



# Virginia Criminal Sentencing Commission

100 North Ninth Street • Richmond, Virginia 23219 • Tel.: 804.225.4398 • Fax: 804.786.3934

## Meeting of the Virginia Criminal Sentencing Commission

June 9, 2025

10:00 am – 12:00 pm

## Meeting held at the Virginia Supreme Court Building

### Meeting Minutes

Members Attending in Person: **Judge Dennis Hupp** (Chairman), **Judge Stacey Moreau** (Vice Chairman), **Judge Steven C. Frucci**, **Bethany Harrison**, **Judge Robert J. Humphreys**, **Judge Jack S. Hurley, Jr.**, **K. Scott Miles**, **Dr. Michon Moon**, **Nancy Parr**, **Senator Russet Perry**, **Judge Tania Saylor**, **Judge Bryant L. Sugg**, **Robert Tracci (for Theo Stamos)** and **Judge Victoria A.B. Willis**

Members Attending Virtually\*:

**Judge Jack S. Hurley** – Reason cited: Principal residence is more than 60 miles from the meeting location / Participation location: Tazewell, Va

Members Absent: **Delegate Rae C. Cousins** and **Marcus Elam**

### WELCOME

Before calling the meeting to order, Judge Hupp, Chairman, welcomed Commission members. The meeting commenced promptly at 10:00am.

### AGENDA

The meeting agenda is available at: <http://www.vcsc.virginia.gov/2025Meetings/MtgAgenda06092025.pdf>

### APPROVAL OF MINUTES FROM LAST COMMISSION MEETING

Minutes from the meeting held on March 24, 2025, were approved as submitted. The minutes are available at: <http://www.vcsc.virginia.gov/2025Meetings/MinutesMar242025.pdf>

### CLOSED SESSION

Judge Moreau moved that the Virginia Criminal Sentencing Commission enter a closed session to discuss personnel matters and receive legal advice concerning the acting Executive Director of this body. Judge Humphreys seconded the motion. The Commission then convened in closed session. Upon returning to open session, Judge Moreau affirmed that the members had discussed only the matters identified in the motion to enter the closed session.

During the closed session, the commission unanimously approved (12-0) the appointment of Jody Fridley as acting Executive Director effective September 1, 2025. Judge Hupp, Judge Moreau, Judge Frucci, Bethany Harrison, Judge Humphreys, Judge Hurley, Nancy Parr, Senator Perry, Judge Saylor, Robert Tracci, Judge Sugg and Judge Willis voted in favor. Scott Miles abstained from voting because he did not participate in the closed session.

## **HOUSE BILL 2456 – REVIEW of § 17.1-805**

Presentation link: <http://www.vcsc.virginia.gov/2025Meetings/17.1-805Review060925.pdf>

Ms. Farrar-Owens, the Commission's Director, said House Bill 2456 would have amended § 17.1-805 to add and remove a number of crimes from the list of offenses defined as violent. At our last meeting, the Commission postponed action on this topic until this meeting. She summarized a letter from Senator Surovell. The letter was included in the member's packet. The request is for the Commission to review §§ 17.1-805(C) and 19.2-297.1 of the *Code of Virginia* to determine whether amendments are needed. Specifically, the review should consider whether to consolidate the two existing lists of violent felonies into one, and whether any crimes should be added to or removed from either list. The review should also take into account Delegate Cherry's proposed bill, HB2456, from the 2025 Session. Senator Surovell asks whether the Commission can complete this project and provide recommendations by November 1, 2025, and whether any additional information is needed.

