



MANDATORY MINIMUM SENTENCES IN VIRGINIA

Study Highlights

January 2021

The Virginia Code contains 224 distinct mandatory minimum offenses across 34 criminal statutes, including:

- 162 felonies
- 62 misdemeanors

The most frequent mandatory minimum convictions over the last five years were for driving while intoxicated offenses.

Of the nearly 35,000 state responsible inmates incarcerated on June 30, 2019:

- 4% were serving only a mandatory minimum sentence;
- 27% were serving a combined mandatory minimum and non-mandatory minimum sentence;
- 62% were serving only a non-mandatory minimum sentence; and,
- 6% were serving a life, death, or three strikes sentence.

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What is a mandatory minimum sentence?

A mandatory minimum sentence must be imposed by the court and be served in full by the defendant. Mandatory minimum sentences vary greatly by offense and can range from two days to life imprisonment. Courts often have discretion to impose a sentence above the mandatory minimum.

Are mandatory minimum sentences effective?

Research on the effectiveness of mandatory minimum sentences, as measured by deterrence and incapacitation, is inconclusive. The differences in penalties, and in the types of offenses involved, prevent general conclusions from being made. Some scholars have contended that there is no credible evidence of any deterrent effect, while others have found marginal deterrent effects or short-term deterrent effects. Furthermore, little evidence exists that lengthy prison sentences have a greater than marginal effect in decreasing recidivism.

Do mandatory minimum sentences result in disparate impacts?

Research has consistently found that mandatory minimum sentences contribute to overall disparities within the criminal justice system. Based on an analysis of state-responsible inmates incarcerated on June 30, 2019, the Virginia Department of Corrections found that 41% of Black inmates had one or more mandatory minimum sentences as compared to 26% of White inmates. The analysis also noted that male inmates had more mandatory minimum sentences than female inmates. While this analysis clearly demonstrates a disproportionate impact on Blacks and males, the exact reasons for these disparities remain unknown.

Which Virginia offenses have mandatory minimum sentences?

The majority of felony mandatory minimum sentences are for driving while intoxicated, narcotics, child pornography, and weapon offenses. Nearly all misdemeanor mandatory minimum sentences are for driving while intoxicated offenses. Mandatory minimum offenses comprised a very small proportion of the total charges and convictions in Virginia courts over the past five years.

Crime Commission Legislation

Crime Commission members endorsed legislation for introduction during the 2021 Regular Session of the General Assembly to:

- Repeal all mandatory minimum sentences in the Code of Virginia; and,
- Allow for possible re-sentencing of anyone who is currently serving a term of incarceration for a felony mandatory minimum offense, except for Class 1 and mandatory minimum life felony offenses.