



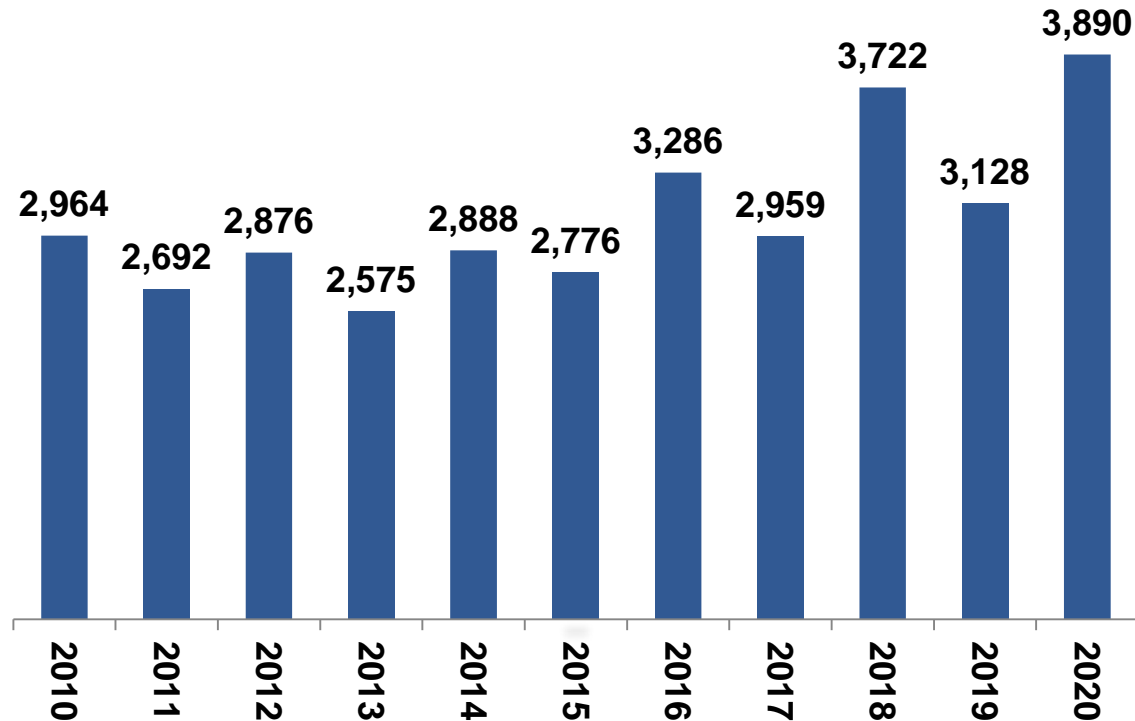
# VIRGINIA CRIMINAL SENTENCING COMMISSION



March 23, 2020

# General Assembly Statistics

Number of Introduced Bills by Year



The General Assembly convenes for long sessions in even-numbered years (60 days) and short sessions in odd-numbered years (45 days).

Typically, more bills are referred to a Courts of Justice/ Judiciary Committee than any other House or Senate committee.



# Sentencing Commission Session-Related Activities

## Sentencing Commission staff:

- Prepare fiscal impact statements, as required by § 30-19.1:4;
- Monitor legislation that may have an impact on penalties, sentencing, time served, and sex offender registration, as well as legislation proposing criminal justice studies;
- Observe the judicial interview process;
- Respond to legislators' requests for supplemental information; and
- Provide technical assistance to other agencies.



# Fiscal Impact Statements

## § 30-19.1:4

- **The Sentencing Commission must prepare a fiscal impact statement for any bill that would result in a net increase in the population of offenders housed in state adult correctional facilities (prisons).**
- **The requirement for an impact statement includes, but is not limited to, proposals that:**
  - **Add new crimes for which imprisonment is authorized;**
  - **Increase the periods of imprisonment authorized for existing crimes;**
  - **Raise the classification of a crime from a misdemeanor to a felony;**
  - **Impose mandatory terms of imprisonment; or**
  - **Modify laws governing release of prisoners.**



# Fiscal Impact Statements

## § 30-19.1:4

- **Law became effective July 1, 2000.**
- **Effective July 1, 2002, the impact statement must also:**
  - **Include an analysis of the impact on local and regional jails as well as state and local community corrections programs; and**
  - **Detail any necessary adjustments to the sentencing guidelines.**



# Fiscal Impact Statements

## § 30-19.1:4

- **The Sentencing Commission must estimate the increase in annual operating costs for prison facilities that would result if the proposal is enacted.**
  - **A six-year projection is required.**
  - **The highest single-year population increase is identified.**
  - **This is multiplied by the cost of holding a prison inmate for a year (operating costs, excluding capital costs).**
    - **For FY2018, this was \$35,053.**
  - **This amount must be printed on the face of the bill and a one-year appropriation must be made.**



# Fiscal Impact Statements Additional Provisions

**If the Sentencing Commission does not have sufficient information to project the impact, § 30-19.1:4 specifies that the words "Cannot be determined" must be printed on the face of the bill.**

**Item 48 of  
Chapter 2 of the 2018 Acts of Assembly, Special Session I  
(Appropriation Act)**

*For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of \$50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.*



# Fiscal Impact Statements

## § 30-19.1:4

- **The Department of Juvenile Justice (DJJ) prepares a fiscal impact estimate for any bill that would result in a net increase in the juvenile population committed to the state.**
- **DJJ provides this information to the Sentencing Commission and a combined statement is submitted to the General Assembly.**



