



HJR 97: Indecent Liberties and Prostitution- Related Offenses Involving Children

September 8, 2010

Overview



- Study Authorization
- Indecent Liberties with Children
- Prostitution
- Child Prostitution
- Wage Withholding
- Human Trafficking Offenses
- Conclusions
- Discussion

Study Authorization



- House Joint Resolution 97 (indecent liberties and prostitution-related offenses involving children) was introduced by Delegate Bulova during the Regular Session of the 2010 General Assembly.
- The resolution specifically directs focus upon:
 - Indecent Liberties with Children;
 - Prostitution;
 - Child Prostitution;
 - Wage Withholding; and,
 - Human Trafficking Concerns.

Indecent Liberties with Children



- Specifically, it was resolved that the Crime Commission be directed to determine:
 - Why statutes prohibiting taking indecent liberties with children are not being utilized to their fullest extent;
 - To what extent fines are being assessed on those who violate the statutes prohibiting taking indecent liberties with children;
 - Best ways to ensure that statutes prohibiting taking indecent liberties with children are utilized to their fullest extent; and,
 - Need for legislative change or need to adjust state sentencing guidelines to ensure that these statutes are utilized to their fullest extent.

Indecent Liberties with Children



- Total Sentencing Events, § 18.2-370

§ 18.2-370	FY05	FY06	FY07	FY08	FY09	Total
Total Indecent Liberties Sentencing Events	94	103	137	146	128	1180
As Primary Offense	67	70	104	73	63	377
As Additional Offense	27	33	33	73	65	803

Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Note: Includes all Class 4 and 5 Felonies under this statute.

Indecent Liberties with Children



- Total Sentencing Events, 18.2-370.1

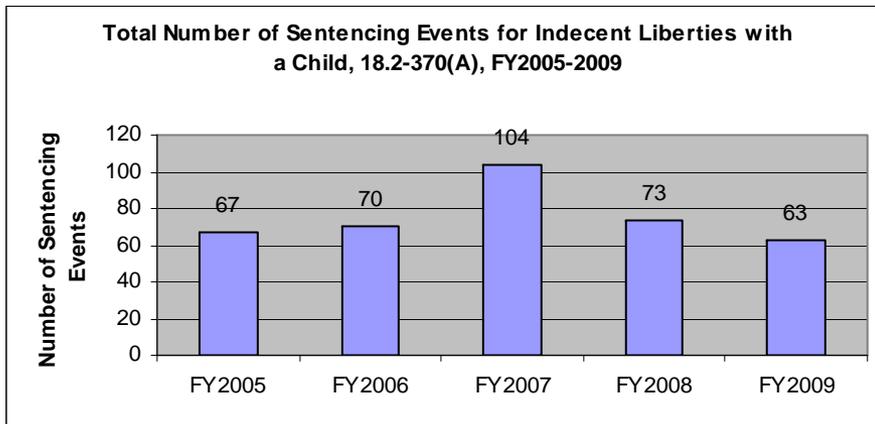
18.2-370.1	FY05	FY06	FY07	FY08	FY09	Total
Total Indecent Liberties Sentencing Events	96	117	88	89	102	836
As Primary Offense	59	69	62	49	60	502
As Additional Offense	37	48	26	40	42	334

Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database
 Note: Includes § 18.2-370.1(A) and (B) for "As Additional Offense"

