



# What's New 2020

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Virginia's Sentencing Guidelines



# Changes to Virginia's Sentencing Guidelines<sup>\*</sup> Effective July 1, 2020

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- 1 Legislative Changes to Larceny Offenses (\$500 to \$1,000)
- 2 Legislative Changes to Possession of Marijuana and Distribution Quantities
- 3 Burglary/Dwelling & Burglary/Other Recommendation Table & Other Factors Modified
- 4 New Factors Added to the Kidnapping Worksheet
- 5 Manufacture Methamphetamine/Schedule I or II Drugs & Point Changes on Section C
- 6 Drug Exception Rule Eliminated
- 7 No Probation Violation Guidelines are Prepared for Removal From CCAP or Violation of the Conditions of CCAP (The SRR is required)
- 8 Revised Sentencing Guidelines Cover Sheets

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Detailed information on each offense follows this summary slide.



1

# Legislative Changes to Larceny Offenses (\$500 to \$1,000)



## Legislative Change: Change to Threshold for Grand Larceny

- Effective for crimes committed July 1, 2020 and after, the threshold for Grand Larceny increases from \$500 to \$1,000.
- The immediate impact on sentencing guidelines factors is that prior record factors are based on Virginia's current penalty structure.
- When preparers are unsure if the prior felony offense involved \$1,000 or more in property loss or damage, the prior conviction must be scored as a misdemeanor.
- The amount of restitution ordered or another measure authorized by the court may be used to determine if a prior felony was for property loss or damage of \$1,000 or more.



2

Legislative Changes to Possession of Marijuana  
and Distribution Quantities



Legislative Changes:  
Civil Penalty for Possession of Marijuana  
Felony Distribution of Marijuana is More than 1 Ounce  
*(currently the quantity is over ½ ounce)*

As of July 1, 2020, violation of §18.2-250.1, unlawful possession of marijuana, is a civil offense. Civil offenses are not scored as instant offenses or prior record on the Sentencing Guidelines. Any prior conviction for first or subsequent possession of marijuana is not scored.

- The immediate impact on sentencing guidelines factors is that prior record factors are based on Virginia's current penalty structure.
- When preparers are unsure if the quantity of marijuana sold was more than one ounce, the prior conviction must be scored as a misdemeanor. Any prior conviction for simple possession of marijuana, without the intent to distribute, is **not scored** on the sentencing guidelines. If the prior conviction is for simple possession of marijuana, the quantity in possession is not used to score the conviction as a distribution.
- Official reports, forensic lab reports or other sources accepted by the judge, may be used to verify the quantity of marijuana sold for scoring prior record factors.



3

Burglary/Dwelling & Burglary/Other  
Recommendation Table & Other Factors Modified

# Burglary/Dwelling & Burglary/Other Recommendation Tables


The Section B Tables for both burglary worksheets have been simplified to two categories instead of three. A score of 0-6 continues to recommend probation/no incarceration. However, the jail incarceration recommendation for a score of seven points or more is 1 day to 6 months.

**Burglary/Dwelling** ❖ **Section B**

❖

Score	Guideline Sentence
0 - 6 .....	Probation/No Incarceration
7 - 8 .....	Incarceration 1 Day up to 3 Months
9+ .....	Incarceration 3 to 6 Months

**Burglary/Dwelling** ❖ **Section B**



❖

Score	Guideline Sentence
0 - 6 .....	Probation/No Incarceration
7+ .....	Incarceration 1 Day up to 6 Months



# Burglary/Dwelling

There is an increase in points for the Section B Primary Offense factor for most Burglary/Dwelling offenders (*previously, these offenders received only one point for all counts*).

## NEW FACTORS

**Additional Offenses:** Two points are scored when an offender has additional offenses for which the sum of the statutory maximum penalties is five years or more.

**Firearm Removed from Property:** One point is scored when a firearm is removed from the property during the burglary.

Furthermore, points scored for the Legal Restraint factor on Section B have increased from three to four points.

