



VIRGINIA CRIMINAL SENTENCING COMMISSION



Report on the
2024 General Assembly and
Legislative Impact Analysis

March 25, 2024

Sentencing Commission Session-Related Activities

Sentencing Commission staff:



Prepare fiscal impact statements, as required by § 30-19.1:4;



Monitor legislation that may have an impact on penalties, sentencing, time served, and sex offender registration, as well as legislation proposing criminal justice studies;



Observe the judicial interview process;



Respond to legislators' requests for supplemental information; and



Provide technical assistance to other agencies.



Fiscal Impact Statements

§ 30-19.1:4

Law became
effective
July 1, 2000

- **The Sentencing Commission must prepare a fiscal impact statement for any bill that would result in a net increase in the population of offenders housed in state adult correctional facilities (prisons).**
- **Requirement includes, but is not limited to, proposals that:**
 - **Add new crimes for which imprisonment is authorized;**
 - **Increase the periods of imprisonment authorized for existing crimes;**
 - **Raise the classification of a crime from a misdemeanor to a felony;**
 - **Impose mandatory terms of imprisonment; or**
 - **Modify laws affecting the time served by prisoners.**



Fiscal Impact Statements

§ 30-19.1:4

- **Effective July 1, 2002, the impact statement must also:**
 - **Include an analysis of the impact on local and regional jails as well as state and local community corrections programs; and**
 - **Detail any necessary adjustments to the sentencing guidelines.**

- **A six-year projection is required.**



Calculation of Fiscal Impact

- **Sentencing Commission staff analyze available data to estimate the number of offenders likely to be affected by the legislation and the impact on sentences and/or time served for those offenders.**
- **Data are used in a computer simulation model to estimate the net increase in the prison population likely to result from the proposal during the six years following enactment.**



Fiscal Impact Statements

§ 30-19.1:4

The Sentencing Commission must estimate the increase in annual operating costs for prison facilities that would result if the proposal is enacted.

STEP 1 Identify the highest single-year population increase during the six years following enactment

STEP 2 Multiply the population figure by the cost of holding a prison inmate for a year (operating costs, excluding capital costs).

For FY2023, this was \$52,894.

This amount must be printed on the face of the bill and a one-year appropriation in that amount must be made.



Fiscal Impact Statements Additional Provisions

If the Sentencing Commission does not have sufficient information to project the impact, § 30-19.1:4 specifies that the words "Cannot be determined" must be printed on the face of the bill.

However, language in the Appropriation Act specifies:

If the Sentencing Commission does not have sufficient information to estimate the impact, the Commission must assign a minimum fiscal impact of \$50,000 to the bill.

This amount must be printed on the face of the bill.

The provisions of § 30-19.1:4, paragraph H, apply (requiring appropriation be made).

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.



Insufficient Information

If data do not contain sufficient detail to estimate the impact of the proposal, background statistics are provided to the extent possible.

Analysis:

Data are insufficient to identify the number of stolen catalytic converters removed from a motor vehicle that are sold, offered for sale or purchased. Thus, it is not known how many individuals would be convicted of a Class 6 felony due to the proposal. If the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of Class 6 felony larceny offenses under §§ 18.2-97, 18.2-102, 18.2-108.1, or 18.2-109. According to Sentencing Guidelines data for FY2021 and FY2022, 13.5% of offenders convicted of Class 6 felony larcenies received a state-responsible (prison) term with a median sentence of 1.6 years. Another 45.3% received a local-responsible (jail) term for which the median sentence was 3.0 months. The remaining 41.2% did not receive an active term of incarceration to serve after sentencing.



Fiscal Impact Statements

§ 30-19.1:4

The Department of Juvenile Justice (DJJ) prepares a fiscal impact estimate for any bill that would result in a net increase in the confined juvenile populations.

DJJ provides this information to the Sentencing Commission and a combined statement is submitted to the General Assembly.



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 488

(Patron – Garrett)

REVISED

LD#: 24102070

Date: 02/05/2024

Topic: Child sexual abuse

Fiscal Impact Summary:

