



Department of Public Safety and Correctional Services

Office of the Secretary

300 E. JOPPA ROAD • SUITE 1000 • TOWSON, MARYLAND 21286-3020
(410) 339-5000 • FAX (410) 339-4240 • TOLL FREE (877) 379-8636 • V/TTY (800) 735-2258 • www.dpscs.maryland.gov

STATE OF MARYLAND

MARTIN O'MALLEY
GOVERNOR

ANTHONY G. BROWN
LT. GOVERNOR

GREGG HERSHBERGER
SECRETARY

PATRICIA DONOVAN
DEPUTY SECRETARY
ADMINISTRATION

CARROLL PARRISH
DEPUTY SECRETARY
OPERATIONS

RHEA L. HARRIS
ASSISTANT SECRETARY/
CHIEF OF STAFF

DAVID N. BEZANSON
ASSISTANT SECRETARY
CAPITAL PROGRAMS

WAYNE WEBB
DIRECTOR
NORTH REGION

WENDELL M. FRANCE
DIRECTOR
CENTRAL REGION

PATRICIA VALE
DIRECTOR
SOUTH REGION

February 17, 2014

The Honorable Thomas V. Mike 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 554 - Swift and Certain Sanctions Pilot Program

Dear Mr. Speaker and Mr. President:

According to the language on page 9 of Chapter 554 – Criminal Law – Swift and Certain Sanctions Pilot Program – enacted in 2011, 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 and the number of new offenses committed by individuals in the State while on parole.*

Enclosed is a detailed report on the status of the Program which was implemented in Anne Arundel and Talbot Counties at a total of three Community Supervision field offices. 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 Hitchcok, Governor's Chief Legislative Officer
- Ms. Shanetta Paskel, Governor's Deputy Legislative Officer
- Ms. Rebecca Ruff, Policy Analyst, Department of Legislative Services
- Mr. Matthew Schmid, Budget Analyst, Dept. of Budget & Management
- Deputy Secretary Patricia Donovan
- Deputy Secretary Carroll Parrish
- Director Kevin C. Loeb, Office of Legislative Affairs



DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONAL SERVICES

Report on SB 801/HB 919
Swift and Certain Sanctions Pilot Program

October 2013

Governor Martin O'Malley
Lt. Governor Anthony G. Brown
Secretary Gary D. Maynard

Introduction

The enactment of SB 801/HB 919 in 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. Beginning in 2013, by October 1 of each year, DPSCS must make a specified report, which includes the status of the pilot program, to the General Assembly.

Implementation:

Beginning October 1, 2012, all non-containment* parole cases opened in the Glen Burnie, Annapolis and the Easton Community Supervision field offices were assigned to designated 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. Technical violations are considered "minor" in nature, met with a response intended to correct the negative behavior demonstrated by the offender. Examples of technical violations include failing to report to Agent as directed, a positive drug testing result, missed appointments with treatment providers, etc. Being charged with a new criminal offense while under supervision is not considered a "minor" violation and may be met with a more severe response. In the pilot, the Parole and Probation Agent documents technical violations, applies the technical violation response matrix, and selects the appropriate sanction. The Field Supervisor I reviews case activity to ensure that the appropriate sanction is applied. The supervisor also tracks the violations and sanctions on a customized tracking spreadsheet.

Sanctioning:

Offenders were sanctioned pursuant to the technical violation matrix (see attached).

The sanctioning cycle is 90 days from the date of the violation (if there are no additional infractions within 90 days of the initial infraction, the sanctioning process is to restart).

Eligibility for Pilot/Case movement:

For the purposes of this pilot, only *parole* offenders residing in Anne Arundel and Talbot Counties, and supervised within those counties, were included in the pilot. Offenders whose supervision was transferred into 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, Easton) monitored within the two participating counties.

Summary of Data Collected From 10/1/12 through 7/31/13:

The Annapolis office has supervised thirty three (33) qualifying offenders (all non-containment parole cases). Of this group, six (6) offenders committed six (6) technical violations requiring a sanction. Of the six offenders, five are classified as high risk offenders; one is classified as moderate risk offender. Of the six technical violations, all were considered high level technical violations. The sanctions applied included increased frequency of reporting to Agent, return to weekly drug testing schedule, and drug evaluation and treatment. No offender in this group committed a subsequent technical violation following a sanction.