**Burglary/Dwelling** ❖ **Section B** Offender Name: \_\_\_\_\_

❖ **Primary Offense** \_\_\_\_\_ **Score**

A. Dwelling with intent to commit larceny, etc. without deadly weapon (all counts)		
1 count.....	3	0
2 counts or more.....	5	
B. Dwelling at night with intent to commit larceny, etc. without deadly weapon (all counts)		
1 count.....	3	0
2 counts or more.....	5	
C. Other than listed above (all counts).....	4	

❖ **Additional Offenses** Total the maximum penalties for additional offenses, including counts \_\_\_\_\_

Years: Less than 5.....	0	0
5 or more.....	2	

❖ **Firearm Removed from Property During Burglary** \_\_\_\_\_ If YES, add 1 → 0

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

Years: 1 - 32.....	1	0
33 or more.....	2	

❖ **Prior Misdemeanor Convictions/Adjudications (Excludes Traffic)** \_\_\_\_\_

Number: 1 - 2.....	1	0
of Counts 3 - 5.....	2	
6 - 8.....	3	
9 or more.....	4	

❖ **Prior Juvenile Record** \_\_\_\_\_ If YES, add 4 → 0

❖ **Legally Restrained at Time of Offense** \_\_\_\_\_ If YES, add 4 → 0

**Total Score** \_\_\_\_\_

See Burglary/Dwelling Section B Recommendation Table to convert score to guidelines sentence.

Burg.Dwelling/Section B



# Burglary/Other Structure

Offenders whose primary offense is burglary of a structure other than a dwelling with intent to commit larceny, etc., without a deadly weapon will now receive three points on the Section B Primary Offense factor (*previously, these offenders received only one point*).

## NEW FACTORS

**Additional Offenses:** One point is scored when the offender has additional offenses for which the sum of the statutory maximum penalties is five years or more.

Furthermore, points scored for the Legal Restraint factor on Section B have increased from three to four.



**Burglary/Other** — Section B Offender Name: \_\_\_\_\_

◆ **Primary Offense** \_\_\_\_\_

A. Other structure with intent to commit larceny, etc. (all counts) ..... 3  
B. Possession of burglarious tools (all counts) ..... 0  
C. Other than listed above (all counts) ..... 4

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

Years: Less than 5 ..... 0  
5 or more ..... 1

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

Years: 1 - 32 ..... 1  
33 or more ..... 2

◆ **Prior Misdemeanor Convictions/Adjudications (Excludes Traffic)** \_\_\_\_\_

Number of Counts: 1 - 2 ..... 1  
3 - 5 ..... 2  
6 - 8 ..... 3  
9 or more ..... 4

◆ **Prior Juvenile Record** \_\_\_\_\_ If YES, add 4 → 0

◆ **Legally Restrained at Time of Offense** \_\_\_\_\_ If YES, add 4 → 0

**Total Score** \_\_\_\_\_

See Burglary/Other Structure Section B Recommendation Table to convert score to guidelines sentence.



4

New Factors Added to the Kidnapping Worksheet

# Kidnapping

The three new factors are scored only when the primary offense at sentencing is abduction by force without legal justification (§ 18.2-47(A)) or assisting or threatening to abduct (§ 18.2-49).

## NEW FACTORS

**Type of Additional Offense:** One point is scored if an offender has an additional offense with a Virginia Crime Code (VCC) prefix of "PRT", "SEX", "RAP", or "FAM."

## Conviction in the Current Event Requiring a Mandatory Minimum Term:

One point is added if the offender has a conviction in the current sentencing event requiring a mandatory minimum term of incarceration of six months or more.

**Victim Injury:** No points are scored for threatened injury; however, one point is scored for emotional injury and two points are scored if a victim suffers physical, serious physical, or life-threatening injury.



### Kidnapping ◆ Section A

Offender Name: \_\_\_\_\_

◆ **Primary Offense** \_\_\_\_\_ (scores for attempted/conspired offenses are in parentheses)

A.	Felony kidnapping by parent (1 count) .....	1	
B.	Abduction by force without legal justification		
	Completed: 1 count .....	4	
	Attempted or conspired: 1 count .....	(3)	
C.	Assisting or threatening to abduct		
	Completed: 1 count .....	4	
	Attempted or conspired: 1 count .....	(3)	
D.	Abduction with intent to defile		
	Completed: 1 count .....	5	
	Attempted or conspired: 1 count .....	(4)	
E.	Extortion, abduction with intent to gain pecuniary benefit		
	Completed: 1 count .....	5	
	Attempted or conspired: 1 count .....	(4)	
F.	Abduct child under age 16		
	Completed: 1 count .....	7	
	Attempted or conspired: 1 count .....	(6)	