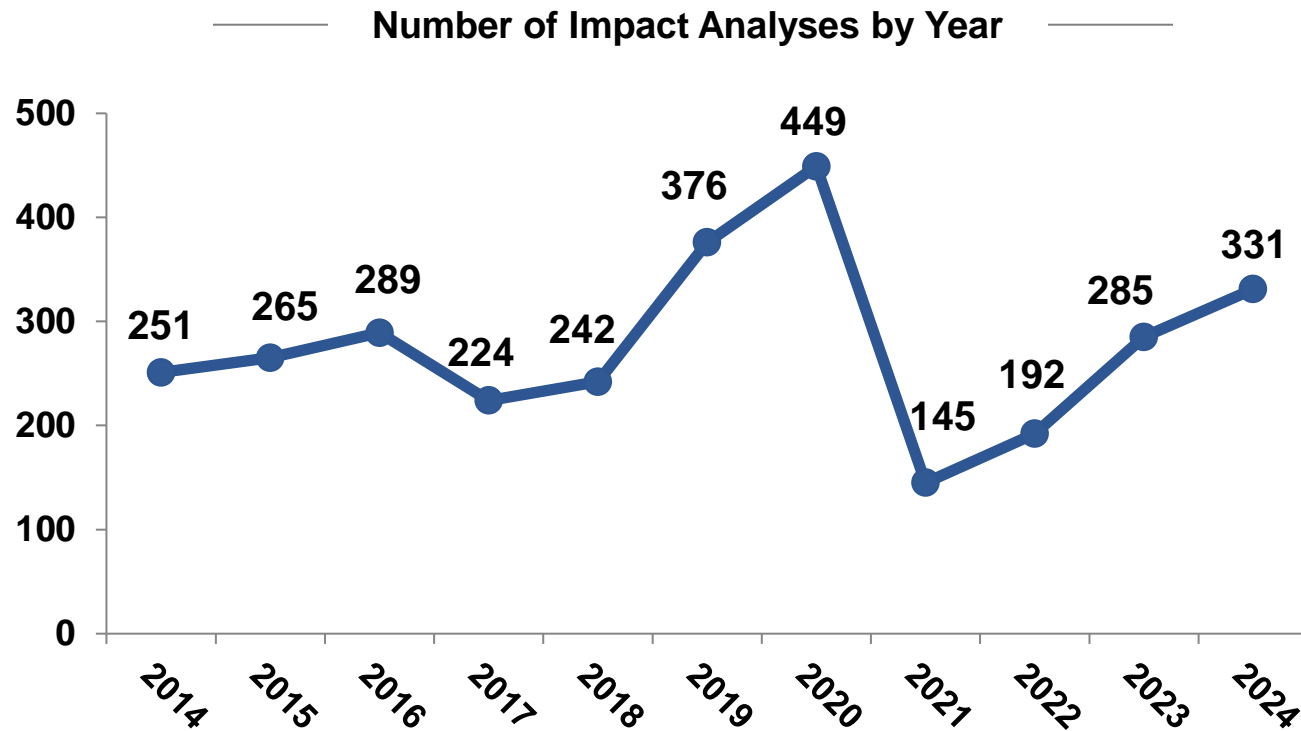
- **State Adult Correctional Facilities:**
At least \$551,188 (10 beds)
- **Local Adult Correctional Facilities:**
At least -\$15,085 (-1 bed)
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

* Provided by the Department of Juvenile Justice



Impact Analyses Completed for 2014 - 2024 Sessions of the General Assembly



For the 2024 General Assembly, Commission staff also completed 6 **ad hoc analyses** requested by legislators, Finance/Appropriations Committee staff, the Department of Planning & Budget, or other state agencies.

Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are proposed or adopted.



2024 General Assembly Types of Legislative Changes

Type of Legislative Change	Percent
Expansion or Clarification of Crime	85%
New Crime	48%
Misdemeanor to Felony	14%
Mandatory Minimum	9%
Increase Felony Penalty	6%
Other	31%

331 Impact Analyses Completed

Percentages do not add to 100%, since proposed legislation can involve multiple types of changes. Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are proposed or adopted.



Most Common Types of Offenses in Proposed Legislation

- **Firearms/Weapons (95 analyses)**
- **Drugs – Marijuana or Schedule I/II drugs (51 analyses)**
- **Sex Offenders and Offenses (24 analyses)**
- **Professions (19 analyses)**
- **Violent Offenses (16 analyses –earned sent credits)**
- **Murder/Homicide (14 analyses)**
- **Hate Crimes (9 analyses)**
- **Election (8 analyses)**
- **Gaming (7 analyses)**
- **Larceny/Fraud/Vandalism (6 analyses)**
- **Probation Violation (6 analyses)**



Joint Legislative Audit and Review Commission (JLARC) Review of Fiscal Impact Statements

