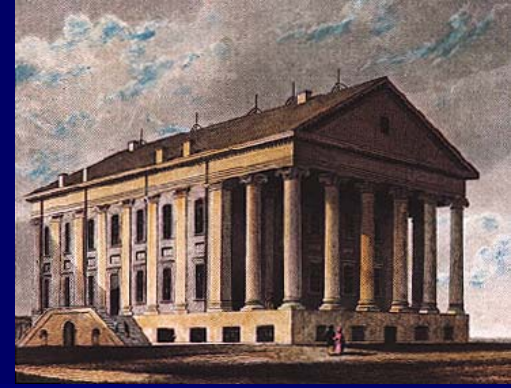


Virginia State Crime Commission

Mandatory Minimum Sentencing in Virginia

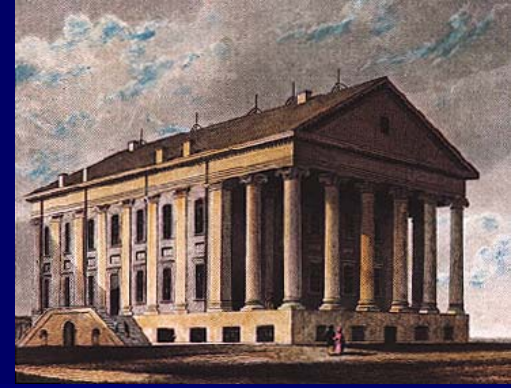
