

**FOURTH REPORT
OF THE
VIRGINIA COMMISSION ON
THE STATUS OF WOMEN
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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- LETTER OF TRANSMITTAL -

TO THE HON. MILLS E. GODWIN, JR., GOVERNOR OF VIRGINIA
AND
TO THE GENERAL ASSEMBLY AND THE CITIZENS OF VIRGINIA

During the past two years, the Commission has moved forward on a number of projects covered in this report. These projects reflect the Commission's most diligent effort to recognize prevalent needs of Virginia's women and to effectively respond to these needs.

This fourth Annual Report includes information, future involvement, and recommendations of the following Task Forces: Education, Women and the Law, The Woman Offender, The Bicentennial Publication, Enlightenment of Equality in Credit, and Insurance and Virginia Women. Also the Commission does plan to publish a Newsletter biannually.

Much progress has been made and does indeed represent a dedicated effort by volunteers. However, if the Commission is to truly serve the women of our Commonwealth, much more needs to be done. The Commission is vital to the Commonwealth as no other Agency or Commission totally addresses itself to the needs of Virginia's women or listens entirely to their voices.

Also, included in this report is the narrative portion of the Commission's Budget Request for 1978-80. I would ask that your attention be directed to the outline of the Commission's "Program Need Justification" and "Program Description." It is our sincere hope that the projected budget for 1978-80 will be favorably received enabling the Commission to continue to move forward in a most positive manner.

From its inception in 1970 and until July, 1976, the Commission was chaired by Mrs. Doris Kean. Certainly the growth of this Commission can only be contributed to her dedication and enthusiasm in working for the betterment of women in every walk of life. With Mrs. Kean's past leadership and the leadership I now will endeavor to provide, we sincerely believe that our Commission is viable in the fullest sense; and will continue its dedicated service to Virginia's women in order to assist them in achieving their full potential.



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PROGRAM "NEED" JUSTIFICATION

Issues of women's rights have obviously been receiving increasing attention nationwide as the injustice of existing discrimination against women has become more apparent over the last fifteen years. Inadequate attention, though, has been given to women's issues in Virginia. Although the state legislature has continued to fund the Commission on the Status of Women since its inception in 1970, funding remains minimal and in the bottom 20% of all state Commissions on the Status of Women.

There is an obvious need for a strong, effective Virginia Commission on the Status of Women. Such a Commission can assist in public education concerning problems unique to women and can disseminate information on issues of importance to women and conditions that require changing. A primary responsibility of the Commission is to make studies and submit recommendations to the legislature on legislation needed to enable women to equitably participate in society. The Commission on the Status of Women, with its position in the state governmental structure, is in an excellent position to channel the needs of women as displayed to the Commission, to all appropriate State governmental entities.

Although there are various organizations in Virginia concerned only with women's issues, none of these organizations are part of the State governmental structure or are able to function as officially sanctioned bodies working on improving the status of women. In addition, there is no organization attempting to coordinate efforts

to improve the status of women within the state. The Commission on the Status of Women plans to expand its efforts to work cooperatively with other public and private agencies through coordinated programs and projects.

The problems of the inferior status of women in our society have been well documented in most areas of societal functioning. In Virginia, for example, the recent survey of women state employees conducted by the Commission on the Status of Women found that women employees are underutilized in reference to their educational levels and that women earn less than men with identical educational levels. Yet, discrimination against women, due to the inferior status often automatically ascribed to them, is frequently subtle and requires the diligent attention of a Commission authorized to identify such inequities in our society and to identify the means to correct such inequities.

The problem of the inferior status of women in our society exists because ascribed social roles change more slowly than society changes. The present social roles of men and women are based upon another era which had a different social structure and economy. Outmoded concepts of women's role in society are perpetuated by stereotypes about women and their capabilities, and such stereotypes have not changed as society has changed.

The target population of the Virginia Commission on the Status of Women is every citizen of the state since the inferior status of women affects every citizen, regardless of age or sex. Virginia already lags behind other states in recognizing and dealing with barriers to the equitable participation of women in all levels

of society. If the Commission on the Status of Women did not exist, Virginia would be blatantly ignoring one of the major social problems of our times. Orderly change through public education and recommendations for needed legislation is a time-consuming process and requires the attention of a legislatively mandated Commission.

PROGRAM DESCRIPTION

Purpose

The Virginia Commission on the Status of Women is composed of nineteen members appointed by the Governor for three year terms. The Commission functions under the direction of a chairman, and each member serves on at least one of the various task forces. The Commission was mandated by the legislature to study the status of women and suggest ways that women could fully contribute to society and the Commonwealth of Virginia.

The results of Commission efforts are geared both to the general public and to the state legislature. Each task force focuses on a particular area of concern to women. A task force project may involve a public educational effort on a particular issue, or it may involve a project aimed at improving the status of women, such as the publication of an educational resource directory. Each task force, though, prepares an annual report to the state legislature in which findings and recommendations within its area of concern are detailed.

The Commission, therefore, serves the legislature as a resource agency, and it serves the public as a resource and advocacy agency.

Program Relationships

Funding of the Commission on the Status of Women is important since it is the only state agency primarily concerned with improving the status of women. Both the community at large and public and private agencies would be affected if funding were

discontinued. Problems are always dealt with more effectively if public and private agencies work cooperatively and coordinate planning. The Commission on the Status of Women strives to strengthen such interagency communication and cooperation concerning women's issues in Virginia. In addition, the citizens of Virginia need a resource and advocacy agency within the state governmental structure to which they can turn for information, advice or as a means to suggest changes that will improve the status of women in the Commonwealth.

Program Development

In September, 1970 the Virginia Commission on the Status of Women was created by an act of the state legislature. With minimal funding, the Commission has made some contributions toward improving the status of women. The following projects have been completed by the Commission:

1. Open hearings were held in four major Virginia cities to obtain input on concerns of women.
2. Studies were conducted and regular reports from various task forces were submitted to the General Assembly in 1971, 1973 and 1976 with recommendations for action.
3. An indepth report on Day Care Services was prepared which recommended a Governor's Conference on Day Care. The conference was held and a report went to the General Assembly.

Three Stat wide Congresses of Women's Organizations were held to further communication and cooperation between various women's groups working for improvement in the status of women.

5. A history of Virginia women was copublished with the Chamber of Commerce with a portion of the profits going in escrow for a scholarship fund for mature women.
6. Information on educational opportunities and scholarships available for women in Virginia was published and distributed.
7. A survey of 4 716 women state employees was conducted and the report, Women in Government, was published and distributed.

In the 1976-78 biennium, the Commission is making much progress toward expanding its activities. Two new task forces were organized and completed major projects. The Women and the Law task force will shortly produce a booklet on present Virginia laws as they affect women. The Woman Offender task force functioned this year with the staff assistance of a Virginia Commonwealth University graduate social work student majoring in social planning. The task force made many valuable community contacts while conducting preliminary research. A major project was the joint sponsorship with the Women's Bureau of the U.S. Department of Labor of a Conference on the Employment Needs of Woman Offenders which was held in May 1977. The planning committee

for the Conference included broad representation from the community. As a result of the conference, the task force will work with other interested community members to follow-up on specific recommendations for action which came out of the Conference. The task force plans to publish a report detailing the Conference and its results.

In December 1976 the Commission and the Virginia State Chamber of Commerce released their book on the history of Virginia women. Ten percent of the proceeds from each book will go toward a scholarship fund for women to be administered by the Commission.

In 1978-80 the Commission plans to increase its visibility in the community and increase its impact upon legislative and public support of efforts to improve the status of women. First, through expanded activities and increased community contacts, the Commission will bring its purposes and activities to public attention and thus help legitimize efforts to improve the status of women in Virginia. Secondly, the Commission will be providing direct services to the community by acting as a resource agency and by sponsoring specific projects in substantive areas of concern to women.

The Commission plans to organize a task force on Credit Problems of Women and a task force on Insurance Discrimination. The projects of the five previously established task forces will range from updating the educational resource directory to a follow-up project based on the Women in Government survey.

The Commission plans to continue to utilize conferences as a means to convey information and increase community involvement in its projects. Many of the task force projects could achieve public education goals through a conference.

The Commission newsletter will be a means to enable the Commission to increase communication with public and private organizations and agencies and thus work toward coordinated planning of efforts to improve the status of women. In addition, the Commission plans to participate more actively in planning with the other state human resource agencies. This effort will be limited, of course, by the fact that the Commission does not have any staff. The Commission, though, does plan to make extensive use of consultants and to try to obtain graduate students to work with the Commission as part of their coursework.

In summary, in 1978-80 the Commission plans to increase its activities to the fullest extent that is possible with minimal funding and without fulltime staff.

BIE NIUM PROGRAM PROPOSAL

Program Goals

To become a visible state governmental agency working toward improving the status of women in Virginia by:

1. Acting as a resource agency providing consultation, advice and information on women's issues to various levels of the community.
2. Increasing public understanding of the particular problems and needs of women caused by past and continuing discrimination.
3. Increasing coordination and cooperation between various governmental and private organizations concerned with improving the status of women.
4. Sponsoring projects aimed at improving the status of women in Virginia.

Program Objectives

1. To develop a specific work plan for the Commission for the 1978-80 biennium.
2. To develop a plan during the biennium for increased community awareness of the Commission.
3. To initiate contact during the biennium with particular state agencies and act as consultants to them on women's issues.

4. To establish contacts during the biennium with other Commissions on the Status of Women and other local, regional and national organizations, agencies and institutions concerned with improving the status of women.
5. To plan and implement during the biennium projects under each task force.

Strategies

1. The chairman will develop an annual work plan for Commission approval.
2. Commissioners will keep the press informed of Commission activities.

REPORT OF THE TASK FORCE ON EDUCATIONAL OPPORTUNITIES

The Task Force on the Educational Opportunities available to women in the Commonwealth of Virginia is presently engaged in the updating of its Report issued in September, 1975. The 1975 Report, encompassing virtually all facets of educational opportunities available to women, has been recognized and much sought after as a model for other states in their attempt to publish available educational opportunities.

The Chairman is presently attempting to enlist some of the leaders in education in Virginia to aid in the update of the 1975 Report. The cooperation of the State Department of Education, the State Council of Higher Education, and the Department of Community Colleges, so vital to the initial report, is also being sought.

Harley W. Duane, III, Chairman

REPORT OF TASK FORCE ON ENLIGHTENMENT OF EQUALITY IN CREDIT

The Virginia Commission on the Status of Women realizes that women have had difficulty in the past establishing credit on their own. Therefore, the Commission wishes to inform them of their rights under the Equal Credit Opportunity Act. This Act, which was adopted March 23, 1976 as Public Law 94-239, is an amendment to Title VII of the Consumer Credit Protection Act and prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status or age with respect to any aspect of a credit transaction.

This Task Force will prepare a pamphlet which will clearly explain the sex and marital status discrimination provisions of the Equal Credit Opportunity Act in reference to women seeking credit. We feel this pamphlet will be useful and informative to women throughout the Commonwealth and plan to make it readily available to them.

The Virginia Commission on the Status of Women Task Force on the Equal Credit Opportunity Act respectfully submits this report.

Southard Burr, Chairman

REPORT OF THE BICENTENNIAL TASK FORCE

The Bicentennial Task Force has concentrated its efforts this year on publicizing the book IDOLS, VICTIMS, PIONEERS, VIRGINIA'S WOMEN FROM 1602 by James S. Wamsley and Anne M. Cooper. The Virginia Commission on the Status of Women and the Virginia State Chamber of Commerce published the book as a joint bicentennial project. In recognition of the Commission's efforts in the publication of the book, the State Chamber has provided the Commission with 10% of the retail sales of the book to be used as a scholarship fund for the mature woman student.

Our efforts in promoting the book have included a reception held last December at the time that the book became available to the public. Invited guests included Lt. Governor and Mrs. John Dalton and Mrs. Catherine Godwin. Invitations were also sent to Richmond book dealers and book reviewers. The reception was a success, and other promotional activities were arranged at the reception including autograph sessions by the authors which were scheduled for various Richmond locations.

The book has received favorable reviews throughout the state and the sales so far have provided the Commission with \$1,000 for its scholarship fund. In addition to the receipts from the book, Governor Mills Godwin has made a most generous donation to the scholarship fund. The Task Force is now selecting a five-member board to consider scholarship recipients. The Task Force will be working in the coming year toward expanding the financial base of the scholarship fund through

donations from private sources. This will enable the Commission to make a continuing contribution to the education of the mature woman in the Commonwealth.

The Virginia Commission on the Status of Women would like to express its appreciation to the Virginia State Chamber of Commerce and particularly to Richard Gillis, Executive Director of the Chamber and to James Wamsley and Anne Cooper for their efforts toward bringing the history of Virginia's women to the attention of the citizens of the Commonwealth. This will be a lasting reminder of the contribution women have made to the history of Virginia.

Martha Daniels, Chairperson

REPORT OF THE TASK FORCE ON INSURANCE AND VIRGINIA WOMEN

The Virginia Commission on the Status of Women established a Task Force on Insurance in late 1977.

The Task Force plans to review insurance practices in the Commonwealth in reference to the availability, terms and rates of policies and in reference to the sensitivity of the insurance industry to the special problems and concerns of today's women. In addition, the Task Force will review recent changes in the law concerning insurance as well as proposed Federal, state and local legislation which will affect insurance for women. Advances in the insurance industry of benefit to women will be examined.

At the conclusion of the study, the Task Force will make recommendations for future action in a report to the Virginia General Assembly.

Pamela S. McCoach, Chair

REPORT OF THE NEWSLETTER TASK FORCE

This Task Force was created to oversee the publication of an official Newsletter of the Commission on the Status of Women. The purpose of the Newsletter itself is to inform the Commonwealth of the activities and projects of the Commission on the Status of Women and to open a line of communication among women of the Commonwealth as the Commission seeks to meet their needs.

In keeping with Commonwealth Regulations, bids were submitted for publication of the Newsletter. Upon that basis the printing company known as "Good Printers" of Harrisonburg, Virginia was selected.

The mailing list, numbering close to one thousand names, is in the process of being brought up to date and expanded. It is stored and reproduced for each mailing at the Computer Center of Mary Baldwin College. The name of each member of the General Assembly has been placed on the list.

The first publication contained biographical sketches of several Commission members, as will be the case in each issue until all members have been introduced. A synopsis of recent Commission projects and a complete list of the names and addresses of the Commission members were also included.

In the course of the months and years ahead, it is the goal of this Task Force that the citizens of Virginia, and in particular the women, become well acquainted with the work of the Commission on the Status of Women as the members seek to fulfill its mandate. We request the support of the General Assembly

in this effort.

This report is respectfully submitted.

Jerilyn A. Farrar, Chairman

REPORT OF THE TASK FORCE ON THE WOMAN OFFENDER

Since the establishment of this task force by the Virginia Commission on the Status of Women in May 1976, much time and effort has been put into this project. Since little in the way of statistics was available on the woman offender, many hours were spent on obtaining the basic information needed to begin a plan of action. In this regard, the Task Force was very fortunate to obtain the services of Ms. Joyce Albro to serve as staff during the past year. Ms. Albro was at the time a graduate student at Virginia Commonwealth University and was involved in a work/study program in the Department of Human Resources and was assigned to our Commission. She is now a member of the Commission and has since graduated from VCU.

In November of 1976, Ms. Albro prepared a preliminary report outlining some areas of possible study for the Task Force. It was the consensus of the members that employment, housing and counseling after incarceration were of prime importance to the woman offender.

Ms. Albro contacted the Women's Bureau of the Department of Labor, since they had sponsored several conferences in other areas of the nation on the woman offender, about a Virginia Conference. The Task Force Chairman and Ms. Albro met with Elsie Denison, Woman's Bureau, Woman Offender Expert and Kathy Rior-dan, Assistant Administrator District III of the Woman's Bureau in early 1977.

Both the Commission and Woman's Bureau approved the joint

sponsorship of a Virginia Conference on the Employment Needs of the Woman Offender. A Planning Committee was selected to work out the details of the program and decide upon a list of invitees for the Conference. Special appreciation should be given to the following people who worked very diligently on that Planning Committee:

Chairperson: Martha Daniels, Virginia Commission on the Status of Women

Frank Kersey - Offender Aid and Restoration

Rev. Marjorie Bailey - Virginia Correctional Center for Women

Rosalea Whitehead - Virginia Commission on the Status of Women

Martha Boone - Virginia Commission on the Status of Women

Connie Adt - Project Aid-Sir

Loretta Taylor - Project Aid-Sir

Maya Hasegawa - State Division of Personnel

Sandra Brandt - Project Step-Up

Alison Love - Virginia Department of Corrections

Helen Smith - National Council of Negro Women

Portie Weston - Division of Justice and Crime Prevention

Karen Murphy - Richmond District, Probation and Parole Services

Diane Bowers - American Civil Liberties Union

Pat Vestano - Governor's Manpower Services Council

Alvin Marks, Jr. - Attorney at Law

Marian James - Richmond Red Cross

Eleanor B. Williams - Southeastern Tidewater OIC

Leola Turpin - Delta Sigma Theta Sorority

Staff: Elsie Denison - Women's Bureau, Dept. of Labor

Kathy Riordan - Women's Bureau, Dept. of Labor

Joyce Albro - Virginia Commission on the Status
of Women

The Committee met every two weeks during the last of March and the entire month of April in preparing a most successful conference. There were 175 participants in the Conference, including personnel from the Department of Corrections, offenders from the Goochland facility, ex-offenders and representation from organizations involved in offender-aid programs. The program was extremely well received by the attendees and evaluation sheets filled out by the participants were most complimentary. With this report are a program schedule for the Conference (Exhibit A), a Profile on the Woman Offender (Exhibit B), and a Fact Sheet on Laws Pertaining to Offenders in the Virginia System (Exhibit C).

