



# VIRGINIA CRIMINAL SENTENCING COMMISSION



April 4, 2016

# Sentencing Commission Session-Related Activities

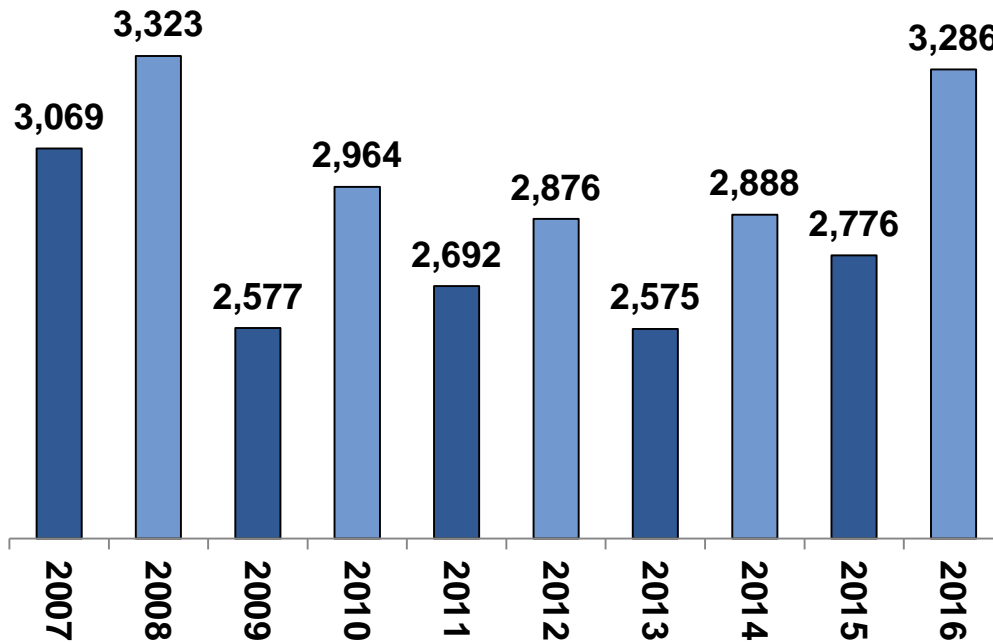
## Sentencing Commission staff:

- Prepare fiscal impact statements, as required by § 30-19.1:4;
- Monitor legislation that may have an impact on penalties, sentencing, time served, 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.



# General Assembly Statistics

Number of Introduced Bills by Year



The General Assembly convenes for long sessions in even-numbered years (60 days) and short sessions in odd-numbered years (45 days).

Typically, more bills are referred to a Courts of Justice Committee than any other House or Senate committee.





# **Fiscal Impact Statements**

# Fiscal Impact Statements

§ 30-19.1:4

- **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.**
- **Law became effective July 1, 2000.**
- **Effective July 1, 2002, the impact statement must:**
  - **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.**



# Fiscal Impact Statements

§ 30-19.1:4

**The requirement for an impact statement 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 governing release of prisoners.**



# 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.**
  - **A six-year projection is required.**
  - **The highest single-year increase in operating costs is identified.**
  - **This amount must be printed on the face of the bill.**
  
- **If the Sentencing Commission does not have sufficient information to project the impact, § 30-19.1:4 states that the words "Cannot be determined" must be printed on the face of the bill.**



# Fiscal Impact Statements

## § 30-19.1:4

- **For each law enacted that results in a net increase in the prison population, a one-year appropriation must be made.**
  - **Appropriation is equal to the highest single-year increase in operating costs during the six years following enactment.**
- **Appropriations made pursuant to § 30-19.1:4 are deposited into the Corrections Special Reserve Fund.**
  - **Moneys in this fund may only be expended for capital expenses, including the cost of planning required to initiate capital outlay projects.**





# 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 juvenile population committed to the state.**
- **DJJ provides this information to the Sentencing Commission and a combined statement is submitted to the General Assembly.**



# Fiscal Impact Statements

## Additional Provisions in Appropriations Act

In 2009, the Appropriations Act passed by the General Assembly included a new requirement pertaining to fiscal impact statements.

This requirement remained in the budget adopted by the 2015 General Assembly.

### Item 47 of Chapter 665 of the 2015 Acts of Assembly

*For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of \$50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.*



# Example

2016 SESSION

SENATE SUBSTITUTE

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**HOUSE BILL NO. 1317**  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee for Courts of Justice  
on February 22, 2016)  
(Patron Prior to Substitute—Delegate Cline)

*A BILL to amend and reenact § 18.2-67.3 of the Code of Virginia, relating to aggravated sexual battery; penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-67.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-67.3. Aggravated sexual battery; penalty.**

- A. An accused shall be *is* guilty of aggravated sexual battery if he or she sexually abuses the complaining witness; and
  - 1. The complaining witness is less than 13 years of age; ~~or;~~
  - 2. The act is accomplished through the use of the complaining witness's mental incapacity or physical helplessness; ~~or;~~
  - 3. The offense is committed by a parent, step-parent, grandparent, or step-grandparent and the complaining witness is at least 13 but less than 18 years of age; ~~or~~
  - 4. The act is accomplished against the will of the complaining witness by force, threat ~~or~~ intimidation, *or ruse*; and
    - a. The complaining witness is at least 13 but less than 15 years of age; ~~or;~~
    - b. The accused causes serious bodily or mental injury to the complaining witness; ~~or~~

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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 665 of the Acts of Assembly of 2015 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**



# Calculation of Fiscal Impact

- **Sentencing Commission staff analyze available data to determine (or estimate) the number of offenders likely to be affected by the legislation and the impact on sentences and/or time served for those offenders.**
- **The 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.**

