

Department of Criminal Justice Services
MINIMUM STANDARDS FOR LOCAL COMMUNITY-BASED PROBATION
AND PRETRIAL SERVICES

**PART I.
GENERAL PROVISIONS.**

§1.1. Definitions.

The following words and terms, when used in these standards, shall have the following meaning unless the context clearly indicates otherwise:

“Administrative and fiscal agent” means the county or city government responsible for agencies, or for contracting for services, as authorized in Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 and Article 9 (§9.1-173 et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia* for a single jurisdiction or in the behalf of a combination of cities and counties.

“Agency” or agencies means any program, or service organization operating as part of the local government or on behalf of local government for the provision of defendant and offender supervision under the authority of Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 or Article 9 (§9.1-173 et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia*.

“Appropriate Supervision Placement” means, for the purposes of local probation, an adult offender or one who has been adjudicated as an adult, sentenced to 12 months or less for a Class 1 or 2 misdemeanor or nonviolent felony, and, who has been placed under the supervision of a local community-based probation agency with a sentence suspended in whole or in part, or on local community-based probation following a deferred proceeding for any Class 1 or 2 misdemeanor offense authorized by state statute. For the purposes of pretrial services, appropriate supervision placement means an adult defendant, or one considered an adult, not charged with an offense punishable by death, and who has been released on bail to the custody and supervision of a pretrial services agency.

“Bail” means the pretrial release of a person from confinement upon those terms and conditions specified by order of a judicial officer (Reference §19.2-119 of the *Code of Virginia*).

“Basic Skills” means the mandatory weeklong training given to new professional employees covering those topics deemed essential to equip them with the knowledge to perform the duties of their position.

“Board” or “boards” means the Community Criminal Justice Board (CCJB) of the locality or combination of localities established in accordance with §9.1-178 of the *Code of Virginia*.

“Bond” means the posting by a person or his surety of a written promise to pay a specific sum, secured or unsecured, ordered by an appropriate judicial officer as a condition of bail to assure performance of the terms and conditions contained in the recognizance (Reference §19.2-119 of the *Code of Virginia*).

“Capias” means an order issued by a judicial officer the court requiring the arrest of the person to ensure their appearance before the court in answer to a violation.

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“Case” means a defendant or an offender entered into the PTCC case management information system established by the Department.

“Chief Executive Officer” means the County Administrator, County Executive, City Manager or designated Assistant responsible for public safety issues of the administrative and fiscal agent.

“Citizen Complaint” means a serious objection regarding agency operations or staff conduct.

“Collateral Contact” means verification, as determined by program staff, of a defendant or offender’s participation in services not provided by the Local Community-based Probation and Pretrial programs. These services may include, but are not limited to, alcohol and drug testing, substance abuse education, counseling and treatment, other counseling, community service work sites, and educational, family or employer contacts.

“Community Service Work” means unpaid labor done for public and private non-profit agencies performed by offenders as directed by the court. The imposition of community service may be those hours calculated in lieu of fines or court costs, a condition of supervision, or as a punitive or intermediate sanction, or in extenuating circumstances, pursuant to an approved standard operating procedure, in lieu of supervision and intervention fees or for payment of treatment costs. Community service excludes any direct reparation to a victim ordered by a court, by involvement in a restorative justice program, or as the result of mediation.

“Condition of Bail” means any requirement or requirements included on the recognizance or set by any judicial officer with which a defendant agrees following release on bail that assures a defendant’s appearance in court and good behavior.

“Condition of Supervision” means a requirement imposed by a judicial officer, local probation officer and/or pretrial officer that an offender or defendant must follow while on local probation or pretrial.

“Contractor” means an individual or organization agreeing, in writing, to provide direct offender or defendant supervision.

“Convicted” indicates a court action where there has either been an accepted plea or a finding of guilt.

“Costs” means a fixed fee assessed by the court after a finding of guilt or a deferred judgment.

“Criminal History Record Check” means an inquiry to VCIN, CMS, NCIC, DMV and other similar databases on each defendant/offender investigated and/or supervised by the agency.

“Curfew” means a judicially ordered condition of supervision, which allows a defendant/offender to be out of the home only for specified periods of time.

“Custody” means that a person is under the care or control and under the supervision of, a pretrial services office or an organization agreeing to supervise him.

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“Defendant” means an individual charged with a criminal offense or against whom a legal action is brought and is being investigated.

“Deferred Judgment” is a case, authorized by law, in which the court, without entering a judgment of guilt and with the consent of the accused, defers further proceedings and places the individual on probation (Reference authority in §§4.1-305, 18.2-57.3, 18.2-251, and 19.2-303.2 of the *Code of Virginia*).