**Score**

0	
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◆ **Primary Offense Remaining Counts** Total the maximum penalties for counts of the primary not scored above

Years:	Less than 21 .....	0	
	21 - 37 .....	1	
	38 or more .....	2	

**Score**

0	
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◆ **Additional Offenses** Total the maximum penalties for additional offenses, including counts

Years:	Less than 21 .....	0	
	21 - 37 .....	1	
	38 or more .....	2	

**Score**

0	
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◆ **Type of Additional Offense** \_\_\_\_\_

Any Additional offense has a prefix of "PRT", "SEX", "RAP", or "FAM"

Primary offense: B or C: Abduction by force without legal justification or Assisting or threatening to abduct If YES, add 1	Primary offense: All other offenses _____ Do Not Score
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**Score**

0	
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◆ **Conviction in Current Event Requiring Mandatory Minimum Term (6 mos or more)**

Primary offense: B or C: Abduction by force without legal justification or Assisting or threatening to abduct If YES, add 1	Primary offense: All other offenses _____ Do Not Score
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**Score**

0	
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◆ **Victim Injury** \_\_\_\_\_

Primary offense:	B or C: Abduction by force without legal justification or Assisting or threatening to abduct		
	Threatened (points included with primary offense).....	0	
	Emotional.....	1	
	Physical, Serious Physical, Life Threatening.....	2	

Primary offense: All other offenses _____ Do Not Score	Primary offense: All other offenses _____ Do Not Score
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**Score**

0	
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◆ **Weapon Used or Brandished** \_\_\_\_\_ If YES, add 1

**Score**

0	
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◆ **Prior Felony Conviction/Sentencing and Adjudication Events** \_\_\_\_\_

Number:	1 .....	1	
	2 .....	2	
	3 .....	3	
	4 .....	4	
	5 or more .....	5	

**Score**

0	
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**Total Score** \_\_\_\_\_

If total is 4 or less, the guidelines sentence is Probation/No Incarceration or Incarceration to 6 months. If total is 5 or more, go to Section C.

Kidnapping/Section A  
Kidnapping 3

# Kidnapping

The three new factors on Section C are similar to those on the Section A worksheet and are scored only when the primary offense at sentencing is abduction by force without legal justification (§ 18.2-47(A)) or assisting or threatening to abduct (§ 18.2-49).

## NEW FACTORS

**Type of Additional Offense:** Six points are scored if an offender has an additional offense with a VCC prefix of "PRT", "SEX", "RAP", or "FAM."

## Conviction in the Current Event Requiring a Mandatory Minimum Term:

Six points are scored if an offender has a conviction in the current event requiring a mandatory minimum term of incarceration of six months or more.

**Victim Injury:** Two points are scored for emotional injury and six points are scored for physical, serious physical or life-threatening injury.



## Kidnapping ❖ Section C

Offender Name: \_\_\_\_\_

Prior Record Classification:  Category I  Category II  Other

◆ **Primary Offense**

A. Felony kidnapping by parent (1 count)	24	12	6
B. Abduction by force without legal justification	76	38	19
1 count	100	50	25
2 counts	116	58	29
3 counts			
C. Assisting or threatening to abduct (1 count)	24	12	6
D. Extortion, abduction with intent to gain pecuniary benefit	232	116	58
1 count	256	128	64
2 counts	272	136	68
3 counts			
E. Abduction with intent to defile	296	148	74
1 count	316	158	79
2 counts	336	168	84
3 counts			
F. Abduct child under age 16	476	238	119
1 count	500	250	125
2 counts	516	258	129
3 counts			

**Score**   

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

Maximum Penalty: 5, 10 ..... 1   

                          Life ..... 5   

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

Maximum Penalty: Less than 4 ..... 0

                          4, 5, 10 ..... 1

                          20 ..... 2

                          30 ..... 4

                          40 or more ..... 5

**Type of Additional Offense**   

Any Additional offense has a prefix of "PRT", "SEX", "RAP", or "FAM"

