

Exhibit C

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
16.1-253.2	Assault and battery of person with protective order	Assault and battery resulting in serious bodily injury of a person with a protective order	Mayhem	Exhibit E	Statute reaches a broader range of injuries than common-law mayhem (which required permanent loss of a combat-useful body part), and the protective-order framework is a 20th-century J&DR creation.
18.2-103	Shoplifting	Shoplift, alter price tags >= \$500	Larceny	Exhibit F	Statute reaches conduct (concealment within the store, price-tag alteration) that does not clearly satisfy common-law larceny's asportation and trespassory-taking elements.
18.2-103	Shoplifting	Shoplift, alter price tags < \$500 (third time)	Larceny	Exhibit F	Statute reaches conduct (concealment within the store, price-tag alteration) that does not clearly satisfy common-law larceny's asportation and trespassory-taking elements.
18.2-103	Shoplifting	Shoplift, alter price tags < \$1000 (third time)	Larceny	Exhibit F	Statute reaches conduct (concealment within the store, price-tag alteration) that does not clearly satisfy common-law larceny's asportation and trespassory-taking elements.
18.2-103	Shoplifting	Shoplift, alter price tags >= \$200	Larceny	Exhibit F	Statute reaches conduct (concealment within the store, price-tag alteration) that does not clearly satisfy common-law larceny's asportation and trespassory-taking elements.
18.2-103	Shoplifting	Shoplift, alter price tags >= \$1000	Larceny	Exhibit F	Statute reaches conduct (concealment within the store, price-tag alteration) that does not clearly satisfy common-law larceny's asportation and trespassory-taking elements.
18.2-103	Shoplifting	Shoplift, alter price tags < \$200 (third time)	Larceny	Exhibit F	Statute reaches conduct (concealment within the store, price-tag alteration) that does not clearly satisfy common-law larceny's asportation and trespassory-taking elements.
18.2-103.1	Organized retail theft	Conspire retail theft aggregate >\$5000 over 90 days	Larceny	Exhibit D	
18.2-104	Larceny	Larceny etc. - third or subsequent conviction	Larceny	No Match	
18.2-108.01(A)	Larceny	Larceny \$500 or more with intent to sell or distribute	Larceny	Exhibit F	Statute adds a modern "intent to sell or distribute" element targeting commercial trafficking, reaching conduct (receiving/possessing) that lies outside the common-law actus reus of taking + carrying away.
18.2-108.01(A)	Larceny	Larceny \$1000 or more with intent to sell or distribute	Larceny	Exhibit F	Statute adds a modern "intent to sell or distribute" element targeting commercial trafficking, reaching conduct (receiving/possessing) that lies outside the common-law actus reus of taking + carrying away.
18.2-108.01(A)	Larceny	Larceny \$200 or more with intent to sell or distribute	Larceny	Exhibit F	Statute adds a modern "intent to sell or distribute" element targeting commercial trafficking, reaching conduct (receiving/possessing) that lies outside the common-law actus reus of taking + carrying away.
18.2-108.1(1)	Larceny of firearm	Larceny of firearm, not from person	Larceny	Exhibit E	The firearm-type element is what makes the offense a felony regardless of value — a statutory enhancement common-law larceny did not recognize.
18.2-110.1(B,i)	Mail theft	Mail theft, etc.	Larceny	No Match	Mail theft is a modern statutory offense built on the existence of a postal-delivery system (mail collection from mailboxes); common-law larceny did not contemplate this conduct, though the trespassory-taking structure is analogous. Reaches conduct that would not have been a felony at common law
18.2-146	Break / remove catalytic converter	Catalytic converter, damage vehicle, aircraft or boat for	Larceny	Exhibit F	The gravamen is property destruction (closer to malicious mischief, a common-law misdemeanor), not the trespassory taking required by common-law larceny.

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-151	Open / carry away fuel pump	Open or carry away gasoline pumps	Larceny	Exhibit D	
18.2-178.1	Financial exploitation of vulnerable adult	Financial exploitation of vulnerable adult, => \$1000	Larceny	Exhibit F	"Financial exploitation" captures voluntary transfers under undue influence — closer to false pretenses (not FACL) than common-law larceny's trespassory taking without consent.
18.2-178.1	Financial exploitation of vulnerable adult	Financial exploitation of mentally incapacitated, => \$200	Larceny	Exhibit F	"Financial exploitation" captures voluntary transfers under undue influence — closer to false pretenses (not FACL) than common-law larceny's trespassory taking without consent.
18.2-178.1	Financial exploitation of vulnerable adult	Financial exploitation of mentally incapacitated, => \$500	Larceny	Exhibit F	"Financial exploitation" captures voluntary transfers under undue influence — closer to false pretenses (not FACL) than common-law larceny's trespassory taking without consent.
18.2-19(i)	Accessory after the fact to homicide	Accessory after the fact to a homicide offense that is punishable as a Class 1 or Class 2 felony	Murder	No Match	At common law, accessory-after-the-fact was a separate offense punished less severely than the principal felony — and not itself a FACL on Hessick's framework; modern Virginia treatment as a Class 1/2 felony is a statutory grading choice.
18.2-23(B)	Conspire to commit larceny ≥ \$200	Conspire with another to commit or assist in the performance of larceny where the value of goods is over \$200	Larceny	Exhibit F	Statute punishes inchoate conspiracy — the underlying larceny need not be completed; common-law conspiracy was itself a misdemeanor.
18.2-23(B)	Conspire to commit larceny ≥ \$1000	Conspire with another to commit or assist in the performance of larceny where the value of goods is \$1,000 or more	Larceny	Exhibit F	Statute punishes inchoate conspiracy — the underlying larceny need not be completed; common-law conspiracy was itself a misdemeanor.
18.2-23(B)	Conspire to commit larceny with value ≥ \$500	Conspire to commit /assist in larceny, aggregate ≥ \$500	Larceny	Exhibit F	Statute punishes inchoate conspiracy — the underlying larceny need not be completed; common-law conspiracy was itself a misdemeanor.
18.2-258.1(A)	Obtaining drugs, procuring administration of controlled substances	Obtain drugs by forgery, fraud	Larceny	Exhibit E	The controlled-substance regulatory framework is entirely 20th century (post-1914 Harrison Act); no analog existed at 1870 common law.
18.2-258.1(D)	Obtaining drugs, procuring administration of controlled substances	Assume title of doctor, pharmacist etc. to obtain drugs	Larceny	Exhibit E	Professional-licensing-based prescription fraud is entirely 20th century; common-law larceny did not reach this conduct.
18.2-258.1(H)	Obtaining drugs, procuring administration of controlled substances	First offender - prescription fraud violation	Larceny	Exhibit E	Prescription-fraud regulation is a 20th-century statutory framework with no common-law analog.
18.2-279	Discharging firearms or missiles within or at building or dwelling house	Unlawfully discharge firearm, missile in/at occupied bldg	Murder	Exhibit F	Statute is an inchoate endangerment offense — complete on discharge without any death; common-law murder required an actual death.
18.2-279	Discharging firearms or missiles within or at building or dwelling house	Maliciously discharge firearm, missile in/at occupied bldg.	Murder	Exhibit F	Statute is an inchoate endangerment offense — complete on discharge without any death; common-law murder required an actual death.
18.2-279	Discharging firearms or missiles within or at building or dwelling house	Discharge firearm within or at unoccupied school	Murder	Exhibit F	Statute is an inchoate endangerment offense — complete on discharge without any death; common-law murder required an actual death.
18.2-279	Discharging firearms or missiles within or at building or dwelling house	Discharge firearm, within or at occupied school	Murder	Exhibit F	Statute is an inchoate endangerment offense — complete on discharge without any death; common-law murder required an actual death.

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-280(A)	Willfully discharging firearms in public places	Discharge firearm in public place, results in injury	Mayhem	Exhibit E	Statute reaches injury broader than common-law mayhem's narrow list; modern weapons-discharge regulation has no common-law analog.
18.2-31(1)	Aggravated murder, in the commission of abduction	Willful, deliberate, and premeditated killing of any person in the commission of abduction	Murder	Exhibit D	
18.2-31(1)	Capital murder, in the commission of abduction	The willful, deliberate, and premeditated killing of any person in the commission of abduction	Murder	Exhibit D	
18.2-31(1)	Accessory to capital murder, in the commission of abduction	Accessory before the fact to capital murder in the commission of abduction	Murder	Exhibit D	
18.2-31(1)	Accessory to capital murder, in the commission of abduction	Accessory before the fact to capital murder in the commission of abduction	Murder	Exhibit D	
18.2-31(1)	Accessory to capital murder, in the commission of abduction	Accessory before the fact to capital murder in the commission of abduction	Murder	Exhibit D	
18.2-31(1)	Accessory to aggravated murder, in the commission of abduction	Accessory before the fact to aggravated murder in the commission of abduction	Murder	Exhibit D	
18.2-31(10)	Aggravated murder, engaged in a continuing criminal enterprise	The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise	Murder	Exhibit D	
18.2-31(10)	Capital murder, engaged in a continuing criminal enterprise	The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise	Murder	Exhibit D	
18.2-31(10)	First degree murder	Accessory before the fact to aggravated murder committed pursuant to a criminal drug enterprise	Murder	Exhibit D	
18.2-31(10)	First degree murder	Accessory before the fact to capital murder committed pursuant to a criminal drug enterprise	Murder	Exhibit D	
18.2-31(10)	First degree murder	Accessory before the fact to capital murder committed pursuant to a criminal drug enterprise	Murder	Exhibit D	
18.2-31(10)	Capital murder, pregnant victim	The willful, deliberate and premeditated killing of a pregnant woman	Murder	Exhibit D	
18.2-31(10)	Accessory to capital murder, pregnant victim	Accessory before the fact to capital murder of a pregnant victim	Murder	Exhibit D	
18.2-31(10)	Accessory to capital murder, pregnant victim	Accessory before the fact to capital murder of a pregnant victim	Murder	Exhibit D	

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-31(10)	Accessory to capital murder, pregnant victim	Accessory before the fact to capital murder of a pregnant victim	Murder	Exhibit D	
18.2-31(11)	Capital murder, pregnant victim	The willful, deliberate and premeditated killing of a pregnant woman	Murder	Exhibit D	
18.2-31(11)	Accessory to capital murder, pregnant victim	Accessory before the fact to capital murder of a pregnant victim	Murder	Exhibit D	
18.2-31(11)	Aggravated murder, pregnant victim	The willful, deliberate, and premeditated killing of a pregnant woman	Murder	Exhibit D	
18.2-31(11)	Accessory to aggravated murder, pregnant victim	Accessory before the fact to aggravated murder of a pregnant victim	Murder	Exhibit D	
18.2-31(12)	Capital murder, killing person under age 14	The willful, deliberate and premeditated killing of a person under the age of fourteen by a person age twenty-one or older	Murder	Exhibit D	
18.2-31(12)	Aggravated murder, killing person under age 14	The willful, deliberate, and premeditated killing of a person under the age of 14 by a person age 21 or older	Murder	Exhibit D	
18.2-31(12)	Accessory to capital murder, killing person under age 14	Accessory before the fact to capital murder where a person 21 years or older killed a person under the age of 14	Murder	Exhibit D	
18.2-31(12)	Accessory to capital murder, killing person under age 14	Accessory before the fact to capital murder where a person 21 years or older killed a person under the age of 14	Murder	Exhibit D	
18.2-31(12)	Accessory to capital murder, killing person under age 14	Accessory before the fact to capital murder where a person 21 years or older killed a person under the age of 14	Murder	Exhibit D	
18.2-31(12)	Accessory to aggravated murder, killing person under age 14	Accessory before the fact to aggravated murder where a person 21 years or older killed a person under the age of 14	Murder	Exhibit D	
18.2-31(13)	Capital murder, in the commission of terroristic act	The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism	Murder	Exhibit D	
18.2-31(13)	Aggravated murder, in the commission of terroristic act	The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism	Murder	Exhibit D	
18.2-31(13)	First degree murder	Accessory before the fact to aggravated murder where the killing was in the commission of a terroristic act	Murder	Exhibit D	
18.2-31(13)	First degree murder	Accessory before the fact to capital murder where the killing was in the commission of a terroristic act	Murder	Exhibit D	
18.2-31(13)	First degree murder	Accessory before the fact to capital murder where the killing was in the commission of a terroristic act	Murder	Exhibit D	