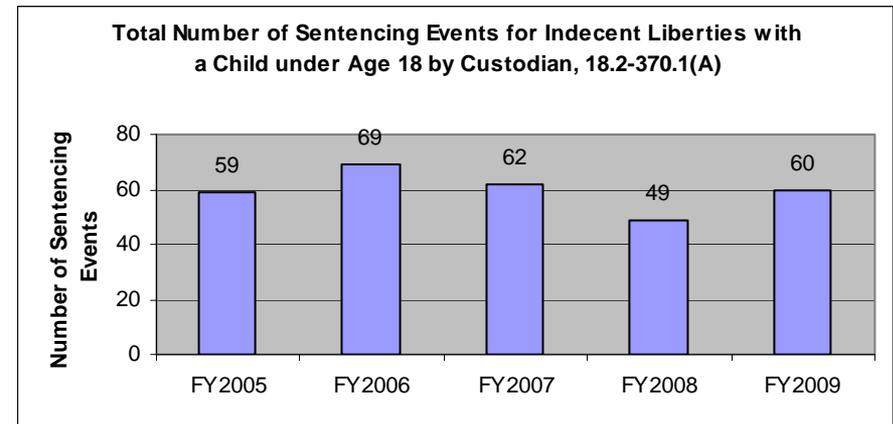
Indecent Liberties with Children



- § 18.2-370(A)
Sentencing Events



- § 18.2-370.1(A)
Sentencing Events



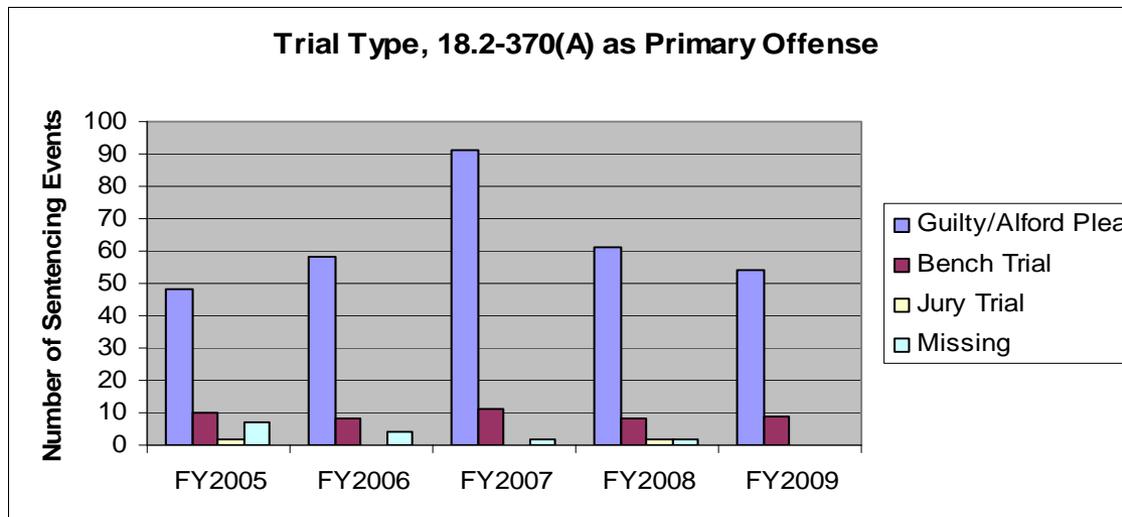
Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Note: This is for when § 18.2-370(A) and § 18.2-370.1(A) are listed as the PRIMARY offense.

Indecent Liberties with Children



- Type of Trial, § 18.2-370(A), FY05-09
 - 82.8% (312 of 377) Guilty/Alford Plea
 - 12.2% (46 of 377) Bench Trial
 - 1.1% (4 of 377) Jury Trial
 - 4.0% (15 of 377) Missing

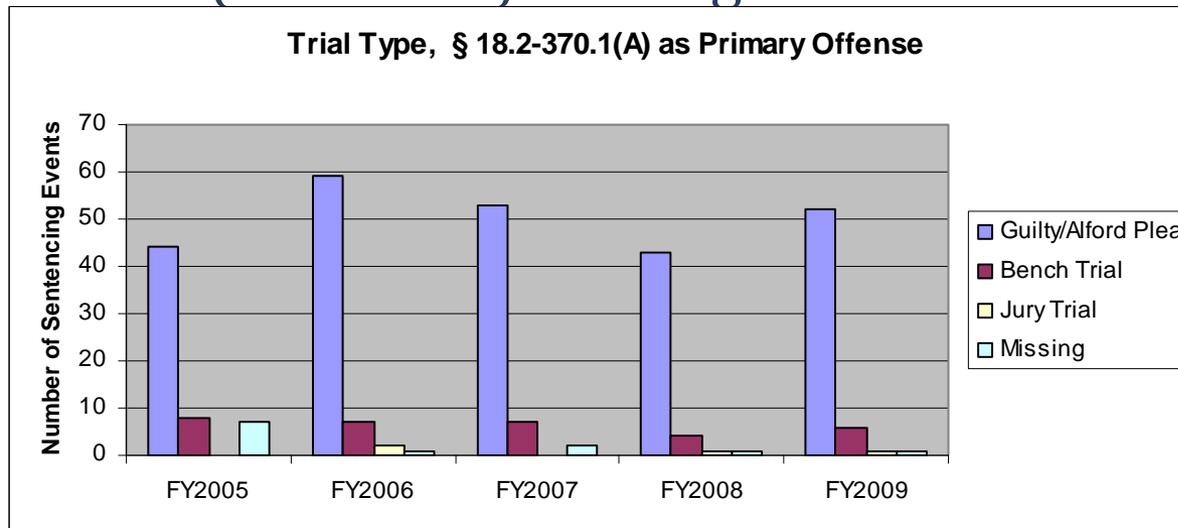


Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- Type of Trial, § 18.2-370.1(A), FY05-09
 - 83.9% (251 of 299) Guilty/Alford Plea
 - 10.7% (32 of 299) Bench Trial
 - 1.3% (4 of 299) Jury Trial
 - 4.0% (12 of 299) Missing