Primary offense: B or C: Abduction by force without legal justification or Assisting or threatening to abduct If YES, add 6   

Primary offense: All other offenses    Do Not Score   

**Conviction in Current Event Requiring Mandatory Minimum Term (6 mos or more)**   

Primary offense: B or C: Abduction by force without legal justification or Assisting or threatening to abduct If YES, add 6   

Primary offense: All other offenses    Do Not Score   

**Weapon Used or Brandished**    If YES, add 14   

◆ **Victim Injury**

Primary offense: B or C: Abduction by force without legal justification or Assisting or threatening to abduct

Threatened (points included with primary offense) ..... 0

Emotional ..... 2

Physical, Serious Physical, Life Threatening ..... 6

Primary offense: All other offenses    Do Not Score   

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

Maximum Penalty: Less than 2 ..... 0

                          2, 3, 4 ..... 1

                          5 ..... 2

                          10 ..... 4

                          20 ..... 7

                          30 ..... 11

                          40 or more ..... 15

**Total Score**   

See Kidnapping Section C Recommendation Table for guidelines sentence range.



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# Manufacture

Methamphetamine/Schedule I or II Drugs  
& Point Changes on Section C

# Drug Schedule I/II

Manufacturing any Schedule I/II drug under § 18.2-248(C) and manufacturing methamphetamine under § 18.2-248(C1) are now assigned the same points on Section C of the Drug/Schedule I/II worksheet. A uniform scoring scheme has been established for scoring convictions involving the same behavior even if prosecuted under different sections of the *Code*. All manufacturing Schedule I/II drugs or methamphetamine will pick up 26 points for one count with no violent prior record, 78 points for a Category II prior record and 130 points for a Category I prior record.

## Drug/Schedule I/II Section C

Offender Name: \_\_\_\_\_

### 1 Primary Offense

— Prior Record Classification —

Category I     Category II     Other  
(scores for attempted/conspired offenses are in parentheses)

A. Possess Schedule I or II drug or First offender violation				
Attempted, conspired or completed:	1 count.....	20	10	5
	2 counts.....	28	14	7
	3 counts.....	36	18	9
B. Sell, Distribute, Possession with intent, etc., Schedule I or II drug				
Completed (Attempted or Conspired):	1 count.....	60 (48)	36 (24)	12 (12)
	2 counts.....	80 (64)	48 (32)	16 (16)
	3 counts.....	95 (76)	57 (38)	19 (19)
	4 counts.....	130 (104)	78 (52)	26 (26)
C. Sell, etc., Schedule I or II drug, second offense				
Completed (Attempted or Conspired):	1 count.....	110 (88)	66 (44)	22 (22)
	2 counts.....	310 (248)	186 (124)	62 (62)
D. Sell, etc., Schedule I or II drug - third or subsequent offense				
Attempted, conspired or completed:	1 count.....	175	105	35
	2 counts.....	390	234	78
E. Manufacture Schedule I/II drug § 18.2-248(C) or Methamphetamine, 1st or 2nd offense, § 18.2-248(C1)				
Attempted, conspired or completed:	1 count.....	130	78	26
F. Sell, etc., Schedule I or II drug to minor				
Attempted, conspired or completed:	1 count.....	60	30	15
G. Accomodation—Sell, etc., Schedule I or II drug				
Attempted, conspired or completed:	1 count.....	32	16	8
	2 counts.....	40	20	10
H. Sell, etc., imitation Schedule I or II drug; Possession of methamphetamine precursors				
Attempted, conspired or completed:	1 count.....	12	6	3
	2 counts.....	20	10	5

Score

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### 2 Primary Offense Remaining Counts Assign points to each count of the primary not scored above and total the points

Maximum Penalty (years) 5, 10..... 1 40 or more..... 5 →

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6

Eliminated Drug Exception Rule





# Drug Exception Rule Eliminated

As of July 1, 2020, convictions for manufacturing, distributing, selling and possessing with the intent to sell a Schedule I/II drug under § 18.2-248 (C) with different Virginia Crime Codes (VCC) will no longer be scored as multiple counts of the primary offense. Any combination of multiple counts of these offenses with different VCCs will be scored as primary and additional offenses.