“Department” means the Department of Criminal Justice Services.

“Direct Placement” means an order into pre- or post-trial supervision by a judicial officer without program investigation made prior to that placement.

“Electronic Monitoring” means the process of using electronic equipment to verify that a defendant or offender is at a pre-specified, fixed location.

“Fee” (see Intervention Fees)

“Felony” means an offense which, if convicted, can result in a period of incarceration in prison, a fine of up to \$100,000 (unless otherwise specified in the *Code*), either or both, or death.

“Fine” means a monetary penalty within a range set by statute, and imposed on a person who has been found guilty of a crime.

“Freedom of Information Act or FOIA” is the primary state law governing citizens’ access to records of public entities (including criminal justice agencies) and their meetings. (Reference §2.2-3706, Subsection F.8 of the *Code of Virginia*). Local program records are exempted from public disclosures.

“Home Electronic Incarceration” means the process of using electronic equipment to verify that a defendant or offender is at a pre-specified, fixed location.

“Home incarceration” means a judicially or administratively imposed condition requiring a defendant or an offender to remain at home for all or some portion of the day with approved absences for work, treatment, counseling, education, or medical appointments.

“In-service Training” means professional training which is related to one’s job duties that a program employee must have after the first year of employment.

“Intake” means the processing of defendants or offenders following placement, the entry of minimum, mandatory information into PTCC and assessment of defendant/offender needs through a face-to-face interview and other means.

“Intermediate Sanctions” means any punitive measure taken to encourage offender compliance with supervision requirements.

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“Intervention Fees” means the cost of certain intervention and supervision services charged to an offender (Reference §9.1-182).

“Interview” means a formal face-to-face procedure for gathering background information from a defendant or offender for the purpose of assessing risk and/or need.

“Investigation for pretrial services” means a formal procedure which includes the preparation of a court report summarizing the verified results of an interview, the defendant’s family and community ties, financial resources, residence, history of employment, history of or current abuse of alcohol or controlled substances, and criminal history including the record of convictions from VCIN/NCIC, DMV AND CMS and the completion of a Virginia Pretrial Risk Assessment Instrument (VPRAI).

“Judicial Officer” means magistrates within their own jurisdictions, district and circuit court judges, clerks or deputy clerks of district and circuit courts within their respective cities and counties, judges of the Court of Appeals, and justices of the Supreme Court under the authority of §19.2-119 of the *Code of Virginia*.

"Local Community-based Probation Agency" means any agency, program, or service organization operating as part of the local government or on behalf of local government for the provision of offender supervision under the authority of Article 9 (§9.1-173 et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia* for a single jurisdiction or in the behalf of a combination of cities and counties.

“Locality” or “Localities” means any city or county government establishing, operating, or contracting for agencies under the authorization of Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 and Article 9 (§9.1-173 et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia* either as a single jurisdiction or in combination with other cities or counties.

“Misdemeanor” means an offense which, if convicted, can result in a penalty not exceeding a sentence to incarceration of twelve months, a fine of up to \$2500 or both.

“Monitoring” means

1. Pretrial: A process of notifying, by phone or mail, defendants released on any summons or recognizance, of the first and future court appearances.
2. Post-trial: Providing basic assistance to the court by tracking an offender’s compliance with a court order. This is not the same as an appropriate supervision placement. Offenders in this status are not subject to standard supervision requirements.

“Non-Violent Felony” means any felony offense which is not one of the following: murder, manslaughter, kidnapping, sexual assault, malicious wounding, robbery, or any attempt to commit any of these crimes (Reference §19.2-297.1 of the *Code of Virginia*).

“Offender” means an individual who has been found guilty of violating a law or has received a deferred judgment.

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“Placement” means an action by a judicial officer as a result of a bail determination or by court order requiring a defendant or an offender to be supervised by an agency for one or more offenses or charges. If confined, this requires an actual release from confinement.

“Placement Closure” means an action of a court, or judicial officer, which ends the requirement for continued supervision of a placement and results in a successful, unsuccessful, or other placement closure.

"Policy" means a statement or statements of guiding principles which should be followed in directing activities toward the attainment of objectives.

“Pretrial Services Agency” means any agency, program, or service organization operating as part of the local government for the provision of defendant supervision under the authority of Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia*.

"Procedure" means detailed and sequential actions that must be executed to ensure that a policy is fully implemented. A procedure differs from a policy in that it directs action in a particular situation to perform a specific task within the guidelines of policy.

“PTCC” means the Pretrial and Community Corrections Case Management Information System developed under the auspices of the Department of Criminal Justice Services and which use is mandated for all local probation and pretrial service agencies.

