



# VIRGINIA CRIMINAL SENTENCING COMMISSION



March 22, 2021

# 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 FY2020, this was \$38,688.**
  - **This amount must be printed on the face of the bill and a one-year appropriation in that amount 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 49 of  
Chapter 1289 of the 2020 Acts of Assembly  
(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.*



## 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.**



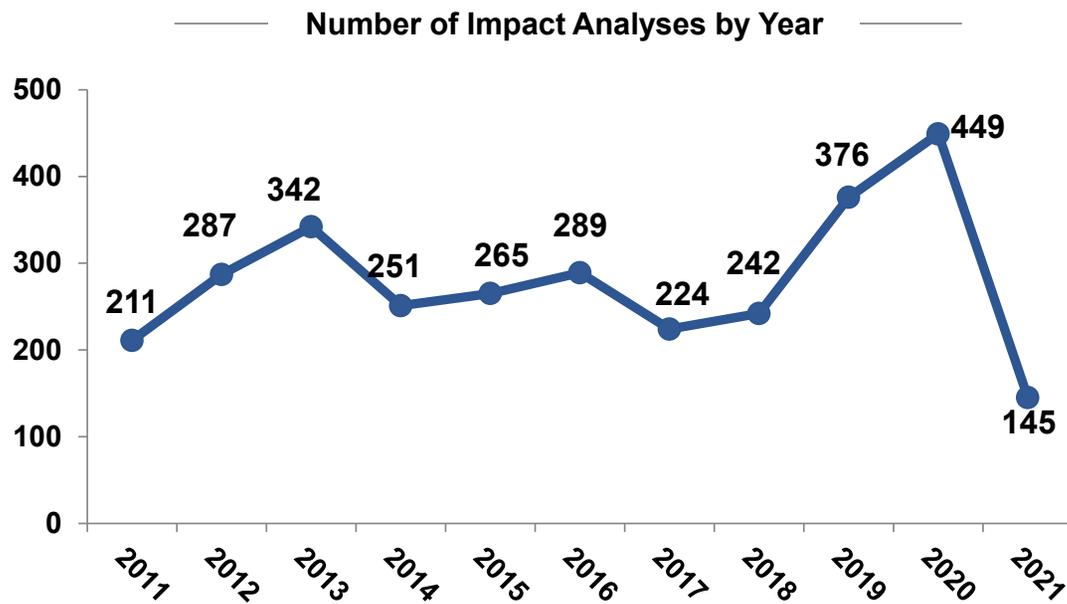
# Fiscal Impact Statements

## < 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.**



# Impact Analyses Completed for 2010 - 2021 Sessions of the General Assembly



Stricter bill limits were established for the 2021 General Assembly.

- 12 for each Senator
- 7 for each Delegate

For the 2021 General Assembly (Regular Session and Special Session I), Commission staff also completed **28 ad hoc analyses** requested by legislators, the Department of Planning & Budget, or other state agencies.

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



## 2021 General Assembly Types of Legislative Changes

Type of Legislative Change	Percent
Expansion or Clarification of Crime	97.2%
New Crime	56.6%
Misdemeanor to Felony	2.1%
Increase Felony Penalty	2.8%
Mandatory Minimum	15.2%
Other	37.9%

### 145 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 (36 analyses)**
- **Murder/Homicide (22 analyses)**
- **Drugs (17 analyses)**
- **Expungement (13 analyses)**
- **Fraud/Larceny/Vandalism (10 analyses)**
- **DMV/Motor Vehicle/Licenses (7 analyses)**
- **Threats (6 analyses)**
- **Animals (5 analyses)**
- **Robbery (4 analyses)**
- **Sex Offenders and Offenses (4 analyses)**
- **Election (4 analyses)**
- **Other (14 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 2021 Session, JLARC was not asked to review any of the Commission's fiscal impact statements.**





Legislation Relating  
to the Sentencing Commission



### Recommendations in the *2020 Annual Report*

No legislation was introduced during the 2021 General Assembly session pertaining to the recommendations contained in the Commission's *2020 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.