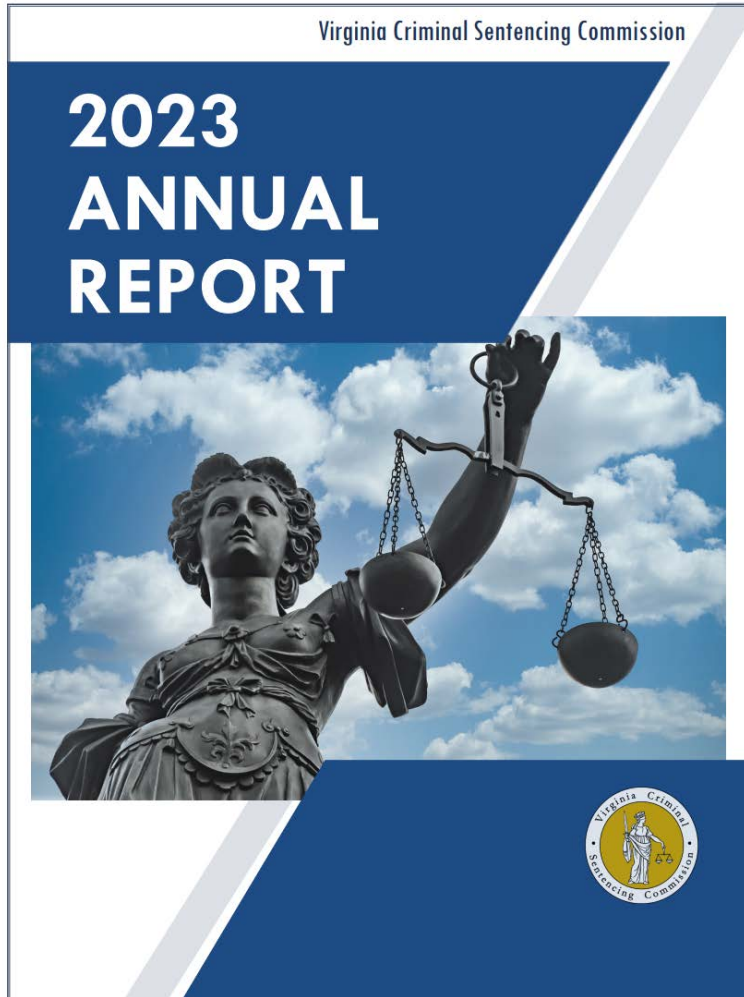


- **Legislators can request that JLARC review the Commission's fiscal impact statements.**
 - **The number of requests has ranged from 0 to 2 per year.**
- **During the 2024 Session, JLARC was asked to review one of the Commission's fiscal impact statements.**
 - **HB 40 Personal use of campaign funds**





Legislation Relating
to the Sentencing Commission
or Sentencing Guidelines



Recommendations in the *2023 Annual Report*

No legislation was introduced during the 2024 General Assembly session to counteract the recommendations contained in the Commission's *2023 Annual Report*.

Pursuant to § 17.1-806, unless otherwise acted upon by the General Assembly, any recommendations contained in the Commission's *Annual Report* automatically take effect the following July 1.



HB 1228

VCSC; online access to case management systems.

Introduced by: Patrick A. Hope

SUMMARY AS INTRODUCED:

Requires that circuit court clerks **provide VCSC with read-only access to court case management systems (CMS)**. Bill also requires that, if a circuit court clerk provides secure remote access to nonconfidential court records, the clerk shall, by a signed agreement with the Director of the VCSC, provide secure remote access to such records to VCSC staff.

OES FISCAL IMPACT: \$136,844

HISTORY

01/26/24 House: Courts of Justice Sub recommends reporting w/amendments (8-Y 0-N)

02/02/24 House: Reported from Courts of Justice with amendment(s) (21-Y 0-N)

02/02/24 House: Referred to Committee on Appropriations

02/05/24 House: Assigned App. Sub: General Government and Capital Outlay

02/09/24 House: Subcommittee recommends laying on the table (7-Y 0-N)

02/13/24 House: Left in Appropriations



HB 30 / SB 30
Appropriation Act.
Item 41#1s

SUMMARY:

Language **provides for the transfer of juvenile case information maintained in electronic format in a case management system to the VCSC.** VCSC may use the data only for research, evaluation, or other limited purposes. VCSC must ensure the confidentiality and security of the data and shall not publish personal or case identifying information. Upon transfer, such data shall not be subject to the Virginia Freedom of Information Act.

STATUS

02/28/24 Sent to Conference Committee

03/09/24 Senate: Conference report agreed to by Senate (24-Y 14-N)

03/09/24 House: Conference report agreed to by House (62-Y 37-N)



HB 653

Adoption of discretionary sentencing guideline midpoints; violent felony offenses.