The morning panel entitled Understanding the Virginia System Inside and Out was a challenging and thought-provoking session. Perspectives from the viewpoint of both individuals involved in Virginia correctional programs and those administering these programs were offered by the panelists. It was a very honest and open dialogue which set a very positive mood for the remainder of the day's activities.

The luncheon speaker, herself an ex-offender, Euphesenia Foster, gave a most inspiring talk on her experiences in the federal prison system and the effects of these experiences on her life.

The afternoon panel, Outside Influences - How Can They Help? explored the programs and services available to the woman offender

upon her release from incarceration. It was obvious that the programs now in existence are effective but few in number. Also obvious is the lack of volunteer assistance from civic and service organizations.

The workshops offered an opportunity to discuss in depth the areas of Jobs and Job Training, Supportive Services, and Legal Aid and Legislation. The recommendations of the workshops were presented to the wrap-up session. Included in these recommendations were better communication between programs and services within the correctional system, more complete job and vocational training within the institutions, and increasing the amount of money given to inmates upon their release from Goochland. Another vital program recommended was a half-way house for women parolees to aid in their transition back into society.

This Conference was the first major statewide effort to address itself to the needs of the woman offender in Virginia. Although, of the total offender population in Virginia, women constitute a small percentage, the unique needs of women involved in the criminal justice system must be dealt with effectively. Our Task Force is at the forefront of that effort. Through our leadership in the area of concern, our Task Force has been asked to participate in subsequent activities addressing itself to the woman offender.

The Task Force Chairman conducted a workshop at the Virginia Women's Conference, with Phyllis Pendergraft, Chairperson of the Virginia Commission on the Status of Women. Some 45 persons attended the workshop which covered a broad spectrum of concerns to women in the correctional system.

The American Civil Liberties Union and The Political Science Department of Virginia Commonwealth University sponsored a Conference on the Female Offender in September 1977. The Task Force Chairman participated as a panelist in a workshop entitled Alternatives to Incarceration. This workshop addressed itself to the need to pursue means other than incarceration for the criminal justice system.

In addition, Ms. Sandra Brandt, a member of the Task Force, gave a presentation before the State Crime Commission on the woman offender.

In summation, the Task Force would be remiss if we did not commend the Department of Corrections for their complete support and cooperation in our activities. Without their efforts our task would have been more difficult if not impossible.

Future Plans

At the conclusion of the Conference, those participants interested in working with an expansion of this Task Force were asked to make a commitment for future action. Some 40 persons signed up for the Task Force.

On September 10, 1977 a meeting of the expanded Task Force was held in Richmond. At that time the decision was made to establish two evaluation teams to visit the Goochland facility and the woman's work release house in Richmond. It was felt that the Task Force needed to evaluate fully the services, especially job training, offered at Goochland and the effectiveness of the work release house program. These two teams will report to the Task Force on November 19, 1977. From these reports, the Task Force will be able to plan a positive course of action in those

areas of needed reform.

To augment the efforts of this Task Force and the efforts of the concerned citizens of the Commonwealth, we recommend that the Governor's Office assist in the culmination of these efforts by sponsoring a Governor's Conference on the Woman Offender in the year 1978. The woman offender has many times been referred to as the forgotten woman. A Governor's conference will thereby assure that these truly are not Virginia's forgotten women.

Martha Daniels, Chairperson

EXHIBIT A

PROGRAM

8:00 - 9:00 Registration

9:00 General Session - Phyllis Pendergraft, Presiding
Chairperson - Virginia Com-
mission on the Status of Women

Invocation - Marjorie Bailey, Chaplain
Virginia Correctional Center for
Women, Goochland

Greetings - William La Vecchia
Director of Planning, Henrico County

9:30 Remarks - Kathy Riordan, Assistant Regional
Administrator, Women's Bureau District
III, Department of Labor

10:00 - 11:30 Panel - Understanding the Virginia System - Inside
and Out

Moderator - Hon. Claudette McDaniel, Member
Richmond City Council

Panelists - Ann Downs, Superintendent
Virginia Correctional Center for Women
Goochland

Karen Simpson, Resident
Virginia Correctional Center for Women
Goochland

Patricia Packett, Deputy Chief
District I, Probation and Parole

Gladys Swindell, Parolee

Diane Puzio, Counselor
Women's Work Release House, Richmond

Sheila Price, Resident
Women's Work Release House, Richmond

Connie Adt, Ex-Offender
Social Services Counselor
Project Aid-Sir

Andrew J. Winston, Sheriff
City of Richmond

Geneva Allen, Pat Williams
Residents Richmond City Jail

Audience Participation

C. Legal Services and Legislation

Moderator - Hon. Stanley Walker, State Senator
Chairman, Virginia Crime Commission

4:00 - 5:00

General Session

Workshop Reports and Resolutions

Future Plans

EXHIBIT B

A PROFILE OF THE
WOMAN OFFENDER IN VIRGINIA

By
Joyce Albro

Prepared for the Conference on the
Employment Needs of Woman Offenders in Virginia

May 10, 1977
Richmond, Virginia

Sponsored by: Women's Bureau
U.S. Department
of Labor

and

Virginia Commission
on the Status
of Women

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- II. The Department of Corrections Work Release House for Women
- III. The Woman Offender in Virginia County and City Jails
- IV. Analysis of Arrests by Sex in Virginia
- V. CETA and LEAA Funded Offender Programs in Virginia
- VI. Employing the Offender
- VII. Legal Barriers to Employment of Offenders
- VIII. Some Organizations Active with Woman Offenders in Virginia

I. THE WOMAN OFFENDER IN THE
VIRGINIA CORRECTIONAL CENTER FOR WOMEN

The majority of women incarcerated in Virginia are held at the Virginia Correctional Center for Women in Goochland. For example, on January 24, 1975, 117 women were held in local jails throughout the state (60 in Richmond). On March 19, 1975, 235 women were incarcerated at VCCW. Approximately 65% of the inmates at VCCW are black. Most inmates are in their mid-20's and have an 8th grade education. Eighty percent of the inmates are felons, and their average length of stay is five years. The average length of stay for misdemeanants is 6-8 months. The recidivism rate at VCCW is said to be over 30%. Crimes most often committed by women at VCCW include: forgery, larceny, drug offenses, manslaughter and murder.

Vocational Training and Education

Criticisms have been leveled at the limitations of training offered at Goochland. It is felt by some that the training is not always adequate or realistically offered to those who can most benefit. Since most of the women need to work upon release, more attention needs to be paid to their aptitudes and what work will be feasible for them upon their return to the community. Some point out that too many women work in the laundry or food service, and these experiences will not help them obtain jobs with good salaries once released.

Work programs at the correctional center involve minimal pay, and keypunch and laundry work involve incentive pay which is three or four times more than other pay. Interestingly, keypunch, which is traditionally a female occupation, was offered for men quite a

while before it was introduced at Goochland. At the time of the Virginia Crime Commission Study, 80 out of 200 inmates worked in the laundry.

Some women at the correctional center have an interest in non-traditional jobs such as: auto mechanic, plumber, electrician. There is no present provision for this training. Although one woman has been assigned to work with the state employee responsible for keeping state vehicles in repair, she will receive no certificate of training to really enable her to apply for a job as a mechanic. Such exposure to non-traditional jobs may help in locating employment upon release, but there is definite need for training certificates.

Ms. Downes, superintendent at Goochland, indicated to the Task Force on Woman Offenders that there is little justification for spending money to expand vocational training offered at the institution. Since women are only a small percentage of the system, Ms. Downes believes that there should not be as many vocational programs for them as there are for men. Ms. Downes would like to be able to send inmates interested in non-traditional training opportunities to the Richmond Technical Center, for example. Someone else also suggested contracting with an outside group to provide specific types of vocational training to interested inmates.

Rehabilitative School Authority

Training and education offered by the RSA at Goochland is not compulsory. Since there is no incentive program for the school, many inmates would rather make money than go to school. According to Ms. Strawderman, the principal, the enrollment is 120. Pro-

grams offered include:

- Basic education
- Young Offenders Program - special instruction for those under 21
- GED
 - Business - typing, recordkeeping, filing, business machines, keypunch, leading to a State certificate
- Sewing
 - Cosretology - 2,000 hours, inmates allowed to take State board
- Prerelease class
- College math, English and psychology taught through J. Sargeant Reynolds Community College

Source: Excerpt from Preliminary Report and Recommendations to the Task Force on Woman Offenders of the Virginia Commission on the Status of Women, November 1976.

FACT SHEET PREPARED BY VIRGINIA CORRECTIONAL CENTER FOR WOMEN

September 1975

The Virginia Correctional Center for Women, the only institution within the State for the incarceration of adult females, is located within the town limits of Goochland Court House, Virginia, and consists of a land area of 266.5 acres with 38 devoted to buildings and lawns and the remainder to cattle production under the administration of Virginia State Farm. The area is bounded on the south by the James River and on the north by State Highway 6. The Superintendent is Ann F. Downes and the Assistant Superintendent is Shirley P. Burton.

The institution was founded in 1931 and the first inmates arrived from the Virginia State Penitentiary on January 1, 1932. In May 1975, there were 189 felon and 40 misdemeanants in custody for a total population of 229 versus a rated capacity of 226- -in addition to these there were 7 work release participants. There is no perimeter security such as fences and towers, although every level of security is represented within the institution.

Treatment and educational programs consist of:

1. Academic school through GED
2. Vocational training: Commercial, Cosmetology, and Sewing
3. Treatment and case management approach
4. Pre-release
5. Work release
6. Drug abuse treatment and prevention offered through a DJCP grant consisting of a counselor supervisor, 6 counselors, and 2 clerk-typists
7. Counseling - 6 counselors including those in

No. 6 above

8. Referrals to Vocational Rehabilitation - no representative
9. Psychological and psychiatric services - 1 full-time psychologist and consultants
10. Religious services - part-time Chaplain for Protestant, Catholic Catholic, and Black Muslim services
11. Art class offered by Chrysler Museum under Recreation Supervisor
12. Craft Shop specializing in textiles and weaving
13. Greenhouse - care for plants belonging to the Virginia Museum of Fine Arts
14. Library service - 7500 volumes plus periodicals
15. Recreation
16. Drama

Work programs include:

1. Industrial laundering for institutions and Medical College of Virginia
2. Key punch operated by Enterprises
3. Kitchens - preparation of institutional food
4. Cleaning and maid service - living areas
5. Bakery
6. Storeroom
7. Clerical aides
8. Clinic aide

Statistical Information on Women Confined at the
Virginia Correctional Center for Women

Fiscal Year 1976

Woman Offender Commitments
Felon Commitments

Number of Commitments - 160 new female felons committed during
fiscal year ending June 30, 1976. (6% of total commitments)

Age - 55% of the 160 women were age 24 or younger. Average
age - 27 years

Offenses - 42.8% Sentenced for offenses against property
35.9% Sentenced for offenses against persons
20.6% - Sentenced for drug law violations

Court Committed from: 62.5% - Committed from city courts
37.5% - Committed from county courts

The City of Richmond committed the highest number of
women with 25 commitments.

Misdemeanant Commitments

Number of Commitments - 111 new women offenders committed to
State penal institutions during fiscal year ending June 30, 1976.
(7% of total commitments)

Age - 47% of the 111 women were under age 25. Average age
28 years

Offenses - 58.6% - Convicted for offenses against property
15.3% - Convicted for offenses against persons
9.0% - Convicted for violations of drug laws

Court Committed from: 61.3% - Committed from county courts
38.7% - Committed from city courts

The County of Henrico and the City of Roanoke each
committed 9.9% of the total female misdemeanants.

Source: Department of Corrections
Woman Offenders Commitment
Profile
Fiscal Years 1972-1976

Felons confined to the Virginia State Penal System by Age
Group According to Sex on June 30, Fiscal Year 1976:

<u>Age</u>	Female
15 years	0
16 - 17	0
18 - 19	16
20 - 24	74
25 - 29	65
30 - 34	25
35 - 39	19
40 - 44	12
45 - 49	9
50 - 54	5
55 - 59	2
60 & over	4
	231

Source: Department of Corrections
Woman Offenders
Confinement Profile
Fiscal Years 1972-1976

II. THE DEPARTMENT OF CORRECTIONS WORK RELEASE HOUSE FOR WOMEN

Women on work release from Goochland are housed at 601 Spring Street in Richmond. Ms. Burton, assistant superintendent at Goochland, mentioned that it is difficult to find jobs for the women and that some are there for months without employment. There seems to be little continuity between their work or training at Goochland and the jobs they are able to obtain when on work release.

There is a need for work release houses in Tidewater and Northern Virginia. Few women at the work release house are from Richmond, and once they are paroled, they often leave their jobs and return home. Employers are, of course, reluctant to train women if they are going to leave.

There is a need to reach more of the business community and generate more work release jobs. Work release counselors maintain contact with each employer and are available to help with problems. But, employers must agree to certain rules of the Department of Corrections which they may view as inconvenient. For example, the employer must notify the counselor if the employee is going to work overtime or if the employee takes any medication, including aspirin.

Source: Excerpt from Preliminary
Report and Recommendations
to the Task Force on
Woman Offenders of the
Virginia Commission on
the Status of Women,
November 1976.

III. THE WOMAN OFFENDER IN VIRGINIA COUNTY AND CITY JAILS

Commitments to Virginia County and City jails and City Jail Farms Year Ended June 30, 1975.

Of the 149,092 commitments to county and city jails and city jail farms reported during the 74-75 fiscal years, 12,493 or 8.4 percent of the commitments were female.

The average length of stay in jail per commitment during fiscal 1975 was 10.3 days.

	<u>Felony</u>	<u>Misdemeanor</u>	<u>Other</u>
Number of Women	2,497	7,056	2,940

Offenses Most Often Committed by Females

<u>Category</u>	<u>Offense</u>
Offenses Against Person	Assault
Offenses Against Property	Larceny, Theft, Fraudulent Activities
Offenses Against Decency	Drunkenness Disorderly Conduct Vagrancy Morals-Decency Crimes Delinquency of Children
Offenses Against Public Justice	Violation of Parole or Probation
Violation of Vehicle Laws	Driving Under Influence of Intoxicants
Offenses Against Public Policy	Dangerous Drugs

Source: Department of Corrections
Bureau of Management Information

It should be noted that commitments do not reflect whether the person has been judged innocent or guilty.

RICHMOND CITY JAIL

At the time of the Virginia Crime Commission study in 1975, sixty women were incarcerated at the Richmond City Jail. No other local jail in Virginia had nearly this many women in it.

The Richmond City Jail is a fairly new facility, and women are housed in a special section designated for them. A recreation director handles programs for the 500-600 men and the women. Religious and library services are available and the women are able to participate in work and study release if approved by the judge.

A GED program is available at the jail and two main organizations work with the women - Helpmates and Offender Aid and Restoration of Virginia.

Source: Excerpt from Preliminary Report and Recommendations to the Task Force on Woman Offenders of the Virginia Commission on the Status of Women, November 1976.

	UNDER 18		OVER 18		TOTAL ARRESTED
	Male	Female	Male	Female	
Murder and Nonnegligent Manslaughter	37	5	451	102	595
Manslaughter by Negligence	20	2	155	26	203
Forcible Rape	79		573		652
Robbery	559	29	1,673	94	2,355
Aggravated Assault	354	72	4,384	629	5,439
Burglary	4,275	242	4,945	237	9,699
Larceny	5,410	1,599	10,347	3,989	21,345
Motor Vehicle Theft	924	53	1,059	77	2,113
Sub Total Part I Offenses	11,658	2,002	23,587	5,154	42,401
Other Assaults	1,346	429	17,898	2,801	22,474
Arson	119	4	171	22	316
Forgery and Counterfeiting	127	38	1,175	427	1,767
Fraud	66	18	7,349	5,145	12,578
Embezzlement	5	2	177	61	245
Stolen Property: Buy, Receiving, Poss.	326	46	866	171	1,409
Vandalism	1,549	97	1,084	162	2,892
Weapons: Possessing, etc.	30	1	2,373	190	2,875
Prostitution and Commercialized Vice	4	4	206	213	427
Sex Offenses (Except Rape and Prostitution)	137	28	1,144	250	1,559
Narcotic Drug Laws Total	1,564	340	8,194	1,190	11,298
Opium or Cocaine and their derivatives	25	10	801	138	974
Marijuana	1,384	296	6,218	797	8,695
Synthetic Narcotics	62	10	331	61	464
Other Non-narcotic Drugs (Barbituates, etc.)	93	24	844	194	1,155

From: Crime in Virginia, 1975
 Compiled by Uniform Crime Reporting Section
 Department of State Police

	UNDER 18		OVER 18		TOTAL ARRESTED
	Male	Female	Male	Female	
Gambling	63	7	1,390	119	1,579
Bookmaking—Horse and Sport Book			39	1	40
Numbers and Lottery			184	56	240
All other Gambling	63	7	1,167	62	1,299
Offenses against the family and children	85	70	3,424	469	4,048
Driving Under Influence	270	14	19,464	1,155	20,903
Liquor Laws	683	172	1,569	307	2,731
Public Drunkenness	783	130	45,601	3,077	49,591
Disorderly Conduct	1,050	235	9,182	2,101	12,568
All Other Offenses (Except Traffic)	6,241	1,745	29,576	5,776	43,338
Curfew and Loitering Laws	1,134	353			1,487
Runaways, Juveniles Apprehended	2,611	3,131			5,742
GRAND TOTAL	30,122	8,876	174,430	28,790	242,218

From: Crime in Virginia, 1975
 Compiled by Uniform Crime Reporting Section
 Department of State Police

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

LEAA was created by an Act of Congress in 1968. It is primarily involved in funding innovative projects in the field of corrections. Most of the money is distributed to the states and funding decisions are made by state and local criminal justice agencies.

