



# VIRGINIA CRIMINAL SENTENCING COMMISSION



Report on the  
2022 General Assembly and  
Legislative Impact Analysis

March 28, 2022

# 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 FY2021, this was \$36,305.**
- 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 552 of the 2021 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.*



# 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.



### Fiscal Impact Statement for Proposed Legislation

*Virginia Criminal Sentencing Commission*

#### House Bill No. 993 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Murphy)

LD#: [22107877](#)

Date: [03/11/2022](#)

Topic: [Unlawful hazing](#)

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000\*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

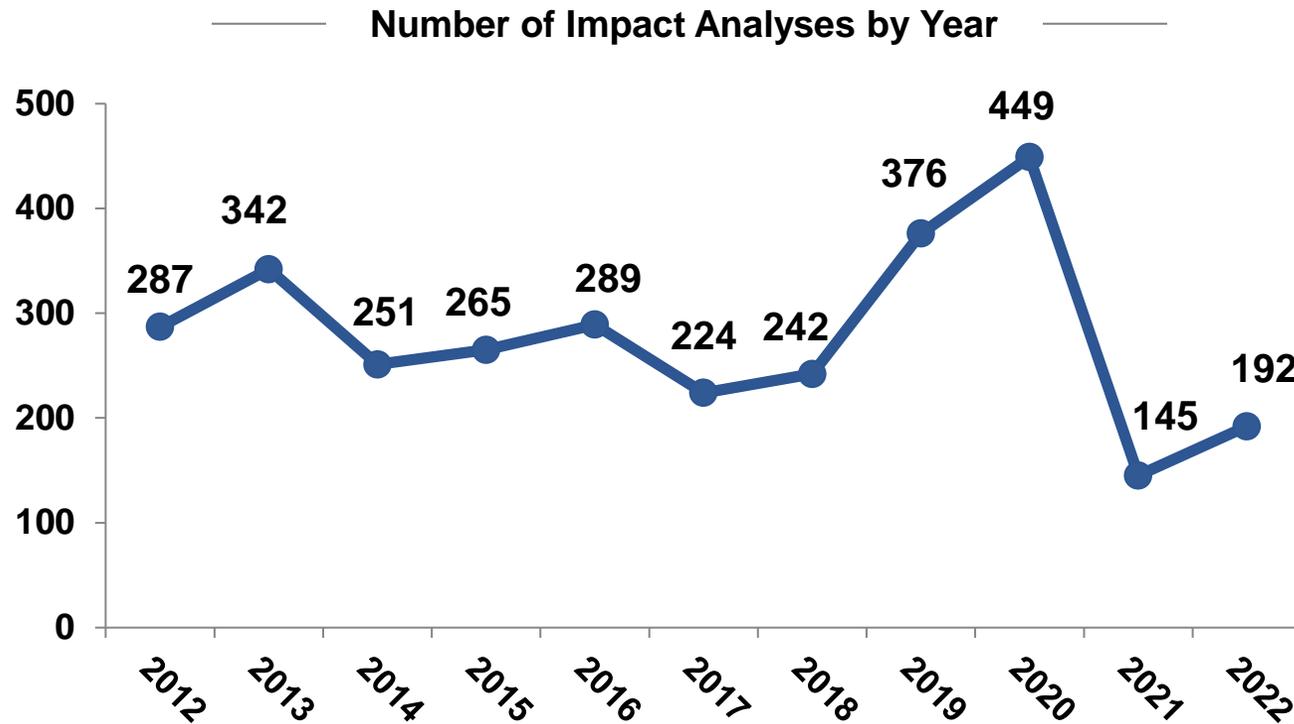
- **Juvenile Direct Care:**  
Cannot be determined\*\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*\*

\*\* Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include 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 the proposed legislation.

# Impact Analyses Completed for 2012 - 2022 Sessions of the General Assembly



For the 2022 General Assembly, Commission staff also completed approximately **31 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.



