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Vermont Pretrial Services: Section 2. 13 VSA 7554c

State: Vermont

Jurisdiction: Statewide

Oversight by: Director of Pretrial Services, Vermont Department of Corrections

Target Population: All persons whose offense or status falls into any of the following categories: all felonies, excluding listed crimes, cited into court; persons cited or arrested for an offense which is not a listed crime who are identified by law enforcement, the prosecution, the defense, probation and parole personnel, the court, a treatment provider, or a family member or friend as having a substantial substance abuse or mental health issue; misdemeanor and felony drug offenses, excluding trafficking cited into court; and persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment.

Annual Budget: Estimated \$750,000

Program Start: June, 2015 **End:** N/A

The Vermont Pretrial Services Program (hereafter the Program) was established by the General Assembly after the 2014 Vermont legislative session. Broad Program guidelines were included in a Section of the legislation, Act 195. "It is the intent of the General Assembly that law enforcement officials and criminal justice professionals develop and maintain programs at every stage of the criminal justice system to provide alternatives to a traditional criminal justice response for people who, consistent with public safety, can effectively and justly benefit from those alternative responses."

It was also the legislature's intent that the programs be reflective of the goals and principles of restorative justice. "Commonly referred to as the sequential intercept model, this approach identifies five points within the criminal justice system where innovative approaches to offenders and offending behavior can be taken to divert individuals away from a traditional criminal justice response to crime. These intercept points begin in the community with law enforcement's interaction with citizens, proceed through arrest, the judicial process, and sentencing, and conclude with release back into communities. Alternative justice programs may include the employment of police-social workers, community-based restorative justice programs, community-based dispute resolution, Precharge programs, Pretrial Services and case management, recovery support, DUI and other drug treatment courts, suspended fine programs, and offender reentry programs."

Act 195 findings also reference the risk-need-responsivity model to address criminal conduct and reduce recidivism. The model's premise is that a cited person's level of risk and needs should inform the strategies for addressing the person's criminogenic factors and needs.

Lastly, the General Assembly intended this act to be a continuation of justice reinvestment efforts initiated in 2007 by the Legislative, Judicial, and Executive Branches. Justice reinvestment is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and strengthen communities.

The activities of the Vermont Pretrial Services Program are broadly described in Act 195 Section 2. 13 VSA 7554c. Included in the many directives and mandates, the Department of Corrections is to select and use evidence-based Risk Assessments and Needs Screening tools as part of a voluntary Pretrial Services Program which includes Precharge services with individuals who are cited with eligible offenses.

The objective of a Pretrial Risk Assessment is to provide information to the Court, for the purpose of determining whether or not a person presents a risk of nonappearance or a threat to public safety so the court can make an appropriate order concerning bail and conditions of release. Similarly, the objective of Pretrial Needs Screening is to obtain a preliminary indication of whether a person has a substantial substance use or mental health issue that would warrant a subsequent court order for a more detailed assessment.

The overall Program goal is to offer voluntary and risk assessments and needs screenings to the aforementioned eligible populations. These screenings are conducted by county based Pretrial Monitors (PTM) who are contracted through the Department of Corrections to perform all Pretrial Service Program elements. They are trained by the Director, and supervised by Contract managers through the same contract.

Defendants who have contact with law enforcement are cited/arrested by means of a citation that includes information about the Pretrial Services Program and a central Pretrial Services phone number. This central number lists all of the PTM, their jurisdictions and their cell phone numbers so that individuals can self-refer to the program.

Additionally, the PTM will receive daily email arrest notifications generated by the Department of Public Safety. These notifications include the individual's name and arrest/citation information and in time will hopefully include the individual's phone number should it be available. When the phone number is included (possibly in early 2016) the Pretrial Monitor will be able to call eligible individuals directly. At present, the PTM coordinate with the appropriate law enforcement agency to obtain the phone number so that they can make the call. PTM also attend arraignment and attempt contact with eligible individuals.

Either way, through "passive" self-referral or "active" PTM initiated outreach; the PTM will determine their eligibility for the program and schedule a meeting to complete the necessary informed consent documents, and the Needs Screening (MMS for mental health and SIMPLE for substance use), and Risk Assessment (Ohio Risk Assessment System- Pretrial Assessment Tool). The PTM will also provide a reflective summary of the findings and conduct a Brief Negotiated Intervention (BNI). The goal is to increase the individual's motivation to seek and obtain help for their healthcare or other life issues and to connect them to these services.

It is important to note that should an individual consent to participate in Pretrial Services, they sign a consent to release information. As per 7554c, this consent allows the PTM to provide the States Attorney

with a Summary Report which states: whether or not the cut off scores of the Needs Screening were exceeded and not the actual answers to the Needs Screening questions which contain PHI.

Similarly, in regard to the Pretrial Risk Assessment, only the self-reported and validated scores which indicate the risk level of non-appearance or risk of a new offense are given to the States Attorney – and not the actual answers to the 33 questions in the Pretrial Risk assessment.

As per 7554c, the States Attorney then files these reports in court. In consideration of the reports and other information it is the State's Attorney's discretion to offer the individual a Precharge Plan and contract. If the individual accepts the Precharge plan and contract, the PTM would then provide the support, links to clinical and restorative services, and compliance monitoring. The States Attorney will also issue a new citation based on the expected timeframe needed to complete the Precharge plan. The PTM will offer and explain the voluntary Precharge plan and re-citation to the defendant and the individual can decide if they want to participate.

Should a Precharge plan be offered, a defendant can decline to participate and/or withdraw consent at any time. That being said, if a person wants to participate on the screening and feedback and access to services without the reports being given to the States Attorney, the Pretrial Monitor will complete the protocol with them at their request.

Additionally at arraignment, the Judge can also order as a condition of release that an individual: participate in a Clinical Mental Health and Substance Abuse Assessment; follow the treatment recommendations; and meet with a Pretrial Monitor.

In closing, the data being collected by Vermont Pretrial Services is the first comprehensive data collected on this population in the state's history. This data will inform the Agency of Human Services about the demographics, needs and risk profiles of individuals in contact with law enforcement and inform the State about the corresponding types of services and programming needed to improve health and wellbeing outcomes. A process evaluation, cost benefit analysis and outcome study will also be forthcoming.