“Receiving Agency” means the program that ultimately accepts the responsibility of supervising a local probation or pretrial case sent from another local probation or pretrial agency.

“Recommendation” means any term and condition of bail made by a pretrial services officer, for each defendant investigated, to a judicial officer to assure public safety, the safety of the person, appearance in court following release, and to address defendant needs.

“Restitution” means monetary reparation to the victim by the offender for damages or loss caused by the offense.

“Risk Assessment” – see VPRAI.

“Screening” is the process of determining the number of detained defendants available for pretrial investigation, awaiting an initial or subsequent bail hearing at first appearance.

“Sending Agency” means the program that begins the procedure for transfer of supervision to another local community corrections or pretrial agency.

“Sentenced” means an action by the court which includes an active sentence to incarceration, a suspended sentence, or probation.

"Serious incident" means any incident involving a defendant, offender, or staff member, directly or indirectly, in which there has been serious personal injury to the public (including the

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defendant, offender, or staff member), public safety endangered, or public concern ~~is~~ has been or may be expressed.

“Serious Incident Report” means a standardized form used to inform public officials concerning a serious incident. This is not the same as a violation report to the court.

“Show Cause” means a summons to court for a person to appear on his own behalf to answer charges why the terms of bail or conditions of probation should not be revoked.

“Substance Abuse Assessment” means any extensive formal interview and assessment procedure utilizing any valid instrument that elicits the nature and severity of a person’s substance use, abuse, dependency or addiction and related behaviors and which indicates whether education or treatment is necessary.

“Substance Abuse Screening” means a brief formal interview procedure using any valid instrument that elicits the probability of a substance abuse problem and that indicates when further assessment for substance abuse is necessary.

“Substance Abuse Testing” means any valid alcohol or drug testing procedure that determines the presence and/or percentage of alcohol or drugs in a person’s system. Procedures include those for on-site testing and validation.

“Supervised Release” means a term of bail involving the release of a defendant to the custody and supervision of a pretrial services agency (Reference §19.2-123A).

“Supervision” means the formal procedure involving the active management of an offender’s or defendant’s compliance with the terms and conditions of his release.

“Supervision Fees” (See Intervention Fees).

“Term of Bail” means the condition(s) under which a defendant is released to bail.

“Termination of supervision” means an action of the agency when all placements associated with a defendant or an offender have been closed.

“Training” means an organized, planned, and evaluated activity designed to achieve specific learning objectives. Training may occur on site, at an academy or training center, at an institution of higher learning, through contract service, at professional meetings or through closely supervised on-the-job activities. Meetings of professional associations are considered training when there is clear evidence of the above elements.

“Transfer Case Monthly Progress Report” means the written report that must be sent from a receiving agency to the sending agency describing the verified progress during the entirety of the preceding month of an offender/defendant whose supervision has been transferred.

“Transfer of Supervision” means a process by which an agency may transfer the responsibility of supervision of a defendant or offender to another Local Community-based Probation or Pretrial program after meeting certain criteria.

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“Transfer Request Form” means the request made by a sending agency to a receiving agency when an offender’s supervision is being transferred.

“VPRAI” means Virginia Pretrial Risk Assessment Instrument, which is the standardized objective instrument developed to assist pretrial services agencies in providing better information and services to judicial officers and for determining the level of, and facts contributing to, the defendant’s risk for failure to appear or threat to public safety if released on bail pending trial.

“Warrant of Arrest” means an order requiring the placement of a person into the control of a law enforcement official or other agent who has the authority for arrest.

§1.2. Legal Authority.

These standards are established in accordance with Article 5 (§19.2-152.2) of Chapter 9 of Title 19.2 and Article 9 (§9.1-173 et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia* authorizing the Department of Criminal Justice Services to establish standards for the development, implementation, operation, and evaluation of programs and services.

**PART II.
ADMINISTRATION OF AGENCIES.**

§2.1. Mission Statement.

Each agency shall have a mission statement.

§2.2. Table of Organization.

Each agency shall maintain an organizational chart which clearly illustrates the relationship to the administrative and fiscal agent, localities other than the administrative and fiscal agent, and the agency’s lines of authority.

§2.3. Fiscal Management.

- A. Fiscal management shall be provided in accordance with §9.1-183 of the *Code of Virginia*.
- B. Each agency shall follow the procurement procedures established by the administrative and fiscal agent.
- C. All funds utilized for the purpose of providing defendant services as outlined in Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 or offender services as

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outlined in Article 9 (§9.1-173) et seq. of Chapter 1 of Title 9.1 of the *Code of Virginia* shall be subject to audit in accordance with the Virginia Auditor of Public Accounts guidelines.