# 2022 General Assembly Types of Legislative Changes

Type of Legislative Change	Percent
Expansion or Clarification of Crime	92.7%
New Crime	47.9%
Misdemeanor to Felony	20.8%
Increase Felony Penalty	6.8%
Mandatory Minimum	9.4%
Other	40.6%

## 192 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

- **Drugs – Marijuana/Sch I or II (30 analyses)**
- **Larceny/Fraud/Vandalism (25 analyses)**
- **Firearms/Weapons (17 analyses)**
- **Gaming (Electronic Gaming) (17 analyses)**
- **Assault (Hazing) (13 analyses)**
- **Abortion (13 analyses)**
- **Probation Violation (12 analyses)**
- **Murder/Homicide (11 analyses)**
- **Sex Offenders and Offenses (10 analyses)**
- **Protective Orders (8 analyses)**
- **Abuse/Neglect (7 analyses)**



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



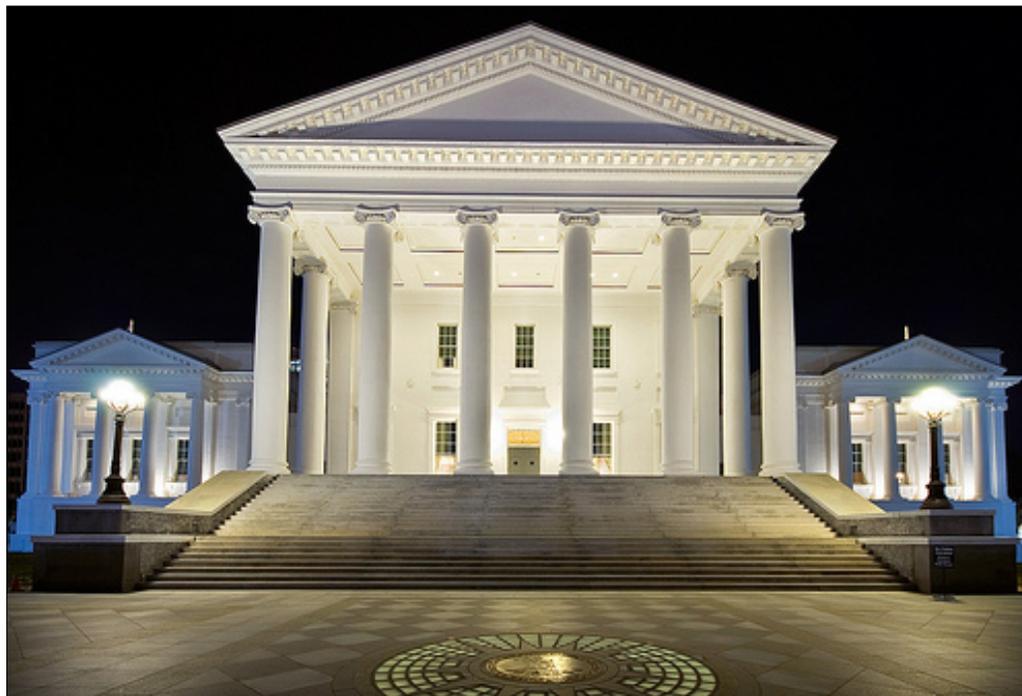
- **Legislators can request that JLARC review the Commission's fiscal impact statements.**
  - **The number of requests has ranged from 0 to 2 per year.**
- **During the 2022 Session, JLARC was not asked to review any of the Commission's fiscal impact statements.**



# Joint Legislative Audit and Review Commission (JLARC) Racial and Ethnic Impact Statements

- In 2021, the General Assembly passed HB1990 authorizing JLARC to prepare racial and ethnic impact (REI) statements for select criminal justice legislation.
- During the 2022 Session, JLARC received three such requests.
  - HB735 – Repeal enactment of higher rates of earned sentence credits for certain felons (scheduled for July 1, 2022)  
([http://jlarc.virginia.gov/pdfs/fiscal\\_analysis/FIR/REIS%20HB735.pdf](http://jlarc.virginia.gov/pdfs/fiscal_analysis/FIR/REIS%20HB735.pdf))
  - HB758 – Probation, revocation, and suspension of sentence  
([http://jlarc.virginia.gov/pdfs/fiscal\\_analysis/FIR/REIS%20HB758.pdf](http://jlarc.virginia.gov/pdfs/fiscal_analysis/FIR/REIS%20HB758.pdf))
  - SB134 – Raises the age for delinquency matters in JDR court from persons under the age of 18 to those under the age of 21  
([http://jlarc.virginia.gov/pdfs/fiscal\\_analysis/FIR/SB%20134%20REIS\\_Update%20for%20Substitute.pdf](http://jlarc.virginia.gov/pdfs/fiscal_analysis/FIR/SB%20134%20REIS_Update%20for%20Substitute.pdf))