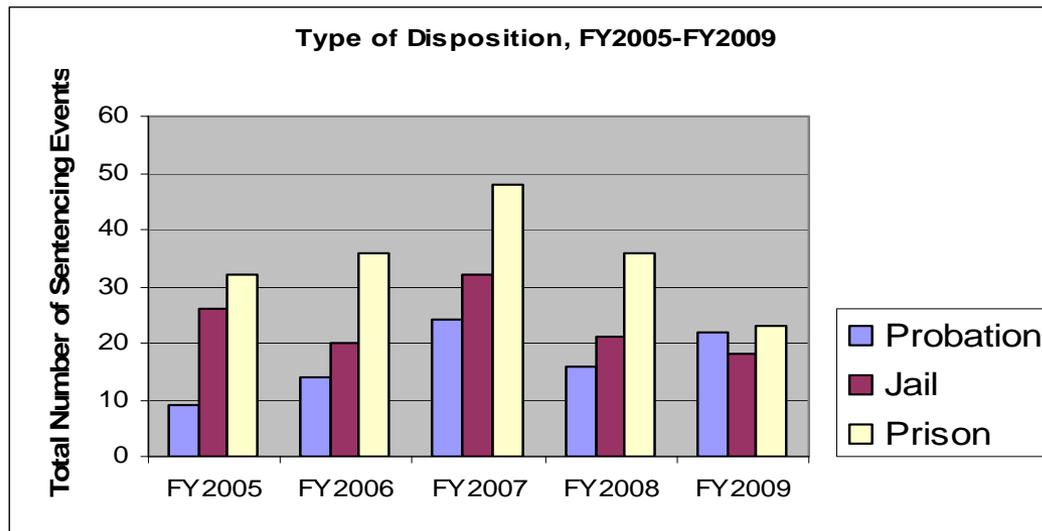


Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- Type of Disposition, § 18.2-370(A), FY05-09
 - 46.4% Prison (175 of 377)
 - 31.0% Jail (117 of 377)
 - 22.5% Probation (85 of 377)

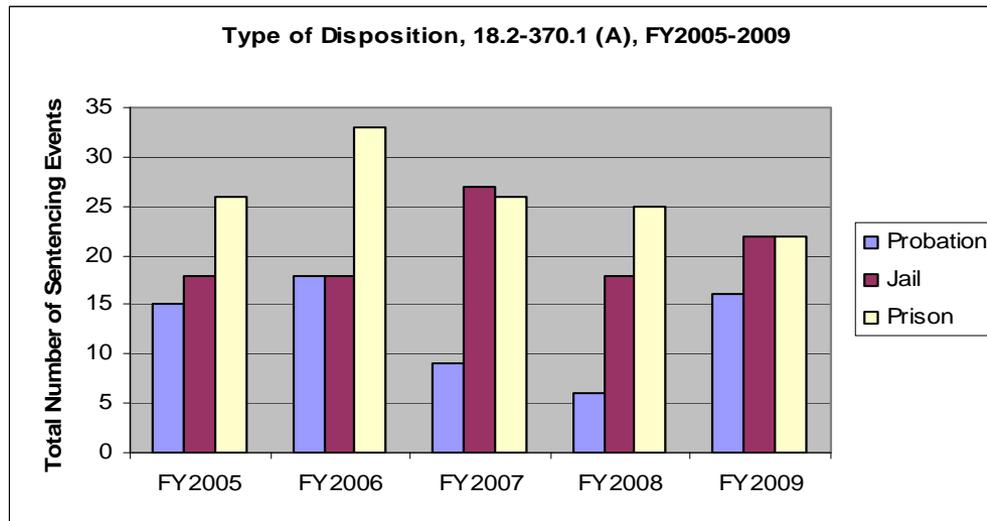


Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- Type of Disposition, § 18.2-370.1(A), FY05-09
 - 44.1% Prison (132 of 299)
 - 34.4% Jail (103 of 299)
 - 21.4% Probation (64 of 299)