The Glen Burnie office has supervised forty (40) qualifying offenders. Of this group, nine (9) offenders committed ten (10) violations requiring a sanction. Of the nine offenders, seven are classified as high risk offenders; two are classified as moderate risk offenders. Of the ten technical violations committed, five were considered high level technical violations; five 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 (1) offender in this group committed a subsequent technical violation (after receiving a sanction for initial technical violation), resulting in a warrant request.

The Easton office has supervised twenty five (25) qualifying offenders. Of this group, four (4) offenders committed a technical violation requiring a sanction per the response matrix. Four (4) high risk offenders committed a high level technical violation resulting in a sanction to include increased frequency of reporting, return to weekly drug testing schedule, and drug evaluation and treatment. No offender in this group committed a subsequent technical violation following a sanction.

Summary:

The purpose of the legislation is to reduce the number of offenders being returned to corrections 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, increased

drug testing, drug evaluation, treatment, curfew and GPS. Using the technical response matrix, field staff applied graduated sanctions to offenders who violated a technical condition. 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.

Attached is the Swift and Certain Sanctions Response Matrix, which identifies the appropriate response, based on offender risk level and nature of the technical violation. Please also be aware that this supervision strategy has been mainstreamed throughout DPSCS Community Supervision in the form of policy, released by Mr. Ernest Eley, Director of DPSCS Community Supervision Support, in 2011.

Conclusion

The Swift and Certain Sanctions Pilot Program targets all non-containment model parole released offenders, released on or after October 1, 2012. A relatively small sampling of paroled offenders was included in this pilot. Of the 98 offenders in the pilot, 20 technical violations were identified which resulted in a sanction. Only one offender committed a subsequent technical violation following the sanction. From this pilot one could conclude that the imposition of graduated sanctions in response to technical violations is effective in arresting the undesirable behaviors that lead to the commission of the technical violations. The Department of Public Safety and Correctional Services has implemented, in the form of policy (DPP General Order 11-006, Responding to parole and Mandatory Release Technical Violations, issue 11/1/11) a supervision strategy that is consistent with the intent of this pilot program. If further study is warranted, it may be done on a statewide basis, utilizing a much larger target population.

***"non-containment" refers to offenders eligible for the pilot. Those supervised under a containment model of supervision (Violence Prevention Initiative, Sex Offenders) are subject to specialized supervision and, therefore, not included in the population of offenders eligible for the pilot.**

Swift and Certain Sanctions Pilot Program (Matrix Used)

The Technical Violation Response Matrix has been developed to assist Parole and Probation Agents and Supervisors address technical violations for parolees.

While not intended to replace the thorough analysis of relevant and accurate information, and the informed judgment which have always served as the basis for decisions regarding responses to technical supervision violations, this structured tool is designed to offer guidance, and to add greater consistency and accountability to this decision-making process.

The matrix is to be used in the preparation of reports submitted to the Maryland Parole Commission relative to violations of supervision. It is not for use in reports involving allegations of new criminal offenses, only for those reports based solely upon technical violations.

It is expected that agents will use the matrix in each case for which it is applicable and will review the risk level designations associated with each case. This will give consideration to the proposed responses in the matrix when developing the recommendations to be included in their reports. While deviation from the recommendations provided in the matrix is allowable under appropriate circumstances, the reasons for any such departures must be entered in the Case Review section of Case Notes by the supervisor.

Risk Assessment

The recommended responses to offender non-compliance in the Technical Violation Response Matrix are based on the interplay of two basic variables: assessed risk level and violation severity. The first of these, the risk level options, appear in the left column of the Matrix. The selection in the Risk Level column is based upon the offender's most recent score on the standardized departmental risk assessment instrument (low, low-moderate, moderate, high). If no scores are available, the risk assessment should be completed by the agent prior to using the Matrix

Severity Index

Once the risk level is determined, the agent should proceed to the next column of the Matrix: Violation Severity. The severity level (low, moderate, or high) for the various technical violations can be determined by consulting the Violation Severity Index. In the case of multiple violations, the Violation Severity column selection should be based on the most severe of the violations.

Responses

Once the applicable selections have been made in the Risk Level and Violation Severity columns, the last column will provide a range of authorized responses for the case under consideration. It is important to remember, however, that agency policy either requires or permits the additional option of a warrant request – regardless of risk level or violation severity – for cases meeting certain criteria, including those in which:

- The current violation involves a threat of serious physical or mental injury to another.
- The current violation involves the possession of a weapon.
- The current violation of absconding is based on the offender never having reporting following sentencing or release.
- The current violation is a moderate or high severity violation and the offender has – during the current supervision period – previously been continued on supervision following a moderate or high severity violation.

