

feedback

FROM THE FIELD

2022

What's New

V C S C



# Feedback from the Field



## MANDATORY MINIMUM FIELD

SWIFT will Calculate the Total Mandatory Minimums in a Sentencing Event



## MODIFICATION OF RECOMMENDATION

SWIFT will Adjust Substantial Assistance, Acceptance of Responsibility or Expression of Remorse Recommendation for Mandatory Minimums and Sex Offender Risk Assessments



## EARNED SENTENCE CREDIT

VCC Book and Databases will Distinguish Offenses that Require Defendants to Serve 85% vs 65%. SWIFT will Identify Offenses in the Future



## SWIFT!

Statewide rollout is complete. The next phases of **SWIFT** will include the ability to electronically share draft and finalized guidelines with other attorneys and probation officers.

**Sentencing Guidelines Cover Sheet** Scheduled Sentencing Date: / /

Complete this form ONLY for applicable felonies sentenced on or after July 1, 2022.

◆ **OFFENDER**

First \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_ Suffix \_\_\_\_\_

Date of Birth: / /  Social Security Number: --

CCRE:     CORIS Offender ID:       PSI:

◆ **COURT**

Judicial Circuit   City/County \_\_\_\_\_ FIPS Code:

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

Preparer Name \_\_\_\_\_  Commonwealth's Attorney  Probation Officer

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

◆ **CONVICTIONS**

Offense	Counts	VCC	Offense Date
Primary Offense			Month Year
_____	<input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/>

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

Primary Offense Code Section § \_\_\_\_\_ Docket Number \_\_\_\_\_

**Drug Type in Event** *Please check all that apply. This information is for research purposes only.*

Cocaine  Codeine  Fentanyl  Heroin  Hydrocodone  Methadone

Methamphetamine  Methylphenidate  Morphine  Oxycodone  Any other Schedule VII drug \_\_\_\_\_

◆ **METHOD OF ADJUDICATION**

Jury Trial  Sentence Set by Jury        Sentence Set by Judge

Life  Juvenile  Fine Only

Bench Trial  Guilty Plea  Alford Plea/Nolo contendere

◆ **SENTENCING GUIDELINES RECOMMENDATION**

**Section B**

Probation/No Incarceration

Incarceration 1 Day to 3 Months

Incarceration 1 Day to 6 Months

Incarceration 3 to 6 Months

Probation/No Incarceration or Incarceration to 6 Months

**Section C**

Life Sentence  No Recommendation Offense (Primary offense does not yield a recommendation)

Incarceration (Enter Midpoint and Range Below)

Range Midpoint

Sentence Range       TO

◆ **SUM OF ALL MANDATORY MINIMUMS**

Life

# MANDATORY MINIMUM FIELD

**Feedback:** Users wanted SWIFT to identify and calculate the mandatory minimums in a sentencing event. Attorneys requested that the guidelines recommendation not be modified, but instead a field be added to identify the sum of all mandatory minimums in the event.

**Solution**

Calculate mandatory minimums for completed offenses and allow for a manual override when the mandatory sentence is not required by statute.

The manual override is not used if the judge decides to run mandatory minimums concurrent to one another.

**EXAMPLE § 18.2-248 (C,4) – Manual Override**

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

- The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- The offense did not result in death or serious bodily injury to any person;
- The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and
- Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

**SUM OF ALL MANDATORY MINIMUMS**

Life Mandatory Minimum:  5  0  0 yyy/mm/ddd  Manual Override

VCC	Life	Years	Months	Days	Count
RAP-1153-F9	1	0	0	0	1
OBS-3748-F9	0	5	0	0	1



# Final Disposition • Fill In After Sentence Has Been Pronounced

**Modification of Recommendation** Based on Substantial Assistance, Acceptance of Responsibility or Expression of Remorse

The decision to modify the guidelines recommendation must be made by the judge. If the recommended low end is 3 years or less, the low end is adjusted to no incarceration. If recommended low end is more than 3 years, the low end is reduced by 50%.