Convictions with the exact same Virginia Crime Code (VCC) as the primary offense are considered counts of the **primary offense**, not additional offenses.

## **For example:**

One count of distribution, provide, give, etc. of a Schedule I/II drug, **NAR-3042-F9**, and one count of possession with intent to sell, distribute, etc., **NAR-3043-F9**, is scored as one primary offense and one additional offense.

The definition of an additional offense applies across all worksheets. **Additional offenses** are offenses in the same sentencing event that have a Virginia Crime Code (VCC) that differs from the primary offense. Attempted and conspired acts have different VCCs than completed acts and are separate and distinct offenses.



7

No Probation Violation Guidelines are Prepared for Removal From **CCAP** or Violation of the Conditions of **CCAP**  
(The SRR is required)

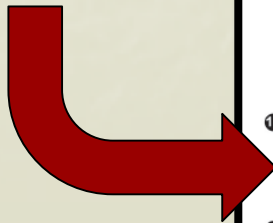
# Probation Violation Guidelines & Sentencing Revocation Report

## CCAP – Community Corrections Alternative Program

The completion of the probation violation guidelines for any CCAP violation has been suspended until new guidelines are developed.

Users are required to complete the **Sentencing Revocation Report (SRR)** and check the box "Probation Violation Guidelines Do Not Apply".

There will be no recommended sentence range if the offender's violation is based solely, or in part, on the participant's removal from CCAP for behavioral, medical, administrative or other actions identified by the Department of Corrections.



## Sentencing Revocation Report

Scheduled Sentencing Date: \_\_\_\_\_  
 NOTE: Required for SWIFTI

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◆ **OFFENDER** \_\_\_\_\_

① First: \_\_\_\_\_ Middle: \_\_\_\_\_  
 Last: \_\_\_\_\_ Suffix: \_\_\_\_\_

② Date of Birth: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_      ③ Social Security Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

④ SID/CCRE: \_\_\_\_\_      ⑤ CORIS Offender ID: \_\_\_\_\_

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◆ **COURT** \_\_\_\_\_

⑥ Judicial Circuit: \_\_\_\_\_      ⑦ City/County: \_\_\_\_\_      ⑧ FIPS Code: \_\_\_\_\_

⑨ Judge's Name: \_\_\_\_\_      ⑩ Docket Number: \_\_\_\_\_

Office Use Only

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⑪ ◆ **MOST SERIOUS ORIGINAL FELONY OFFENSE INFORMATION** \_\_\_\_\_

Primary Offense \_\_\_\_\_ VCC \_\_\_\_\_ Sentencing Date (Original) \_\_\_\_\_

⑫ PSI NUMBER: \_\_\_\_\_

⑬ ◆ **ORIGINAL DISPOSITION INFORMATION** \_\_\_\_\_

No Incarceration       Detention or Diversion Center Incarceration, CCAP (no active incarceration)       Jail or Prison

⑭ ◆ **TYPE OF REVOCATION** (check all that apply) \_\_\_\_\_

Probation       Post Release       Good Behavior       Suspended Sentence       Community-Based Program

⑮ ◆ **CONDITIONS CITED IN VIOLATION** (check all that apply) \_\_\_\_\_

- 1. Fail to obey all Federal, State, and local laws and ordinances
- 2. Fail to report any arrests within 3 days to probation officer
- 3. Fail to maintain employment or to report changes in employment
- 4. Fail to report as instructed
- 5. Fail to allow probation officer to visit home or place of employment
- 6. Fail to follow instructions and 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 State of Virginia without permission
- 11. Abscond from supervision
- Fail to follow special conditions (specify) \_\_\_\_\_

⑯ Complete if there are any new law or ordinance convictions:  
VCCs for most serious convictions

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Location of Arrest:

Virginia       Out of State or Federal

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◆ **VIOLATION GUIDELINES RECOMMENDATION** \_\_\_\_\_

⑰  Probation/No Incarceration

Incarceration (Enter Range Below)

Range \_\_\_\_\_ Years \_\_\_\_\_ Months \_\_\_\_\_ Days to \_\_\_\_\_ Years \_\_\_\_\_ Months \_\_\_\_\_ Days

⑱  Recommendation Exceeds Revocable Time of \_\_\_\_\_ Years \_\_\_\_\_ Months \_\_\_\_\_ Days

⑲  ~~Probation Violation Guidelines Do Not Apply~~ (check reason)

— Condition 1 Violation

— Deferred Finding/Sentence - *Do not complete this form*

— Parole Eligible Case

— Revocation Other Than State Probation

~~Violation/Removal from CCAP~~

(Complete original sentencing guidelines)



# Revised Sentencing Guidelines Cover Sheets

# New Cover Sheet & *SWIFT!*

The sentencing guidelines application, *SWIFT!*, has been redesigned to capture all the associated docket numbers in a sentencing event.