## **HJ 629**

### **Virginia Criminal Sentencing Commission; appointment of Chairman.**

Introduced by: Charniele L. Herring

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

Confirms the appointment by the Chief Justice of the Supreme Court of Virginia of the Honorable Edward L. Hogshire as Chairman of the Virginia Criminal Sentencing Commission.

#### **HISTORY**

01/26/21 House: Referred to Committee for Courts of Justice

02/03/21 House: Reported from Courts of Justice (22-Y 0-N)

02/04/21 House: Agreed to (99-Y 0-N)

02/05/21 Senate: Referred to Committee on the Judiciary

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Judiciary (14-Y 0-N)

02/17/21 Senate: Reported from Judiciary (15-Y 0-N)

02/22/21 Senate: Agreed to by Senate (38-Y 0-N)



See also  
**SB 1391** (Lucas)

## **HB 2110**

**Pretrial data collection; VCSC to collect and disseminate on an annual basis.**

Introduced by: Charniele L. Herring

### **SUMMARY AS PASSED:**

Requires the VCSC to collect and disseminate statewide and locality-level data related to adults charged with criminal offenses punishable by incarceration. The VCSC must make data publicly available on its website as (i) an electronic de-identified dataset that may be downloaded by the public and (ii) an electronic interactive data dashboard tool that displays aggregated data based on characteristics selected by the user. As introduced, this bill was a recommendation of the State Crime Commission.

### **HISTORY**

01/22/21 House: Reported from Courts of Justice with substitute (22-Y 0-N)

01/29/21 House: Reported from Appropriations (22-Y 0-N)

02/03/21 House: Block Vote Passage #2 (99-Y 0-N)

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Judiciary (14-Y 0-N)

02/10/21 Senate: Reported from Judiciary (15-Y 0-N)

02/17/21 Senate: Reported from Finance and Appropriations (15-Y 0-N)

02/18/21 Senate: Passed Senate (39-Y 0-N)

03/12/21 Governor: Approved by Governor-Chapter 111 (effective 7/1/21)



## **HB 2110**

**Pretrial data collection; VCSC to collect and disseminate on an annual basis.**

Introduced by: Charniele L. Herring

### **AGENCY IMPACT:**

The VCSC estimated the agency will need funding and two positions to perform this work on an ongoing basis. Additionally, there is an estimated one-time cost in the first year for office furniture, computer, monitors and laptops.



## HB 1990

### Criminal justice legislation; racial and ethnic impact statements.

Introduced by: Lashrecse D. Aird

#### SUMMARY AS PASSED:

Provides that the Chair of the House Committee for Courts of Justice or the Chair of the Senate Judiciary Committee may request JLARC to review and prepare a racial and ethnic impact statement for a proposed criminal justice bill to outline its potential impact on racial and ethnic disparities. No more than three racial and ethnic impact statements may be requested by each Chair during a session. *The VCSC shall provide data and assistance.*

#### HISTORY

01/22/21 House: Reported from Rules (14-Y 4-N)

01/27/21 House: Reported from Appropriations (16-Y 1-N)

02/01/21 House: Passage (69-Y 31-N)

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Rules (15-Y 0-N)

02/19/21 Senate: Reported from Rules with amendment (10-Y 2-N)

02/23/21 Senate: Passed Senate with amendment (20-Y 18-N)

02/24/21 House: Senate amendment agreed to by House (62-Y 36-N)

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021



Legislation Relating  
to Sentencing



## HB 1936

### Robbery; penalties.

Introduced by: Vivian E. Watts

#### SUMMARY AS PASSED:

Creates degrees of punishment corresponding to the severity of a robbery offense:

- Robbery resulting in **serious bodily injury or death** = Class 2 felony;
- Robbery **using or displaying firearm** in threatening manner = Class 3 felony;
- Robbery **using physical force** not resulting in serious bodily injury or using a **deadly weapon other than a firearm** in a threatening manner = Class 5 felony;
- Robbery using threat/intimidation not involving a deadly weapon = Class 6 felony.