Years Mos. Days      Years Mos. Days

If accepted by the court the **Adjusted Range** is: \_\_\_\_\_ to \_\_\_\_\_  Life

Post Release Incarceration Term § 18.2-10 (Suspended).....   
(6 months to 3 years)  
 Post Release Supervision Period § 19.2-295.2(A) .....   
(6 months to 3 years)

**Probation** (Sentenced to no time, probation up to statutory maximum, Sentenced to incarceration, probation up to 5 years )  
 Probation Period (Supervised) §19.2-303  Indeterminate Not to Exceed §19.2-303

**Good Behavior**  
 Good Behavior Period §19.2-306     Fixed at Statutory Maximum §19.2-303.1

**Agreements and Other Details** *(Check all that apply)*  
 Written Plea Agreement Accepted (Rule 3A:8(c) (1) (A) or (C))  
 Plea and Recommendation Accepted (Rule 3A:8 (c) (1) (B))  
 Oral Sentence Recommendation Accepted

**Other Sentencing Programs** *(Check all that apply)*

<input type="checkbox"/> Day Reporting	<input type="checkbox"/> Substance Abuse Treatment
<input type="checkbox"/> Electronic Monitoring	<input type="checkbox"/> Drug Court
<input type="checkbox"/> Intensive Probation	<input type="checkbox"/> Youthful Offender
<input type="checkbox"/> § 18.2-251/§ 18.2-258.1	<input type="checkbox"/> DJJ Commitment <input type="radio"/> Indeterminate <input type="radio"/> Determinate
<input type="checkbox"/> § 19.2-298.02, § 19.2-303.6 (Deferred Disposition)	<input type="checkbox"/> CCAP Community Corrections Alternative Program
<input type="checkbox"/> Community-Based Program	<input type="checkbox"/> Other

Reason For Departure • Must be completed pursuant to § 19.2-298.01(B)

Accepted NVRA recommendation, no departure reason needed.

**Modification of Recommendation** is adjusted to reflect any mandatory time the court must impose and cannot suspend

Sentencing Guidelines • Burglary/Dwelling Cover Sheet Sched. Sentencing: 07/11/22  
 Complete this form ONLY for applicable felonies sentenced on or after July 1, 2021 and before July 1, 2022.

**Another Example:**  
 Use of Firearm in Commission of a Felony has a 3-Year Mandatory Minimum

Recommendation: 4Y 10M TO 8Y 6M

Defense Attorney:   
 Preparer Name:   
 Commonwealth's Attorney  
 Probation Officer

Offense	Counts	VCC	Offense Date	Docket No.
<b>Primary Offense</b> STAT. BURGLARY OF DWELLING TO MURDER, E	1 +	BUR 2212 F2	01 01 22	CR2200027400
Additional Offense + <input checked="" type="radio"/> Text <input type="radio"/> Drop-Down				
- 1. FIREARM USE IN COMMISSION OF FELONY-(FIR)	1 +	ASL 1319 F9	01 01 22	CR2200027401

Primary Offense Code Section §: 18.2-90

**METHOD OF ADJUDICATION**  
 Jury Trial Sentence Set by:  Judge  Jury  yyy/mm/ddd  Life  Juvenile  Fine Only  
 Bench Trial  Guilty Plea  Alford Plea/Nolo contendere

**SENTENCING GUIDELINES RECOMMENDATION**

No Recommendation Offense (Primary offense does not yield a recommendation)

**Section B**

Probation/No Incarceration  
 Incarceration 1 Day to 3 Months  
 Incarceration 3 to 6 Months

**Section C**

Incarceration (Enter Midpoint and Range Below)  
 Range Midpoint: 5 10 0 yyy/mm/ddd  
 Sentence Range: 4 10 0 to 8 6 0

**SUM OF ALL MANDATORY MINIMUMS**

Life Mandatory Minimum: 3 0 0 yyy/mm/ddd  Manual Override  
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VCC	Life	Years	Months	Days	Count
ASL-1319-F9	0	3	0	0	1

Final Disposition • Fill In After Sentence Has Been Pronounced Save

**Modification of Recommendation** Based on Substantial Assistance, Acceptance of Responsibility or Expression of Remorse  
 The decision to modify the guidelines recommendation must be made by the judge. If the recommended low end is 3 years or less, the low end is adjusted to no incarceration. If recommended low end is more than 3 years, the low end is reduced by 50%.

If accepted by the court the **Adjusted Range** is: 

Years	Mos.	Days	Years	Mos.	Days	
3	0	0	to	8	6	0

 yyy/mm/ddd  Life

**SENTENCE**

Total Time Imposed Before Suspension .....  Life Sentence +    yyy/mm/ddd  
 Total Effective Time To Serve .....  Life Sentence +     Sentenced to Time Served

Incarceration Sentence to Run Concurrently With Another Event  
 Restitution \$   Fine \$

**Post Release**

Post Release Incarceration Term § 18.2-10 (Suspended).....     
 (6 months to 3 years)  
 Post Release Supervision Period § 19.2-295.2(A) .....     
 (6 months to 3 years)

