



LARCENY / FRAUD

Reanalysis 2025

ACCEPTED RECOMMENDATION

Affirm the Virginia Criminal Sentencing Commission's current methodology, used by the Commission since 1995, for scoring prior criminal conduct on the Sentencing Guidelines in accordance with the current penalty structure regardless of when the crime was committed.

RECOMMENDATION SIX

Affirm the Virginia Criminal Sentencing Commission's current methodology, used by the Commission since 1995, for scoring prior criminal conduct on the Sentencing Guidelines in accordance with the current penalty structure regardless of when the crime was committed.

ISSUE

The General Assembly has directed the Virginia Criminal Sentencing Commission to develop, maintain and modify, as may be deemed necessary, a system of statewide discretionary Sentencing Guidelines for use in all felony cases (§ 17.1-803). To promote accurate and consistent preparation of the Guidelines, the Commission has established procedures and provided written instructions for scoring Guidelines factors. When scoring a defendant's prior criminal record, Guidelines preparers are instructed to use Virginia's current penalty structure, as defined in the Code of Virginia, to determine the statutory maximum penalty for each prior record offense. The Commission has retained this approach since 1995, as it ensures that the Guidelines system reflects the overall sentencing policy set by the General Assembly through the current statutory penalties it has prescribed.

The General Assembly has modified penalties for many offenses. The changes have increased penalties for some crimes, reduced penalties for others, and raised the threshold at which certain crimes are punishable as felonies. Through this recommendation, the Commission confirms with the General Assembly that it will continue to utilize scoring mechanisms that weigh prior offenses based on the current penalties approved by the legislature and signed into law.

REANALYSIS

FRAUD & LARCENY

- 1 3,739 Fraud & 8,547 Larceny Worksheets were Received Between FY21-FY24 (n=12,286)
- 2 229 Fraud & 333 Larceny Worksheets Were Missing Information (n=11,735)
- 3 Analysis/Sample Will Not Include Another 1,162 with Offense Dates Prior to July 1, 2020
- 4 Cases for FY2025 Received and Coded by July 1, 2025, will be included