#### HISTORY

01/22/21 House: Subcommittee recommends reporting with substitute (5-Y 3-N)

01/27/21 House: Reported from Courts of Justice with substitute (13-Y 9-N)

02/01/21 House: Passage (54-Y 45-N)

02/15/21 Senate: Reported from Judiciary with substitute (9-Y 6-N)

02/17/21 Senate: Passed Senate with substitute (20-Y 18-N)

02/19/21 House: Senate substitute agreed to by House (54-Y 45-N)

← 02/26/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/18/21 – Preliminary: Gov. has recommended amendment to § 16.1-269.1(C) that would limit the required transfer of juveniles to circuit court (upon finding of probable cause) to the two most serious robbery classes.

<https://lis.virginia.gov/cgi-bin/leqp604.exe?ses=212&typ=bil&val=hb1936>



## HB 1936

### Robbery; penalties.

Introduced by: Vivian E. Watts

#### VCSC FISCAL IMPACT SUMMARY:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None
- **Adult Community Corrections Programs:**  
None

- **Juvenile Direct Care:**  
Cannot be determined\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*

\* Provided by the Department of Juvenile Justice

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only address the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with, or any revenue that may be generated by, the proposed legislation.

**HB 1936**

**Robbery; penalties.**

Introduced by: Vivian E. Watts

**VCSC ANALYSIS:**

**Robbery Sentencing Trends (Excluding Carjacking)**

Primary Offense (HB1936 Category)	Proposed Class	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence	Cases Sentenced Above Proposed Stat. Maximum
<i>Robbery with life threatening or serious bodily injury</i>	Class 2	144	2.1%	2.8%	6 mos	95.1%	7.4 yrs	N/A (max=life sentence)
<i>Robbery with an additional offense of use of firearm (includes attempted use of firearm)</i>	Class 3	243	0.4%	0.4%	11 mos	99.2%	7.5 yrs	9 (3.7%) Sentenced to more than 20 years
<i>Robbery with use of weapon other than a firearm</i>	Class 5	109	8.3%	8.3%	6 mos	83.5%	4.5 yrs	13 (11.9%) Sentenced to more than 10 years
<i>Robbery not involving a deadly weapon</i>	Class 6	338	14.5%	8.3%	6 mos	77.2%	4.0 yrs	81 (24.0%) Sentenced to more than 5 years
<b>Summary</b>		<b>834</b>	<b>7.4%</b>	<b>5.0%</b>	<b>6 mos</b>	<b>87.5%</b>	<b>5.5 yrs</b>	<b>103 (12.4%)</b>



## HB 2038

### Limits on probation and sentences for technical violations.

Introduced by: Don L. Scott

#### SUMMARY AS PASSED:

Limits the amount of active incarceration a court can impose for a technical violation of probation supervision, as defined in the bill.

- 1<sup>st</sup> technical violation: No active incarceration;
- 2<sup>nd</sup> technical violation: Up to 14 days;
- 3<sup>rd</sup> or subsequent technical violation: Whatever sentence may have been originally imposed.

The bill also provides that a court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced and any period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration. The bill also provides that a court must measure any period of suspension of sentence from the date of entry of the original sentencing order.



## **HB 2038**

### **Limits on probation and sentences for technical violations.**

Introduced by: Don L. Scott

### **HISTORY**

01/27/21 House: Reported from Courts of Justice with substitute (11-Y 10-N)

01/29/21 House: Substitute by Delegate Scott agreed to

02/01/21 House: VOTE: Passage (57-Y 43-N)

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Judiciary (14-Y 0-N)

02/17/21 Senate: Reported from Judiciary with substitute (9-Y 6-N)

02/22/21 Senate: Passed Senate with substitute (23-Y 16-N)

02/23/21 House: Senate substitute agreed to by House (57-Y 39-N)

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021



## HB 2038

### Limits on probation and sentences for technical violations.

Introduced by: Don L. Scott

#### VCSC ANALYSIS:

- According to FY2019-FY2020 Sentencing Guidelines data:
  - Among 48,318 felony offenders, 1,426 (3.0%) were sentenced to a probation term of more than five years.
    - The median probation sentence was 18.0 months and the mean was 20.9 months.
- According to FY2019-FY2020 Sentencing Revocation Report (SRR) data:
  - Among 14,427 felony offenders with probation/suspended sentence revoked for a technical violation, 10,606 offenders (73.5%) received a sentence of more than 14 days.
    - The median sentence among technical violators was 4.0 months and the mean was 7.9 months.