Introduced by: Carrie E. Coyner

SUMMARY AS PASSED:

Removes certain crimes from the list of violent felony offenses for purposes of Sentencing Guidelines. Bill removes:

- **18.2-92** - Burglary of occupied dwelling with intent to commit a misdemeanor
- **18.2-474.1** - Delivery or narcotics/marijuana to prisoner
- **18.2-477.1** - Specifies “felony” violation (only felonies are subject to enhancements)
- **53.1-203** - Prisoner possess, sell, etc., unlawful chemical compound;
Prisoner sell, etc., Schedule III drug or marijuana

HISTORY

01/31/24 House: Courts of Justice Sub recommends reporting (7-Y 1-N)

02/02/24 House: Reported from Courts of Justice (17-Y N)

02/08/24 House: VOTE: Passage (64-Y 33-N)

02/28/24 Senate: Reported from Courts of Justice (9-Y 6-N)

03/05/24 Senate: Passed Senate (21-Y 19-N)

HB 77

Modifies certain provisions based on the degrees of robbery offenses.

Introduced by: Vivian E. Watts

SUMMARY AS PASSED HOUSE:

Amends certain provisions based on the classification of robbery offenses established by 2021 General Assembly. Changes include:

- Limiting burglary with intent to murder, rape or rob to 2 higher degrees of robbery;
- Allowing persons convicted of the 2 lesser degrees of robbery to be eligible for conditional release if they are terminally ill;
- Allowing persons convicted of the 2 lesser degrees of robbery to be eligible for the enhanced earned sentence credits;
- Limiting § 19.1-297.1 (three-strikes) to the 2 higher degrees of robbery;
- Making persons convicted under § 19.2-297.1 (three strikes) eligible for parole if one of the three convictions resulting in the mandatory life sentence would constitute one of the 2 lesser degrees of robbery; and
- **Limiting the Guidelines midpoint enhancements specified in § 17.1-805(A,2) to the 2 higher degrees of robbery.**

Primary Offense (§ 18.2-58)	Felony Class
Results in serious bodily injury or death	Class 2 felony (20 years - Life)
Use or display of firearm in threatening manner	Class 3 felony (5 - 20 years)
Use of physical force not resulting in serious bodily injury; use of a deadly weapon other than firearm	Class 5 felony (1 - 10 years)
Use of threat/intimidation without deadly weapon	Class 6 felony (1 - 5 years)



HB 77

Modifies certain provisions based on the degrees of robbery offenses.

Introduced by: Vivian E. Watts

HISTORY

01/31/24 House: Courts of Justice Sub recommends reporting w/amendments (5-Y 3-N)

02/02/24 House: Reported from Courts of Justice w/amendment (12-Y 9-N)

02/08/24 House: VOTE: Passage (50-Y 47-N)

02/26/24 Senate: Reported from Courts of Justice with substitute (9-Y 5-N)

02/28/24 Senate: Passed Senate with substitute (20-Y 19-N)

03/01/24 House: Senate substitute rejected by House (47-Y 50-N)

03/01/24 House: Reconsideration of Senate substitute agreed to by House

03/01/24 House: Senate substitute agreed to by House (49-Y 46-N)

03/07/24 House: Signed by Speaker

03/08/24 Senate: Signed by President

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024



HB 803

Juveniles; expungement of court records.

Introduced by: Sam Rasoul

SUMMARY AS PASSED HOUSE:

Provides that if a juvenile was adjudicated delinquent for an act that would be a felony if committed by an adult, other than murder, kidnapping, robbery, or rape, and such juvenile was 14 years of age or older at the time of the offense, the court records shall be destroyed when the juvenile has attained the age of 29.

Under current law, court records are retained in all instances when a juvenile was found delinquent for an act that would be a felony if committed by an adult. The bill directs JDR clerks to expunge the specified records by July 1, 2027.

HISTORY

02/02/24 House: Reported from Courts of Justice with amendment(s) (12-Y 9-N)

02/07/24 House: Reported from Appropriations (13-Y 9-N)

02/13/24 House: VOTE: Passage (53-Y 46-N)

02/21/24 Senate: Reported from Courts of Justice with substitute (10-Y 5-N)

02/28/24 Senate: Reported from Finance and Appropriations with substitute (10-Y 5-N)

03/05/24 Senate: Passed Senate with floor substitute (21-Y 19-N)

03/06/24 House: Senate substitute agreed to by House 24108697D-S3 (53-Y 46-N)



Legislation Relating
to Sentencing



See also
HB 956 (Lopez)

SB 332

Misdemeanor; maximum term of confinement.

Introduced by: Salim, Hashmi and Carroll Foy

SUMMARY AS PASSED SENATE:

Reduces from 12 months to 364 days the maximum term of confinement in jail for a Class 1 misdemeanor. The bill contains technical amendments.

