



## North Carolina Department of Correction

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Beverly Eaves Perdue  
Governor

Alvin W. Keller, Jr.  
Secretary

### MEMORANDUM

**TO:** Senator Marc Basnight  
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Senator Linda Garrou  
Senator Edward W. Jones  
Senator Eleanor Kinnaird  
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Representative Henry M. Michaux, Jr.  
Representative Joe P. Tolson  
Representative Douglas Yongue

**FROM:** Jennie L. Lancaster, Chief Deputy Secretary

**RE:** Study Report on Feasibility of Establishing Probation Revocation  
Centers at Closed Prison Facilities

**DATE:** April 27, 2010

Pursuant to Section 19.4(b), Session Law 2009-451, please find attached the Department of Correction's Legislative Report on the Feasibility of Establishing Probation Revocation Centers at Closed Prison Facilities.

JLL:SP/jk

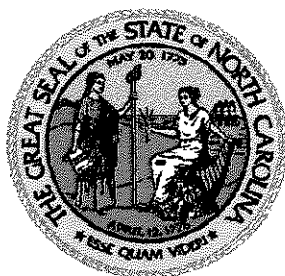
Attachment

cc: Aaron Gallagher  
Doug Holbrook  
John Poteat

A handwritten signature in black ink, appearing to be "JL", is located to the right of the "RE:" field.



**STATE OF NORTH CAROLINA  
DEPARTMENT OF CORRECTION**



*Division of Community Corrections*  
**LEGISLATIVE REPORT  
ON THE  
FEASIBILITY OF ESTABLISHING PROBATION  
REVOCATION CENTERS AT CLOSED PRISON  
FACILITIES – STUDY REPORT**

**March 1, 2010**

**Beverly Eaves Perdue**  
Governor

**Timothy D. Moose**  
Director

**Alvin W. Keller, Jr.**  
Secretary

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## **I. LEGISLATIVE DIRECTIVE**

### **USE OF CLOSED PRISON FACILITIES**

**SECTION 19.4(b)** The Department of Correction shall study the feasibility of establishing probation revocation centers at closed prison facilities. The Department shall consult with counties to explore cost-sharing of these facilities. The Department shall report its findings to the Chairs of the Appropriations Subcommittees on Justice and Public Safety by February 1, 2010.

## **II. INTRODUCTION**

The Division of Community Corrections (DCC) is responsible for the supervision of all adult offenders on probation, parole or post-release supervision in North Carolina and has oversight responsibility of the Community Service Work Program (CSWP). The Division also administers the State-County Criminal Justice Partnership Program that provides grants to support community-based programs aimed at reducing recidivism, probation revocations, alcoholism and other drug dependencies, and the costs of incarceration to the state and counties. The Division's mission is to protect the safety of citizens in our communities throughout the state by providing viable alternatives and meaningful supervision to offenders placed in its custody. The primary goal is to accomplish its mission by reaching an equal balance of control and treatment for offenders that will positively affect their behavior and lifestyle patterns.

DCC currently employs 2,582 authorized, full-time positions, of which 2,016 are positions certified through the North Carolina Criminal Justice Education and Training Standards Commission. DCC supervises approximately 114,173 offenders on probation, parole or post-release supervision (includes absconders) and oversees 10,793 unsupervised offenders in the CSWP for a total offender population of 124,966.

DCC is in the process of implementing evidence-based practices into offender supervision with operational completion expected during FY 2010-2011. Evidence-based practices refer to approaches and interventions that have been scientifically tested in controlled studies and proven effective. The areas that will be impacted by evidence-based practices include the following: case management and policies, including the incorporation of supervision practices and response to non-compliance/violations based on risk and needs assessment; automation within the Department's Offender Population Unified System (OPUS); review of special operational areas such as sex offender supervision, warrants, post-release, parole, and EHA-GPS that are in need of policy revisions; and training. The application of evidence-based principles should both reduce recidivism and reduce the need for prison beds.