December 13, 2007

Agenda



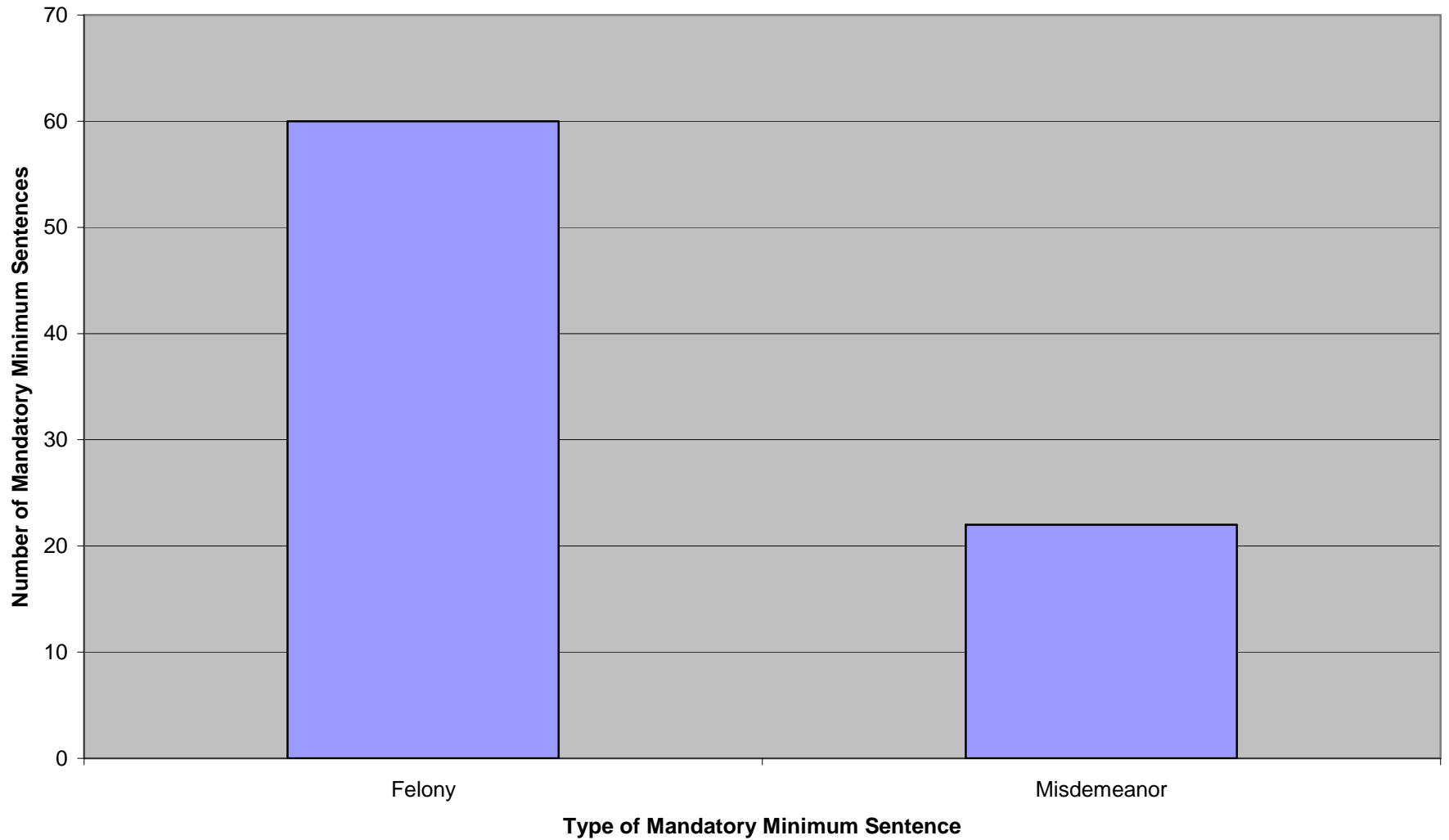
- **Current Mandatory Minimums in Virginia**
- **Analysis of Mandatory Minimums**
- **Recommendation**