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-31(14)	Capital murder, witness	The willful, deliberate, and premeditated killing of any witness in a criminal case for the purpose of interfering with the person's duties in such case	Murder	Exhibit D	
18.2-31(14)	Aggravated murder, judge	The willful, deliberate, and premeditated killing of a judge to interfere with his official duties as a judge	Murder	Exhibit D	
18.2-31(14)	Capital murder, judge	The willful, deliberate, and premeditated killing of a judge to interfere with his official duties as a judge	Murder	Exhibit D	
18.2-31(14)	Accessory to capital murder, witness	Accessory before the fact to capital murder of a witness	Murder	Exhibit D	
18.2-31(14)	Accessory to capital murder, judge	Accessory before the fact to capital murder of a judge	Murder	Exhibit D	
18.2-31(14)	Accessory to capital murder, judge	Accessory before the fact to capital murder of a judge	Murder	Exhibit D	
18.2-31(14)	Accessory to aggravated murder, judge	Accessory before the fact to aggravated murder of a judge	Murder	Exhibit D	
18.2-31(15)	Aggravated murder, witness	The willful, deliberate, and premeditated killing of any witness in a criminal case for the purpose of interfering with the person's duties in such case	Murder	Exhibit D	
18.2-31(15)	Capital murder, witness	The willful, deliberate, and premeditated killing of any witness in a criminal case for the purpose of interfering with the person's duties in such case	Murder	Exhibit D	
18.2-31(15)	Accessory to capital murder, witness	Accessory before the fact to capital murder of a witness	Murder	Exhibit D	
18.2-31(15)	Accessory to capital murder, witness	Accessory before the fact to capital murder of a witness	Murder	Exhibit D	
18.2-31(15)	Accessory to aggravated murder, witness	Accessory before the fact to aggravated murder of a witness	Murder	Exhibit D	
18.2-31(2)	Aggravated murder, killing for hire	The willful, deliberate, and premeditated killing of any person by another for hire	Murder	Exhibit D	
18.2-31(2)	Capital murder, killing for hire	The willful, deliberate, and premeditated killing of any person by another for hire	Murder	Exhibit D	
18.2-31(2)	First degree murder	Accessory before the fact to capital murder where the killing of another person was for hire	Murder	Exhibit D	
18.2-31(2)	First degree murder	Accessory before the fact to capital murder where the killing of another person was for hire	Murder	Exhibit D	
18.2-31(2)	First degree murder	Accessory before the fact to aggravated murder where the killing of another person was for hire	Murder	Exhibit D	

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-31(3)	Capital murder, prisoner	The willful, deliberate, and premeditated killing of any person by a prisoner	Murder	Exhibit D	
18.2-31(3)	Accessory to capital murder, prisoner	Accessory before the fact to capital murder of prisoner	Murder	Exhibit D	
18.2-31(3)	Accessory to capital murder, prisoner	Accessory before the fact to capital murder of prisoner	Murder	Exhibit D	
18.2-31(3)	Accessory to capital murder, prisoner	Accessory before the fact to capital murder of prisoner	Murder	Exhibit D	
18.2-31(3)	Accessory to aggravated murder, prisoner	Accessory before the fact to aggravated murder of prisoner	Murder	Exhibit D	
18.2-31(3)	Aggravated murder, prisoner	The willful, deliberate, and premeditated killing of any person by a prisoner	Murder	Exhibit D	
18.2-31(4)	Capital murder, in the commission of robbery or attempted robbery	The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery	Murder, robbery	Exhibit D	
18.2-31(4)	Aggravated murder, in the commission of robbery or attempted robbery	The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery	Murder, robbery	Exhibit D	
18.2-31(4)	Accessory to capital murder, in the commission of robbery or attempted robbery	Accessory before the fact to capital murder committed during robbery or attempted robbery	Murder, robbery	Exhibit D	
18.2-31(4)	Accessory to capital murder, in the commission of robbery or attempted robbery	Accessory before the fact to capital murder committed during robbery or attempted robbery	Murder, robbery	Exhibit D	
18.2-31(4)	Accessory to capital murder, in the commission of robbery or attempted robbery	Accessory before the fact to capital murder committed during robbery or attempted robbery	Murder, robbery	Exhibit D	
18.2-31(4)	Accessory to aggravated murder, in the commission of robbery or attempted robbery	Accessory before the fact to aggravated murder committed during robbery or attempted robbery	Murder, robbery	Exhibit D	
18.2-31(5)	Capital murder, in the commission or subsequent to rape, sodomy, object penetration	The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape or, forcible sodomy or attempted forcible sodomy or object sexual penetration	Murder, rape, sodomy	Exhibit D	
18.2-31(5)	Aggravated murder, in the commission or subsequent to rape, sodomy, object penetration	The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy, or attempted forcible sodomy or object sexual penetration	Murder, rape, sodomy	Exhibit D	

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-31(5)	Accessory to capital murder, in the commission or subsequent to rape, sodomy, object penetration	Accessory before the fact to capital murder, in the commission or subsequent to rape, sodomy, object penetration	Murder, rape, sodomy	Exhibit D	
18.2-31(5)	Accessory to capital murder, in the commission or subsequent to rape, sodomy, object penetration	Accessory before the fact to capital murder, in the commission or subsequent to rape, sodomy, object penetration	Murder, rape, sodomy	Exhibit D	
18.2-31(5)	Accessory to capital murder, in the commission or subsequent to rape, sodomy, object penetration	Accessory before the fact to capital murder, in the commission or subsequent to rape, sodomy, object penetration	Murder, rape, sodomy	Exhibit D	
18.2-31(5)	Accessory to aggravated murder, in the commission or subsequent to rape, sodomy, object penetration	Accessory before the fact to aggravated murder, in the commission or subsequent to rape, sodomy, object penetration	Murder, rape, sodomy	Exhibit D	
18.2-31(6)	Capital murder, law enforcement officer	The willful, deliberate, and premeditated killing of a law-enforcement officer	Murder	Exhibit D	
18.2-31(6)	Aggravated murder, law enforcement officer	The willful, deliberate, and premeditated killing of a law-enforcement officer	Murder	Exhibit D	
18.2-31(6)	Accessory to capital murder, law enforcement officer	Accessory before the fact to capital murder of law enforcement officer	Murder	Exhibit D	
18.2-31(6)	Accessory to capital murder, law enforcement officer	Accessory before the fact to capital murder of law enforcement officer	Murder	Exhibit D	
18.2-31(6)	Accessory to capital murder, law enforcement officer	Accessory before the fact to capital murder of law enforcement officer	Murder	Exhibit D	
18.2-31(6)	Accessory to aggravated murder, law enforcement officer	Accessory before the fact to aggravated murder of law enforcement officer	Murder	Exhibit D	
18.2-31(7)	Capital murder, more than one person	The willful, deliberate, and premeditated killing of more than one person	Murder	Exhibit D	
18.2-31(7)	Aggravated murder, more than one person	The willful, deliberate, and premeditated killing of more than one person	Murder	Exhibit D	
18.2-31(7)	Accessory to aggravated murder, more than one person	Accessory before the fact to aggravated murder where more than one person killed	Murder	Exhibit D	
18.2-31(7)	Accessory to capital murder, more than one person	Accessory before the fact to capital murder where more than one person killed	Murder	Exhibit D	
18.2-31(7)	Accessory to capital murder, more than one person	Accessory before the fact to capital murder where more than one person killed	Murder	Exhibit D	
18.2-31(7)	Accessory to capital murder, more than one person	Accessory before the fact to capital murder where more than one person killed	Murder	Exhibit D	

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-31(8)	Aggravated murder, more than one person in three years	The willful, deliberate, and premeditated killing of more than one person within a three-year period	Murder	Exhibit D	
18.2-31(8)	Capital murder, more than one person in three years	The willful, deliberate, and premeditated killing of more than one person within a three-year period	Murder	Exhibit D	
18.2-31(8)	Accessory to aggravated murder, more than one person in three years	Accessory before the fact to aggravated murder where more than one person killed in three years	Murder	Exhibit D	
18.2-31(8)	Accessory to capital murder, more than one person in three years	Accessory before the fact to capital murder where more than one person killed in three years	Murder	Exhibit D	
18.2-31(8)	Accessory to capital murder, more than one person in three years	Accessory before the fact to capital murder where more than one person killed in three years	Murder	Exhibit D	
18.2-31(8)	Accessory to capital murder, more than one person in three years	Accessory before the fact to capital murder where more than one person killed in three years	Murder	Exhibit D	
18.2-31(8)	Capital murder, child under age of twelve in the commission of abduction	The willful, deliberate, and premeditated killing of a child under the age of twelve years in the commission of abduction	Murder	Exhibit D	
18.2-31(8)	Accessory to capital murder, child under age of twelve in the commission of abduction	Accessory before the fact to capital murder of a child under the age of twelve in the commission of abduction	Murder	Exhibit D	
18.2-31(8)	Capital murder, in the commission of drug distribution	The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of the distribution a Schedule I or II controlled substance	Murder	Exhibit D	
18.2-31(8)	Accessory to capital murder, in the commission of drug distribution	Accessory before the fact to capital murder in the commission of drug distribution	Murder	Exhibit D	
18.2-31(9)	Capital murder, in the commission of drug distribution	The willful, deliberate, and premeditated killing of any person in the commission of drug distribution	Murder	Exhibit D	
18.2-31(9)	Aggravated murder, in the commission of drug distribution	The willful, deliberate, and premeditated killing of any person in the commission of drug distribution	Murder	Exhibit D	
18.2-31(9)	Accessory to aggravated murder, in the commission of drug distribution	Accessory before the fact to aggravated murder in the commission of drug distribution	Murder	Exhibit D	
18.2-31(9)	Accessory to capital murder, in the commission of drug distribution	Accessory before the fact to capital murder in the commission of drug distribution	Murder	Exhibit D	