Legislation Relating  
to the Sentencing Commission



### Recommendations in the *2021 Annual Report*

**No legislation was introduced during the 2022 General Assembly session pertaining to the recommendations contained in the Commission's *2021 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.**



See also  
**SB 424** (Edwards)

## **HB 1318**

### **Use of probation violation guidelines and sentencing revocation report.**

Introduced by: Les R. Adams

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

Codifies the authority of the VCSC to develop, maintain, and modify a system of discretionary guidelines for use in hearings in which the defendant is cited for violation of a condition or conditions of supervised probation imposed as a result of a felony conviction. The bill codifies current practice regarding the use of the such guidelines. This bill is identical to **SB 424** (Edwards).

#### **HISTORY**

01/28/22 House: Reported from Courts of Justice (18-Y 0-N)

02/03/22 House: Passed House BLOCK VOTE (99-Y 0-N)

02/03/22 House: Passage #2 (100-Y 0-N)

---

02/16/22 Senate: Reported from Judiciary (10-Y 0-N)

02/21/22 Senate: Passed Senate (40-Y 0-N)

---

03/09/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022



See also  
**HB 1320** (Adams)

## **SB 423**

### **Discretionary sentencing guidelines; midpoint for violent felony offenses.**

Introduced by: John S. Edwards

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

Clarifies the VCSC's authority to recommend revisions to the discretionary sentencing guidelines based on historical sentencing data, specifically in regards to midpoint enhancements for violent offenses. This bill is identical to **HB 1320** (Adams).

#### **HISTORY**

01/24/22 Senate: Reported from Judiciary (15-Y 0-N)

01/28/22 Senate: Read third time and passed Senate (39-Y 0-N)

02/21/22 House: Reported from Courts of Justice (20-Y 0-N)

02/24/22 House: Passed House BLOCK VOTE (99-Y 0-N)

03/11/22 Governor: Governor's Action Deadline 11:59 p.m., April 11, 2022



## HB 617

### **Sentencing guidelines; prior convictions and juvenile adjudications.**

Introduced by: Jeffrey M. Bourne

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

Provides that, for sentencing guidelines, previous convictions shall NOT include:

- (i) any adult conviction more than 10 years prior to the commission of the present offense, unless it was for a violent felony punishable by a maximum term of 40 years or more, the defendant was sentenced to an active prison term, and the defendant has committed another violent felony within a 15-year period between the date of the sentencing for the prior offense and commission of the present offense, and
- (ii) any juvenile adjudication of delinquency or any juvenile conviction, unless the juvenile was tried as an adult and the conviction was for a violent felony punishable by a maximum term of 40 years or more, the defendant was sentenced to an active prison, and the date of offense was within the 10 years preceding sentencing for the present offense.

The bill also provides that juvenile adjudications of delinquency and certain adult prior convictions shall not serve as the basis for any sentencing enhancement in an adult criminal case.



## **HB 617**

**Sentencing guidelines; prior convictions and juvenile adjudications.**

Introduced by: Jeffrey M. Bourne

### **HISTORY**

01/11/22 House: Referred to Committee for Courts of Justice

02/15/22 House: Left in Courts of Justice



## **SB 137**

### **Discretionary sentencing guidelines; written explanation, appeal.**

Introduced by: John S. Edwards

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

Requires that the written explanation the court files when departing from the sentencing guidelines adequately explain the sentence imposed to promote fair sentencing.

Failure to follow any of the required sentencing provisions, including the failure to provide a written explanation that adequately explains the sentence imposed, would be reviewable on appeal or may be the basis of any other post-conviction relief.

Failure to provide a written explanation that adequately explains the sentence imposed is error that may constitute a basis for resentencing by the trial judge.

Under current law, the failure to follow any or all of the provisions of the sentencing guidelines or the failure to follow any or all of such provisions in the prescribed manner is not reviewable on appeal and cannot be the basis of any other post-conviction relief.