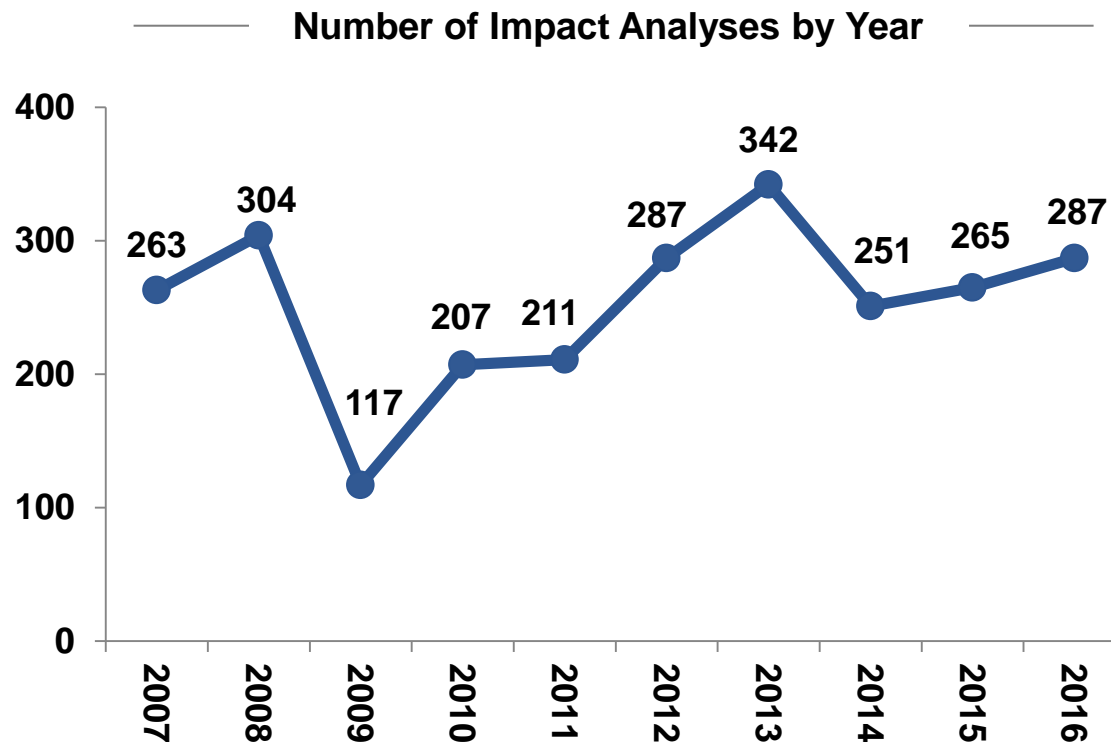


# Calculation of Fiscal Impact

- **Per § 30-19.1:4, the highest single-year population increase over the next six years is identified;**
- **That number is multiplied by the cost of holding a prison inmate for a year (operating costs, excluding capital costs).**
- **For FY2015, the annual operating cost per prison inmate was \$31,406.**
  - **This figure is provided each year by the Department of Planning and Budget.**



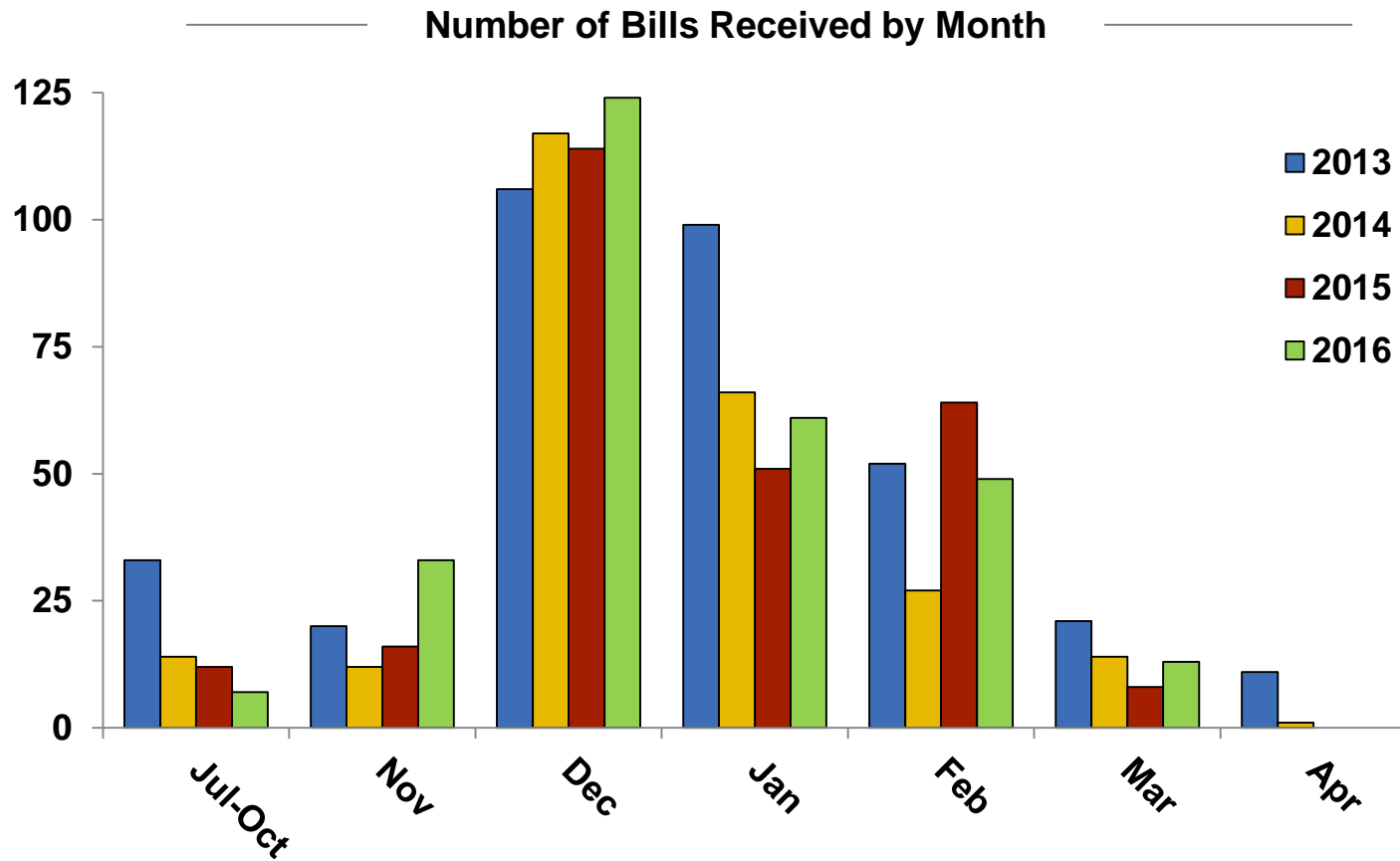
# Impact Analyses Completed for 2007 - 2016 Sessions of the General Assembly