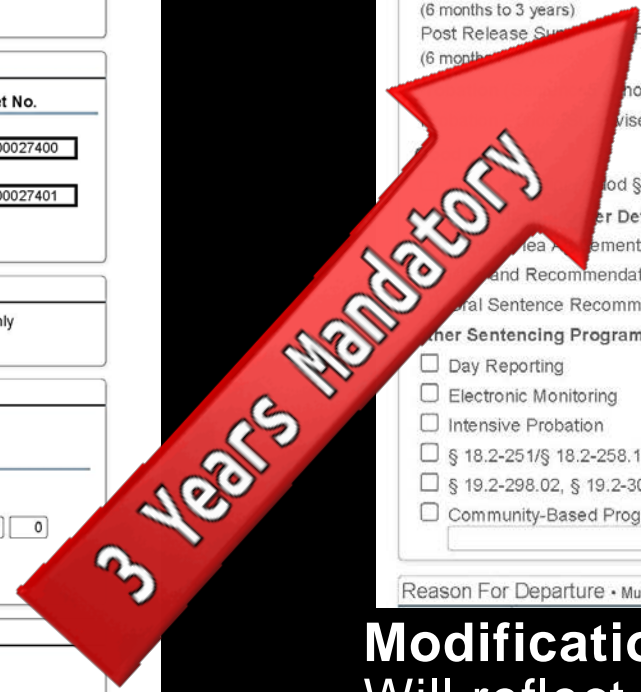
No time, probation up to statutory maximum, Sentenced to incarceration, probation up to 5 years )  
 Indeterminate Not to Exceed §19.2-303     
 Fixed at Statutory Maximum §19.2-303.1

**Other Details (Check all that apply)**

Plea Agreement Accepted (Rule 3A:8(c) (1) (A) or (C))  
 Plea and Recommendation Accepted (Rule 3A:8 (c) (1) (B))  
 General Sentence Recommendation Accepted

**Other Sentencing Programs (Check all that apply)**

Day Reporting  Substance Abuse Treatment  
 Electronic Monitoring  Drug Court  
 Intensive Probation  Youthful Offender  
 § 18.2-251/§ 18.2-258.1  DJJ Commitment  Indeterminate  Determinate  
 § 19.2-298.02, § 19.2-303.6 (Deferred Disposition)  CCAP Community Corrections Alternative Program  
 Community-Based Program  Other



**Modification of Recommendation:**  
 Will reflect mandatory minimums higher than the adjusted range (3Y Instead of 2Y 5M)

Complete this form ONLY for applicable felonies sentenced on or after July 1, 2021 and before July 1, 2022.

Offender

Name	CCRE:
First: <input type="text"/>	CORIS Offender ID: <input type="text"/>
Middle: <input type="text"/>	PSI #: <input type="text"/>
Last: <input type="text"/>	SSN: <input type="text"/>
Suffix: <input type="text"/>	Date of Birth: <input type="text"/> / <input type="text"/> / <input type="text"/> mm/dd/yyyy

Court

Judicial Circuit: 25	FIPS Code: 005
City/County: <input type="text"/>	
Sentencing Judge's Name: <input type="text"/>	
Prosecuting Commonwealth's Attorney: <input type="text"/>	
Defense Attorney: <input type="text"/>	
Preparer Name: <input type="text"/>	
<input type="radio"/> Commonwealth's Attorney <input type="radio"/> Probation Officer	

Convictions

Offense	Counts	VCC	Offense Date	Docket No.
Primary Offense INDECENT LIBERTIES WITH CHILD UNDER AGE	1 +	SEX 3643 F5	MM DD YY 5 8 21	CR2200027400
Additional Offense + <input checked="" type="radio"/> Text <input type="radio"/> Drop-Down				
Primary Offense Code Section §: 18.2-370(A)				

METHOD OF ADJUDICATION

Jury Trial Sentence Set by:  Judge  Jury / /  yy/mm/ddd  Life  Juvenile  Fine Only

Bench Trial  Guilty Plea  Alford Plea/Nolo contendere

SENTENCING GUIDELINES RECOMMENDATION

No Recommendation Offense (Primary offense does not yield a recommendation)

Section B	Section C
<input type="radio"/> Probation/No Incarceration <input type="radio"/> Incarceration 1 Day to 3 Months <input type="radio"/> Incarceration 3 to 6 Months	<input checked="" type="radio"/> Incarceration (Enter Midpoint and Range Below) Range Midpoint: <input type="text"/> <input type="text"/> <input type="text"/> yy/mm/ddd Sentence Range: <input type="text"/> <input type="text"/> <input type="text"/> to <input type="text"/> <input type="text"/> <input type="text"/>

Section A

**Modifications Based on Risk Assessment**  
 Characteristics of the offender and the circumstances of the offense may have correlated with a significant risk of recidivism among other sex offenders. If so, the upper end of the recommended sentence range can be increased by...