As a result, the cover sheet for every offense has been redesigned. The primary offense and the number of counts is listed on the first page and a complete list of all the offenses, offense dates and docket numbers are listed on a new Offense Details page attached to the back of the sentencing guidelines worksheets.

This step was necessary before the Commission could move on to the next phase of electronic transfer and filing of the worksheets.

Until notified by your Clerk, the submission of sentencing guidelines is still a paper-based system.

S20004135301

**Sentencing Guidelines Cover Sheet**  
Complete this form ONLY for applicable felonies sentenced on or after July 1, 2019

Scheduled Sentencing Date: **06/02/20**

◆ **OFFENDER**

First: JOHN Middle: \_\_\_\_\_ Last: DOE Suffix: \_\_\_\_\_

Date of Birth: / /  SSN: \_\_\_\_\_

CCRE: \_\_\_\_\_ CORIS Offender ID: \_\_\_\_\_ PSI #: \_\_\_\_\_

◆ **COURT**

Judicial Circuit: 14 City/County: HENRICO FIPS Code: 087   
For Office Use Only

Sentencing Judge's Name: \_\_\_\_\_

Preparer Name: CHRIS GEEN  Commonwealth's Attorney  Probation Officer

Prosecuting Commonwealth's Attorney: \_\_\_\_\_ Defense Attorney: \_\_\_\_\_

◆ **PRIMARY OFFENSE**

Description	Counts	VCC	Offense Date		
			Month	Day	Year
<u>GRAND LARCENY</u>	<u>3</u>	<u>LAR</u> <u>2359</u> <u>F9</u>	<u>1</u>	<u>19</u>	<u>06</u>

Primary Offense Code Section § 18.2-95 Docket Number CR0600229700

→ For a comprehensive list of all offenses in the sentencing event, please refer to the **Offense Details** page following **Section D**.

◆ **METHOD OF ADJUDICATION**

Jury Trial Sentence Set by Jury: / /   Life  Juvenile  Fine Only

**Offense Details**

Offender Name: DOE, JOHN

Offense	Counts	VCC	Offense Date	Docket No.
<b>Primary</b>				
<u>GRAND LARCENY</u>	<u>3</u>	<u>LAR-2359-F9</u>	<u>1/19/06</u>	<u>CR0600229700</u>
			<u>01/24/06</u>	<u>CR0600229800</u>
			<u>02/04/06</u>	<u>CR0600230100</u>
<b>Additional</b>				
<u>1. STATUTORY BURGLARY</u>	<u>2</u>	<u>BUR-2216-F9</u>	<u>01/29/06</u>	<u>CR0600229900</u>
			<u>02/04/06</u>	<u>CR0600230000</u>
<u>2. POSS MARIJ &amp; COCAINE RESIDUE</u>	<u>1</u>	<u>NAR-3022-F5</u>	<u>12/12/05</u>	<u>CR0600288300</u>

HENRICO COUNTY



## New Laws

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# What's New 2020

*Selected Laws Effective July 1, 2020 or Before*



# Parole Eligible Offenders

The new provision provides that an incarcerated person is eligible for parole if the offender was sentenced by a jury prior to the date of the Supreme Court of Virginia decision in *Fishback v. Commonwealth*, 260 Va. 104 (June 9, 2000)

## § 53.1-165.1. Limitation on the application of parole statutes.

A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or after January 1, 1995, shall not be eligible for parole upon that offense.

B. The provisions of this article shall apply to any person who was sentenced by a jury prior to June 9, 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated for such offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony offenses where the victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in violation of § 18.2-67.1; (c) object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual battery in violation of § 18.2-67.3; (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or (f) carnal knowledge in violation of § 18.2-63, 18.2-64.1, or 18.2-64.2.

