



PART I GENERAL PROVISIONS

§1.1 Legal Authority

These standards are established in accordance with 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 (DCJS), hereafter referred to as the Department, to establish standards for the development, implementation, operation, and evaluation of programs and services.

§1.2 Purpose

The purpose of local probation is to provide the judicial system with sentencing alternatives for certain misdemeanants or persons convicted of felonies that are not felony acts of violence, as defined in § [19.2-297.1](#) and sentenced pursuant to § [19.2-303.3](#), for whom the court imposes a sentence of 12 months or less and who may require less than institutional custody in accordance with Article 9 (§[9.1-173](#)) of Chapter 1 of Title 9.1 of the *Code of Virginia*.

PART II ADMINISTRATION OF AGENCIES

§2.1 Written Policies and Procedures

- A. Each agency established under the authority of Article 9 (§[9.1-173](#) et seq.) of Chapter 1 of Title 9.1 of the *Code of Virginia* shall develop and maintain written policies and procedures. These policies and procedures shall, at a minimum, address and comply with all components of these standards and relevant state and federal laws. Each agency is responsible for developing or modifying policies and procedures to comply with any changes to state or federal laws related to the administration of local probation if known or as notified by the Department.
- B. Policies and procedures and substantive revisions shall be approved in writing by the chief executive officer of the administrative and fiscal agent. The policies and procedures and revisions shall be provided to agency staff and made available to all Community Criminal Justice Board members (CCJB), the local judiciary, and the Department. For purposes of these standards, substantive revisions are any modifications that result in a change in policy or procedure.
- C. Policies and procedures shall be reviewed and updated as needed, at a minimum, biennially by the agency Director or designee.
- D. Any local agency with circumstances preventing them from complying with any specific standard, shall request a variance from the Department. The request must indicate what circumstances prevent the agency from complying with the requirements and any action, if applicable, the agency is taking to enable them to be in compliance.



§2.2 Oath of Office

Each local community-based probation agency shall develop and follow a policy and procedure for complying with the requirements that all full-time or part-time permanent employees who perform any duties and responsibilities specified in § [9.1-176.1](#) must take the Oath of Office in accordance with §§ [9.1-177](#), and [49-1](#) of the *Code of Virginia* before entering into the duties of his or her office. At a minimum, the policy and procedure shall include:

- A. Requirements of the oath of office.
- B. Limitations of the oath of office.
- C. Requirements for documenting and reporting the Oath of Office.
- D. The use of the following Oath of Office:

“I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as a local community-based probation officer and that I will assist the courts within [insert jurisdiction or jurisdictions], the jurisdiction(s) I serve pursuant to providing probation and related services and to the requirements of the Comprehensive Community Corrections Act for Local Responsible Offenders according to the best of my ability, (so help me God).”

§2.3 Records Management

- A. Each local community-based probation agency shall develop and follow a policy and procedure to fully use the Pretrial and Community Corrections Case Management System (PTCC) which shall include maintaining an individual record in PTCC for each community corrections (CC) probationer.
- B. In addition to the full use of PTCC as directed by the Department, each local community-based probation agency shall develop and follow a policy and procedure for case files to include, at a minimum, the following information for each probationer in the case file in either an electronic or paper format:
 - 1. Referral/placement documentation (i.e., warrant, court orders)
 - 2. Signed conditions of supervision
 - 3. Signed authorization for release of information
 - 4. Other written documents, if applicable:
 - a. Transfer request form
 - b. Monthly transfer progress reports
 - c. Reports to the court or requests for court action such as:
 - 1. requesting a *capias* or show cause
 - 2. violations
 - 3. closures
 - 4. request fine/cost option
 - d. Screenings and assessments
 - e. Progress reports and verification of completion from service providers
 - f. Signed community service timesheet
 - g. Case plans
 - h. Documentation of compliance with financial obligations



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- C. Each local community-based probation agency shall develop and follow a policy and procedure to ensure the security, safeguarding, and confidentiality of probationer records which shall at a minimum comply with Criminal History Record Use and Security and the Virginia Criminal Information Network ([6VAC20-120-10](#) through [6VAC20-120-160](#)), the requirements of §§[9.1-133](#) B and [9.1-177.1](#), of the *Code of Virginia* and any applicable federal regulation(s).
- D. Each local community-based probation agency shall develop and follow a policy and procedure for retention and disposal of records which shall at a minimum comply with current records retention and disposal schedules for [General Schedule No. 25, Community Corrections Act Program](#) as established by the Library of Virginia.
- E. Each local community-based probation agency shall develop and follow a policy and procedure for expungements in accordance with Virginia Administrative Code ([6VAC20-120-80](#)). If electronic records must be expunged, the agency shall follow the Department's procedure to expunge electronic records.
- F. Each local community-based probation agency shall develop and follow a policy and procedure related to public access of probationer information in compliance with [§2.2-3706 f](#) of the Freedom of Information Act (FOIA).
- G. Each local community-based probation agency shall develop and follow a policy and procedure to respond to Subpoenas duces tecum.