<input type="radio"/> 300% - Level 1	Adjusted High End
<input checked="" type="radio"/> 100% - Level 2	<input type="text"/> 4 <input type="text"/> 0 yy/mm
<input type="radio"/> 50% - Level 3	
<input type="radio"/> No Adjustment	

SUM OF ALL MANDATORY MINIMUMS

Life Mandatory Minimum:    yy/mm/ddd  Manual Override

# SEX OFFENDER RISK ASSESSMENT

**Feedback:** Users wanted the Modification of Recommendation to include the adjusted high end of the guidelines recommendation based on the sex offender risk assessment instrument.

## Solution

SWIFT The low end will remain the same, but the high end will reflect the true sentencing guidelines range.



ADJUSTED **HIGH** END IS SET AT **4 YEARS**



# EARNED SENTENCE CREDIT (ESC)



**Issue § 53.1-202.2 (et seq.):** Beginning July 1, 2022, defendants will need to serve at least 65% of their sentence for certain felony offenses. In some of these cases the defendant must serve at least 85% for a second or subsequent offense in the group. Still in other cases defendants must continue to serve at least 85% of their sentence. Users wanted some way to distinguish the 65% offenses from the 85% offenses.

**Immediate Solution:** Identify the 85% cases in the Virginia Crime Code Book (VCC). Distinguish between the 85% ESC offenses for a second or subsequent and the offenses that continue to require defendants serve at least 85% of their felony sentence.

## **Future Solution**

Incorporate the logic used in the VCC book into the Docket Detail page generated in SWIFT. This will not occur by July 1, 2022.



Statute	85% Description	VCC	Penalty (Cat.)	MM
	<b>ASSAULT</b>			
	<b>Drive Vehicle / Operate Watercraft While Intoxicated</b>			
§18.2-51.5(A)	Serious injury, operate watercraft while intoxicated	ASL-1361-F6	1Y-5Y	
§18.2-51.5(B)	Victim permanently impaired, operate watercraft while intoxicated	ASL-1346-F4	2Y-10Y	
	<b>Strangulation</b>			
§18.2-51.6	✓ Strangulation resulting in wounding or bodily injury	ASL-1347-F6	1Y-5Y (II)	
	<b>Genital Mutilation</b>			
§18.2-51.7(A)	✓ Circumcision, etc., of minor's labia majora, etc.	ASL-1348-F2	20Y-Life	
§18.2-51.7(B)	✓ Parent, etc., consents to minor's labia majora circumcision, etc.	ASL-1349-F2	20Y-Life	
§18.2-51.7(C)	✓ Parent, etc., takes minor from state, labia majora circumcision, etc.	ASL-1350-F2	20Y-Life	
	<b>Caustic Substance</b>			
§18.2-52	✓ Malicious injury by caustic substance or fire	ASL-1327-F9	5Y-30Y (II)	
§18.2-52	Non-malicious injury by caustic substance or fire	ASL-1331-F6	1Y-5Y (II)	
	<b>Biological Substances and Radiological Agents</b>			
§18.2-52.1(A)	Injure w/infectious biological/radiological agent, possession w/intent	ASL-1338-F5	1Y-10Y (II)	
§18.2-52.1(B)	Damage facility involved w/infectious biological/radiological agents	ASL-1337-F4	2Y-10Y (II)	
§18.2-52.1(C)	✓ Malicious injury by means of infectious biological/radiological agents	ASL-1344-F9	5Y-30Y (II)	
	<b>Animal, By</b>			
§18.2-52.2	Fail to care, control, contain dog, results in serious human injury	ASL-3538-F6	1Y-5Y	
	<b>Other</b>			
§18.2-53	During commission of a felony	ASL-1318-F6	1Y-5Y (II)	
	<b>Firearm</b>			
§18.2-53.1	Firearm use in commission of felony - first offense	ASL-1319-F9	3Y-3Y (II)	3Y
§18.2-53.1	Firearm use in commission of felony - subsequent offense	ASL-1323-F9	5Y-5Y (II)	5Y
	<b>Poisoning</b>			
§18.2-54.1	# Poison food, drugs, water, drinks w/intent to injure or kill	ASL-1332-F3	5Y-20Y (II)	
§18.2-54.1	# Attempt to poison, change "F" to "A" only if under § 18.2-26			
§18.2-54.2	# Adulteration of food, drug, etc., w/intent to injure or kill	ASL-1317-F3	5Y-20Y (II)	
	<b>Prisoner, Probationer, Etc.</b>			
§18.2-55	Assault by accused prisoner, probationer, or parolee	ASL-1333-F5	1Y-10Y (II)	
	<b>Hazing</b>			
§18.2-55.1	Hazing of gang member or recruit	ASL-1345-M1	0-12M	
§18.2-56	Hazing of student	ASL-1324-M1	0-12M	
	<b>WEAPONS</b>			
	<b>Reckless Handling</b>			
§18.2-56.1(A)	Reckless handling of firearm			
§18.2-56.1(A1)	Reckless handling of firearm causes serious injury			
	<b>Hunting</b>			
§18.2-56.1(D)	Hunt with weapons after license revoked	WPN-5223-M1	0-12M	
	<b>Reckless Handling</b>			
§18.2-56.2(A)	Reckless/leave loaded firearm, endangering child age <14	WPN-5249-M1	0-12M	
	<b>Minors</b>			
§18.2-56.2(B)	Authorize child<12 to use a firearm w/o adult supervision	WPN-5250-M1	0-12M	
	<b>ASSAULT</b>			
	<b>Simple Assault</b>			
§18.2-57(A)	Simple assault, assault and battery	ASL-1313-M1	0-12M	
	<b>Simple Assault - Hate Crime</b>			
§18.2-57(A)	Hate crime; simple assault	ASL-1314-M1	0-12M	
§18.2-57(B)	Hate crime; assault and battery (felony)	ASL-1341-F6	1Y-5Y (II)	
	<b>Law Enforcement, Court, Fire, Medical Services, Etc.</b>			
§18.2-57(C)	Simple assault on law enforcement, court, DOC, fire/medical, etc.	ASL-1342-F6	1Y-5Y	6M
	<b>Simple Assault - Teacher, School Employee</b>			
§18.2-57(D)	Simple assault, on teacher, principal, school employee, etc.	ASL-1312-M1	0-12M	2D
§18.2-57(D)	Simple assault, on teacher, principal, school employee, etc. w/weapon	ASL-1311-M1	0-12M	6M