The bill also requires the VCSC to revise all labels on Sentencing Guidelines worksheets and instructions in the Guidelines manual so that any conviction for an offense defined as a Class 1 misdemeanor or any other misdemeanor with a maximum penalty of 364 days of incarceration shall be scored as if the maximum penalty were 12 months for the purposes of preparing and using the Guidelines.

HISTORY

01/15/24 Senate: Reported from Courts of Justice (8-Y 7-N)

01/17/24 Senate: Amendment by Senator Perry agreed to

01/18/24 Senate: Passed Senate (21-Y 19-N)

02/23/24 House: Reported from Courts of Justice (11-Y 10-N)

02/23/24 House: Referred to Committee on Appropriations

02/28/24 House: Continued to 2025 in Appropriations by voice vote



HB 179

Imprisonment; consecutive terms.

Introduced by: Debra D. Gardner

SUMMARY AS INTRODUCED:

Eliminates the requirement for consecutive mandatory sentences.

HISTORY

01/31/24 House: Courts of Justice Sub recommends reporting (7-Y 1-N)

02/02/24 House: Reported from Courts of Justice (15-Y 6-N)

02/09/24 House: Appropriations Sub recommends reporting (4-Y 3-N)

02/09/24 House: Reported from Appropriations (12-Y 8-N)

02/12/24 House: Passed by for the day

02/13/24 House: No further action taken

02/13/24 House: Failed to pass in House



See also **SB642** (Perry),
SB319 (Salim), and
HB 798 (Hope/Lopez)

HB 362

Purchase, etc., of firearm following an A&B against an intimate or dating partner.

Introduced by: Adele Y. McClure

SUMMARY AS PASSED:

Expands the definition of a “family or household member” in § 16.1-228 **to include a person’s intimate partner.**

Expands definition of a “family or household member” for the purposes of § 18.2-308.1:8 to include any individual who cohabits or has cohabited with the defendant within the previous 12 months.

Provides that any person who knowingly and intentionally purchases, possesses, or transports a firearm following a misdemeanor conviction for an offense that occurred on or after July 1, 2024, of assault and battery against an **intimate partner** is guilty of a Class 1 misdemeanor.

VCSC FISCAL IMPACT: \$50,000 (Cannot be determined)



See also **SB642** (Perry),
SB319 (Salim), and
HB 798 (Hope/Lopez)

HB 362

Purchase, etc., of firearm following an A&B against an intimate or dating partner.

Introduced by: Adele Y. McClure

HISTORY

02/01/24 House: Public Safety Sub recommends reporting with substitute (6-Y 3-N)

02/02/24 House: Reported from Public Safety with substitute (12-Y 10-N)

02/04/24 House: Assigned Appropriations sub: Transportation & Public Safety

02/07/24 House: Appropriations Sub recommends reporting (5-Y 3-N)

02/07/24 House: Reported from Appropriations (13-Y 9-N)

02/13/24 House: VOTE: Passage (53-Y 46-N)

02/26/24 Senate: Reported from Courts of Justice with substitute (8-Y 5-N)

02/28/24 Senate: Reported from Finance and Appropriations (10-Y 5-N)

03/01/24 Senate: Passed Senate with substitute (21-Y 19-N)

03/04/24 House: Senate substitute agreed to by House 24108243D-S1 (52-Y 46-N)

03/07/24 House: Signed by Speaker

03/08/24 Senate: Signed by President

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024



See also
SB 44 (VanValkenburg)

HB 36

Abuse and neglect of children; causing/enabling child to gain possession of firearm.

Introduced by: Rodney T. Willett

SUMMARY AS PASSED:

Creates a Class 5 felony for any parent or other person who is 18+ years of age and responsible for the care of a child whose willful act or omission causes or enables that child to gain possession of a firearm (i) after having received notice of a preliminary determination that such child poses a threat of violence or physical harm to self or others or (ii) when such person knows or reasonably should know that the child has been charged with, convicted of, or adjudicated delinquent of a violent juvenile felony. Exceptions are provided. The bill provides that the new offense is eligible for enhanced earned sentence credits.

VCSC FISCAL IMPACT: \$50,000 (Cannot be determined)

HISTORY

02/02/24 House: Courts of Justice Sub recommends reporting with substitute (5-Y 3-N)

02/09/24 House: Reported from Courts of Justice with substitute (12-Y 10-N)

02/13/24 House: VOTE: Passage (55-Y 43-N)

02/26/24 Senate: Reported from Courts of Justice (12-Y 0-N)

02/28/24 Senate: Reported from Finance and Appropriations (15-Y 0-N)

03/01/24 Senate: Passed Senate (40-Y 0-N)

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024



HB 455

Possession of small amounts of controlled substances.