Current Mandatory Minimums in VA

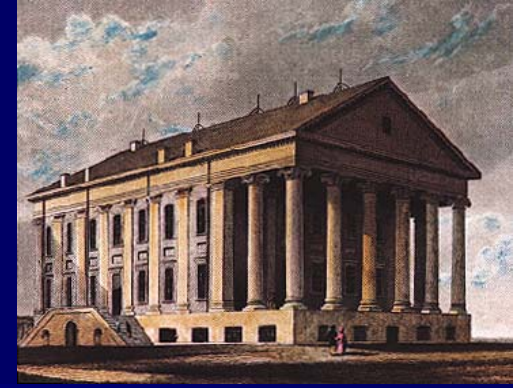


- There are 36 statutes in the Code of Virginia that involve mandatory minimum penalties.
 - They create about 82 different offenses for which a mandatory minimum sentence is to be imposed.
- Felonies comprise the majority of mandatory minimum offenses:
 - 73% (60 of 82) involve felonies; and,
 - 27% (22 of 82) involve misdemeanors.

Type of Mandatory Minimum Sentencing: Felony versus Misdemeanor

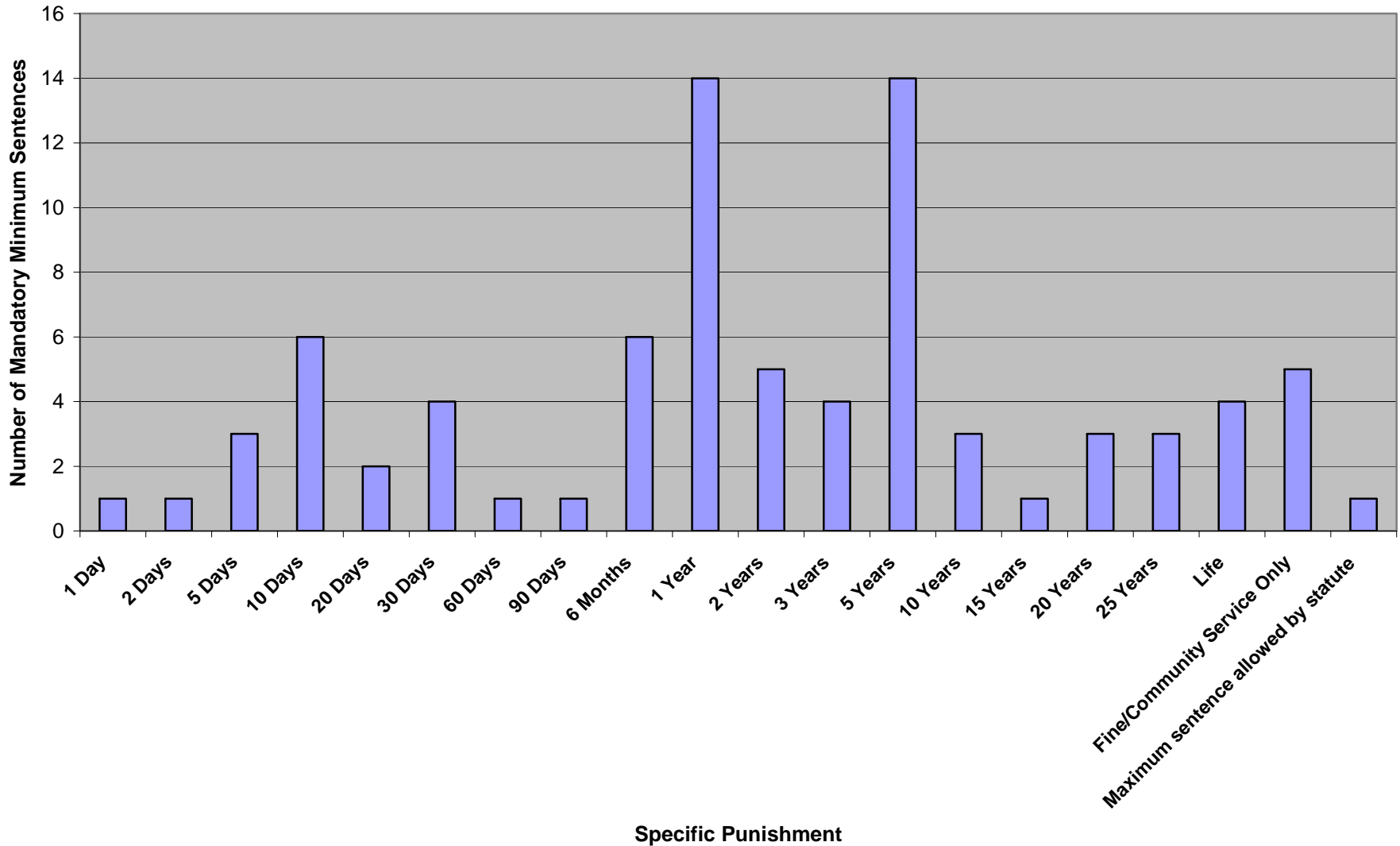


Current Mandatory Minimums in VA



- Range of Punishments:
 - Mandatory minimum sentences vary in punishment tremendously, including:
 - \$250 Fine
 - 1 Day
 - 6 Months
 - 1 Year
 - 20 Years
 - Life Imprisonment