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

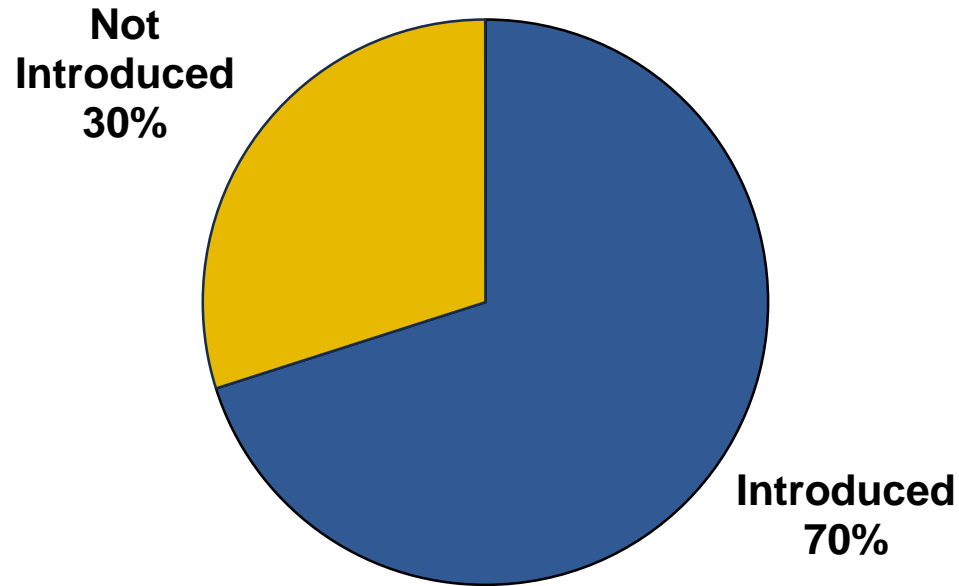


# Number of Bills Received for 2013 - 2016 Sessions of the General Assembly by Month



# Status of Bills Received for 2016 Session

Percentage of Bills with Impacts  
That Were Introduced



287 Analyses Conducted





# 2016 **General Assembly**

## Types of Legislative Changes

Type of Legislative Change	Percent
Expansion or Clarification of Crime	65.5%
New Crime	28.9%
Mandatory Minimum	3.1%
Misdemeanor to Felony	19.9%
Increase Felony Penalty	1.7%
Other	17.4%

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### 287 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 (92 analyses)**
- **Sex Offenders and Offenses (25 analyses)**
- **Protective Orders (22 analyses)**
- **Stalking (21 analyses)**
- **Fraud/Larceny (18 analyses)**
- **Assault (15 analyses)**
- **Murder/Homicide (13 analyses)**
- **Computer (12 analyses)**
- **Drugs (10 analyses)**



# Joint Legislative Audit and Review Commission (JLARC)

## Review of Fiscal Impact Statements

- Legislators can request that JLARC review the Sentencing Commission's fiscal impact statements.
- The number of such requests has ranged from 0 to 2 per year.
- During the 2016 Session, JLARC was asked to review one of the Commission's fiscal impact statements.
  - House Bill 794 – Eliminate the death penalty for defendants who had a severe mental illness at the time of the offense.



# Joint Legislative Audit and Review Commission (JLARC)

## Review of House Bill 794

### Bill Summary

The bill provides that a defendant in a capital case who had a severe mental illness (as defined in the bill) at the time of the offense is not eligible for the death penalty. The bill establishes procedures and provides for the appointment of expert evaluators.

When the defendant's severe mental illness is at issue, a determination will be made by the jury, or by the judge in a bench trial, as part of the sentencing proceeding, and the defendant bears the burden of proving his severe mental illness by a preponderance of the evidence.



# Joint Legislative Audit and Review Commission (JLARC)

## Review of House Bill 794

### VCSC Determination

- **By removing the applicability of the death penalty in cases where the offender had a severe mental illness, the proposed legislation may increase the state-responsible (prison) bed space needs of the Commonwealth.**
- **Existing data do not provide sufficient detail to estimate the number of individuals who would be sentenced to a term of life imprisonment instead of death if the proposal is enacted.**
  - **While the impact on prison bed space needs cannot be determined, any impact within the six-year window required for corrections impacts is likely to be small.**



# Joint Legislative Audit and Review Commission (JLARC)

## Review of House Bill 794

### JLARC Conclusion

**“JLARC staff concur with the Fiscal Impact Statements prepared by the Virginia Criminal Sentencing Commission and the Department of Planning and Budget that the fiscal impact of HB 794 is likely to be small...**

**Over the next biennium, the proposed legislation would likely have no fiscal impact because mental health evaluations are already conducted for defendants in capital cases, and any evaluation of severe mental illness would be combined with existing evaluations. The long-term fiscal impacts would be small, because few offenders are sentenced to death, and the proposed legislation would probably not change the death sentence for at least some of these individuals. Further, for any individuals affected, the long-term costs and savings are expected to largely offset each other.”**

**Budget amendment necessary?** A budget amendment for the 2016-18 biennium is not necessary. If enacted, HB 794 would probably change a death sentence to life imprisonment for fewer than one person per year. Further, the increased cost for any offender affected would not materialize for more than a decade, and would be largely offset by savings from avoided death penalty appeals.

# Additional Analyses

- **Additional analyses may be conducted at the request of:**
  - **Legislators;**
  - **House Appropriations or Senate Finance staff;**
  - **Department of Planning and Budget staff;**
  - **Office of the Secretary of Public Safety and Homeland Security; or**
  - **Attorney General's Office.**
  
- **For example, analysis may be requested for a proposal that would reduce the prison population (in which case, § 30-19.1:4 would not require the Commission to prepare a fiscal impact statement).**





## **Legislation Passed by the 2016 General Assembly**





Incorporates HB 604  
(Robert B. Bell) and  
HB 672 (Peace)

## HB 177

### **Adding aggravated malicious wounding and certain prostitution offenses to the Sex Offender and Crimes Against Minors Registry**

Introduced by: David B. Albo

#### **SUMMARY AS PASSED:**

Adds to the offenses for which registration is required on the Sex Offender and Crimes Against Minors Registry the crimes of (i) procuring a person for prostitution and receiving money from the earnings of a person engaged in prostitution if the crime involves a minor and (ii) aggravated malicious wounding if the perpetrator of the crime was an adult and the victim was under the age of 13. The bill provides that only persons who commit such crimes on or after July 1, 2016, are required to register.

