

25102410D

1 **HOUSE BILL NO. 2456**

2 Offered January 13, 2025

3 Prefiled January 8, 2025

4 *A BILL to amend and reenact § 17.1-805 of the Code of Virginia, relating to discretionary sentencing*
5 *guideline midpoints; violent felony offenses.*

6 Patron—Cherry

7 Referred to Committee for Courts of Justice

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 17.1-805 of the Code of Virginia is amended and reenacted as follows:**
10 **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**11 A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which shall
12 become effective on January 1, 1995. The initial recommended sentencing range for each felony offense shall
13 be determined first, by computing the actual time-served distribution for similarly situated offenders, in terms
14 of their conviction offense and prior criminal history, released from incarceration during the base period of
15 calendar years 1988 through 1992, increased by 13.4 percent, and second, by eliminating from this range the
16 upper and lower quartiles. The midpoint of each initial recommended sentencing range shall be the median
17 time served for the middle two quartiles and subject to the following additional enhancements:18 1. The midpoint of the initial recommended sentencing range for first degree murder, second degree
19 murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual
20 battery shall be further increased by (i) 125 percent in cases in which the defendant has no previous
21 conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously been
22 convicted of a violent felony offense punishable by a maximum punishment of less than 40 years; or (iii) 500
23 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable
24 by a maximum punishment of 40 years or more, except that the recommended sentence for a defendant
25 convicted of first degree murder who has previously been convicted of a violent felony offense punishable by
26 a maximum term of imprisonment of 40 years or more shall be imprisonment for life;27 2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery,
28 aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or statutory
29 burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any statutory
30 burglary committed while armed with a deadly weapon shall be further increased by (i) 100 percent in cases
31 in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in
32 which the defendant has previously been convicted of a violent felony offense punishable by a maximum
33 term of imprisonment of less than 40 years, or (iii) 500 percent in cases in which the defendant has previously
34 been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or
35 more;36 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or
37 distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled
38 substance, shall be increased by (i) 200 percent in cases in which the defendant has previously been convicted
39 of a violent felony offense punishable by a maximum punishment of less than 40 years or (ii) 400 percent in
40 cases in which the defendant has previously been convicted of a violent felony offense punishable by a
41 maximum term of imprisonment of 40 years or more; and42 4. The midpoint of the initial recommended sentencing range for felony offenses not specified in
43 subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously been
44 convicted of a violent felony offense punishable by a maximum punishment of less than 40 years and by 300
45 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable
46 by a maximum term of imprisonment of 40 years or more.47 B. For purposes of this chapter, previous convictions shall include prior adult convictions and juvenile
48 convictions and adjudications of delinquency based on an offense which would have been at the time of
49 conviction a felony if committed by an adult under the laws of any state, the District of Columbia, or the
50 United States or its territories.51 C. For purposes of this chapter, violent felony offenses shall include any felony violation of § 16.1-253.2;
52 solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2,
53 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of § 18.2-40 or 18.2-41; any
54 violation of clause (c)(i) or (ii) of subsection B of § 18.2-46.3; any violation of § 18.2-46.5, 18.2-46.6, or
55 18.2-46.7; any *Class 2 or Class 5* felony violation of § 18.2-47; any felony violation of § 18.2-48, 18.2-48.1,
56 or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.6, 18.2-51.7,

INTRODUCED

HB2456

59 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, ~~or~~ 18.2-55, or 18.2-55.1; any violation of
60 subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or 18.2-58.1; any
61 felony violation of § 18.2-60.1, ~~18.2-60.3~~, or 18.2-60.4; any violation of § 18.2-61; any Class 4 felony
62 violation of § 18.2-63; any violation of § 18.2-64.1, 18.2-64.2, 18.2-67.1, or 18.2-67.2; any violation of
63 former § 18.2-67.2:1; any violation of § 18.2-67.3; any violation of subsection A of § 18.2-67.4:1; any
64 violation of § 18.2-67.5, ~~or~~; any violation of § 18.2-67.5:1 involving a third conviction of either sexual
65 battery in violation of § 18.2-67.4 or attempted sexual battery in violation of subsection C of § 18.2-67.5; any
66 Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-67.4:1; any violation of
67 subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of §
68 18.2-80; any violation of § 18.2-85; any Class 3 felony violation of § 18.2-89; any violation of § 18.2-90; or
69 18.2-91; any Class 2 felony violation of § 18.2-92, ~~or~~; any violation of § 18.2-93; any violation of §
70 18.2-144.1 when the animal is killed or rendered permanently unable to perform its duties; any Class 3
71 felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4 felony violation of §
72 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of §
73 18.2-279 involving an occupied dwelling; any felony violation of subsection A or B of § 18.2-280; any
74 violation of § 18.2-281; any felony violation of subsection A of § 18.2-282; any felony violation of §
75 18.2-282.1; any violation of § 18.2-286.1, ~~18.2-287.2~~, 18.2-289, or 18.2-290; any violation of subsection A of
76 § 18.2-300; any felony violation of subsection C of § 18.2-308.1 or § 18.2-308.2; any violation of §
77 18.2-308.2:1 or subsection M or N of § 18.2-308.2:2; any violation of § 18.2-308.3, 18.2-308.5, 18.2-308.5:1,
78 or 18.2-312; any former felony violation of § 18.2-346; any felony violation of § 18.2-346.01, 18.2-348, or
79 18.2-349; any violation of § 18.2-355; except violations of subdivision (1) that do not involve force, threat, or
80 coercion; any violation of § 18.2-356, 18.2-357, or 18.2-357.1; any violation of former § 18.2-358; any
81 violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366 involving a minor or
82 force, threat, or coercion; any violation of § 18.2-368; any felony violation of § 18.2-369 resulting in serious
83 bodily injury or disease; any violation of § 18.2-370; or 18.2-370.1; any violation of subsection A of §
84 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of
85 or § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3 or 18.2-374.4; any
86 second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or
87 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or
88 18.2-433.2; any felony violation of § 18.2-460, ~~18.2-474.1~~, ~~or~~; any violation of § 18.2-477; any felony
89 violation of § 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480, 18.2-481, or 18.2-485; any
90 violation of § 37.2-917; any violation of § 52-48; any violation of subdivision 4, 7, or 8 of § 53.1-203; any
91 conspiracy or attempt to commit any offense specified in this subsection, or any substantially similar offense
92 under the laws of any state, the District of Columbia, or the United States or its territories.

93 **2. That the provisions of this act may result in a net increase in periods of imprisonment or
94 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
95 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;
96 therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal
97 Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the
98 Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for
99 periods of commitment to the custody of the Department of Juvenile Justice.**