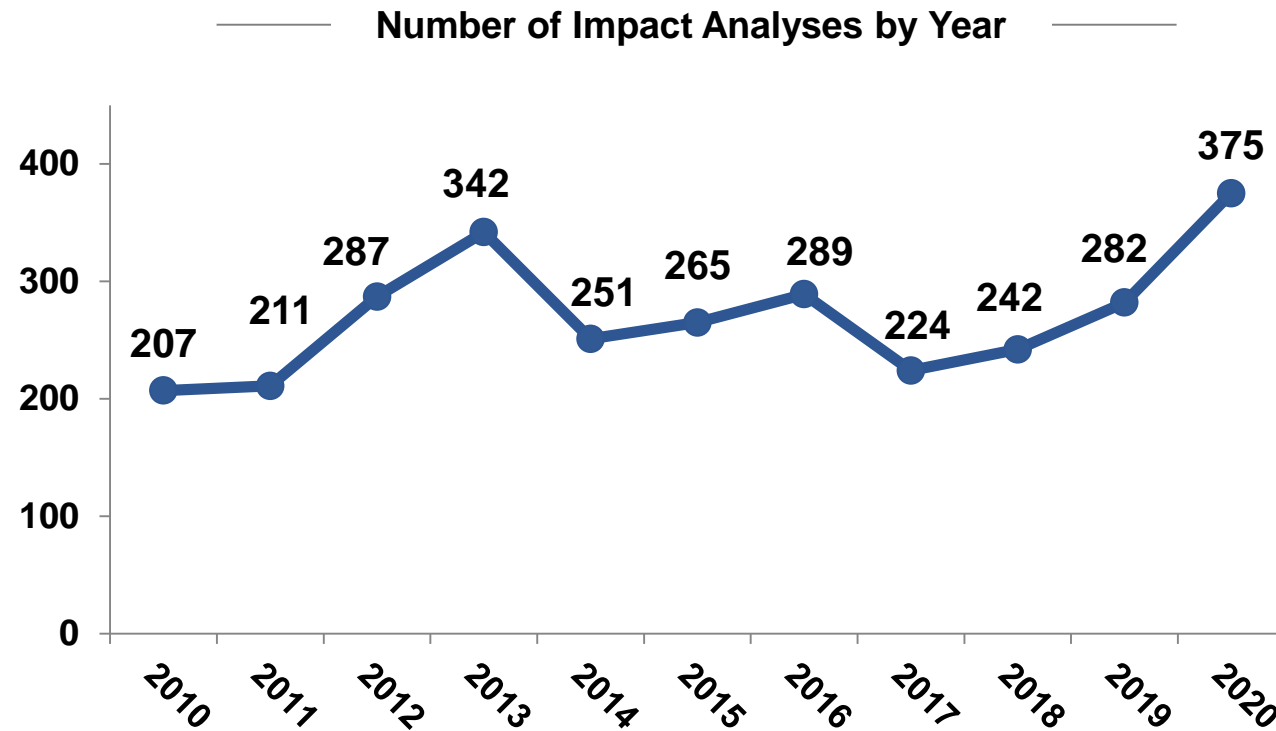


# Calculation of Fiscal Impact

- **Sentencing Commission staff analyze available data to determine (or estimate) the number of offenders likely to be affected by the legislation and the impact on sentences and/or time served for those offenders.**
- **The data are used in a computer simulation model to estimate the net increase in the prison population likely to result from the proposal during the six years following enactment.**
- **If data do not contain sufficient detail to estimate the impact of the proposal, background statistics are provided, if possible.**



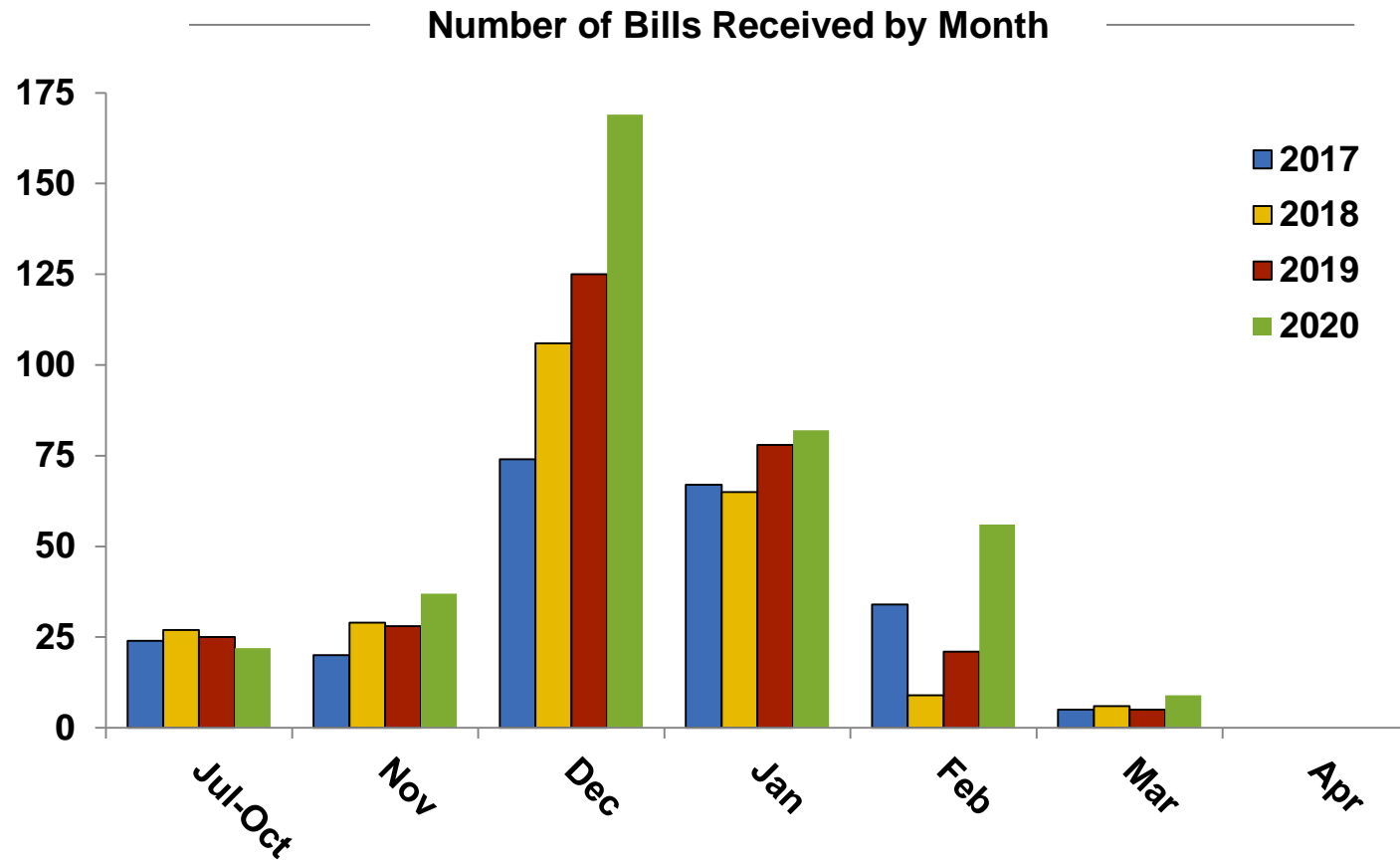
# Impact Analyses Completed for 2010 - 2020 Sessions of the General Assembly



Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are proposed or adopted.