Range of Mandatory Minimum Punishments



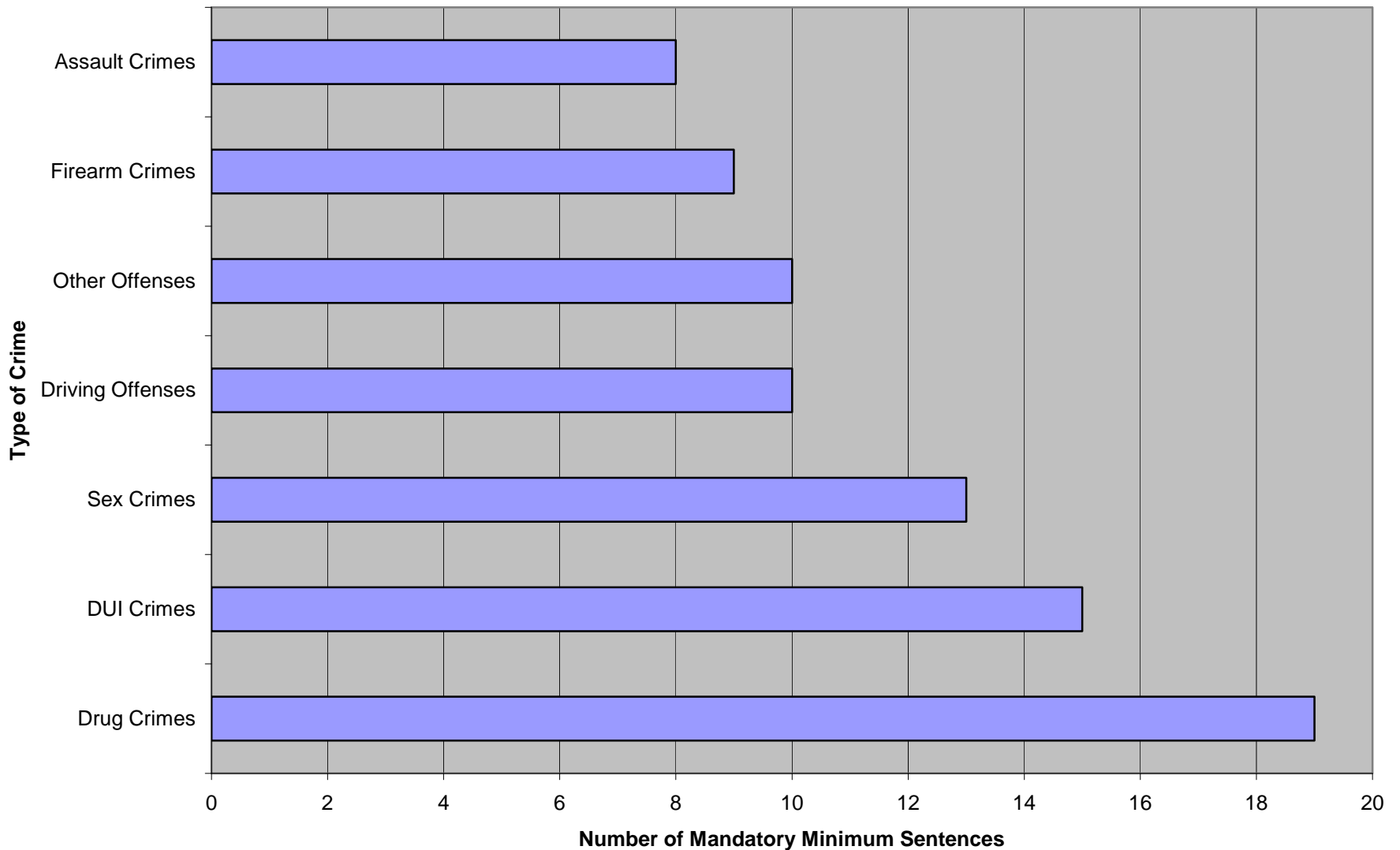
Current Mandatory Minimums in VA



■ Types of Crimes:

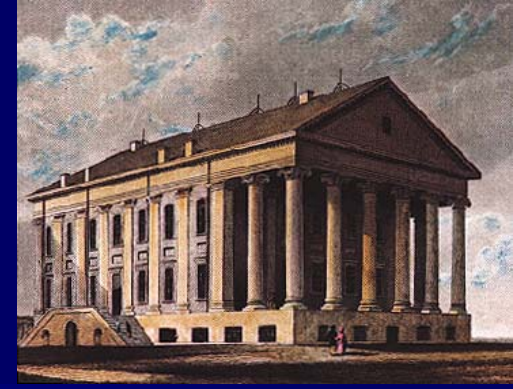
- Mandatory minimum sentences enacted since 1968 involve the following types of crimes:
 - 19 involve drug crimes;
 - Includes the two that give a mandatory minimum for possessing a gun while distributing controlled substances.
 - 9 involve firearm crimes;
 - 15 involve DUI crimes;
 - 8 involve assault crimes;
 - 13 involve sex crimes;
 - 10 involve driving offenses (non-DUI); and,
 - 10 involve other offenses (violating protective orders, vandalism, trespass).