In all other instances, the recommendation accompanying a report of technical violation(s) should be based on the range of responses offered by the Matrix using the procedures and considerations outlined above, along with the judgment and discretion of the agent. Any recommendation for the imposition of additional conditions should be related to criminogenic factors associated with the particular offender.

As noted, deviation from the range of responses provided in the matrix is allowable in appropriate circumstances, but the reasons for any such departures must be clearly documented in a case note.

RISK LEVEL	VIOLATION SEVERITY	RESPONSE(S)
LOW TO LOW-MODERATE	LOW	<ol style="list-style-type: none"> 1. Continue on supervision. 2. Continue on supervision with verbal reprimand. 3. Continue on supervision with added conditions (e.g., increased supervision-KIOSK). Community work service
	MODERATE	<ol style="list-style-type: none"> 1. Continue on supervision with verbal reprimand. 2. Continue on supervision with added conditions (e.g., short term curfew, additional KIOSK reporting). 3. Community work service
	HIGH	<ol style="list-style-type: none"> 1. Continue on supervision with added conditions (e.g., increased supervision, drug and/or mental health treatment). 2. Continue on supervision with curfew. 3. Continue on supervision with inpatient treatment.
MODERATE	LOW	<ol style="list-style-type: none"> 1. Continue on supervision with verbal reprimand. 2. Continue on supervision with added conditions (e.g., increased supervision, additional KIOSK reporting, drug and/or mental health treatment), Community work service
	MODERATE	<ol style="list-style-type: none"> 1. Continue on supervision with added conditions (e.g., increased supervision, drug and/or mental health treatment). 2. Continue on supervision with curfew. 3. Continue on supervision with inpatient treatment.
	HIGH	<ol style="list-style-type: none"> 1. Continue on supervision with added conditions (e.g., increased supervision, drug and/or mental health treatment). 2. Continue on supervision with GPS. 3. Continue on supervision with curfew. 4. Continue on supervision with Home Detention. 5. Continue on supervision with inpatient treatment.
HIGH	LOW	<ol style="list-style-type: none"> 1. Continue on supervision with verbal reprimand. 2. Continue on supervision with added conditions (e.g., increased supervision, drug and/or mental health treatment). 3. Continue on supervision with GPS. 4. Continue on supervision with curfew. 5. Continue on supervision with Home Detention. 6. additional KIOSK reporting
	MODERATE	<ol style="list-style-type: none"> 1. Continue on supervision with added conditions (e.g., increased supervision, drug and/or mental health treatment). 2. Continue on supervision with curfew. 3. Continue on supervision with inpatient treatment. 4. additional KIOSK reporting
	HIGH	<ol style="list-style-type: none"> 1. Continue on supervision with added conditions (e.g., increased supervision, drug and/or mental health treatment). 2. additional KIOSK reporting 3. Continue on supervision with GPS. 4. Continue on supervision with curfew. 5. Continue on supervision with Home Detention. 6. Continue on supervision with inpatient treatment. 7. Violation report

MARYLAND PAROLE COMMISSION CONDITION		SEVERITY
PAR		
1	Report as directed and follow your Parole Agent's instructions. <i>Failure to report with the intent to evade or abscond from supervision.</i>	HIGH
1	Report as directed and follow your Parole Agent's instructions. <i>Isolated instances of missed appointments.</i>	LOW
1	Report as directed and follow your Parole Agent's instructions. <i>Failure to follow instructions regarding victim contact.</i>	HIGH
1	Report as directed and follow your Parole Agent's instructions. <i>Failure to follow instructions – all other instances.</i>	MODERATE
2	Work regularly	LOW
3	Get permission before: Changing your home. <i>Failure to obtain permission to change address with the intent to evade or abscond from supervision.</i>	HIGH
3	Get permission before: Changing your home. <i>Failure to obtain permission to change address, but contact has been maintained.</i>	LOW
3	Get permission before: Changing your job.	LOW
3	Get permission before: Leaving the State of Maryland	HIGH
4	Obey all laws.	N/A
5	Notify your Parole Agent immediately if you are arrested.	MODERATE
6	You shall not illegally possess, use, or sell, or have under your control any narcotic drug, "controlled dangerous substance," or related paraphernalia.	HIGH
7	You shall not own, possess, use, sell, or have under your control any dangerous weapon or firearms of any description without approval of the Maryland Parole Commission.	HIGH
8	You shall so conduct yourself as not to present a danger to yourself or others. <i>Subject presents a threat of serious physical or mental injury to others.</i>	HIGH
8	You shall so conduct yourself as not to present a danger to yourself or others. <i>Subject presents a danger to self only.</i>	LOW
10	You must pay a monthly supervision fee as required by law unless the Maryland Parole Commission exempts you either wholly or partly from payment of the fee.	LOW
11	If ordered by the Maryland Parole Commission to undergo drug or alcohol abuse testing, you must pay for the testing if required to do so by the Division of Parole and Probation. <i>Failure to undergo required testing.</i>	MODERATE
11	If ordered by the Maryland Parole Commission to undergo drug or alcohol abuse testing, you must pay for the testing if required to do so by the Division of Parole and Probation. <i>Failure to pay for required testing.</i>	LOW
SC01	Submit to, successfully complete, and pay any required costs for any and all evaluations, treatment programs, testing, and aftercare as directed by the Division of Parole and Probation, which may include substance abuse, mental health, anger management, parenting, domestic violence, and other issues. Take all medications prescribed by your treatment provider.	HIGH