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18.2-31(9)	Accessory to capital murder, in the commission of drug distribution	Accessory before the fact to capital murder in the commission of drug distribution	Murder	Exhibit D	
18.2-31(9)	Accessory to capital murder, in the commission of drug distribution	Accessory before the fact to capital murder in the commission of drug distribution	Murder	Exhibit D	
18.2-312	Illegal use of tear gas, phosgene and other gases	Malicious release of dangerous gas resulting in injury	Mayhem	Exhibit E	Chemical-weapons regulation is a 20th-century framework; statute reaches injury broader than common-law mayhem's narrow list.
18.2-312	Illegal use of tear gas, phosgene and other gases	Unlawful release of dangerous gas resulting in injury	Mayhem	Exhibit E	Chemical-weapons regulation is a 20th-century framework; statute reaches injury broader than common-law mayhem's narrow list.
18.2-32	Second degree murder	All murder other than aggravated murder and murder in the first degree	Murder	Exhibit D	
18.2-32	First degree murder	Murder, other than aggravated murder, by poison, lying in wait, imprisonment, starving, or by any willful, deliberate, and premeditated killing, or in the commission of, or attempt to commit, arson, rape, forcible sodomy, inanimate or animate object sexual penetration, robbery, burglary or abduction	Murder	Exhibit D	
18.2-32.1	Murder of a pregnant woman	The willful and deliberate killing of a pregnant woman without premeditation	Murder	Exhibit D	
18.2-33	Felony homicide	The killing of one accidentally while in the prosecution of some felonious act other than those specified in §§ 18.2-31 and 18.2-32	Murder	Exhibit D	
18.2-340.37(C)	Charitable gaming penalties	Convert \$500 or more from charitable gaming	Larceny	Exhibit E	The licensee already held the funds lawfully — closer to embezzlement (not FACL) than larceny — and the licensed-gaming framework is 20th century.
18.2-340.37(C)	Charitable gaming penalties	Convert \$200 or more from charitable gaming	Larceny	Exhibit E	The licensee already held the funds lawfully — closer to embezzlement (not FACL) than larceny — and the licensed-gaming framework is 20th century.
18.2-340.37(C)	Charitable gaming penalties	Convert \$1000 or more from charitable gaming	Larceny	Exhibit E	The licensee already held the funds lawfully — closer to embezzlement (not FACL) than larceny — and the licensed-gaming framework is 20th century.
18.2-346(B,i)	Prostitution; commercial sexual conduct	Solicitation of prostitution from minor age 16 or older	Rape/Sodomy	No Match	Commercial solicitation of a minor (16+) for prostitution is a 20th-century commercial-exploitation framework; common-law rape and sodomy required completed sexual acts.
18.2-346(B,ii)	Prostitution; commercial sexual conduct	Solicitation of prostitution from minor less than age 16	Rape/Sodomy	No Match	Commercial solicitation of a minor for prostitution is a 20th-century commercial-exploitation framework; common-law rape and sodomy required completed sexual acts.
18.2-346.01(i)	Prostitution; solicitation; commercial exploitation of a minor	Solicitation of prostitution from minor age 16 or older	Rape/Sodomy	Exhibit E	Statute punishes commercial solicitation/exploitation; the modern commercial-exploitation framework has no common-law felony analog.