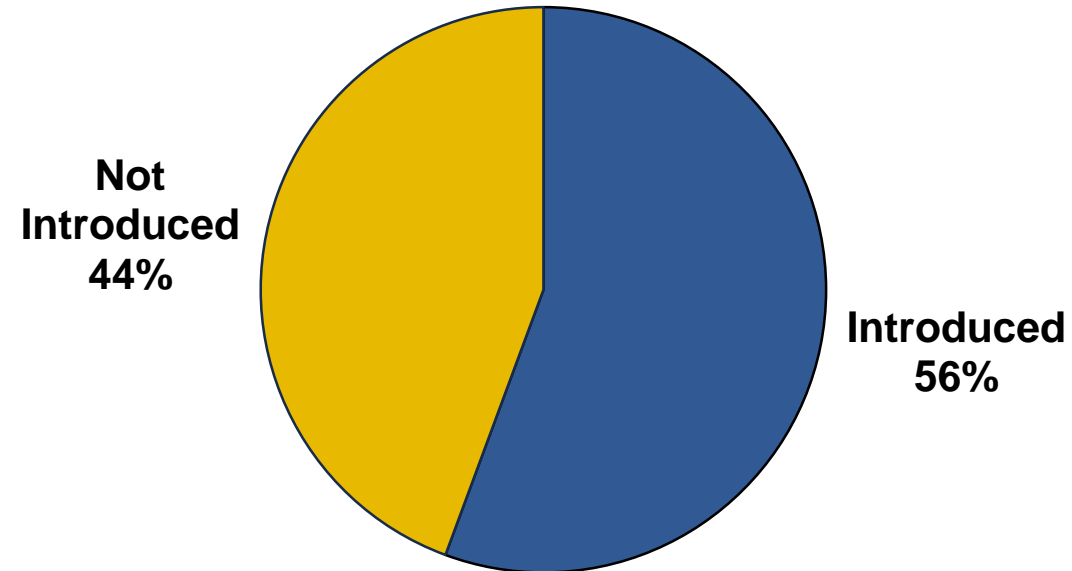


# Number of Bills Received for 2016 - 2020 Sessions of the General Assembly by Month



# Status of Bills Received for 2020 Session

Percentage of Bills with Impacts  
That Were Introduced\*



275 Analyses Conducted

\* Based on bills received  
as of January 10, 2020.



# 2020 General Assembly Types of Legislative Changes

Type of Legislative Change	Percent
Expansion or Clarification of Crime	87.5%
New Crime	46.4%
Misdemeanor to Felony	5.9%
Increase Felony Penalty	1.6%
Mandatory Minimum	2.9%
Other	59.2%

## 375 Impact Analyses Completed

Percentages do not add to 100%, since proposed legislation can involve multiple types of changes. Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are proposed or adopted.



# Most Common Types of Offenses in Proposed Legislation

- **Firearms/Weapons (137 analyses)**
- **Gambling/Gaming (40 analyses)**
- **Sex Offenders and Offenses (33 analyses)**
- **Murder/Homicide (21 analyses)**
- **Protective Orders (14 analyses)**
- **Licenses (13 analyses)**
- **Other (13 analyses)**
- **Tax (12 analyses)**
- **Animals (11 analyses)**
- **Election (9 analyses)**



# Joint Legislative Audit and Review Commission (JLARC) Review of Fiscal Impact Statements

- **Legislators can request that JLARC review the Commission's fiscal impact statements.**
  - **The number of requests has ranged from 0 to 2 per year.**
- **During the 2020 Session, JLARC was not asked to review any of the Commission's fiscal impact statements.**





Legislation Relating  
to the Sentencing Commission  
2020 General Assembly





### Recommendations in the *2019 Annual Report*

No legislation was introduced during the 2020 General Assembly session pertaining to the recommendations contained in the Commission's *2019 Annual Report*.

Pursuant to § 17.1-806, unless otherwise acted upon by the General Assembly, any recommendations contained in the Commission's Annual Report automatically take effect the following July 1.



## **HB 1022**

### **Definition of criminal justice agency**

Introduced by: Les R. Adams

#### **SUMMARY AS INTRODUCED:**

Explicitly defines the Virginia Criminal Sentencing Commission as a state criminal justice agency.

#### **HISTORY**

01/07/20 House: Referred to Committee for Courts of Justice

01/16/20 House: Assigned Courts sub: Criminal

01/17/20 House: Subcommittee recommends reporting (8-Y 0-N)

01/22/20 House: Reported from Courts of Justice (22-Y 0-N)

01/28/20 House: VOTE: (97-Y 0-N)

01/29/20 Senate: Referred to Committee on the Judiciary

02/12/20 Senate: Reported from Judiciary (15-Y 0-N)

02/17/20 Senate: Passed Senate (40-Y 0-N)

03/03/20 Governor: Approved by Governor-Chapter 90 (effective 7/1/20)



## **HB 1545**

**Discretionary sentencing guideline midpoints; act of domestic terrorism enhancement.**

Introduced by: Ibraheem Samirah

### **SUMMARY AS INTRODUCED:**

Provides that in addition to any increase in the midpoint of an initial recommended sentencing range already calculated for a defendant's criminal history, a defendant who commits an act of domestic terrorism, as defined in the bill, shall have the midpoint of the recommended sentencing range for his offense further increased by 200 percent in all cases.

**VCSC FISCAL IMPACT:** Cannot be determined (\$50,000)

### **HISTORY**

01/10/20 House: Referred to Committee for Courts of Justice

02/06/20 House: Assigned Courts sub: Criminal

02/06/20 House: Subcommittee recommends continuing to 2021 by voice vote

02/07/20 House: Continued to 2021 in Courts of Justice by voice vote



## SB 438

**Judicial performance evaluation; risk assessment, use of alternative sanctions.**

Introduced by: Scott A. Surovell

### **SUMMARY AS INTRODUCED:**

Requires the Sentencing Commission to report to the Supreme Court and the Chairmen of the House and Senate Committees for Courts of Justice the number of offenders during a judge's term who qualify for risk assessment, are recommended for an alternative sanction, but do not receive an alternative sanction. The bill also requires the Commission to determine the cost of incarceration based on the minimum guidelines recommended sentence and include the cost on the sentencing guideline form for each offender who qualifies for risk assessment and receives a recommendation for an alternative sanction. *The bill also requires the Commission to determine and include on a judge's judicial performance evaluation the total costs of imposing a sentence on each offender who was evaluated by the risk assessment tool and who received a recommendation for an alternative sanction but did not receive an alternative sanction during a judge's term.*



