



THE GUIDELINE MESSENGER

The official newsletter of the Virginia Criminal Sentencing Commission

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THE REVISED LARCENY AND FRAUD WORKSHEETS AND RECOMMENDATION TABLES

Larceny and Fraud Worksheets. The Larceny and Fraud Sentencing Guidelines worksheets have been redesigned to follow the same two-step structure previously adopted for the Robbery guidelines. Under the new approach, Worksheet A is completed first to determine whether the recommended disposition is probation (no incarceration) or a term of incarceration. If the case falls within the incarceration category, Worksheet C is completed to calculate a recommended incarceration range, beginning at one day and extending to an upper limit based on historical sentencing practices and negotiated dispositions.

Significant Change. A significant change to both worksheets is the elimination of factors requiring preparers to determine whether the value of the property involved was above or below \$1,000. Instead, the worksheets now focus on the number and types of prior larceny, fraud, and other property-related offenses. This change reflects evolving statutory penalties, including increases in the felony larceny threshold, and recognizes that factors other than property value have become more influential in sentencing decisions.

New Factors. Several new offense characteristics have been incorporated into the worksheets. For larceny offenses, points may be assessed when a weapon was used or when additional offenses in the sentencing event include robbery, assault, homicide, or weapon-related crimes. The fraud worksheet similarly incorporates factors related to prior crimes against persons and additional offenses involving robbery, assault, family offenses, or weapons violations. Notably, one of the predictors of incarceration length for fraud offenses was whether a victim sustained an injury during any offense within the sentencing event.

Combined Recommendation Table. The transition from a three-worksheet model to a two-worksheet model required the consolidation of the former jail and prison recommendation tables. As a result, the new recommendation tables begin with a recommendation of one day rather than seven months of incarceration.

The revised tables also provide a closer fit to historical sentencing patterns, particularly for offenses carrying a six-month mandatory minimum sentence. This refinement allows the Guidelines to more accurately reflect actual sentencing outcomes observed in Virginia courts. *(continued page 2)*

THE REVISED LARCENY AND FRAUD WORKSHEETS AND RECOMMENDATION TABLES (CONTINUED)

Removal of Low-Volume Guidelines Offenses. As part of the revalidation process, several offenses were removed as primary Guidelines offenses because there were too few cases available to support statistically meaningful analysis. In practice, courts should rarely encounter any impact from these changes, as most of the removed offenses had few or no cases during the study period.

Removed Larceny Primary Offenses

- Animals and poultry, less than \$1,000 (§ 18.2-97)
- Fraudulent entry by financial officer (§ 18.2-113)
- Altering, defacing, removing, or possessing serial numbers, greater than \$1,000 (§ 18.2-96.1)
- Theft or destruction of a public record (§ 18.2-107)
- Embezzlement by a public officer (§ 18.2-112)
- Goods on approval—failure to pay for or return goods valued at more than \$1,000 (§ 18.2-116)
- Special commissioner—failure to account for money exceeding \$1,000 (§ 18.2-114.1)
- Conversion by fraud of property titled to another, greater than \$1,000 (§ 18.2-115)

Removed Fraud Primary Offenses

- Possession of credit card forging devices (§ 18.2-196)
- Forging an official seal (§ 18.2-169)
- Obtaining a ticket at a discounted price by fraud (§ 18.2-198)
- Fraudulent use of a birth certificate or license to obtain a firearm (§ 18.2-204.1(C))
- Fraud in commercial dealings with government (§ 18.2-498.3)
- False statement to obtain hotel or motel services valued at \$1,000 or more (§ 18.2-188)
- Buying pig iron with intent to defraud (§ 18.2-238)
- Submitting a false certified statement to a government agency (§ 18.2-498.4)
- Obtaining a signature by false pretenses (§ 18.2-178)
- Unauthorized use of food stamps valued at \$1,000 or more (§ 63.1-124.1)
- False application for public assistance (§ 63.2-502)
- Receiving goods obtained through credit card fraud valued at \$1,000 or more (§ 18.2-197)
- False statement to obtain property or credit valued at \$1,000 or more (§ 18.2-186(B))
- False statement to obtain utilities or television services valued at \$1,000 or more (§ 18.2-187.1)
- Making or possessing forging instruments (§ 18.2-171)
- Intent to defraud by failing to use funds for labor or supplies, valued at \$1,000 or more (§ 43-13)

Larceny Section A Offender Name: _____

◆ **Primary Offense** (Circle the appropriate offense and enter the number of counts in the space provided.)