## **SB 1443**

### **Mandatory minimum sentences; elimination.**

Introduced by: John S. Edwards

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

Eliminates nearly all mandatory minimum sentences from the Code. The bill directs the Secretary of Public Safety and Homeland Security to establish a work group to evaluate the feasibility of resentencing persons previously convicted of felony offenses requiring mandatory minimum terms (report on findings due Nov. 1, 2021). As introduced, this bill was a recommendation of the Virginia State Crime Commission.

#### **HISTORY**

- 01/25/21 Senate: Reported from Judiciary with substitute (9-Y 6-N)
- 02/02/21 Senate: Reported from Finance and Appropriations (11-Y 5-N)
- 02/05/21 Senate: Passed Senate with substitute (21-Y 17-N)
- 02/08/21 House: Continued to Special Session 1 in Courts of Justice by voice vote
- 02/17/21 House: Reported from Courts of Justice with substitute (14-Y 8-N)
- 02/22/21 House: Reported from Appropriations with substitute (12-Y 8-N)
- 02/24/21 House: Passed House with substitute (56-Y 43-N)
- 02/25/21 Senate: House substitute rejected by Senate (0-Y 39-N)
- 02/25/21 House: House requested conference committee
- 03/01/21 Senate: No further action taken (Failed to pass)**



## **HB 2331**

### **Mandatory minimum sentences; elimination.**

**Introduced by:** Michael P. Mullin

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

Eliminates mandatory minimum sentences for certain drug/nonviolent crimes. The bill also provides a petition process for persons serving mandatory minimum terms for specified felonies to petition the circuit court to (i) suspend the unserved portion of such mandatory minimum sentence, (ii) place such person on probation for such time as the court shall determine, or (iii) otherwise modify the sentence imposed. The bill provides that such petition shall be filed by July 1, 2024.

#### **HISTORY**

01/29/21 House: Reported from Courts of Justice with amendment(s) (13-Y 7-N)

02/03/21 House: Reported from Appropriations (14-Y 8-N)

02/05/21 House: Passage (58-Y 42-N)

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Judiciary (14-Y 0-N)

02/17/21 Senate: Reported from Judiciary with substitute (10-Y 5-N)

02/22/21 Senate: Reported from Finance & Appropriations w/substitute (10-Y 3-N 1-A)

02/25/21 Senate: Passed with substitute with amendment (21-Y 18-N)

02/25/21 House: Senate substitute with amendment rejected by House (0-Y 99-N)

02/25/21 Senate: Senate requested conference committee

**03/01/21 House: No further action taken (Failed to pass)**



## SB 1443 / HB2331

### Mandatory minimum sentences; elimination.

Introduced by: John S. Edwards / Michael P. Mullin

#### VCSC ANALYSIS:

- As of July 1, 2020, there were 224 distinct offenses in 34 *Code* sections that required a mandatory minimum sentence:
  - 162 felony offenses and 62 misdemeanor offenses.
- Mandatory minimum offenses comprise a small proportion of the total charges and convictions in Virginia courts.<sup>1</sup>

<b>TOTAL Charges Filed, FY16-FY20</b>	<b>4,903,574</b>
Offense Did NOT Require MM	96%
Offense Required MM	4%
<b>TOTAL Convictions, FY16-FY20</b>	<b>2,423,935</b>
Offense Did NOT Require MM	97%
Offense Required MM	3%

Source: Virginia Criminal Sentencing Commission staff analysis of data from the Supreme Court of Virginia's Case Management Systems (CMS) for the Circuit Court, General District Court, and Juvenile & Domestic Relations (JDR) Court (adult defendants only). The total number of charges and convictions exclude infractions.