## **SB 137**

**Discretionary sentencing guidelines; written explanation, appeal.**

Introduced by: John S. Edwards

### **HISTORY**

02/07/22 Senate: Reported from Judiciary with substitute (9-Y 4-N)

02/11/22 Senate: Amendments by Senator Edwards agreed to (24-Y 16-N)

02/11/22 Senate: Passed Senate (23-Y 17-N)

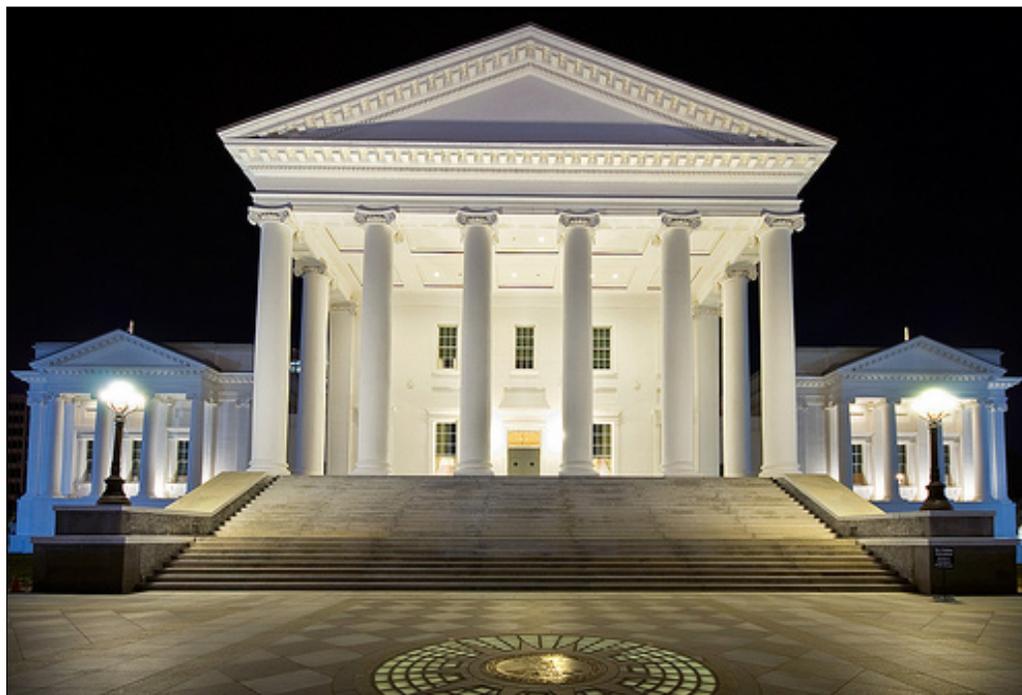
---

02/27/22 House: Assigned Courts sub: Subcommittee #1

03/04/22 House: Subcommittee recommends passing by indefinitely (5-Y 3-N)

03/08/22 House: Left in Courts of Justice

---



Legislation Relating  
to Sentencing



## **HB 47**

### **Suspended sentence/probation; technical violations.**

Introduced by: Timothy V. Anderson

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

Removes from the definition of technical violation, for the purposes of limiting the amount of active incarceration a court can impose, violations for the failure to (i) refrain from the use, etc., of controlled substances or paraphernalia; (ii) refrain from the possession, etc., of a firearm; (iii) gain permission to change his residence, etc., or (iv) maintain contact with the probation officer whereby his whereabouts are no longer known to the probation officer.