A. Attempted or conspired larceny (Except LAR-2304-F9 and LAR-2321-F9) (1 count).....	(4)
B. LAR-2304-F9 Conspire to commit or assist in larceny with aggregate value ≥ \$1000 (1 count).....	3
C. LAR-2304-F9 Grand larceny - \$1000 or more not from person (1 count).....	6
D. LAR-2391-F9 Grand larceny - 50 or more from person (1 count).....	10
E. LAR-2404-F9 Grand larceny auto (1 count).....	5
F. LAR-2393-F9 Larceny of firearms, regardless of value, not from person (1 count).....	4
G. LAR-2317-F5 Larceny of animals (dog, horse, pony, mule, cow etc.) (1 count).....	6
H. LAR-2334-F9 Larceny of bank notes, checks, etc worth \$1000 or more (1 count).....	9
I. LAR-2412-F8 Unauthorized use of animal, auto, boat worth \$1000 or more (1 count).....	9
J. LAR-2304-F9 Shoplift, other price tags - \$1000 (1 count).....	7
K. LAR-2808-F9 Receive stolen goods - \$1000 or more (1 count).....	6
L. LAR-2302-F9 Receive stolen goods, intent to sell - \$1000 or more (1 count).....	3
M. LAR-2303-F6 Receive stolen goods, intent to sell - aggregate \$1000 or more (1 count).....	11
N. LAR-2817-F9 Receive stolen firearms (1 count).....	6
O. LAR-2818-F6 Receipt of transfer, vehicle, aircraft or boat (1 count).....	7
P. LAR-2707-F8 Embezzlement, \$1000 or more (1 count).....	8
Q. LAR-2378-F9 Conversion by fraud property titled to another \$1000 or more (1 count).....	6
R. LAR-2321-F9 Bailor, fail to return animal, auto, etc. - \$1000 or more (1 count).....	3
S. LAR-2381-F6 Fail to return leased personal property, \$1000 or more (1 count).....	8

Score

◆ **Primary Offense Remaining Counts** (Number of Counts)

Remaining Counts: 0 0

1 1

2 or more 2

◆ **Additional Offenses** (Statutory Maximums) Total the maximum penalties for additional offenses, including counts

Years: 0 0

1 to 10 2

11 to 20 3

21 or more 4

◆ **Prior Convictions/Adjudications Counts** (Number of Counts)

Number of convictions/adjudications for misdemeanors and felonies

Number of Counts: 0 to 1 prior convictions 0

2 to 4 prior convictions 1

5 to 10 prior convictions 3

11 or more prior convictions 4

◆ **Mandatory Minimum in Current Event** IF YES, add 10

◆ **Prior Incarcerations/Commitments** IF YES, add 8

◆ **Prior Juvenile Record** IF YES, add 2

◆ **Legally Restrained at Time of Offense**

None 0

Other 6

Parole, post-release, supervised probation, or supervised probation after incarceration 8

Total Score If total is 18 or less, the guidelines sentence is Probation/No Incarceration. If total is 19 or more, go to Section C.

LarcenySectionA

New Fraud Offense Added

False Statement in Application For Payment Under Medical Assistance (§ 32.1-314)



REVISED NONVIOLENT RISK ASSESSMENT FOR LARCENY AND FRAUD OFFENSES

Commission’s Recommendation Was Included in 2025 Annual Report

Validation Study. The Commission conducted an extensive review of the existing Nonviolent Risk Assessment (NVRA) instrument and performed a comprehensive validation study to develop a revised model for larceny and fraud offenders. The analysis included a detailed examination of recidivism outcomes, sentencing practices, and offender characteristics to ensure the revised instrument accurately identifies individuals who may be appropriate for alternatives to incarceration.

A significant change is that the revised NVRA model was developed using a different mix of defendants that better reflects current offender populations, sentencing practices, statutory penalties, and the increased use of deferred dispositions and sentences taken under advisement without a conviction. Because the revised model evaluates a smaller and more narrowly defined offender population, it recommends alternatives to incarceration less often than the previous instrument.

The Commission's objective was to develop an assessment tool that fulfills the directive established in § 17.1-803, which calls for approximately 25% of eligible nonviolent offenders to be recommended for an alternative sanction rather than incarceration. The revised instrument achieves this goal, recommending alternatives in approximately 27% of eligible cases.

For comparison, during Fiscal Year 2025, 52% of defendants whose primary offense was fraud, and 40% of defendants convicted of larceny, were recommended for a less restrictive sentence.



Predictive Accuracy and Recidivism Analysis

The revised instrument was developed using advanced statistical modeling and validation techniques. Multiple simulated datasets and resampling methodologies were employed to evaluate the likelihood that an offender would recidivate by receiving a new felony conviction within three years of sentencing.