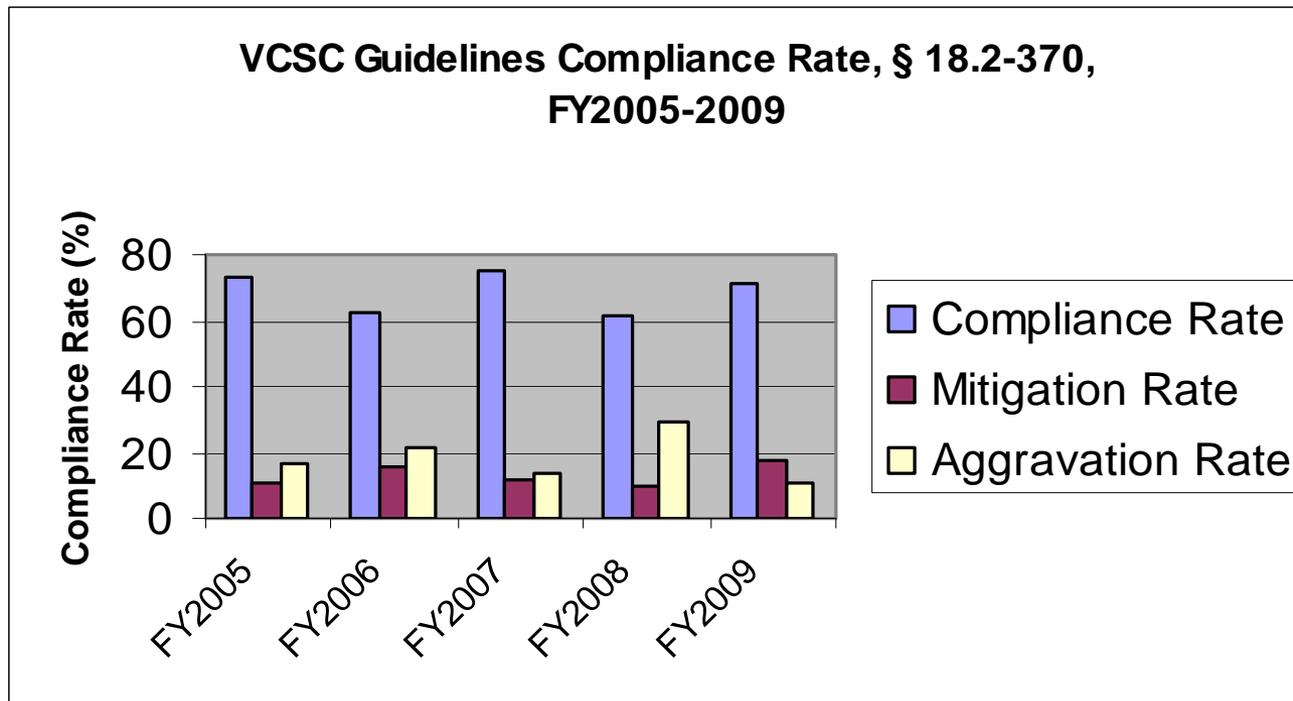


Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- VCSC Guidelines Compliance Rate, § 18.2-370(A)

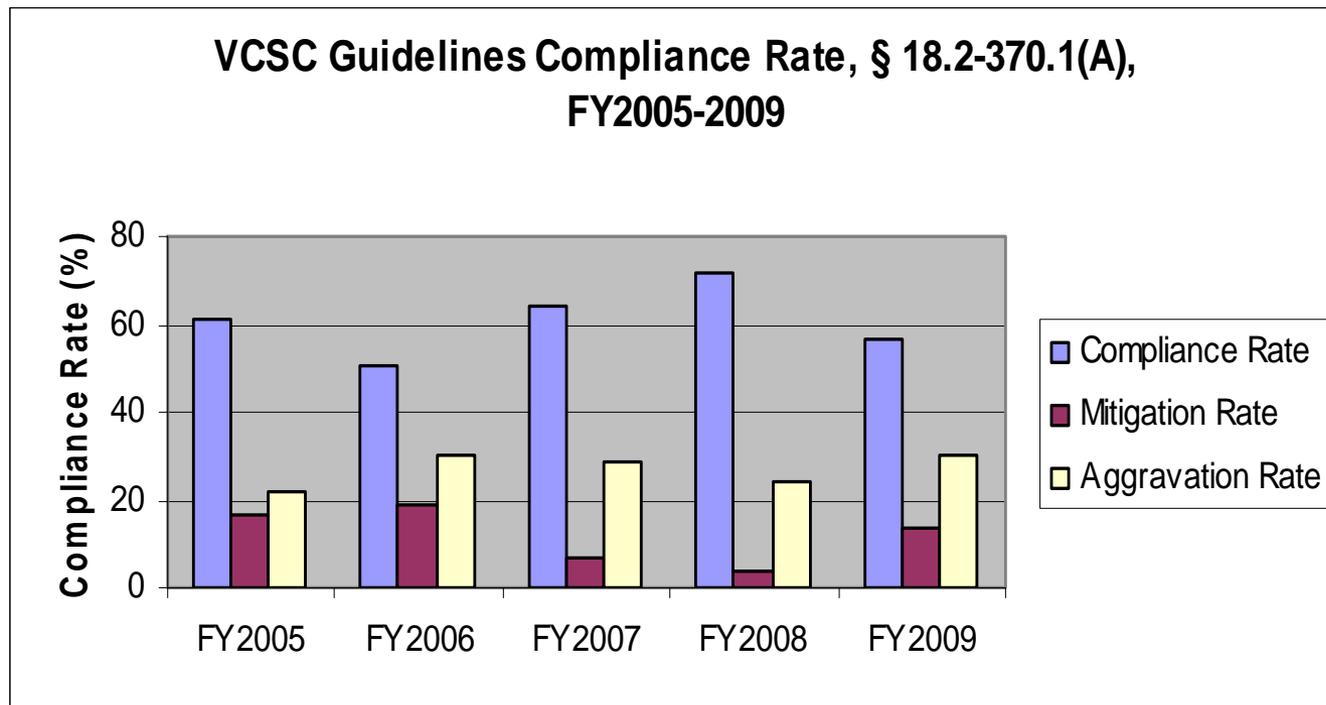


Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- VCSC Guidelines Compliance Rate, § 18.2-370.1(A)