## **SB 438 (continued)**

### **Judicial performance evaluation; risk assessment, use of alternative sanctions.**

Introduced by: Scott A. Surovell

#### **SUMMARY AS PASSED SENATE:**

Requires the Sentencing Commission to determine the number of offenders during a judge's term who qualify for risk assessment, are recommended for an alternative sanction, but do not receive an alternative sanction. The bill also requires the Commission to determine the cost of incarceration based on the minimum guidelines recommended sentence. The cost must be included on the sentencing guideline form for each offender who qualifies for risk assessment and receives a recommendation for an alternative sanction. *(Language pertaining to judicial performance evaluation was removed)*

#### **HISTORY**

01/07/20 Senate: Referred to Committee on the Judiciary

02/03/20 Senate: Reported from Judiciary with substitute as amended (9-Y 6-N)

02/06/20 Senate: Passed Senate (21-Y 19-N)

02/12/20 House: Referred to Committee for Courts of Justice

02/17/20 House: Subcommittee failed to recommend reporting (2-Y 6-N)

# Recent Study by Professors at GMU and Texas A&M on the Commission's Risk Assessment Instruments

In 2018, the Commission received a Freedom of Information Act (FOIA) request for sentencing guidelines data from a GMU professor.

In November 2019, Professors Stevenson and Doleac released the findings of their study.

## Summary of authors' findings:

- Risk assessment did not reduce incarceration of nonviolent offenders. Judges' decisions were influenced by the risk score, leading to longer sentences for defendants with higher scores and shorter sentences for those with lower scores. Overall incarceration for nonviolent offenders remained the same (net effect of zero).
- The study did not find robust evidence that the adoption of risk assessment led to a decline in recidivism. If the risk assessment helped judges to evaluate risk more accurately, the authors expected to find lower recidivism rates.
- The Commission's nonviolent offender risk assessment performed as well as the scale developed by the authors.



## Commission Staff Response to the Authors

- Judicial discretion is an important element of sentencing in Virginia. Guidelines and risk assessment could never account for all of the unique case circumstances that judges consider when sentencing.
- The study was based on 20-year old data.
- A sentencing system reflects numerous goals, such as punishment, incapacitation, deterrence, rehabilitation, fairness, proportionality, and efficient use of criminal justice resources. Diversion of low-risk offenders based on risk assessment is but one piece of our sentencing system.
- Some jurisdictions have few alternative options, which may discourage judges from following the risk assessment recommendation more often.
- Plea agreements, in many cases, limit the judge's ability to consider risk assessment recommendations.

## Commission Staff Response to the Authors (continued)

- By examining recidivism rates among diverted offenders, the study is measuring the effectiveness of alternatives available to the court, without analyzing alternative programs directly.
- The purpose of the legislative mandate was not to reduce recidivism or lower jail and prison populations overall, but to divert the lowest-risk nonviolent offenders in order to free up state prison beds for violent felons.
- In practical terms, the objective was to use risk assessment to divert low-risk nonviolent offenders without *increasing* recidivism rates.
- When an offender scores above the risk assessment threshold, the traditional guidelines incarceration recommendation remains in effect. It makes sense that these offenders would be more likely to be incarcerated and receive longer sentences than offenders who scored below the threshold. This means the guidelines are working as intended.



# Coverage by the Washington Post

- The Washington Post published an article on November 19, 2019, that discussed the findings of the Stevenson and Doleac study.
- The news article was referenced by the patron of **SB 438** when discussing the impetus of his bill.

## The Washington Post

*Democracy Dies in Darkness*

### Algorithms were supposed to make Virginia judges fairer. What happened was far more complicated.

By **Andrew Van Dam**

November 19, 2019 at 7:00 a.m. EST

We tend to assume the near-term future of automation will be built on man-machine partnerships. Our robot sidekicks will compensate for the squishy inefficiencies of the human brain, while human judgment will sand down their cold, mechanical edges.



See also  
**SB 150** (Howell)

## **HB 1010**

### **Criminal fiscal impact statements.**

Introduced by: Charniele Herring

#### **SUMMARY AS INTRODUCED:**

Provides that no bill resulting in a net increase in imprisonment or commitment shall be (i) reported from a standing committee of the House or Senate or (ii) passed by the House or Senate unless a fiscal impact statement for the current version of the bill has been prepared and is printed on the face of the bill. The bill clarifies the ability of Legislative Services to forward advance copies of bills to the Sentencing Commission for the preparation of such fiscal impact statements.

#### **HISTORY**

01/07/20 House: Referred to Committee for Courts of Justice

01/31/20 House: Referred to Committee on Rules

02/07/20 House: Reported from Rules (17-Y 0-N)

02/11/20 House: VOTE: Block Vote Passage (99-Y 0-N)

02/12/20 Senate: Referred to Committee on the Judiciary

02/19/20 Senate: Rereferred to Rules

02/28/20 Senate: Continued to 2021 in Rules (14-Y 0-N)



## HJ 65

### **VSCC to study classification of certain crimes as violent felonies.**

Introduced by: Patrick A. Hope

#### **SUMMARY AS INTRODUCED:**

Directs the Virginia State Crime Commission (VSCC) to study the classification of certain crimes as violent felonies and the impact of reducing sentence lengths for criminal violations on recidivism. Technical assistance shall be provided by the Sentencing Commission.

#### **HISTORY**

01/06/20 House: Referred to Committee on Rules

01/27/20 House: Assigned Rules sub: Studies

01/29/20 House: Subcommittee recommends laying on the table (6-Y 0-N)

02/11/20 House: Left in Rules

Letter to Crime  
Commission  
requesting study



See also  
**HJ 48** (Hope)

## **SJ 34**

### **VSCC to study use, etc., of mandatory minimum sentences.**

Introduced by: Scott A. Surovell

#### **SUMMARY AS INTRODUCED:**

Requests the Virginia State Crime Commission (VSCC) to study the use and effectiveness of mandatory minimum sentences. Technical assistance shall be provided by the Sentencing Commission and the Department of Corrections.

#### **HISTORY**

01/07/20 Senate: Referred to Committee on Rules

01/24/20 Senate: Passed by indefinitely in Rules with letter by voice vote

Letter to Crime  
Commission  
requesting study



## **SB 810**

### **Discretionary sentencing guidelines worksheets; use by juries.**

Introduced by: Joseph D. Morrissey

#### **SUMMARY AS INTRODUCED:**

Requires that the jury be given the applicable discretionary sentencing guidelines worksheets during a sentencing proceeding and that the court instruct the jury that the sentencing guidelines worksheets are discretionary and not binding on the jury. The bill requires sentencing guidelines worksheets to be kept confidential by the jurors and filed under seal by the court.