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-346.01(ii)	Prostitution; solicitation; commercial exploitation of a minor	Solicitation of prostitution from minor less than age 16	Rape/Sodomy	Exhibit E	Statute punishes commercial solicitation/exploitation; the modern commercial-exploitation framework has no common-law felony analog.
18.2-348	Aiding prostitution or illicit sexual intercourse	Aiding/assisting in procurement prostitution, <18	Rape/Sodomy	Exhibit F	The defendant's role is third-party facilitation of commercial sex, not the principal sex act required by common-law rape or sodomy.
18.2-349	Using vehicles to promote prostitution or unlawful sexual intercourse	Using vehicle to promote prostitution of person <18	Rape/Sodomy	Exhibit F	Statute depends on automobile-era transportation (no analog in 1870); the defendant's role is commercial-conduct facilitation, not any common-law sex act.
18.2-35	Voluntary manslaughter	Voluntary manslaughter	Manslaughter	Exhibit D	
18.2-355	Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking	Minor, take etc., for prostitution	Rape/Sodomy	Exhibit E	Human-trafficking statutes are 20th/21st-century creations; the offense is complete on the taking/detaining without any sex act required by common-law rape or sodomy.
18.2-355(1)	Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking	Prostitution - enticement, procurement	Rape/Sodomy	Exhibit E	Procurement/enticement for prostitution is a modern statutory offense; common-law rape and sodomy required the defendant's own completed sex act.
18.2-355(3)	Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking	Parent consents for child to be taken for prostitution, etc	Rape/Sodomy	Exhibit E	Parental-consent variant of human trafficking is purely statutory; the defendant is neither the perpetrator nor an aider of any common-law sex act.
18.2-355(4)	Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking	Pandering a minor	Rape/Sodomy	Exhibit E	Pandering/trafficking is a modern statutory framework with no FACL analog; the defendant need not engage in any sexual act with the victim.
18.2-357.1(A)	Commercial sex trafficking	Sex trafficking w/intent to receive money	Rape/Sodomy	Exhibit F	Sex-trafficking is a 21st-century commercial-conduct framework; the gravamen is commercial-pecuniary intent, not the defendant's own sexual act with the victim.
18.2-357.1(B)	Commercial sex trafficking	Sex trafficking w/intent to receive money by force, etc.	Rape/Sodomy	Exhibit F	Sex-trafficking is a 21st-century framework; force is directed at causing the victim to engage in sex with others for the trafficker's commercial gain, not the trafficker's own sexual act.
18.2-357.1(C)	Commercial sex trafficking	Sex trafficking w/intent to receive money, person < age 18	Rape/Sodomy	Exhibit F	Age-based sex-trafficking statutes are 21st-century creations; the gravamen is commercial trafficking plus victim age, not the trafficker's own sexual act.
18.2-36	Involuntary manslaughter	Involuntary manslaughter	Manslaughter	Exhibit F	Common-law involuntary manslaughter's contours were contested in 1870; modern criminal-negligence framing was not a settled common-law category.
18.2-36.1(A)	Involuntary manslaughter, driving under the influence	Unintentionally causes the death of another person as a result of driving under the influence	Manslaughter	Exhibit D	
18.2-36.1(B)	Aggravated involuntary manslaughter, driving under the influence	Unintentionally causes the death of another person as a result of driving under the influence and the conduct was so gross, wanton and culpable as to show a reckless disregard for human life	Manslaughter	Exhibit F	DUI-vehicular homicide is a 20th-century framework built on a regulatory predicate (driving while intoxicated) that did not exist at common law.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-36.2(A)	Involuntary manslaughter, operating motorboat under the influence	Unintentionally causes the death of another person as a result of operating a watercraft or motorboat under the influence	Manslaughter	Exhibit F	Operating-while-intoxicated of recreational motorboats is a 20th-century regulatory predicate with no common-law analog.
18.2-36.2(B)	Aggravated involuntary manslaughter, operating motorboat under the influence	Unintentionally causes the death of another person as a result of operating a watercraft or motorboat under the influence and the conduct was so gross, wanton, and culpable as to show a reckless disregard for human life	Manslaughter	Exhibit F	The graded recklessness aggravation is a statutory device; common-law involuntary manslaughter did not have graded tiers and motorboat operation is a 20th-century predicate.
18.2-36.2(B)	Aggravated involuntary manslaughter, operating motorboat under the influence	Unintentionally causes the death of another person as a result of operating a watercraft or motorboat under the influence and the conduct was so gross, wanton, and culpable as to show a reckless disregard for human life	Manslaughter	Exhibit F	The graded recklessness aggravation is a statutory device; common-law involuntary manslaughter did not have graded tiers and motorboat operation is a 20th-century predicate.
18.2-36.3(A)	Involuntary manslaughter, fentanyl distribution	Knowingly manufacture, sell, or distribute fentanyl and unintentionally causes the death of another person	Manslaughter	No Match	Fentanyl is a 21st-century synthetic-opioid regulatory predicate with no common-law analog; the felony-homicide theory built on this regulatory predicate did not exist at 1870 common law.
18.2-36.3(C)	Sell fentanyl as an accommodation	Give or distribute fentanyl as an accommodation to another individual and unintentionally causes the death of person	Manslaughter	No Match	Fentanyl as an accommodation is a 21st-century distribution-fatality framework with no common-law analog; the underlying controlled-substance scheme is entirely 20th-century.
18.2-361	Crimes against nature	Forcible carnal knowledge	Sodomy	Exhibit F	The statute sweeps in both consensual and forcible conduct (and conduct *Lawrence v. Texas* renders unpunishable); forcible variants collapse into common-law rape rather than sodomy.
18.2-361	Crimes against nature	Forcible carnal knowledge	Sodomy	Exhibit F	The statute sweeps in both consensual and forcible conduct (and conduct *Lawrence v. Texas* renders unpunishable); forcible variants collapse into common-law rape rather than sodomy.
18.2-361	Crimes against nature	Sodomy - parent to child aged 13 or 14	Sodomy	Exhibit F	The family-relationship element is purely statutory; common-law sodomy was indifferent to relationship and applied only to specific acts narrower than the modern statute.
18.2-361(A)	Crimes against nature	Non-forcible sodomy	Sodomy	Exhibit D	
18.2-361(B)	Crimes against nature	Sodomy - parent/grandparent to child/grandchild age 13 to 17	Sodomy	Exhibit F	The familial-relationship and age elements are statutory aggravators with no common-law analog; common-law sodomy was a strict-liability act offense.
18.2-361(B)	Crimes against nature	Sodomy - family member to family member	Sodomy	Exhibit F	The familial-relationship element is a statutory aggravator with no common-law analog; common-law sodomy was a strict-liability act offense.
18.2-366	Sexual intercourse by persons forbidden to marry; incest	Adultery and fornication w/ own child age 13 to 14 (incest)	Rape	Exhibit F	Statute punishes consensual incest — at common law, incest was an ecclesiastical (not felonious) matter; the age elements are statutory.
18.2-366(B)	Sexual intercourse by persons forbidden to marry; incest	Incest w/own or step child/grandchild age 13-17	Rape	Exhibit F	Statute punishes consensual incest — at common law, incest was an ecclesiastical (not felonious) matter; the step-relation and age elements are statutory.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-368	Placing or leaving spouse for prostitution	Place or leave wife for prostitution (pandering)	Rape/Sodomy	Exhibit F	Statute requires commercial intent (pandering), which differentiates it from common-law rape; where rape actually occurs, the rape statute applies independently.
18.2-369(A)	Abuse and neglect of vulnerable adults	Incapacitated adult, abuse or neglect-serious injury/disease	Mayhem	Exhibit F	"Vulnerable adult" statutes are 20th-century welfare-state creations; neglect (omission) was not an affirmative act recognized by common-law mayhem.
18.2-369(B)	Abuse and neglect of vulnerable adults	Vulnerable adult, abuse or neglect - results in death	Mayhem	Exhibit F	"Vulnerable adult" statutes are 20th-century welfare-state creations; neglect-based death/injury liability has no common-law felony analog.
18.2-369(B)	Abuse and neglect of vulnerable adults	Incapacitated adult, abuse or neglect-serious injury/disease	Mayhem	Exhibit F	"Vulnerable adult" statutes are 20th-century welfare-state creations; "serious injury or disease" sweeps broader than common-law mayhem and neglect (omission) was not a common-law felony.
18.2-369(B)	Abuse and neglect of vulnerable adults	Vulnerable adult, abuse or neglect-serious injury/disease	Mayhem	Exhibit F	"Vulnerable adult" statutes are 20th-century welfare-state creations; "serious injury or disease" sweeps broader than common-law mayhem and neglect (omission) was not a common-law felony.
18.2-370	Taking indecent liberties with children	Take indecent liberties with child (2nd or subsequent)	Rape/Sodomy	Exhibit F	"Indecent liberties" reaches non-penetrative conduct — at most misdemeanor assault at common law, not a FACL; common-law rape and sodomy required completed sexual acts.
18.2-370	Taking indecent liberties with children	Take indecent liberties with child	Rape/Sodomy	Exhibit F	"Indecent liberties" reaches non-penetrative conduct — at most misdemeanor assault at common law, not a FACL; common-law rape and sodomy required completed sexual acts.
18.2-370(A)	Taking indecent liberties with children	Indecent liberties with child under age 15	Rape/Sodomy	Exhibit F	"Indecent liberties" reaches non-penetrative conduct; the age-based protection is a statutory child-protection framework with no common-law felony analog.
18.2-370(A)	Taking indecent liberties with children	Take indecent liberties with child w/ child under age 14	Rape/Sodomy	Exhibit F	"Indecent liberties" reaches non-penetrative conduct; the age-based protection is a statutory child-protection framework with no common-law felony analog.
18.2-370(C)	Taking indecent liberties with children	Take indecent liberties with child (2nd or subsequent)	Rape/Sodomy	Exhibit F	"Indecent liberties" reaches non-penetrative conduct; recidivist enhancement is a statutory grading device with no common-law analog.
18.2-370(D,i)	Taking indecent liberties with children	Indecent liberties, parent/grandparent etc. child age 15-17	Rape/Sodomy	Exhibit F	"Indecent liberties" reaches non-penetrative conduct; the parent/grandparent familial-authority element is statutory.
18.2-370(D,ii)	Taking indecent liberties with children	Indecent liberties, parent/grand parent etc., child < age 15	Rape/Sodomy	Exhibit F	"Indecent liberties" reaches non-penetrative conduct; the parent/grandparent familial-authority element is statutory.
18.2-371.1(A)	Abuse and neglect of children	Child abuse and neglect, serious injury	Mayhem	Exhibit E	Child-abuse statutes are 20th-century welfare-state creations; statute reaches injuries broader than common-law mayhem's narrow list.
18.2-371.1(B)	Abuse and neglect of children	Gross, wanton, or reckless care for child	Mayhem	Exhibit E	Reckless/neglect mens rea and omission-based actus reus do not match common-law mayhem; child-protection statutes are 20th century.
18.2-374.1(B,1)	Production, publication, sale, financing, etc., of child pornography	Entice minor to perform porn, age 15+, offender 7+ yrs	Rape/Sodomy	Exhibit F	Child pornography is a 20th-century statutory framework; the defendant's role is enticement/production of media, not the defendant's own sexual act with the victim.
18.2-374.1(B,1)	Production, publication, sale, financing, etc., of child pornography	Accost/entice minor to perform in sexually explicit material	Rape/Sodomy	Exhibit F	Child pornography is a 20th-century statutory framework; the defendant's role is accosting/enticement, not the defendant's own sexual act.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-374.1(B,1)	Production, publication, sale, financing, etc., of child pornography	Entice minor to perform porn, age 15+, offender 7+ yrs, 2nd	Rape/Sodomy	Exhibit F	Child pornography is a 20th-century statutory framework; recidivist enhancement does not cure the gap (enticement is not a common-law sex act).
18.2-374.1(B,1)	Production, publication, sale, financing, etc., of child pornography	Entice minor to perform porn	Rape/Sodomy	Exhibit F	Child pornography is a 20th-century statutory framework; enticement is not the defendant's own forcible carnal knowledge or specific sodomy act.
18.2-374.1(B,1)	Production, publication, sale, financing, etc., of child pornography	Entice minor to perform porn, age	Rape/Sodomy	Exhibit F	Child pornography is a 20th-century statutory framework; enticement is not the defendant's own sex act.
18.2-374.1(B,1)	Production, publication, sale, financing, etc., of child pornography	Entice minor to perform porn, age	Rape/Sodomy	Exhibit F	Child pornography (modern Ferber framework, 1982) is a 20th-century construct; the defendant need not engage in or witness any sex act.
18.2-374.1(B,1)	Production, publication, sale, financing, etc., of child pornography	Entice minor to perform in porn, age <15	Rape/Sodomy	Exhibit F	Child pornography is a 20th-century statutory framework; enticement of a minor under 15 is procurement, not the carnal act.
18.2-374.1(B,2)	Production, publication, sale, financing, etc., of child pornography	Produce obscene materials involving minor	Rape/Sodomy	Exhibit F	Image-production criminalization is a 20th-century framework; the conduct is the creation of visual media, not the defendant's own sexual act.
18.2-374.1(B,2)	Production, publication, sale, financing, etc., of child pornography	Produce, make child porn, age 15+, offender 7+ yrs, 2nd	Rape/Sodomy	Exhibit F	Image-production criminalization is a 20th-century framework; recidivist enhancement does not change the underlying non-FACL character.
18.2-374.1(B,2)	Production, publication, sale, financing, etc., of child pornography	Produce, make child porn, age 15+, offender 7+ yrs	Rape/Sodomy	Exhibit F	Image-production criminalization is a 20th-century framework; the conduct is the creation of visual media, not the defendant's own sexual act.
18.2-374.1(B,2)	Production, publication, sale, financing, etc., of child pornography	Produce, make child porn, age 15+	Rape/Sodomy	Exhibit F	Image-production criminalization is a 20th-century framework; the conduct is the creation of visual media, not the defendant's own sexual act.
18.2-374.1(B,2)	Production, publication, sale, financing, etc., of child pornography	Produce, make child porn, age	Rape/Sodomy	Exhibit F	Image-production criminalization is a 20th-century framework; the conduct is the creation of visual media, not the defendant's own sexual act.
18.2-374.1(B,2)	Production, publication, sale, financing, etc., of child pornography	Produce, make child porn, age	Rape/Sodomy	Exhibit F	Image-production criminalization is a 20th-century framework; the conduct is the creation of visual media, not the defendant's own sexual act.
18.2-374.1(B,2)	Production, publication, sale, financing, etc., of child pornography	Produce, make child porn, age <15	Rape/Sodomy	Exhibit F	Image-production criminalization is a 20th-century framework; recidivist enhancement does not change the underlying non-FACL character.
18.2-374.1(B,3)	Production, publication, sale, financing, etc., of child pornography	Take part, film child porn, age < 15	Rape/Sodomy	Exhibit F	Filming-of-minor offenses ("take part") punish participation in visual-media production, not the defendant's own sexual act.
18.2-374.1(B,3)	Production, publication, sale, financing, etc., of child pornography	Take part, film child porn, age 15+	Rape/Sodomy	Exhibit F	Filming-of-minor offenses punish participation in visual-media production, not the defendant's own sexual act; recidivist enhancement does not cure the gap.
18.2-374.1(B,3)	Production, publication, sale, financing, etc., of child pornography	Take part, film child porn, age < 15, offender 7+ yrs	Rape/Sodomy	Exhibit F	Filming-of-minor offenses punish participation in visual-media production, not the defendant's own sexual act.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-374.1(B,3)	Production, publication, sale, financing, etc., of child pornography	Take part, film child porn, age < 15, offender 7+ yrs, 2nd	Rape/Sodomy	Exhibit F	Filming-of-minor offenses punish participation in visual-media production, not the defendant's own sexual act; recidivist enhancement does not cure the gap.
18.2-374.1(B,3)	Production, publication, sale, financing, etc., of child pornography	Take part, film child porn, age 15+, offender 7+ yrs	Rape/Sodomy	Exhibit F	Filming-of-minor offenses punish participation in visual-media production, not the defendant's own sexual act.
18.2-374.1(B,3)	Production, publication, sale, financing, etc., of child pornography	Take part, film child porn, age 15+, offender 7+ yrs, 2nd	Rape/Sodomy	Exhibit F	Financing child pornography punishes commercial backing of media production, not the defendant's own sexual act.
18.2-374.1(B,3)	Production, publication, sale, financing, etc., of child pornography	Filming etc. of minors in sexually explicit material	Rape/Sodomy	Exhibit F	Financing child pornography punishes commercial backing of media production, not the defendant's own sexual act.
18.2-374.1(B,4)	Production, publication, sale, financing, etc., of child pornography	Finance child porn, age 15+	Rape/Sodomy	Exhibit F	Financing child pornography punishes commercial backing of media production; recidivist enhancement does not cure the gap.
18.2-374.1(B,4)	Production, publication, sale, financing, etc., of child pornography	Finance child porn, age 15+, offender 7+ yrs	Rape/Sodomy	Exhibit F	Financing child pornography punishes commercial backing of media production, not the defendant's own sexual act.
18.2-374.1(B,4)	Production, publication, sale, financing, etc., of child pornography	Finance child porn, age < 15, offender 7+ yrs, 2nd	Rape/Sodomy	Exhibit F	Financing child pornography (under-15 victim) punishes commercial backing of media production, not the defendant's own sexual act.
18.2-374.1(B,4)	Production, publication, sale, financing, etc., of child pornography	Finance child porn, age < 15, offender 7+ yrs	Rape/Sodomy	Exhibit F	Selling sexually-explicit material to a minor is a distribution offense (modern obscenity framework), not the defendant's own sexual act with the victim.
18.2-374.1(B,4)	Production, publication, sale, financing, etc., of child pornography	Finance child porn, age < 15	Rape/Sodomy	Exhibit F	Financing child pornography punishes commercial backing of media production; recidivist enhancement does not change the non-FACL character.
18.2-374.1(B,4)	Production, publication, sale, financing, etc., of child pornography	Sell, etc, sexually explicit material to minor	Rape/Sodomy	Exhibit F	Financing sexually-explicit visual material punishes commercial backing of media production, not the defendant's own sexual act.
18.2-374.1(B,4)	Production, publication, sale, financing, etc., of child pornography	Finance child porn, age 15+, offender 7+ yrs, 2nd	Rape/Sodomy	Exhibit F	Financing child pornography punishes commercial backing of media production; recidivist enhancement does not change the non-FACL character.
18.2-374.1(C)	Production, publication, sale, financing, etc., of child pornography	Finance sexually explicit visual material using minor	Rape/Sodomy	Exhibit F	Financing sexually-explicit visual material involving a minor punishes commercial backing of media production, not the defendant's own sexual act.
18.2-374.3(A)	Use of communications systems to facilitate certain offenses involving children	Electronic means for procuring minors for obscene material	Rape/Sodomy	Exhibit F	Using electronic means to solicit minors for prostitution is inchoate solicitation via modern telecommunications; common-law solicitation was a misdemeanor.
18.2-374.3(B)	Use of communications systems to facilitate certain offenses involving children	Procure minor for obscene material by comm. sys.	Rape/Sodomy	Exhibit F	Proposing a sex act over a communication system is inchoate solicitation; common-law solicitation was a misdemeanor and modern telecommunications did not exist in 1870.
18.2-374.3(B)	Use of communications systems to facilitate certain offenses involving children	Electronic means to solicit minors for prostitution, etc	Rape/Sodomy	Exhibit F	Proposing a sex act over a communication system is inchoate solicitation; common-law solicitation was a misdemeanor.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-374.3(C)	Use of communications systems to facilitate certain offenses involving children	Propose sex act, communication sys.	Rape/Sodomy	Exhibit F	Proposing a sex act (victim <15) over a communication system is inchoate solicitation; common-law solicitation was a misdemeanor.
18.2-374.3(C)	Use of communications systems to facilitate certain offenses involving children	Propose sex act, communication sys.	Rape/Sodomy	Exhibit F	Proposing a sex act with a 7-year age differential over a communication system is inchoate solicitation; common-law solicitation was a misdemeanor.
18.2-374.3(C)	Use of communications systems to facilitate certain offenses involving children	Propose sex act, communication sys., age <15	Rape/Sodomy	Exhibit F	Proposing a sex act with a 7-year age differential over a communication system is inchoate solicitation; common-law solicitation was a misdemeanor.
18.2-374.3(D)	Use of communications systems to facilitate certain offenses involving children	Propose sex act, communication sys. 15+, offender 7+ age	Rape/Sodomy	Exhibit F	Proposing a sex act with a 7-year age differential over a communication system is inchoate solicitation; recidivist enhancement does not cure the gap.
18.2-374.3(D)	Use of communications systems to facilitate certain offenses involving children	Propose sex act, communication sys. 15+, offender 7+ age	Rape/Sodomy	Exhibit F	Proposing a sex act with a 7-year age differential over a communication system is inchoate solicitation via modern telecommunications; common-law solicitation was a misdemeanor.
18.2-374.3(D)	Use of communications systems to facilitate certain offenses involving children	Propose sex act, communication sys. 15+, offender 7+ age 2nd	Rape/Sodomy	Exhibit F	Proposing a sex act with a 7-year age differential over a communication system is inchoate solicitation via modern telecommunications; common-law solicitation was a misdemeanor.
18.2-374.3(E)	Use of communications systems to facilitate certain offenses involving children	Procure minor for prostitution, sodomy, porn by comm. sys.	Rape/Sodomy	Exhibit F	Procuring a minor for prostitution/sodomy/pornography via communications systems is inchoate procurement using modern telecommunications; common-law solicitation was a misdemeanor.
18.2-374.4	Display of child pornography or grooming video or materials to a child unlawful	Display child porn or grooming video to child under age 13	Rape/Sodomy	Exhibit E	Child-pornography display offenses are 20th/21st-century statutory creations; the conduct (displaying media) is not a common-law sex act.
18.2-379	Employing or permitting minor to assist in offense under article.	Permit minors in obscene performances (subseq offense)	Rape/Sodomy	Exhibit F	Permitting a minor to assist in an obscene-performance offense (recidivist variant) is a facilitation offense; obscenity-performance frameworks are 20th-century.
18.2-381	Punishment for subsequent offenses	Subseq. child pornography conviction §§18.2-374-18.2-379	Rape/Sodomy	Exhibit E	The predicate child-pornography offenses are modern statutory creations; recidivist enhancement of non-FACL predicates does not produce a FACL.
18.2-413	Resist order to disperse; aids or attempts the rescue or escape of another from lawful custody or confinement	Governor's order, fail to disperse from unlawful assembly	Escape and Rescue from prison or jail	Exhibit F	Failure-to-disperse statutes are 20th-century public-order regulation; the conduct does not involve a prisoner at all, so common-law rescue is inapt.
18.2-414	Injury to person or property while rioting	Injury to another, damage to property (unlawful assembly)	Mayhem	Exhibit E	The riot framework is a 19th/20th-century public-order statute; statute reaches any injury or property damage, far broader than common-law mayhem.
18.2-46.2(A)(ii)	Street gang participation on certain property, predicate violent	Gang member participates in criminal act for benefit of gang, predicate criminal act is an act of violence on school property, school bus, public property within 1,000 feet of school property, or public community center property	Murder, manslaughter, robbery, arson, burglary, rape, sodomy	Exhibit E	Gang-participation statutes are 21st-century enterprise-liability offenses; the defendant may be convicted without personally committing any predicate FACL.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-46.2(A)(ii)	Street gang participation, predicate violent	Gang member participates in criminal act for benefit of gang, predicate criminal act is an act of violence	Murder, manslaughter, robbery, arson, burglary, rape, sodomy	Exhibit E	Gang-participation statutes are 21st-century enterprise-liability offenses; the defendant may be convicted without personally committing any predicate FACL.
18.2-46.5(A)	Act of terrorism, base offense ≥ 20 years	Commit or conspire to commit, or aid and abet the commission of an act of terrorism, base offense of act is punishable by not less than 20 years of incarceration	Murder, robbery, rape, sodomy	Exhibit F	Terrorism statutes are post-9/11 21st-century creations; the intent-to-intimidate overlay is not an element of any common-law felony, and the conviction can rest on inchoate conspiracy or aiding/abetting.
18.2-46.5(B)	Act of terrorism, base offense less than 20 years	Commit or conspire to commit, or aid and abet the commission of an act of terrorism, base offense of act is punishable by less than 20 years of incarceration	Murder, manslaughter, robbery, arson, rape, sodomy	Exhibit F	Terrorism statutes are post-9/11 21st-century creations; the inchoate conspiracy and aiding/abetting variants do not require personal completion of any FACL.
18.2-46.5(D)	Provide material support to terrorist, results in death	Provide material support to terrorist group with the intent to further their objective, results in death	Murder	Exhibit D	
18.2-473	Aid prisoner in escaping	Aid charged/convicted felon or juvenile in successful escape	Escape and rescue	Exhibit F	Statute sweeps in aiding *juveniles* (juvenile-justice system post-1899) and aiding *charged* (not convicted) persons — categories outside common-law rescue, which required aiding an already-convicted felon.
18.2-473.2(C)	covering or damaging a security camera in a jail to hide felony	Security camera covered, made inoperable, etc., hide felony	Escape and rescue	Exhibit F	Security cameras did not exist in 1870; the conduct is 21st-century evidence-tampering, not actual liberation of a prisoner.
18.2-475	Allow prisoner to escape	Officer voluntarily allowing felon escape, convicted or not	Escape and rescue	Exhibit D	
18.2-477	Post-conviction escape by force	Escape by force or violence from jail	Escape and rescue	Exhibit F	Statute does not distinguish based on the felony/misdemeanor character of the underlying conviction; common-law escape required underlying felony confinement.
18.2-477.1(B)	Escape juvenile facility by force	Escape from secure juvenile facility by force or violence	Escape and rescue	Exhibit F	The juvenile-facility framework did not exist at common law (first juvenile court 1899); juveniles in detention are not common-law felons whose escape was a FACL.
18.2-477.2	Conspiracy to violate §53.1-203 by person committed to DJJ and confined in juvenile facility	Juvenile Prisoner -Conspire to commit act found in §53.1-203	Escape and rescue	Exhibit E	The juvenile-facility framework did not exist at common law (first juvenile court 1899), and conspiracy was a misdemeanor.
18.2-477.2	Prisoner in juvenile facility damage property in escaping or aiding in escape.	Juvenile Prisoner- Damage etc any part of facility to escape	Escape and rescue	Exhibit E	Property damage to facilitate escape is modern statutory mischief; the juvenile-facility framework is 20th century.
18.2-477.2	Prisoner in juvenile facility burning/destroying facility property	Juvenile Prisoner burn/destroy w/explosive personal property	Escape and rescue	Exhibit E	Burning/destroying juvenile-facility property is modern statutory mischief, not common-law escape.
18.2-477.2	Prisoner in juvenile facility possess instrument of escape	Juvenile Prisoner - Possess an instrument to aid escape	Escape and rescue	Exhibit E	Possession-of-tools is inchoate preparation, not actual escape; the juvenile-facility framework is 20th century.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-477.2	Escape by juvenile facility	Escape from juvenile facility or detention home	Escape and rescue	Exhibit E	The juvenile-facility framework did not exist at common law; juveniles are not common-law felons whose escape was a FACL.
18.2-478	Preconviction escape from custody by force	Not convicted, escape from custody by force or violence	Escape and rescue	Exhibit F	Statute reaches *preconviction* escape without distinguishing felony from misdemeanor underlying charges; where the underlying charge was a misdemeanor, the FACL predicate fails.
18.2-479(B)	Escape without force.	Convicted or not- felony, escape w/o force, violence, fire	Escape and rescue	Exhibit F	Statute reaches all escapees regardless of the underlying charge's grade and does not require force; where the underlying confinement was for a misdemeanor or a pretrial misdemeanor charge, the FACL predicate fails.
18.2-48.1	Abduction by prisoner or confined person	Person confined in correctional facility or juvenile correctional center who escapes from such facility and who abducts or takes any person hostage	Escape from prison or jail	Exhibit E	The abduction-by-prisoner overlay on escape is a 20th-century statutory aggravator with no common-law analog.
18.2-480	Escape or attempted escape by fire	Escape or attempted escape by setting fire to jail	Escape and rescue/arson	Exhibit F	A jail is not a dwelling house (common-law arson required a dwelling house of another); and the escape prong fails where the underlying confinement is for a misdemeanor.
18.2-50.3	Entice into dwelling with intent to commit a felony	Entice, solicited, or requested into dwelling with intent to commit murder, abduction, robbery, rape, sodomy, object sexual penetration	Murder, rape, sodomy, robbery	Exhibit E	Statute is inchoate — complete on enticement before any predicate felony occurs; common-law inchoate offenses were misdemeanors.
18.2-51.2(A)	Aggravated malicious wounding	Maliciously shoots, stabs, cuts or wounds any other person, or by any means causes bodily injury, with the intent to maim, disfigure, disable or kill and the victim is severely injured and suffers permanent and significant physical impairment	Mayhem	Exhibit F	Closest fit to common-law mayhem (statute requires "permanent and significant physical impairment" and "malicious" intent), but the actus reus reaches injuries (disfigurement, scarring, paralysis) far broader than mayhem's narrow list of disablement to combat-useful members (eye, hand, foot, finger, tooth).
18.2-51.2(B)	Aggravated malicious wounding of a pregnant woman	Maliciously shoots, stabs, cuts or wounds woman who is pregnant, or by any other means causes bodily injury, with the intent to maim, disfigure, disable or kill the pregnant woman or to cause the involuntary termination of her pregnancy, and the victim is severely injured and caused to suffer permanent and significant physical impairment	Mayhem	Exhibit F	Tracks mayhem's permanence and malice but adds a pregnant-victim element and intent to terminate pregnancy — modern statutory frameworks with no common-law analog; actus reus also reaches injuries broader than mayhem's narrow list.
18.2-51.4(A)	DUI maiming	Driving while intoxicated with reckless disregard causes serious bodily injury	Mayhem	Exhibit F	DUI-maiming punishes reckless conduct (not malicious dismembering required by common-law mayhem); automobile-DUI is a 20th-century framework with no 1870 analog.
18.2-51.4(A)	DUI maiming, victim permanently impaired	Driving while intoxicated with reckless disregard, victim permanently impaired	Mayhem	Exhibit F	DUI-maiming punishes reckless conduct (not malicious dismembering); the "permanent impairment" upgrade does not supply malice, and automobile-DUI is a 20th-century framework.
18.2-51.4(B)	DUI maiming, victim permanently impaired	Driving while intoxicated with reckless disregard, victim permanently impaired	Mayhem	Exhibit F	DUI-maiming punishes reckless conduct (not malicious dismembering required by common-law mayhem); automobile-DUI is a 20th-century framework with no 1870 analog.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-51.5	Maiming from operating watercraft while intoxicated, victim permanently impaired	Operate watercraft while intoxicated with reckless disregard, victim permanently impaired	Mayhem	Exhibit F	BUI-maiming punishes reckless conduct (not malicious dismembering required by common-law mayhem); motorboat operation is a 20th-century regulatory predicate.
18.2-51.5(A)	Maiming from operating watercraft while intoxicated	Operate watercraft while intoxicated with reckless disregard causes serious bodily injury	Mayhem	Exhibit F	BUI-maiming punishes reckless conduct (not malicious dismembering required by common-law mayhem); motorboat operation is a 20th-century regulatory predicate.
18.2-51.5(B)	Maiming from operating watercraft while intoxicated, victim permanently impaired	Operate watercraft while intoxicated with reckless disregard, victim permanently impaired	Mayhem	Exhibit F	BUI-maiming punishes reckless conduct (not malicious dismembering); the "permanent impairment" upgrade does not supply malice, and motorboat operation is a 20th-century regulatory predicate.
18.2-514(A)	Use or receive racketeering proceeds or invest in racketeering, second or subsequent offense	Racketeering \$10,000 or more; obtain property etc. 2nd Subsq	Murder, rape, mayhem, arson, and burglary	Exhibit F	Statute punishes financial conduct (using/receiving racketeering proceeds, investing) downstream of the predicates; recidivist enhancement does not cure the gap.
18.2-514(A)	Use or receive racketeering proceeds or invest in racketeering.	Racketeering \$10,000 or more to obtain property/enterprise	Murder, rape, mayhem, arson, and burglary	Exhibit F	Statute punishes the receipt or investment of racketeering proceeds, not commission of any predicate FACL.
18.2-514(B)	Maintain interest in racketeering enterprise.	Maintain interest in enterprise/property thru racketeering	Murder, rape, mayhem, arson, and burglary	Exhibit F	The actus reus is passive (maintaining an interest), not active commission of any predicate FACL.
18.2-514(B)	Maintain interest in racketeering enterprise, second or subsequent offense	Interest in enterprise/property thru racketeering 2nd/subsq.	Murder, rape, mayhem, arson, and burglary	Exhibit F	The actus reus is passive (maintaining an interest); recidivist enhancement does not cure the gap.
18.2-514(C)	Participate in racketeering, second or subsequent offense.	Employed by enterprise, participate racketeering, subsq.	Murder, rape, mayhem, arson, and burglary	Exhibit F	Participation in a racketeering enterprise is a 20th-century enterprise-liability offense; recidivist enhancement does not cure the gap.
18.2-514(C)	Participate in racketeering.	Employed by enterprise, participate in racketeering	Murder, rape, mayhem, arson, and burglary	Exhibit F	Participation in a racketeering enterprise is a 20th-century enterprise-liability offense; no predicate FACL need be personally committed.
18.2-514(D)	Conspire to violate racketeering laws, second or subsequent offense.	Conspire to violate racketeering provisions, subsequent	Murder, rape, mayhem, arson, and burglary	Exhibit F	Doubly removed from FACL: common-law conspiracy was a misdemeanor, and racketeering is itself 20th-century enterprise liability. Recidivist enhancement does not cure either gap.
18.2-514(D)	Conspire to violate racketeering laws.	Conspire to violate racketeering provisions	Murder, rape, mayhem, arson, and burglary	Exhibit F	Doubly removed from FACL: common-law conspiracy was a misdemeanor, and racketeering is 20th-century enterprise liability.
18.2-516	Transmitting fruits of racketeering.	Transmitting money derived from racketeering	Murder, rape, mayhem, arson, and burglary	Exhibit E	Statute punishes post-offense money-handling (downstream financial concealment), not the commission of any predicate FACL.
18.2-53.1	Firearm use in commission of felony, subsequent offense	Firearm use in commission of felony, subsequent offense	Murder, rape, sodomy, robbery, burglary	Exhibit E	Statute is a separate firearm-use enhancement; common-law felonies were not graded by weapon type, and the underlying predicate is charged separately.
18.2-53.1	Firearm use in commission of felony, first offense	Firearm use in commission of felony, first offense	Murder, rape, sodomy, robbery, burglary	Exhibit E	Statute is a separate firearm-use enhancement; common-law felonies were not graded by weapon type, and the underlying predicate is charged separately.
18.2-54.1	Poison or attempt to poison	Poison or attempt to poison food, drugs, water, drinks with intent injure or kill	Murder	Exhibit E	Statute is inchoate — complete on attempt, without any death; common-law murder required an actual death.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-54.2	Adulteration with intent to injure or kill	Adulterates any food, drink, prescription or over-the-counter medicine, cosmetic or other substance with the intent to kill or injure any individual who ingests, inhales or uses such substance	Murder		Statute is inchoate — complete on adulteration with intent, without any death or even ingestion; common-law murder required an actual death.
				Exhibit E	
18.2-56.1(A)(1)	Reckless handling of firearm	Handles firearm in a manner so gross, wanton, and culpable as to show a reckless disregard for human life and causes serious bodily injury of another person resulting in permanent and significant physical impairment	Mayhem		Mayhem required malice; this statute punishes "gross, wanton, and culpable" recklessness — the opposite of malice. The injury element ("permanent and significant physical impairment") also sweeps broader than mayhem's narrow list.
				Exhibit F	
18.2-58	Robbery	Robbery occurs at business using gun or simulated gun	Robbery	No Match	
18.2-58	Robbery	Robbery occurs on street using gun or simulated gun	Robbery	No Match	
18.2-58	Robbery	Robbery occurs at bank or banking type institution	Robbery	No Match	
18.2-58	Robbery	Robbery occurs on street	Robbery	No Match	
18.2-58	Robbery	Robbery occurs at residence	Robbery	No Match	
18.2-58	Robbery	Robbery occurs at business	Robbery	No Match	
18.2-58	Robbery	Robbery occurs at residence using gun or simulated gun	Robbery	No Match	
18.2-58	Robbery	Robbery occurs at bank using gun or simulated gun	Robbery	No Match	
18.2-58(B)(1)	Robbery causes serious bodily injury	Taking, with intent to steal, the personal property of another, from his person or in his presence, against his will, by violence or intimidation and causes serious bodily injury.	Robbery	No Match	
18.2-58(B)(1)	Robbery causes death	Taking, with intent to steal, the personal property of another, from his person or in his presence, against his will, by violence or intimidation and causes death.	Robbery	No Match	
18.2-58(B)(2)	Robbery by using or displaying a firearm	Taking, with intent to steal, the personal property of another, from his person or in his presence, against his will, by using or displaying a firearm in a threatening manner	Robbery	No Match	
18.2-58(B)(3)	Robbery by using or displaying a deadly weapon	Taking, with intent to steal, the personal property of another, from his person or in his presence, against his will, by using or displaying a deadly weapon other than a firearm in a threatening manner	Robbery	No Match	