<sup>1</sup> Important notes, caveats, and limitations of the Virginia Criminal Sentencing Commission staff analysis of data from the Supreme Court of Virginia's Case Management Systems (CMS) for the Circuit Court, General District Court, and Juvenile & Domestic Relations (JDR) Court (adult defendants only): In order to avoid duplication, when analyzing Circuit Court CMS data, appeals from district courts were excluded. Circuit Court data do not include cases from Fairfax or Alexandria as clerks in those jurisdictions do not participate in the statewide Case Management System. Charge and conviction data exclude attempted and conspired felonies, as mandatory minimum penalties do not apply in such cases. Charges are based on the fiscal year filed. Convictions are based on the fiscal year the case was concluded. Figures include ordinance violations to the extent possible. Cases were selected for inclusion in the analysis based on information entered by court clerks into the CMS data systems.

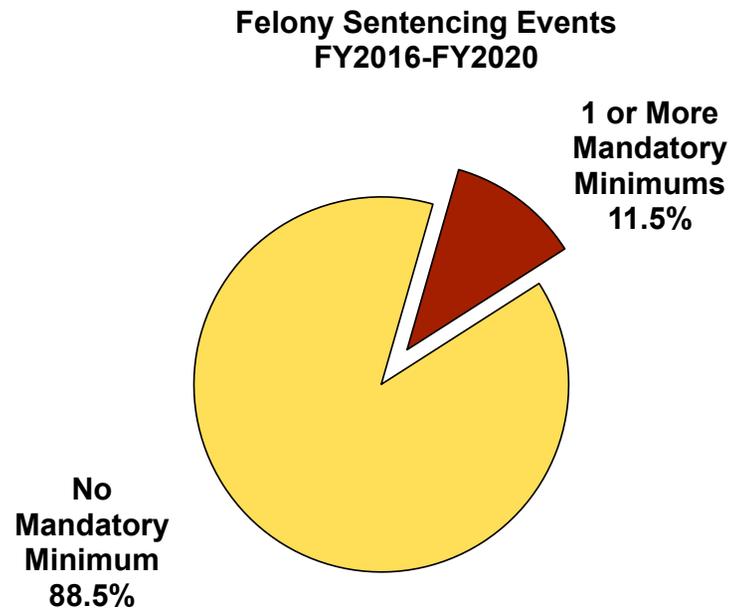


## SB 1443 / HB2331

### Mandatory minimum sentences; elimination.

Introduced by: John S. Edwards / Michael P. Mullin

#### VCSC ANALYSIS:



Of felony sentencing events with at least one mandatory minimum offense, 33.7% had the sentencing guidelines recommended range adjusted.

- i.e., some part of the guidelines range was lower than the required mandatory minimum and was therefore replaced with the mandatory minimum.

Note: Mandatory minimum offenses could be a felony or a misdemeanor.  
Source: Sentencing Guidelines Data System, FY2016-FY2020



Legislation Relating  
to Parole or Time Served



## **HB 1806**

### **Suspension or modification of sentence; transfer to the Dept. of Corrections.**

Introduced by: Terry G. Kilgore

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

Provides that if a motion to suspend or otherwise modify a person's sentence is filed with the court that heard the case at any time before the person is transferred to the Department of Corrections, the court may enter an order to retain jurisdiction over the matter for up to 60 days in order to consider and rule on such motion. If the court enters such order, the transfer of the person to the Department shall not affect the jurisdiction of the court under the terms of the order.

#### **HISTORY**

01/20/21 House: Reported from Courts of Justice (22-Y 0-N)

01/25/21 House: VOTE: Block Vote Passage (100-Y 0-N)

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Judiciary (14-Y 0-N)

02/15/21 Senate: Reported from Judiciary with amendments (15-Y 0-N)

02/17/21 Senate: Passed Senate with amendments (39-Y 0-N)

02/19/21 House: Senate amendments agreed to by House (100-Y 0-N)

02/26/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021



## HB 2010

### Earned sentence credits; rate at which sentence rates may be earned, prerequisites.

Introduced by: Jeffrey L. Campbell

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-202.3, as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 53.1-202.3. (Effective July 1, 2022) Rate at which sentence credits may be earned; prerequisites.