Types of Crimes For Which Mandatory Minimum Sentences Are Imposed



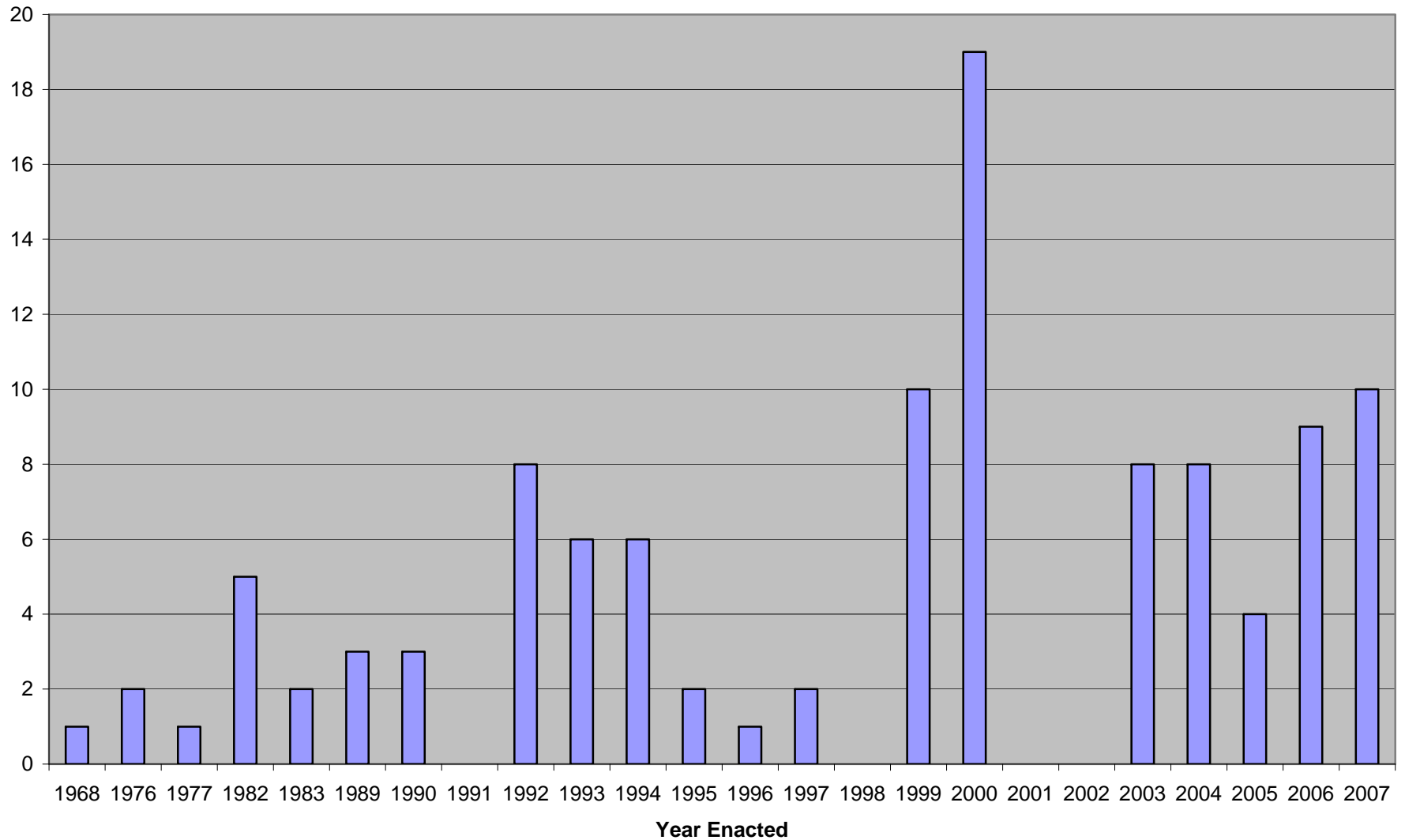
* N=84, includes two in firearm category that give mandatory minimum for possessing a gun while distributing controlled substances.