Mr. Fridley, the Commission's Deputy Director, provided an overview of [House Bill 2456](#). One concern raised at the last meeting was the existence of three separate statutes that define violent offenses. These include § 17.1-805, which addresses the adoption of initial discretionary sentencing guideline midpoints; § 19.2-297.1, which pertains to the sentencing of a person who has been twice previously convicted of certain violent felonies; and § 53.1-40.02, which relates to the conditional release of terminally ill prisoners. A handout was provided to the members that contained a review of all three statutes. Staff provided a comparative analysis of violent offenses related to existing legislation and potential changes. Changes to these lists may have wide-ranging impacts on eligibility for early release, program participation, or sentence enhancements. §§ 17.1-805, 19.2-297.1, and 53.1-40.02 are referenced in several statutes. A change to the code sections will impact more than the scores on the discretionary Guidelines.

Based on the comments of the members, it was proposed that the discussion with Delegate Cherry in September include available data for the members to consider. Judge Moreau suggested that a report draft addressing Senator Surovell's letter should be available before the September meeting. Senator Perry asked if the staff could gather data on judges' sentencing patterns related to the specified statutes to provide insights for the General Assembly. Ms. Harrison made a motion to use the list provided to the members for the General Assembly. A Commission member seconded the motion. Senator Perry made a substitute motion that the staff add information about sentencing guidelines practices related to the relevant statutes (§§ 17.1-805 and 19.2-297.1). Judge Humphreys seconded the motion. With no further discussion, the Commission voted 8-5 in favor.

The staff was asked to compile and review additional information regarding violent offenses and their definitions before the meeting. The staff will prepare a report that includes distinctions between the midpoint enhancement purposes of the relevant statutes (§§ 17.1-805 and 19.2-297.1). The data will be presented at the September 3 meeting.

## **STUDY OF LARCENY AND FRAUD GUIDELINES**

Presentation link: <http://www.vcsc.virginia.gov/2025Meetings/LarFrdStudy060925.pdf>

Mr. Barnes, Research Associate, began by stating that the goal of this project is to reanalyze larceny and fraud cases and revise the corresponding Sentencing Guidelines worksheets. Eligible cases will be drawn from the FY2021 through FY2025 Sentencing Guidelines database. Certain cases will be excluded from the study, including those with a primary offense date prior to July 1, 2020, as they may not meet the current \$1,000 felony threshold, and cases involving petit larceny 3rd or subsequent offenses, which were reclassified and are no longer considered felonies following action by the 2021 General Assembly.

After applying these exclusions, 8,389 cases remain eligible for analysis—of these, 67.2% involve larceny offenses and 32.8% involve fraud offenses. To support the analysis, supplemental criminal history information will be requested from the Virginia State Police and, if approved, from the FBI.

He concluded his part of the presentation by saying that programming will be conducted to link criminal history data to Guidelines data for corresponding cases and to construct prior record variables. This will involve exploratory work such as generating crosstabs and descriptive statistics. Logistic regression will be used to examine the No Incarceration/Incarceration decision, while ordinary least squares (OLS) regression was applied to analyze the Length of Incarceration decision. These analyses aimed to identify which factors significantly influence sentencing outcomes. The effects of those factors will then translate into scores on the Larceny and Fraud worksheets.

Dr. Chang Kwon, the Commission's Chief Methodologist, discussed the Nonviolent Offender Risk Assessment instrument that has been incorporated into the Larceny and Fraud Guidelines since 2001. The instrument is required by § 17.1-803. There is a need to revisit the Nonviolent Offender Risk Assessment (NVRA) instrument due to several developments since the last re-validation study. Some Fraud and Larceny felony offenses are now affected by changes in the felony threshold, which increased from \$200 to \$500 in 2018 and from \$500 to \$1,000 in 2020. Additionally, the COVID-19 pandemic significantly impacted court operations and judicial practices. These factors, along with the potential emergence of new patterns or practices, suggest that the NVRA may require updating to remain accurate and relevant.

The case selection approach identifies current Larceny and Fraud offenders using the most recent data. These offenders are then matched with individuals from earlier data who share very similar characteristics. This method allows for a follow-up study that reflects the current cohort of offenders while enabling meaningful comparisons over time.