Offender Programs Funded by Virginia Division of Justice Crime Prevention LEAA

Male

1. Department of Corrections: Northern Virginia Halfway House - funds awarded but program has not yet begun.
2. Rehabilitative School Authority: Northern Virginia Carpentry Program - consists of classes in carpentry skills. Approximately 18 inmates being served.
3. Rehabilitative School Authority: Paul D. Camp Program - Paul D. Camp Community College Classes for inmates at Southampton Correctional Center. Approximately 94 inmates being served.
4. Rehabilitative School Authority: Bland Program - Wytheville Community College classes for inmates at Bland Correctional Center. Approximately 76 inmates being served.
5. Department of Corrections: Roanoke Halfway House - Richmond Halfway House - two Halfway Houses for probationers and parolees. Approximately 80 inmates/clients served yearly in each.

Male and Female

1. Rehabilitative School Authority: Offender Follow-up Program - two GED type programs in the Tidewater area for probationers and parolees. The majority of offenders served have been female.
2. Rehabilitative School Authority: Associate Degree Program - providing community college courses to inmates. Approximately 150 inmates being served, 11 of whom are female.

Source: Division of Justice and Crime
Prevention

V. CETA AND LEAA FUNDED OFFENDER PROGRAMS IN VIRGINIA

The Comprehensive Employment and Training Act of 1973 (CETA)

CETA provides funds through a special revenue sharing program to State and local jurisdictions for the purpose of establishing employment and training programs. It, therefore, decentralizes the design and delivery of employment and training programs to the State and local government levels. CETA, in effect, transfers control over a large portion of Federal revenues to State and local jurisdictions and replaces a variety of categorical Federal employment and training programs. This permits planning policy and programs based upon local labor markets by CETA program operators, known as prime sponsors. Decisions about the kinds of programs, how money is to be spent, who is to be served, what types of delivery systems are needed, etc., are made at the State and local levels.

For CETA to be successful, it is essential that key labor market participants - management, unions, educational institutions, community organizations, women's groups and minority interests become involved in all aspects of CETA, from the planning stages up through the delivery of services.

From: A Guide to Seeking Funds
from CETA
U.S. Department of Labor,
May 1976

CETA Funded Offender Programs in Virginia

Governor's Manpower Services Council - Governor's Special Grant

1. Pretrial Intervention

Henrico-Hanover-Chesterfield Con-
sortium
5655 South Laburnum Avenue
Richmond, Virginia

Provides diversion for
first offenders - male
and female youth.

2. Halfway House

Virginia Department of Corrections
601 Spring Street
Richmond, Virginia 23220

Provides work release
center for women near
release, on probation
or parole.

(Funded one year; now funded by Department of
Corrections)

3. STEP-UP Program

Virginia State AFL-CIO
Executive Bldg-Janaf Shopping
Center
Suite 203
Norfolk, Virginia 23502

Provides employment
services/skills training
to adult females.

(Field offices in:
Richmond, Norfolk,
Roanoke, Arlington)

Prime Sponsor - Arlington County
2100 North 14th Street
Arlington, Virginia

District 10 Office Probation and Parole
Arlington, Virginia 22201

OJT, job development, classroom training,
counseling. Program under consideration.

Prime Sponsor - Roanoke Consortium for Manpower Services

Total Action Against Poverty
702 Shenandoah Avenue, NW
Roanoke, Virginia 24016

Serves adults - provides stop-gap jobs
(Program Pending)

Source: Directory of CETA Funded Offender Pro-
grams
American Bar Association "About Time"
January 1977

VI. EMPLOYING THE OFFENDER

1. In regard to the right not to hire a former offender, the EEOC and courts have held that an employer cannot have a policy of automatically rejecting a minority group job applicant because of his or her arrest or conviction record.
2. The legality of an employer's inquiry about an applicant's arrest record varies. Some state and local fair employment practices agencies hold that inquiries about arrests which did not result in convictions are never permitted. The EEOC has ruled that an inquiry about arrests is unlawful when applied to members of minority groups unless the employer can prove a business necessity for such inquiry. Decisions by courts have ranged from banning such inquiries to allowing them as part of an overall determination of the employee's suitability for employment.
3. An employer can inquire about convictions in order to determine whether they related to the applicant's fitness for a particular job. However, the EEOC has ruled that when such inquiries are made, they should be accompanied by a statement that conviction will not necessarily bar employment, and that factors such as age and time of the offense, seriousness and nature of the violation, and rehabilitation will be taken into account.

Source: Employing the Ex-Offender: Some
Legal Considerations
American Bar Association
Clearinghouse on Offender Employ-
ment Restrictions

VIRGINIA EMPLOYMENT COMMISSION AND OFFENDERS

All persons seeking jobs through VEC are seen by an interviewer. Those persons with a barrier to employment, such as a prison record, are referred to a counselor. Counselors are responsible for working closely with their clients and having knowledge of community resources. Counselors may refer woman offenders to Project Step-Up or CETA positions, for example.

STATE AND RICHMOND CITY MERIT SYSTEMS AND OFFENDERS

There are no predetermined barriers to employment of ex-offenders by the State or Richmond City. A line supervisor interviewing for a position must consider the date and nature of the offense and the employment record since the offense. A primary consideration is whether the conviction is related to the job in question. If the conviction is job related, a real danger must exist and consideration must still be given to the date of the conviction and conduct since then. An appeal procedure exists within the departments of personnel, and on appeal the decision not to hire or promote an ex-offender must be justified.

Source: Excerpt from Preliminary Report
& Recommendations to the Task
Force on Woman Offenders of the
Virginia Commission on the Status
of Women, November 1976

VII. LEGAL BARRIERS TO EMPLOYMENT OF OFFENDERS

Studies indicate that the higher the employment rate of former offenders the lower the rate of criminal recidivism, suggesting that a job provides the ex-offender with the necessary stake in society to resist a return to criminal activity.

The unemployment rate of offenders far exceeds that of other persons in the labor market. A 1964 study of federal releases revealed that only about $\frac{1}{4}$ of the releases, during the first month of their release, were employed at least 80% of the time, and about 1/3 were unable to secure jobs. Even after 3 months, only about 40% had worked at least 80% of the time.

Many factors account for this high level of unemployment of former offenders. Some offenders do not find suitable or full-time employment because of poor work experience, little education, and little or no skill training. Others are barred from jobs because of laws, regulations, and practices which arbitrarily limit the employment opportunities of persons with a criminal record.

Licensing Standards and Restrictions

The standards prescribed by a legislature for an agency to follow in permitting entrance to or continued participation in a licensed occupation may include the individual's age, education, skill, experience and entrance examination score. Other statutory provisions governing the licensing of an applicant may include: criminal offenses as grounds for denying a license, requirements that the applicant possess good moral character or prohibitions

against licenses when offenses involve moral turpitude.

Licensing provisions of all states contain a requirement of, or similar to, good moral character. Similar terms used are: "fitness," "inspire confidence," or "morally fit." Such terms are vague, and there is evidence that licensing agencies apply the good moral character requirement almost exclusively to persons with an arrest or criminal record.

Source: Removing Offender Employment
Restrictions
American Bar Association
Clearinghouse on Offender Employ-
ment Restrictions
March 1976

The following legislation recently passed by the Virginia General Assembly refers to the "fitness" criteria:

Legislation Passed by 1977 Virginia General Assembly

Be it enacted by the General Assembly of Virginia: 1. That the Code of Virginia is amended by adding in Chapter 1.1 of Title 54 a section numbered 54-1.15 as follows:

§54-1.15. Prior convictions not to abridge rights -

- A. Notwithstanding any other provision of law, a person shall not be refused a permit, license, registration or certificate by a regulatory board to practice, pursue, or engage in any occupation, trade, vocation, profession or business for which a permit, license, registration or certificate is required by the State solely by reason of a prior conviction of a crime, unless such criminal conviction directly relates to the trade, occupation or profession for which the permit,

license, registration or certificate is sought. Such board shall, however, have the authority in its discretion to refuse a permit, license, registration or certificate, if based upon all the information available, including the applicant's record of prior convictions, it finds the applicant unfit or unsuited to engage in such occupation, trade, vocation, profession or business.

VIII. SOME ORGANIZATIONS ACTIVE WITH WOMAN OFFENDERS IN VIRGINIA

American Civil Liberties Union of Virginia - is planning a two-day conference on women offenders to be held in Richmond in September.

Helpmates - a voluntary organization provides recreation and some counseling and educational services to women at the Richmond City Jail.

Offender Aid and Restoration of Virginia - provides volunteer counselors to misdemeanants at local jails or through the court system.

Project Aid-Sir, Richmond - offers social services to male and female ex-offender felons.

Project Step-Up, Norfolk - offers testing, training and jobs to women on work release, probation or parole or released from a correctional facility. (Funded by Governor's Special Grant)

Salvation Army Women's Auxiliary - provides primarily recreational services to women at the Richmond City Jail.

Women's Prison Project, University of Virginia Law School - teaches a course on post-release legal problems to women at the state correctional institution in Goochland.

EXHIBIT C

FACT SHEET ON LAWS
PERTAINING TO OFFENDERS IN THE
VIRGINIA SYSTEM

Prepared by:

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Conference on Employment Needs of
Woman Offenders in Virginia

For:

Conference on Employment Needs
of Woman Offenders in Virginia
May 10, 1977
Sponsored by: The Women's Bureau
Employment Standards Administration
U.S. Department of Labor
AND
The Virginia Commission on the
Status of Women

FACT SHEET ON LAWS PERTAINING TO OFFENDERS IN THE
VIRGINIA SYSTEM

The following information is based on the Code of Virginia, including certain amendments passed in the 1977 Legislative Session, and material provided by the Virginia Department of Corrections, to which I am indebted for their assistance. It should also be acknowledged at the outset that the information contained in the fact sheet was compiled as a part of a study committee looking into the status of woman offenders in Virginia, however, the information in this summary applies to all offenders and not just women. The term Director whenever used in this summary refers to the Director of the Department of Corrections.

WORK AND EDUCATIONAL OPPORTUNITIES WITHIN THE SYSTEM

1. Will a prisoner in the correction system be required to perform labor while incarcerated? The Director shall, through the superintendents, wardens, managers or official of the penitentiary, state correctional farm, or camps throughout the state, so far as practical, cause all of the prisoners in such institutions or camps, who are physically capable to be employed in useful labor.

2. Does the Department of Corrections provide for vocational and/or correctional opportunities which may lead to employment at such time a prisoner is released? The Correction System provides the Director shall make such arrangements as are necessary to enable classes to be organized among

the prisoners, so that those that desire may receive instruction in various lines of educational pursuits. Wherever possible prisoners who are sufficiently educated to act as instructors are utilized for teaching classes in various educational pursuits, although no prisoner may be compelled to serve as an instructor for a class. Depending upon the institution, there are various vocational and instructional classes available which will help prepare a prisoner to get a job after being released, although such opportunities will vary from institution to institution across the state and such opportunities are somewhat more limited for woman offenders than for men.

3. Is it possible for a prisoner in the correctional system to participate in educational or vocational experiences in the outside community? Yes, the Director is authorized to establish work-release programs subject to such rules and regulations as the Board of Corrections may provide whereby a convict who is proficient in any trade or occupation, when the Director is satisfied is trustworthy, may be approved for employment by private individuals, corporations, or state agencies at places of business, or whereby a convict the Director is satisfied is trustworthy and capable of receiving substantial benefit from educational and other related community activity programs there that are not available with a correctional institution, such prisoner may attend such programs outside the institution, without guard at any hour of the day or night. The hours of employ-

ment or attendance shall be arranged by the Director. The compensation for such employment shall also be arranged by the Director and shall be the same as regular employees in similar occupations. Any such wages earned shall be paid to the Director, who, after deducting a sum sufficient to defray the convict's keep and his share of the cost of administering and supervising the program, shall credit the balance to the convict's account or send it to his family.

4. Does the pursuit of vocational or educational training have any bearing on the time a prisoner will actually have to serve within the institution? Yes. Every jail prisoner or convict under the control of the Director who shall follow a course of vocational or educational training while confined or who shows such interest and application in his work assignment as to exhibit good progress toward rehabilitation, may, in the discretion of the Director, be allowed a credit upon the total term of confinement to which he has been sentenced, from 1 day to 5 days for each month he has been engaged in such vocational or educational training or has applied himself in excess of minimal work assignment requirements.

5. Will an offender experience employment difficulties as a result of his conviction upon being released either on parole or after having served the full sentence? There is no definite answer to this question. It will depend in large measure on the education, experience and availabilities of jobs in the area of interest for the offender. Unfor-

unately, woman offenders have experienced more difficulty in securing viable jobs upon being released than have male offenders. Jobs which require that the employee be bonded to be employed may be difficult if not impossible to secure.* The 1977 Legislature did amend Virginia law to provide that prior convictions, in and of themselves, shall not preclude a person from obtaining a permit, license, registration or certificate by a regulatory board to practice, pursue, or engage in any occupation, trade, or vocation, profession, or business, unless such criminal conviction directly relates to the trade, occupation, or profession for which the permit, license, registration, or certificate is sought. A regulatory board, however, will not be precluded from considering an applicant's record of prior convictions along with all other available information in determining whether an applicant is fit or unfit to engage in such occupation, trade, vocation, profession or business.

6. Suppose there is a strike at a place of business where an offender is employed on a work-release program? The 1977 Legislature amended the law to say that in the event of a legally sanctioned strike at the convict's place of employment, the convict in the work-release program shall be with-

* The Federal Bonding Program offers fidelity bonding coverage to qualified job applicants who cannot otherwise obtain it. In order to receive bonding assistance individuals make direct application through public employment offices. In Virginia there are several such offices including the Virginia Employment Commission, 703 East Main Street, Richmond.

drawn from the employment for the duration of the strike. The Department of Corrections opposed such legislation but it was passed in the '77 Legislative Session.

7. Will an offender who has served the full sentence or been released on parole be able to secure a driver's license so as to have transportation to and from a job? The State Code does not provide restrictions to obtaining a driver's license as the result of a felony conviction. If a person is on probation or parole, however, their driving privileges may be restricted by the probation and parole officer. This does not limit their obtaining a license but can restrict their use of a car.
8. Will an offender find any restrictions to being admitted to certain schools for educational or vocational training? Some convicted felons have encountered difficulty in being admitted to certain schools, although this will vary with each school and generally private schools may be somewhat more restrictive in admitting students. The difficulties encountered in this area, in so far as the Department of Corrections can ascertain, appear to be exceptions rather than a regular occurrence.
9. What if a prisoner should be hurt while in the performance of work or other assigned duties? The law does provide under certain circumstances that a prisoner at any penal institution, including any industrial school or juvenile detention center, while in the performance of work or assigned duties, who sustains an injury arising therefrom, through

no intent of his own, so as to incapacitate him permanently or materially to reduce his earning power may apply for compensation to the Board of Corrections. The Board may, upon approval by the Governor, award such applicant an amount generally limited under the same schedules as in effect for workmen's compensation coverage.

RECREATION AND RELIGIOUS OPPORTUNITIES FOR PRISONERS

1. Are there opportunities for a prisoner in the Correction system to engage in recreation and religious matters?

Yes. The Director is authorized and directed to arrange forms of recreation for prisoners and shall arrange that prisoners during their leisure hours shall have an opportunity to take part in games and attend lectures, take exercise, and take part in other forms of amusement as may be provided by the Director. As one might expect, the opportunities for recreation and exercise and other leisure-time pursuits will vary from institution to institution across the state and will vary from one prisoner to another. Offenders who are serving time for more serious offenses may have their leisure time pursuits more stringently restricted. The Director is further authorized to make arrangements so that religious services may be held for prisoners on Sunday, and at such other times as may be deemed wise. The provisions of law relative to recreation and religious services apply to the State penitentiary the State farm and State and County camps.

2. Do prisoners have an opportunity to correspond with persons in the outside community and an opportunity to read newspapers and other printed matter? Yes. Prisoners who are confined at State Penal Institutions are to be allowed such correspondence privileges as do not interfere with the work and discipline of the penal institution, provided, however, that each prisoner shall be permitted to write a letter at least once each month, and shall be permitted to have and read such newspapers and magazines as he may subscribe for or may be given to him or sent him and not deemed by prison authorities to be subversive of discipline.

AVAILABILITY OF COUNSEL FOR INDIGENT OFFENDERS

1. Does an indigent offender in the correction system have the availability of legal counseling should he have need for same? The law provides that a Judge of a Court of Record having jurisdiction in the trial of criminal offenses in whose county or city the state penitentiary, a prison farm, or a unit of the Bureau of Correctional Field Units is located shall on motion of the Commonwealth Attorney for such county or city when he is requested to do so by the Superintendent of the State Penitentiary, of a prison farm or a unit of the Bureau of Correctional Field Units, appoint one or more discreet and competent attorneys at law to counsel and assist indigent inmates therein confined regarding any legal matter relating to their incarceration, other than matters pending in any court.