Current Mandatory Minimums in VA

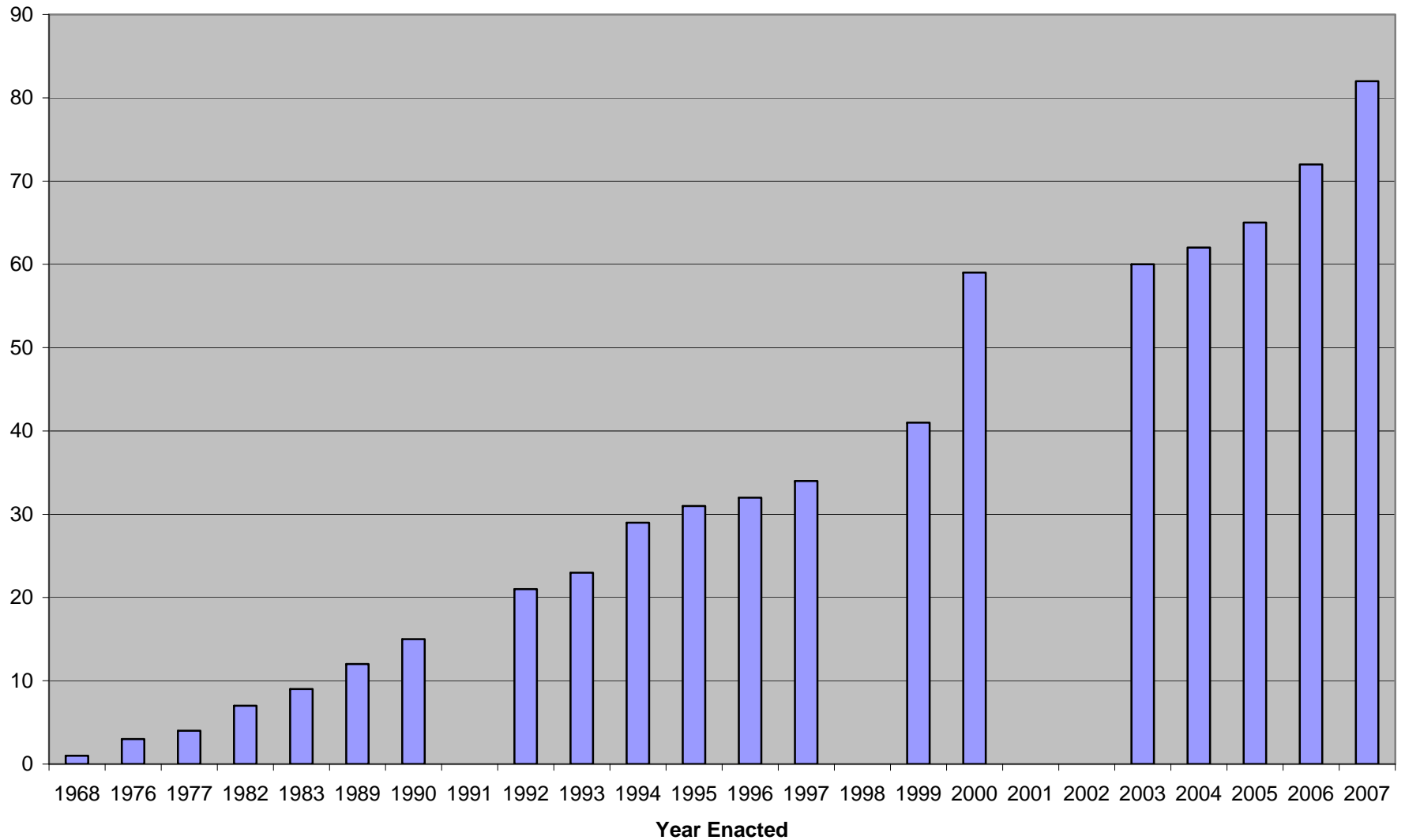


- The number of mandatory minimum sentences enacted each year has varied since 1968.
 - The largest number enacted in any given year was in 2000, when there were a total of 19.
 - The total cumulative number has increased from 1 in 1968 to 82 in 2007.