REANALYSIS

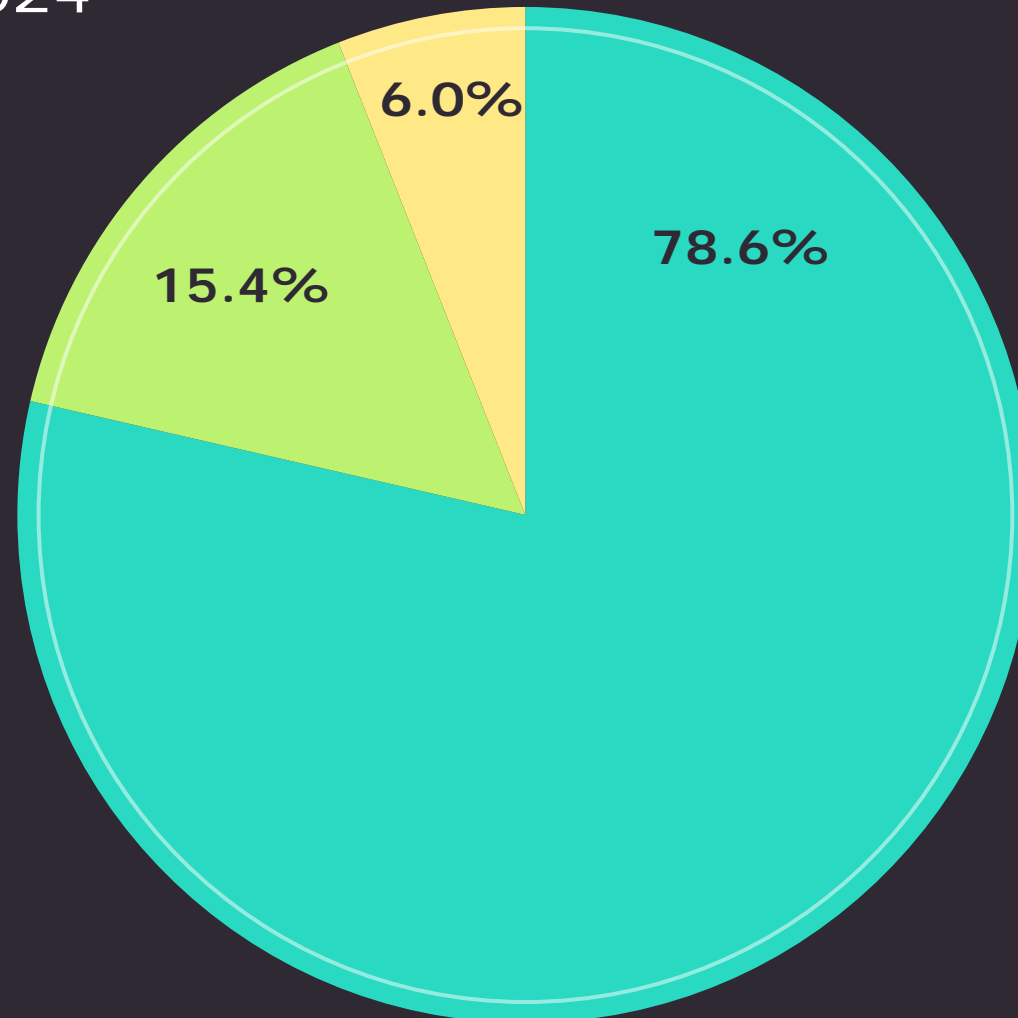
FRAUD & LARCENY

- 5 Eighty Percent of Cases Do Not Include a Property Value
- 6 Project May Require Visits to Courts That Have Not Provided the Commission OCRA Access
- 7 The Objective is to Develop Guidelines Similar to the Robbery Guidelines Layout
(Probation/Incarceration Worksheet & Jail/Prison Length Worksheet)
- 8 Staff Will Provide Status Report on June 9, 2025, the Next Meeting

BACKGROUND: LARCENY

Concurrence FY2021 – FY2024

Concurrence after recommendation was modified to reflect the Nonviolent Risk Assessment recommendation and any modification based on substantial assistances, acceptance of responsibility or expression of remorse.



