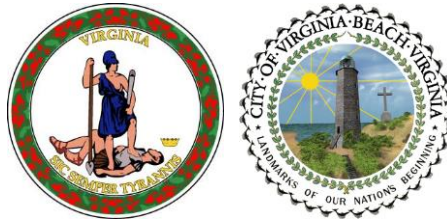


# OFFICE OF THE SHERIFF



CITY OF VIRGINIA BEACH

## MEMORANDUM

**TO:** Captain A. Culanding

**FROM:** Lieutenant L. Thompson

**DATE:** June 2, 2021

**SUBJECT:** Informative guidelines to the Virginia Beach Bar Association about the Weekender and Electric Home Monitoring Incarceration Program

As the Sheriff's Office begins to return to normal operating procedures after the COVID-19 pandemic, there has been some confusion and concerns with recent court orders from local attorneys in reference to above alternative sentencing programs offered at the Virginia Beach Sheriff's Office (VBSO), I would like to provide the following information to the Virginia Beach Bar Association.

**The Weekender Program: §53.1-131. 1** Provision for sentencing of person to nonconsecutive days in jail; payment to defray costs; penalty.

Any court having jurisdiction for the trial of a person charged with a misdemeanor, traffic offense, any offense under Chapter 5 (§ [20-61](#) et seq.) of Title 20, or a felony that is not an act of violence as defined in § [19.2-297.1](#) may, for good cause, if the defendant is convicted and sentenced to confinement in jail and the active portion of the sentence remaining to be served is **45 days or less**, impose the remaining time to be served on weekends or nonconsecutive days to permit the convicted defendant to **retain gainful employment**

- VBSO interprets the above code as 45 days or less of **active sentence** ordered by the court. Not at the calculated sentence after good time credit (§531-1-116) is added. Good time credit is earned day for day once incarceration begins. *Example: An individual sentenced to 365 days with 305 suspended, leaves an active sentence of 60 days. That individual will not qualify for the Weekender program.*

- Employment will be verified for those sentenced to the Weekender program.
  - It should be noted that unemployment and disability checks do not qualify as employment. Individuals will be removed from the program and made straight time if they cannot provide a recent pay stub or employer verification.

**The Electric Home Incarceration Program (EHIP):** § 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs; escape; penalty.

C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole office established pursuant to § [53.1-141](#). However, if the offender violates any provision of the terms of the home/electronic incarceration agreement, the offender may have the assignment revoked and, if revoked, shall be held in the jail facility to which he was originally sentenced. Such person shall be eligible if his term of confinement does not include a sentence for a conviction of a felony violent crime, a felony sexual offense, burglary or manufacturing, selling, giving, distributing or possessing with the intent to manufacture, sell, give or distribute a Schedule I or Schedule II controlled substance. The court shall retain authority to remove the offender from such home/electronic incarceration program. The court which sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of the offender's place of home/electronic incarceration and place of employment or other rehabilitative program.

- In accordance with the Court of Appeals decision on *Eloise H. Cuffee-Smith v. Commonwealth of VA* (Record No. 1098-02-01), VBSO will not assign an individual to EHIP if the court orders state mandatory time in the sentencing. Mandatory time must first be satisfied before an individual will be considered for the EHIP program.
- As stated in our EHIP application, employment will be verified for those sentenced to the EHIP program.
  - It should be noted that unemployment and disability checks do not qualify as employment. Individuals will be removed from the program and made straight time if they cannot provide a recent pay stub or employer verification.

The Alternative Sentencing Program staff is available for inquires or questions. Please feel free to contact us at 757-385-4470 Sergeant J. Jones or 757-385-6960 Lieutenant L. Thompson.

V/R