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

#### **STATUS:**

03/30/16 Signed by Governor: Acts of Assembly Chapter 587

**BUDGET AMENDMENT:** Yes



See also  
SB 354 (Deeds) –  
Signed by Governor

## **HB 510**

### **Extending the Statute of Limitations for Sexual Crimes against Minors**

Introduced by: Charniele L. Herring and Richard L. Anderson

#### **SUMMARY AS PASSED:**

Extends the statute of limitations to one year after the victim reaches 18 years of age for misdemeanor violations of the following crimes: carnal knowledge of offender by employee of bail bond company, sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, attempted sexual battery, and tongue penetration by adult of mouth of child under age 13. Under existing law, there is a one-year statute of limitations on most misdemeanors. This bill is a recommendation of the Virginia State Crime Commission.

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

#### **STATUS:**

03/04/16 Signed by Governor: Acts of Assembly Chapter 233

**BUDGET AMENDMENT:** Yes



## **HB 886**

### **Increasing the penalty for a second stalking offense to a Class 6 felony**

Introduced by: David B. Albo et al.

#### **SUMMARY AS PASSED:**

Provides that a second offense of stalking committed within five years of a prior stalking conviction is punishable as a Class 6 felony. Under current law, a second offense of stalking only qualifies for the Class 6 penalty if the person convicted had also been convicted of certain offenses involving assaults or bodily woundings or of violating a protective order against the same victim as the current offense.

**VCSC FISCAL IMPACT:** \$81,914 (3 prison beds)

#### **STATUS:**

03/09/16 Governor: Governor's Action Deadline  
Midnight, Sunday, April 10, 2016

**BUDGET AMENDMENT:** Yes

**SB 339****Expanding what may be considered reasonable fear of death, criminal sexual assault, or bodily injury for stalking**Introduced by: Bryce E. Reeves**SUMMARY AS PASSED:**

Provides that contacting or following or attempting to contact or follow the person at whom stalking conduct is directed after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the person intended to place the other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

**VCSC FISCAL IMPACT:** Cannot be determined (\$50,000)**STATUS:**03/29/16 Signed by Governor: Acts of Assembly  
Chapter 546**BUDGET AMENDMENT:** Yes**HB 752****Expanding what may be considered reasonable fear of death, criminal sexual assault, or bodily injury in relation to stalking.**Introduced by: Robert B. Bell**SUMMARY AS INTRODUCED:**

Provides that contacting or following or attempting to contact or follow the person at whom stalking conduct is directed after being given actual notice that the person does not want to be contacted or followed because such actions place the person in fear of death, criminal sexual assault, or bodily injury, is prima facie evidence that the person intended to place the other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

**VCSC FISCAL IMPACT:** \$0**STATUS:**03/28/16 Governor: Governor's Action Deadline  
Midnight, Sunday, April 10, 2016**BUDGET AMENDMENT:** Yes



See also  
SB 655 (Vogel) –  
Left in Finance  
SB 755 (Stuart) –  
Left in Finance

## **HB 610**

### **Increasing penalties related to violations of protective orders**

Introduced by: Robert B. Bell

#### **SUMMARY AS PASSED:**

Provides that it is a Class 6 felony to stalk a party protected by protective order or to commit an assault and battery upon a party protected by a protective order if such assault and battery results in bodily injury. Currently, the Class 6 felony is only applicable if the person commits an assault and battery that results in serious bodily injury to the protected party.

**VCSC FISCAL IMPACT:** \$101,254 (3 prison beds)

#### **STATUS:**

03/29/16 Signed by Governor: Acts of Assembly Chapter 584

**BUDGET AMENDMENT:** Yes



See also  
SB 323 (Favola) – Enrolled

## **HB 1087**

### **Establishing a Class 6 felony for violating a protective order while armed with a deadly weapon**

Introduced by: C. Todd Gilbert et al.

#### **SUMMARY AS PASSED:**

Provides that any person who violates a protective order with which he has been served while knowingly armed with a firearm or other deadly weapon is guilty of a Class 6 felony.

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

#### **STATUS:**

03/29/16 Signed by Governor: Acts of Assembly Chapter 586

**BUDGET AMENDMENT:** Yes



See also  
SB 49 (Howell) –  
Signed by Governor

## HB 1391

### **Prohibiting possession of firearms by persons subject to permanent protective orders**

Introduced by: Kathleen Murphy et al.

#### **SUMMARY AS PASSED:**

Provides that it is a Class 6 felony for a person who is subject to a permanent protective order for family abuse (i.e., a protective order with a maximum duration of two years) to possess a firearm while the order is in effect. The bill also provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person. Under current law, it is a Class 1 misdemeanor for a person subject to a protective order to purchase or transport a firearm.

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

#### **STATUS:**

02/26/16 Signed by Governor: Acts of Assembly Chapter 48

**BUDGET AMENDMENT:** Yes



See also  
SB 715 (Edwards) –  
Signed by Governor

## HB 1386

### **Adding provisions for voluntary background checks relating to purchases at firearms shows**

Introduced by: L. Scott Lingamfelter and Timothy D. Hugo

#### **SUMMARY AS PASSED:**

Requires the Department of State Police to be available to perform background checks for non-dealer sales at firearms shows if requested by a party involved in a transaction. The promoter of the firearms show shall furnish sufficient facilities to perform the background checks. In order for the bill to become effective, the U.S. Department of Justice must approve the policies and procedures that the Department of State Police will use to implement the provisions of the bill.

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

#### **STATUS:**

02/26/16 Signed by Governor: Acts of Assembly Chapter 45 (effective if approval is received from the U.S. Department of Justice)

**BUDGET AMENDMENT:** Yes





## **HB 560**

### **Inserting intent into brandishing statute**

Introduced by: L. Scott Lingamfelter

#### **SUMMARY AS PASSED:**

Requires that a person pointing, holding, or brandishing a firearm or similar weapons must have the intent to induce fear in the mind of another or know or reasonably should know that his conduct would induce such fear in order to be convicted of the crime of brandishing. Currently, the perpetrator's intent is not an element of the offense in the statute.

