

HOUSE BILL NO. 2456  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee for Courts of Justice  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Cherry)

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

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

1. That § 17.1-805 of the Code of Virginia is amended and reenacted as follows:

## § 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; and

42 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,  
57 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; any violation of subsection B of §  
58 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or 18.2-58.1; any felony violation of  
59 § 18.2-60.1; ~~18.2-60.3~~, or 18.2-60.4; any violation of § 18.2-61; any *Class 4* felony violation of § 18.2-63;

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

89 specified in this subsection, or any substantially similar offense under the laws of any state, the District of  
90 Columbia, or the United States or its territories.

91 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
92 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**  
93 **appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities; therefore,**  
94 **Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing**  
95 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of**  
96 **Virginia, the estimated amount of the necessary appropriation is \_\_\_\_\_ for periods of commitment to**  
97 **the custody of the Department of Juvenile Justice.**