A. A maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence, including a suspended sentence that is revoked, for:

1. A Class 1 felony;
2. Solicitation to commit murder under § 18.2-29 or any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;
3. Any violation of § 18.2-40 or 18.2-45;
4. Any violation of subsection A of § 18.2-46.5, of subsection D of § 18.2-46.5 if the death of any person results from providing any material support, or of subsection A of § 18.2-46.6;

### HISTORY

01/29/21 House: Reported from Courts of Justice with amendment(s) (22-Y 0-N)

02/03/21 House: VOTE: Block Vote Passage #2 (99-Y 0-N)

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Rehab. & Social Services (14-Y 0-N)

02/12/21 Senate: Reported from Rehabilitation and Social Services (15-Y 0-N)

02/16/21 Senate: Passed Senate (39-Y 0-N)

02/24/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

## HB 5148 (Passed by 2020 General Assembly Special Session I) Department of Corrections; awarding of earned sentence credits.

As PASSED, HB 5148 specified that inmates convicted of the following offenses would be limited to 4.5 days of sentence credit for every 30 days served:

- Class 1 felony;
- 1<sup>st</sup> or 2<sup>nd</sup> degree murder, felony murder, solicitation to commit murder, lynching;
- Certain acts of terrorism or treason;
- Felony kidnapping;
- Malicious wounding or felony assault of family/household member;
- Robbery or carjacking;
- Felony sexual assault (Article 7 of Chapter 4 of Title 18.2);
- Burglary with intent to murder, rape or rob (§ 18.2-90);
- Felony stalking (§ 18.2-60.3);
- Felony violation of protective order (§§ 16.1-253.2, 18.2-60.4);
- Felony prostitution, sex trafficking (Article 3 of Chapter 8 of Title 18.2);
- Use of machine gun or sawed-off shotgun in crime;
- Indecent liberties, certain felony crimes against children (Article 4 of Chapter 8 of Title 18.2 (except for § 18.2-362 or 18.2-371.1);
- Child pornography offenses (except 1<sup>st</sup> offense possession) or online solicitation of minors (Article 5 of Chapter 8 of Title 18.2);
- Permit minor to perform in sexually explicit material (§ 40.1-100.2), cruelty and injuries to children (§ 40.1-103);
- Torture of animals;
- Trespass on school property – intent to abduct child;
- Escape from custody as a sexually violent predator;
- Second of subsequent convictions (in any combination) for:  
Voluntary manslaughter, mob-related felonies, unlawful wounding, aiding terrorism, burglary (§§ 18.2-89, 18.2-92), certain arsons, animal fighting, 1<sup>st</sup> offense possession of child pornography, felony failure to pay wages; or burn cross, or display noose/swastika to intimidate, paramilitary activities, food adulteration.

**HB 5148 (Passed by 2020 General Assembly Special Session I)  
Department of Corrections; awarding of earned sentence credits.**

**As PASSED, HB 5148 specifies the following earned sentence credits for eligible inmates:**

- Level 1 = 15 days per 30 days served
- Level 2 = 7.5 per 30 days served
- Level 3 = 3.5 per 30 days served
- Level 4 = 0 days for 30 days served



## **SB 1370**

**Parole statutes; application to persons committed upon certain felony offenses.**

Introduced by: John S. Edwards

### **SUMMARY AS INTRODUCED:**

Repeals the abolition of parole. The bill requires the Virginia Parole Board to establish procedures for consideration of parole for persons who were previously ineligible for parole because parole was abolished and to allow for an extension of time for the scheduling of a parole interview for reasonable cause.

### **HISTORY**

01/13/21 Senate: Referred to Committee on Rehabilitation & Social Services

01/29/21 Senate: Passed by indefinitely in Rehabilitation & Social Services (14-Y 0-N)

Letter to Crime  
Commission  
requesting study



Legislation Relating  
to Punishment for Specific Offenses



See also

**HB 2263** (Mullin)

**HB 1779** (Carter)

## **SB 1165**

### **Death penalty; abolition of current penalty.**

Introduced by: Scott A. Surovell

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

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

#### **HISTORY**

01/18/21 Senate: Reported from Judiciary with substitute (10-Y 4-N)

01/26/21 Senate: Reported from Finance and Appropriations (12-Y 4-N)

02/03/21 Senate: Passed Senate with substitute (21-Y 17-N)

02/08/21 House: Continued to Special Session 1 in Courts of Justice by voice vote

02/17/21 House: Reported from Courts of Justice (15-Y 7-N)

02/22/21 House: Passage (57-Y 43-N)

02/26/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021



See also

**HB 2263** (Mullin)

**HB 1779** (Carter)

## **SB 1165**

### **Death penalty; abolition of current penalty.**

Introduced by: Scott A. Surovell

#### **VCSC ANALYSIS:**

According to the Department of Corrections (DOC), there were 2 Virginia inmates serving under a death sentence as of December 1, 2020. No new offenders have entered death row since October 2011. As of December 10, 2020, no execution dates have been set for current death row inmates.