#### **HISTORY**

01/08/20 Senate: Referred to Committee on the Judiciary

02/10/20 Senate: Reported from Judiciary (8-Y 6-N)

02/11/20 Senate: Passed Senate (22-Y 18-N)

02/14/20 House: Referred to Committee for Courts of Justice

02/18/20 House: Assigned Courts sub: Criminal

02/28/20 House: Subcommittee recommends reporting (5-Y 3-N)

03/02/20 House: Continued to 2021 in Courts of Justice by voice vote

Letter to Crime  
Commission  
requesting study



## **SJ 39**

### **Virginia State Crime Commission to study effect of abolishing jury sentencing.**

Introduced by: John S. Edwards

#### **SUMMARY AS INTRODUCED:**

Directs the Virginia State Crime Commission to (i) identify the most common charges tried before juries and determine the average sentence per charge as recommended by a jury; (ii) compare the jury-recommended sentence to the average sentence for each identified charge as determined by a judge during a bench trial; (iii) identify any perceived negative impacts to the judicial system associated with abolishing jury sentencing; and (iv) determine the feasibility of abolishing jury sentencing for noncapital offenses. Technical assistance shall be provided by the Sentencing Commission and the Office of the Executive Secretary.

#### **HISTORY**

01/07/20 Senate: Referred to Committee on Rules

01/31/20 Senate: Reported from Rules by voice vote

02/06/20 Senate: Agreed to by Senate by voice vote

02/13/20 House: Referred to Committee on Rules

02/27/20 House: Continued to 2021 in Rules by voice vote

Letter to Crime  
Commission  
requesting study





Legislation Relating  
to Sentencing  
2020 General Assembly



## **SB 811**

### **Sentencing in a criminal case; procedure for trial by jury, ascertainment of punishment.**

Introduced by: Joseph D. Morrissey

#### **SUMMARY AS PASSED SENATE:**

Provides that in a criminal case the court shall ascertain the extent of the punishment, unless the accused has requested that the jury ascertain punishment or he was found guilty of capital murder.

#### **HISTORY**

01/08/20 Senate: Referred to Committee on the Judiciary

02/05/20 Senate: Reported from Judiciary with substitute (10-Y 5-N)

02/11/20 Senate: Passed Senate (23-Y 17-N)

02/14/20 House: Referred to Committee for Courts of Justice

02/18/20 House: Assigned Courts sub: Criminal

03/02/20 House: Continued to 2021 in Courts of Justice by voice vote

Letter to Crime  
Commission  
requesting study





See also

**HB 279** (Hope)

## **SB 326**

### **Sentencing by the jury after conviction.**

Introduced by: R. Creigh Deeds

#### **SUMMARY AS PASSED SENATE:**

Provides that a jury may, for a felony or Class 1 misdemeanor, recommend that the sentence imposed be suspended in whole or in part, or that sentences imposed for multiple offenses be served concurrently, except when prohibited by law. The bill prohibits the trial court from imposing an active term of incarceration in excess of the active term recommended by the jury.

#### **HISTORY**

01/06/20 Senate: Referred to Committee on the Judiciary

02/05/20 Senate: Reported from Judiciary with amendment (10-Y 3-N)

02/05/20 Senate: Rereferred to Finance and Appropriations

02/06/20 Senate: Reported from Finance and Appropriations (15-Y 0-N)

02/11/20 Senate: Passed Senate (22-Y 18-N)

02/14/20 House: Referred to Committee for Courts of Justice

02/18/20 House: Assigned Courts sub: Criminal

02/24/20 House: Continued to 2021 in Courts of Justice by voice vote

Letter to Crime  
Commission  
requesting study



## **HB 295**

### **Maximum term of probation.**

Introduced by: Don L. Scott

### **SUMMARY AS INTRODUCED:**

Limits to five years the term of probation for a person convicted of an offense other than a violent felony, an act of violence, or an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

### **HISTORY**

12/30/19 House: Referred to Committee for Courts of Justice

01/26/20 House: Assigned Courts sub: Criminal

01/27/20 House: Subcommittee recommends continuing to 2021 by voice vote

01/31/20 House: Continued to 2021 in Courts of Justice by voice vote

Letter to Crime  
Commission  
requesting study



## **SB 537**

### **Mandatory minimum punishment; limitation.**

Introduced by: John S. Edwards

### **SUMMARY AS INTRODUCED:**

Provides that mandatory minimum punishments shall not apply to any sentence imposed for an offense committed on or after July 1, 2020.

### **HISTORY**

01/07/20 Senate: Referred to Committee on the Judiciary

02/05/20 Senate: Continued to 2021 in Judiciary (12-Y 1-N)

Letter to Crime  
Commission  
requesting study

## Authority to defer and dismiss charges



### [HB 660 \(Mullin\)](#)

- Expands authority to defer and dismiss in cases of misdemeanor larceny and receiving stolen goods.
- Incorporates HB 1592 (Cole).
- Conference committee report agreed to (March 8, 2020).

### [SB 133 \(Stuart\)](#)

- Authorizes deferral and dismissal for a defendant diagnosed with autism or an intellectual disability.
- Passed House and Senate (March 5, 2020).

### [SB 489 \(Surovell\)](#)

- Original version of bill expanded authority to defer and dismiss to any felony or misdemeanor offense.
- House substitute version expands authority to include to misdemeanor acts of larceny and receiving stolen goods.
- Failed to emerge from conference committee (March 12, 2020).



## **SB 1018**

### **Sentence reductions; substantial assistance in furtherance of investigation, etc.**

Introduced by: William M. Stanley, Jr.

#### **SUMMARY AS INTRODUCED:**

Allows a convicted person's sentence to be reduced by the sentencing court if the court determines such person provided substantial assistance in the furtherance of the investigation or prosecution of another person engaged in an act of grand larceny of a firearm, criminal street gang participation, or recruitment of persons for criminal street gangs. Consideration of sentence reduction can occur only upon motion of the attorney for the Commonwealth.

#### **HISTORY**

01/16/20 Senate: Referred to Committee on the Judiciary

02/10/20 Senate: Reported from Judiciary (12-Y 0-N 1-A)

02/11/20 Senate: Passed Senate (40-Y 0-N)

02/14/20 House: Referred to Committee for Courts of Justice

02/17/20 House: Subcommittee recommends reporting (6-Y 1-N)

02/19/20 House: Reported from Courts of Justice (19-Y 1-N)

02/24/20 House: Passed House with amendment (87-Y 11-N)

02/26/20 Senate: House amendment agreed to by Senate (39-Y 0-N)





Legislation Relating  
to Parole and Time Served  
2020 General Assembly



See also

**SB 809** (Morrissey)

**SB 430** (Scott)

## **SB 91**

### **Repeals the abolition of parole.**

Introduced by: John S. Edwards

#### **SUMMARY AS INTRODUCED:**

Repeals the abolition of parole. The bill provides that the Virginia Parole Board shall establish procedures for consideration of parole for persons who were previously ineligible for parole.