§2.4. Personnel Policies and Procedures.

- A. Each agency shall follow the personnel policies and procedures established by the administrative and fiscal agent. (See also Section 6.1, Contracting for Supervision.) Upon request of any employee, the agency head shall make available any of these manuals.
- B. Each agency shall develop and follow a procedure for conducting background checks on prospective employees which shall include, but not be limited to, a criminal history record check. A criminal history check includes, but is not limited to, obtaining information from the National Crime Information Center (NCIC), Virginia Criminal Information Network (VCIN), and the Virginia Department of Motor Vehicles (DMV).
- C. Each agency shall develop a policy prohibiting any staff from accepting any gift or gratuity from an offender or defendant or engaging in any personal business transaction with an offender or defendant under supervision of the agency.
- D. Each agency that uses volunteers and interns shall develop and follow policies and procedures for their recruitment, screening, training, supervision, and termination.
- E. Each agency shall develop a policy regarding the carrying and use of firearms and chemical agents during the performance of official duties. Each agency authorizing the carrying and use of firearms or chemical agents shall ensure that staff successfully complete appropriate training covering the use, safety, care, and constraints of any allowable firearms and chemical agents.
- F. Each agency shall develop a procedure regarding the Oath of Office in accordance with guidelines published by the Department.

§2.5. Standard Operating Procedures.

- A. Each agency shall develop and maintain written standard operating procedures for the conduct of business. These procedures shall, at a minimum, address and comply with all components of these standards and any guidelines published by the Department for agencies established under the authority of Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 or Article 9 (§9.1-173 et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia* and any other applicable state and federal laws.

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- B. Standard operating procedures and substantive revisions shall be approved in writing by the chief executive officer of the administrative and fiscal agent and made available to agency staff, all board members, the local judiciary, and the Department. For purposes of these standards, substantive revisions are any modifications that result in a change in procedure.
- C. Standard operating procedures shall be reviewed, at a minimum, annually by agency administrative staff. For purposes of these standards, agency administrative staff means the individual(s) responsible for the oversight and daily operation of the agency.

§2.6. Records Management.

- A. Each agency shall develop and follow a procedure to maintain an individual record for each offender and defendant referred, investigated, or supervised.
- B. Each agency shall develop and follow a procedure to collect records on each defendant and offender. At a minimum this shall include:
 - 1. Full name
 - 2. Alias
 - 3. Sex
 - 4. Race or national origin
 - 5. Date of birth
 - 6. Social Security Number
 - 7. Address, length of residence, and current living situation
 - 8. Telephone number(s)
 - 9. Marital and family status
 - 10. Financial status
 - 11. Employment, education, and other community activity
 - 12. Mental health, substance abuse, and medical status and history
 - 13. Instant offense, current charges, and known dispositions
 - 14. Prior criminal record to include: any known offenses, charges; or dispositions; record of outstanding warrants, capiases, detainers, and holds; any known record of failures to appear and violations of community supervision; and any known record of flights to avoid prosecution, escapes from custody or confinement, and absconding from community supervision
 - 15. For pretrial services agencies only, amounts and types of bonds imposed as conditions of bail
 - 16. Victim relationship to defendant or offender
 - 17. Referral documentation
 - 18. Signed Conditions of release and supervision
 - 19. Supervision and investigation activity
 - 20. Signed authorization for release of information
- C. Each agency shall develop and follow a procedure to ensure the security, safeguarding, and confidentiality of defendant and offender records which shall at

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a minimum comply with Criminal History Record Use and Security (VAC20-120-10 through 120-160), the requirements of §§9.1-133 B, 9.1-177.1, and 19.2-152.4:2 of the *Code of Virginia* and any applicable federal regulation(s).

- D. Each agency shall comply with current records retention and disposal schedules as established by the Library of Virginia, Archives and Records Division.
- E. Each agency shall fully utilize the PTCC case management software provided by the Department.
- F. Each agency shall develop and follow a procedure related to public access of defendant and offender information in compliance with §2.2-3706 F.8 of the Freedom of Information Act (FOIA).

§2.7. Serious Incidents and Citizen Complaints.

- A. Each agency shall develop and follow a procedure to respond to and document serious incidents. The procedure shall include requirements for reporting to appropriate authorities and the Department.
- B. Each agency shall develop and follow a procedure to respond to and provide for the investigation of citizen complaints.

§2.8. Performance Data and Information.