Concurrence

Mitigation

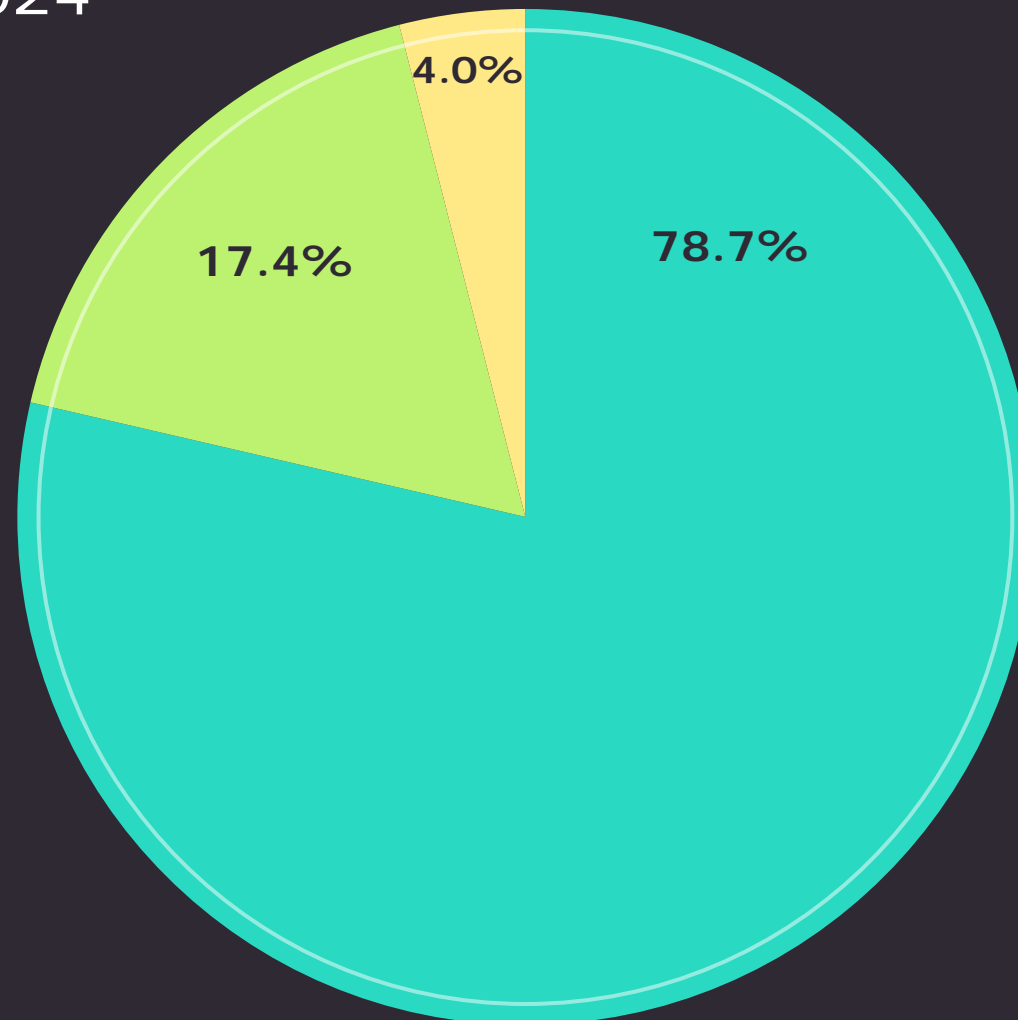
Aggravation

N=8,225

BACKGROUND: FRAUD

Concurrence FY2021 – FY2024

Concurrence after recommendation was modified to reflect the Nonviolent Risk Assessment recommendation and any modification based on substantial assistances, acceptance of responsibility or expression of remorse.



Concurrence

Mitigation

Aggravation

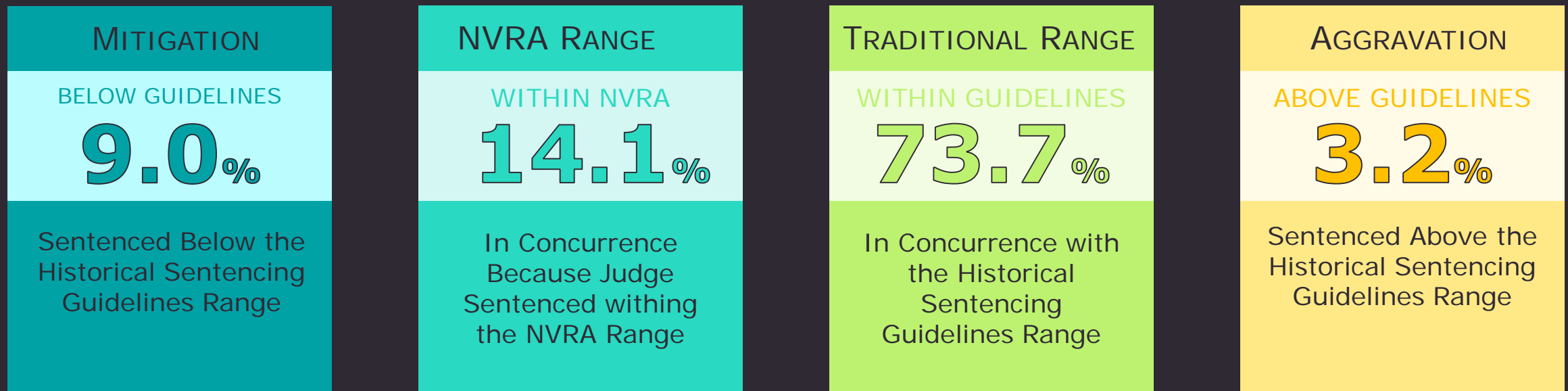
N=3,510

BACKGROUND: LARCENY

RISK ASSESSMENT FY2021 – FY2024

Concurrence rates for Nonviolent Offenders Eligible for Risk Assessment. Excludes cases that have violent prior or current offenses, cases recommended for probation or no effective time, and cases with mandatory minimums. Any cases missing information needed to properly identify the case or score the Guidelines or Risk Assessment worksheet were excluded.