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-58(B)(3)	Robbery by using physical force, no serious bodily injury	Taking, with intent to steal, the personal property of another, from his person or in his presence, against his will, by using physical force and does not result in serious bodily injury	Robbery	No Match	
18.2-58(B)(4)	Robbery by threat or intimidation	Taking, with intent to steal, the personal property of another, from his person or in his presence, against his will, by threat or intimidation or an means not involving a deadly weapon	Robbery	No Match	
18.2-58.1(A)	Carjacking	Seizure of another's car with intent to permanently or temporarily deprive another of possession or control by means of partial strangulation, suffocation, striking or beating, assault, or by otherwise putting a person in fear of serious bodily harm, or by the threat or presenting of firearms, or other deadly weapon	Robbery	Exhibit D	
18.2-59.1	Sexual extortion	Sexual extortion	Sodomy / Rape	Exhibit F	Sexual extortion is a coercion offense (demanding sexual conduct under threat); no completed sex act is required, so common-law rape and sodomy elements both fail.
18.2-59.1	Sexual extortion	Sexual extortion of minor	Sodomy / Rape	Exhibit F	Sexual extortion (minor variant) is a coercion offense; no completed sex act required.
18.2-59.1(A)	Sexual extortion	Sexual extortion	Sodomy / Rape	Exhibit F	Sexual extortion is a coercion offense; no completed sex act required for conviction.
18.2-59.1(A)	Sexual extortion	Sexual extortion of minor	Sodomy / Rape	Exhibit F	Sexual extortion (minor variant) is a coercion offense; no completed sex act required.
18.2-59.1(B)	Sexual extortion	Sexual extortion, housing, financial, etc.	Sodomy / Rape	Exhibit F	Sexual extortion (housing/financial leverage) is a coercion offense based on threats to housing/financial interests — categories of extortion unknown to common-law rape or sodomy.
18.2-59.1(B)	Sexual extortion	Sexual extortion of minor < 15, housing, financial, etc.	Sodomy / Rape	Exhibit F	Sexual extortion (housing/financial leverage of minor under 15) is a coercion offense; no completed sex act required.
18.2-60.4	Assault w/ serious injury	Assault w/serious injury to person with protective order	Mayhem	Exhibit E	"Serious injury" sweeps in injuries broader than common-law mayhem's narrow list; the protective-order framework is a 20th-century J&DR creation.
18.2-61	Rape	Forcible Rape-Type not clear from record	Rape	Exhibit D	
18.2-61	Rape	Forcible intercourse	Rape	Exhibit D	
18.2-61(A)	Rape	Intercourse with spouse by force, threat, etc.	Rape	Exhibit E	Common-law rape included a marital exemption that this statute abolishes; while the underlying conduct (forcible carnal knowledge) matches, the marital-exemption point is a substantive caveat.
18.2-61(A,i)	Rape	Intercourse with victim by force, threat or intimidation	Rape	Exhibit D	
18.2-61(A,iii)	Rape	Forcible intercourse with victim under age 13	Rape	Exhibit D	