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

#### **HISTORY**

12/31/21 House: Referred to Committee for Courts of Justice

02/15/22 House: Left in Courts of Justice

**HB 47**  
**Suspended sentence/probation;**  
**technical violations.**  
 Introduced by: Timothy V. Anderson



<b>Conditions Violated, FY2019-FY2020 (Excluding Violations Arising Out of New Law Convictions)</b>		<b>Percentage</b>	<b>Number</b>
	Fail to refrain from the use, possession, or distribution of <b>controlled substances</b> or related paraphernalia	64.8%	8,624
	Fail to follow the <b>instructions</b> of the probation officer, be truthful and cooperative, and report as instructed	59.7%	7,951
	Fail to <b>maintain contact</b> with the probation officer whereby the defendant's whereabouts are no longer known to the probation officer	31.4%	4,180
	Fail to follow <b>special conditions</b> imposed or authorized by the court	20.7%	2,751
	Fail to gain permission to <b>change residence</b> or remain in the Commonwealth or other designated area without permission of the probation officer	14.4%	1,917
	Fail to <b>report within three days</b> of release from incarceration	11.9%	1,579
	Fail to <b>report any arrest</b> , including traffic tickets, within three days	2.2%	287
	Fail to refrain from the <b>use of alcoholic beverages</b> to the extent that it disrupts or interferes with the defendant's employment or orderly conduct	1.9%	257
	Fail to notify the probation officer of any <b>changes in employment</b>	1.7%	227
	Fail to permit the probation officer to <b>visit home/employment</b>	0.5%	66
	Fail refrain from use, possession, or transportation of a <b>firearm</b>	0.4%	52

Note: There were 13,317 technical violations identified in Fiscal Years 2019 and 2020. The percentages of conditions violated will not add to 100% because defendants are often cited for multiple violations of the signed probation conditions. This table does not identify cases based on the number of prior technical violations. The number of prior technical violations for the same underlying offenses cannot be determined with the existing data.



## HB 758

### Probation, revocation, and suspension of sentence.

Introduced by: Les R. Adams

#### SUMMARY AS PASSED HOUSE:

Changes the definition of a technical violation by including good behavior violations that did not result in criminal convictions and *excluding violations related to the possession or distribution of controlled substances, use or possession of a firearm, or absconding. It also clarifies that any specific or special term imposed by the court in a court order is not a technical violation.*

Upon a first technical violation, if the court originally suspended the imposition of sentence, the court must revoke such suspension and again suspend all of this sentence and, upon a second or subsequent violation, the court may pronounce whatever sentence might have been originally imposed.

The court may fix the period of probation and the period of suspension for up to two years for an offense punishable as a Class 1 or Class 2 misdemeanor.

The offense of crimes against nature is added to the list of offenses for which if some period of the sentence for such offense is suspended, the judge is required to order that period of suspension be for the length of time equal to the statutory maximum for the offense.



## **HB 758**

### **Probation, revocation, and suspension of sentence.**

Introduced by: Les R. Adams

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

### **HISTORY**

02/07/22 House: Reported from Courts of Justice with substitute (11-Y 9-N)

02/14/22 House: VOTE: Passage (52-Y 48-N)

---

02/28/22 Senate: Reported from Judiciary with substitute (13-Y 2-N)

03/02/22 Senate: Reported from Finance and Appropriations (12-Y 3-N)

03/04/22 Senate: Floor substitute printed 22107402D-S2 (Edwards)

03/07/22 Senate: Committee substitute rejected 22107147SD-S1 (9-Y 30-N)

03/07/22 Senate: Substitute by Senator Edwards agreed to 22107402D-S2

03/07/22 Senate: Defeated by Senate (18-Y 21-N)



## HB 760

### Suspended sentence/probation; technical violations.

Introduced by: Les. A. Adams

#### SUMMARY AS INTRODUCED:

Specifies that a violation of the terms and conditions based on the failure to refrain from the *use, possession, or distribution of a Schedule I or II controlled substance shall not be considered a technical violation.*

Accordingly, a court is not subject to the limitations on the amount of active incarceration it can impose as a result of a revocation hearing based on such violation and may revoke the suspension and impose or resuspend any or all of the period previously suspended.

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

#### HISTORY

02/07/22 House: Reported from Courts of Justice (11-Y 9-N)

02/11/22 House: VOTE: Passage (51-Y 48-N)

02/14/22 Senate: Referred to Committee on the Judiciary

02/28/22 Senate: Passed by indefinitely in Judiciary (9-Y 6-N)



## HB 1073

### **Suspended sentence/probation; technical violations.**

Introduced by: James A. Leftwich

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

Repeals the limitations on the amount of active incarceration a court can impose as a result of a revocation hearing for a probation violation or violation of the terms and conditions of a suspended sentence. The bill also removes limitations on the lengths of a period of probation and period of suspension of a sentence that may be fixed by the court. The bill also makes changes to the time periods within which a court must issue process to notify the accused of a revocation hearing. In essence, *this bill repeals the changes enacted due to the passage of HB 2038 by the 2021 General Assembly (Special Session I).*

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

#### **HISTORY**

01/12/22 House: Referred to Committee for Courts of Justice

02/15/22 House: Left in Courts of Justice



See also  
**SB 252** (Edwards)

## **SB 104**

### **Elimination of mandatory minimum sentences.**

Introduced by: Joseph D. Morrissey

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

Except for aggravated murder of a law-enforcement officer, eliminates all mandatory minimum sentences from the Code of Virginia.