## **III. PURPOSE**

The purpose of the study is to determine the feasibility of establishing probation revocation centers at closed prison facilities and if determined to be feasible, to consult with counties to explore cost-sharing of these facilities. The closed prison facilities considered are Cleveland Correctional Center, Guilford Correctional Center, Umstead

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Correctional Center, Union Correctional Center, and Wilmington Residential Facility for Women; all of which were closed pursuant to Session Law 2009-451 (Senate Bill 202).

### **IV. SCOPE**

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In conducting this study, DCC established the purpose of revocation centers, reviewed the Division's violation strategy, evaluated the intermediate sanctions, programs, and supervision tools available to offenders in the community, conducted an analytical review of probation revocations, and considered case management changes currently in progress. A survey of Executives of State Probation and Parole Agencies was conducted to determine national trends.

### **V. PURPOSE OF REVOCATION CENTERS**

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Revocation centers are primarily developed to create savings for states by reducing the cost of incarcerating technical probation violators while at the same time addressing the treatment and rehabilitation needs of offenders. The cost of a revocation center is based upon the following:

- Mission and goals
- Eligibility requirements
- Program offerings (substance abuse treatment, cognitive behavioral interventions, employability training, and academic/vocational education)
- Level of security (correctional officers, probation officers, combination of both)
- Length of stay
- Operational costs (housing, meals, medical, clothing, staffing pattern)

### **VI. DCC's Violation Strategy**

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A violation is any action by the offender that is contrary to the conditions of supervision established by the court or the Post-Release Supervision and Parole Commission. Violations may be criminal (involving the commission of a new offense) or technical (involving a failure to meet one or more specific conditions of the probation judgment or parole or post-release supervision agreement).

DCC's violation strategy is to selectively and proactively intervene with offenders to reduce the likelihood of future criminal behavior, promote compliance with the supervision strategy, and to ensure an appropriate and proportionate response to all violations of the conditions of probation, parole, or post-release. The basic expectations underlying the Division's policy regarding violations are:

- there will be a response to every detected violation;
- responses to violations will be proportional to the risk to the community;
- the least restrictive response necessary to respond to the behavior will be used;
- there will be consistency in handling similar violations;
- responses will hold some potential for long-term positive outcomes in the context of supervision strategy;
- risk to the community is the overriding consideration; and,

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- offenders who show a habitual unwillingness to abide by requirements or pose a threat to the community will be subject to being reported to the court for possible revocation.

With the implementation of evidence-based practices, violations of probation, parole, or post-release conditions will fall into five severity levels ranging from those that are considered non-willful (low risk to public safety) to those that may pose a risk sufficient to warrant removal from the community. The severity level of the noncompliance in concurrence with the supervision level will determine the appropriate response by the supervising probation officer.

## **VII. INTERMEDIATE SANCTIONS, PROGRAMS, AND SUPERVISION TOOLS**

The following intermediate sanctions, programs and supervision tools are community interventions available to the courts and/or probation officers when addressing offender violations.

### **Intermediate Sanctions (imposed by the court):**

- **Special Probation/Split Sentence:** Probation including the condition that the probationer serve a short period of imprisonment up to six months which the offender must serve (separate from the longer term of imprisonment that has been suspended). A continuous split sentence requires the offender to serve time with no break which may be in either the custody of the Department of Correction or a local confinement facility. Non-continuous split sentence, which allows the offender to serve the active time on weekends, may only be served in a designated local confinement or treatment facility.
- **Residential Community Corrections:** Residential community corrections programs require offenders in need of maximum control and intensive substance abuse or psychological treatment services to reside in a designated facility and participate in activities such as work, substance abuse treatment, social skills training, education, or employment training conducted either at the facility or at other specified locations. Most residential programs are operated by the non-profit sector, although the Department of Correction does operate one residential treatment program, DWI DART Cherry, which is a therapeutic community for male probationers and parolees. The Department of Correction anticipates the opening of Black Mountain Substance Abuse Center for Women in April 2010 to provide residential substance abuse treatment for female probationers and parolees.
- **House Arrest with Electronic Monitoring:** House arrest with Electronic Monitoring enhances the supervision of offenders in need of control and provides immediate response to violations by requiring offenders to wear a transmitting device and placing a monitoring device in the offender's residence for the duration of the sanction. Offenders on House Arrest with Electronic Monitoring are confined to their residence and subject to 24-hour monitoring.