ESTATES OF CONVICTS

1. What happens to the personal or real property of an offender convicted of a felony? When a person is convicted of a felony and sentenced to confinement in a state correctional institution for one year or more his estate, both real and personal, if he has any, shall on motion of any party interested be committed by the Circuit or Corporation Court of the county or city in which his estate or some part thereof is, to a person selected by the Court who, after giving bond before the Court and such penalty as the Court may prescribe, shall have charge of the estate until the convict is discharged from confinement.
2. Suppose a convicted felon has no estate in Virginia? Even if a person who is convicted and sentenced, whether a resident or non-resident of Virginia has no property or estate in Virginia, a committee can still be appointed for him on motion of any party interested by the Circuit Court of the county, or Corporation or other Court having probate jurisdiction in the County or City wherein the offense was committed.
3. What are the duties of the committee? Such committee may sue and be sued in respect to all claims or demands of every nature in favor of or against such convict, and any other of the convict's estate, and he shall have the same right of retaining for his own debt as an administrator would have. All actions or suits to which the convict is a party

at the time of his conviction shall be prosecuted or defended, as the case may be, by such committee after ten days notice of dependency thereof, which notice shall be given by the clerk of the Court in which the matter is pending.

4. If a committee is appointed for a convict can his family receive any portion of his estate while such person is incarcerated? The Law provides that the committee shall allow common subject to the claims of creditors, a sufficient maintenance out of the convict's estate, for his wife and family, if any, the wife to be entitled, so long as he is confined, to the profits of such portion of his estate as she would have if he had died intestate. (It is submitted that this code section under proper circumstances should have equal application for the estate of a convicted woman offender, should she have any, although the law does not so specify. This assumption is made in light of present law.)
5. What happens to the convict's estate upon his discharge? The law provides that every such committee shall deliver such estate, as he is liable for at that time, to the convict on his discharge, or to his real and personal representative on his death before being discharged.
6. May real estate belonging to a convicted offender be sold? In certain cases it may and such real estate may be leased or sold, when necessary for the payment of the convict's debts, in the same manner as the real estate of an insane person in the hands of a committee may be sold.

EXECUTIVE CLEMENCY FOR PREGNANT WOMEN

1. What action may be taken if a woman offender is found to be pregnant while incarcerated in a penal institution? If a representation is made to the officer in charge of any penal institution that a woman confined in such penal institution is pregnant and about to give birth to a child, a reasonable time before the anticipated birth of such child such officer shall have to make an inquiry and, if the facts so require, recommend to the Governor exercise of Executive Clemency.
2. What is meant by Executive Clemency in this regard? The Governor, may, without notice, parole such convict, commute the sentence, or suspend its execution for a definite period or from time to time as he deems proper.
3. Will the female offender be removed from the penal institution? If the sentence is suspended, the officer in charge of such institution, a reasonable time before the anticipated birth of such child, shall cause such woman to be removed from the institution and provided with comfortable accommodations, maintenance and medical care elsewhere under such supervision and safeguards to prevent her escape from custody, as he may determine, as subject to her return to such institution as soon after the birth of such child as the state of her health will permit.
4. Who is responsible for the payment of the medical expenses associated with the birth? The expenses of such accommodation,

maintenance and medical care shall be paid by the woman, her relative or friends or from any fund that would be available for the hospital expenses of such inmate within the institution.

5. Is a child born to a female offender allowed to return with the mother to the penal institution? A child so born may be returned with its mother to the institution at which its mother is confined, if the Director of the Department of Corrections, in his judgment, deems it will be to the best interests of the child. If the Director in his judgment decides that it will not be in the best interests of the child to be returned to the institution with its mother then, upon proof being furnished by the father or other relatives of their ability properly to care for and maintain such child the Director shall order that the child be given into the care and custody of the father or other relative who shall thereafter care for and maintain the child at his own expense until the release of the mother of such child, or until such child shall have been duly adopted as provided by law.

6. Suppose there is no father or relatives to accept the care of the child? If it shall appear that the father or other relative is unable properly to care for and maintain the child, the Director shall place the child in the care of any charitable organization willing to provide for the child.

FURLOUGHES

1. What is a furlough? It is a conditional leave permitted to

the convict whereby he may leave the confinement of the penal institution under such conditions and safeguards as established by the Director.

2. What is the purpose of a furlough? The Director may, subject to the conditions as he may proscribe, extend the limits of confinement of any inmate in any institution subject to his authority to permit him furlough under the provisions of the law for the purpose of visiting his home or family. Such furlough shall be for a period to be proscribed by the Director or his designate, in his discretion, not to exceed three days in addition to authorized travel time. The Department shall promulgate rules and regulations governing extensions of limits of confinement thereunder.
3. Who shall bear the expenses associated with such furlough? The Director may, when feasible, require the inmate or his relatives to bear the travel expenses required for such visit or a proscribed portion thereof. Such travel expense shall include all amounts necessarily expended for travel, food and lodging such inmate and any accompanying personnel of the Department during such furlough, and a per diem amount set by the Director to reimburse the Department for furnishing custodial personnel if required.
4. What is the penalty if an inmate violates the conditions of a furlough? Any inmate who willfully fails to remain within the limits of confinement set by the Director, hereunder, or who willfully fails to return within the time proscribed to the place designated by the Director and

granting such extension, shall be guilty of an escape and shall be subject to penalties as though he left the institution itself.

5. Who shall be ineligible for furloughs? Any inmate who is convicted of a felony included within the provisions of Chapter 4 (Section 18.2-30 and et seq.) of Title 18.2 of the Virginia Code or arson, or robbery, or burglary, committed while on administrative furlough, shall, after conviction thereof, be ineligible for further furlough for the remainder of his sentence or sentences imposed on him prior to furlough.

HALFWAY HOUSES AND COMMUNITY CORRECTION FACILITIES

1. What are halfway houses and what purpose do they serve?
A Director of the Department of Corrections is authorized by law to establish and maintain such a system of halfway houses as he may from time to time purchase, construct, or rent for the temporary care of adults who are deemed capable of participation therein. The Director is further authorized to employ necessary staff personnel for such facilities and to promulgate such rules and regulations for the operation of such facilities as may be appropriate. The Director may with the approval of the Board of Corrections provide minimum standards for the operation of the halfway house facilities, and if such minimum standards are established, the Director shall maintain a list of such approved halfway houses. Halfway houses are provided in an effort to allow offenders who are not ready for full release or discharge to be

re-introduced and acclimated into the community before their full release.

2. Are there other limited confinement facilities available for offenders in Virginia? Yes. The Director of the Department of Corrections is also authorized to establish and maintain a system of community correctional facilities as he may from time to time purchase, construct, or rent, for the care, custody, education, and rehabilitation of offenders sentenced to the penitentiary and who are deemed by the Department to have the potential for rehabilitation which justifies their being committed under limited or extended confinement.
3. What happens to the wages of an inmate who may be gainfully employed while confined in a community correctional facility? Any wages earned by persons shall contribute an amount of said wages to the cost of their maintenance and support, but not less than two dollars per day. The amount of such contribution shall be established from time to time by the Director on a scale approved by the Board. Any funds remaining shall be disbursed as if the person were on a work-release program. All persons confined in such facilities may be regularly employed, or enrolled in educational institutions or other rehabilitative programs.
4. May a person be transferred out of such an institution? Any person confined in such a community correctional facility may be transferred to any other penal institution within the state upon a finding by the Department that his intractable behavior indicates that he will not benefit from the programs

of such facilities.

5. How may an offender be assigned to such a community correctional facility? Assignment of a prisoner to such a facility shall be at the discretion of the Director of the Department of Corrections.

PROBATION AND PAROLE

1. What is Probation? Probation is a conditional agreement between the Court and the offender whereby the offender agree to abide by certain conditions in return for the opportunity to serve his/her sentence in the community.
2. Who is eligible for Probation? Any person who has been convicted of violating state laws or local ordinances unless the violation requires a mandatory jail or prison sentence.
3. What is Parole? Parole is a conditional agreement between the Virginia Parole Board and an inmate whereby an inmate agrees to abide by certain stated conditions in return for the opportunity to serve the remainder of his/her sentence in the community rather than in prison.
4. Who is eligible for Parole consideration? A felon, or multiple misdemeanor with more than twelve months sentence exclusive of fines and costs, is eligible.
5. When does an inmate become eligible for consideration?
When an inmate has served one fourth of his/her total sen-

tence or 12 years, whichever is earlier. Persons sentenced to one life term are eligible after 15 years. Persons with more than one life term are eligible after 20 years and those whose death sentence has been commuted to life are only eligible for a pardon.

6. Does time spent in jail count toward parole eligibility?
Yes.
7. Are all eligible inmates paroled? No.
8. Does an inmate have to apply for parole consideration? No.
The Parole Board will schedule all eligible persons for a parole hearing and will reschedule them each year thereafter if the inmate is not granted to parole. This includes inmates being held in local jails if they are brought before the Parole Board by Adult Services.
9. What can an inmate do to improve his/her chances for favorable Parole consideration? An inmate can do much if he/she accepts personal responsibility for his/her past, present and future behavior. The inmate can show responsible behavior by cooperating openly and truthfully with institutional staff and the Parole Board. Contact with the family, friends and other responsible persons in the community can be maintained. Active participation in institutional programs and cooperation with institutional staff should be clearly obvious. Definite, realistic plans for a home and job should be developed and updated as needed. Official documents, such as

Social Security numbers and military discharge papers can be obtained. Furlough time can be used to contact the local Probation and Parole Officer and possible employers. Written contact with the local Probation and Parole District Office concerning parole release plans can be helpful when an inmate becomes eligible. All important information relating to release can be sent to the inmate's Central File for future review. A home plan and reasonable assurance of a job must be verified prior to actual release.

10. What are the Conditions of Parole? In addition to Special Conditions which the Parole Board may impose in individual cases, there are standard stated conditions. Generally the stated conditions are: 1) To obey all local, state, and federal laws and ordinances and report any violations to the officer within three days; 2) To maintain a regular job and support any legal dependents and advise the officer of any job changes; 3) To get the officer's written permission before buying or operating a motor vehicle; 4) To submit a written monthly report to the officer and to report as otherwise instructed; 5) To permit the officer to visit the probationer's home and job site; 6) To follow the officer's instructions and be truthful and cooperative; 7) To avoid excessive use of alcohol to the extent that the probationer's job, conduct or home life is interfered with or disrupted; 8) To not illegally use, possess or distribute narcotics, dangerous drugs, controlled substances or related paraphernalia; 9) To not use, own, possess or

transport a firearm without the officer's written permission;
and 10) To not change residence or travel outside the Pro-
bation and Parole District without the officer's permission.
The inmate must report as instructed to the Officer within
72 hours of release from prison.

REPORT OF TASK FORCE ON WOMEN AND THE LAW

The Virginia Commission on the Status of Women, recognizing that women in Virginia are often confronted with legal problems and that many laws uniquely impact women, believed that it would be beneficial to have a handbook written on women and the law.

The Commission obtained from the Division of Legislative Services a computer print-out of laws relevant to women. In the fall of 1976 the Virginia Law Women at the University of Virginia School of Law agreed to write the manual. Their work was supervised by professors who were knowledgeable in the particular subject areas of each section.

This publication is now ready for distribution under the title: YOUR LEGAL RIGHTS AS A WOMAN, A HANDBOOK FOR VIRGINIANS. The book strives to translate Federal and State laws into language which is understandable to the layperson. We plan to make copies available to all women in Virginia by distributing the books to libraries and organizations involved with women's issues and activities.

Frances Garland, Chairman

YOUR LEGAL RIGHTS AS A WOMAN:

A HANDBOOK FOR VIRGINIANS

Written by: Virginia Law Women
University of Virginia Law School
Charlottesville, Virginia

Sponsored by: Virginia Commission on the
Status of Women

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Your Legal Rights as a Woman: A Handbook for Virginians was researched and written by a six-woman committee at the University of Virginia Law School. Several professors and friends at the law school reviewed individual sections. The Handbook Committee would like to thank Professors Lillian R. BeVier, Charles B. Craver, Elinor Gammon, A. E. (Dick) Howard, John C. Jeffries, Michael J. McIntyre, Harvey S. Perlman, Robert E. Scott and Walter J. Wadlington for their help. Andy Rogoff, a third-year law student, also rendered valuable assistance to the Committee. None of the foregoing friends and supporters bears responsibility for errors that remain in the final product or, of course, for its underlying concept. Our skillful typist, Paula Price, deserves special commendation.

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The authors were inspired by the handbooks on women's rights published by other states, notably those of Missouri and North Carolina. The Committee is extremely indebted to the North Carolina Law School Women in Law Booklet Committee who authored *Women and the Law: A Handbook for North Carolina*. That handbook was the model upon which this booklet was based. In addition, we drew upon much of the substance of the North Carolina publication for our sections on **EMPLOYMENT** and **SOCIAL WELFARE LAWS**. To a lesser extent, this is also true of our sections on **FINANCE**, **DOMESTIC RELATIONS** and **PROPERTY**.

For additional copies and price information, contact:

Ms. Phyllis Pendergrast
Virginia Commission on the Status of Women
Box 26
Waynesboro, Virginia 22980

If you would like to write your own handbook or would like further details on the information in this one, contact:

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Introduction

“The female equally with the male
I sing.”
Walt Whitman, “Leaves of Grass”

This handbook is written by women for women who want the law to work for them.

Traditionally, women have not been treated as equals to men under the law. We have sometimes been the focus of “protective legislation” in which the courts and legislatures decided that women should be shielded from such practices as working long hours or being subject to military conscription. In many cases, however, the same arguments and rationales which supported this type of legislation were used to deny us rights which men enjoyed. These included the right of access to certain jobs; the right to pay equal to that of a male co-worker at the same job; the right to serve on juries; the right to obtain credit on the basis of our own earnings, independent of our husbands’ financial status; and the right to make contracts. In general, we have not been given the same options in conducting our personal and professional lives which men have enjoyed.

Today we have many more rights than we had even five years ago. But unless we are aware of these rights we cannot exercise them. This booklet is designed to inform women in Virginia about laws which make a difference in their lives. It is not, however, intended merely to be a summary of the legal status quo. We hope it will inspire you further to work for changes in laws that you think result in unfair treatment to women.

If you believe that you have been discriminated against under present law, you should contact a lawyer or women’s political organizations who can either represent you in legal proceedings or tell you how to represent yourself. We have also included in the text of the booklet other resource groups and government agencies which can assist you in enforcing your rights.

When you decide that you need to consult a lawyer do not hesitate to do so. It is a lawyer’s obligation to give your complaint serious consideration. The information contained herein should provide you with enough background to prepare you to speak knowledgeably with an attorney. The best way to locate a lawyer is to ask friends, contact the local American Bar Association (which has a lawyer referral service), a law school or a women’s political organization. Do not be afraid to investigate until you find an affordable lawyer who you believe is sympathetic and competent. Even a lawyer whom you ultimately reject is obligated to keep all discussions with you confidential. It is important that you tell the lawyer all the facts in a case so that s/he can represent you fully.

If you are unable to afford a private attorney, contact the local office of the Legal Aid Society in your community. Local offices of the American Civil Liberties Union can also direct you to other sources of legal assistance.

If you choose to conduct your own legal research you will find law libraries at courts and law schools. You will want to know what state and federal laws pertain to your situation and how the courts have interpreted those laws in specific cases. Often state and federal laws have been enacted on the same subject. The legal citations for federal and state laws and cases mentioned in the handbook are listed in the footnotes (Appendix C).

In citations for federal laws and for all cases the first number will refer to the particular volume in a series of books; the words or letters that follow will represent the name of the book and the second number represents either the page or section in the volume. (It is important to note that any legislative changes in a law will be contained in the "pocket part" of the volume, a paperback insert which is updated periodically). Thus, a citation to 406 U.S. 501 means that the case is found in Volume 406 of the U.S. Reports (the official series of the U.S. Supreme Court) at page 501. The Virginia cases are found in two sets of volumes, the Virginia Reports or the Southeastern volumes of the Federal Reporter system which compiles all state supreme court cases. Thus, a case cited as 71 S.E.2d. 377 would be found in Volume 71 of the second series of the Southeastern Reporter at page 377, as well as in the Virginia Reports.

All public laws of the United States Congress can be found in the United States Code (U.S.C.) series. For example, a federal law referred to as 26 U.S.C. 6000(e) is found in volume 26 of the series United States Code, section 6000(e).

All Virginia statutes are contained in a set of Chapters or Titles further divided into sections. Thus Va. Code Ann. 56.1-743 would be found in section 743 of Chapter 56.1.

If you want to locate laws on a particular subject, such as employment or welfare, subject indexes can be found in the last volume of both federal and state codes.

This reference system seems complicated at first, but can be learned without much difficulty. If you cannot locate the cited cases or statutes, a librarian can, of course, help you if you show him/her the cites found in the footnotes. We have also compiled a glossary (Appendix B) of words frequently used in a legal context. Definitions of words which are designated by a dot[•] in the text will be found in the glossary.

As law students and women we have enjoyed writing *Your Legal Rights as a Woman*. We hope it will assist you in acting on rights to which you

are entitled as women in Virginia today.

Joan Kuriansky, *Editor*
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Virginia Law Women
Charlottesville, Virginia
May, 1977

The editors urge readers to check with the appropriate authorities before taking any action in reliance on the information in this handbook. Many areas of the law are in a constant state of flux and some material contained herein may become outdated by the time we go to press.

Domestic Relations

MARRIAGE

WHAT MUST I DO TO BECOME LEGALLY MARRIED?