#### **HISTORY**

- 11/27/19 Senate: Referred to Committee on Rehabilitation and Social Services
- 01/10/20 Senate: Rereferred from Rehabilitation and Social Services (15-Y 0-N)
- 01/10/20 Senate: Rereferred to Judiciary
- 01/24/20 Senate: Assigned Judiciary sub: Criminal Law
- 02/03/20 Senate: Incorporates SB809 (Morrissey)
- 02/03/20 Senate: Continued to 2021 in Judiciary (15-Y 0-N)

Letter to Crime  
Commission  
requesting study



See also

**HJ 44** (Guzman)

**SJ 9** (Marsden)

## **HJ 26**

### **JLARC; reinstatement of discretionary parole, report.**

Introduced by: Vivian E. Watts

#### **SUMMARY AS INTRODUCED:**

Directs the Joint Legislative Audit and Review Commission to study the reinstatement of discretionary parole, which was abolished in 1995.

#### **HISTORY**

12/30/19 House: Referred to Committee on Rules

01/27/20 House: Assigned Rules sub: Studies

01/29/20 House: Subcommittee recommends laying on the table (4-Y 2-N)

02/11/20 House: Left in Rules





See also

**HB 33** (Lindsey)

**HB 996** (Lindsey)

**SB 821** (Morrissey)

## **SB 793**

### **Parole; exception to limitation on the application of parole statutes.**

Introduced by: Jennifer L. McClellan

#### **SUMMARY AS INTRODUCED:**

Provides that an incarcerated person is eligible for parole if he was sentenced by a jury prior to the date of the Supreme Court of Virginia decision in *Fishback v. Commonwealth*, 260 Va. 104 (June 9, 2000), in which the Court held that a jury should be instructed on the fact that parole has been abolished, for a noncapital felony committed on or after the abolition of parole went into effect (1/1/95).

#### **HISTORY**

01/08/20 Senate: Referred to Committee on Rehabilitation and Social Services

01/17/20 Senate: Rereferred to Judiciary

02/03/20 Senate: Reported from Judiciary with substitute (13-Y 1-N)

02/06/20 Senate: Reported from Finance and Appropriations (16-Y 0-N)

02/11/20 Senate: Passed Senate (30-Y 10-N)

02/14/20 House: Referred to Committee for Courts of Justice

02/24/20 House: Reported from Courts of Justice with substitute (12-Y 9-N)

02/27/20 House: Passed House with substitute (56-Y 43-N)

03/08/20 Conference committee report agreed to by House and Senate



See also

**HB 250** (Watts)

**SB 103** (Marsden)

## **HB 35**

### **Juvenile offenders; eligibility for parole.**

Introduced by: Joseph C. Lindsey

#### **SUMMARY AS PASSED HOUSE:**

Provides that any person sentenced to a term of life imprisonment for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentence and any person who has active sentences that total more than 20 years for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentences shall be eligible for parole.

#### **HISTORY**

11/19/19 House: Referred to Committee on Public Safety

01/17/20 House: Reported from Public Safety with amendments (15-Y 7-N)

01/23/20 House: VOTE: Passage (56-Y 44-N)

01/24/20 Senate: Referred to Committee on Rehabilitation and Social Services

02/07/20 Senate: Rereferred from Rehabilitation and Social Services (11-Y 0-N)

02/07/20 Senate: Rereferred to Judiciary

02/12/20 Senate: Reported from Judiciary (12-Y 3-N)

02/17/20 Senate: Passed Senate

02/24/20 Governor: Approved by Governor-Chapter 2 (effective 7/1/20)



See also

**HB 431** (Scott)

**SB 624** (Spruill)

## **HB 915**

### **Conditional release of geriatric prisoners.**

Introduced by: Mark D. Sickles

#### **SUMMARY AS INTRODUCED:**

Allows any person serving a sentence imposed upon a conviction for a felony offense, other than a Class 1 felony, who (i) is 55 years of age or older and has served at least 15 years of the sentence imposed or (ii) is 50 years of age or older and has served at least 20 years of the sentence imposed, to petition the Parole Board for conditional release.

#### **HISTORY**

01/07/20 House: Referred to Committee for Courts of Justice

01/31/20 House: Continued to 2021 in Courts of Justice by voice vote

Letter to Crime  
Commission  
requesting study



See also

**HB 1370** (Campbell)

## **HB 1532**

### **Sentence credits earned by state inmates.**

Introduced by: Don L. Scott

#### **SUMMARY AS INTRODUCED:**

Establishes a four-level classification system for the awarding earned sentence credits. The bill requires the calculation of earned sentence credits to apply retroactively to the sentence of any inmate who is confined in a state correctional facility and participating in the earned sentence credit system on July 1, 2020.

#### **HISTORY**

01/10/20 House: Referred to Committee on Public Safety

01/30/20 House: Subcommittee recommends reporting (5-Y 3-N)

01/31/20 House: Reported from Public Safety (13-Y 9-N)

01/31/20 House: Referred to Committee for Courts of Justice

02/03/20 House: Subcommittee recommends reporting with substitute (5-Y 3-N)

02/03/20 House: Subcommittee recommends referring to Appropriations

02/05/20 House: Incorporates HB1370 (Campbell, J.L.)

02/05/20 House: Continued to 2021 in Courts of Justice by voice vote

Letter to Crime  
Commission  
requesting study



Legislation Relating  
to Punishment for Specific Offenses  
2020 General Assembly





See also

**HB 101** (Lindsey) \$750

**HB 263** (Lopez) \$2,000

**HB 286** (Hayes) \$1,500

**SB 788** (McClellan) \$1,000

## **HB 995**

### **Grand larceny; increases threshold amount.**

Introduced by: Joseph C. Lindsey

#### **SUMMARY AS PASSED HOUSE:**

Increases from \$500 to \$1,000 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for certain other property crimes.