The results indicate that offenders identified by the revised NVRA as appropriate for an alternative sanction consistently demonstrate recidivism rates below 16%. This finding provides additional confidence that the instrument effectively distinguishes lower-risk offenders from those who present a greater risk of future criminal behavior.

Changes to Risk Factors

Several factors used in the previous NVRA model were removed, while new factors were added to improve predictive accuracy.

Previous NVRA Model	Revised NVRA Model
Gender	
Age	Age
Prior Adult Felony Convictions	Prior Felony Crimes Against Persons Convictions
Prior Adult Incarcerations	Prior Adult Incarceration
Legally Restrained at Time of Offense	Criminal Arrest Within the Previous 12 Months

The revised model places greater emphasis on recent criminal activity, prior violent criminal history, and incarceration experience, while eliminating demographic factors such as gender, and removing variables with less predictive value during the validation process.

The updated NVRA instrument will be incorporated into the revised Larceny and Fraud Sentencing Guidelines and will continue to assist courts in identifying lower-risk, nonviolent offenders who may be appropriate candidates for alternatives to incarceration.

IS THERE OR WILL THERE BE A DECLINE IN THE USE OF THE NONVIOLENT RISK ASSESSMENT?

In 1994, as part of the truth-in-sentencing reforms, the General Assembly directed the Virginia Criminal Sentencing Commission to study the feasibility of using an empirically based risk assessment instrument to identify the lowest-risk incarceration-bound drug and property offenders for placement in alternative sanctions. Specifically, the legislation envisioned diverting approximately 25% of these offenders from prison to community-based alternatives.

By 1996, the Commission had developed such an instrument, and pilot implementation began in 1997. The National Center for State Courts (NCSC) subsequently conducted an independent evaluation of the pilot sites, examining the use of risk assessments from 1998 through 2001. In 2001, the Commission completed a validation study of the original instrument and refined it for potential statewide application. Effective July 1, 2002, the Nonviolent Risk Assessment (NVRA) was implemented statewide for all felony larceny, fraud, and drug cases. Since that time, the Commission has periodically evaluated the instrument and updated its scoring factors when warranted by new research and sentencing trends.

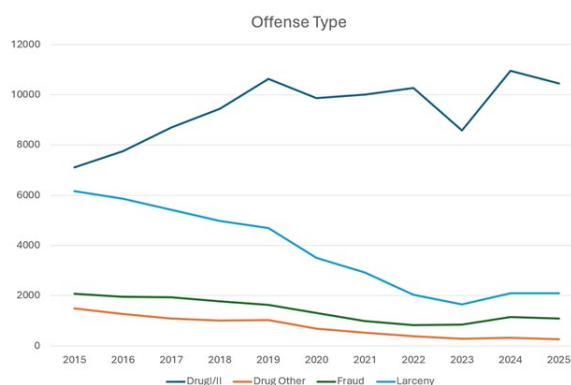
Following an extensive study of recidivism among nonviolent felony offenders in Virginia, a revised NVRA instrument will take effect on July 1, 2026. Details regarding the revised instrument are provided elsewhere in this edition of the newsletter. This article focuses on the data used to develop the 2026 instrument and the policy and legislative changes that influenced its design.

The revised instrument reflects substantial changes in Virginia's criminal justice landscape. Legislative modifications to the felony larceny threshold, changes to the quantity of marijuana required for a felony distribution offense, and the expanded use of deferred dispositions (§§ 19.2-251, 18.2-258.1, 19.2-298.02, and 19.2-303.6) have altered the volume and composition of cases available for analysis.

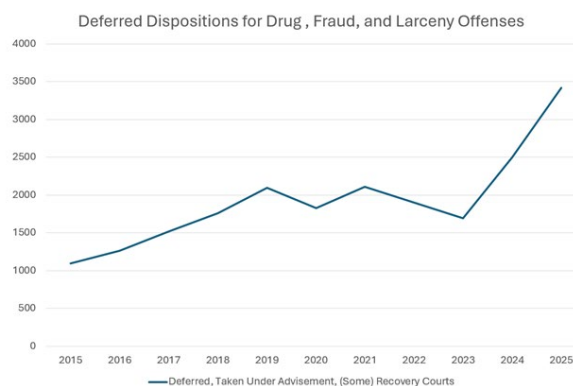
The most significant change is the decline in felony larceny cases. As the felony threshold increased from \$200 to \$500 in 2018 and then to \$1,000 in 2020, the number of sentencing guidelines worksheets received for felony larceny convictions decreased substantially. Consequently, the characteristics of both the offenses and offenders used to develop the revised instrument changed as well. Fraud cases followed a similar pattern, although the decline was

less pronounced because fraud offenses have historically represented a smaller share of the eligible caseload.