All persons over 18 may legally marry in Virginia. If you are between the ages of 16 and 18, you may marry if a written or oral consent is submitted by your parent(s) or legal guardian with whom you live to the clerk or judge of the court issuing the license.¹

In order to get married, you must:

- obtain a marriage license² issued by the clerk of the court of the county or city where you reside. If you are not a resident of the state, you and your partner may obtain a license in any authorized court; and
- present a health certificate³ in which a physician states that both you and your partner have undergone a blood test to determine any evidence of venereal disease (the certificate must have been issued within 30 days of the license application). You may have venereal disease and still marry, but if you continue to reside in Virginia the state requires you and your spouse to undergo medical treatment⁴ so long as any indication of syphilis is present; and
- have a marriage ceremony performed by an ordained member of the clergy recognized as such by the state, or by a person authorized by the court to perform the ceremony in that county or city.

Note that Virginia does not recognize “common law” marriages purportedly created in this state (those unaccompanied by license or ceremony which require only that the parties agree to marry each other). However, persons whose common law marriages were created and recognized in other states and who now live in Virginia are considered validly married. Marriages which are bigamous, incestuous or between persons of the same sex are prohibited, though any children born from the first two relationships are considered to be legitimate. Any children born from marriages which are null and void in law, or which are subsequently dissolved by a court, are nonetheless legitimate.⁵

NAMES

DO I HAVE THE RIGHT TO USE ANY NAME I CHOOSE?

Any person can change her/his own name or that of her/his children by applying to the circuit court of the city or county in which s/he lives. In the case of a child who has both parents living, the parent who does not join in the application shall be given reasonable notice to choose to object. If objections are made, a hearing will be held to determine whether the change of name is in the best interests of the child.



Under common law, a person is free to adopt any name if it is not for a fraudulent purpose or in infringement upon the rights of others.⁶

DO I HAVE THE RIGHT TO USE ANY NAME I CHOOSE WHEN I GET MARRIED?

A married woman in Virginia is under no legal compulsion to assume her husband's surname. If you are a woman about to get married you may:

- continue to use your own surname after marriage without going through a statutory name change procedure. You should continue to use your name consistently and exclusively, however, to avoid any confusion; or
- assume your husband's surname if you so desire.

If you are a married woman who assumed your husband's surname and now wish to resume using your own name, you may petition to do so in the circuit court of the county in which you reside.⁷ The court has discretion to allow or disallow the change, but a recent case suggests that in the absence of illegal purpose (e.g. to defraud creditors) a change of name petition should be granted.⁸ If the court allows the change, it will notify the State Registrar of Vital Statistics, but you should make certain that your own credentials—driver's license, voting registration, social security card, credit cards, etc. — are changed accordingly.

WHAT NAME MAY I USE WHEN I GET DIVORCED?

If you are a divorced woman who took your husband's name while married you may:

- continue to use his name; or
- use the statutory procedure described above to resume a former name.

If you are a woman about to be divorced and want to resume a former name after the divorce you should have your attorney request this name change in your complaint or cross-bill for divorce; that way the name change can be incorporated into the divorce decree⁹ and save you the necessity of the later statutory court procedure.

SUPPORT OF ILLEGITIMATE CHILDREN

WHAT ARE MY CHILD'S RIGHTS IF S/HE IS BORN WHILE I AM NOT MARRIED?

A child born to a married woman is presumed to be legitimate.

A child born to an unmarried woman is "illegitimate" and may not be able to inherit property from her/his father if he dies without a will, nor is

s/he entitled to support from the father. A child will not inherit under a will if s/he is not named a beneficiary⁹.

The child will be entitled to support if the father: ¹⁰

- testifies before court under oath that he is the child’s father; or
 - states voluntarily in writing under oath that he is the child’s father;
- or
- the mother institutes a proceeding in which it is proved beyond a reasonable doubt that the alleged father is the real father.

SUPPORT

DO I HAVE A RIGHT TO BE FULLY SUPPORTED BY MY HUSBAND?

No. Under the law of Virginia spouses have a **reciprocal duty to support** each other and a common duty to support their children who are under 18 years of age or mentally or physically incapacitated.¹¹ “Support” consists of things essential to a person’s health, comfort and safety.

Courts have historically been reluctant to interfere with spousal discretion in this area while the spouses continue to live together. Orders for support, therefore, arise when the spouses are separated or seeking divorce or annulment or when one has abandoned the other.

If either you or your spouse without cause abandons or separates from the other, you or he is still responsible for the support of the other. The obligation to support a spouse may be suspended if s/he commits any acts which would constitute grounds for divorce, but it remains in full force if husband and wife agree to live apart by mutual consent.

ANNULMENT ¹²

WHEN MAY MY MARRIAGE BE ANNULLED?

Unlike a divorce, which dissolves a legally valid marriage, an annulment is a process in which the Court declares that no valid marriage was ever entered into. Its availability is quite limited, however: the grounds for annulment are more narrow than those for divorce, and no decree of annulment will be issued by a court if the parties have been married for a period of two years prior to suit, or if the aggrieved party⁹ cohabited with the other spouse after knowledge of facts which would otherwise constitute grounds for annulment.

Either spouse may institute suit, but one of the parties must be domiciled in and have been a resident of Virginia for at least six months before suit. **Only parties to the marriage may seek to annul it.**

The action may be brought in the court of the county or city where the parties last lived together, where the defendant resides, or, if the defendant is not a resident of Virginia, then where the party bringing suit resides. An annulment will not be granted on the basis of uncorroborated testimony of either or both parties. You must be able to offer proof of your complaints.¹³

Grounds for annulment include but are not limited to the following:¹⁴

- the marriage is one prohibited by law;
- either or both parties were less than 18 years old at the time of the marriage, married without consent,¹⁵ and the suit is instituted by or on behalf of the party who had not reached the age of consent at the time of the marriage;
- the formalities—licensing or solemnization—were lacking or deficient;
- either party consented to the marriage through the fraud of the other party or under duress;
- the wife was pregnant at the time of the marriage and the husband neither knew it nor fathered the child;
- the husband, without the knowledge of the wife, fathered a child born of another woman within 10 months after the solemnization of his marriage;
- either spouse was, at the time of the marriage, naturally or incurably impotent.

DIVORCE

DO I NEED A LAWYER FOR A DIVORCE?

Divorce can be an emotionally and financially draining experience for all concerned. Most people choose to retain a lawyer to see them through to an equitable resolution of this proceeding in as painless a way as possible.

If you decided to hire a lawyer, shop for one that you can trust and with whom you can expect to develop good rapport. S/he should be able to explain all the technical details involved in a divorce as well as help you negotiate as fair and friendly an agreement as possible regarding property, custody or support matters.

It is not wise to rely on your husband's attorney or an associate of his during divorce since they will no doubt suffer from a conflict of interest and find it difficult to represent you adequately (if indeed they take the case at all). Under some circumstances your spouse may be required to pay your attorney's fees.

You may to handle the divorce yourself without a lawyer if:

- your husband is not contesting the divorce; and
- you are childless, and
- you have made decisions about disposing of your property which are agreeable to both of you.

HOW DO I FILE FOR A DIVORCE?

To file for divorce in Virginia, at least one of the spouses must be domiciled[•] in and have been a resident of the state for at least six months preceding the commencement of the suit.¹⁶ Suit will be entertained in the court of the county or city where you and your spouse last lived together, where the defendant[•] resides or where the party instituting the suite resides if the defendant lives out of state or his/her address is unknown. Note that a divorce will not be granted on the basis of the uncorroborated testimony of either or both parties. You must have evidence to substantiate your claims.

WHEN CAN I GET A DIVORCE?

The following are grounds for **absolute divorce**:¹⁷

- either husband or wife has committed adultery or sodomy outside marriage;¹⁸
- either husband or wife after marriage is convicted of a felony, sentenced to confinement for more than one year, is in fact confined, and cohabitation has not been resumed after knowledge of such confinement;
- husband or wife has been guilty of cruelty, or has caused the other reasonable apprehension of bodily harm, or has willfully deserted or abandoned the other. In these instances divorce may be obtained by the innocent party after a one-year separation from the date of such acts.

In addition to the above fault grounds, Virginia has a type of “no fault” divorce. It requires only that the spouses have lived separate and apart for one year. A decree of divorce on this ground does not lessen the obligation one party may have to support his/her spouse unless the party can prove some other “fault” grounds for the divorce. You are not legally required to have a written separation agreement during this year, but you and your spouse may want one in order to formally establish financial duties and liabilities, child custody and property settlements for the time prior to divorce. An attorney can help you make this decision.

Virginia also has a special proceeding called “divorce from bed and board.”¹⁹ It is not an absolute divorce in that it does not dissolve the marriage, but is rather a legal separation which may be granted by a court at the instigation of either spouse. The court may decree such a

divorce when either of the spouses has abandoned, willfully deserted, cruelly treated the other or placed the other in reasonable fear of bodily harm.

After an uninterrupted separation of one year from the date of any of these acts, either party may petition the Court to merge the decree for "divorce from bed and board" into an absolute divorce dissolving the marriage.

IF I DIVORCE, WHO WILL GET THE CHILDREN?

Custody of minor children and whether or not one spouse will make support payments to the other can be decided in a divorce proceeding.

Custody of children is awarded to the parent whom the judge decides will best promote the interests and welfare of the child.

The court will consider the conduct of each parent in awarding custody, and in the past has favored the mother as the guardian of young children. The law in this area is changing, however, in response to the movement towards sexual equality.

Both parents are legally responsible for the support of their minor children. The judge may enter an order requiring the parent who does not have custody of the children to pay a designated amount for their health, education and maintenance. The court can alter its decree regarding custody and maintenance of the children on petition of either parent, on its own motion or on the motion of a probation officer or superintendent of public welfare.²⁰

AS A DIVORCED WOMAN AM I ENTITLED TO GET "ALIMONY" FROM MY EX-HUSBAND?

Not necessarily. Either spouse can receive support payments from the other, but it has historically been the wife who has received "alimony." The Virginia legislature substituted in 1975 the words "support and maintenance" for "alimony" when it appeared in the statute and made other language modifications in the laws in this area. The upshot of these changes would seem to be that there is no bar to awarding a husband support and maintenance when the facts show him to be the dependent spouse.

Once a decree of divorce has been entered, you may not be awarded support payments. Make certain that a provision for support and maintenance is incorporated into the decree.

Maintenance and support for a spouse will be ordered by a court in five instances:²¹

—after an absolute divorce;

- after a “divorce from bed and board”;
- after an annulment;
- while spouses are separated though not divorced;
- support *pendente lite*²² which is support awarded to the dependent spouse for the time between the filing of a divorce and the time of the decree, so that s/he will be able to subsist and be able to carry on the suit. If you are entitled to this type of support you can also apply for money for reimbursement of reasonable attorney’s fees.

Support and maintenance cannot be granted to a dependent spouse when s/he has committed acts which form the grounds on which the “innocent” party is petitioning for an absolute divorce or “divorce from bed and board”. If the parties are seeking a “no fault” divorce, there is no bar to the dependent spouse’s receiving support unless an alternative “fault” ground exists on which the divorce could be—but is not being—sought.

The amount of support that the dependent spouse will receive is within the discretion of the judge who considers such factors as the earning capacities, obligations and needs, and financial resources of the parties; the standard of living established during the marriage; the education and training of the parties; the duration of the marriage; and the age, physical and mental condition of the parties.²³ Upon petition of either spouse the court may increase, decrease, or terminate support and maintenance for a spouse as circumstances warrant. Maintenance and support for a dependent spouse ceases upon his/her remarriage or death.²⁴

The court may require the party against whom the decree for support has been entered to pay money into court as an assurance that s/he will comply. If the supporting party defaults in his/her obligation, the court may²⁵ turn over this sum to the dependent party; grant leave to the injured party to proceed with the complaint in the appropriate juvenile and domestic relations district court, or may instruct that court to enforce collection; or, it may apply criminal sanctions to the offending party.

SEPARATION AGREEMENTS

WHEN CAN I AND MY SPOUSE ARRANGE THE CONDITIONS UNDER WHICH WE WILL LIVE APART?

Separation agreements are contracts made by you and your spouse. They are becoming a popular method for determining the economic and other relationships between spouses following separation and continuing after divorce. The parties can negotiate through their lawyers outside of court for terms which are mutually satisfactory.

Note, however, that spousal support and maintenance provisions in

these agreements which are introduced to a divorce court for ratification without objection from the parties cannot be modified thereafter except as provided in the contracts themselves. So, the agreement should anticipate all eventualities which may arise and specifically deal with them, or provide for renegotiation at certain times or under certain circumstances.

Under present law, separation agreement terms dealing with child support and custody can be modified after court ratification.

DESERTION AND NONSUPPORT

WHAT DO I DO IF MY HUSBAND STOPS SUPPORTING OR DESERTS OUR FAMILY?

Persons may be prosecuted under the criminal law in Virginia for deserting or failing to support their spouses and/or children.²⁶

Any person who without cause deserts or willfully fails to support his or her spouse, leaving the spouse in dire circumstances, is guilty of a misdemeanor. S/he may be fined up to \$500 or confined in jail for up to a year, or both. The penalties are the same for parents who fail to support their minor or incapacitated children. In lieu of fine or confinement, the guilty party can be required by the court to pay \$1000 which will be turned over to the injured spouse or guardian of the minor children.²⁷

HOW DO I FILE A PETITION FOR SUPPORT?

A petition for support is filed in the juvenile and domestic relations district court having jurisdiction over the area in which you reside.²⁸ The petition may be filed by the injured spouse or child, by a state or local law enforcement officer or welfare officer, or any other person having knowledge of the facts.²⁹

Where both parties are in Virginia but in separate counties or cities, or where one is in another state, the injured party has recourse under the Revised Uniform Reciprocal Enforcement of Support Act.³⁰

Under this statute, the party suing for support files his/her petition in the appropriate Virginia court with information that will help locate the person owing support. If the court decides support is owing, it sends copies of the petition to the court of the locality where the party with the obligation is residing. The responding court will try the case and, if the party is found to owe support, will arrange to transmit payments to the injured party through the Virginia court in which the petition was filed.

ADOPTION³¹

HOW CAN I ADOPT A CHILD?

Technically, anyone who resides in Virginia may petition in court to adopt another person. This means that a single person as well as a married couple may adopt, and the person adopted need not be a minor child. Most of the law, however, deals with adoptions of minor children by couples—in particular by the new spouse of the natural or adoptive parent—or by relatives or caretakers.

The welfare of the child is the overriding concern in the adoption. The cases indicate that, where the child is not orphaned, there is a presumption that the natural parents will serve his/her best interest. This can be overcome by clear and convincing proof either that they have voluntarily relinquished their custody or that they are unfit. The adoption procedure is rather complex and you will need a lawyer's assistance throughout it.

The process starts with the filing of a petition in the court of the county or city where the party wishing to adopt resides. This will state pertinent information about the party and the child, including the petitioner's reasons for wanting to adopt.

Generally, the notarized written consent of the child's natural parent(s) must accompany the petition.³² The consent is not valid unless the child is at least 10 days old. It is valid though the parent is less than 18 years old. The consent of the child is necessary if s/he is over 14 years old unless the court finds it in her/his best interest to waive this requirement. Consent may be issued, in lieu of parental consent, by the adoption agency or local board of welfare having custody of the child and authorized to place it up for adoption. The court can grant the petition without consent if it is withheld contrary to the best interest of the child or is unobtainable.

Before acting on a case, a court will often order an investigation by the Department of Public Welfare into the petitioner's suitability, the status of the natural parents, and the condition of the child. This investigation is dispensed with in some cases—usually where the child has been living with a parent whose new spouse wishes to adopt.³³ If a child is over 18 years old, s/he may be adopted by:

- a stepparent;
- one who has stood legally in the place of a parent for at least one year;
- an aunt and/or uncle of any orphaned niece or nephew who has lived with them for a year;
- a person in whose home the child has resided for 2 years before becoming 18.

In these cases, only the consent of the adoptee[•] is required.

Property Rights of Women

GENERAL LEGAL RIGHTS

CAN I ACQUIRE, CONTROL AND DISPOSE OF PROPERTY AS I PLEASE?

Originally, a married woman in Virginia did not have rights equal to those of her husband in property which she owned or acquired before or during marriage. Her property became the husband's to use and dispose of as he pleased. Today, however, you have the power to acquire, hold, control and dispose of property as you please, or appoint an attorney to do the same.¹ While your husband usually retains the traditional rights to curtesy (a certain portion of property required to pass to him upon his wife's death by statute) in property acquired during marriage, he is not automatically entitled to the possession or use or profits of such property. Your property is not subject to the debts or liabilities of your husband, nor will his be subject to your debts.² The presumption that your husband is the owner of all tangible personal property which you hold during marriage no longer exists.³

CAN I OWN AN INTEREST IN LAND IN WHICH MY HUSBAND WILL NOT SHARE?

Yes, women, unlike men, have the opportunity of creating separate equitable estates[•] of real and personal property not subject to their husbands' curtesy rights[•] or other interests. A separate estate is determined by the language in an instrument, usually a deed. Where the deed grants the woman a sole and separate estate in real or personal property, she is vested[•] with an absolute title in it.⁴

WHAT HAPPENS TO LAND OWNED JOINTLY BY MY HUSBAND AND MYSELF WHEN I DIE?

Where you and your husband have the same property deeded in both of your names, you each own the land as tenants in common. As tenants in common you each have a separate right to possess or hold the same land, as if you own the land by separate conveyances. The significance of your status as a tenant in common is that upon your death your part of the land passes to your estate, making it subject to your will or rules of intestate succession. Thus your part of the land does not automatically go to your husband despite the fact that his name is also on the deed.