#### **HISTORY**

01/17/22 Senate: Reported from Judiciary with substitute (8-Y 7-N)

02/01/22 Senate: Reported from Finance & Appropriations w/amendment (10-Y 6-N)

02/07/22 Senate: Read third time and defeated by Senate (19-Y 21-N)

02/08/22 Senate: Reconsideration of defeated action agreed to by Senate (40-Y 0-N)

02/14/22 Senate: Committee amendment reconsidered (40-Y 0-N)

02/14/22 Senate: Committee amendment rejected

02/14/22 Senate: Committee substitute reconsidered (40-Y 0-N)

02/14/22 Senate: Committee substitute rejected 22104619D-S1

02/14/22 Senate: Substitute by Senator Morrissey agreed to 22106532D-S2

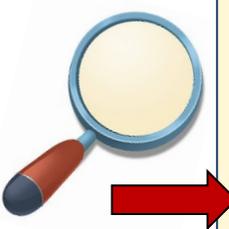
02/14/22 Senate: Defeated by Senate (17-Y 23-N)

## SB 104

### Elimination of mandatory minimum sentences.

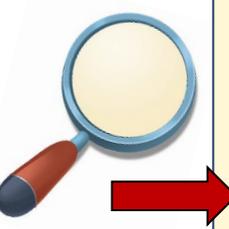
Introduced by: Joseph D. Morrissey

#### CIRCUIT COURT



	FISCAL YEAR CASE WAS CONCLUDED					Total
	2016	2017	2018	2019	2020	
Total Number of Convictions in Circuit Court	93,152	98,293	100,743	103,690	87,609	483,487
Conviction offense DOES NOT REQUIRE mandatory minimum sentence	95.4%	95.3%	95.2%	95.1%	95.2%	95.2%
Conviction offense REQUIRES mandatory minimum sentence	4.6%	4.7%	4.8%	4.9%	4.8%	4.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

#### GENERAL DISTRICT COURT



	FISCAL YEAR CASE WAS CONCLUDED					Total
	2016	2017	2018	2019	2020	
Total Number of Convictions in General District Court*	395,634	383,572	392,131	383,480	289,682	1,844,499
Conviction offense DOES NOT REQUIRE mandatory minimum sentence	97.3%	97.4%	97.4%	97.5%	97.9%	97.5%
Conviction offense REQUIRES mandatory minimum sentence	2.7%	2.6%	2.6%	2.5%	2.1%	2.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

\* excluding infractions



Legislation Relating  
to Parole or Time Served



See also  
**SB 378** (Peterson)

## HB 906

### Petition for modification of sentence; eligibility, procedures.

Introduced by: Carrie E. Coyner

#### SUMMARY AS INTRODUCED:

Provides a petition process for a person serving a sentence for any conviction(s) who remains incarcerated in a state or local correctional facility and meets certain criteria to petition the circuit court that entered the original judgment or order to (i) suspend the unserved portion of such sentence or run the unserved portion of such sentence concurrently with another sentence, (ii) place such person on probation for such time as the court shall determine, or (iii) otherwise modify the sentence imposed. ***To be eligible, the prisoner must have served at least 10 years of his sentence if he was 25 years of age or younger at the time of the offense or have served at least 15 years of his sentence if he was 26 years of age or older at the time of the offense.***

#### HISTORY

01/12/22 House: Referred to Committee for Courts of Justice

02/15/22 House: Left in Courts of Justice



Other Legislation



## **SB 134**

**JDR district courts; raises maximum age for delinquency matters.**

Introduced by: John S. Edwards

### **SUMMARY AS INTRODUCED:**

Raises the maximum age for delinquency matters in JDR district courts from persons under 18 years of age to persons under 21 years of age. The bill defines "underage person" as an individual who is 18 years of age or older but less than 21 years of age.