Introduced by: Katrina Callsen

SUMMARY AS INTRODUCED:

Creates a Class 1 misdemeanor for possession of a substance containing less than one gram of a Schedule I or II drug. The bill provides that upon motion of the attorney for the Commonwealth, a charge for possession of a Schedule I or II drug shall be reduced to unlawful possession of an item containing less than one gram of a controlled substance.

[Substitute version of the bill](#) changes one gram to “residue” and excludes fentanyl.

Currently, possession of Schedule I or II drug is a Class 5 felony.

HISTORY

01/29/24 House: Courts of Justice Sub recommends reporting (5-Y 3-N)

02/02/24 House: Reported from Courts of Justice (12-Y 9-N)

02/08/24 House: VOTE: Passage (50-Y 47-N)

02/28/24 Senate: Reported from Courts of Justice with substitute (14-Y 1-N)

03/04/24 Senate: Passed Senate with substitute (31-Y 8-N)

03/05/24 House: Senate substitute agreed to by House 24107783D-S1 (52-Y 47-N)



See also **SB448** (Rouse), et al.

HB 698

Establishes framework for creation of a retail marijuana market, penalties.

Introduced by: Paul E. Krizek

SUMMARY AS PASSED:

Establishes a framework for the creation of a **retail marijuana market to be administered by the Virginia Cannabis Control Authority**. While the proposal **repeals § 18.2-248.1**, related to the manufacture and distribution of marijuana, the proposal establishes a number of new misdemeanor and felony offenses for engaging in activities without the required license or otherwise engaging in prohibited practices related to the production, sale, etc., of marijuana. This bill also **increases amount of marijuana that may be legally possessed by persons 21 or older from 1.0 to 2.5 ounces**.

HISTORY

02/02/24 House: General Laws Sub recommends reporting with substitute (5-Y 0-N)

02/06/24 House: Reported from General Laws with substitute (11-Y 8-N)

02/12/24 House: VOTE: Passage (52-Y 48-N)

02/23/24 Senate: Reported from Rehab and Social Services with substitute (10-Y 5-N)

02/27/24 Senate: Reported from Finance and Appropriations with substitute (10-Y 5-N)

02/28/24 Senate: Passed Senate with substitute (21-Y 18-N)

02/28/24 House: Senate substitute agreed to by House (51-Y 47-N)

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024



SB 731

Child pornography; production, publication, sale, financing, etc., penalty.

Introduced by: Tara A. Durant

SUMMARY AS PASSED SENATE:

Amends the definition of "child pornography" to include sexually explicit visual material that depicts a minor in a state of nudity or engaged in sexual conduct where such depiction is obscene and specifies that **such minor does not have to actually exist**.

VCSC FISCAL IMPACT: \$50,000 (Cannot be determined)

HISTORY

02/05/24 Senate: Reported from Courts of Justice with substitute (15-Y 0-N)

02/07/24 Senate: Reported from Finance and Appropriations (15-Y 0-N)

02/09/24 Senate: Passed Senate (40-Y 0-N)

02/16/24 House: Courts of Justice Sub recommends reporting (8-Y 0-N)

02/23/24 House: Reported from Courts of Justice (21-Y 0-N)

02/28/24 House: Reported from Appropriations (22-Y 0-N)

03/04/24 House: VOTE: Block Vote Passage (97-Y 0-N)

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024



Legislation Relating
to Probation



HB 457

Decreasing probation period; establishes criteria for mandatory reduction.

Introduced by: Katrina Callsen

SUMMARY AS PASSED HOUSE:

Establishes criteria by which a defendant's supervised probation period shall be reduced, including completing educational activities, maintaining employment, and complying with or completing mental health or substance abuse treatment programs. The bill also provides that a court may decrease a defendant's probation period if warranted by the defendant's conduct and in the interests of justice and may do so without a hearing.

HISTORY

01/31/24 House: Courts of Justice Sub recommends reporting with substitute (7-Y 1-N)

02/02/24 House: Reported from Courts of Justice with substitute (15-Y 6-N)

02/07/24 House: Appropriations Sub recommends reporting (5-Y 3-N)

02/07/24 House: Reported from Appropriations (13-Y 9-N)

02/13/24 House: VOTE: Passage (54-Y 45-N)

02/23/24 Senate: Reported from Rehab and Social Services (15-Y 0-N)

02/28/24 Senate: Reported from Finance and Appropriations with substitute (10-Y 5-N)

03/04/24 Senate: Passed Senate with substitute (21-Y 18-N)

03/08/24 Senate: Conference report agreed to by Senate (23-Y 17-N)

03/08/24 House: Conference report agreed to by House (53-Y 43-N)



See also
HB448 (McClure)

SB 505

Limitation on sentence upon revocation of suspended sentence; technical violations.