In the past, husbands and wives who owned land together were considered to be "tenants by the entirety". When one spouse died, the land automatically passed to the other, under a theory of survivorship.⁴ Today, although there is no presumption in Virginia that husbands and wives take land in the entirety, a tenancy by the entirety can be established where such an intention is expressed in the deed. For instance, where the deed states that "the land is conveyed to the husband and wife as tenants by the entirety with right to survivorship as at common law", the land belongs to the other spouse whose name appears on the deed.⁵ Taxes on your estate may be affected by the arrangement under which you hold property. (See TAXES.)

CAN MY HUSBAND EXERCISE CONTROL OVER LAND I INHERIT?

Your rights in land which you have inherited are not affected by acts done by your husband without your approval, usually in the form of written consent. Without your consent your heirs have the same rights in the property as if no act was done to it.⁶

WHAT ARE MY "DOWER RIGHTS?" WHEN CAN I BE SAID TO HAVE GIVEN THEM UP?

You may contract with your husband to relinquish your right to dower in his real estate. Dower gives the wife an inchoate⁷ interest in a particular type of land owned by the husband at his death. When you and your husband have signed and delivered a writing intended to sell or transfer real estate, such writing thereby relinquishes your interest in dower and you no longer have any right, title, or interest in the property. Where your husband acts alone in conveying a deed to land belonging to you both (when the title of the property is in both your names), you are not bound by his action unless you expressly authorize it.⁷

HOW FREE AM I TO ENTER INTO CONTRACTS?

You may contract and be contracted with—and sue and be sued—independent of your husband.⁸

Conversely, your husband will not be responsible for any contract liability you incur.⁹

TRANSFER OF PROPERTY UPON DEATH

WHAT IS A WILL?

A will is a document in which you plan for the disposal of your property—real estate and personal property—after death. It must be made in writing, be in view of death, and is not effective until the death

of the person by whom it was written. It is advisable that you prepare a will. Otherwise any of your property which is not the subject of contractual agreements—such as an insurance policy, joint bank accounts or benefits derived from retirement or social security—will pass intestate, a procedure by which the state distributes your property on the basis of a precise formula. (See page 14 .)

It is recommended that you contact an attorney if you want to make a will, since it may not be probated if the proper formalities are not followed. Probate is the process by which a document is accepted as the last declaration of the deceased. The only inquiry is whether the document is the last will of the decedent⁹ and whether it was properly executed.¹⁰

WHAT ARE THE ELEMENTS OF A PROPERLY EXECUTED WILL?

In order to make an effective will, you must:¹¹

- be mentally competent; and
- be at least eighteen years old; and
- intend to pass property at your death and not earlier; and
- not be unduly influenced or defrauded by others in making your will.

Certain formalities must be respected. They include signing the document in the presence of two witnesses. The two witnesses cannot be people whom you have named as beneficiaries in your will. However, a surviving spouse is a competent witness as is a person named as an executor, i.e., the person chosen to administer the estate.

. A will that is not acknowledged by two witnesses will only be probated if it is entirely in the handwriting of the testator and the handwriting is proved by two witnesses.¹² Such a will is called a holographic will.

WHAT IS THE EFFECT OF A WILL? CAN MY SPOUSE DISINHERIT ME?

Your desires as testator will be followed as closely as possible. You may transfer property by will in any way you choose. The major exception to this rule benefits the surviving spouse. The spouse has the option of accepting the estate left by will or electing to renounce the will. If you renounce the will of your husband, you are entitled to dower on real property and to a forced heirship in his personal property. Under “poor laws”, widows are given certain small items of personal property including family bibles, school books and pets.¹³

As of July 1, 1977, you take under dower (curtesy for a widower) an interest in one-third of all the real estate owned during marriage. However, any land that was retained as a dower interest before July 1 will continue to be a life estate. A life estate is a temporary interest lasting only for the life of the beneficiary.

Under a forced heirship scheme, you as a spouse take one-half of the personal property if there are no children and one-third if there are children or descendants of children.¹⁴

A second alternative to renouncing the will is to elect to claim a homestead exemption if there are creditors at the death of your spouse. Homestead exemption laws allow the head of a family to designate a house and land as his/her home thereby exempting it from liability for his general debts. Homestead cannot extend to real or personal property in excess of \$3,500.00.¹⁵ Although you must elect between dower and homestead, the rights of minor children are not impaired and they can claim homestead even if you elect dower or jointure."¹⁶

WHAT IS "JOINTURE"?

Jointure is an estate in lands or personal property that is conveyed to the wife but which takes effect only in probate or by her possession of the property on the demise of the husband. It continues during her lifetime. Such transfers bar dower in other real estate the husband owns unless the provisions explicitly state otherwise. You can, however, waive the provision for jointure and elect dower.¹⁷

CAN I TRANSFER PROPERTY AT DEATH BY MEANS OTHER THAN A WILL?

Although most contracts which are made with the intention to pass property upon death of one of the parties are not enforceable, those pertaining to life insurance policies and pension funds are enforceable.

Joint accounts in the name of you and your husband, payable to either or the survivor, permits the surviving spouse to retain the deposit.¹⁸ However, where money in a joint account is contributed by one spouse only, you, the non-depositor who claims the account after the death of your husband, must prove that your spouse intended that you have full right to the money as one of the parties to the joint account.

It is possible for you to create an account in your name in trust for a second person. After your death, the beneficiary of this trust may withdraw funds if they are not in excess of \$5,000 and s/he is eighteen or over.¹⁹

WHAT DOES "INTESTATE" MEAN?

When you die without leaving a will, you die "intestate". If you die leaving any land, it shall go to your children and their descendants subject to your husband's curtesy rights. If there are no surviving children or descendants of any child, the whole estate passes to your spouse. Where there is neither spouse nor children, the estate passes to

your surviving parents, and if neither survive you, then to your siblings and their children.²⁰

Any other movable property such as cars, televisions, stocks, etc. passes to your spouse if there are no surviving children. Surviving children include children by any of your marriages, adopted children, illegitimate children (only of a female intestate) or descendants of these children. They take two-thirds of the property and your spouse takes one-third.²¹

Illegitimate children inherit from and through their mother.²²

A child born within ten months after the death of the intestate inherits from the intestate.²³

A spouse who deserts or abandons the intestate forfeits all interest in his/her estate including curtesy and dower unless there is a reconciliation and the spouse and the intestate live together prior to the intestate's death.

RENTAL OR SALE OF RESIDENTIAL HOUSING

AM I PROTECTED AGAINST DISCRIMINATION IN REAL ESTATE TRANSACTIONS?

Yes, the Virginia Fair Housing Law prohibits sex-based discriminatory practices in the rental or sale of residential housing.²⁴ The law, however, does not apply to any single family house sold or rented by an owner, provided that such private individual does not own more than three such single family houses.

It is unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling.

Agreements purporting to restrict occupancy or ownership of property on the basis of sex are null and void and of no effect. Further, it is unlawful to include such a provision in any transfer, sale, rental or lease of housing.²⁵

It is unlawful for any lending institution to deny loans to persons applying for the purchase, construction or maintenance of dwellings because of the sex of that person. It is further unlawful for a governmental agency to deposit public funds in any lending institution which does so discriminate.

It is unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right protected by the Fair Housing Act.

WHAT IS THE PROCEDURE FOR FILING A COMPLAINT AGAINST DISCRIMINATION IN OBTAINING RESIDENTIAL HOUSING?

Where you believe you have been discriminated against you may file a complaint with the Virginia Real Estate Commission (VREC) within 180 days after the alleged discriminatory housing practice occurred. After investigating a complaint filed with it, the VREC may advise the state attorney general who may then file suit to stop such activity.²⁶ VREC may institute an action for injunctive relief[•] and money damages against the person responsible for such discriminatory practices in the circuit court of the county or city in which such a practice was employed. If discrimination is found, the court can prevent the owner from using such practices and in its discretion award you actual damages[•] with court costs and reasonable attorney's fees.²⁷

DO ANY OTHER LAWS PROTECT ME FROM DISCRIMINATION IN THE AREA OF HOUSING?

Virginia law also prohibits landlords from refusing or restricting sale or rental of mobile homes located in his/her mobile home park on the basis of the sex of the prospective buyer or tenant.²⁸

It is also unlawful to refuse to sell a condominium on the basis of sex.²⁹

Finances

CREDIT

WHAT LAWS PROTECT ME FROM DISCRIMINATION IN OBTAINING CREDIT?

Credit is an area where there has been a number of sex discrimination problems. However, both the United States Congress and the State of Virginia have enacted legislation specifically prohibiting discrimination on the basis of sex or marital status. They are the Virginia Equal Credit Opportunity Act¹ and the federal Equal Credit Opportunity Act (ECOA).² The Fair Credit Reporting Act³ may also have indirect applicability to sex discrimination in credit.

IN WHAT WAYS CAN I BE DISCRIMINATED AGAINST:

The following examples give specific situations in which credit discrimination has been experienced by women and the effect of the state and federal laws in each situation:

- Single and divorced women are often held to higher standards than men of any marital status when applying for bank-sponsored (Bank Americard or Master Charge) or travel (American Express or Diners Club) credit cards. The Virginia law and the federal ECOA require that married and unmarried women be given the same treatment

that men in their equivalent economic position would be given. Different standards on the basis of sex or marital status are prohibited.

- Women of any marital status often find it difficult to obtain personal loans, and if you can get them the lenders often require a co-signer* (usually a male), whereas a man in the same position would have no trouble getting a loan nor would he be required to have a co-signer. Both laws prohibit a lender from requiring a woman to have a co-signer unless a man in the same economic position would be required to have one. And the lender cannot make it more difficult for the woman to obtain the loan.
- Women who are otherwise eligible have been denied mortgages to purchase real estate because of their sex. This is prohibited by both credit laws as well as by the National Housing Act and the Housing and Community Development Act of 1974.
- Single women with established credit who marry are often required to reapply for the same credit and are asked for information about their husbands when the only change is their marital status. This is prohibited by both laws since men who marry are not required to reapply, and it is illegal to make distinctions on the basis of sex.
- Married women have been unable to obtain credit in their own names. Credit cards are routinely issued in the husband's name only. But if you are married and you meet the financial requirements you have the right to have all your credit in your own name, and you should always do so. This means using your own surname if it is different from your husband's or using your first name if you both have the same last name (Ms. Mary Doe or Ms./Mrs. Mary Smith instead of Mr. & Mrs. John Smith). The importance of having the credit in your own name is highlighted in the case of separation, desertion, divorce or death of your spouse. If all of your credit is in your husband's name, you probably will have to reapply for credit in your own name. Even though you have substantially contributed to the family income all along, there is a possibility that you will be denied credit when you reapply since you have not established your own credit record. Some of these problems are avoided if you use your own name on your credit cards while married.
- Generally, a credit bureau files all information about a married woman under her husband's name. This makes it virtually impossible for you to retain your own credit identity even if you use your own name. What this means in practice is that if your family has established a good credit record it is identified with your husband only, and, upon divorce or death of your husband, you are not given credit for it. But, if your family has established a bad credit record caused by your husband, upon divorce or his death, this bad record

may follow you, making it difficult for you to subsequently establish new credit. Specific remedies are enumerated in both the federal and Virginia ECOA.

WHAT CAN I DO ABOUT DISCRIMINATION?

Under the Virginia law, an aggrieved party[•] may seek:

- injunctive relief[•] to terminate the discriminatory practice;
- actual damages[•] suffered;
- punitive damages[•] up to \$10,000;
- reasonable attorney's fees if a successful lawsuit is brought.

Under the federal law, an aggrieved party may seek:

- injunctive relief to terminate the discriminatory practice;
- punitive damages of a maximum of \$10,000 for an individual plaintiff, or the lesser of \$100,000 or 1% of the net worth of the creditor in a class action suit;[•]
- actual damages;
- attorney's fees and court costs.

Note that an action under the ECOA must be brought within 1 year of the violation.

It is important to remember, however, that these laws do not require the establishment of definitive credit standards or financial criteria by lenders. So, even if you believe that your credit denial was based solely on your sex, it may be difficult to prove since the creditor may claim that you did not meet the financial criteria.

HOW CAN I OBTAIN INFORMATION ABOUT—AND DISPUTE—MY CREDIT RATING?

You are entitled to obtain information on the process involved in granting credit through the Fair Credit Reporting Act which gives you the right to:

- get the name and address of the agency that furnished the unfavorable report;
- get from that credit bureau the contents (with a few exceptions) of your file;
- dispute the accuracy of any information in the file and require the agency to reinvestigate it and delete any information it can not verify;
- ask the agency to inform anyone to whom it gave this deleted information of its inaccuracy;
- place a brief statement of your explanation of this dispute into your file.

This law can be used by you to delete from your files the bad credit history of your husband or ex-husband if it has been attributed erroneously to you.

INSURANCE

WHAT IF I SUSPECT SEX DISCRIMINATION IN APPLYING FOR INSURANCE, OR IN THE TERMS OF THE POLICY?

Although women routinely apply for insurance, they often encounter problems similar to those in the area of credit because of their sex. If you are denied insurance of any kind you should:

- ask the insurance company for the reason for the denial;
- if you are disqualified on the basis of your credit rating, follow the procedure outlined under the Fair Credit Reporting Act.

If you are quoted a rate for insurance that is based on a claim that women are either more prone to a specific risk or more likely to encounter a specific problem you should:

- demand the source of the evidence upon which the rates are based; and
- inquire into this source; and
- consider filing a complaint, if you then believe that the rates are discriminatory.

The following are some important things to remember about insurance:

- health insurance which denies maternity benefits to unmarried women only may be unconstitutional;
- health insurance plans which offer maternity coverage for wives of male employees but not for female employees themselves are probably unconstitutional;
- health insurance plans which offer coverage for the spouses of male employees but not for the spouses of female employees is probably unconstitutional;
- it is advisable for you, if you are a married woman, to request that all insurance policies be issued in both your name and your husband's name if they are different; if your last names are the same, both of your first names should appear on every policy. This is to insure that you can have continuous coverage should your husband die or you get divorced.

Virginia laws prohibit insurers from cancelling⁴ or issuing⁵ motor vehicle policies solely on the basis of sex.

Be aware that you may encounter the same difficulties in proving your complaints in this area as you do in the area of credit.

Insurance companies in Virginia are licensed and regulated by the laws of Virginia, administered through the State Corporation Commission in Richmond. To register a complaint, contact the Commission or an attorney of your choice.

Taxes

The following information on Federal Income, Estate and Gift taxes reflects revisions made by the enactment of the Tax Reform Act of 1976. A free guide "Your Federal Income Tax" is also available from your local IRS office.

INCOME TAX

HOW DOES THE FEDERAL INCOME TAX OPERATE?

The amount of income tax that you will have to pay will depend primarily on three factors:

- your filing status on the last day of the tax year (in most cases it is advantageous for married couples to file jointly);
- the number of exemptions and deductions you will be allowed to claim;
- the tax rate for your particular income bracket.

WHAT ARE PERSONAL EXEMPTIONS?

Each taxpayer is entitled to certain exemptions. For each exemption you claim, a sum of money is excluded from your income. You will not pay tax on it. In 1976, the sum was \$750 for each exemption. Possible exemptions are:

- yourself;
- your spouse;
- each dependent;
- blindness of self;
- blindness of spouse;
- if you are 65 or older on the last day of the tax year;
- if your spouse is 65 or older on the last day of the tax year.

In the case of divorced parents, there is a presumption in favor of the parent with custody of the child that the child is the parent's dependent if they reside together for most of the year. However, the noncustodial parent may specifically be entitled to the exemption if:

- s/he contributed at least \$600 toward the child's support during the calendar year; AND
- under the decree of dissolution, or written agreement between the parties, s/he is given the right to take the exemption.

If the noncustodial parent provided \$1200 or more support for each child during the calendar year, the custodial parent must clearly establish that s/he provided more for the support of each child. Each parent, if the question of support is contested, must submit itemized statements of what was actually spent. This places a burden upon the custodial parent, normally the woman, to keep accurate records of expenditures.

WHAT ARE DEDUCTIONS?

There are two ways in which the government reduces the income on which you pay tax. **Exemptions** are absolute amounts (\$750/exemption) which are excluded from your adjusted gross income (AGI). (AGI is generally defined as total income minus certain expenses related to your business or the production of income.) **Non-business deductions** are also amounts excluded from AGI but they are not flat amounts. A taxpayer has the choice, however, of either itemizing these deductions or taking the standard deduction. You will want to take the standard deduction if that is greater than the sum of your itemized deductions. If you plan to itemize deductions, you should keep an accurate record of the relevant expenditures.

HOW DO I COMPUTE MY STANDARD DEDUCTION?

If your adjusted gross income is less than \$20,000, you must use the tax tables. If your adjusted gross income is greater than \$20,000, you must use the tax rate schedules. (The computation of the amount of your deduction should be done by following the instructions on your tax form.)

The standard deduction has now been permanently increased. For 1976 the new minimum standard deduction is \$1700 on a single return and \$2100 on a joint return. The maximum standard deduction remains at 16% of the adjusted gross income up to \$2400 for singles and \$2800 on a joint return. These amounts and terms are subject to change for 1977.

WHAT IF I ITEMIZE DEDUCTIONS?

It is often more advantageous to "itemize" deductions rather than take the standard deduction. Deductions for interest, state and local taxes, medical expenses and charitable contributions are common types of deductions itemized on returns. Certain itemized deductions are especially important to women, such as expenses incident to divorce, child care expenses and medical expenses.