§2.4 Serious Incidents and Citizen Complaints

Each local community-based probation agency shall develop and follow a policy and procedure to respond to and document serious incidents and citizen complaints. At a minimum, the policy and procedure shall include:

- A. What is reported for each of the following types
 1. Probationer incident
 2. Staff incident
 3. Citizen complaint
- B. Who must report
- C. How to report and what time frame
- D. To whom reports are sent
- E. Forms that must be used
- F. Reporting to the Department, if applicable

§2.5 Performance Data and Information

Each local community-based probation agency shall develop and follow a policy and procedure for the collection and dissemination of performance data and information. At a minimum, this policy and procedure shall address the following:

- A. The dissemination of performance data to local stakeholders, including the CCJB, and complying with requests for performance data and information.



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- B. Quality Assurance procedures that include, but are not limited to, case reviews, queries of the Pretrial and Community Corrections Case Management System (PTCC) for data accuracy, and the status of probation performance measures.
- C. The keeping of records as required by the Department in accordance with [§9.1-176.1](#).

PART III
LOCAL PROBATION

§3.1 Eligibility

- A. Each local community-based probation agency shall develop and follow policies and procedures for providing probation supervision for eligible probationers (i) convicted on or after July 1, 1995, of a misdemeanor or a felony that is not a felony act of violence as defined in § [19.2-297.1](#), and for which the court imposes a total sentence of 12 months or less, and (ii) no younger than 18 years of age or is considered an adult at the time of conviction sentenced pursuant to [§§ 9.1-174](#), [18.2-57.3](#), [18.2-251](#), [19.2-303.2](#), and [19.2-303.3](#).
- B. Each local community-based probation agency shall develop and follow policies and procedures for providing probation supervision for eligible probationers placed on local community-based probation following a deferred proceeding ([§§ 4.1-305](#), [9.1-174](#), [18.2-57.3](#), [18.2-251](#), [19.2-303.2](#), and [19.2-303.3](#)) or pursuant to current legal rulings.
- C. Each local community-based probation agency that elects to provide services to probation placements from Virginia Courts served by the agency that reside out of state or in unserved localities in Virginia shall develop and follow a policy and procedure for providing probation supervision.
- D. The supervision of placements that are not eligible as defined in A and B above shall be considered a monitoring case. Any local community-based probation agency that elects to monitor offenders at the direction of the court shall develop and follow a policy and procedure for the monitoring of cases that do not meet the definition of an eligible placement including but not limited to judicial placements for traffic infractions, cases sentenced to community services in lieu of fines/costs, or judicial placements solely for the collection of all fines, costs, fees and/or restitution. Local community-based probation agencies may monitor such cases, and those cases are not required to be supervised according to the minimum standards for supervision as established by the Department. Monitoring cases are not eligible for Transfer of Supervision.

§3.2 Intake

- A. Each local community-based probation agency shall develop and follow a policy and procedure for conducting an intake for each probationer placed on supervision within ten (10) business days of notification of a court action or release from confinement. At a minimum, the procedure for intake must include the following:



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1. Conducting a criminal history record check on each probationer supervised by the agency which, at a minimum, includes:
 - a. An inquiry to the Virginia Criminal Information Network (VCIN),
 - b. Checking the DNA (deoxyribonucleic acid) database for probationers required to submit a sample pursuant to [§19.2-310.2](#), and
 - c. Checking and tracking the Sex Offender Registry status of probationers required to register pursuant to §§ [9.1-900](#), [9.1-901](#), [9.1-902](#), [9.1-903](#) and [9.1-907](#). At a minimum, the Sex Offender Registry policy and procedure shall include:
 1. Who must register and re-register,
 2. Established procedures on who is responsible for checking and tracking the status even if not done by the local agency,
 3. Use of any required forms and format approved by the Virginia State Police, and
 4. Where to report to register.
2. Providing each probationer with written documentation, and instructing the probationer regarding court-ordered and agency conditions of probation supervision and the sanctions that may be imposed for noncompliance with those conditions.
3. Administering a validated risk screening tool approved by the Department to determine risk of reoffending.

§3.3 Supervision

- A. Each local community-based probation agency shall develop and follow a policy and procedure for providing probation supervision. At a minimum, the procedure for supervision must address the following:
 1. The assessment of the probationer's risk and needs using an assessment tool approved by the Department.
 2. The provision of supervision and interventions that are responsive to the risk and needs of probationers and demonstrate that as risk increases, supervision intensity, frequency, and duration increases.
 3. The provision for 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.
 4. The development of a supervision plan that is risk informed and based on data from the risk/needs assessment.
 5. Verifying the probationer's compliance with, and completion of, any court ordered conditions of supervision; measuring the probationer's progress and completion of case plan goals, if a case plan is required, and activities throughout the supervision period.