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-61(A,iii)	Rape	Rape victim under age 13 w/kidnap, burglary, wounding	Rape	Exhibit D	
18.2-61(A,iii)	Rape	Intercourse with victim under age 13 (indicted as an adult)	Rape	Exhibit D	
18.2-63(A)	Statutory rape	Carnal knowledge/Statutory Rape Age of victim 13, 14	Sodomy	Exhibit F	Statutory rape based purely on victim age 13–14 by its terms may punish consensual carnal knowledge — common-law rape required force or threat against the will, which statutory rape by definition does not require.
18.2-63(B)	Statutory rape	Carnal knowledge victim age 13,14-accused 3+yrs older	Sodomy	Exhibit F	Statutory rape with a 3+ year age gap is a modern age-gap framework; common-law rape required force, not statutory age differentials.
18.2-64.1	Statutory rape	Carnal knowledge of ward by employee of court/DJJ	Sodomy	Exhibit F	The carnal-knowledge-by-court/DJJ-employee offense is a status-based custodial-authority offense; the court-employee/DJJ framework is a 20th-century creation with no common-law analog.
18.2-64.2	Statutory rape	Carnal knowledge by bail bond employee	Sodomy	Exhibit F	The bail-bond profession is a 20th-century regulated occupation; status-based carnal-knowledge offenses tied to commercial-bail framework have no common-law analog.
18.2-64.2	Statutory rape	Carnal knowledge of detainee by DOC/DJJ/JAIL Staff	Sodomy	Exhibit F	The carnal-knowledge-by-correctional-staff offense is a status-based custodial-authority offense; the DOC/DJJ/jail-staff professional framework is 20th-century with no common-law analog.
18.2-64.2	Statutory rape	Carnal knowledge of detainee by DOC/DJJ Staff or LEO	Sodomy	Exhibit F	The carnal-knowledge-by-LEO/correctional-staff offense is a status-based custodial-authority offense; modern law-enforcement and correctional-staff frameworks have no common-law analog.
18.2-64.2	Statutory rape	Carnal knowledge of confidential informant by LEO	Sodomy	Exhibit F	The carnal-knowledge-of-CI-by-LEO offense rests on the modern confidential-informant framework — purely a 20th/21st-century investigative-practice creation.
18.2-67.1	Sodomy	Forcible Sodomy-Type not clear from record	Sodomy	Exhibit D	
18.2-67.1(A)	Sodomy	Forcible sodomy of spouse by force, threat, etc	Sodomy	Exhibit D	
18.2-67.1(A,1)	Sodomy	Sodomy victim under age 13 (indicted as an adult)	Sodomy	Exhibit D	
18.2-67.1(A,1)	Sodomy	Forcible sodomy victim < 13 w/kidnapping, burglary, wounding	Sodomy	Exhibit D	
18.2-67.1(A,1)	Sodomy	Forcible sodomy, victim under age 13	Sodomy	Exhibit D	
18.2-67.1(A,2)	Sodomy	Forcible sodomy, by force,threat, etc, victim age 13+	Sodomy	Exhibit D	
18.2-67.2	Object sexual penetration	Object Sexual Penetration -Type not clear from record	Sodomy	Exhibit F	Object sexual penetration is a 20th-century statutory expansion; common-law rape required penile-vaginal penetration and common-law sodomy required specific acts narrower than object penetration.
18.2-67.2(1)	Object sexual penetration	Inanimate object sexual penetration victim under age 13	Sodomy	Exhibit F	Object sexual penetration (victim under 13) is a 20th-century statutory expansion; the conduct (penetration with an inanimate object) is broader than both common-law rape and sodomy.
18.2-67.2(1)	Marital sexual assault	Marital sexual assault	Sodomy / Rape	Exhibit F	Marital sexual assault abolishes the common-law marital exemption (a defining element of common-law rape) and may reach object penetration outside common-law rape and sodomy.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-67.2(2)	Object sexual penetration	Inanimate object sexual penetration by force, etc	Sodomy	Exhibit F	Object sexual penetration by force is a 20th-century statutory expansion; common-law rape required penile-vaginal penetration.
18.2-67.2(A)	Object sexual penetration	Object sexual penetration of spouse by force, etc	Sodomy	Exhibit F	Object sexual penetration of a spouse abolishes the common-law marital exemption (a defining element of common-law rape) and reaches conduct (object penetration) outside common-law rape and sodomy.
18.2-67.2(A,1)	Object sexual penetration	Object sexual penetration victim < age 13, indicted adult	Sodomy	Exhibit F	Object sexual penetration (victim under 13) is a 20th-century statutory expansion; conduct outside both common-law rape and sodomy.
18.2-67.2(A,1)	Object sexual penetration	Obj. penetration victim	Sodomy	Exhibit F	Object sexual penetration is a 20th-century statutory expansion; conduct outside both common-law rape and sodomy.
18.2-67.2(A,1)	Object sexual penetration	Object sexual penetration victim under age 13	Sodomy	Exhibit F	Object sexual penetration (victim under 13) is a 20th-century statutory expansion; conduct outside both common-law rape and sodomy.
18.2-67.2(A,2)	Object sexual penetration	Object sexual penetration by force, threat, etc	Sodomy	Exhibit F	Object sexual penetration by force is a 20th-century statutory expansion; common-law rape required penile-vaginal penetration.
18.2-77	Arson	Arson of building or dwelling place during the day	Arson	Exhibit F	Common-law arson required malicious burning of *the dwelling house of another* at night. "Building or dwelling place during the day" sweeps in non-dwellings and daytime burnings — variants outside the narrow common-law definition.
18.2-77	Arson	Arson of unoccupied building or dwelling place at night	Arson	Exhibit F	Common-law arson required burning of the dwelling house of *another* at night; "unoccupied" dwelling-or-building variant sweeps in non-dwellings (which were misdemeanor at common law).
18.2-77	Arson	Arson of occupied dwelling place at night	Arson	Exhibit F	Closer to common-law arson (occupied dwelling at night), but statute reaches a wider class of structures ("dwelling place") than common law's narrow definition of "dwelling house of another."
18.2-77(A,i)	Arson	Arson of occupied dwelling place or church	Arson	Exhibit F	The "church" alternative expands common-law arson, which was limited to dwelling houses of another; ecclesiastical-property burning was treated separately.
18.2-77(A,ii)	Arson	Aid or procure burning of occupied dwelling or church	Arson	Exhibit F	Aiding/procuring arson is accessory liability; whether it qualifies depends on whether the underlying burning satisfies common-law arson's dwelling-house element.
18.2-77(B)	Arson	Arson of unoccupied dwelling place or church	Arson	Exhibit F	Common-law arson required occupancy — burning of unoccupied premises was a separate, lesser offense at common law; the statute reaches both dwellings and churches. including the unoccupied case.
18.2-89	Burglary	Burglary dwelling at night; commit larceny etc w/ deadly wpn	Burglary	Exhibit D	
18.2-89	Burglary	Burglary dwelling at night to commit larceny, other felony	Burglary	Exhibit D	
18.2-90	Burglary	Stat. Burglary of structure to murder, etc w/ deadly wpn	Burglary	Exhibit D	
18.2-90	Burglary	Stat. Burglary of dwelling to murder, rape, rob, arson	Burglary	Exhibit D	
18.2-90	Burglary	Stat. Burglary of dwelling to murder, etc w/ deadly weapon	Burglary	Exhibit D	