**VCSC FISCAL IMPACT:** \$0

#### **STATUS:**

03/07/16 Governor: Governor's Action Deadline  
Midnight, Sunday, April 10, 2016

**BUDGET AMENDMENT:** Not Required



## **HB 1189**

### **Expanding child abuse and neglect resulting in serious injury to include operating a child welfare agency without a license**

Introduced by: Daun S. Hester et al.

#### **SUMMARY AS PASSED:**

Provides that operating or engaging in the conduct of a child welfare agency without first obtaining a license when it is known that such license is required, or after such license has been revoked or has expired, constitutes a willful act or willful omission for purpose of the crime of abuse and neglect of a child. Under current law, a parent, guardian, or other person responsible for the care of a child who, by willful act or omission, causes or permits serious injury to the life or health of such child is guilty of abuse and neglect of a child, which is punishable as a Class 4 felony.

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

#### **STATUS:**

03/11/16 Governor: Governor's Action Deadline  
Midnight, Sunday, April 10, 2016

**BUDGET AMENDMENT:** Yes



## **HB 1226**

### **Expanding assault on law enforcement officer to include DOC employees with internal investigations authority**

Introduced by: Les R. Adams

#### **SUMMARY AS PASSED:**

Adds employees of the Department of Corrections who have been designated by the Department to conduct internal investigations to the definition of law-enforcement officer for purposes of the crimes of assault and battery. The current punishment for assault and battery against a law-enforcement officer engaged in the performance of his public duties is a Class 6 felony with a six-month mandatory minimum sentence.

**VCSC FISCAL IMPACT:** \$0

#### **STATUS:**

03/11/16 Signed by Governor: Acts of Assembly Chapter 421

**BUDGET AMENDMENT:** Not required



See also  
SB 480 (Obenshain) –  
Signed by Governor

## **HB 1077**

### **Adding 12 chemical compounds to the list of Schedule I controlled substances**

Introduced by: T. Scott Garrett

#### **SUMMARY AS PASSED:**

Adds certain chemical substances to Schedule I of the Drug Control Act. The Board of Pharmacy has added these substances to Schedule I in an expedited regulatory process.

#### **BACKGROUND:**

In 2014, the General Assembly passed legislation giving the Board of Pharmacy authority to amend its regulations to add substances to Schedule I or II of the Drug Control Act via an expedited regulatory process. Per § 54.1-3443, the Board must notify the General Assembly of any new compounds added to Schedule I or II controlled substances. The compounds will be de-scheduled after 18 months unless the General Assembly adopts legislation to amend the Drug Control Act. The Board of Pharmacy has already added the twelve compounds specified in the legislation to Schedule I of the Drug Control Act.



**HB 1077 (continued)**

**Adding 12 chemical compounds to the list of Schedule I controlled substances**

Introduced by: T. Scott Garrett

**VCSC FISCAL IMPACT:** \$0

**STATUS:**

03/01/16 Signed by Governor: Acts of Assembly Chapter 103

**BUDGET AMENDMENT:** Not required



## HB 1292

### Adding Eluxadoline to the list of Schedule IV drugs

Introduced by: Todd E. Pillion

#### **SUMMARY AS PASSED:**

Adds Eluxadoline, a prescription medication for irritable bowel syndrome, to the list of Schedule IV drugs.

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

#### **STATUS:**

03/25/16 Signed by Governor: Acts of Assembly Chapter 500

**BUDGET AMENDMENT:** Yes



## **Legislation Not Passed by the 2016 General Assembly**

## HB 102

**Expands felony homicide to include distribution of schedule I/II resulting in death, regardless of time or place of the death**

Introduced by: L. Scott Lingamfelter et al.

### **SUMMARY AS PASSED HOUSE:**

Provides that a person is guilty of felony homicide if the underlying felonious act that resulted in the killing of another involved the manufacture, etc., of a Schedule I or II controlled substance to another and (i) such other person's death results from his use of the controlled substance and (ii) the controlled substance is the proximate cause of his death.

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

### **HISTORY**

02/16/16 House: Vote: Passage (94-Y 5-N)  
02/17/16 Senate: Referred to Committee for Courts of Justice  
02/24/16 Senate: Reported from Courts of Justice with substitute (15-Y 0-N)  
02/24/16 Senate: Committee substitute printed 16105814D-S1  
02/24/16 Senate: Rereferred to Finance  
03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)

## SB 66

**Expands felony homicide to include distribution of schedule I/II resulting in death, regardless of time or place of the death**

Introduced by: Jennifer T. Wexton

### **SUMMARY AS INTRODUCED:**

Provides that a person is guilty of felony homicide if the underlying felonious act that resulted in the killing of another involved the manufacture, etc., of a Schedule I or II controlled substance to another and (i) such other person's death results from his use of the controlled substance and (ii) the controlled substance is the proximate cause of his death. The bill also contains an accommodation provision and an affirmative defense if the person giving or distributing the drugs did so as an accommodation, stayed with the person overdosing, seeks medical help, identifies himself to law enforcement, and cooperates in the criminal investigation.

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

### **HISTORY**

12/21/15 Senate: Referred to Committee for Courts of Justice  
02/01/16 Senate: Continued to 2017 in Courts of Justice (15-Y 0-N)





## HB 754

### Increasing the penalty for certain misdemeanor offenses related to domestic violence or stalking

Introduced by: Robert B. Bell et al.

#### SUMMARY AS PASSED HOUSE:

Punishes a misdemeanor offense of violating a protective order, assault and battery against a family or household member, or stalking as a Class 6 felony if the person charged had been previously convicted of any of these offenses, however punished, or assault or bodily wounding within the preceding 20 years if the victim of the prior and the instant offenses was the same.