Each agency shall develop and follow a procedure for the collection and dissemination of performance data and information. At a minimum, this procedure shall include the following:

- A. The collection and maintenance of defendant and offender data which, at a minimum, complies with the Department's data collection requirements.
- B. A written report, including performance data, provided, at a minimum, annually, to the board of that locality and the local judiciary.
- C. Assurances of cooperation with requests for performance data and information from the Community Criminal Justice Board, the Department, and other criminal justice agencies.

**PART III
LOCAL PROBATION SUPERVISION**

§3.1 Scope of Services.

Each local community-based probation agency established pursuant to Article 9 (§9.1-173 et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia* shall provide the judicial system

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with sentencing alternatives for offenders who, pursuant to §19.2-303.3, are convicted, sentenced or provided a deferred proceeding and placed on probation services through a court and who are considered suitable candidates for programs which require less than incarceration in a local correctional facility.

§3.2 Duties and Responsibilities.

Each local community-based probation agency shall develop and follow procedures for complying with the required and, where applicable, optional duties and responsibilities of local probation officers as required by §9.1-176.1.

§3.3 Offender Eligibility.

- A. Eligible offenders are those convicted on or after 7/1/95 pursuant to §19.2-303.3 of the *Code of Virginia* which include “adult offenders or those who have been adjudicated as adults, sentenced to 12 months or less for a Class I or 2 misdemeanor or nonviolent felony, and, who have been placed under the supervision of a local community-based probation agency with a sentence suspended in whole or in part.
- B. Eligible offenders also include those placed on local community-based probation following a deferred proceeding for any Class 1 or 2 misdemeanor offense authorized by state statute.

§3.4 Court Placement.

- A. Each local community-based probation agency shall develop and follow a procedure for the placement of offenders on local probation supervision. These procedures shall, at a minimum, include a specified time period within which the offender must report to the program staff not to exceed five (5) workdays following a court action or release from confinement.
- B. Each local community-based probation agency shall develop and follow a procedure for local court placements of offenders residing in contiguous localities in Virginia not served by a local community-based probation agency or in contiguous states. For the purpose of these standards “contiguous” means “to share a boundary.”

§3.5 Offender Intake.

- A. Each local community-based probation agency shall develop and follow a procedure for conducting a criminal history record check on each offender supervised by the agency which, at a minimum, includes an inquiry to the Virginia Criminal Information Network.

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- B. Each local community-based probation agency shall develop and follow a procedure for determining and identifying each offender's needs which addresses employment, education, substance abuse, and physical and mental health and making appropriate referral(s) to address those needs.
- C. Each local community-based probation agency shall develop and follow a procedure for informing offenders of standard and special conditions of supervision and outlining intermediate sanctions that may be imposed for violations of conditions. Offenders shall be informed of this no later than the offender's first scheduled office visit.

§3.6 Offender Management.

- A. Supervision
 1. All offenders sentenced pursuant to §19.2-303.3 of the *Code of Virginia* shall be considered to be on local probation supervision.
 2. Each local community-based probation agency shall develop standard conditions of supervision which shall be provided to all offenders.
 3. Each local community-based probation agency shall develop and follow a procedure for assuring the offender's compliance with any special conditions of supervision ordered by the court.
 4. Offenders shall have face-to-face contact with appropriate program staff, at a minimum, once each month. Each local community-based probation agency shall develop and follow a policy and procedure for handling extenuating circumstances which may exclude the required monthly face-to-face contact.
 5. The length of supervision shall not exceed the amount of time necessary for the offender to complete all measurable standard and special conditions of supervision. The Department recommends that the average length of supervision be six months or less for total misdemeanor placements and twelve months or less for total felony placements. Each local community-based probation agency shall develop and follow a policy and procedure for handling extenuating circumstances which may extend the length of supervision.
 6. Each local community-based probation agency shall develop and follow a procedure for verifying offenders' performance of community service hours and participation in court ordered and collateral activities.
 7. Each local community-based probation agency shall develop and follow a procedure to address the monitoring of offenders. It is not the purpose of local community-based probation agencies to supervise offenders convicted of traffic infractions, offenders sentenced to community services in lieu of fines/costs, or to supervise offenders until all fines, costs, fees and/or restitution is paid. Local community-based probation agencies may monitor such offenders, but will not actively supervise such offenders.
- B. Specific Program Components