Introduced by: Suhas Subramanyam

SUMMARY AS PASSED:

Provides that the court must consider at the same revocation hearing all alleged technical violations that occurred prior to such revocation hearing and have not been previously considered by the court.

For a violation with 14-day cap, court must adjudicate such violation within 14 days of the defendant being taken into custody; if violation is not adjudicated within 14 days, the defendant shall be admitted to bail (with certain exceptions). No defendant may be held in custody for an alleged technical violation for longer than 30 days without his consent.

HISTORY

02/12/24 Senate: Reported from Courts of Justice with amendments (8-Y 3-N)

02/13/24 Senate: Passed Senate (21-Y 17-N)

02/16/24 House: Referred to Committee for Courts of Justice

02/21/24 House: Courts of Justice Sub recommends reporting with amendments (7-Y 1-N)

02/23/24 House: Reported from Courts of Justice with amendment(s) (15-Y 6-N)

02/28/24 House: VOTE: Passage (57-Y 42-N)

03/01/24 Senate: House amendment agreed to by Senate (21-Y 19-N)

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024

Introduced Bills Related to Probation Violations (§ 19.2-306.1)

Bill	Description	Comment	Status
HB 400 (Griffin)	Eliminates definition of technical violations and removes sentence caps for 1 st and 2 nd technical violations; removes limitations on the lengths of probation period and period of suspension of a sentence.	VCSC Fiscal Impact: \$50,000 (Cannot be determined)	Left in Courts of Justice
HB 849 (Davis)	Provides that a court may impose not more than 30 days of active incarceration upon a 1 st technical violation and may impose not more than 90 days for a 2 nd technical violation.	VCSC Fiscal Impact: \$0 (Proposed new caps are local jail terms)	Left in Courts of Justice
SB 67 (Peake)	Specifies max of 14 days for 1 st and 30 days for 2 nd technical violation		Passed by indefinitely by Courts of Justice





Legislation Relating
to Time Served



HB 30 / SB 30

Appropriation Act.

Item 390#3h

SUMMARY:

Amendment removes language so that inmates serving time for a combination of violent and nonviolent offenses may earn enhanced sentence credits for the nonviolent offenses as provided by § 53.1-202.3.

Currently, inmates serving time for an offense that is ineligible for enhanced sentence credits must earn credits at the lower rates for all offenses in the same incarceration term.

STATUS

02/28/24 Sent to Conference Committee

03/09/24 Senate: Conference report agreed to by Senate (24-Y 14-N)

03/09/24 House: Conference report agreed to by House (62-Y 37-N)



HB 45

Earned sentence credits; incarceration prior to entry of final order of conviction.

Introduced by: Holly M. Seibold

SUMMARY AS PASSED:

Provides that all time spent in a correctional facility, state hospital, or juvenile detention facility prior to sentencing shall be used in calculating a person's earned sentence credits. Provision applies retroactively. Delayed effective date of 7/1/25.

HISTORY

- 01/31/24 House: Courts of Justice Subcommittee recommends reporting (7-Y 1-N)
- 02/02/24 House: Reported from Courts of Justice (15-Y 6-N)
- 02/07/24 House: Appropriations Subcommittee recommends reporting (5-Y 3-N)
- 02/07/24 House: Reported from Appropriations (13-Y 9-N)
- 02/13/24 House: VOTE: Passage (59-Y 39-N)
- 02/26/24 Senate: Reported from Courts of Justice with substitute (10-Y 5-N)
- 03/04/24 Senate: Reported from Finance and Appropriations w/amendments (10-Y 5-N)
- 03/06/24 Senate: Passed Senate with substitute with amendments (21-Y 18-N)
- 03/08/24 Senate: Conference report agreed to by Senate (21-Y 19-N)
- 03/08/24 House: Conference report agreed to by House (55-Y 38-N)

Introduced Bills Related to Sentence Credits (§ 53.1-202.3)