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

#### HISTORY

02/16/16 House: Passage (96-Y 2-N)  
02/17/16 Senate: Referred to Committee for Courts of Justice  
02/24/16 Senate: Reported from Courts of Justice with substitute (14-Y 0-N)  
02/24/16 Senate: Rereferred to Finance  
03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)



## HB 765

**Expanding what may be counted to elevate a third assault and battery against a family or household member to a Class 6 felony to include prior dismissals**

Introduced by: C. Todd Gilbert

### **SUMMARY AS PASSED HOUSE:**

Provides that the deferral and dismissal of a first offense of assault and battery against a family or household member will be treated as a prior conviction for the purpose of determining whether a person is eligible for the enhanced Class 6 felony penalties for stalking or assault and battery against a family or household member that apply based on a person's prior convictions.

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

### **HISTORY**

02/16/16 House: Passage (99-Y 0-N)  
02/17/16 Senate: Referred to Committee for Courts of Justice  
02/24/16 Senate: Reported from Courts of Justice (14-Y 1-N)  
02/24/16 Senate: Rereferred to Finance  
03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)



## HB 625

### Abduction of minors for the purpose of prostitution

Introduced by: Robert B. Bell

#### SUMMARY AS PASSED HOUSE:

Expands the class of minors who may be the victim of the crime of abduction of a minor for the purpose of concubinage or prostitution, a crime punishable as a Class 2 felony, from minors under 16 years of age to all minors. Any person convicted of this offense is also required to register with the state's Sex Offender and Crimes against Minors Registry.

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

#### HISTORY

02/16/16 House: Block Vote Passage (99-Y 0-N)  
02/17/16 Senate: Referred to Committee for Courts of Justice  
02/24/16 Senate: Reported from Courts of Justice with substitute (15-Y 0-N)  
02/24/16 Senate: Rereferred to Finance  
03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)



## HB 1317

### Penalty relating to sexual abuse of certain children

Introduced by: [Benjamin L. Cline](#)

#### SUMMARY AS PASSED HOUSE:

Provides that an adult who sexually abuses a child who is 13 or 14 years old where such act is accomplished by ruse is guilty of aggravated sexual battery, a felony punishable by a sentence of not less than one nor more than 20 years.

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

#### HISTORY

- 02/16/16 House: Block Vote Passage (99-Y 0-N)
- 02/17/16 Senate: Referred to Committee for Courts of Justice
- 02/22/16 Senate: Reported from Courts of Justice with substitute (14-Y 0-N)
- 02/22/16 Senate: Rereferred to Finance
- 03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)



## HB 809

### Expanding the offense of selling, etc., a firearm to certain individuals

Introduced by: L. Scott Lingamfelter

#### SUMMARY AS PASSED HOUSE:

Provides that the crime of selling, bartering, giving, or furnishing or possessing with the intent to sell, etc., a firearm to a person knowing that such person is prohibited from possessing or transporting a firearm because he is not a citizen of the United States and is not lawfully admitted for permanent residence. Currently, this prohibition only applies to non-citizens who are not lawfully present in the United States.

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

#### HISTORY

02/12/16 House: Block Vote Passage (99-Y 0-N)  
02/15/16 Senate: Referred to Committee for Courts of Justice  
02/24/16 Senate: Reported from Courts of Justice (15-Y 0-N)  
02/24/16 Senate: Rereferred to Finance  
03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)



## **SB 546**

### **Prohibiting possession or transportation of firearms following convictions for certain misdemeanors**

Introduced by: Barbara A. Favola

#### **SUMMARY AS INTRODUCED:**

Prohibits a person who has been convicted of misdemeanor sexual battery or assault and battery where the victim is a family or household member from purchasing, possessing or transporting a firearm. A person who violates this provision is guilty of a Class 1 misdemeanor.

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

#### **HISTORY**

01/13/16 Senate: Referred to Committee for Courts of Justice

01/27/16 Senate: Continued to 2017 in Courts of Justice (14-Y 0-N)

**SB 23: Increasing threshold for grand larceny and certain property crimes to \$500**

Introduced by: Bryce E. Reeves et al.

**SUMMARY AS PASSED SENATE:**

Increases from \$200 to \$500 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes. This bill incorporates SB 177 (Surovell), SB 226 (Lucas), and SB 235 (Petersen).

**VCSC Fiscal Impact:** Not Required

**History:**

01/28/16 Senate: Passed Senate (26-Y 14-N)  
02/03/16 House: Referred to Committee for Courts of Justice  
02/16/16 House: Assigned Courts sub: Criminal Law  
02/22/16 House: Subcommittee recommends laying on the table by voice vote  
03/08/16 House: Left in Courts of Justice

**SB 310: Increasing threshold for grand larceny and certain property crimes to \$1,500**

Introduced by: A. Donald McEachin et al.

**SUMMARY AS INTRODUCED:**

Increases from \$200 to \$1,500 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes.

**VCSC Fiscal Impact:** Not Required

**History:**

01/08/16 Senate: Referred to Committee for Courts of Justice  
02/17/16 Senate: Left in Courts of Justice



## HB 602

### Expanding petit larceny third to include certain prior offenses

Introduced by: Robert B. Bell

#### **SUMMARY AS PASSED HOUSE:**

Provides that, if it is alleged in the warrant, indictment, or information that a person had previously been convicted of larceny or any offense deemed to be or punished as larceny, robbery, or carjacking, such person shall, upon conviction for larceny or any offense deemed larceny, receive a jail sentence of at least 30 days or, if two or more prior offenses are alleged, be guilty of a Class 6 felony. Currently, only prior offenses of larceny or any offense deemed as larceny are considered for purposes of applying the enhanced penalty.

**VCSC FISCAL IMPACT:** \$76,852 (2 prison beds)

#### **HISTORY**

02/16/16 House: Passage (90-Y 8-N)  
02/17/16 Senate: Referred to Committee for Courts of Justice  
02/22/16 Senate: Reported from Courts of Justice (13-Y 1-N)  
02/22/16 Senate: Rereferred to Finance  
03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)





## HB 922

### **Increasing the penalty for committing computer trespass on a government or utilities computer to a Class 6 felony**

Introduced by: T. Montgomery Mason

#### **SUMMARY AS PASSED HOUSE:**

Increases the Class 1 misdemeanor computer trespass crimes to a Class 6 felony if the computer targeted is one that is exclusively for the use of, or used by or for, the Commonwealth of Virginia, a local government within the Commonwealth, or certain public utilities.