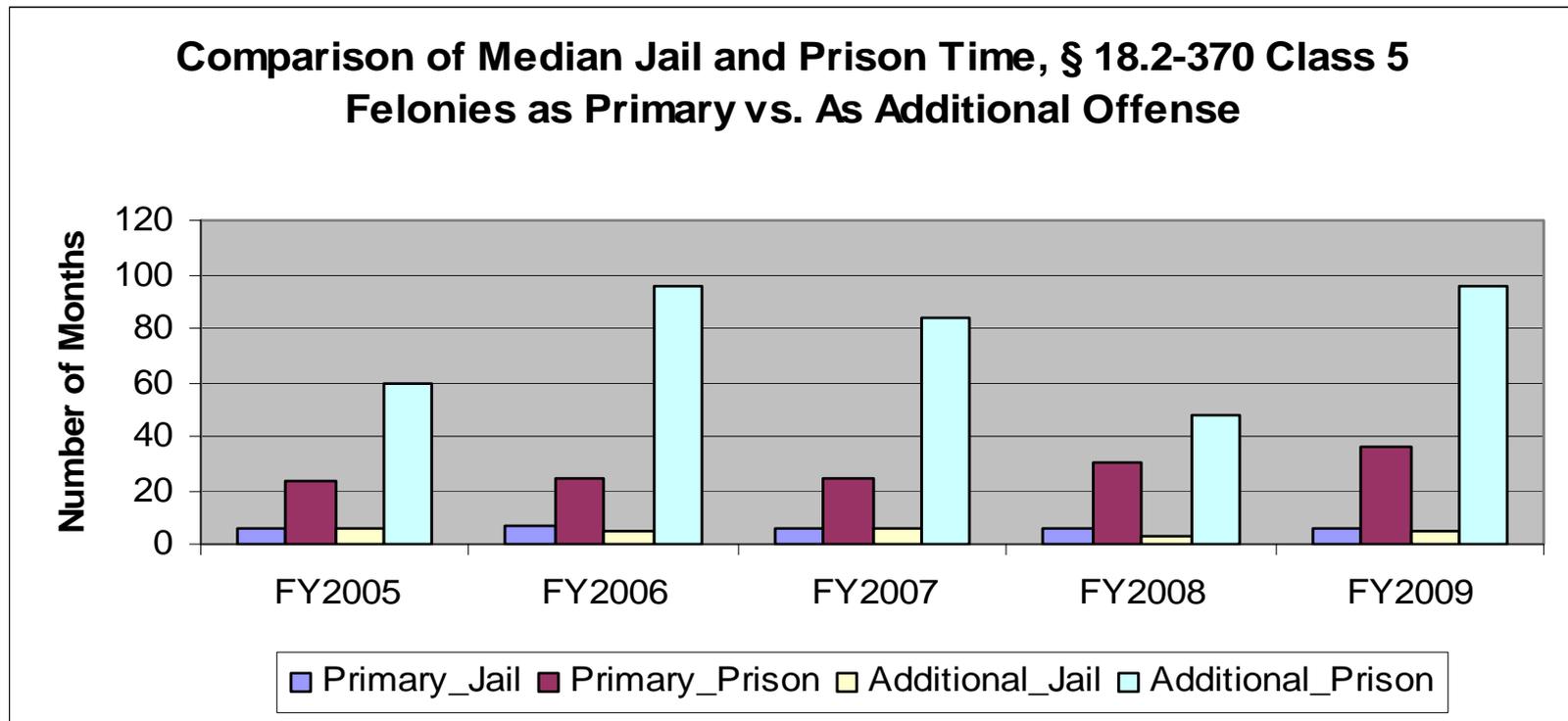


Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- Comparison of Median Jail and Prison Time