Bill	Description	Comment	Status
HB 77 (Watts) – Substitute	Provides that offenders convicted of the two lesser degrees of robbery (Class 5 and Class 6 felonies) are eligible for enhanced sentence credits under § 53.1-202.3		Passed House and Senate 3/1/2024
HB 36 (Willett) – Substitute See also SB44 (VanValkenburg)	Creates a Class 5 felony for any person 18+ years of age responsible for the care of a child whose willful act or omission causes or enables that child to gain possession of a firearm under certain circumstances. Provides that the new offense is eligible for the enhanced earned sentence credits.	VCSC Fiscal Impact: \$50,000 (Cannot be determined)	Passed House and Senate 3/1/2024
HB 451 (C. Obenshain)	Removes any person convicted of a second or subsequent felony drug offense from being eligible to earn enhanced earned sentence credits.	VCSC Fiscal Impact: At least 115 beds (\$6,088,002)	Left in Courts of Justice
HB1179 (Wyatt)	Removes any person convicted of a felony offense involving a firearm from eligibility for enhanced earned sentence credits and restricts any person convicted of a felony for an offense that occurred while a prisoner from receiving any further earned sentence credits.	VCSC Fiscal Impact: 774 beds (\$40,939,956)	Left in Courts of Justice



Introduced Bills Related to Sentence Credits (§ 53.1-202.3)

Bill	Description	Comment	Status
SB 476 (Peake)	<p>Limits attempted/conspired aggravated murder, attempted/conspired robbery and attempted/conspired carjacking to 4.5 days of credit per 30 days served.</p> <p>Specifies that an individual is limited to 4.5 days for every 30 served for an offense if, during the same term of incarceration, he is also serving time for a felony listed in § 53.1-202.3(A). This codifies a requirement currently found in the Appropriation Act.</p>	VCSC Fiscal Impact: 3 beds (\$158,682)	Passed by indefinitely in Rehab and Social Services 1/26/2024





Other Legislation



HB 1114

Failure to appear; contempt of court, penalties.

Introduced by: Marcus B. Simon

SUMMARY AS INTRODUCED:

Provides that any person (i) charged with a felony offense or misdemeanor offense or (ii) convicted of a felony offense or misdemeanor offense and execution of sentence is suspended who **willfully fails to appear before any court or judicial officer as required may be punished for contempt.**

Under current law, a person who fails to appear is guilty of a Class 6 felony if charged with a felony, or a Class 1 misdemeanor if charged with a misdemeanor. The bill excludes from such penalty persons who are incarcerated or in the custody of a law-enforcement officer at the time such person is required to appear. The bill also eliminates a court's authority to punish summarily a contempt of court for willful failure to appear.

SUMMARY AS PASSED:

Excludes any person who is (i) **incarcerated** in any correctional facility or (ii) (a) **detained** in any state or federal facility or (b) **in the custody** of a law-enforcement officer at the time such person is required to appear before any court or judicial officer **from the penalties for willful failure to appear.**



HB 1114

Failure to appear; contempt of court, penalties.

Introduced by: Marcus B. Simon

HISTORY

01/10/24 House: Referred to Committee for Courts of Justice

01/30/24 House: Assigned Courts sub: Criminal

01/31/24 House: Subcommittee recommends reporting with substitute (5-Y 3-N)

02/02/24 House: Reported from Courts of Justice with substitute (12-Y 9-N)

02/08/24 House: VOTE: Passage (51-Y 46-N)

02/19/24 Senate: Reported from Courts of Justice with substitute (13-Y 0-N)

02/21/24 Senate: Passed Senate with substitute (40-Y 0-N)

02/23/24 House: Senate substitute agreed to by House 24107874D-S1 (54-Y 42-N)

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024



Note:

HB292 (Ballard, et al.) and **SB725 (Pillion)** rename the Drug Treatment Court Act as the Recovery Court Act

SB 706

Drug Treatment Court Act; eligibility.

Introduced by: Richard H. Stuart

SUMMARY AS INTRODUCED:

Replaces the restriction that renders persons convicted of certain violent felonies or acts of violence within the preceding 10 years ineligible to participate in a drug treatment court with a restriction on participation if : (i) the offender is presently charged with a felony or is convicted of a felony while participating in any drug treatment court where (a) the offender carried, possessed, or used a firearm or any dangerous weapon during such offense; (b) the death or serious bodily injury of any person occurred during such offense; or (c) the use of force against any other person occurred during the offense or (ii) the offender was previously convicted as an adult of any felony offense that involved the use of force or attempted use of force with the intent to cause death or serious bodily injury.

HISTORY

02/07/24 Senate: Reported from Courts of Justice (15-Y 0-N)

02/09/24 Senate: Passed Senate (40-Y 0-N)

02/16/24 House: Courts of Justice Subcommittee recommends reporting (8-Y 0-N)

02/23/24 House: Reported from Courts of Justice (21-Y 0-N)

02/28/24 House: VOTE: Block Vote Passage (97-Y 0-N)

03/11/24 Governor: Governor's Action Deadline 11:59 p.m., April 8, 2024



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