## *Establishing Probation Revocation Centers at Closed Prison Facilities*

- **Day Reporting Center:** Criminal Justice Partnership funded centers require offenders with high needs for control, structure, and accountability to report on a daily basis and participate in a highly structured program of onsite activities which may include substance abuse treatment, anger management, cognitive behavior therapy, psychological counseling, social skills training, education, and/or employment training. Participants are required to adhere to a curfew and may be subject to random substance abuse screening.
- **Drug Treatment Court:** Drug Treatment Court is an intensive, highly structured program designed to identify and treat offenders whose criminal activities are related to substance abuse and are not of a violent nature. This is achieved by identifying the substance abuse offender and placing them into counseling, continuous case management, and offering structure. The program uses a treatment team approach including, but not limited to; the judge, district attorney, defense attorney, probation/parole officer, TASC coordinator, Drug Treatment Court coordinator, treatment counselor and local law enforcement representatives. As each team member performs a separate duty, they all work together toward a common goal of sobriety and productivity.
- **Intensive Supervision:** Intensive supervision is a collaborative team approach to identify and assess offender needs effectively utilizing a wide range of appropriate resources and frequent interaction to promote a balance of compliance, control, and offender accountability. Multiple contacts by officers are used to monitor compliance with treatment as well as satisfy minimum statutory requirements.

### **Program Referrals utilized by the probation officers:**

- **Resource Centers:** Criminal Justice Partnership funded centers similar to day reporting centers but without the core services requirement, services offered depends upon the most important need for the county's offender population.
- **Satellite Substance Abuse Programs:** Criminal Justice Partnership funded programs that provide substance abuse treatment services, which also includes aftercare services.
- **Community Service Work Program:** The Community Service Work Program provides oversight of offenders ordered to perform community service hours for criminal violations, including DWI offenses. Offenders are assigned to perform service to local communities in an effort to promote rehabilitation and restore or improve the community.

**Supervision Tools utilized by probation officers:**

- **Electronic Monitoring:** A supervision tool used for curfew violations
- **Substance Abuse Screening:** A supervision tool used to identify offenders in need of substance abuse treatment and/or education and to identify offenders' relapse into previous substance abusing behavior rather than to build a case for revocation.
- **Warrantless Searches:** Probation officers may perform warrantless searches of the offender's person, vehicle, and/or premises while he/she is present.
- **Increase frequency of reporting:** Probation officers may increase an offender's frequency of reporting.
- **Evaluation, counseling, treatment or educational program:** Probation officers may require that an offender submit to a referral for an evaluation, counseling, treatment or educational program.

Through the violation process, upon finding that an offender sentenced to community punishment has violated one or more conditions of probation, the court's authority to modify the probation judgment includes the authority to require the offender to comply with conditions of probation that would otherwise make the sentence an intermediate punishment. Also, the eligible populations for participation in Criminal Justice Partnership Programs have been modified to include offenders convicted of a community punishment level offense and whose risk-needs assessment results indicate that the offender could benefit from participating in such program.

**VIII. Probation Revocations Compared to Prison Admissions – FY 2008-2009**

There were 29,852 prison admissions in FY 2008-2009 (excluding returns from parole); 14,709 of these admissions were probation revocations.

DCC defines revocation types as criminal, technical, or absconding. If there are pending criminal charges or new convictions at the time of revocation, the reason should be "criminal" regardless of whether the offender was also an absconder. When using "technical" for the reason for revocation, the offender had only technical violations, one of which is not absconding, and no pending charges or new convictions. When using the reason for revocation as "absconding", the offender must have been an absconder with no pending charges or new convictions.

Table 1 lists the number and percent of offenders who exited probation and entered prison by the recorded revocation type at the time of the probation exit. If a new crime is recorded in the Department's Offender Population Unified System with an offense date that falls within the offender's period of probation supervision, the revocation is categorized as "Criminal."



