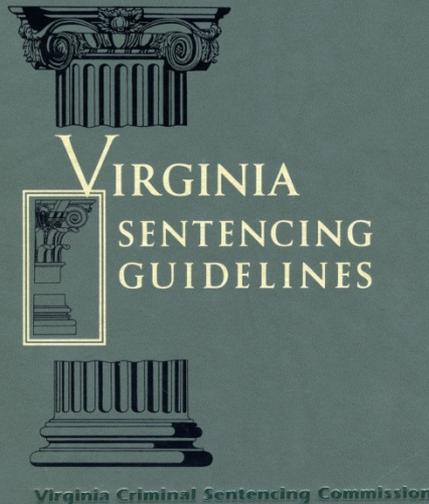


Possible Topics for Guidelines Revisions

Possible Topics for Guidelines Revisions

- **Examine sentencing practices in cases involving multiple mandatory minimum sentences**
- **Examine sentencing practices in cases in which the worksheet includes a separate factor for juvenile record**
- **Explore the feasibility of splitting the Miscellaneous guidelines into two offense groups**
- **Explore the feasibility of adding Sex Offender Registry violations to the guidelines**
- **Examine the number of images/charges involved in child pornography cases and its impact on sentencing outcomes**

- **Examine sentencing practices in cases involving multiple mandatory minimum sentences**



If an event contains multiple counts of an offense with a mandatory minimum, the guidelines recommendations must reflect the possibility that the court may run sentences for the mandatory minimum concurrently or consecutively to each other. Because it is up to the judge to interpret each individual statute's language, the guidelines preparer will prepare the guidelines to reflect both possibilities – that multiple mandatory minimums may be run concurrently or consecutive to each other. Therefore, the guidelines recommendation must reflect both. The minimum recommendation and midpoint must at least reflect the mandatory minimum sentence should the court run the sentences concurrently. The high recommendation must at least reflect the mandatory minimum sentence should the court run the mandatory sentences consecutively. If the guidelines recommendation exceeds the mandatory minimum, no modification needs to be made.

- Examine sentencing practices in cases in which the worksheet includes a separate factor for juvenile record

Larceny Section A

Offender Name: _____

◆ **Primary Offense**

A. Attempted or conspired larceny (1 count)	1
B. Statutory maximum penalty equals 5 years	
1 count	1
2 counts	4
3 counts	6
C. Statutory maximum penalty equals 10 years (1 count)	3
D. Grand larceny auto	
1 count	5
2 counts	7
3 counts	10
E. Grand larceny from person	
1 count	4
2 counts	11
F. Grand larceny of a firearm (1 count)	1
G. Failure of bailee to return animal, aircraft, vehicle or boat (1 count)	4
H. Larceny of bank notes, checks or any book of accounts; Any other larceny offense with maximum penalty of 20 years	
1 count	2
2 - 3 counts	4
4 counts	6

Score
▼

◆ **Primary Offense Additional Counts** Total the maximum penalties for counts of the primary not scored above

Years: 5 - 11	1	34 - 44	4
12 - 22	2	45 or more	5
23 - 33	3		

◆ **Additional Offenses** Total the maximum penalties for additional offenses, including counts

Years: Less than 1	0	23 - 33	3
1 - 11	1	34 - 44	4
12 - 22	2	45 or more	5

◆ **Prior Convictions/Adjudications** Total the maximum penalties for the 5 most recent and serious prior record events

Years: Less than 2	0	21 - 36	3
2 - 11	1	37 or more	4
12 - 20	2		

◆ **Prior Felony Larceny Convictions/Adjudications**

Number of Counts: 1	2
2 - 3	3
4 or more	4

◆ **Other Prior Felony Property Convictions/Adjudications**

Number of Counts: 1 - 4	1
5 or more	2

◆ **Prior Felony Convictions/Adjudications Against Person**

Number of Counts: 1	1
2 or more	2

◆ **Prior Misdemeanor Convictions/Adjudications**

Number of Counts: 1 - 4	1
5 - 8	2
9 or more	3

◆ **Prior Incarcerations/Commitments** _____ If YES, add 5 →

◆ **Prior Juvenile Record** _____ If YES, add 1 →

◆ **Legally Restrained at Time of Offense**

None	0
Other than parole/post-release, supervised probation or CCCA	1
Parole/post-release, supervised probation or CCCA	2

Is the juvenile factor still needed on worksheets, since juvenile adjudications are scored throughout?



SCORE THE FOLLOWING FACTOR ONLY IF PRIMARY OFFENSE IS EMBEZZLEMENT § 18.2-111

◆ **Amount of Embezzlement** _____

- Explore the feasibility of splitting the Miscellaneous guidelines into two offense groups

Miscellaneous Section C Offender Name: _____

Primary Offense _____

Prior Record Classification: Category I Category II Other

A. Burn unoccupied dwelling/church (1 count)	68	34	17
B. Burn occupied dwelling/church	108	54	27
Completed: 1 count			

Miscellaneous Section C Offender Name: _____

Primary Offense _____

Prior Record Classification: Category I Category II Other

A. Burn unoccupied dwelling/church (1 count)	68	34	17
B. Burn occupied dwelling/church	108	54	27
Completed: 1 count			
2 counts	200	100	50
Attempted or conspired: 1 count	68	34	17
2 counts	72	36	18
C. Burning of personal property, standing grain, etc., value \$200 or more (1 count)	32	16	8
D. Threatening to burn, bomb or explode (1 count)	32	16	8
E. Threat by letter, communication or electronic message (1 count)	40	20	10
F. Child neglect/abuse, serious injury (1 count)	32	16	9
G. Gross, reckless care of child (1 count)	28	14	7
H. Cruelty and injury to child (1 count)	28	14	7
I. Failure to appear in court for felony offense (1 count)	32	16	8
J. Perjury, falsely swear an oath (1 count)	12	6	3
K. Possession or sale of Schedule III drug or marijuana by prisoner (1 count)	32	16	8
L. Escape from correctional facility (1 count)	40	20	10
M. Maliciously shoot, throw missile at train, car, etc. (1 count)	32	16	8
N. Damage/destroy any property or monument \$1,000 or more (1 count)	32	16	8
O. Participation in offense by/for gang (1 count)	84	42	21
P. Participation in offense by/for gang with juvenile member (1 count)	104	52	26