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1. Community Service Work
 - a. Each local community-based probation agency shall develop and follow a policy regarding community service.
 - b. Each local community-based probation agency shall develop and follow a procedure for referring offenders to community service work sites and verifying community service performed.
 - c. If applicable, each local community-based probation agency shall develop and follow a standard range of community service work hours for those who are required to perform community services hours.
 - d. Each local community-based probation agency shall develop written agreements with community service work sites which, at a minimum, shall address:
 1. Supervision of offenders performing community service work at no cost to the agency.
 2. Maintenance of an accurate record of community service hours worked.
 3. Description of type of work to be performed.
 4. Notification of hours worked by each offender, performance, and failure to report as scheduled.
 5. Liability and notification of injuries incurred by the offender at the work site.
 - e. Each community corrections agency shall develop and follow a procedure for updating community service work site agreements.
 - f. Each community corrections agency shall develop and follow a procedure for reporting, responding to, and documenting insurance claims filed on behalf of offenders performing community service.
2. Substance Abuse Screening, Assessment, Testing and Treatment
 - a. Each local community-based probation agency shall develop and follow a procedure for initial substance abuse screening in accordance with the *Code of Virginia*.
 - b. Each local community-based probation agency shall develop and follow a procedure for substance abuse assessment in accordance with the *Code of Virginia*.
 - c. Each local community-based probation agency shall develop and follow a procedure which identifies how and when substance abuse testing will be conducted.
 - d. Each local community-based probation agency shall develop and follow a procedure for placement into substance abuse education and/or treatment in accordance with the *Code of Virginia*.
3. Home Incarceration without Electronic Monitoring
Each local community-based probation agency shall develop and follow a procedure which identifies how home incarceration will be applied and supervised.
4. Home Incarceration with Electronic Monitoring

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Each local community-based probation agency utilizing electronic monitoring equipment shall develop and follow a procedure which identifies how this is applied and supervised.

- C. Each local community-based probation agency shall develop and follow a procedure for responding to violations of standard or special conditions of supervision, including failures to make initial contact as directed in the court referral procedure. Each community-based probation agency shall develop and follow a procedure for seeking a *capias* in accordance with the *Code of Virginia* and the guidelines published by the Department.
- D. Each local community-based probation agency shall develop and follow a policy and procedure for imposing intermediate sanctions for violations of standard or special conditions. This procedure shall include a specific level of sanction in relation to type and severity of violation.
- E. Each local community-based probation agency shall develop and follow a procedure for reporting violations of standard or special conditions to the court pursuant to §§19.2-303.3C and 9.1-176.1 of the *Code of Virginia*.
- F. Each local community-based probation agency shall develop and follow a procedure for placement closures.
- G. Each local community-based probation agency shall develop and follow a procedure for termination of supervision.

§3.7 Court Ordered Financial Obligations.

- A. Local community-based probation agencies shall not accept any direct payment in the name of the program, program staff, or directly related entity of funds from offenders for payment of court ordered obligations. For purposes of these standards, directly related entity means the board or any sub-group or member of the board or any executive or operation board or any sub-group or member of any executive or operation board, unless any member is due court ordered restitution from any offender.
- B. Each local community-based probation agency shall develop and follow a policy and procedure for monitoring, forwarding and facilitating offender payment of court ordered obligations.
- C. Each local community-based probation agency shall develop and follow a policy and procedure for offender performance of community service work in lieu of payment of fines and costs pursuant to §19.2-354.C of the *Code of Virginia*.

§3.8 Fees.

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- A. Supervision or intervention fees collected by local community-based probation agencies shall be done in accordance with the statewide system of supervision and intervention fees established by the Department pursuant §9.1-182 of the *Code of Virginia*.
- B. Payment of these fees shall be made directly to the locality serving as administrative and fiscal agent pursuant to §9.1-183 of the *Code of Virginia*.
- C. Each local community-based probation agency collecting fees on behalf of the locality shall develop and follow a procedure for monitoring, forwarding and facilitating the payment of supervision and intervention fees.

**PART IV.
PRETRIAL SERVICES.**

§4.1. Scope of Services.

Each pretrial services agency established pursuant to Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia* shall provide screening, investigating, reporting, recommendations, and supervision for defendants released to the custody of a pretrial services agency.

§4.2. Duties and Responsibilities

Each pretrial services agency shall develop and follow procedures for complying with the duties and responsibilities of local pretrial services officers as required by §19.2-152.4:3, and where applicable, develop and follow procedures for complying with any of the optional duties and responsibilities in §19.2-152.4:3 adopted by the agency.

§4.3. Defendant Screening, Investigation and Interview

- A. Each pretrial services agency shall develop and follow a procedure for the screening of defendants arrested on any *capias*, state or local warrant and who are awaiting an initial hearing to establish, or any subsequent hearing to reconsider, bail before any judicial officer or court served by the agency.
- B. Each pretrial services agency shall develop and follow a procedure for the investigation of defendants appearing before any judicial officer served by the agency for an initial or subsequent hearing to establish or reconsider bail.
- C. Each pretrial services agency shall develop and follow a procedure for interviewing defendants appearing before any judicial officer served by the agency for an initial bail hearing, as appropriate and when resources permit, for any first appearance, arraignment, or subsequent hearing on an issue of bail.