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
18.2-90	Burglary	Stat. Burglary of structure to murder, rape, rob, arson	Burglary	Exhibit D	
18.2-91	Burglary	Stat. Burglary of dwelling to commit other felony or A&B	Burglary	Exhibit D	
18.2-91	Burglary	Stat. Burglary dwelling; commit oth fel or A&B w/ deadly wpn	Burglary	Exhibit D	
18.2-91	Burglary	Stat. Burglary of structure to commit larceny, etc	Burglary	Exhibit D	
18.2-91	Burglary	Stat. Burglary of structure commit larceny etc w/ deadly wpn	Burglary	Exhibit D	
18.2-95(A,i)	Grand larceny	Grand larceny - \$5 or more from person	Larceny	No Match	
18.2-95(A,ii)	Grand larceny	Grand larceny - Auto theft	Larceny	No Match	
18.2-95(A,ii)	Grand larceny	Grand larceny - \$1000 or more not from person	Larceny	No Match	
18.2-95(A,iii)	Larceny	Larceny of firearms, regardless of value, not from person	Larceny	No Match	
18.2-95(ii)	Grand larceny	Grand larceny - \$200 or more not from person	Larceny	Exhibit D	
18.2-95(ii)	Grand larceny	Grand larceny - \$500 or more not from person	Larceny	Exhibit D	
18.2-97	Larceny	Larceny of animals and poultry worth less than \$1000	Larceny	Exhibit D	
18.2-97	Larceny	Larceny of animals and poultry worth less than \$500	Larceny	Exhibit D	
18.2-97	Larceny	Larceny of animals and poultry worth less than \$200	Larceny	Exhibit D	
18.2-97	Larceny	Larceny of animals (dog, horse, pony, mule, cow, steer, etc)	Larceny	Exhibit D	
18.2-98	Larceny	Larceny of bank notes, checks, etc. worth \$200 or more	Larceny	Exhibit D	
18.2-98	Larceny	Larceny of bank notes, checks, etc., worth \$1000 or more	Larceny	Exhibit D	
18.2-98	Larceny	Larceny of bank notes, checks, etc., worth \$500 or more	Larceny	Exhibit D	
24.2-1009	Stealing or tampering with ballot box, equipment, software	Stealing or tampering with ballot box, equipment, software	Larceny	Exhibit F	Ballot boxes, voting equipment, and election software are modern democratic infrastructure with no common-law analog; common-law larceny required trespassory taking of tangible chattel of value.
28.2-527	Theft of oysters, clams, shells etc. >= \$500	Theft of oysters, clams, shells etc. >= \$500	Larceny	Exhibit D	
28.2-527	Theft of oysters, clams, shells etc. >= \$200	Theft of oysters, clams, shells etc. >= \$200	Larceny	Exhibit D	
28.2-527	Theft of oysters, clams, shells etc. >= \$1000	Theft of oysters, clams, shells etc. >= \$1000	Larceny	Exhibit D	
28.2-560	Larceny from oyster-planting ground, >= \$500	Larceny from oyster-planting ground, >= \$500	Larceny	Exhibit D	

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
28.2-560	Larceny from oyster-planting ground, >= \$1000	Larceny from oyster-planting ground, >= \$1000	Larceny	Exhibit D	
28.2-560	Larceny from oyster-planting ground, >= \$200	Larceny from oyster-planting ground, >= \$200	Larceny	Exhibit D	
3.2-4763(B)(iii)	Grain dealer fraud	Grain dealer or employee removes any grain from a storage facility without the permission of the producer	Larceny	Exhibit E	The grain dealer was already in lawful possession as a bailee — closer to embezzlement (not FACL) than larceny.
32.1-321.4	False statements to obtain medical benefits, \$200+	False statements to obtain medical benefits, \$200+	Larceny	Exhibit E	Medicaid (1965) is a modern welfare-state program; benefits voluntarily disbursed in response to misrepresentation are closer to false pretenses (not FACL) than larceny.
32.1-321.4	False statements to obtain medical benefits, ≥ \$1000	False statements to obtain medical benefits, ≥ \$1000	Larceny	Exhibit E	Medicaid is a modern welfare program; benefits voluntarily disbursed in response to misrepresentation are closer to false pretenses (not FACL) than larceny.
32.1-321.4	False statements to obtain medical benefits, ≥ \$500	False statements to obtain medical benefits, ≥ \$500	Larceny	Exhibit E	Medicaid is a modern welfare program; benefits voluntarily disbursed in response to misrepresentation are closer to false pretenses (not FACL) than larceny.
32.1-321.4	False statements to obtain medical asst. benefits	False statements to obtain medical asst. benefits	Larceny	Exhibit E	Medicaid is a modern welfare program; benefits voluntarily disbursed in response to misrepresentation are closer to false pretenses (not FACL) than larceny.
40.1-103	Endangerment, cruelty or injuries to children	Endangerment, cruelty or injuries to children	Mayhem	Exhibit E	Child-protection statutes are 20th-century creations; endangerment/risk-creation has no common-law felony analog.
40.1-29	Withhold wages with intent to defraud , 2nd or subsq.	Withhold wages with intent to defraud , 2nd or subsq.	Larceny	Exhibit E	Wage-and-hour regulation is a 20th-century framework; employer wage-withholding is a breach of statutory duty, not the trespassory taking of another's property.
40.1-29	Withhold wages with intent to defraud \$10,000 or more	Withhold wages with intent to defraud \$10,000 or more	Larceny	Exhibit E	Wage-and-hour regulation is a 20th-century framework; employer wage-withholding is a breach of statutory duty, not the trespassory taking of another's property.
42.1-73	Concealment, removal of books etc., value \$200 or more	Concealment, removal of books etc., value \$200 or more	Larceny	Exhibit F	Library books are lawfully in the borrower's possession at the time of "concealment/removal" — the defendant's misuse of lawful possession is the embezzlement paradigm (not FACL), not common-law larceny.
42.1-73	Concealment, removal of books etc., value \$1000 or more	Concealment, removal of books etc., value \$1000 or more	Larceny	Exhibit F	Library books are lawfully in the borrower's possession at the time of "concealment/removal" — the defendant's misuse of lawful possession is the embezzlement paradigm (not FACL), not common-law larceny.
42.1-73	Concealment, removal of books etc., value \$500 or more	Concealment, removal of books etc., value \$500 or more	Larceny	Exhibit F	Library books are lawfully in the borrower's possession at the time of "concealment/removal" — the defendant's misuse of lawful possession is the embezzlement paradigm (not FACL), not common-law larceny.
43-13	Intent to defraud funds not used to pay labor/supplies \$200+	Intent to defraud funds not used to pay labor/supplies \$200+	Larceny	Exhibit E	Construction-trust-fund statutes are 20th century; the contractor was already in lawful possession — closer to embezzlement (not FACL) than larceny.
43-13	Intent to defraud, funds not used for labor/supplies ≥ \$1000	Intent to defraud, funds not used for labor/supplies ≥ \$1000	Larceny	Exhibit E	Construction-trust-fund statutes are 20th century; the contractor was already in lawful possession — closer to embezzlement (not FACL) than larceny.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
43-13	Intent to defraud, funds not used for labor/supplies ≥ \$500	Intent to defraud, funds not used for labor/supplies ≥ \$500	Larceny	Exhibit E	Construction-trust-fund statutes are 20th century; the contractor was already in lawful possession — closer to embezzlement (not FACL) than larceny.
46.2-105.2(A)	Obtain/possess documents from DMV when not entitled	Obtain/possess documents from DMV when not entitled	Larceny	Exhibit E	DMV documents are 20th-century regulatory artifacts (no automobiles in 1870); regulatory document fraud is not common-law larceny.
46.2-817	Disregard police command to stop, bodily injury results	Disregard police command to stop, bodily injury results	Mayhem	Exhibit E	Automobile-pursuit statutes are 20th-century; reckless mens rea and broad injury element do not match common-law mayhem.
46.2-817(C)	Law-enforcement officer killed as result of pursuit	Law-enforcement officer killed as result of pursuit	Manslaughter	Exhibit E	This vehicular-homicide variant is a 20th-century doctrinal expansion built on a regulatory predicate (automobiles, intoxication thresholds) that did not exist at 1870 common law.
46.2-865.1(A,1)	Serious bodily injury caused by racing/exhibition driving	Serious bodily injury caused by racing/exhibition driving	Mayhem	Exhibit E	Racing/exhibition-driving statutes are 20th-century; reckless mens rea and automobile-based actus reus do not match common-law mayhem.
46.2-865.1(A,2)	Cause death of another by racing	Cause death of another by racing	Manslaughter	Exhibit E	Racing-death vehicular homicide is a 20th-century doctrinal expansion; automobiles and racing-specific traffic regulation did not exist at 1870 common law.
46.2-865.1(A,2)	Cause death of another by racing/exhibition driving	Cause death of another by racing/exhibition driving	Manslaughter	Exhibit E	Racing/exhibition-death vehicular homicide is a 20th-century doctrinal expansion; automobile-exhibition statutes had no common-law analog.
46.2-868(B)		Reckless driving causes death of another	Manslaughter	Exhibit F	Reckless-driving-death is vehicular homicide; automobile-based offenses are 20th-century with no common-law analog.
46.2-868(B)	Reckless driving, license suspended/revoked, causes death	Reckless driving, license suspended/revoked, causes death	Manslaughter	Exhibit F	Reckless driving with a suspended/revoked license adds a regulatory licensing predicate; driver licensing did not exist in 1870 and automobile operation has no common-law analog.
46.2-894	hit and run--victim killed or injured	Hit and run - Driver failed to stop/report/etc (vic injured)	Mayhem or manslaughter	Exhibit E	Hit-and-run punishes failure to stop/report, not the injury itself; the duty-to-stop framework is entirely 20th century (automobile era).
46.2-894	*Think this may be a duplicate?*	Hit and run - Driver failed to stop/report/etc (vic injured)	Mayhem or manslaughter	Exhibit E	Hit-and-run punishes failure to stop/report, not the injury itself; the duty-to-stop framework is entirely 20th century (automobile era).
52-48	Disseminate criminal /terrorism intelligence resulting in death/injury	Disseminate criminal /terrorism intelligence - death/injury	Mayhem/Manslaughter	Exhibit E	Intelligence-dissemination statutes are 21st-century post-9/11 frameworks; the conduct (information handling) is not an act of dismembering or killing.
53.1-131	Jail prisoner in work/education program, leaves Commonwealth	Jail prisoner in work/education program, leaves Commonwealth	Escape from jail.	Exhibit F	Work-release/education-program participation is a 20th-century correctional innovation; the prisoner was already lawfully outside the prison on a release program — not the close-confinement escape required at common law.
53.1-203(1)	Escape from a correctional facility	Escape from a correctional facility	Escape from prison	Exhibit E	Statute does not distinguish between felony and misdemeanor confinement; common-law escape required underlying felony confinement.
53.1-203(10)	Prisoner - Conspiracy to commit acts specified in §53.1-203	Prisoner - Conspiracy to commit acts specified in §53.1-203	Escape from prison	Exhibit E	Statute punishes inchoate conspiracy; common-law conspiracy was a misdemeanor.
53.1-203(2)	Prisoner - Damage etc. any part of facility to aid escape	Prisoner - Damage etc. any part of facility to aid escape	Escape from prison	Exhibit E	Damaging facility property to aid escape is modern statutory mischief, not the completed flight required by common-law escape.
53.1-203(3)	Possess an instrument to aid escape	Possess an instrument to aid escape	Escape from prison	Exhibit E	Possession-of-tools is inchoate preparation, not the completed flight required by common-law escape.

