avg. time between violation and hearing	4.5 days	2.6 days	3.6 days
Avg. time between violation and arrest	2.5 days	1.1 days	1.8 days
Avg. time between arrest and hearing	2.1 days	1.5 days	1.8 days
Avg. time between arrest and hearing – <i>business days</i>	1.2 days	1.2 days	1.2 days
Number of Violations	13	12	25



# Measures of Certainty and Sanctions Imposed

	Lynchburg	Henrico	Total
<b>Percent of Violations Resulting in a Jail Term</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Avg. length of sentence for 1st Violation</b>	<b>3 days</b>	<b>4.3 days</b>	<b>3.7 days</b>
<b>Avg. length of sentence for 2nd Violation</b>	<b>5.2 days</b>	<b>5.7 days</b>	<b>5.3 days</b>
<b>Avg. length of sentence for 3rd Violation</b>	<b>9 days</b>	<b>N/A</b>	<b>9 days</b>
<b>Avg. length of sentence for 4th Violation</b>	<b>10 days*</b>	<b>N/A</b>	<b>10 days*</b>

\* Represents 1 case



# Reports to the General Assembly

- **Report on implementation due to the House Appropriations Committee and the Senate Finance Committee, Chairmen of the House and Senate Courts of Justice Committees, Chief Justice, and Governor on October 1, 2013.**
- **Evaluation report will be submitted in 2014.**





**Meredith Farrar-Owens**  
**[meredith.farrar-owens@vcsc.virginia.gov](mailto:meredith.farrar-owens@vcsc.virginia.gov)**

**Virginia Criminal Sentencing Commission**  
**[www.vcsc.virginia.gov](http://www.vcsc.virginia.gov)**

**804.225.4398**