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Except in cases where a defendant has been charged with failure to appear, the interview shall not include questioning the defendant on the nature and circumstances of the current offense(s), whether a firearm was used, or the weight of the evidence, nor should these factors be considered.

1. Pretrial services agencies approved by the chief general district court judge to conduct drug or alcohol screenings as part of the pretrial interview shall do so in accordance with any guidelines established by the Department. Pretrial services agencies currently approved to conduct drug and alcohol screenings may seek a waiver from the requirements of §19.2-123 B. from the chief general district court judge.
 2. All screenings shall be conducted in a confidential manner and in a confidential setting.
 3. Pretrial services agencies shall, where video teleconferencing is available, develop a procedure for conducting defendant interviews and/or presenting cases in court through this technology.
- D. Each pretrial services agency shall develop and follow a procedure to complete the Virginia Pretrial Risk Assessment Instrument (VPRAI).
- E. Each pretrial services agency shall develop and follow a procedure for presenting a written report to an appropriate judicial officer with recommendations based on the individualized risk factors of the defendant. The procedures shall follow a policy to promote release under the least restrictive terms and conditions.

§4.4. Judicial Officer Placement.

- A. Each pretrial services agency shall develop and follow a procedure for the placement of defendants on pretrial supervision. These procedures shall, at a minimum, require the defendant to report to program staff no later than the next workday following placement or release from confinement.
- B. Each pretrial services agency shall develop and follow a procedure for local judicial officer or court placements of defendants residing in contiguous localities in Virginia not served by a local pretrial services agency or in contiguous states. For the purpose of these standards “contiguous” means “to share a boundary.”

§4.5. Defendant Intake.

- A. Each pretrial services agency shall develop and follow a procedure for interviewing all defendants including those placed directly on supervision by a judicial officer without the benefit of an investigation as defined in these standards (§4.3 B. & C.). This interview shall be completed no later than the next workday following direct placement or release from confinement.

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- B. Each pretrial services agency shall develop and follow a procedure for conducting a criminal history record check, as defined in this standard, on each defendant supervised by the agency.
- C. Each pretrial services agency shall develop and follow a procedure for informing defendants of standard and special conditions of supervision imposed by the judicial officer. Defendants shall be informed of this no later than their first face-to-face contact.

§4.6. Defendant Management.

- A. Each pretrial services agency shall develop standard conditions of supervision. Standard conditions of supervision shall be provided to all defendants.
- B. Each pretrial services agency shall develop and follow a procedure for the assurance of the defendant's compliance with any standard and special conditions of supervision ordered by a judicial officer. This procedure shall include verification of compliance through collateral contact(s).
- C. Defendants shall have face-to-face contacts with appropriate program staff, at a minimum, once every other week. Each pretrial services agency shall develop a policy and procedure for handling extenuating circumstances which may prohibit the required face-to-face contacts.
- D. The length of supervision shall not extend beyond trial and sentencing of the defendant.
 - 1. For misdemeanor defendants following continuation of bail on an appeal bond, pretrial supervision shall, at the direction of the court, be continued through conviction in circuit court.
 - 2. For felony defendants pretrial supervision on bail shall be continued through conviction and/or sentencing only at the direction of the circuit court and only for the purposes of completion of a presentence investigation by a state probation officer.
 - 3. Programs shall inform the circuit court that pretrial supervision cannot be continued following an appeal of a conviction or sentence by the defendant.
- E. Each pretrial services agency shall develop and follow a procedure for responding to defendant violations of conditions of bail or supervision, including failures to make initial contact as directed.
 - 1. The agency shall develop a procedure to immediately notify the court of any violation of a condition of bail to include standard or special conditions set by the court.
 - 2. The agency shall develop a procedure for filing a Motion for Show Cause Summons for defendants who should return to court for a hearing on

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- minor violations which complies at a minimum with any guidelines established by the Department.
3. The agency shall develop a procedure for seeking a *capias* to comply at a minimum with any guidelines established by the Department for seeking a *capias*.
 4. Sanctions for any violation shall only be imposed by a judicial officer pursuant to §19.2-123.B of the *Code of Virginia*.
- F. Each pretrial services agency shall develop and follow a procedure for placement closure.
- G. Each pretrial services agency shall develop and follow a procedure for termination of supervision. Termination of supervision can occur only after all placements are closed.
- H. Each pretrial services agency shall develop and follow a procedure to address monitoring of defendants.

§4.7. Fees.