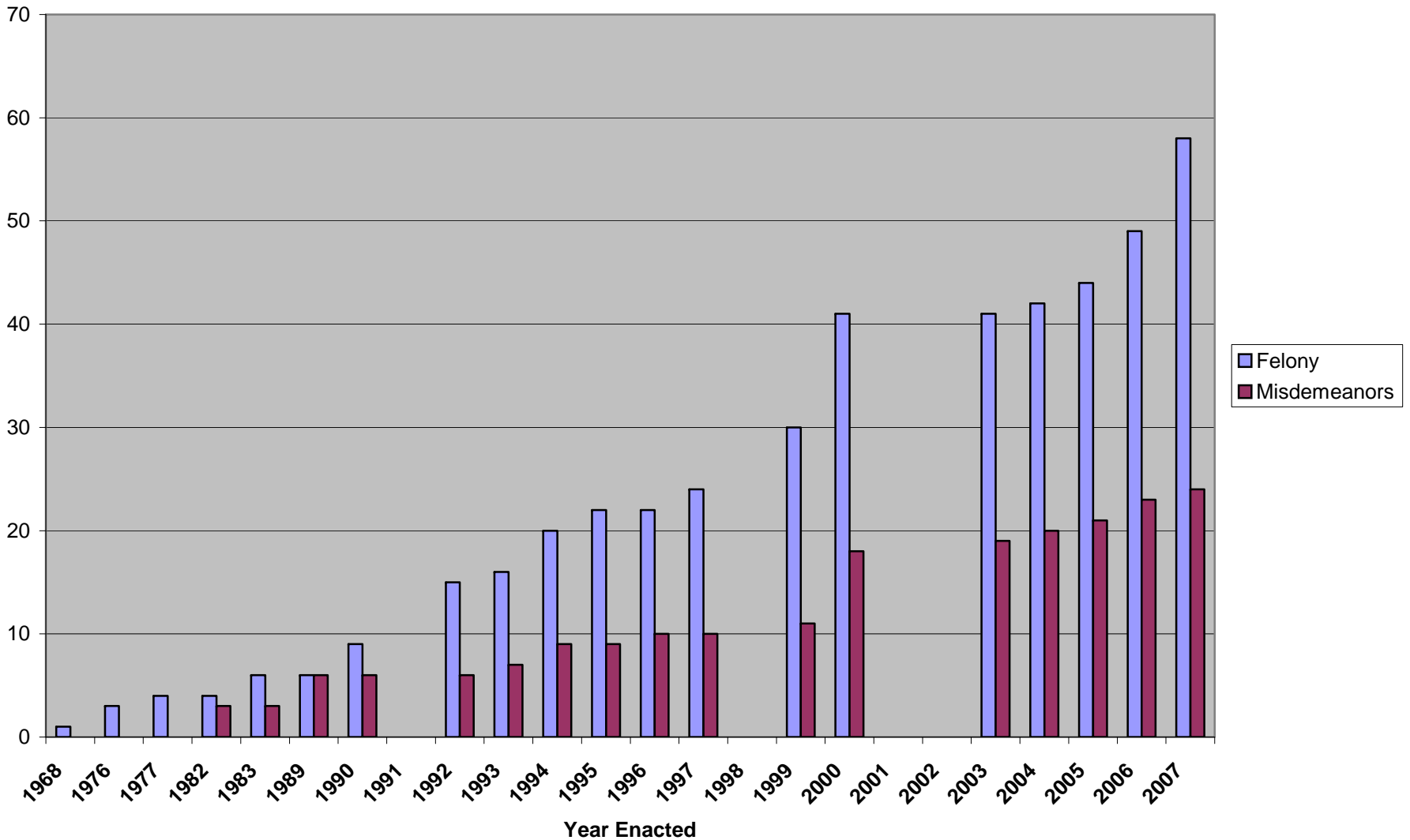
Number of Mandatory Minimum Sentences Enacted Since 1968



Cumulative Impact of Mandatory Minimum Sentences Since 1968



Cumulative Impact of Mandatory Minimum Sentences: Felony versus Misdemeanor



Current Mandatory Minimums in VA



- Typically, all or most of the mandatory minimum sentences enacted in a given year deal with a certain type of crime:
 - In 2007, 8 out of the 10 mandatory minimum punishments enacted dealt with sex crimes involving children.
 - In 2004, 6 out of the 8 enacted punishments deal with DUI.
 - In 2003, all 8 of the enacted punishments dealt with DUI.
 - In 1992, all 8 punishments dealt with drug offenses.