### **HISTORY**

02/07/22 Senate: Reported from Judiciary with amendments (9-Y 0-N)

02/10/22 Senate: Reported from Finance & Appropriations w/amendment (14-Y 1-N)

02/15/22 Senate: Read third time and passed Senate (22-Y 18-N)

02/27/22 House: Assigned Courts sub: Subcommittee #1

02/28/22 House: Subcommittee recommends passing by indefinitely (5-Y 3-N)

03/08/22 House: Left in Courts of Justice

**SB 134**

**JDR district courts; raises maximum age for delinquency matters.**

Introduced by: John S. Edwards



**Felony Sentencing Events Involving Offenders  
Who Were Age 18-20 at the Time of the Offense  
FY2016-FY2021**

<b>Primary Offense</b>	<b>Total Number of Cases</b>	<b>Percent Sentenced to Probation</b>	<b>Percent Sentenced to Jail</b>	<b>Median Jail Sentence</b>	<b>Percent Sentenced to Prison</b>	<b>Median Prison Sentence</b>
<b>Assault</b>	784	10.5%	32.1%	7.0 months	57.4%	3.0 years
<b>Burglary/Dwelling</b>	747	22.9%	25.4%	6.0 months	51.7%	2.5 years
<b>Burglary/Other</b>	334	35.6%	29.0%	5.0 months	35.4%	2.0 years
<b>Drugs/Schedule I/II</b>	3,169	58.2%	28.2%	3.0 months	13.6%	1.6 years
<b>Drugs/Other</b>	592	42.6%	47.1%	3.0 months	10.3%	1.6 years
<b>Fraud</b>	684	45.6%	34.5%	7.0 months	19.9%	1.6 years
<b>Kidnapping</b>	60	6.7%	28.3%	6.0 months	65.0%	4.5 years
<b>Larceny</b>	2,515	39.2%	43.7%	3.0 months	17.1%	1.6 years
<b>Murder/Homicide</b>	223	1.3%	3.1%	6.0 months	95.5%	20.0 years
<b>Obscenity</b>	110	19.1%	20.0%	6.0 months	60.9%	3.0 years
<b>Rape</b>	95	1.1%	2.1%	9.0 months	96.8%	10.0 years
<b>Other Sexual Assault</b>	272	16.2%	23.2%	7.0 months	60.6%	2.3 years
<b>Robbery</b>	764	4.6%	7.2%	6.0 months	88.2%	5.0 years
<b>Miscellaneous /Other</b>	95	20.0%	37.9%	6.0 months	42.1%	2.0 years
<b>Miscellaneous/Person &amp; Prop.</b>	216	35.6%	42.2%	3.0 months	22.2%	2.0 years
<b>Traffic Felony</b>	387	22.0%	48.3%	4.0 months	29.7%	1.1 years
<b>Weapon / Firearm</b>	435	16.8%	22.3%	7.0 months	60.9%	2.0 years
<b>Other</b>	186	39.2%	44.6%	3.0 months	16.2%	2.0 years
<b>Overall</b>	<b>11,668</b>	<b>36%</b>	<b>31.8%</b>	<b>4.0 months</b>	<b>32.2%</b>	<b>2.5 years</b>

Note: All offenses sentenced in the same court by the same judge at the same time are included in one sentencing event. The analysis is based on felony sentencing events in which all crimes were committed by the offender when he was 18-20 years old. The specified Guidelines offense group is based on the primary, or most serious, offense in the sentencing event.



## **SB 742**

### **Marijuana; expungement of offenses, civil penalty.**

Introduced by: Scott A. Surovell

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

Provides for the automatic sealing of misdemeanor marijuana offenses and the petition-based sealing for certain felony marijuana offenses. The bill also provides that any petition for expungement shall be kept under seal and that an indigent person may file a petition for expungement without the payment of fees and costs and can request court-appointed counsel, who shall be paid from the Sealing Fee Fund. The bill has staggered delayed effective dates in order to develop systems for implementing the sealing provisions of the bill.

