



Department of Public Safety and Correctional Services

Office of the Secretary

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November 29, 2014

The Honorable Thomas V. Michael Miller, Jr.
President of Senate
State House, H-107
Annapolis, MD 21401 – 1991

The Honorable Michael Erin Busch
Speaker of House of Delegates
State House, H-101
Annapolis, MD 21401 – 1991

RE: Report on Chapter 182 - Swift and Certain Sanctions Pilot Program –
Expansion (MSAR #10136)

Dear Mr. Speaker and Mr. President:

According to the language on pages 1 and 2 of Chapter 182 – Criminal Law – Swift and Certain Sanctions Pilot Program – Expansion enacted in 2014, the Department of Public Safety and Correctional Services (DPSCS) is required to submit an annual report on the status of the Pilot Program. The language specifically states:

[B]eginning in 2013, on or before October 1 of each year, report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

- (i) the status of the pilot program;*
- (ii) the percentage of Departmental programs that use evidence-based practices; and*
- (iii) the number of individuals incarcerated for technical violations in the State while on parole OR UNDER MANDATORY SUPERVISION and Ch. 182 2014 LAWS OF MARYLAND the number of new offenses committed by individuals in the State while on parole OR UNDER MANDATORY SUPERVISION.*

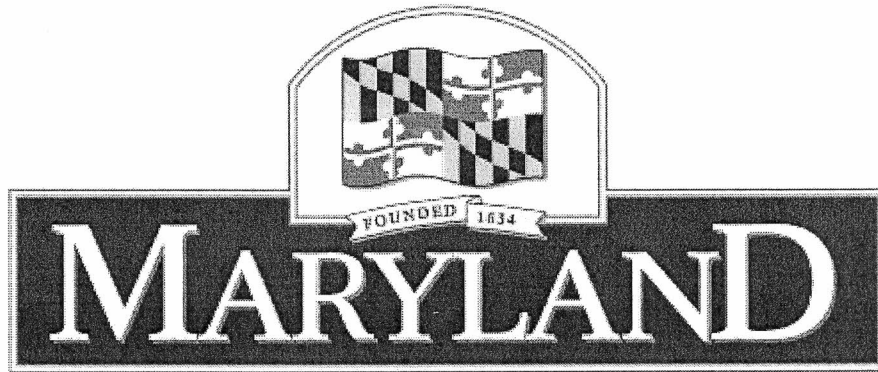
Enclosed is a detailed report on the status of the Program, pursuant to the aforementioned language. Please allow me to extend my sincere apologies for the lateness of the report. We hope that this report will be informative and helpful to you and your members. If I can be of further assistance, please do not hesitate to contact me at 410-339-5005 or Kevin Loeb, Director of Legislative Affairs, at 410-339-5051.

Sincerely,

A handwritten signature in cursive script that reads "Gregg Hershberger".

Gregg Hershberger

c: Mr. John Griffin, Chief of Staff, Governor's Office
Ms. Jean Hitchcock, Governor's Chief Legislative Officer
Ms. Shanetta Paskel, Governor's Deputy Legislative Officer
Ms. Hannah Dier, Policy Analyst, Department of Legislative Services
Mr. Matthew Schmid, Budget Analyst, Dept. of Budget & Management
Ms. Sarah Albert, Department of Legislative Services
Deputy Secretary Patricia Donovan
Deputy Secretary Carroll Parrish
Director Kevin C. Loeb, Office of Government, Legislative and Community Affairs



DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONAL SERVICES

Report on SB 608/HB 182 (2014)

Swift and Certain Sanctions Pilot Program

October 2014

Governor Martin O'Malley
Lt. Governor Anthony G. Brown
Secretary Gregg Hershberger

Introduction

The enactment of SB 801/HB 919 during the 2011 Legislative Session required the Department of Public Safety and Correctional Services (DPSCS) to develop, by October 1, 2012, a pilot program in two counties that created a system of graduated administrative sanctions for technical violations of parole committed by offenders released from Corrections. The pilot was to terminate September 30, 2015; however, recent legislation expanded the program as well as the termination date. During the 2014 Legislative Session, SB 608/HB 642 was passed and signed into law. The effect of this legislation modifies the original Swift and Certain Pilot Program from the Chapter Acts of 2011 to: (1) include offenders released from incarceration on parole and mandatory release supervision in the original pilot jurisdictions of Anne Arundel and Talbot Counties; (2) expand the pilot program into Baltimore City (for parolees and mandatory release supervisees); and (3) extend the termination date of the program to September 30, 2017. The bill became effective October 1, 2014 and the Department successfully expanded the program to Baltimore City; however, no data is currently available given the recentness of the expansion. This report will provide an update on the status of the pilot program in Anne Arundel and Talbot Counties. Data on the Baltimore City expansion is currently being collected and will be reported in the 2015 annual report.

Implementation

Beginning October 1, 2012, all non-containment¹ parole supervision cases opened in the Glen Burnie, Annapolis and Easton Parole and Probation field offices were assigned to designated Parole and Probation Agents who implemented the Swift and Certain Sanctions Pilot Program. Using the attached technical response matrix, agents applied graduated sanctions in response to technical violations of parole supervision.