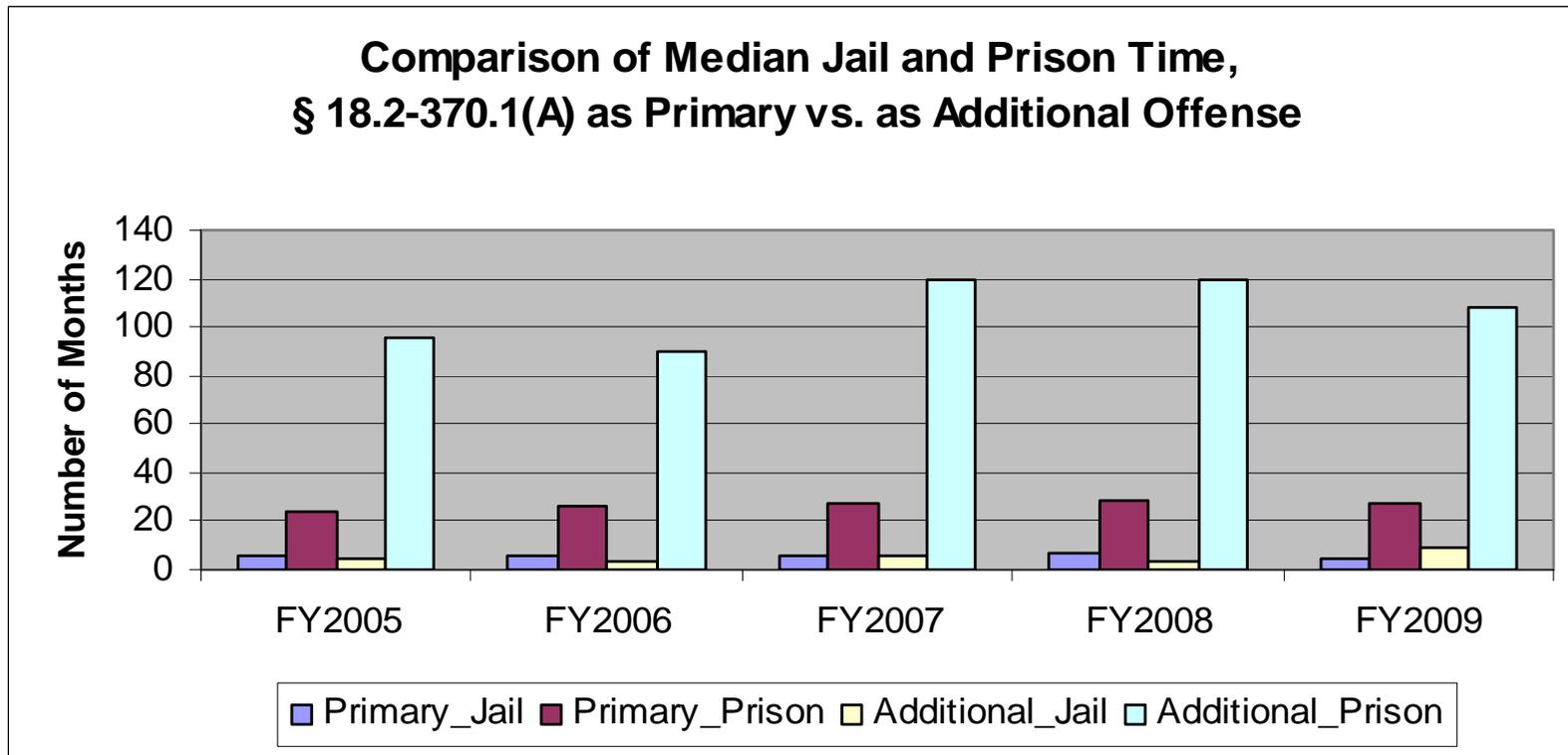


Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- Comparison of Median Jail and Prison Time



Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Indecent Liberties with Children



- Data concerning fines imposed upon defendants convicted of indecent liberties was not readily available.
- While the length of incarceration is recorded on the Sentencing Guidelines forms, the amount of any fine imposed was not recorded in over half of the reports.

Prostitution



- The Crime Commission was directed to determine:
 - How many prosecutions have been brought against those who take or detain a person for prostitution or any other pandering/pimping related offense over the past 5 years;
 - How many prosecutions have been brought against solicitors of prostitution or any other prostitution related offense over the past 5 years; and,
 - How many prosecutions have been brought against women or men for prostitution, or for any other prostitution related offense over the past 5 years.

Prostitution-Related Offenses



- Pandering offenses:
 - § 18.2-355 (detaining a person for prostitution);
 - § 18.2-356 (receiving money for procuring a prostitute);
 - § 18.2-357 (receiving money from prostitute);
 - § 18.2-348 (misdemeanor aiding of prostitution); and,
 - § 18.2-368 (placing wife for prostitution).
- Solicitation offenses:
 - § 18.2-346(B) (solicitation);
 - § 18.2-347 (visit, or reside in or keep, a bawdy place); and,
 - § 18.2-349 (use of a vehicle for prostitution).
- Prostitution offenses:
 - § 18.2-346(A) (prostitution).