DOC data indicate that inmates remain on death row for an average of 7.1 years prior to execution (based on the last 20 inmates executed).

- Individuals currently on death row have served between 13.3 and 15.7 years.

According to Circuit Court Case Management System (CMS) data for FY2015-FY2020, 34 offenders were convicted of a completed act of capital murder under § 18.2-31.

- Of these, 32 were given a sentence of life in prison.
- For the remaining two offenders, the court suspended the life sentence and ordered prison terms of 36 and 38 years, respectively.



## **HB 2290**

### **Larceny; repeals punishment for conviction of 2<sup>nd</sup> or subsequent misdemeanor.**

Introduced by: Kenneth R. Plum

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

Repeals the enhanced penalties for a second or subsequent misdemeanor larceny conviction. Under current law, when a person is convicted of a second larceny offense, he shall be confined in jail not less than 30 days nor more than 12 months, and for a third, or any subsequent offense, he shall be guilty of a Class 6 felony.

#### **HISTORY**

01/27/21 House: Reported from Courts of Justice (13-Y 9-N)

02/01/21 House: Passage (52-Y 45-N)

02/05/21 Senate: Continued to 2021 Sp. Sess. 1 in Judiciary (14-Y 0-N)

02/10/21 Senate: Reported from Judiciary (9-Y 6-N)

02/15/21 Senate: Passed Senate (21-Y 18-N)

02/24/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

## HB 2290

Larceny; repeals punishment for conviction of 2<sup>nd</sup> or subsequent misdemeanor.

Introduced by: Kenneth R. Plum

### VCSC ANALYSIS:

Felony Sentencing Events involving  
Petit Larceny 2<sup>nd</sup> or 3<sup>rd</sup>/subs (§ 18.2-104)  
FY2019-FY2020

Offense	As Primary (Most Serious) Offense	As Additional Offense
Petit larceny, etc. – 3 <sup>rd</sup> or subsequent conviction (Class 6 Felony)	2,770	867
Petit larceny, etc. – 2 <sup>nd</sup> conviction (Misd: 30 days-12 mos.)	2,008	141

Offense	As Primary (Most Serious) Offense	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Petit larceny, etc. – 3 <sup>rd</sup> or subsequent conviction (Class 6 Felony)	2,770	18.3%	57%	3.0 mos.	24.7%	1.5 yr.
Petit larceny, etc. – 2 <sup>nd</sup> conviction (Misd: 30 days-12 mos.)	2,008	40.1%	59.9%	1.0 mos.	NA	NA



## **SB 1306**

### **Assault and battery; penalty.**

Introduced by: Joseph D. Morrissey

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

- Eliminates the mandatory minimum term of confinement of 6 months for an assault and battery committed against a law-enforcement officer, etc.;
- Specifies that the felony punishment for assault and battery of a law enforcement officer, etc., applies only when it results in bodily injury; and
- Provides that a jury or the court may find any person charged with such offense (i) whose physical or mental capacity is diminished or (ii) who has been diagnosed with an autism spectrum disorder, a developmental disability, or an intellectual disability, guilty of misdemeanor simple assault or assault and battery.

#### **HISTORY**

02/01/21 Senate: Reported from Judiciary with substitute (9-Y 5-N)

02/03/21 Senate: Amendments #1 and #2 by Senator Edwards agreed to

02/04/21 Senate: Read third time and passed Senate (21-Y 18-N)

02/08/21 House: Continued to Special Session 1 in Courts of Justice by voice vote

**03/01/21 House: Left in Courts of Justice**



**General Assembly website:**

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