CONCURRENCE – WITHIN GUIDELINES



OVERALL CONCURRENCE – 87.8%

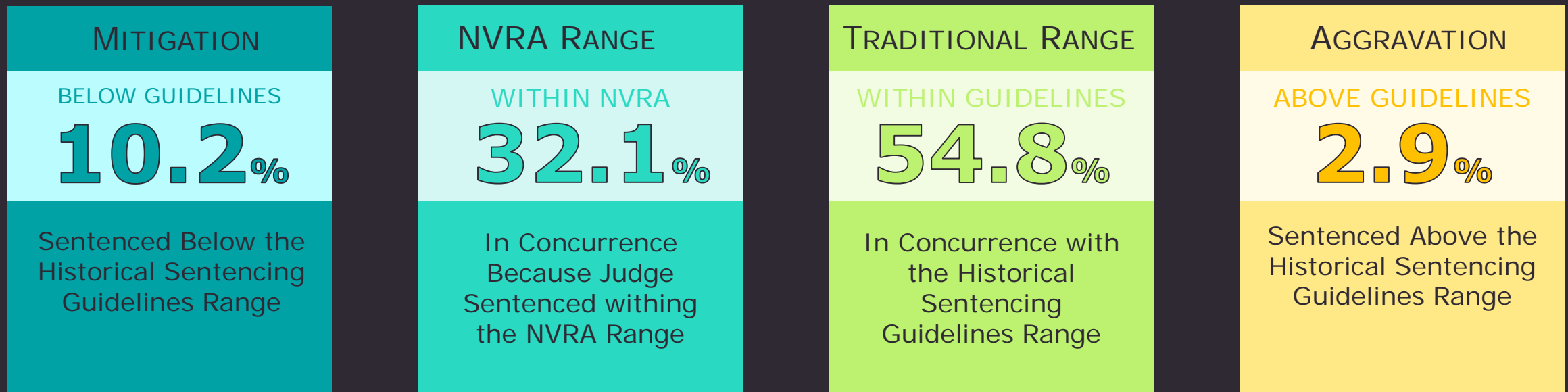
N=3,510 of 8,225

BACKGROUND: FRAUD

RISK ASSESSMENT FY2021 – FY2024

Concurrence rates for Nonviolent Offenders Eligible for Risk Assessment. Excludes cases that have violent prior or current offenses, cases recommended for probation or no effective time, and cases with mandatory minimums. Any cases missing information needed to properly identify the case or score the Guidelines or Risk Assessment worksheet were excluded.

CONCURRENCE – WITHIN GUIDELINES



OVERALL CONCURRENCE – 86.9%

N=1,465 of 3,510

§ 17.1-803

5. Develop an **offender risk assessment** instrument for use in all felony cases, based on a study of Virginia felons, that will be predictive of the relative risk that a felon will become a threat to public safety.

6. Apply the risk assessment instrument to offenders convicted of any felony that is not specified in (i) subdivision 1, 2 or 3 of subsection A of § 17.1-805 or (ii) subsection C of § 17.1-805 under the discretionary sentencing guidelines, and shall determine, on the basis of such assessment and with due regard for public safety needs, the feasibility of achieving the goal of placing **25 percent** of such offenders in one of the alternative sanctions listed in subdivision 4. If the Commission so determines that achieving the 25 percent or a higher percentage goal is feasible, it shall incorporate such goal into the discretionary sentencing guidelines, to become effective on January 1, 1996. If the Commission so determines that achieving the goal is not feasible, the Commission shall report that determination to the General Assembly, the Governor and the Chief Justice of the Supreme Court of Virginia on or before December 1, 1995, and shall make such recommendations as it deems appropriate.

QUESTIONS

FOR JUNE 9, 2025

1

Should the analysis incorporate the NVRA into the traditional worksheets and eliminate the NVRA instrument as a standalone worksheet?

2

If the analysis results in a reduced number of defendants being eligible for NVRA (because the recommendation is now no incarceration), does that invalidate the current NVRA instrument?

3

Should staff complete a new recidivism study and develop an updated NVRA instrument?

4

Does § 17.1-803 need to be modified to reflect a smaller target since the analysis may recommend less for incarceration and more for alternatives - even without a NVRA instrument?



REQUEST FROM THE FIELD

Probation Violation Guidelines

SENTENCING REVOCATION REPORT

IDENTIFY THE STATUTE CITATION FOR EACH STATE CONDITION OF PROBATION

1. Objective is to record the probation condition(s) violated in the court order
2. Recording the specific violation(s) will make it easier to apply the requirements of § 19.2-306.1 and Heart v. Commonwealth in future hearings
3. Printing the specific statute citation along with the Dept. of Corrections probation condition number and description will assist the clerk in preparing the court order

Comparison of the Department of Corrections (DOC) Conditions of Probation to the Conduct Defined by § 19.2-306.1