Prostitution



- Misdemeanor Prostitution Prosecutions

Misdemeanor Prostitution Charges Filed in General District Court, FY05-FY09*	Fiscal Year Filed				
	FY05	FY06	FY07	FY08	FY09*
Misdemeanor prostitution charges in General District Court	1333	1532	1270	976	1037

Misdemeanor Prostitution Defendants in General District Court by Fiscal Year Filed, FY05-FY09*	Fiscal Year Filed				
	FY05	FY06	FY07	FY08	FY09*
Defendants charged with misdemeanor prostitution	1104	1218	1036	811	834

Source: Supreme Court of Virginia - General District Court Automated Information System (CAIS)

Prostitution



- Misdemeanor Prostitution Sentencing Events

	FY05	FY06	FY07	FY08	FY09
§ 18.2-346(A) Prostitution for money	217	261	276	219	241
§ 18.2-346(B) Solicitation for prostitution	217	200	261	134	187
§ 18.2-347 Maintain or frequent bawdy place	47	28	34	25	32
§ 18.2-348 Aid or assist in procurement of prostitute	11	23	12	14	28
§ 18.2-349 Use vehicle to promote prostitution	4	7	2	5	9
General misdemeanor prostitution (Type cannot be determined from available data)	478	310	251	176	250
TOTAL SENTENCING EVENTS	974	829	836	573	747

Source: Supreme Court of Virginia - General District Court Automated Information System (CAIS)

Prostitution



- Felony Prostitution Prosecutions:
General District Court

Felony Prostitution Charges in General District Court, FY05-FY09*	Fiscal Year Filed				
	FY05	FY06	FY07	FY08	FY09*
Felony prostitution charges in General District Court**	30	28	38	42	54
Felony prostitution charges certified to Circuit Court	5	8	11	14	14
Felony prostitution indictments resulting in a misdemeanor prostitution conviction in General District Court	6	5	1	3	10
Felony Prostitution Defendants in General District Court by Fiscal Year Filed, FY05-FY09*	Fiscal Year Filed				
	FY05	FY06	FY07	FY08	FY09*
Defendants charged with felony prostitution in General District Court	27	26	35	37	44
Defendants whose felony prostitution charges were certified to Circuit Court	5	8	10	13	14
Defendants whose felony prostitution charges resulted in misdemeanor prostitution convictions in General District Court	5	4	1	2	9

Source: Supreme Court of Virginia - General District Court Automated Information System (CAIS)

Prostitution



- **Felony Prostitution Prosecutions:**

Circuit Court

Felony Prostitution Charges Filed in Circuit Court, FY05-FY09*	Fiscal Year Filed				
	FY05	FY06	FY07	FY08	FY09*
Felony prostitution indictments in Circuit Court	21	16	46	19	11
Felony Prostitution Defendants in Circuit Court by Fiscal Year Filed, FY05-FY09*	Fiscal Year Filed				
	FY05	FY06	FY07	FY08	FY09*
Defendants indicted for felony prostitution	8	10	17	10	11

Source: Supreme Court of Virginia - Circuit Court Automated Information System (CAIS)

Prostitution



- Felony Prostitution as Primary Offense

	FY05	FY06	FY07	FY08	FY09
§ 18.2-355(1) Enticement/procurement	0	2	0	0	0
§ 18.2-355(2) Compel to marry by force/threats	0	0	0	0	0
§ 18.2-355(3) Parent permitting child	0	0	0	0	0
§ 18.2-356 Receive money for procurement	2	3	1	1	0
§ 18.2-357 Pander, pimp or receive money from prostitute	2	2	6	2	9
§ 18.2-368 Place or leave wife for prostitution	0	0	0	0	0
TOTAL SENTENCING EVENTS	4	7	7	3	9

Source: Virginia Criminal Sentencing Commission- Sentencing Guidelines Database

Prostitution



- Felony Prostitution as an Additional Offense

	FY05	FY06	FY07	FY08	FY09
§ 18.2-355(1) Enticement/procurement	1	0	0	0	1*
§ 18.2-355(2) Compel to marry by force/threats	0	0	0	0	0
§ 18.2-355(3) Parent permitting child	0	0	0	0	1
§ 18.2-356 Receive money for procurement	0	1	0	0	0
§ 18.2-357 Pander, pimp or receive money from prostitute	0	0	1	1	2*
§ 18.2-368 Place or leave wife for prostitution	0	0	0	0	0
TOTAL SENTENCING EVENTS	1	1	1	1	4*

Source: Virginia Criminal Sentencing Commission – Sentencing Guidelines Database

* One sentencing event in FY09 had two felony prostitution offenses as additional offenses.

Child Prostitution



- Specifically, it was resolved that the Crime Commission be directed to determine:
 - How many children have been arrested for being a prostitute, for prostitution, or for any other prostitution-related offenses over the past 5 years; and,
 - The process a child goes through if that child is arrested for being a prostitute, for prostitution, or for any other prostitution-related offense.

