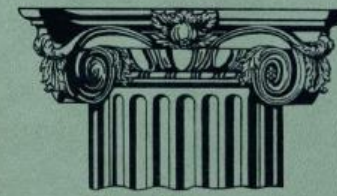


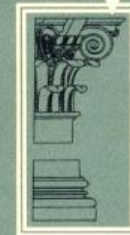


VIRGINIA CRIMINAL SENTENCING COMMISSION

Input on Drug Schedule I/II, Drug/Other, and Assault Guidelines: Identifying Issues with Proposed Factors



VIRGINIA
SENTENCING
GUIDELINES



Drug/Schedule I/II Possible Worksheet Factors: Current Guidelines Offenses

Drug/Schedule I/II ❖ The sentencing guidelines for this section apply to the following offenses:

Relevant Code of Virginia Statutes

Relevant Virginia Crime Codes (VCC)

18.2-248(A)/(C)	NAR-3038-F9 (5 yrs.-life) NAR-3042-F9 (5-40 yrs.) NAR-3043-F9 (5-40 yrs.) NAR-3044-F9 (5-40 yrs.) NAR-3045-F9 (5-40 yrs.) NAR-3087-F9 (10 yrs.-life)
18.2-248(C1)	NAR-3131-F9 (10-40 yrs.) NAR-3132-F9 (10 yrs.-life)
18.2-248(C4)	NAR-3147-F9 (5 yrs.-life)
18.2-248(D)	NAR-3035-F5 (1-10 yrs.)
18.2-248(G).....	NAR-3061-F6 (1-5 yrs.)
18.2-248(J).....	NAR-3110-F6 (1-5 yrs.)
18.2-250(A,a)	NAR-3022-F5 (1-10 yrs.)
18.2-251	NAR-3022-D5 (First Offender Violation)
18.2-255(A)	NAR-3097-F9 (10-50 yrs.)
18.2-255.2	See Drug/Other
18.2-256	Use VCC for actual offense and change "F" to "C" in the code.

Drug Schedule I/II Possible Worksheet Factors

Worksheet A (In/Out Incarceration)

Factor	Level of Significance
Primary Offense (Including Primary Offense Remaining Counts)	Significant at the 1%
Additional Offense	Significant at the 1%
Mandatory Minimum in Current Event (Any Instant Offense)	Significant at the 1%
Firearm or Knife in Possession	Significant at the 1%
Juvenile Records	Significant at the 1%
Number of Prior Convictions/Adjudications - Person (Felony or Misdemeanor)	Significant at the 1%
Type of Drug – Only Fentanyl & Methamphetamine	Significant at the 1%
Number of Prior Convictions/Adjudications– Revocations (Probation Violations, etc. Excluding Pretrial Violations)	Significant at the 1%
Number of Prior Convictions/Adjudications –Drug (Felony or Misdemeanor)	Significant at the 1%
Number of Prior Convictions/Adjudications –Within Past 2 Years (Felony or Misdemeanor)	Significant at the 1%
Prior Incarceration/Commitments	Significant at the 1%
Legally Restrained Status at Time of Offense	Significant at the 1%

*Significant at 1% and 5% Level: 5% indicates reasonably strong evidence that the result is not by chance. 1% indicates even stronger evidence

**All other extralegal factors were included in the model to control any noise

Drug Schedule I/II Possible Worksheet Factors

Worksheet C (Sentence Length)

Factor	Level of Significance
Primary Offense (Including Primary Offense Remaining Counts)	Significant at the 1%
Additional Offense	Significant at the 1%
Prior Record Category (Category I or II)	Significant at the 1%
Mandatory Minimum in Current Event (Any Instant Offense)	Significant at the 1%
Number of Prior Convictions/Adjudications –Non-Marijuana Distribution (Felony or Misdemeanor)	Significant at the 1%
Number of Prior Convictions/Adjudications –Non-Marijuana Possession (Felony or Misdemeanor)	Significant at the 1%
Firearm or Knife in Possession	Significant at the 1%
Juvenile Records	Significant at the 1%
Number of Prior Convictions/Adjudications - Person (Felony or Misdemeanor)	Significant at the 1%
Type of Drug – Only Fentanyl, Heroin, & Methamphetamine	Significant at the 1%
Quantity of Cocaine (used current SG factors)	Significant at the 1%
Prior Incarceration/Commitments	Significant at the 1%
Legally Restrained Status at Time of Offense	Significant at the 1%

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**All other extralegal factors were included in the model to control any noise

Drug Schedule I/II: Monitoring Some Primary Offenses



The Commission Will Continue to Monitor The Following Offenses

Due to Small N:

Sell Schedule I/II Drug to Minor (NAR3097F9) – 6 Cases

Drug/Other Possible Worksheet Factors: Current Guidelines Offenses

Drug/Other ❖ The sentencing guidelines for this section apply to the following offenses:

Relevant Code of Virginia Statutes

Relevant Virginia Crime Codes (VCC)

18.2-248(E1)	NAR-3135-F5	(1-10 yrs.)
18.2-248(E2)	NAR-3136-F6	(1-5 yrs.)
18.2-248.01	NAR-3067-F9	(5-40 yrs.)
18.2-248.1(a,2)	NAR-3032-F5	(1-10 yrs.)
18.2-248.1(a,3)	NAR-3033-F9	(5-30 yrs.)
18.2-248.1(b)	NAR-3034-F4	(2-10 yrs.)
18.2-248.1(c)	NAR-3004-F9	(5-30 yrs.)
18.2-248.1(d)	NAR-3085-F9	(5 yrs.- Life)
18.2-255(A)	NAR-3098-F9	(10-50 yrs.)
	NAR-3063-F9	(10-50 yrs.)
	NAR-3076-F9	(10-50 yrs.)
18.2-255(B)	NAR-3002-F6	(1-5 yrs.)
18.2-255.2	NAR-3027-F6	(1-5 yrs.)
18.2-256	Use VCC for actual offense and change "F" to "C" in the code.	
18.2-257(a)	Use VCC for actual offense and change "F" to "A" in the code.	
18.2-258.1(A)	NAR-3016-F6	(1-5 yrs.)
18.2-258.1(B)	NAR-3079-F6	(1-5 yrs.)
18.2-258.1(C)	NAR-3080-F6	(1-5 yrs.)
18.2-258.1(D)	NAR-3081-F6	(1-5 yrs.)
18.2-258.1(E)	NAR-3082-F6	(1-5 yrs.)
18.2-258.1(F)	NAR-3083-F6	(1-5 yrs.)
18.2-258.1(H)	NAR-3096-F6	(1-5 yrs.)
18.2-265.3(B)	NAR-3006-F6	(1-5 yrs.)

Drug/Other Possible Worksheet Factors

Current Marijuana Guidelines Offenses

- If the recently proposed legislation remains in effect, the current marijuana Guidelines Offenses will be abolished effective July 1, 2027. At the same time, similar offenses under Section 4.1 will take effect.
- Possible Options:
 - **Maintain the current Drug/Other Sentencing Guidelines** until all remaining marijuana charges are adjudicated and concluded.
 - **Remove all current marijuana Guidelines Offenses** from the existing guidelines.

The Commission will continue to monitor the new marijuana offenses under Section 4.1 and assess the feasibility of including any of these offenses as Guidelines Offenses.

Drug/Other Possible Worksheet Factors

Worksheet A (In/Out Incarceration)

Factor	Level of Significance
Primary Offense (Including Primary Offense Remaining Counts)	Significant at the 1%
Additional Offense	Significant at the 10%
Number of Prior Convictions – Drug (Felony or Misdemeanor)	Significant at the 5%
Number of Prior Convictions – Person (Felony or Misdemeanor)	Significant at the 1%
Prior Incarceration/Commitments	Significant at the 1%
Legally Restrained Status at Time of Offense	Significant at the 1%

*Significant at 1% and 5% Level: 5% indicates reasonably strong evidence that the result is not by chance. 1% indicates even stronger evidence

**All other extralegal factors were included in the model to control any noise

Drug/Other Possible Worksheet Factors

Worksheet C (Sentence Length)

Factor	Level of Significance
Primary Offense (Including Primary Offense Remaining Counts)	Significant at the 1%
Additional Offense	Significant at the 1%
Number of Prior Convictions/Adjudications –Non-Marijuana Possession (Felony or Misdemeanor)	Significant at the 1%
Mandatory Minimum in Current Event (Any Instant Offense)	Significant at the 5%
Prior Incarceration/Commitments	Significant at the 5%
Juvenile Records	Significant at the 1%
Legally Restrained Status at Time of Offense	Significant at the 5%

*Significant at 1% and 5% Level: 5% indicates reasonably strong evidence that the result is not by chance. 1% indicates even stronger evidence

**All other extralegal factors were included in the model to control any noise.

***Prior Violent Offense Classification (Category I/II) Not Significant due to the small sample size

Drug/Other: Monitoring Some Primary Offenses



The Commission will Continue to Monitor The Following Marijuana Offenses Due to Small N:

Transport into Commonwealth, 5lbs or more Marijuana (NAR3067F9) – 8 cases



Sell, Distribute, etc. Marijuana 3rd or subs (NAR3085F9) – 2 cases

Assault Possible Worksheet Factors: Current Guidelines Offenses

Assault



The sentencing guidelines for this section apply to the following offenses:

Relevant Code of Virginia Statutes	Relevant Virginia Crime Codes (VCC)
18.2-22.....	Use VCC for actual offense and change "F" to "C" in the code.
18.2-26.....	Use VCC for actual offense and change "F" to "A" in the code.
18.2-41.....	ASL-1328-F3 (5-20 yrs.)
18.2-51.....	ASL-1334-F3 (5-20 yrs.) ASL-1335-F6 (1-5 yrs.)
18.2-51.1.....	ASL-1326-F9 (5-30 yrs.) ASL-1330-F6 (1-5 yrs.)
18.2-51.2(A).....	ASL-1336-F2 (20 yrs.-life)
18.2-51.4(B).....	ASL-1339-F4 (2-10 yrs.)
18.2-51.6(A).....	ASL-1347-F6 (1-5 yrs.)
18.2-52.....	ASL-1327-F9 (5-30 yrs.) ASL-1331-F6 (1-5 yrs.)
18.2-53.....	ASL-1318-F6 (1-5 yrs.)
18.2-53.1.....	ASL-1319-F9 (3-3 yrs.) ASL-1323-F9 (5-5 yrs.)
18.2-54.1.....	ASL-1332-F3 (5-20 yrs.)
18.2-54.2.....	ASL-1317-F3 (5-20 yrs.)
18.2-55.....	ASL-1333-F5 (1-10 yrs.)
18.2-57(C).....	ASL-1342-F6 (1-5 yrs.)
18.2-57.2(B).....	ASL-1316-F6 (1-5 yrs.)

Assault Possible Worksheet Factors

Worksheet A (In/Out Incarceration)

Factor	Level of Significance
Primary Offense (Including Primary Offense Remaining Counts)	Significant at the 1%
Additional Offense	Significant at the 1%
Mandatory Minimum in Current Event (Any Instant Offense)	Significant at the 1%
Firearm Use	Significant at the 1%
Injury – Life Threatening	Significant at the 5%
Number of Prior Convictions/Adjudications - Person (Felony or Misdemeanor)	Significant at the 5%
Number of Prior Convictions/Adjudications - Property (Felony or Misdemeanor)	Significant at the 1%
Prior Incarceration/Commitments	Significant at the 1%
Legally Restrained Status at Time of Offense	Significant at the 1%

*Significant at 1% and 5% Level: 5% indicates reasonably strong evidence that the result is not by chance. 1% indicates even stronger evidence

**All other extralegal factors were included in the model to control any noise.

Assault Possible Worksheet Factors

Worksheet C (Sentence Length)

Factor	Level of Significance
Primary Offense (Including Primary Offense Remaining Counts)	Significant at the 1%
Prior Record Category (Category I or II)	Significant at the 1%
Additional Offense	Significant at the 1%
Mandatory Minimum in Current Event (Any Instant Offense)	Significant at the 1%
Number of Victims - Life Threatening	Significant at the 1%
Number of Prior Convictions/Adjudications - Person (Only Felony)	Significant at the 5%
Number of Prior Convictions/Adjudications - Drug (Felony or Misdemeanor)	Significant at the 1%
Number of Prior Convictions/Adjudications - Property (Felony or Misdemeanor)	Significant at the 5%
Legally Restrained Status at Time of Offense	Significant at the 1%

*Significant at 1% and 5% Level: 5% indicates reasonably strong evidence that the result is not by chance. 1% indicates even stronger evidence

**All other extralegal factors were included in the model to control any noise

Assault: Monitoring Some Primary Offenses



The Commission will Continue to Monitor Following Offenses

Possible Addition:

DWI Reckless Driving Vehicle (ASL1360F6) – 51 Cases

Continue to Monitor due to Small N:

Firearm Use in Commission of Felony -Subsq (ASL1323F9) –No Cases*

Adulteration of Food, etc. (ASL1317F3) – 2 Cases

Assault during the Commission of Felony (ASL1318F6) – 4 Cases

Unlawful Injury to Law Enforcement, etc. (ASL1330F6) – 5 Cases



* Firearm use in Commission of Felony – First (ASL1319F9) – 16 Cases

Study of Nonviolent Drug Offender Risk Assessment



The Study Design Follows the Recent Study of Larceny/Fraud Offenders Risk Assessment Revision

- **Adopt a statistical matching approach** to pair drug offenders with individuals in the historical SG data who share similar characteristics.
- **Following case selection, conduct a follow-up study of at least three years** to determine whether the selected offenders are subsequently convicted of another offense. The observed recidivism outcomes will be used to estimate the likelihood of recidivism.
- **The Commission is currently conducting the matching and follow-up study** to identify offenders who recidivated and develop the prediction model.