A modest decrease in marijuana distribution cases also occurred following the 2021 increase in the quantity required to constitute a felony offense. In contrast, sentencing guidelines received for Schedule I and II drug offenses have remained relatively stable over time, with the exception of an unexplained decline in Fiscal Year 2023. Notably, guidelines submissions decreased across nearly all offense categories that year, suggesting that data collection or reporting issues may have contributed to the reduction.



Another factor affecting the development of the revised instrument is the increasing use of deferred dispositions. Cases that are deferred, taken under advisement, or assigned to recovery court without a conviction, are excluded from sentencing guidelines analyses, including calculations of judicial concurrence with guidelines recommendations and development of the NVRA instrument itself. As illustrated in the accompanying chart, the use of deferred dispositions has increased in drug, fraud, and larceny cases over time. The exclusion of these cases further changes the characteristics of the data available for risk assessment modeling. *(continued page 5)*



IS THERE OR WILL THERE BE A DECLINE IN THE USE OF THE NONVIOLENT RISK ASSESSMENT? (CONTINUED)

Given these significant policies and legal changes, how have judges utilized the Nonviolent Risk Assessment?

As reported in the Commission's 2025 Annual Report, judges imposed the adjusted sentencing recommendation in 24.3% of cases eligible for the assessment. The adjusted recommendation was used most frequently in fraud cases, followed by drug cases. Historically, judges have been less likely to utilize the lower recommendation in larceny cases; in 2025, the adjusted recommendation was applied in fewer than 16% of eligible larceny cases.

Overall, the data suggest that the NVRA continues to fulfill the intent of its enabling legislation. With judicial oversight and individualized consideration of each case, the instrument has helped divert nearly one-quarter of eligible drug, fraud, and larceny offenders to less restrictive sanctions, despite substantial changes in both the number and types of cases sentenced since the enactment of § 17.1-803(6).

What can be expected going forward

Under the current instrument, nearly half of all eligible offenders may receive a recommendation for a less restrictive sentence. The revised instrument incorporates more recent sentencing outcomes and accounts for the sentences of offenders who previously received alternative sanctions rather than incarceration based on the NVRA recommendations. Because these offenders have effectively been removed from the pool of offenders who would otherwise require identification for alternative sentencing, the proportion of offenders recommended for alternative sanctions under the revised instrument is expected to decline to approximately 27%.

Although lower than current levels, this recommendation rate remains consistent with the statutory goal of identifying roughly one-quarter of eligible offenders for alternative sanctions. With continued judicial oversight to evaluate the appropriateness of the recommendation in each case, the percentage of offenders who ultimately receive alternative sentences is expected to fall somewhat below the 27% projected by the revised model.



IMPLEMENTING SEPARATE PROBATION VIOLATION HEARINGS IN COMPLIANCE WITH CANALES V. COMMONWEALTH

To ensure full compliance with the holding in *Canales v. Commonwealth* and to promote consistency in revocation and Sentencing Guidelines practices statewide, the following procedure will take effect on **July 1, 2026**:

A judge may direct that separate and updated Probation Violation Sentencing Guidelines be prepared and submitted for each distinct probation violation sentencing event. In some circumstances, the court may instead order that existing Guidelines be amended to reflect the specific sentencing event.

For this policy, a **sentencing event** is defined as all cases heard before the same judge on the same date and at the same time. When a court conducts multiple, sequential hearings involving separate probation violations, each hearing constitutes a distinct sentencing event and requires its own updated set of Sentencing Guidelines.

Successful implementation of this procedure will require clear communication between the court, the Probation and Parole officer, and Commonwealth's Attorney. Specifically, probation and parole officers must be informed of:

- The order in which the court intends to hear the probation violation matters;
- The sentence, if any, imposed following each distinct hearing; and
- The date and time associated with each distinct hearing.

Timely communication of this information is essential to ensure that updated Guidelines accurately reflect each sentencing event and comply with the requirements established in *Canales*.



Esther J. Windmueller Fee Waiver Program

On a limited basis and subject to the availability of funds, the Sentencing Commission offers fee waivers for private attorneys. Applications for fee waivers are evaluated based on the percentage of the attorney's practice focusing on indigent defense cases and financial need (especially for new or solo practitioners). To submit an application, go to <http://www.vcsc.virginia.gov/training.html>.

Fees are always waived for Commonwealth's Attorneys, Public Defenders, and Probation and Parole Staff

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Contacts and Resources



VIRGINIA CRIMINAL SENTENCING COMMISSION



Hotline (804) 225-4398



Guidelines
Mobile Manual



Text (804) 393-9588



E-mail SWIFT@vcsc.virginia.gov

Sentencing Commission website
www.vcsc.virginia.gov