DOC Condition Number	DOC Description*	Statute #	Description in § 19.2-306.1	Gang*	Sex Offender*
1	I will obey all Federal, State and local laws and ordinances.				
2	I will report any arrest, including traffic tickets, within 3 days to the Probation and Parole Officer.	i	Failure to report any arrest, including traffic tickets, within three days to the probation officer		
3	I will maintain regular employment and I will notify the Probation and Parole Officer promptly of any changes in my employment.	ii	Failure to maintain regular employment or notify the probation officer of any changes in employment;		
4	I will report in person or by telephone to the Probation and Parole office listed below within three working days of my <u>release from incarceration, and as otherwise instructed thereafter.</u>	iii	Failure to report within three days of release from incarceration;		
5	I will permit the Probation and Parole Officer to visit my home and place of employment.	iv	Failure to permit the probation officer to visit his home and place of employment;	7	
6	I will follow the Probation and Parole Officer's instructions and will be truthful, cooperative, and report as instructed.	v	Failure to follow the instructions of the probation officer, be truthful and cooperative, and report as instructed;		
7	I will not use alcoholic beverages to the extent that it disrupts or interferes with my employment or orderly conduct.	vi	Failure to refrain from the use of alcoholic beverages to the extent that it disrupts or interferes with his employment or orderly conduct;		3
8	I will not unlawfully use, possess or distribute controlled substances or related paraphernalia.	vii	Failure to refrain from the use, possession, or distribution of controlled substances or related paraphernalia;		3
9	I will not use, own, possess, transport or carry a firearm.	viii	Failure to refrain from the use, ownership, possession, or transportation of a firearm;	6	
10	I will not change my residence without the permission of the Probation and Parole Officer. I will not leave the State of Virginia or travel outside of a designated area without permission of the Probation and Parole Officer.	ix	Failure to gain permission to change his residence or <u>remain in the Commonwealth</u> or other designated area without permission of the probation officer;		1
11	I will not abscond from supervision. I understand I will be considered an absconder when my whereabouts are no longer known to my supervising officer. I freely, voluntarily and intelligently waive any right I may have to extradition if arrested outside of Virginia.	x	<u>Failure to maintain contact</u> with the probation officer whereby his whereabouts are no longer known to the probation officer.		

*Please see the DOC Conditions of Probation, Gang Conditions and Sex Offender Conditions in the Appendix Section of this manual. The number in the table under Gang and Sex Offender corresponds to the condition/instructions number defined by the DOC that is similar to conduct specifically defined by § 19.2-306.1 as technical.

**Sentencing Revocation Report (SRR) -
Felony Supervision/Good Behavior/Suspended Sentence Violations**

Scheduled Sentencing Date: 07/01/25

◆ OFFENDER

First: _____ Middle: _____ Last: EXAMPLE Suffix: _____

Date of Birth: [Month][Day][Year] SSN: _____ SID/CCRE: _____ CORIS Offender ID: _____

◆ COURT

Judicial Circuit: _____ City/County: _____ Docket Number: _____ FIPS Code: _____

Sentencing Judge's Name: _____

Preparer Name: _____ Commonwealth's Attorney Probation Officer

◆ Most Serious Original Primary Offense: _____ Sentencing Date: [Month][Day][Year]

◆ PRIOR REVOCATIONS FOR ALL UNDERLYING OFFENSES (For Current Revocation Event)

Enter Date and DOC Number for Condition(s) Violated:

Date: [Month][Day][Year] Special Conditions: _____

◆ TYPE OF REVOCATION

(Complete SRR and Guidelines): State Supervised Probation for Felony

(Complete SRR only, guidelines do not apply): Local Probation Good Behavior /Suspend Sentence

CCAP Procedural Post Release

Conditions Violated as Cited by Probation and Parole _____ Worksheet to Be Completed _____

Technical Violation (2-11): 1st 2nd 3rd or sub No New Convictions

Technical Violation (9 or 11): 1st 2nd 3rd or sub

Special Conditions: Yes

New Law Violation: Felony New Law Felony

Misdemeanor New Law Misdemeanor or Lesser Offense Conviction

(NOTE: Guidelines are not completed for First Offender, Deferred Finding, Post Release or Parole Violations)

◆ DOC CONDITIONS CITED IN VIOLATION BY PROBATION/PAROLE OFFICER (check all that apply)

- 1. Fail to obey all Federal, State, and local laws.
- 2. Fail to report any arrests within 3 days to PO.
- 3. Fail to maintain employment or to report changes.
- 4. Fail to report as instructed
- 5. Fail to allow probation officer to visit home or job.
- 6. Fail to follow instructions, be truthful, and cooperative.
- 7. Use alcoholic beverages
- 8. Use, possess, distribute controlled substances or paraphernalia
- 9. Use, own, possess, transport or carry firearm
- 10. Change residence or leave Virginia without permission
- 11. Abscond from supervision
- Fail to follow special conditions/instructions (specify) _____

Special Sex Offender Conditions/Instructions
(Enter Letter for Condition(s) Violated): [][]

Special Gang Member Conditions/Instructions
(Enter Letter for Condition(s) Violated): [][]