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- B. Each local community-based probation agency shall develop and follow a policy and procedure for using appropriate responses to probationer behavior related to compliance with conditions of probation supervision. At a minimum, sanction and incentive policies and procedures shall include the following:
1. Response to probationer failures to report as directed in the court referral procedure.
 2. When and how to seek a *capias* or request a show cause in accordance with §§ [9.1-176.1](#) and [19.2-303.3](#) of the *Code of Virginia* and at a minimum:
 - a. Establish local procedures to request a show cause hearing due to non-compliance when continued liberty is not a concern and a *capias* is not required.
 - b. Ensure only sworn probation officers may submit requests for a *capias* or show cause.
 - c. Establish procedures indicating how and when a *capias* should or must be requested
 - d. Establish procedures for supervisor review of requests for a *capias*
 - e. Establish procedures indicating how and when a show cause should or must be used
 - f. Document the reason(s) for the show cause or *capias* request in PTCC
 - g. Establish procedures for making a case inactive if a *capias* has been requested for a probationer who has absconded.
 3. Applying intermediate incentives for progress and sanctions for violations of conditions of supervision and, if applicable, case plan activities.
 4. Reporting procedure and notification of probation progress and outcome to the court pursuant to §§[9.1-176.1](#) and [19.2-303.3C](#) and of the *Code of Virginia*.
- C. Each local community-based probation agency shall develop and follow a policy and procedure to address length of supervision in the absence of direction from the court. These policies and procedures shall at a minimum include that the length of supervision shall not exceed the amount of time sentenced or otherwise permitted by law.
- D. Each local community-based probation agency shall develop and follow a policy and procedure for the following specific components of probation supervision:
1. Community Service in accordance with §§[9.1-176](#), [9.1-176.1](#), & [19.2-305](#) of the *Code of Virginia* for eligible probation placements which shall, at a minimum, include:
 - a. Written agreements between the agency and community service site.
 - b. The requirement for sites to be public or private not for profit.
 2. Substance Abuse Screening, Assessment, and Treatment referrals to include:
 - a. Initial substance abuse screening in accordance with [§19.2-299.2](#) of the *Code of Virginia*.



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- b. Substance abuse assessment in accordance with [§19.2-299.2](#) of the *Code of Virginia*.
 - c. Placement into substance abuse education and/or treatment in accordance with [§19.2-299.2](#) of the *Code of Virginia*.
 3. Substance Abuse Testing in accordance with §§ [18.2-251.4](#), [18.2-252](#), and [19.2-303.3](#) of the *Code of Virginia*.
 4. Veteran Services pursuant to [§9.1-173.1](#).
 5. Treatment and intervention services provided by the agency to address specialized populations or address specific risk and needs which shall at a minimum include the following information:
 - a. Program design with risk factors and needs addressed by the intervention.
 - b. Target population served, program eligibility, admission requirements and program completion criteria.
 - c. The referral process and guidelines for participation.
- F. Court Ordered Financial Obligations
 1. Each local community-based probation agency shall develop and follow a policy and procedure for monitoring and facilitating probationer payment of court ordered financial obligations for eligible probationers, if applicable. The policy and procedure must be consistent with local policy for the collection of money and which shall, at a minimum, include that local community-based probation agencies are not responsible for the collection of restitution. This remains the responsibility of the clerks of court pursuant to [§19.2-305.1](#).
 2. Each local community-based probation agency that offers community services work in lieu of payment of fines and costs for eligible probationers shall develop and follow a policy and procedure pursuant to [§19.2-354.C](#) of the *Code of Virginia*.

§3.4 Fees

Each local community-based probation agency shall develop and follow a policy and procedure for supervision or intervention fees pursuant to the statewide policy of supervision and intervention fees established by the Department and [§9.1-182](#) of the *Code of Virginia*.

§3.5 Transfers

Each community-based probation agency shall develop and follow a policy and procedure for sending probationers to and receiving probationers from other local community-based probation agencies for supervision. At a minimum, the policy and procedure must comply with the Department's transfer guidance.



§3.6 Electronic Monitoring and Home Incarceration

- A. Each local community-based probation agency using home incarceration without electronic monitoring shall develop and follow a policy and procedure for probationers placed on local probation in accordance with §§ [9.1-176](#), [9.1-176.1](#).
- B. Each local community-based probation agency using electronic monitoring equipment shall develop and follow a policy and procedure for its use with probationers placed on local probation in accordance with §§ [9.1-176](#), [9.1-176.1](#).
- C. Each local community-based probation agency using GPS/electronic monitoring shall develop and follow a policy and procedure for its use with probationers placed on local probation in accordance with § [9.1-176](#), [9.1-176.1](#) and [DCJS Guidelines](#).

§3.7 Placement and Supervision Closures

- A. Each local community-based probation agency shall develop and follow a policy and procedure for placement closures.
- B. Each local community-based probation agency shall develop and follow a policy and procedure for termination of supervision.

PART IV TRAINING AND STAFF DEVELOPMENT

§4.1 Training and Staff Development

Each local community-based probation agency shall develop and follow a policy and procedure for all staff training, attendance, and completion of workplace learning and staff development which at a minimum to includes the requirement for:

- A. All professional employees to successfully complete training as mandated by the Department.
- B. All volunteer professionals and administrative staff to receive in-service training as is available and deemed appropriate by the agency.