Earned Sentence Credit ✓ = 85% First Offense # = 85% Subsequent Offense

## Docket Details

Offender Name: Defendant

Offense	Counts	VCC	Offense Date	Docket No.
Primary				
ROBBERY: STREET W/GUN ✓	01	ROB-1204-F9	01/01/17	
Additional				
1. USE FIREARM IN FELONY 1ST OFF	01	ASL-1319-F9	01/01/17	

CITY



Virginia Department of Corrections, Court & Legal Services

### Calculating Good Time in Virginia Earned and Projection Factors

Earned Sentence Credit – 1 (ESC-1) Felonies on or after 1/1/1995 Section §53.1-202.2 (et seq.)				
Earning Level	Earned Factors		Projection Factors	
	Formula	Factors	Formula	Factors
Class Level 0	2.25 per 30 (2.25/30)	.075	30/32.25 =	.9302



### COMMONWEALTH of VIRGINIA Office of the Attorney General

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April 19, 2022

Robyn Desocio

**I assume that the General Assembly carefully chose the language in enabling language of § 53.1-202.3(A), as amended.<sup>3</sup> As it explicitly refers to those inmates confined in a state correctional facility, I assume that it is intentionally leaving out those inmates confined in a local correctional facility from the retroactive application of the statute.**

**For those individuals who are sentenced to less than 12 months on a felony conviction on July 1, 2022, or after, § 53.1-202.3 will apply to local responsible inmates as § 53.1-202.2 is clear that “[e]very person who is convicted of a felony offense committed on or after January 1, 1995, and who is sentenced to serve a term of incarceration in a state or local correctional facility shall be eligible to earn sentence credits in the manner prescribed by this article.”**

# SWIFT!



**Issue:** The statewide rollout of *SWIFT* will be completed today (June 13, 2022). Users have requested the ability to share guidelines within their own offices. Preparers want *SWIFT* to automatically share guidelines with the attorneys involved in the case.

**Solution:** The final design of *SWIFT* has always included the concept of automating the current paper delivery of guidelines to the court, attorneys and probation officers. This delivery phase will occur after the transfer of guidelines from the court to the VCSC is complete.

## Future Phases

Users have suggested other functions to enhance *SWIFT*. Suggestions include; allowing judges to correct signed and submitted guidelines, expand edit checks, automate the selection of the primary offense, merge the manual with *SWIFT*.

feedback

FROM THE FIELD

2022

What's New

V C S C