#### **HISTORY**

02/07/22 Senate: Reported from Judiciary with amendments (9-Y 6-N)

02/10/22 Senate: Reported from Finance and Appropriations (13-Y 3-N)

02/15/22 Senate: Passed Senate (21-Y 19-N)

02/27/22 House: Assigned Courts sub: Subcommittee #1

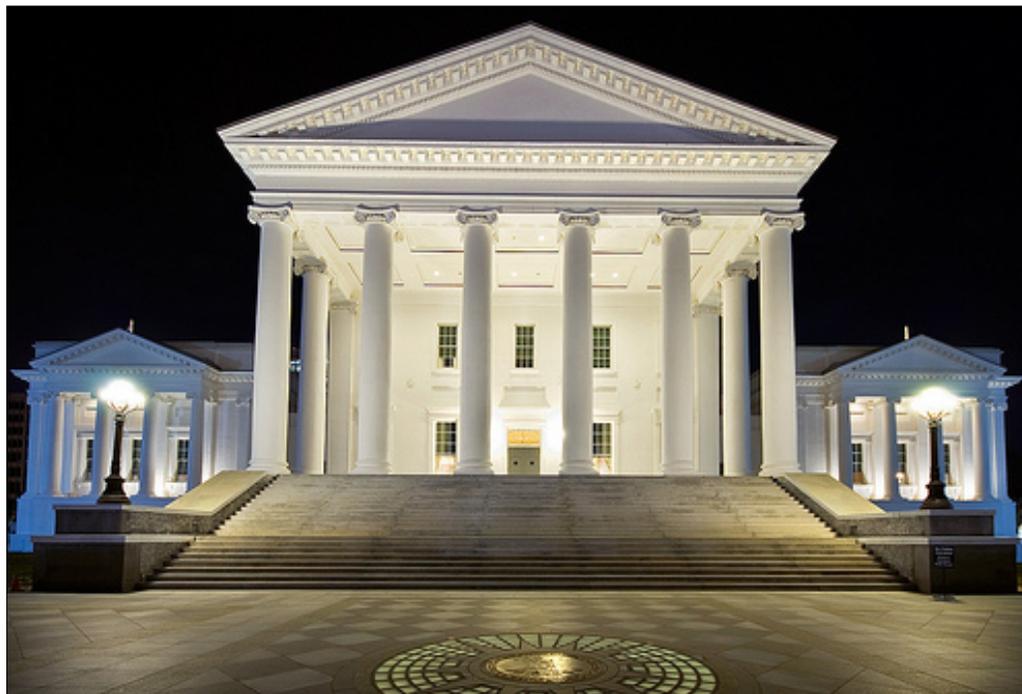
03/04/22 House: Subcommittee failed to recommend reporting (3-Y 5-N)

03/08/22 House: Left in Courts of Justice

**SB 742**  
**Marijuana; expungement of offenses, civil penalty.**  
 Introduced by: Scott A. Surovell



Number of Offenders with Marijuana Convictions during FY2014-FY2021	
Manufacture marijuana - not for personal use § 18.2-248.1(c )	254
Possession of marijuana - 1st offense § 18.2-250.1	70,212
Possession of marijuana - 2nd offense § 18.2-250.1	12,158
Possession of marijuana - Civil (FY2021)	2,232
Distribute marijuana as accommodation § 18.2-248.1(a,3)	172
Sell, distribute, possess with intent to distribute marijuana 1/2 oz. or less § 18.2-248.1(a,1) <i>(Note: 1/2 oz threshold increased to 1 oz in FY2021)</i>	6,422
Sell, distribute, possess with intent to distribute marijuana over 1/2 oz. up to 5 lbs. § 18.2-248.1(a,2) <i>(Note: 1/2 oz threshold increased to 1 oz in FY2021)</i>	5,190
Sell, distribute, possess with intent to distribute marijuana over 5 lbs. § 18.2-248.1(a,3)	388
Distribute marijuana to inmate as accommodation § 18.2-248.1(b)	8
Sell less than 1 oz. of marijuana to minor § 18.2-255(a,i)	28
Sell 1 oz. or more of marijuana to minor § 18.2-255(a,i)	0
Sell less than 1 oz. of marijuana, minor assists in distribution § 18.2-255(a,ii)	2
Sell 1 oz. or more of marijuana, minor assists in distribution § 18.2-255(a,ii)	0
Transport marijuana 5 lbs. or more into Commonwealth § 18.2-248.01	59
Transport marijuana 5 lbs. or more - 2nd or subseq. § 18.2-248.01	0
Sell, distribute, possess with intent to distribute marijuana - 3rd or subseq. conv. § 18.2-248.1(d)	36



**General Assembly website:**

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