A technical parole violation occurs when an offender fails to abide by the general and special conditions of parole release. Examples of technical violations include failing to report to the supervising agent as directed, testing positive for the illegal use of a controlled dangerous substance, and missing appointments with treatment providers, among others things. These technical violations can be handled by the supervising agent and are met with a response, or sanction,

¹ "Non-containment" refers to offenders who are not supervised under a containment model of supervision (e.g., Violence Prevention Initiative, sexual offender, domestic violence). Offenders who are subject to specialized containment supervision are not included in the population of offenders eligible for this pilot.

intended to correct the negative, non-compliant behavior demonstrated by the offender. However, being charged with a new criminal offense while under supervision is not considered a technical violation and may be met with a more severe response in the form of a report to the Maryland Parole Commission which may result in the issuance of a summons or warrant for the offender.

For the purposes of this pilot, the Parole and Probation Agent documents the technical violations, consults with the immediate supervisor, applies the technical violation response matrix, and selects the appropriate sanction to be imposed. The Field Supervisor I reviews case activity to ensure that the appropriate sanctions are being applied. The supervisor also tracks the violations and sanctions on a customized tracking spreadsheet.

Sanctioning

Offenders were sanctioned pursuant to the technical violation matrix. The matrix takes into consideration the risk level that at which an offender is assessed (High, Moderate, Low-Moderate) and the classified severity of the technical violation incurred. (see attached).

The sanctioning cycle starts as of the date of the technical violation and runs for 90 days following that date. If the offender incurs no additional technical violations, the sanctioning cycle restarts.

Eligibility for Pilot/Case Movement

For the purposes of this pilot, only parole offenders who reside and are supervised in Anne Arundel and Talbot Counties are eligible for the pilot. Offenders whose supervision was transferred to Talbot or Anne Arundel Counties from other jurisdictions were not included in the pilot. Offenders whose supervision was transferred out of the two pilot counties were discontinued in the pilot.

Because the agency operates two field office locations within Anne Arundel County, the pilot is being conducted in both locations. Therefore, our data will report on a total of three offender groups (Annapolis, Glen Burnie, and Easton) monitored within the two participating counties.

Summary of Data Collected From 10/1/13 through 9/30/14

The **Annapolis** office supervised forty-four eligible offenders during this reporting period. Of this group, a total of seventeen offenders committed technical

violations. Five of these offenders committed at least one technical violation and twelve offenders committed a second or subsequent violation. Of these seventeen offenders, fourteen are classified as high risk offenders and three are classified as moderate risk offenders.

Of the seventeen initial technical violations, thirteen were classified as high level technical violations and four as moderate level technical violations. The sanctions applied included increased frequency of reporting to the supervising agent, return to weekly drug testing, and drug evaluation and treatment. Twelve offenders in this group committed a subsequent technical violation following an initial sanction. Eleven of these offenders committed subsequent technical violations that were classified as high and one committed a moderate level technical violation. These high level subsequent technical violations resulted in subpoena requests to the Maryland Parole Commission.

The **Glen Burnie** office supervised seventy-five qualifying offenders during this reporting period. Of this group, ten offenders committed technical violations requiring a sanction. Of the ten offenders, nine are classified as high risk offenders and one is classified as a moderate risk offender. Seven of these offenders committed at least one technical violation and three offenders committed a second or subsequent violation (two of which involved arrests for new criminal charges).

Of the ten technical violations committed, five were considered high level technical violations and two were considered moderate level technical violations. The sanctions applied included increased frequency of reporting, return to weekly drug testing schedule, and drug evaluation and treatment. One offender in this group committed a subsequent technical violation after receiving a sanction for initial technical violation.

The **Easton** office has supervised twenty five qualifying offenders during this reporting period. Of this group, only three offenders committed a technical violation requiring a sanction. Two of these offenders committed a high level technical violation resulting in sanctions to include increased frequency of reporting, return to weekly drug testing schedule, and drug evaluation and treatment. One offender committed a moderate level violation which resulted in a verbal reprimand being issued to the offender. None of these three offenders committed a subsequent technical violation following a sanction.

Summary

The presumptive purpose of the legislation is to reduce the number of offenders being returned to incarceration to face revocation of parole for technical

violations. The offenders are held accountable for infractions through application of a technical response matrix that includes increasingly severe sanctions. Sanctions include reprimands, additional KIOSK reporting, additional in-person reporting, curfew, electronic monitoring, and increased substance abuse testing, evaluation, and treatment. The Swift and Certain Pilot Program Sanctions Response Matrix identifies the appropriate response based on offender risk level and nature of the technical violation. Using the technical response matrix, field staff applied graduated sanctions to offenders who violated a technical condition of parole. Because we are using a single system of graduated sanctions for violations with a menu of presumptive sanctions for the most common type of violations, there are no discrepancies among the offices in terms of data reporting.

To date, the Swift and Certain Sanctions Pilot Program (Anne Arundel and Talbot Counties) has targeted all non-containment model parole offender, released on or after October 1, 2012. During this reporting period, of the 144 offenders in the pilot program, 30 offenders committed at least one technical violation while on parole supervision which resulted in the imposition of a sanction. Thirteen of these 30 offenders committed a second or subsequent technical parole violation resulting in additional graduated sanctions. Two of these 30 offenders incurred new criminal charges following a prior sanctioned technical parole violation.

The use of graduated sanctions for technical parole violators has been mainstreamed throughout DPSCS Community Supervision in the form of policy (DPP General Order 11-006, Responding to Parole and Mandatory Release Technical Violations), released November 1, 2011.