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

#### **HISTORY**

02/16/16 House: Block Vote Passage (99-Y 0-N)  
02/17/16 Senate: Referred to Committee for Courts of Justice  
02/24/16 Senate: Reported from Courts of Justice with substitute (9-Y 0-N)  
02/24/16 Senate: Rereferred to Finance  
03/02/16 Senate: Continued to 2017 in Finance (15-Y 0-N)



## HB 794

### **Eliminating the death penalty for defendants who had a severe mental illness at the time of the offense**

Introduced by: James A. Leftwich and Joseph R. Yost

#### **SUMMARY AS INTRODUCED:**

Provides that a defendant in a capital case who had a severe mental illness at the time of the offense (as defined in the bill) is not eligible for the death penalty. The bill establishes procedures and provides for the appointment of expert evaluators. When the defendant's severe mental illness is at issue, a determination will be made by the jury, or by the judge in a bench trial, as part of the sentencing proceeding, and the defendant bears the burden of proving his severe mental illness by a preponderance of the evidence.

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

#### **HISTORY**

- 01/12/16 House: Referred to Committee for Courts of Justice
- 02/12/16 House: Assigned Courts sub: Criminal Law
- 02/12/16 House: Subcommittee recommends laying on the table  
by voice vote
- 02/12/16 House: Continued to 2017 in Courts of Justice by voice vote



## HB 1031

### Requiring the Parole Board to release certain inmates

Introduced by: Mark D. Sickles

#### SUMMARY AS INTRODUCED:

Requires the Parole Board to release any person under consideration for and seeking parole for whom the Virginia Criminal Sentencing Commission has already determined, or who otherwise demonstrates, that his time-served has exceeded the midpoint of the sentencing guidelines. The bill authorizes the Board to defer such release if there is substantial risk of serious criminal conduct or an inadequate release plan, in which case the Board is required to issue a reasoned decision explaining the basis for such deferral.

**VCSC FISCAL IMPACT:** Not Required

#### HISTORY

- 01/13/16 House: Referred to Committee on Militia, Police and Public Safety
- 01/27/16 House: Assigned MPPS sub: #2
- 01/28/16 House: Subcommittee recommends laying on the table by voice vote
- 02/16/16 House: Left in Militia, Police and Public Safety



## **SB 94**

### **Sentence modification for juvenile offenders**

Introduced by: David W. Marsden and Barbara A. Favola

#### **SUMMARY AS INTRODUCED:**

Provides a mechanism for a person convicted of a nonhomicide offense committed on or after January 1, 1995, while the person was a juvenile, and who is sentenced to life or a term of confinement that would be completed after his 60th birthday, to petition for a modification of sentence at age 35 or after serving 20 years of the sentence, whichever occurs later.

**VCSC FISCAL IMPACT:** Not Required

#### **HISTORY**

12/22/15 Senate: Referred to Committee for Courts of Justice

02/08/16 Senate: Passed by indefinitely in Courts of Justice (12-Y 2-N)

**SB 223: New sentencing hearing for jury cases following the abolition of parole**

Introduced by: A. Donald McEachin et al.

**SUMMARY AS INTRODUCED:**

Provides that a person who 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), in which the Court held that a jury should be instructed on the fact that parole has been abolished, for a noncapital felony committed after the abolition of parole (January 1, 1995) is entitled to a new sentencing proceeding if such person is still incarcerated. The bill provides that such person shall file a petition for a new sentencing proceeding with the Court of Appeals, which shall direct the circuit court in which the order of conviction was originally entered to empanel a new jury for the purposes of conducting the new sentencing proceeding and notify the appropriate attorney for the Commonwealth.

**VCSC Fiscal Impact:** Not Required

**History:**

- 01/05/16 Senate: Referred to Committee for Courts of Justice
- 02/01/16 Senate: Failed to report (defeated) in Courts of Justice (6-Y 8-N)

**SB 216: Limitation on the application of parole statutes**

Introduced by: David W. Marsden

**SUMMARY AS PASSED SENATE:**

Provides that an incarcerated person who was sentenced by a jury prior to June 9, 2000 for a felony that is not a violent offense is eligible for parole if the offense was committed on or after January 1, 1995 and the jury was not instructed on the abolition of parole. June 9, 2000 is the date of the Supreme Court of Virginia decision in *Fishback v. Commonwealth*, 260 Va. 104, in which the Court held that a jury should be instructed on the fact that parole has been abolished.

**VCSC Fiscal Impact:** Not Required

**History:**

- 02/12/16 Senate: Passed Senate (30-Y 9-N)
- 02/17/16 House: Referred to Committee for Courts of Justice
- 02/17/16 House: Assigned Courts sub: Criminal Law
- 02/22/16 House: Subcommittee recommends laying on the table by voice vote
- 03/08/16 House: Left in Courts of Justice

HB 390 (Lindsey) also allowed for parole in limited circumstances.  
02/16/16 House: Left in Courts of Justice



**Legislation Relating to the  
Sentencing Commission  
2016 General Assembly**

16100014D

**HOUSE JOINT RESOLUTION NO. 64**

Offered January 13, 2016

Prefiled January 5, 2016

*Confirming the appointment by the Chief Justice of the Supreme Court of Virginia of the Chairman of the Virginia Criminal Sentencing Commission.*

\_\_\_\_\_  
Patron—Albo

\_\_\_\_\_  
Referred to Committee for Courts of Justice

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointment made by Chief Justice Donald W. Lemons of the Supreme Court of Virginia pursuant to § 17.1-802 of the Code of Virginia:

**The Honorable Edward L. Hogshire**, Judge (retired), Circuit Court of the City of Charlottesville, 100 North Ninth Street, Fifth Floor, **Richmond**, Virginia 23219, Chairman of the Virginia Criminal Sentencing Commission, to serve an unexpired term beginning February 25, 2015, and ending December 31, 2016, to succeed the Honorable F. Bruce Bach.