◆ FOR JUDICIAL REVIEW

TREATMENT, SANCTIONS, EDUCATIONAL PROGRAMS & ALTERNATIVES AVAILABLE

◆ DATE ARRESTED FOR THIS VIOLATION OR SHOW CAUSE ISSUED/SERVED: [Month][Day][Year]

◆ PRETRIAL CONFINEMENT FOR THIS VIOLATION (There is no indication that the time served will be applied to this case)

No Confined Since Arrest for Violation Both incarcerated and at Liberty Pretrial
Dates Confined: [Month][Day][Year] to [Month][Day][Year]

◆ PRETRIAL STATUS RELEASE

Bond: Secured Unsecured Own Recognizance Third Party Release N/A

◆ RECOMMENDATION RANGE: Time Served: [Years][Months][Days] to [Years][Months][Days]

Statutory Requirement if Applicable No time 0 -14 days



**Sentencing Revocation Report (SRR) -
Felony Supervision/Good Behavior/Suspended Sentence Violations**

◆ OFFENDER

First: _____ Middle: _____ Last: _____ Suffix: _____

Date of Birth: _____ SSN: _____ SID/CCRE: _____ CORIS Offender ID: _____

◆ COURT

Judicial Circuit: _____ City/County: _____ Docket Number: _____ FIPS Code: _____

Sentencing Judge's Name: _____

Preparer Name: _____ Commonwealth's Attorney Probation Officer

Most Serious Original Primary Offense: _____ Sentencing Date (Original): _____

◆ PRIOR REVOCATIONS FOR ALL UNDERLYING OFFENSES (For Current Revocation Event)

Enter Date and DOC Number for Condition(s) Violated:

Date: [Month][Day][Year] Specify Special Conditions: _____

◆ TYPE OF REVOCATION

(Complete SRR and Guidelines): State Supervised Probation for Felony

(Complete SRR only, Guidelines do not apply): Local Probation/ Misdemeanors Good Behavior /Suspend Sentence

CCAP Procedural Post Release

Conditions Violated as Cited by Probation and Parole _____ Worksheet to Be Completed _____

Technical Violation (2-11): 1st 2nd 3rd or sub No New Convictions

Technical Violation (9 or 11): 1st 2nd 3rd or sub

Special Conditions: Yes

New Law Violation: Felony New Law Felony

Misdemeanor New Law Misdemeanor or Lesser Offense Conviction

(NOTE: Guidelines are not completed for First Offender, Deferred Finding, Post Release or Parole Violations)

◆ DOC CONDITIONS CITED IN VIOLATION BY PROBATION/PAROLE OFFICER (check all that apply)

- 1. Fail to obey all Federal, State, or local laws.
- 2. Fail to report arrests w/n 3 days to PO §19.2-306.1A(i)
- 3. Fail to maintain employment/report §19.2-306.1A(ii)
- 4. Fail to report as instructed §19.2-306.1A(iii)
- 5. Fail to allow PO to visit home or job. §19.2-306.1A(iv)
- 6. Fail to follow instructions/cooperative §19.2-306.1A(v)
- 7. Use alcoholic beverages §19.2-306.1A(vi)
- 8. Use, possess, distribute controlled substances or paraphernalia §19.2-306.1 A (vii)
- 9. Use, own, possess, carry firearm §19.2-306.1A(viii)
- 10. Change residence or leave Virginia §19.2-306.1A (ix)
- 11. Abscond from supervision §19.2-306.1A (x)
- Fail to follow special conditions of the Court or DOC (specify) _____

Sex Offender DOC Conditions Violated: [][]

Gang Member DOC Conditions Violated: [][]

◆ FOR JUDICIAL REVIEW

TREATMENT, SANCTIONS, EDUCATIONAL PROGRAMS & ALTERNATIVES AVAILABLE

DATE ARRESTED FOR THIS VIOLATION OR SHOW CAUSE ISSUED/SERVED: [Month][Day][Year]

PRETRIAL CONFINEMENT FOR THIS VIOLATION (There is no indication that the time served will be applied to this case)

No Confined Since Arrest for Violation Both incarcerated and at Liberty Pretrial
Dates Confined: [Month][Day][Year] to [Month][Day][Year] and [Month][Day][Year] to [Month][Day][Year]

◆ PRETRIAL STATUS RELEASE :

Bond: Secured Unsecured Own Recognizance Third Party Release N/A

◆ RECOMMENDATION RANGE: Time Served: [Years][Months][Days] to [Years][Months][Days]

Statutory Requirement if Applicable No time 0 -14 days

Virginia Criminal Sentencing Commission

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