C. The Parole Board shall establish procedures for consideration of parole of persons entitled under subsection B consistent with the provisions of § 53.1-154.

D. Any person who meets eligibility criteria for parole under subsection B and pursuant to § 53.1-151 as of July 1, 2020, shall be scheduled for a parole interview no later than July 1, 2021, allowing for extension of time for reasonable cause.

2. That an emergency exists and this act is in force from its passage.



# Parole Eligible Offenders

Provides that any person sentenced to a term of life imprisonment for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentence and any person who has active sentences that total more than 20 years for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentences shall be eligible for parole.

## **§ 53.1-165.1. Limitation on the application of parole statutes.**

A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or after January 1, 1995, shall not be eligible for parole upon that offense.

B. Notwithstanding the provisions of subsection A or any other provision of this article to the contrary, any person sentenced to a term of life imprisonment for a single felony or multiple felonies committed while the person was a juvenile and who has served at least 20 years of such sentence shall be eligible for parole and any person who has active sentences that total more than 20 years for a single felony or multiple felonies committed while the person was a juvenile and who has served at least 20 years of such sentences shall be eligible for parole. The Board shall review and decide the case of each prisoner who is eligible for parole in accordance with § 53.1-154 and rules adopted pursuant to subdivision 2 of § 53.1-136.





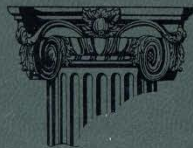
# Hate Crimes

Amendments to § 18.2-57, adds gender, disability, gender identity, and sexual orientation to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense. The new law also eliminates the mandatory minimum terms of confinement for such hate crimes.

## § 18.2-57. Assault and battery; penalty.

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, *gender, disability, gender identity, sexual orientation*, color, or national origin, the penalty upon conviction shall include a term of confinement of at least six months, ~~30 days of which shall be a mandatory minimum term of confinement.~~

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, *gender, disability, gender identity, sexual orientation*, color, or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, ~~30 days of which shall be a mandatory minimum term of confinement.~~



## New Firearm Laws

<b>STATUTE</b>	<b>WEAPON GROUP</b>	<b>DESCRIPTION</b>	<b>VCC</b>
18.2-56.2(A)	Reckless Handling	Reckless/leave loaded firearm, endangering child age <14	WPN-5249-M1
18.2-308.1:4(C)	Protective Order	Fail to certify all firearms have been surrendered	WPN-5192-M1
18.2-308.1:6	Substantial Risk Orders	Possess, transport, etc., firearm under substantial risk order	WPN-5199-M1
18.2-308.2:2	Purchase	Purchase more than one handgun w/in 30 day period; 3rd/subsequent	WPN-5272-F6
18.2-308.2:2(E)	Criminal History Checks	Obtain criminal history info. under false pretenses	WPN-5282-M2
18.2-308.2:2(E)	Criminal History Checks	Disseminate criminal history info. w/out proper authority	WPN-5279-M2
18.2-308.2:2(R)	Purchase	Purchase more than one handgun within 30 day period	WPN-5288-M1
18.2-308.2:5(C)	Criminal History Checks	Verification, sell firearm without	WPN-5190-M1
18.2-308.2:5(D)	Criminal History Checks	Verification, purchase firearm without	WPN-5191-M1
18.2-308.5:1	Trigger Activator	Possess, sell, etc., trigger activator	WPN-5189-F6
19.2-152.16	Substantial Risk Orders	False statement to law enforcement officer/CA, substantial risk orders	WPN-5198-M1

*\* Please refer to the 2020 VCC Book for a list of all criminal offenses*



# Additional Information

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The Official Guidelines must be completed using **SWIFT!**

The screenshot shows the SWIFT! web application interface for the Virginia Criminal Sentencing Commission. The form is titled "Sentencing Guidelines - Drug/Schedule III Cover Sheet" and includes the following sections:

- Offender:** Fields for Name (First, Middle, Last, Suffix), CORE, CORE Offender ID, PSI #, SSN, and Date of Birth.
- Court:** Fields for Judicial Circuit, PPS Code, City/County, Sentencing Judge's Name, Prosecuting Commonwealth's Attorney, Defense Attorney, and Preparer Name.
- Offense:** Fields for Offense Name (e.g., POSSESSION SCHEDULE FOR 1 DRUG), Counts, VCC, Offense Date, and Primary Offense Code Section.
- DRUG TYPE (IN EVENT):** Checkboxes for Cocaine, Oxycodone, Heroin, C-19, Hydrocodone, Methadone, Methamphetamine, Methamphetamine, Morphine, Oxycodone, and Any other Schedule III Drug.
- METHOD OF ADJUDICATION:** Checkboxes for Jury Sentence Set by Jury, Bench Trial, and Jury Trial.
- SENTENCING GUIDELINES RECOMMENDATION:** Radio buttons for Non-Guidelines Offense, Section B (Prohibition/Incarceration), and Section C (Life Sentence/Incarceration).
- INVOLUNTARY RISK ASSESSMENT:** Radio buttons for Recommended for Alternative Punishment, Not Applicable, and Not Recommended for Alternative Punishment.

- The Sentencing Worksheet Interactive File Transfer (**SWIFT!**) is a web-based application designed for automating the sentencing guidelines, and is the source for Official Worksheets. The application will allow users to complete the guidelines forms online, give users the ability to save guidelines information and recall it later. In the future, **SWIFT!** will provide a way for users to submit the guidelines to the court electronically, and permit the Clerks to send the guidelines forms to the Commission in electronic format.

- Obtain your free and private account by sending an email to: [SWIFT@vcsc.virginia.gov](mailto:SWIFT@vcsc.virginia.gov).

Include your name, email address, bar number and the name of your primary court.



VIRGINIA CRIMINAL SENTENCING COMMISSION  
VIRGINIA SENTENCING GUIDELINES



Visit the Commission's mobile site by texting **VCSC** to **56512**.

- Learn about the 2020 changes
- Register for seminars
- Search for Virginia Crime Codes by statute or key word
- Quick reference to common rules
- Register for limited text alerts on changes
- View or download worksheets
- Access to the mobile guidelines manual and ranges

Go to <http://bycell.co/cgac> or [mobile.vcsc.virginia.gov](http://mobile.vcsc.virginia.gov) on your mobile device

Or dial **804-200-4941** on your mobile phone to receive a text message and click on the link



# Information

- Contact staff of the Commission by phone from 7:30AM to 5:00PM (Monday – Friday) **804.225.4398**
- Contact staff of the Commission by text at **804.393-9588**
- Text **VCSC** to **56512** for the mobile web site.
- Contact Staff by Email. Email addresses are posted on the Commission's website: [www.vcsc.virginia.gov](http://www.vcsc.virginia.gov).
- Manuals, VCC Books and updates will be shipped in late June.
  - An order form for the 23<sup>rd</sup> edition of *Virginia's Sentencing Guidelines Manual* is available on the Commission's website.
  - Judges, Commonwealth's Attorneys, Public Defenders and Probation Officers will automatically be shipped updates based on the number requested last year.





# 2020 Seminars

The following seminars are still scheduled:

## **DECEMBER 2 - ROANOKE**

Roanoke Higher Education Center

☐ 9:30-5:00 (#718)

## **DECEMBER 4 - FAIRFAX**

Fairfax County Government Center

☐ 9:30-5:00 (#719)

## **DECEMBER 8 - HENRICO**

Henrico Police and Fire Training Center

☐ 9:30-5:00 (#720)

## **DECEMBER 10 - NORFOLK**

Norfolk Police Training Center

☐ 9:30-5:00 (#721)

Register online for all classes.

<http://www.vcsc.virginia.gov/training.html>

You may also register

for a **SWIFT!** account online.

<http://www.vcsc.virginia.gov/swift.html>

or email [SWIFT@vacourts.gov](mailto:SWIFT@vacourts.gov)

Due to the recent COVID-19 Pandemic, canceled seminars will be rescheduled and new seminars will be added as soon as possible. Please watch your email and text messages for the new schedule and free online webinars.



# *Virginia Criminal Sentencing Commission*

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Richmond, VA 23219

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804-225-4398

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[www.vcsc.virginia.gov](http://www.vcsc.virginia.gov)