**Establishing Probation Revocation Centers at Closed Prison Facilities**

Table 1

Probation Revocation Type for offenders entering prison (FY 2008-2009)	Number of revoked offenders entering prison	Percent of revocation types for revoked offenders entering prison	Percent of all prison admissions
Criminal	7,843	53.3%	26.3%
Technical Only	3,994	27.2%	13.4%
Absconded	2,872	19.5%	9.6%
<b>TOTAL</b>	<b>14,709</b>	<b>100%</b>	<b>49.3%</b>

Source: DOC Office of Research & Planning, *Update of Probation Revocation to Prison Report*, February 10, 2010.

For technical violations, the top four most frequently reported technical violations for offenders who were revoked from probation are: failure to pay court indebtedness (65.47%), failure to pay probation supervision fees (49.05%), positive drug screens (40.46%) and failure to report (35.25%). An offender may have one or several of the violations reported in the violation process that preceded his/her revocation. Prior to revocation 53.48% participated in a sanction. At the violation hearing, 527 (13.19%) offenders requested that the judge revoke their probation and allow them to serve their suspended sentence (elect to serve). Of the 824 offenders revoked from a driving while impaired offense, 511 (62%) entered prison in FY 2008-2009 for technical reasons.

**X. Survey of Executives of State Probation and Parole Agencies**

Through the assistance of the National Institute of Corrections, a survey was submitted to the Executives of State Probation and Parole Agencies to obtain information regarding revocation centers from a national perspective. **Of the states that responded to the survey, only two states reported that they have revocation centers: Montana and Tennessee.** The states of Alabama, California, Florida, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Nevada, Rhode Island, South Carolina and Wyoming reported no revocation centers.

- **Alabama** has two transition facilities. The Thomasville L.I.F.E. Tech facility will allow for about 600 male inmates a year to undergo its re-entry treatment programs. The Wetumpka L.I.F.E. 200 bed facility for females can be used by judges and the Parole Board in lieu of revocation. Expenditures to the agency are around \$4.5 million per year. The program components include intensive substance abuse treatment, medical treatment, food, security, clothing, etc. The Education Department pays for the education component and the Department of Rehab Services provides services. It is a six month program.

## ***Establishing Probation Revocation Centers at Closed Prison Facilities***

- **Hawaii** did not respond to the survey; however, as indicated in Nevada's response, their O.P.E.N (Opportunity Probation and Enforcement in Nevada) program, not yet operational, is modeled after Hawaii's Opportunity Probation with Enforcement or HOPE. The HOPE program involves close partnerships with prosecutors and defense counsel, police, wardens, and treatment providers. HOPE notifies probationers that the old rules remain in place but will now be enforced, which means failure to comply with frequent but random drug tests, office visits and treatment requirements are met with immediate sanctions, typically a few days in jail, time that is served over the weekend for probationers with legitimate jobs. Those who cannot abstain from drugs are placed in residential treatment. Preliminary results of a randomized controlled trial found that HOPE participants were less than half as likely to test positive for drugs (11 percent versus 26 percent) or miss appointments (5 percent versus 12 percent). Early results from a matched comparison group study were even more promising. Arrest rates for HOPE probationers were three times lower than for the comparison group, and they experienced significantly lower revocation rates as well (9 percent versus 31 percent) (HOPE Program Source: The PEW Center on the States *One in 31 The Long Reach of American Corrections* March 2009).
- **Iowa** had a violators program, one for males and one for females. The program focused on substance abuse and criminality with two different tracks – it was a six month program and was held inside an institution. Offenders were not considered inmates even though they were in prison and were in minimum custody. They maintained their probation or parole status. They were not allowed to leave on passes or for the night or even "voluntarily". If they left the facility a warrant for arrest was issued and the hearing process invoked. Budget constraints resulted in the closing of this program.
- **Louisiana** has a 90 day alternative-to-revocation program that a local sheriff operates pursuant to a contract. Plans are underway to convert a prison to a treatment program. Dr. James Austin worked with the state in the area of research, reviewed their data (reasons offenders were revoked) and the state plans to use that information along with best practices to develop a program.
- **Maine** does not have a revocation center, but has established a pilot revocation court that has been in operation for about one year. Several other sites/judges are requesting that Probation and Parole expand this process. The judges were provided training in the interpretation of the LSI-R and the case planning process. The training provided to the judges resulted in a more informed understanding of a probation officer's recommendation for revocation based on risk reduction, the best utilization of resources, and how the needs of the probationer could be addressed while not losing focus on the demands of the public in terms of public safety.
- **Maryland** is exploring the use of their Department of Correction pre-release centers/contract work release centers as facilities for such a model; however, given the current fiscal situation, the state is not certain when this will become a reality.

