

# Good example of research paper on legal project

[Law](#), [Criminal Justice](#)



## **Introduction**

In the following project I have researched and summarized the main provisions of the statutes as they relate to the questions of arraignment, state sentencing issues and sentencing alternatives in the state of Virginia. Another part of this research covers the issues of practical application of these statutory provisions in the everyday work of courts and correctional institutions.

In the Lesson 1, I have researched the initial procedure of arraignment in the light of its practical application during the work of the court.

## **In the Lesson 2, I have summarized the statutory provisions which regulate the issues of probation, parole and sentencing alternatives.**

In the Lesson 3, I have briefly outlined the community correctional programs and how the issues of substance abuse, employment, housing and mental health are addressed within these programs.

As the conclusion, I have conducted an interview in which the principle questions of parole, probation, alternative sentencing were answered by the prosecuting attorney.

## **Lesson 1.**

Arraignment is a formal procedure which is conducted in open court and includes the reading of the charge on which the accused will be tried. After hearing the charges a defendant is supposed to enter the plea - plea of guilty, plea of not guilty or plea of nolo contendere. (Code of Virginia, § 19. 2-254)

If the suspect is in custody the arraignments are generally held within 72 hours. The procedure of the arraignment is based on the constitutional and statutory right of an accused to be informed of the charges against him/her.

The main purposes of the arraignment can be presented as follows:

- identification of the accused
- informing of the accused on the charges against him/her
- determination of the plea to the charges. (Circuit Court Clerk`s Manual, p. 44)

## **The arraignment procedure usually consists of the following steps:**

### **Step 1.**

The court clerk arranges all the upcoming arraignments in the calendar and notifies the staff responsible for the transfer of the accused about those arraignments.

### **Step 2**

At the beginning of the arraignment, the clerk of the court reads the indictment, warrant or information to accused. Having read the indictment, warrant or information the clerk asks the accused: " How do you plead?". If the defendant waives his right to be notified of the charges, the clerk will ask " In case number X, felony charge of Y, how do you plead?"

### **Step 3.**

The following actions depend on what plea was entered. If the defendant enters plea of not guilty, the clerk determines the date set for trial and enters that date either on court calendar or docket. If the accused pleads

guilty, the clerk, regarding the decision of the judge, either sets the date for sentencing, or notes on case summary sheet the court`s adjudication of the case or sentence.

#### **Step 4.**

After the arraignment, the clerk processes all court orders, obtains judge`s signature and places original files of those orders in proper case files. (Circuit Court Clerk`s Manual, p. 45)

#### **Lesson 2.**

##### Probation

The Code of Virginia states that the court after the conviction may suspend or modify the imposition of the sentence by placing the defendant on probation period under the conditions determined by the court. Those conditions may include constant monitoring of a convict by a GPS devices, a requirement of reimbursement of losses and/or damages to the aggrieved party, conducting of community services. Also the court shall require that the blood samples be taken as a condition of probation.( Code of Virginia, § 19.2-303)

The court may also place a person on the probation prior to the formal conviction during the trial. If the person who has not been convicted pleads guilty, the court, if there are sufficient facts to assume the guilt of the accused, may suspend the trial and place the person on conditional probation. If the probationer violates the conditions of his probation, the court shall proceed with the trial. However, if the probationer fulfills those conditions, the court shall dismiss any proceedings against this person.

(Code of Virginia, § 19. 2-303. 2). During the probation the defendant may be required to pay fines and costs as the substantial condition of the probation. The failure to pay those sums may be considered as a violation of the conditions of probation. (Code of Virginia, § 19. 2-305)

## **Parole**

The eligibility for the parole release is set forth in Prisons and Other Forms of corrections title of the Code of Virginia. The eligibility of a felon for a parole release mainly depends on the amounts of prior convictions and the nature of the committed offense. The principle established by the law states that the person, in order to be released on the conditions of the parole, must serve a bigger amount of time if he/she had prior convictions. However, the time that the convict must serve prior to the release is always fixed and limited to a certain period of time - twelve, thirteen, fourteen or fifteen years. The exceptions to this rule provide that the persons who were sentenced to die are not eligible for parole as well as the convicts who committed specific types of offenses which are listed in the appropriate article. (Code of Virginia, § 53. 1-151)

## **Sentencing alternatives.**

The judge, considering the provisions of the law, may determine other punishment in lieu of the penalty established for a particular crime. This sanction involves the commitment of the convict to the Department of Corrections with the subsequent transfer of this person to one of the rehabilitative programs and respective facilities. The period of such commitment is limited to four years. This procedure shall be applied to the

first-time convicts if that person committed the crime before becoming twenty-one years of age, and if the judge has a reasonable expectation that this person is capable of rehabilitation.( Code of Virginia, § 19. 2-311)

After the conviction the person shall be transferred to the Department of Corrections with the purpose of evaluation of his/her suitability for a particular rehabilitative program. (§ 19. 2-316) On the basis of this evaluation the convict will be assigned to the respective treatment program which generally may include elements of military drill style, psychological aid aimed at the development of social skills, academic education, parole supervision etc. (Code of Virginia, § 53. 1-63)