Child Prostitution



- Virginia State Police – All Juvenile Arrests for Prostitution-Related Offenses CY05 – CY09

Year (CY)	Age	Sex	Offense
2005	17	F	Assisting or Promoting
	17	F	Prostitution
2006	16	M	Assisting or Promoting
2007	15	F	Prostitution
	15	F	Prostitution
	17	F	Prostitution
2008	16	M	Assisting or Promoting
	16	M	Assisting or Promoting
	17	F	Prostitution
	17	F	Prostitution
2009	17	M	Prostitution

Child Prostitution



- Department of Juvenile Justice Data

Juveniles Offenders With Petitioned Intakes By CSU, FY06-FY10						
Code Section	Offense	FY06	FY07	FY08	FY09	FY10
§ 18.2-346(A)	Prostitution	4	0	5	3	3
§ 18.2-348	Aiding/Assisting in Procurement	0	1	0	0	0
§ 18.2-357	Pander, pimp or receive money from prostitute	1	0	1	0	0
§ 18.2-356	Receive money for procurement	1	0	0	0	0
§ 18.2-346(B)	Solicitation of Prostitution	2	1	1	1	0
TOTAL		8	2	7	4	3

Source: Department of Juvenile Justice

Child Prostitution



- The 35 JDR Court Service Units (CSU) were informally surveyed, asking if they had encountered any instances of child prostitution.
- Of the 19 respondents, 8 CSUs reported no juvenile arrests or issues with child prostitution.

Child Prostitution



Other CSU representative responses:

- *“We have had one incident in the last five years. A girls’ mother was prostituting her and the mother was charged criminally; the girl was put in foster care. We had another allegation of a mother prostituting her daughter. The matter was referred to CPS to investigate, but the complaint was unfounded.”*

Child Prostitution



- *“We haven’t had child prostitution cases. We had one more than a year ago. Our problem is girls getting sexed into gangs.”*
- *“We have had no arrests for prostitution. We have a case that is currently open in which the police are investigating information that a juvenile is being prostituted by an adult male. No charges have been filed as of this writing.”*

Child Prostitution



- One CSU reported that they recently had 5 juveniles, ages 12 to 17, who were suspected of being prostituted by a street gang.
- A request for additional details revealed:
 - The correct number was actually 4, not 5;
 - Of the 4, only 1 was confirmed as having worked as a prostitute; the others were only suspected of this behavior by staff;
 - 3 are currently runaways, location unknown; and,
 - The remaining juvenile is currently receiving services through the Intervention, Prevention, Education Program and has done well so far.

Child Prostitution



- Conversations with staff at the Department of Juvenile Justice (DJJ) reveal that instances of prostitution are not common amongst juveniles who have been committed.
- When prostitution is discovered to have occurred, it is typically associated with a larger problem behavior, such as drug abuse, gang affiliation, or being a chronic run-away.
- DJJ typically offers services for these juveniles in the context of their larger behavioral problems.

Wage Withholding



- Specifically, it was resolved that the Crime Commission be directed to determine:
 - How many actions have been brought against employees who, willfully and with the intent to defraud, fail or refuse to pay wages under the withholding wages provision over the past 5 years.

Wage Withholding



- Virginia Department of Labor - Number of investigations commenced over past 5 years

Year (CY)	Total Valid	Total Invalid	Total Cases Closed for Year
2005	778	788	1566
2006	671	862	1533
2007	658	813	1471
2008	827	1015	1842
2009	598	992	1590

Source: Virginia Department of Labor

Wage Withholding



- Criminal cases:
 - From FY05-FY09, 3 individuals were charged in circuit court, but not convicted, under the provisions of § 40.1-29.
 - From FY05-FY09, 1 individual was convicted of a misdemeanor violation of § 40.1-29 in FY08.

Source: Supreme Court of Virginia – Court Automated Information System and General District Court Automated Information System (CAIS)

Human Trafficking Offenses



- Staff examined:
 - How many convictions have been brought against those who threaten to report one as being illegally present in the United States (§ 18.2-59(iii)) for purposes of extortion (§ 18.2-59(iii));
 - How many convictions have been brought against those who confiscate, withhold, or threaten to withhold passports or other immigration documents for purposes of extortion (§ 18.2-59(iv)); and,
 - How many convictions have been brought against those who abduct another for purposes of forced labor (§ 18.2-47(B)).

Human Trafficking Offenses



- It was found that there were no convictions under any of these statutes.

Conclusions



- The majority of cases involving a conviction for indecent liberties result in active incarceration; the majority of those cases involve prison time.
- In cases where the sentence for indecent liberties is outside of the Sentencing Guidelines recommendation, it is usually an upwards departure.
- All data sources indicate juvenile prostitution is a rare crime in Virginia.
- When it is discovered that a juvenile has engaged in prostitution, DJJ authorities make every effort to provide appropriate treatment and services.



Discussion