## ***Establishing Probation Revocation Centers at Closed Prison Facilities***

- **Michigan** has residential re-entry programs which were converted from technical violation programs (for parolees).
- **Montana** - Montana's *Sanction Treatment Assessment Revocation & Transition (START)* program, which opened in December 2005, is a highly structured, intensive treatment modality designed to encourage cognitive and behavioral change. The original goal of the program was to reduce admissions to the prison by 50 percent. An emphasis is placed on offenders participating in community programs and/or under community supervision when they committed technical violations warranting secure placement. The approach taken was to provide a service delivery program incorporating a comprehensive array of assessment tools and intensive treatment models in an effort to return all technical violators back into their original community status, thereby eliminating costly lengthy prison stays. The center also can be used as a "quick dip" approach so that offenders will experience the reality of their "loss of liberty." The eligibility requirements mandate admission through either a revocation placement or a sanction placement. The START program daily rate is \$79.80 per offender and the average length of stay for revoked offenders is 48.7 days (Strutzel, George (2008). *Sanction Treatment Assessment Revocation & Transition*). Montana's *Passages* program opened in January, 2007 and offers three services for women offenders: a 65-bed pre-release center, a 40-bed chemical dependency treatment program, and a 50-bed assessment, sanction and revocation program. In regards to the revocation program, offenders who commit technical violations while on probation or fail to comply with conditions of probation or parole or PRC placement may be transferred to *Passages* for a sanction placement of 30-120 days depending on their status. The purpose is to provide offenders with a reality check by alerting them that they may be headed to prison if they continue their poor performance. The hope is that this "last warning" will encourage offenders to correct their behavior and avoid a lengthy prison stay. The average daily cost for the *Passages Revocation Center* is \$87.28.
- **Nevada** is working with its Department of Correction and district courts to convert Casa Grande, a Nevada Department of Correction facility in Las Vegas, as a program modeled after Hawaii's Opportunity Probation with Enforcement, or HOPE. Nevada's program is called O.P.E.N. (Opportunity Probation and Enforcement in Nevada) and is not yet operational.
- **Wyoming** had planned for a 40 bed revocation unit to be a part of a medium security facility that recently opened; however, it has been delayed due to budget issues and staff shortages.

## **XI. CONCLUSIONS**

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The feasibility study did not reveal a need for revocation centers in North Carolina, at this time, based upon the following:

- The Council of State Governments has selected the North Carolina Department of Correction to participate in its justice reinvestment project. Justice reinvestment staff, with the help of expert consultants, will provide the department intensive technical assistance to advance fiscally-sound, data driven criminal justice policies to break the cycle of recidivism, avert prison expenditures and make communities safer. At the end of the project, options to generate savings and increase public safety will be provided to policymakers. These options will include strategies to reduce parole and probation revocations; focus supervision resources where they can have the greatest impact; and hold offenders (and service providers) accountable for the successful completion of programs such as drug treatment and job training.
- The impact of evidence-based practices on technical revocations cannot be determined at this time. DCC anticipates that there will be a reduction in technical revocations based upon risk and needs assessment administered to all offenders. Offenders will have an individualized case plan based on their risk/needs assessment and will be assigned to programs that will target their specific needs. Probation officers will use the assessment information to identify offender risk of re-arrest and criminogenic needs. This information will give officers guidance by placing offenders into an appropriate supervision level with defined minimum contact standards and specific responses to non-compliance.
- Intermediate sanctions, programs and services are available for offenders in the community and with the application of evidence-based practices responses to violations will take into account the severity of the violation, the risk posed by the offender, and the cost of the response.
- Until evidence-based practices are fully implemented, policies and procedures established, goals of supervision well conceived, and training completed, DCC cannot decisively determine the gaps in programs.