Dr. Kwon concluded the presentation by saying that, the next steps involve obtaining complete criminal history records for the matched offenders. Multivariate regression analyses will then be conducted to identify significant legal and extra-legal factors associated with felony recidivism—defined as a new offense committed within three years of returning to the community that results in a felony conviction. Based on these results, a risk assessment worksheet will be created, with scores reflecting both the factors identified and their relative importance as determined by the statistical model.

#### **FEE WAIVERS FOR TRAINING AND MANUALS**

Presentation link: <http://www.vcsc.virginia.gov/2023Meetings/FeeWaivers6092025.pdf>

Mr. Jody Fridley, the Commission's Deputy Director, provided a brief overview of the Commission's fee waiver program. While the Commission provides free Guidelines manuals and training to government employees, such as Commonwealth's attorneys, probation officers and public defenders, the Commission charges private defense attorneys, including court-appointed attorneys and law school students, for manuals and training seminars. Applications for fee waivers are evaluated based on the percentage of the applicant's practice focusing on indigent defense cases and the financial need of an applicant (especially for new or solo practitioners and law school students). Mr. Fridley presented the current application and scoring sheet, previously approved by the Commission, and shared the FY2025 program report detailing applicant profiles and waiver approvals. He asked the Commission to consider funding the program for FY2026 and whether any changes were needed to the application process or evaluation criteria.

Ms. Parr made a motion to approve \$5,000 in funding for FY2026 fee waivers—the same amount as allocated in FY2025. It was seconded. With no further discussion, the Commission voted 12-0 in favor.

## **TRAINING AND NEW WEBSITE UPDATE**

Presentation link: <http://www.vcsc.virginia.gov/2025Meetings/TrainingWebUpdate060925.pdf>

Ms. Thomas, Training Associate, presented the most recent training schedule. The majority of the participants were expected to be probation officers, followed by Commonwealth's attorneys. The Introduction seminars provide general background information about guidelines and then progress to detailed instruction for scoring the guidelines worksheets. The seminar is designed for the attorney or criminal justice professional who is new to Virginia's sentencing guidelines. All classes are approved for Continuing Legal Education (CLE) credits.

She continued by saying that we are working on a fresh new look for our website. The updated design offers a more modern appearance, simplified navigation, and an overall improved user experience. Although the layout has been redesigned, all previously available content and resources remain intact and are more easily accessible. This update demonstrates our ongoing commitment to usability, accessibility, and keeping our site current.

## **MISCELLANEOUS ITEMS**

Ms. Farrar-Owens reported that Senator Perry introduced a Senate Joint Resolution honoring the Commission on its 30th anniversary. The resolution was taken up on April 2, with all forty senators signing on as co-patrons, and sections of the resolution were read.

Judge Hupp announced that Meredith Farrar-Owens was selected as the recipient of the Richard P. Kern Memorial Award for 2025 from the National Association of Sentencing Commissions (NASC). The award was named after Richard P. Kern, the former Director of the Virginia Criminal Sentencing Commission. The award recognizes an individual who has contributed greatly to the development of sentencing policy and research. She will receive the award at the upcoming NASC conference in Madison, Wisconsin.

Ms. Farrar-Owens advised that the National Association of Sentencing Commissions (NASC) will hold its 2025 conference in Madison, Wisconsin, on August 11–12. She invited any members interested in attending to contact her directly.

Finally, Ms. Farrar-Owens reminded members of the remaining 2025 meeting dates: September 3 and November 6.

## **PUBLIC COMMENT**

No member of the public wished to provide comment.

With no comments and there being no further business, the Commission adjourned at 12:30p.m.

## **Sentencing Commission Meeting Recording**

### **NEXT VCSC MEETING:**

Tentative Date: Wednesday, September 3, 2025

Time: 10:00 a.m.

Members of the public may request remote access or sign up for public comment by sending an e-mail to: [Cwilliamson@vacourts.gov](mailto:Cwilliamson@vacourts.gov).

Respectfully submitted by:

Carolyn Williamson, Research Associate

Minutes Reviewed by:

Meredith Farrar-Owens, Director