#### **HISTORY**

01/07/20 House: Referred to Committee for Courts of Justice

01/24/20 House: Subcommittee recommends reporting with substitute (4-Y 3-N)

01/27/20 House: Reported from Courts of Justice with substitute (13-Y 6-N)

01/27/20 House: Incorporates HB263 (Lopez)

01/31/20 House: VOTE: Passage (58-Y 40-N 1-A)

02/03/20 Senate: Referred to Committee on the Judiciary

02/12/20 Senate: Reported from Judiciary (7-Y 6-N)

02/17/20 Senate: Passed Senate (26-Y 14-N)

02/25/20 Governor: Approved by Governor-Chapter 89 (effective 7/1/20)

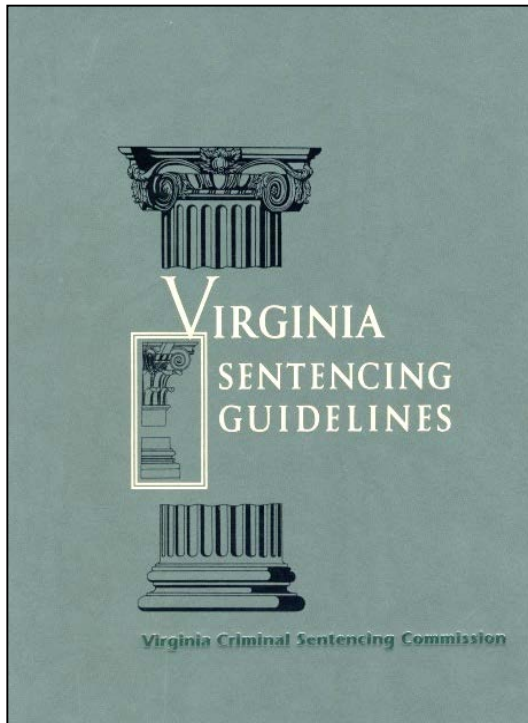
## Changes in Statutory Penalties and Weighting of Prior Offenses

The guidelines use the current statutory penalty structure to capture the seriousness of prior offense behavior. The current penalty structure was selected as the proxy because it provided a standardized way of measuring prior record (i.e., the same crime is given the same weight on the guidelines, no matter when or where committed).

Elements of the offense are often critical for determining the current penalty structure because they are specified in the statutory language (e.g., age of victim, use of a weapon, degree of injury, location of the offense, value of a theft, etc.) and, where documentation of such element exists, the penalty structure is assigned based on those elements and scored on the guidelines.

As a result of legislation enacted by the 2018 General Assembly, a prior felony larceny conviction involving a value of \$200 to \$499 would be weighted as a misdemeanor on the guidelines.

When prior record information is missing or unclear, the prior record offense is scored at the lower statutory penalty.

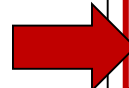


## Study of Defendants' Prior Larceny Convictions

Commission staff is developing a methodology to study criminal history records, specifically prior felony and misdemeanor larceny convictions/adjudications.

The purpose of the study is to determine the feasibility of modifying the Larceny sentencing guidelines to score all prior larceny convictions/adjudications in the same manner.

If the data support such a modification, the factor could be revised to ***Prior Felony or Misdemeanor Larceny Convictions/Adjudications***.



**Larceny Section A** Offender Name: \_\_\_\_\_

◆ **Primary Offense** (scores for attempted/conspired offenses are in parentheses)

A. Attempted or conspired larceny (1 count).....	(1)	
B. Statutory maximum penalty equals 5 years		
1 count.....	1	
2 counts.....	4	
3 counts.....	6	
C. Statutory maximum penalty equals 10 years (1 count).....	3	
D. Grand larceny auto		
1 count.....	5	
2 counts.....	7	
3 counts.....	10	
E. Grand larceny from person		
1 count.....	4	
2 counts.....	11	
F. Grand larceny of a firearm (1 count).....	1	
G. Failure of bailee to return animal, aircraft, vehicle or boat (1 count).....	4	
H. Larceny of bank notes, checks or any book of accounts; Any other larceny offense with maximum penalty of 20 years		
1 count.....	2	
2 - 3 counts.....	4	
4 counts.....	6	

Score

◆ **Primary Offense Remaining Counts** Total the maximum penalties for counts of the primary not scored above

Years: 5 - 11.....	1	34 - 44.....	4
12 - 22.....	2	45 or more.....	5
23 - 33.....	3		

◆ **Additional Offenses** Total the maximum penalties for additional offenses, including counts

Years: Less than 1.....	0	23 - 33.....	3
1 - 11.....	1	34 - 44.....	4
12 - 22.....	2	45 or more.....	5

◆ **Prior Convictions/Adjudications** Total the maximum penalties for the 5 most recent and serious prior record events

Years: Less than 2.....	0	21 - 36.....	3
2 - 11.....	1	37 or more.....	4
12 - 20.....	2		

◆ **Prior Felony Larceny Convictions/Adjudications**

Number of Counts: 1.....	2	
2 - 3.....	3	
4 or more.....	4	

◆ **Other Prior Felony Property Convictions/Adjudications**

Number of Counts: 1 - 4.....	1	
5 or more.....	2	

◆ **Prior Felony Convictions/Adjudications Against Person**

Number of Counts: 1.....	1	
2 or more.....	2	

◆ **Prior Misdemeanor Convictions/Adjudications (Excludes Traffic)**

Number of Counts: 1 - 4.....	1	
5 - 8.....	2	
9 or more.....	3	

◆ **Prior Incarcerations/Commitments** If YES, add 5 →

◆ **Prior Juvenile Record** If YES, add 1 →

◆ **Legally Restrained at Time of Offense**





## **SB 807**

### **Larceny; subsequent offenses, penalty.**

Introduced by: Joseph D. Morrissey

#### **SUMMARY AS INTRODUCED:**

Eliminates the enhanced Class 6 felony applicable for a third or subsequent offense of petit larceny.

#### **HISTORY**

01/08/20 Senate: Referred to Committee on the Judiciary

02/10/20 Senate: Reported from Judiciary (7-Y 5-N 2-A)

02/11/20 Senate: Passed Senate (23-Y 17-N)

02/14/20 House: Referred to Committee for Courts of Justice

02/18/20 House: Assigned Courts sub: Criminal

02/28/20 House: Subcommittee failed to recommend reporting (3-Y 5-N)

03/03/20 House: Left in Courts of Justice



See also

**HB 871** (Bourne)

## **SB 805**

### **Definition of, and penalty for, robbery.**

Introduced by: Joseph D. Morrissey

### **SUMMARY AS PASSED SENATE:**

Defines "robbery" and creates degrees of punishment. Any person who commits robbery by causing serious bodily injury is guilty of 1<sup>st</sup> degree robbery (punishable by up to life); any person who commits robbery by displaying a firearm in a threatening manner is guilty of 2<sup>nd</sup> degree robbery (punishable by up to 20 years); any person who commits robbery by using physical force not resulting in serious bodily injury, or by displaying a deadly weapon other than a firearm in a threatening manner, is guilty of 3<sup>rd</sup> degree robbery (punishable by 1-10 years); any person who commits robbery by any other means is guilty of 4<sup>th</sup> degree robbery (punishable by 1-5 years).