Analysis



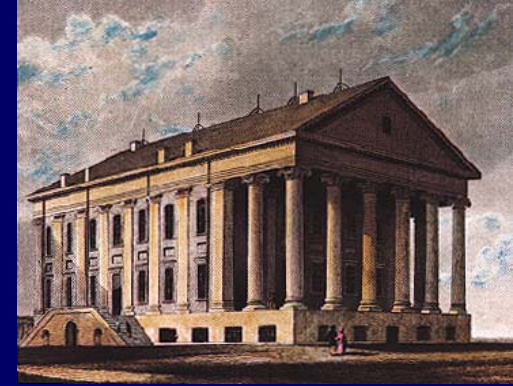
- A review of the literature published on the topic of mandatory minimum punishments finds very few universal conclusions can be reached on the subject.
- For instance, the effects of enacting a mandatory minimum punishment for a violent felony cannot be generalized to other types of offenses, or to misdemeanors.

Analysis



- A true analysis of a mandatory minimum sentence involves a quantitative examination of the impact of the law after it has been enacted:
 - Did convictions for the offense increase or decrease?
 - Did the crime rate for the offense change?
 - Did the incarceration rate and length of sentence for the offense increase or decrease?
 - Does a multi-variable regression analysis show the change in statute having any impact on offense rate or incarceration rate? Or, are other factors having an impact?

Analysis



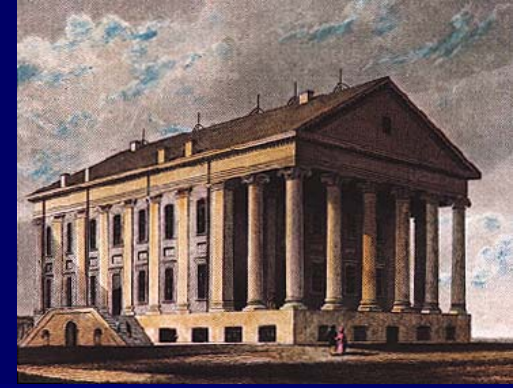
- Most studies have not shown a long-term deterrent effect directly resulting from the enactment of a mandatory minimum sentence.
- Some studies have found that the conviction rate for an offense decreased after a mandatory minimum was enacted, due to plea bargaining.
- Other studies have found that a decrease in crime rate for an offense was more closely correlated with public awareness or a corresponding publicity campaign than to the actual impact of the new mandatory sentence.
- The average length of sentence for an offense may or may not increase as a result of a new mandatory minimum law; therefore, the total prison population for a state may or may not be impacted.

Analysis



- Besides deterrence and incapacitation, there may be other reasons for a legislature to enact a mandatory minimum punishment:
 - It allows the legislature to formally/symbolically declare its strong opposition to a crime, and its sympathy for the victims.
 - It may give prosecutors a tool to induce guilty pleas, thus saving resources for the prosecutor's office and the court.
 - It may also allow prosecutors to induce cooperation from defendants, testimony against co-defendants, or information about other unrelated criminal cases.

Recommendation



- Before Virginia adopts any further mandatory minimums, various factors should be considered:
 - How much jail or prison time are such offenders currently receiving?
 - If most defendants are already receiving sentences equal to or in excess of the proposed mandatory minimum, then there may not be much of a need for it.
 - What will be the fiscal impact on jails or prisons?
 - Do Commonwealth's Attorneys throughout the state want a mandatory minimum for this crime?
 - Is the mandatory minimum consistent with penalties for related crimes?
 - What unforeseen or collateral effects might occur? (E.g., will it be more difficult for prosecutors to get convictions?)

Discussion