During the course of a **divorce** you can deduct legal fees or professional fees for an accountant, charged in regard to tax planning but you cannot deduct legal fees for representation in the divorce. If you are paying alimony, payments beginning in 1977 are no longer included as itemized deductions but are now deductible from gross income.

If you are responsible for **dependent care expenses**, the 1976 tax code revision eliminates the child care deduction. It substitutes in its place a tax "credit" equal to 20% of the employment-related expenses for care of a qualifying individual (i.e., taxpayer's dependent under age 15 or a spouse or dependent* incapable of self-care). Unlike a deduction, the

amount of this credit is directly subtracted from the amount of the tax you would otherwise owe.

The basic provisions of this Child Care Credit include:

- household and personal expenses for dependent allowed up to \$2000 per individual (\$400 credit) or \$4000 for care of two or more dependents (\$800);
- child care payments to relatives qualify for the credit provided the relative is not a dependent of the taxpayer and his or her wages are subject to social security taxes;
- the credit is available to married couples if one works full-time and the other part-time or is a full-time student (amount is limited to the earnings of the spouse with the lower income). If one spouse is a student or is incapable of self-care and so has no earned income, the law imputes an income to him or her of \$166 per month if there is one dependent and \$333 per month for two or more.

You, your spouse and your dependents are allowed deductions for various medical expenses including abortions, sterilizations and some contraceptives.

Medical deductions are subject to certain limitations which are explained on your tax forms and are available only if you actually paid the expense during the tax year. If your insurance paid for the expense or you were otherwise reimbursed, you cannot claim it as a deduction.

HOW WILL MY TAXES BE WITHHELD FROM MY PAYCHECKS DURING THE TAX YEAR?

When you begin a job, your employer will ask you to fill out a W-4 form listing the number of deductions that you wish to claim. You are entitled to a withholding exemption for each personal exemption to which you will be entitled on the last day of the tax year. In addition to the personal exemption, you may be entitled to have an additional amount withheld to cover outside income if you meet certain requirements which are explained on the W-4 form.

If you know in advance that you will not be earning enough in any one year to pay taxes, you should notify your employer and fill out a W-4e form for his/her records. As a result, no income tax will be deducted from your salary, and you will not have to file an income tax return. If you do not warn your employer, and s/he deducts income tax from your salary, you must file an income tax return in order to get your refund.

If you have any questions or need help filling out your federal income tax forms, you can contact your local United States Internal Revenue Service Office or ask your telephone operator for the toll free IRS information phone number.

HOW DOES THE VIRGINIA INCOME TAX OPERATE?

The Virginia income tax code is similar in many ways to the federal provisions. The basic rates of tax in Virginia are as follows:¹

- 2% of any amount not exceeding \$3000;
- 3% of any amount over \$3000 but less than \$5000;
- 5% of any amount over \$5000 but less than \$12,000;
- 5¾% of any amount over \$12,000.

The State of Virginia allows husbands and wives to file separate or joint returns.² However if you file **separate federal returns**, you must file separately in Virginia. It may be advantageous in Virginia to file separately. If you file a **joint federal tax return**, you may file:

- a joint Virginia income tax return;
- a separate return on separable Virginia taxable income;
- a separate return if one of you is a nonresident, unless you desire to determine your joint Virginia taxable incomes as if you both were residents. The State of Virginia allows a \$600 deduction for every personal exemption allowed the taxpayer for federal income tax purposes (plus additional amounts for taxpayer or spouse aged 65 or over).

In addition, there are special provisions for married couples who have the option to allocate between them itemized and standard deductions and personal exemptions for dependents. The standard deduction itself may be determined either on a flat rate basis (\$1300) or a percentage of the federal adjusted gross income (15%).

The Virginia Tax Forms are detailed in their instructions, but specific further questions may be directed to either:

The local Commissioner of the Revenue, or to the
Department of Taxations—Income Tax Division
Box 6-L
Richmond, Virginia 23282 .

FEDERAL ESTATE AND GIFT TAX

MUST I PAY TAXES ON GIFTS I BESTOW OR RECEIVE?

You do not pay taxes on the value of property you acquire by gift, through a will or by inheritance.

You may have to pay taxes on gifts you make to others. There are certain exemptions, however, which will reduce or eliminate your tax liability. These exemptions enable you to give, untaxed:

- up to \$3000 per year per person to as many individuals as you wish.
If you are married and you and your spouse decide to give joint gifts, the exclusion is \$6000;

— up to \$100,000 to your spouse. Gifts to a spouse of over \$100,000 and under \$200,000 are fully taxed. If the gift(s) exceed(s) \$200,000, a 50% deduction is allowed on the excess.

WHAT IS AN ESTATE TAX?

In general, the federal estate tax is imposed upon the transfer of property by the decedent* in which the decedent had an interest at the time of his/her death. It is payable by the estate.

ON WHAT PROPERTY WILL MY ESTATE BE TAXED?

Tax rates are applied to the "taxable estate", which is the gross estate minus various deductions and exemptions. There are two basic classifications of property which must be considered in determining the gross estate. The first is the value of property transferred by the decedent during his/her lifetime and the second is the value of property owned by the decedent at death.

WHAT PROPERTY THAT I TRANSFER WILL BE TAXED TO MY ESTATE?

To the extent that the transfer was made for an adequate compensation (not a gift), it will not be included in the estate. Gifts made within three years of the date of the decedent's death are included in the gross estate. Other property which the decedent transferred—but in which s/he retained some interest or control—may also be included.

WILL ALL THE PROPERTY THAT I OWN BE TAXED TO MY ESTATE?

All real or personal, tangible or intangible property in which you have an interest will be included, to the extent of that interest, in your gross estate. Your ownership may in some cases be obvious. In other cases, however, the extent of your interest may be more complicated.

For example, the entire value of property held jointly with the right of survivorship* or in "tenancy by the entirety"* may be included in the estate (See **PROPERTY RIGHTS OF MARRIED WOMEN**). The amount of property subject to the tax will be that portion which the survivor cannot prove that s/he originally owned or contributed to the acquisition of the property. The new 1976 tax law has changed this rule for joint tenancies created after 1976 when the joint tenants are husband and wife. Under the new rules, one-half of the value only of the property will be included in the decedent's gross estate regardless of the source of the consideration furnished.

Four requirements, however, must be met:

— the interest must have been created by one or both of the joint tenants (you can't inherit the property);

- with personal property, the creation of the joint interest must have been a completed gift;
- with real property, the donor must have elected to treat the creation of the joint tenancy as a taxable gift at the time;
- the joint tenants are only the decedent and the decedent's spouse;
- this rule does not apply to joint bank accounts.

The value of a life insurance policy on the decedent's life will be included in the gross estate if the policy is made payable to or for the benefit of the estate. Even if the policy does not designate the estate as beneficiary, the policy may be included if the decedent possessed "incidents of ownership". These may include the power to borrow on the policy, change the beneficiaries, assign the policy, etc.

HOW IS THE ESTATE TAX COMPUTED?

Your estate will be taxed on the value of your gross estate less certain deductions. The most important of these may be the marital deduction. In order to qualify for it, the property must have earlier been included in the value of the gross estate; it must pass from the decedent to the surviving spouse; and it must not be a terminable interest.* The law now allows a maximum estate tax marital deduction of \$250,000 or 50% of the adjusted gross estate, whichever is greater.

The 1976 Tax Reform legislation unified the estate and gift tax rates. The gift tax rate had previously been 3/4 of the estate tax rate. The new rates range from 18% on the first \$10,000 of taxable transfers (including both gifts and transfers at death) to 70% of the taxable transfers over \$5 million.

VIRGINIA INHERITANCE TAX ²

WILL I PAY TAX ON PROPERTY I INHERIT?

In Virginia, there is a tax levied upon all property within the jurisdiction of the state which passes by reason of the death of the decedent. The beneficiaries usually pay this tax on the shares of the estate they receive.

The rate of tax depends upon the closeness of the relationship between the decedent and the beneficiary. The closer the relationship the lower the rate of tax.

The minimum inheritance tax is not to be less than the allowable federal tax credit. This is accomplished by the imposition of what is in effect a Virginia Estate Tax in circumstances in which this criteria is not met.

VIRGINIA GIFT TAX ³

DO I PAY TAXES ON GIFTS I BESTOW?

As in the federal system, you will pay taxes on gifts you bestow on others. However, in Virginia the amount you may give to any individual untaxed depends upon the closeness of your relationship to that individual. You may give, tax-free, up to \$5000 each year to each lineal ancestor or descendant, or to your spouse; \$2000 each year to each brother, sister, nephew or niece; and \$1000 each year to anyone else.

VIRGINIA PROPERTY TAX⁴

WHAT KINDS OF PROPERTY TAXES DO I PAY IN VIRGINIA?

Personal property taxes in the State of Virginia are handled by the cities and counties in which the individual resides. There is no **state** personal property tax. These taxes are filed with the Commissioner of Revenue for the county or city of domicile.

Real estate is also segregated by law for local taxation only.

Any person, firm or corporation assessed with any state taxes administered by the Division of Taxation who feels aggrieved may, within 90 days from the assessment mailing, apply for relief to the State Tax Commissioner. The communication should set forth fully the grounds on which the taxpayer relies and any relevant facts.

Any person assessed with local taxes who feels aggrieved may, within 2 years from the 31st day of December of the year in which the assessment was made, apply for relief to the circuit court of the city or county wherein the assessment was made.⁵

Employment

WHAT LAWS PROHIBIT DISCRIMINATION AGAINST ME IN MY JOB?

A number of important laws, federal and state, affect the status of women in areas of employment.

There are three principal federal laws that make it illegal to discriminate against women because of their sex in matters of employment. They are Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, and Executive Order 11246, as amended by Executive Order 11375.

In addition, Virginia has its own Equal Pay Act and a Fair Employment in Contracting Act, both of which are addressed to the problem of sex discrimination and are essentially parallel to the federal laws.



Other laws afford all employees, both women and men, certain specific rights and protections; these include the federal Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973, which are discussed below. Pregnancy as it affects various aspects of employment is an area of particular concern and will also be considered in some detail.

(NOTE: State Worker's Compensation and Unemployment Compensation laws are examined in the section on **SOCIAL WELFARE**.)

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

HOW AM I PROTECTED BY TITLE VII?

Title VII¹ prohibits discrimination against any person as to any condition of employment because of his/her race, color, religion, sex or national origin.

The scope of the law is very broad, and covers not only employers, but labor unions and employment agencies as well. You will be protected by Title VII if you work for, or are seeking a job from, any of the following groups:

- private employers of 15 or more persons;
- state and local governments;

- public and private educational institutions;
- public and private employment agencies;
- labor unions with 15 or more members;
- joint labor-management committees for apprenticeship and training.

§717 of the Act effectively extends Title VII protection to most federal employees as well. Under this section, the Civil Service Commission is given authority to investigate complaints of discrimination in hiring and to provide appropriate remedies. Individuals may also file private lawsuits if discrimination charges are not settled satisfactorily within the government agency or by the Civil Service Commission.

WHAT KINDS OF DISCRIMINATORY PRACTICES DOES TITLE VII OUTLAW?

Title VII aims to abolish discrimination in **all** aspects of employment and is not limited to hiring and discharging practices. This means that an employer cannot:

- print or publish employment notices [including classified ads] which indicate a preference or limitation on the basis of sex;
- pay different wages for equal work [including vacation time and pay, and overtime work and pay];
- restrict the working hours and other working conditions of women but not of men;
- transfer, promote, lay off or recall on the basis of sex;
- use separate seniority lists for men and women;
- administer sex-discriminatory apprenticeship and training programs;
- cause or attempt to cause a union to discriminate;
- have a pension plan which pays widows but not widowers, or which pays them at different rates, or which provides for different retirement ages for men and women;
- provide health insurance coverage only to employees who are “head of household”, a term which has been traditionally applied to men. [Note: Health and temporary disability insurance pose difficult problems and will be discussed in the section on Pregnancy below.]

An employment agency cannot:

- administer a discriminatory testing program;
- classify or refer individuals for jobs on the basis of sex;
- advertise jobs as all-male or all-female.

Labor unions cannot:

- exclude or expel women from membership because of sex;
- segregate or classify their members on the basis of sex;
- refuse to refer women union members for jobs;
- cause or attempt to cause employers to discriminate;

- administer discriminatory apprenticeship or training programs;
- provide various fringe benefits, such as retirement plans and life insurance, on the basis of sex.

It is also important to note that any form of sexual harassment of a female employee by her male supervisor **may** be a violation of Title VII. While the law is not settled in this area, you would do well to pursue this type of grievance further and not assume that your supervisor can legally make these advances toward you or discriminate against you for rebuffing him. If you believe that this has happened, or is happening, to you, contact an attorney as soon as possible and discuss the question with her/him.

The foregoing is **not** intended to be a complete catalogue of prohibited employment practices; there are other areas where sex serves as an impermissible basis for treating men and women differently.

IS SEX EVER A LEGITIMATE FACTOR IN EMPLOYMENT?

Title VII, at least in theory, does permit preferences on the basis of sex in a narrowly defined category of jobs.² For these jobs, sex is considered a “bona fide occupational qualification” (BFOQ), which means that a person’s sex is directly related to the performance of that particular job. Examples of this type of job are actresses for female roles, or models.

In practice, however, the BFOQ exception on sex is insignificant; both the courts and the Equal Employment Opportunity Commission have restricted its application, focusing instead on whether an individual can perform a given job and whether those functions which **cannot** be performed are essential to it.

WHERE AND HOW CAN I FILE A COMPLAINT ABOUT EMPLOYMENT-RELATED DISCRIMINATION?

Any person (or group) who believes s/he has been discriminated against by an employer, employment agency or union that is covered by Title VII may file a charge with the Equal Employment Opportunity Commission (EEOC).

You must file your charge with the Commission within **180** days of the date you were discriminated against, or it is possible that your complaint will be dismissed without consideration.

It is also important to file your charge **as soon as possible**, as the date on which you file can affect the amount of money you may win in a lawsuit. Any back wages due you will be limited to two years prior to the date on which you filed, so it is to your advantage to file as early as possible. While the EEOC guarantees that your records will be kept confidential, your employer will be notified of your charge after it has been filed.

WHAT HAPPENS AFTER I FILE MY CHARGE WITH THE EEOC?

The EEOC will investigate your complaint, at no cost to you, and if a violation is found, will try to end the discrimination through conciliation. If an acceptable agreement cannot be reached, the EEOC can do one of three things:

- file a civil lawsuit against the employer;
- refer the case to the U.S. Attorney General if the employer is a government agency or political subdivision;
- issue a “right to sue” letter which allows you to bring your own lawsuit.

If the EEOC brings suit on your behalf it will cost you nothing. But because of the large backlog of cases, there may be a long wait involved before you get any relief. For this reason, Title VII allows you a private right of action against your employer. You are entitled to receive a “right to sue” letter if your complaint has been on file with the EEOC 180 days. However, once you receive this letter you have only **90** days in which to file your lawsuit. It is important that you do not request this letter unless you are ready to proceed; if the suit is not filed within the 90-day period, the right to sue is automatically withdrawn. Upon request, the EEOC will provide you with a list of lawyers in your area who handle Title VII lawsuits.

If you are successful in your suit, the court may award you court costs and attorney’s fees in addition to any actual damages you are awarded. The court may also appoint an attorney to handle your case if you so request and your circumstances warrant it.³

CAN MY EMPLOYER RETALIATE AGAINST ME BECAUSE I HAVE COMPLAINED?

No. Any form of retaliation is absolutely prohibited under Title VII. Contact the EEOC immediately if you are harassed by an employer because you:

- filed a complaint;
- helped someone else file a complaint;
- participated in an investigation or a hearing of a complaint;
- opposed an illegal employment practice in any other lawful way.

HOW CAN I CONTACT THE EEOC IN ORDER TO FILE A CHARGE?

1) If you are a resident of Richmond, or Charles, Chesterfield, Hanover, Goochland, Henrico or Powhatan counties, obtain a charge form from:

EEOC
Richmond Sub-District Office
400 N. 8th Street, Rm. 6213
Richmond, Va. 23240
Tel.: 804/782-2692

If you live elsewhere in Virginia, this form can be obtained from:

EEOC
Washington District Office
1717 H Street, N.W., Rm. 402
Washington, D.C. 20006
Tel.: 202/653-6197

2) If possible, have an attorney assist you in completing the form. You can, of course, do it yourself if you so choose, however, a lawyer who is knowledgeable in this field can ensure that you receive every possible benefit of the Title VII protections.

The form basically requires a description of the practice you allege to be discriminatory; it must be completed and returned to the EEOC within 180 days from the date of the alleged violation.

HOW DO I BRING SUIT UNDER TITLE VII?

1) File your charge with the EEOC and allow it 180 days to investigate your complaint.

2) If you are considering a private lawsuit you should contact an attorney **before** the 180 days have completely expired and discuss your problem with her/him.

3) After the 180 days have passed and you and your lawyer feel that you are ready to proceed, request a "right to sue" letter.

4) You **must** file your lawsuit within **90** days of receiving this letter or you will lose your right of action.

Remember—report **any** incident of harassment to the appropriate EEOC office given above.

EQUAL PAY PROVISIONS

WHAT LAWS PROHIBIT SEX-BASED DISCRIMINATION IN RATES OF PAY?

Sex-based discrimination in rates of pay to employees, whether male or female, is prohibited by:

- the Equal Pay Act of 1963⁴
- Title VII
- Executive Order 11246 as amended by Executive Order 11375 (for government contractors).

UNDER WHAT CIRCUMSTANCES MUST MY SALARY BE EQUAL TO THAT OF A MALE CO-WORKER?