**HISTORY**

01/21/16 House: Vote: Adoption (95-Y 0-N)

02/29/16 Senate: Reported from Courts of Justice (14-Y 0-N)

03/02/16 Senate: Agreed to by Senate (39-Y 0-N)

16102659D

**HOUSE JOINT RESOLUTION NO. 325**

Offered February 18, 2016

*Commending the Honorable H. F. Haymore, Jr.*

Patrons—Marshall, D.W., Adams and Poindexter; Senators: Deeds, Ruff and Stanley

WHEREAS, the Honorable H. F. Haymore, Jr., court clerk for the 22nd Judicial Circuit of Virginia, retired in 2015 after 32 years of exceptional service to Pittsylvania County; and

WHEREAS, a native of Whitmell, H. F. Haymore began his career in the banking industry, becoming a senior vice president of First Federal Savings and Loan Association; he later owned Danville Casket Company, which he sold to a relative when he was elected as court clerk in 1983; and

WHEREAS, over the course of his distinguished career as court clerk, H. F. Haymore ran for reelection unopposed three times, served under five judges, and became the second longest-serving court clerk in the history of Pittsylvania County; and

WHEREAS, as court clerk, H. F. Haymore assisted with criminal and civil cases, as well as appeals from lower courts, and recorded land transfers, wills, financing statements, marriages, divorces, weapons permits, and hunting and fishing licenses; he also performed over 900 civil wedding ceremonies; and

WHEREAS, H. F. Haymore helped preserve the county's historical records, which date to 1767, and used technology to modernize the office and increase efficiency by installing a computerized case imaging system, reducing the size of deed books, and introducing new filing procedures; and

WHEREAS, respected in his field, H. F. Haymore became a certified circuit court clerk in 1998 and is a longtime member of the Virginia Court Clerks Association and the Virginia Association of Local Elected Constitutional Officers, of which he served as state president in 1995; and

WHEREAS, H. F. Haymore was appointed to the Governor's commission on the restoration of individual civil rights and currently serves on the Virginia Criminal Sentencing Commission; and

WHEREAS, H. F. Haymore has worked to enhance the community as a member of numerous civic and service organizations and supports local youth as an athletics coach for multiple teams; he was named Citizen of the Year by the Pittsylvania Chamber of Commerce in 1989; and

WHEREAS, after his well-earned retirement, H. F. Haymore plans to seek new opportunities to serve the community and spend more time with his wife, children, and grandchildren; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable H. F. Haymore, Jr., on the occasion of his retirement as court clerk for the 22nd Judicial Circuit of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable H. F. Haymore, Jr., as an expression of the General Assembly's admiration for his contributions to Pittsylvania County.





## **HB 608**

### **Extends sunset provision for immediate sanction probation programs**

Introduced by: Robert B. Bell

#### **SUMMARY AS PASSED:**

Extends the sunset provision on the establishment of immediate sanction probation programs, which provides for expedited proceedings for probation violations for certain nonviolent offenders, from July 1, 2016, to July 1, 2017.

**VCSC FISCAL IMPACT:** Not Required

#### **STATUS:**

03/01/16 Signed by Governor: Acts of Assembly Chapter 201

**BUDGET AMENDMENT:** Not Required



## **HB 1059**

### **VCSC to evaluate sentencing guidelines related to heroin distribution**

Introduced by: Robert B. Bell

#### **SUMMARY AS PASSED:**

Requests the Virginia Criminal Sentencing Commission to evaluate judge-sentencing and jury-sentencing patterns and practices in cases of manufacturing, selling, giving, distributing, or possessing with intent to manufacture, etc., heroin across the Commonwealth and recommend adjustments to the sentencing guidelines.

**VCSC FISCAL IMPACT:** Not Required

#### **STATUS:**

03/11/16 Signed by Governor: Acts of Assembly Chapter 399

**BUDGET AMENDMENT:** Not Required



## **HB 1105**

### **VCSC to study recidivism rate for certain released federal prisoners**

Introduced by: Robert B. Bell

#### **SUMMARY AS PASSED:**

Directs the Virginia Criminal Sentencing Commission to calculate annually the recidivism rate of federal prisoners released by the U.S. Bureau of Prisons whose sentences were retroactively reduced pursuant to changes in the federal sentencing guidelines for crimes committed by such prisoners in the Commonwealth. The Commission shall report the calculated recidivism rate to the Chairmen of the House and Senate Committees for Courts of Justice by December 31 of each year or, if the Commission was unable to acquire the necessary information to perform the calculation, the Commission shall report any information regarding such recidivism rate that the Commission was able to acquire. The bill has an expiration date of January 1, 2018.

**VCSC FISCAL IMPACT:** Not Required

#### **STATUS:**

03/11/16 Signed by Governor: Acts of Assembly Chapter 395

**BUDGET AMENDMENT:** Not Required



## HB 1298

### Requiring an adequate written explanation when a judge departs from the sentencing guidelines

Introduced by: Charniele L. Herring

#### **SUMMARY AS INTRODUCED:**

Requires the written explanation that the court must file with the record of a case when departing from the sentencing guidelines to adequately explain the sentence imposed to promote fair sentencing.

**VCSC FISCAL IMPACT:** Not Required

#### **HISTORY**

- 01/21/16 House: Referred to Committee for Courts of Justice
- 01/26/16 House: Assigned Courts sub: Criminal Law
- 01/29/16 House: Subcommittee recommends laying on the table by voice vote
- 02/16/16 House: Left in Courts of Justice
- 03/11/16 Letter sent to Sentencing Commission requesting review of bill and recommendations for 2017 Session



## HJ 79

### Directing JLARC to conduct of study of alternatives to incarceration related to Schedule I and II offenders

Introduced by: Charniele L. Herring

#### **SUMMARY AS PASSED:**

Directs the Joint Legislative Audit and Review Commission to study sentencing of Schedule I and II offenders and alternatives to incarceration.

**VCSC FISCAL IMPACT:** Not Required

#### **STATUS:**

01/07/16 House: Referred to Committee on Rules  
01/26/16 House: Assigned Rules sub: Studies  
01/28/16 House: Subcommittee recommends laying on the table by voice vote  
02/16/16 House: Left in Rules  
03/14/16 Letter sent to Sentencing Commission requesting review of bill and recommendations for 2017 Session

**BUDGET AMENDMENT:** Not Required



**Unless otherwise acted upon by the General Assembly, any recommendations contained in the Commission's Annual Report automatically take effect the following July 1.**

**No legislation was introduced during the 2016 General Assembly session pertaining to the recommendations contained in the Commission's 2015 Annual Report.**