Supervision fees may not be collected from defendants for the provision of pretrial services. Defendants placed on pretrial supervision and Home Electronic Incarceration as a condition of bail pursuant to §19.2-123 A. 4. shall pay, in accordance with §53.1-131.2 B., the costs for services established for the operation of the Home Electronic Incarceration program when the service is provided by or through a sheriff's office or regional jail.

PART V
TRANSFER OF SUPERVISION

§5.1 Transfer Procedures

- A. Each community-based probation agency shall develop and follow a procedure for sending offenders to and receiving offenders from other local community-based probation agencies for supervision in accordance with Department guidelines.
- B. Each pretrial services agency shall develop and follow a procedure for sending defendants to and receiving defendants from other pretrial services agencies for supervision in accordance with Department guidelines.
- C. The receiving agency shall sign and return the transfer request form to the sending agency within the time period specified in the Transfer Guidelines.

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- D. Supervision of defendants and offenders shall be provided in accordance with the standard operating procedures of supervision of the receiving agency.
- E. The receiving agency shall provide the sending agency with a Transfer Case Monthly Progress Report in writing on each transferred defendant or offender on a monthly basis. These reports shall be completed and mailed or faxed to the sending agency in accordance with the Transfer Guideline.
- F. The receiving agency shall notify the sending agency of a serious incident involving the transferred defendant or offender by the next working day after the receiving agency becomes aware of the incident.
- G. Transfer procedures shall comply with guidelines published by the Department.

PART VI.
CONTRACTING FOR SUPERVISION.

§6.1. Contracting for Supervision.

- A. Localities may contract with private organizations for the provision of local probation supervision for offenders as authorized in Article 9 (§9.1-173, et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia*.
- B. Localities may contract with private organizations for the provision of pretrial services only if such contracts were established prior to the passage of the Pretrial Services Act, defined as Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia*.
- C. Any private organization providing direct offender or defendant supervision must be a recognized criminal justice agency as defined in §9.1-101 of the *Code of Virginia*.
- D. Prior to issuing a request for proposals for the provision of direct offender supervision as authorized in Article 9 (§9.1-173, et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia*, the locality shall conduct a needs assessment to determine that contracting is cost effective and of benefit to the locality.
- E. All localities shall follow the procurement procedures of the fiscal and administrative agent for the selection of any private organization for the provision of direct defendant or offender supervision.
- F. All localities contracting for supervision shall include an outline of the scope of services and performance measures in the contract.

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- G. The administrative and fiscal agent of any locality contracting for direct defendant or offender supervision shall ensure that the contractor complies, at a minimum, with the following specific elements of this standard:
1. Mission statement (§2.1)
 2. Table of organization (§2.2)
 3. Standard operating procedures (§2.5)
 4. Records Management (§2.6)
 5. Serious incidents (§2.7)
 6. Performance data and information (§2.8)
 7. Local probation supervision (§3.1 - §3.8)
 8. Pretrial services (§4.1 - §4.7)
 9. Transfer of supervision (§5.1)
 10. Training and staff development (§7.1)
- H. The administrative and fiscal agent of any locality contracting for direct defendant or offender supervision shall ensure that the contractor has:
1. Articles of incorporation and oversight.
 2. Policy and procedures for fiscal management and purchasing.
 3. Annual audit by independent auditors.
 4. Personnel policies and procedures that conform to all state and federal regulations and comply with this standard.
 5. Employment descriptions and qualifications.
 6. Personnel policy manual, provided to each employee which, at a minimum, addresses:
 - a. Termination
 - b. Grievance procedures
 - c. Discipline
 - d. Resignations
 - e. Vacation and sick leave
 - f. Raises and promotions
 - g. Employee evaluations
 - h. Personnel records
 7. Affirmative action statement.
 8. Provision of liability insurance.
- I. The administrative and fiscal agent of any locality contracting for direct defendant or offender supervision shall develop and follow a procedure for monitoring and evaluating program effectiveness, fiscal management, and performance.

PART VII.
TRAINING AND STAFF DEVELOPMENT

§7.1. Training and Staff Development.

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- A. All professional, clerical and volunteer staff shall complete orientation as per guidelines published by the Department.
- B. All professional staff shall, within the first six months of employment, satisfactorily complete Basic Skills training as provided by the Department.
- C. All clerical staff shall, within the first six months of employment, satisfactorily complete training deemed appropriate for his or her job duties by the agency. This training shall, at a minimum, comply with guidelines that may be published by the Department.
- D. All professional and clerical staff shall complete in-service training and continuing staff development annually, as approved by their supervisor. This training shall, at a minimum, comply with guidelines that may be published by the Department.