Score
▼
[] [] []

Threatened or emotional 6	Threatened or emotional 2	[0] [] []
Physical 7	Physical 4	
Serious physical 10	Serious physical 5	

◆ **Prior Convictions/Adjudications** Assign points to the 5 most recent and serious prior record events and total the points

Maximum Penalty: Less than 20 (years) 0
20, 30, 40 or more 1

[0] [0] []

◆ **Prior Felony Convictions/Adjudications Against Person**

Primary offense burn <u>occupied</u> dwelling/church	Primary offense OTHER THAN burn occupied dwelling/church
Number of Counts	Number of Counts
1 3	1 1
2 4	2 2
3 6	3 3
4 or more 8	4 4
	5 or more 5

[0] [0] []

◆ **Prior Felony Convictions/Adjudications with the Same VCC Prefix as Primary Offense**

Number 1 2	4 6
of Counts: 2 4	5 or more 10
3 6	

[0] [] []

◆ **Legally Restrained at Time of Offense** _____ If YES, add 2 → [0] [0] []

◆ **Score only if the Primary Offense is:**

Burn Occupied Dwelling/Church (§ 18.2-77(A,))	Gang Offense (§ 18.2-46.2)
◆ Additional Offense with VCC Prefix of "MUR"	◆ Violent Additional Offense (as defined in § 17.1-805)
Yes 133	And Primary (MOB1291F5) is without a Juvenile 12
No 0	And Primary (MOB1292F4) is with a Juvenile 16

[] [] []

Total Score → [] [] [] [] []

See Miscellaneous Section C Recommendation Table for guidelines sentence range.

- **Explore the feasibility of adding Sex Offender Registry violations to the guidelines**
 - **The General Assembly has revisited Chapter 9 of Title 9.1 (Sex Offender and Crimes Against Minors Registry Act) several times in recent years**
 - **In the 2008 session, the crimes requiring registration were restructured**
 - **During the 2007 session, the information required of registrants was expanded and the list of crimes requiring registration was expanded and reorganized**
 - **In 2006, the General Assembly added to the list of offenses requiring registration and increased the penalties for second SOR violations**
 - **In addition, the *Code* was changed to allow Juvenile and Domestic Relations courts to require a juvenile who has been adjudicated delinquent for a Registry offense to register**

- **Explore the feasibility of adding Sex Offender Registry violations to the guidelines**

- **According to the Circuit Court CAIS database for fiscal years 2008 and 2009, there were 829 felony convictions for a Registry violation under § 18.2-472.1 during this time period**

- **For 646 of these offenders, the Registry violation was the most serious offense at sentencing**

No active incarceration 34%

Local-responsible jail sentence 49%

State-responsible (prison) term 17%

Median prison sentence was one year

- Examine the number of images/charges involved in child pornography cases and its impact on sentencing outcomes

Other Sexual Assault Section C

Offender Name: _____

— Prior Record Classification —
 Category I Category II Other

◆ **Primary Offense** _____

A. All attempted or conspired sexual assault (1 count)	24	12	6
B. Completed sexual assault other than listed below (1 count)	36	18	9
C. Non-forcible sodomy, no parental relationship			
1 count	24	12	6
2 counts	40	20	10
3 counts	104	52	26
D. Non-forcible sodomy, parent/grandparent to child/grandchild age 13 - 17			
1 count	36	18	9
E. Indecent liberties with child			
1 count	24	12	6
2 counts	40	20	10
3 counts	104	52	26
F. Non-forcible carnal knowledge of child age 13 - 14 (statutory rape)			
1 count	36	18	9
G. Incest with own child/grandchild (1 count)	104	52	26
H. Incest with own child/grandchild age 13 - 17 (1 count)	104	52	26
I. Aggravated sexual battery			
1 count	90	60	34
2 counts	132	88	50
3 counts	288	192	108
J. Entice, etc., minor to perform in porn; take part in child porn			
1 count	68	34	17
K. Produce child porn; finance child porn			
1 count	100	50	25
L. <u>Possess child porn (1st Offense)</u>			
1 count	68	34	17
M. <u>Possess child porn (2nd or subsequent)</u>			
1 count	100	50	25
N. <u>Reproduce, transmit, sell, etc., child porn</u>			
1 count	100	50	25
O. Propose act by communication system - child solicitation			
1 count	68	34	17

Score
▼

◆ **Primary Offense Additional Counts** Assign points to each count of the primary not scored above and total the points

Maximum Penalty (years)			
5			5
10			10
20			19
30			29
40 or more			39

◆ **Additional Offenses** Assign points to each additional offense (including counts) and total the points

Maximum Penalty (years)			
Less than 1			0
1			1
2			2
3			3
4			4
5			5
10			10
20			19
30			29
40 or more			39

◆ **Weapon Used, Brandished, Feigned or Threatened** _____ If YES, add 4 →

0

0

◆ **Victim Injury** _____

Threatened or emotional			
Physical or serious physical			6
.....			9

0

0