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Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
53.1-203(7)	Prisoner - Introduce/poss. firearm or ammunition in facility	Prisoner - Introduce/poss. firearm or ammunition in facility	Escape from prison	Exhibit E	Prison-contraband possession is 20th-century regulatory framework, not the departure-from-custody required by common-law escape.
53.1-203(8)	Prisoner - Burn or destroy with explosive any property	Prisoner - Burn or destroy with explosive any property	Arson/Escape from prison	Exhibit E	Prison-property destruction does not satisfy common-law arson (dwelling-house) or escape (departure); it is a 20th-century prison-discipline offense.
53.1-213	Escape while in custody on detainer	Escape while in custody on detainer	Escape generally	Exhibit F	Escape while on a *detainer* (out-of-state custody transfer mechanism) is a 20th-century interstate-corrections framework; common-law escape required underlying felony confinement.
53.1-37(D)	Furlough violation willfully fail to stay within limits	Furlough violation willfully fail to stay within limits	Escape from prison	Exhibit E	Furlough/conditional-release frameworks are 20th-century correctional innovations; the prisoner was already lawfully outside the prison.
53.1-60	Escape from work or education area, vehicle etc.	Escape from work or education area, vehicle etc.	Escape from prison	Exhibit F	Escape from work/education area or transport vehicle is a 20th-century correctional setting; common-law escape required departure from close confinement of a convicted felon.
54.1-2989	Conceal etc., do not resuscitate order - death hastened	Conceal etc., do not resuscitate order - death hastened	Murder	Exhibit E	Health-Care Decisions Act framework is post-1992; concealment of medical records is records fraud, not an affirmative killing.
54.1-2989	Falsify etc., revocation do not resuscitate - death hastened	Falsify etc., revocation do not resuscitate - death hastened	Murder	Exhibit E	Health-Care Decisions Act framework is post-1992; falsifying medical records is records fraud, not an affirmative killing.
54.1-2989	Falsify do not resuscitate order - death hastened	Falsify do not resuscitate order - death hastened	Murder	Exhibit E	Health-Care Decisions Act framework is post-1992; falsifying medical records is records fraud, not an affirmative killing.
54.1-2989	Conceal revocation do not resuscitate order -death hastened	Conceal revocation do not resuscitate order - death hastened	Murder	Exhibit E	Health-Care Decisions Act framework is post-1992; concealing medical records is records fraud, not an affirmative killing.
55.1-2838	Larceny of timber valued at \$500 or more	Larceny of timber valued at \$500 or more	Larceny	Exhibit F	Standing timber is *real property* at common law (until severed) — common-law larceny required taking of tangible *personal* property; the modern statute treats severed/standing timber as personalty by statute.
55.1-2838	Larceny of timber valued at \$1000 or more	Larceny of timber valued at \$1000 or more	Larceny	Exhibit F	Standing timber is real property at common law; the modern statute treats it as personalty by statute, departing from the common-law personal-property requirement of larceny.
55-334.1	Larceny of timber valued at \$200 or more	Larceny of timber valued at \$200 or more	Larceny	No Match	Standing timber is real property at common law (until severed); modern statute treats it as personalty by statute, departing from common-law larceny's personal-property requirement.
55-334.1	Larceny of timber valued at \$500 or more	Larceny of timber valued at \$500 or more	Larceny	No Match	Standing timber is real property at common law; modern statute treats it as personalty by statute, departing from common-law larceny's personal-property requirement.
58.1-4014(C)	Steal, convert lottery ticket valued at \$200 or more	Steal, convert lottery ticket valued at \$200 or more	Larceny	No Match	State lotteries did not exist in 1870 (Va. lottery post-1987); lottery tickets are contingent contractual instruments, not common-law tangible chattels. Also, nless something has changed, this is a misdemeanor
58.1-4018.1(A)	Larceny of lottery ticket(s) \$500 or more	Larceny of lottery ticket(s) \$500 or more	Larceny	Exhibit E	State lotteries did not exist in 1870 (Va. lottery post-1987); lottery tickets are contingent contractual instruments, not common-law tangible chattels.

Defendants List — FACL Analysis

Statute	Name	Description	Commonwealth's Classification	Hessick Cla	Exemplary Reason for Exclusion
58.1-4018.1(A)	Larceny of lottery ticket(s) \$200 or more	Larceny of lottery ticket(s) \$200 or more	Larceny	Exhibit E	State lotteries did not exist in 1870 (Va. lottery post-1987); lottery tickets are not common-law tangible chattels.
58.1-4018.1(A)	Larceny of lottery ticket(s) \$1000 or more	Larceny of lottery ticket(s) \$1000 or more	Larceny	Exhibit D	
63.1-124	Fraudulently obtaining welfare asst. - Value \$200 or more	Fraudulently obtaining welfare asst. - Value \$200 or more	Larceny	No Match	Welfare programs are 20th-century welfare-state creations; benefits voluntarily disbursed by the State are closer to false pretenses (not FACL) than common-law larceny. (This is the predecessor of §63.2-522.)
63.1-124.1	Unauthorized use of food stamps - Value \$200 or more	Unauthorized use of food stamps - Value \$200 or more	Larceny	No Match	Food-stamp program is a modern welfare-state framework; misuse of benefits is regulatory-condition breach, not common-law larceny. (This is the predecessor of §63.2-523.)
63.2-513	Welfare fraud, change in circumstances - \$200 or more	Welfare fraud, change in circumstances - \$200 or more	Larceny	Exhibit E	Welfare programs are 20th-century welfare-state creations; benefits voluntarily disbursed by the State are closer to false pretenses (not FACL) than larceny.
63.2-513	Welfare fraud, change in circumstances, ≥ \$1000	Welfare fraud, change in circumstances, ≥ \$1000	Larceny	Exhibit E	Welfare programs are 20th-century welfare-state creations; benefits voluntarily disbursed by the State are closer to false pretenses (not FACL) than larceny.
63.2-513	Welfare fraud, change in circumstances, ≥ \$500	Welfare fraud, change in circumstances, ≥ \$500	Larceny	Exhibit E	Welfare programs are 20th-century welfare-state creations; benefits voluntarily disbursed by the State are closer to false pretenses (not FACL) than larceny.
63.2-522	Fraudulently obtaining welfare asst. - Value \$200 or more	Fraudulently obtaining welfare asst. - Value \$200 or more	Larceny	Exhibit E	Welfare programs are 20th-century welfare-state creations; benefits voluntarily disbursed by the State are closer to false pretenses (not FACL) than larceny.
63.2-522	Fraudulently obtaining welfare assistance, ≥\$1000	Fraudulently obtaining welfare assistance, ≥\$1000	Larceny	Exhibit E	Welfare programs are 20th-century welfare-state creations; benefits voluntarily disbursed by the State are closer to false pretenses (not FACL) than larceny.
63.2-522	Fraudulently obtaining welfare assistance, ≥\$500	Fraudulently obtaining welfare assistance, ≥\$500	Larceny	Exhibit E	Welfare programs are 20th-century welfare-state creations; benefits voluntarily disbursed by the State are closer to false pretenses (not FACL) than larceny.
63.2-523	Unauthorized use of food stamps, ≥ \$500	Unauthorized use of food stamps, ≥ \$500	Larceny	Exhibit E	The food-stamp program is a modern welfare-state framework; misuse of benefits is regulatory-condition breach, not common-law larceny.
63.2-523	Unauthorized use of food stamps - Value \$200 or more	Unauthorized use of food stamps - Value \$200 or more	Larceny	Exhibit E	The food-stamp program is a modern welfare-state framework; misuse of benefits is regulatory-condition breach, not common-law larceny.
63.2-523	Unauthorized use of food stamps, ≥ \$1000	Unauthorized use of food stamps, ≥ \$1000	Larceny	Exhibit E	The food-stamp program is a modern welfare-state framework; misuse of benefits is regulatory-condition breach, not common-law larceny.