## **Prison release programs**

As provided in § 53. 1-155. 1, the Department of Corrections may grant a nonviolent prisoner with a possibility to participate in a residential community or work release programs approved by the Secretary of Public Safety within six months of prisoner`s release date. Distribution of all wages earned as a result of a completion of abovementioned programs will be aimed mainly at the reimbursement of all costs connected with prisoner`s confinement, as well as expenses which result from his work release and participation in programs. The Virginia department of corrections, inter alia, provides inmates with different kinds of reentry and life skills programs aimed at the reintegration of former prisoners into the society.(Code of Virginia, § 53. 1-155. 1)

### **Lesson 3.**

#### Substance abuse

Virginia Department of Corrections offers a wide-range of correctional programs aimed at the substance abuse treatment of the offenders. Convicts who meet certain criteria of eligibility may be placed into one of Community Residential Program facilities in lieu of actual incarceration. This program offers services which involve substance abuse education and treatment that requires greater intervention. Youthful Offender Program offers substance abuse education services for juvenile offenders. Diversion Center Incarceration Program and Detention Center Incarceration Program also provide the participants with the services of substance abuse treatment and education.(Community Corrections Referral Guide, 2010)

#### **Employment**

All of the abovementioned programs offer different types of employment opportunities for the participants. Community Residential Program provides a service of job placement. Youthful Offender Program offers educational services for juvenile offenders. Participants of that program receive vocational training in auto mechanics, plumbing, carpentry, which creates a perspective for the future employment of the offenders. Diversion Center Incarceration Program offers a possibility of employment in private sector, while Detention Center Incarceration Program provides with the opportunity to work on public projects. .(Community Corrections Referral Guide)

## **Housing.**

The participants of Community Residential Program are provided with food and shelter services however, the offender is required to pay for those services. Youthful Offender Program, Diversion Center Incarceration Program and Detention Center Incarceration Program provide free housing services for the participants. .(Community Corrections Referral Guide)

## **Mental Health.**

The purpose of mental health service programs is to provide treatment and educational services to the offenders who have mental health problems. Marion Correctional Treatment Center is a facility that provides treatment services for male offenders who suffer from acute mental illnesses. Fluvanna Correctional Center for Women offers a full range of mental health treatment for female offenders. Greensville Correctional Center and Powhatan Correctional Center provide treatment service for the offenders with different types of mental disorders.(Virginia Department of Corrections, Mental Health Services)

## **Lesson 4 Application.**

Under what circumstances can a defendant receive a sentence at probation?

Pursuant to the § 19. 2-303. 2., Code of Virginia the court may defer any proceedings against the accused and place him/her on probation if that person pleads guilty or enters the plea of not guilty to any crime against the property which constitutes a misdemeanor. In order to be eligible for probation sentence, the accused should not be previously convicted of any



felony. In any case, the judge, when considering the imposition of probation instead of incarceration, takes into account previous convictions of the accused as well the gravity of the crime committed.(Code of Virginia, § 19. 2-303. 2)

### **How much of a sentence must a defendant serve before he or she is eligible to be paroled?**

If the person is convicted for the first time, he or she will be eligible for the parole release after serving of one-fourth of imprisonment term. This term respectively increases with the amount of prior convictions: if the person is convicted for the second time he/she will serve one-third of the time before he/she is eligible for parole release and so on.(Code of Virginia, § 53. 1-151)

### **What would constitute a violation of probation and parole?**

The terms and conditions of parole and probation are usually set forth in the court`s decision. Those conditions are aimed at the prevention of commission of crime or any other illegal activity by the convict, and may include the restriction of freedom of movement, supervision by the authorized person, mandatory drug tests and etc. The violation of those conditions will most likely result in the annulment of probation or parole.

### **What types of crimes permit a community service sentence? What are some examples?**

Community service is usually employed as a sanction against the person who committed minor offences or certain types of misdemeanors. Such crimes may include indecent exposure, littering, trespassing on railroad tracks and trains etc.

## **Does your jurisdiction have a drug court? If so, how does it work?**

Drug courts in Virginia were established pursuant to the Drug Treatment Court Act. The main functions of these courts is to provide strict monitoring, supervision and treatment of drug-abusing individuals as well as to reduce the amount of drug use, drug addiction and drug-related crimes. (Code of Virginia, § 18.2-254. 1)

## **What forms of pretrial release does your jurisdiction use?**

In Virginia, pretrial release exists in the form of bail. In order to ensure that the person does not violate terms and conditions of the bail, he/she places a bond and signs a commitment to appear in court which is usually defined as recognizance. (Code of Virginia, § 19.2-119)

## **Conclusion**

In this assignment, I have researched statutory provisions which regulate particular questions of criminal procedure (arraignment, bail and recognizance), described the conditions of parole and probation as well as researched certain practical aspects of specific correctional programs which are implemented in the given jurisdiction.

## **References**

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