MARYLAND PAROLE COMMISSION CONDITION		SEVERITY
PAR		
SC02	Must participate in out patient treatment through []	HIGH
SC03	Permit agents of the Division of Parole and Probation to visit your home at any time.	MODERATE
SC04	Random urinalysis. <i>Failure to undergo urinalysis.</i>	MODERATE
SC04	Random urinalysis. <i>Failure to pay required urinalysis fees.</i>	LOW
SC05	Obtain mental health evaluation and participate in mental health treatment as directed.	HIGH
SC07	Continue counseling aftercare.	LOW
SC08	Participate in vocational rehabilitation.	LOW
SC10	Domestic violence therapy (as directed)	HIGH
SC11	Enroll/continue in school.	LOW
SC12	Must participate in community service as directed by the Division of Parole and Probation.	LOW
SC16	No contact with victim and/or victim's family	HIGH
SC17	Maintain employment.	LOW
SC18	Obtain employment within [] days of release.	LOW
SC22	Must remain within supervised housing for at least one year.	MODERATE
SC23	No alcohol	MODERATE
SC24	No drugs	MODERATE
SC25	Must participate in Alcoholics Anonymous.	LOW
SC26	Must participate in Narcotics Anonymous	LOW
SC27	Obtain sponsor.	LOW
SC28	Obtain driver's license.	LOW
SC29	No driving without a valid license.	MODERATE
SC30	You shall not procure employment caring for children under the age of eighteen (18) or work in an environment where children are present unless an exemption is requested by the Agent of the Division of Parole and Probation and granted by the Parole Commission.	HIGH
SC31	You shall have no contact with [] or that person's family, unless the family member is your natural or adopted child and is under the age of eighteen (18), in which case only supervised contact shall be allowed (so as not to interfere with parental visitation rights) unless otherwise specified in a court order.	HIGH
SC33	You shall have no contact (i.e., face-to-face, telephonic, computer or indirect contact via a third party with any child under the age of eighteen (18), nor join or be associated with any group which promotes activities involving children under eighteen (18) years of age, such as but not limited to religious youth groups, Boy Scouts, Girl Scouts, Cub Scouts, YMCA, YWCA, youth sports teams, and recreational leagues unless the exception under special condition 31 above applies; or unless an exception is requested by agent of the Division of Parole and Probation and is granted by a Parole Commissioner. This condition does not prohibit inadvertent or accidental contact with a child under the age of eighteen.	HIGH
SC35	Comply with any curfew or site restrictions imposed by your parole/probation agent to limit your access to certain areas of the community and/or to require you to obtain permission to leave your residence during certain hours. Cooperate with any program which is established to monitor your compliance with these restrictions,	HIGH

MARYLAND PAROLE COMMISSION CONDITION		SEVERITY
PAR		
	which may include payment for costs associated with Global Positioning Systems (GPS) or other tracking technology.	
SC38	Provide a DNA sample as required by law.	HIGH
SC39	Appear in court when notified to do so.	MODERATE
SC40	Waive all extradition rights and processes, and agree to return to the State of Maryland whenever instructed.	LOW
SC41	Do not physically or verbally threaten or intimidate any employee of the Department of Public Safety and Correctional Services.	HIGH