### **HISTORY**

01/08/20 Senate: Referred to Committee on the Judiciary

02/03/20 Senate: Reported from Judiciary with substitute (10-Y 5-N)

02/05/20 Senate: Committee substitute agreed to 20107417D-S1

02/06/20 Senate: Passed Senate (20-Y 20-N); Chair votes Yes

02/12/20 House: Referred to Committee for Courts of Justice

02/28/20 House: Continued to 2021 in Courts of Justice by voice vote



See also

**HB 85** (Carter)

**HB 280** (Hope) –  
defendants with  
severe mental illness

## **SB 449**

**Abolishes death penalty, including persons currently under a death sentence.**

Introduced by: Scott A. Surovell

### **SUMMARY AS INTRODUCED:**

Abolishes the death penalty, including for persons currently under a death sentence.

### **HISTORY**

01/07/20 Senate: Referred to Committee on the Judiciary

02/05/20 Senate: Continued to 2021 in Judiciary (9-Y 6-N)



Other Legislation  
2020 General Assembly



See also

**HB 274** (Cole)

**HB 477** (Guzman)

**HB 1440** (Jones)

## **SB 546**

### **Juveniles tried as adults.**

Introduced by: John S. Edwards

### **SUMMARY AS INTRODUCED:**

Increases from 14 years of age to 16 years of age the minimum age at which a juvenile can be tried as an adult in circuit court for a felony.

### **HISTORY**

01/07/20 Senate: Referred to Committee on the Judiciary

02/10/20 Senate: Reported from Judiciary with substitute (9-Y 4-N)

02/11/20 Senate: Passed Senate (31-Y 8-N)

02/14/20 House: Referred to Committee for Courts of Justice

02/14/20 House: Assigned Courts sub: Criminal

02/17/20 House: Subcommittee recommends reporting with substitute (8-Y 0-N)

02/19/20 House: Reported from Courts of Justice with substitute (16-Y 5-N)

02/26/20 House: VOTE: Passage (88-Y 10-N)

02/28/20 Senate: House substitute agreed to by Senate (32-Y 6-N)





## **HB 1462**

### **Admission to bail; rebuttable presumptions against bail.**

Introduced by: Don L. Scott

#### **SUMMARY AS PASSED HOUSE:**

Eliminates the provision prohibiting a judicial officer from admitting to bail, that is not set by a judge, any person who is charged with an offense giving rise to a rebuttable presumption against bail without the concurrence of an attorney for the Commonwealth.

#### **HISTORY**

01/08/20 House: Referred to Committee for Courts of Justice

01/26/20 House: Assigned Courts sub: Criminal

01/27/20 House: Subcommittee recommends reporting with substitute (5-Y 3-N)

02/05/20 House: Reported from Courts of Justice with substitute (15-Y 7-N)

02/10/20 House: VOTE: Passage (55-Y 44-N)

02/11/20 Senate: Referred to Committee on the Judiciary

02/19/20 Senate: Reported from Judiciary with amendment (8-Y 4-N)

02/26/20 House: Senate amendment agreed to by House (53-Y 44-N)



See also

**HB 816** (Hope)

**SB 723** (McClellan)

## **HB 922**

### **Bail; data collection and reporting standards, report.**

Introduced by: Jennifer Carroll Foy

#### **SUMMARY AS INTRODUCED:**

Requires the DCJS to (i) collect data on bail determinations for any person who is held in custody pending trial or hearing in every locality; (ii) create a uniform reporting mechanism for criminal justice agencies to submit such data; and (iii) submit an annual report on the data collected. The bill also provides that the law addressing bail is to be construed so as to give effect to a general presumption in favor of pretrial release. The bill has a delayed effective date of July 1, 2021.

#### **HISTORY**

01/07/20 House: Referred to Committee for Courts of Justice

02/02/20 House: Assigned Courts sub: Criminal

02/03/20 House: Subcommittee recommends reporting with substitute (6-Y 1-N)

02/03/20 House: Subcommittee recommends referring to Committee on Appropriations

02/05/20 House: Reported from Courts of Justice with substitute (17-Y 5-N)

02/05/20 House: Referred to Committee on Appropriations

02/11/20 House: Left in Appropriations

## Expungement of certain charges and convictions / Destruction of records

**HB 31 (Lindsey) / HB 255 (Simon) / SB 517 (McDougle)** -

Marijuana possession, underage alcohol possession, false ID to obtain alcohol committed while under age 21

**HB 32 (Lindsey) / HB 476 (Guzman) / HB 1517 (McQuinn) / HB1692 (Freitas)** - Misdemeanor & nonviolent felony convictions

**HB 50 (Cole)** - Crimes for which person was pardoned

**HB 91 (Cole)** - Certain offenses committed while under age 21

**HB 102 (Lindsey)** – Certain larceny and shoplifting convictions

**HB 128 (Miyares)** - Prostitution induced through force, intimidation or deception

**HB 254 (Simon) / SB 118 (Peake)** - Underage alcohol possession, false ID to obtain alcohol

**HB 267 (Heretick)** - Nolle prossed or dismissed charges

**HB 268 (Heretick) / HB1033 (Herring)** - Human trafficking victims

**HB 293 (Scott) / SB 947 (Saslaw)** - Nolle prossed charges, acquittals

**HB 294 (Scott)** - Misdemeanor convictions

**HB 320 (Levine) / HB 647 (Carter)** – Acts reduced to misdemeanor or decriminalized

**HB 830 (Sullivan)** – Certain drug or underage alcohol possession

**HB 865 (Levine)** - Misdemeanor drug offenses

**HB1207 (Tran)** - Larcenies involving less than \$500

**HB 1433 (Jones) / SB 287 (Deeds) / SB 306 (Stanley)** - Deferred disposition dismissals

**SB 223 (Favola)** – Juvenile adjudications for felony larceny

**SB 608 (Norment)** – Pardoned crimes, marijuana possession, underage alcohol or tobacco possession, false ID to obtain alcohol

**SB 808 (Morrissey)** - Any offense under certain circumstances

Carried over until 2021 (Letter to Crime Commission requesting study)

See also **HJ 28** - Crime Commission to study expungement of records





**General Assembly website:**

**<http://viriniageneralassembly.gov/>**