The Equal Pay Act is limited to sex-based differentials in wages and unlike Title VII does not prohibit other forms of employment discrimination.

This law requires employers to pay equal salaries to men and women when their jobs:

- require equal skill, effort and responsibility **and**
- are performed under similar working conditions **and**
- are performed in the same “establishment”, i.e., the same distinct physical place of business, **and**
- involve tasks which are substantially similar, even if not identical.

It also forbids labor unions “to cause or attempt to cause” an employer to violate this requirement.

You should be aware that four exceptions to its provisions are set forth in the statute. Different salaries paid to men and women do **not** violate the act if they are based on:

- a merit system;
- a seniority system;
- a system measuring earnings by quality or quantity of production;
- any other factor other than sex.

CAN FRINGE BENEFITS BE DETERMINED ON THE BASIS OF SEX?

No. The wages which must be equal for men and women include not only actual pay but also such things as:

- pension plans;
- paid vacations;
- retirement benefits;
- health care programs.

This means that an employer may be violating the law if it makes a distinction between sexes on these additional benefits even if the actual wages are the same. Any employer who has employees “engaged in commerce” or in “the production of goods for commerce” and who must comply with federal minimum wage and overtime pay requirements is also covered by the Equal Pay Act. This is, of course, a very broad definition. If you are not certain whether your employer is covered, contact the Department of Labor at the address listed below.

WHERE AND HOW CAN I COMPLAIN THAT I AM UNDERPAID BECAUSE I AM A WOMAN?

The provisions of the Equal Pay Act are enforced by the Labor Department’s Division of Wages and Hours as part of the Fair Labor Standards Act. Labor Department inspectors routinely check for equal pay violations as well as investigate specific complaints.

If you believe that your employer has violated the Equal Pay Act, you may file a complaint with the Department of Labor, which will then investigate your complaint **without** disclosing your name to your

employer. If a violation is found the investigator will try to collect the wages that are due you and other underpaid women, as well as seek a formal agreement with your employer regarding future practices.

If the Department is unable to reach an agreement, it can bring a lawsuit on behalf of the underpaid workers. Because the backlog of equal pay cases is much less than Title VII cases, it is just as efficient and will cost you nothing if you allow the Department of Labor to handle your case.

However, you are free to bring your own lawsuit against your employer if you so choose. Keep in mind that you must bring the suit within two years of the discrimination, or within three years if the company has discriminated "willfully". It is to your advantage to file suit at the **earliest** possible time; any delay will reduce the back-pay period, thereby diminishing any award you may be granted. Under the Act, you are entitled to recover:

- up to two years worth of "back wages", computed in terms of the rate at which you should have been paid (up to three years worth for willful violations), plus
- in most cases, the same amount as punishment for your employer, plus
- attorney's fees and court costs.

It is important to remember that even if a practice does not violate the Equal Pay Act it may still violate Title VII.

Apparent compliance with the letter of the Equal Pay Act does not necessarily mean that sex discrimination is not a factor, and you would do well to pursue your problem under Title VII as well.

Where possible, however, include an Equal Pay Act charge in your Title VII lawsuit, since Title VII does not provide for recovery of double "back wages".

TO WHOM DO I SEND MY COMPLAINT ABOUT UNEQUAL PAY?

- 1) Within **two** years of the violation, contact:

U.S. Department of Labor
Wages and Hours Division
400 N. 8th Street
Richmond, Va. 23240
Tel.: 804/782-2995

or

- 2) Retain your own attorney and sue within two years of the violation.

DOES VIRGINIA LAW PROTECT ME FROM WAGE DISCRIMINATION ON THE BASIS OF SEX?

Virginia has its own Equal Pay Act⁵ which is similar to the federal law in most important respects.

The Virginia law, however, specifically provides that it does **not** apply to those employers covered by the federal law; presumably it does apply to all other employers within the state and therefore might prove useful in certain situations. Thus, if an employee is exempted from federal equal pay coverage she may nevertheless be covered by the Virginia state law.

Unlike the federal law, the state law provides only for a private right of action; that is, there is no government agency responsible for enforcing its provisions. You must therefore initiate any lawsuit yourself, again within two years of the violation. Contact a private attorney or the Legal Aid Society.

Should you have a valid claim under this Act you are entitled to recover as damages **two** times the amount of wages that have been illegally withheld from you by your employer (that is, the difference between your salary and that of other individuals engaged in the same work).

Before turning to a state rather than a federal law for protection, you should note that state courts might be more conservative in interpreting and applying employment discrimination laws.

AM I PROTECTED FROM EMPLOYMENT DISCRIMINATION IF I WORK FOR A FEDERAL GOVERNMENT CONTRACTOR?

Yes. Executive Order 11246 as amended by Executive Order 11375⁶ is a directive issued by the President. It requires federal government agencies which contract with private companies or state and local governments to include non-discrimination clauses in their contracts, and to monitor the employment policies of the contractors.

The Order applies to any contract exceeding \$10,000 and provides that the contractors will take affirmative action to ensure fair treatment to women workers. If the contract amounts to \$50,000 or more and involves a contractor having at least 50 employees, the order requires that specific goals and timetables for the achievement of full and equal employment opportunities be established.

In the event that a contractor fails to comply with the provisions of this Order, the federal government may cancel the contract and declare the contractor ineligible for further government contracts.

The Executive Order makes the Secretary of Labor responsible for the administration of its requirements. The Secretary of Labor has established the Office of Federal Contract Compliance (OFCC) which has administrative responsibility for the program, and which in turn supervises fifteen compliance agencies responsible for direct enforcement. Only the OFCC or the compliance agencies can take action to enforce the order.

The Executive Order has not proved to be a very influential tool in combatting sex discrimination despite the potential strength of the sanctions it might invoke. Therefore, the Order should probably not be exclusively relied upon, but rather should be used in addition to actions under Title VII and the Equal Pay Act.

TO WHOM SHOULD I COMPLAIN ABOUT A VIOLATION OF THE EXECUTIVE ORDER?

If a **federal contractor** is involved, contact:

U.S. Department of Labor
Office of Federal Contract Compliance
14th and Constitution Avenue, N.W.
Washington, D.C. 20210

If a **school, college, university, hospital, medical, health or social facility** is involved, contact:

Office for Civil Rights
Department of Health, Education and Welfare
303 Independence Avenue, S.W.
Washington, D.C. 20201



WHAT IF I WORK FOR AN EMPLOYER WHO IS UNDER CONTRACT WITH THE STATE OF VIRGINIA?

Virginia has its own Fair Employment in Contracting Act⁷ which is similar to Executive Order 11375 (discussed above) and deals with contracts entered into by the Virginia state government.

Like the Executive Order, this law requires that every government contract of over \$10,000 contain certain specific, non-discriminatory clauses and also requires that such provisions be conspicuously posted so that employees will be put on notice of their rights.

This law specifically states that it does **not** empower or require any agency to enter into a program of "affirmative action" or to grant any form of preferential treatment to any groups or individuals in order to offset any imbalance that might exist; it simply prohibits all forms of discrimination by the contractor unless the contractor can prove the existence of a bona fide occupational qualification similar to the exception provided for in Title VII above.

The statute does not make a specific provision for the enforcement of its requirements, but it would appear that a female employee of a contractor doing business with the state government would be able to sue under this law. Contact a private attorney or the Legal Aid Society if you are employed by such a contractor or sub-contractor and believe that your employer has violated this law.

HOW ARE SCHOOL EMPLOYEES PROTECTED FROM DISCRIMINATION?

Title IX of the Education Amendments Act of 1972 forbids some private and public schools⁸ from discriminating on the basis of sex against employees or students; however, the law is limited in scope and therefore still permits a good deal of sex discrimination, particularly insofar as students are concerned.

Employees, however, will be covered not only by this Act but by Title VII as well, and are therefore clearly protected from discriminatory practices.

HOW DO I FILE A COMPLAINT UNDER TITLE IX?

- 1) First contact your school superintendent or Board of Education to request changes.
- 2) Then, if necessary, write to:
U.S. Department of Health, Education and Welfare
Office for Civil Rights
Washington, D.C. 20201

WHAT CAN I DO IF I FEEL I'VE BEEN DISCRIMINATED AGAINST ON THE BASIS OF MY AGE?

The Age Discrimination in Employment Act of 1967 (ADEA)⁹ prohibits discrimination in employment based upon age with respect to **all** individuals, male or female, who are at least 40 years old but less than 65.

The law applies to employment agencies as well as to employers and covers all types of employment practices. The law also forbids retaliatory action because an individual has opposed a prohibited practice.

This law is enforced by the Wages and Hours Division of the Labor Department, which also enforces the Equal Pay Act. Contact the Division at the address listed above.

ARE THERE ANY SPECIAL LAWS WHICH PROTECT THE HANDICAPPED WOMAN FROM EMPLOYMENT DISCRIMINATION?

The Rehabilitation Act of 1973,¹⁰ as amended in 1974, protects handicapped employees and applicants of most federal government contractors from employment discrimination.

This law requires that all federal contracts and sub-contracts of \$2,500 or more include clauses in which the contractor agrees not to discriminate, and also to undertake affirmative action to provide employment opportunities for the handicapped, both male and female.

The Department of Labor, Office of Federal Contract Compliance, is responsible for enforcing the provisions of this law.

If you believe that you have been discriminated against on the basis of a handicap, **mental** or **physical**, contact the OFCC immediately at the address given above. Under the law, you probably do not have a private right of action, therefore the OFCC complaint procedure is the only means available for redressing your grievance.

Virginia also has its own law prohibiting employment discrimination against handicapped individuals.¹¹ The state law, however, protects only the **physically** handicapped, and does not require that an employer establish a program of affirmative action.

You are **not** protected by this law if your employer is covered by the federal law, so check with the OFCC to determine if this is the case. If you are protected by the Virginia law you should contact an attorney **immediately**; under the statute you are permitted to bring an action for injunctive relief,^{*} but such a suit must be brought within **90** days after the violation has occurred.

PROTECTIVE LABOR LAWS

CAN I BE ACCORDED SPECIAL TERMS OF EMPLOYMENT WHICH MALE CO-WORKERS ON THE SAME JOB DON'T SHARE?

No. In 1974, the Virginia State Legislature repealed a series of laws regulating the terms and conditions of labor for women workers only.¹² Typically, these were aimed at "protecting" women from the rigors of employment by limiting the number of hours which they were permitted to work and by requiring the provision of restrooms and seating facilities for use by female employees. Men were not afforded similar protections, nor were they restricted or limited by any of these statutes.

Today, virtually all restrictive-type regulations are effectively outlawed by Title VII, and the protective or beneficial laws have either been extended to include men or else they, too, have been abolished.

Keep in mind that under all of the various state and federal laws dealing with employment discrimination today, female workers are to be accorded the same treatment as are male workers in virtually all respects. Any indication that women are being treated differently than men is a possible signal that a law is being violated, and the matter should be investigated further.

PREGNANCY

WHAT KINDS OF DISCRIMINATION MIGHT I FACE BECAUSE I'M PREGNANT?

Pregnancy poses certain specific problems for the working woman, and has proved to be the basis for several forms of discrimination. While most of these discriminatory practices have been declared illegal, still many employers treat pregnancy and childbirth less favorably than other medical conditions.

Employers might try to discriminate against a pregnant woman by:

- forcing her to take a mandatory leave of absence before she has chosen to leave and while she is still capable of performing her duties;
- not permitting her to take a voluntary leave;
- denying her benefits given to other temporarily disabled employees.

WHAT ARE MY RIGHTS AS AN EMPLOYED PREGNANT WOMAN?

In 1974 the United State Supreme Court decided that mandatory maternity leave provisions are unconstitutional and that each case should

be determined on an individual basis.¹³ In addition, Title VII guidelines provide that:

- as a pregnant woman you must be allowed to work as long as you are physically able;
- the decision as to your physical ability to continue working must be based on your **individual** condition (this decision is usually best left up to the judgment of you and your doctor);
- after you do become physically unable to work your employer is not required to keep you on the job.

If you are pregnant you are entitled to maternity (as distinguished from childcare) leave:

- for any pregnancy related condition (**including abortion**);
- only for the time period when you are actually physically unable to work before and after childbirth (the amount of time you get depends on your individual health and job condition, and not on a set rule).

Maternity leave does not mean:

- time for child rearing (although you may be able to get a leave of absence), since the leave is only for the physical condition of being pregnant;
- the time before and after childbirth when you are physically able to work but just want time off.

Insofar as other benefits of employment are concerned, the United States Supreme Court has recently decided that disability insurance plans which provide non-occupational sickness and accident benefits to employees are permitted to **exclude** from coverage any disability arising from pregnancy.¹⁴ This means that as a pregnant woman you will not necessarily be entitled to the same insurance benefits given to other medically disabled employees, or that you will have to pay more for them. This, however, is the **only** area where employers are permitted to treat pregnant women differently than other employees.

If you are pregnant, your employer **cannot**:

- legally terminate your employment just because you are pregnant;
- refuse to grant a reasonable length of leave time for your temporary disability of pregnancy;
- force you to take leave for a longer period than you are actually disabled;
- deny you benefits that you have accrued in your employment because you are pregnant;
- refuse to reinstate you in your original job or in an equivalent one with the equivalent pay, seniority, retirement, fringe benefits and other service credits after you have taken a maternity leave to which you are legally entitled.

WHERE CAN I FILE A COMPLAINT ABOUT DISCRIMINATION BASED ON PREGNANCY?

If you feel as though you have been discriminated against by your employer because you are pregnant, contact the EEOC at the address listed above.

Social Welfare Laws

INTRODUCTION

The federal Social Security Act of 1935 established a number of programs designed to maintain a certain minimum level income for all citizens. Today those programs include provision for retirement insurance; survivors' insurance upon the death of the supporter; disability insurance; hospital and medical insurance for the aged and disabled (Medicare); health care and services for low-income persons (Medicaid); black lung benefits; supplemental security income; unemployment insurance; and, public assistance and welfare services.

These are no more "women's" programs than "men's", but there is information regarding some of them which may be more relevant to working single women, working wives or mothers, and homemakers. This section is intended to highlight the basic outlines of some of the programs from a woman's point of view.



RETIREMENT, SURVIVORS' AND DISABILITY INSURANCE

HOW DO THESE PROGRAMS OPERATE?

Basically, these are federally-administered insurance programs into which employees pay during their working years and from which they (or their survivors, upon death) collect benefits when they either become disabled or retire. A person must have a certain insured status before the benefits can be paid to the worker or the family. A person is insured if s/he has a sufficient number of calendar quarters (i.e., three-month periods of coverage) credited to his/her social security record. The amount of the monthly benefit is based on your average earnings over a period of years. Because of this, you should make sure each time you have a job that your employer has your correct social security number and is accurately reporting your wages and withholding to the Social Security Administration. Note that credits earned remain on your work record so that you can always resume employment and earn any additional credits you need to get benefits. If you are self-employed you must also contribute to the program. If you are a household worker and earn cash wages of more than \$50 per calendar quarter, your employer should comply with the requirements above. Your employer must deduct contributions from your wages, pay an equal amount as an employer, and at the end of each calendar quarter send the money to the Internal Revenue Service with a report of total wages paid.

HOW WILL I—AS A WORKING WOMAN—OR MY FAMILY RECEIVE SOCIAL SECURITY BENEFITS?

The **working woman** may receive benefits if:

- you worked the necessary number of quarters; and
- you are now retired (at least age 62; your benefits will be higher if you wait until age 65 to retire); or
- you are now disabled. Disability is a medical question and usually requires an examination by at least one doctor who will certify that you are incapable of doing any work of any kind. Once you begin getting disability benefits they will continue until you reach retirement age and can begin getting retirement benefits.

If you have children when you become disabled they are eligible for certain benefits if they

- are dependent; and
- are unmarried; and
- are less than 18 years old; or less than 22 and full-time students; or over 18 and who are disabled themselves before 22 and remain disabled.

Your spouse also qualifies for payments on the basis of your retirement or disability insurance if he is 62 or older.

WILL MY FAMILY RECEIVE SOCIAL SECURITY BENEFITS IF I DIE?

If you die, children in the category described above and your widower become entitled to monthly checks. If your spouse has no young children in his care at your death, he must be 60 or older, or between 50 and 60 and disabled, to be eligible for benefits.¹

IF I HAVE NEVER BEEN EMPLOYED CAN I RECEIVE BENEFITS BASED ON MY HUSBAND'S WORK RECORD?

If you are a married woman and have never been employed, you are eligible for benefits based on your husband's work record if:

- he gets retirement payments and you are 62 or over; or
- he gets disability payments and you are 62 or over; or
- he gets retirement or disability payments, regardless of your age if you are caring for a child under 18 (under 22 if a full-time student) or disabled.

If you are a widow who has never been employed, you may receive a lump sum payment if you were living with your spouse at the time of his death, or monthly survivor benefits (along with his children) based on his work record. To receive these benefits you must be:

- at least age 60 to receive anything, but if you wait till 65 you will get 100% of the benefits your husband would have received had he lived; or
- at least 50 if you are disabled; or
- any age if you are caring for a child under 18, (22 if a full-time student) or disabled.

If both you and your husband worked and he is now dead, when you retire you may collect either his or your own benefits, whichever is greater, but not both.

If you remarry and were collecting benefits on behalf of your deceased husband:

- and you are under 60 your checks based on his record will stop. You may become re-entitled to these checks if your subsequent marriage ends.
- and you are over 60, your checks will continue generally at a 50% reduction of the old rate unless you remarried after establishing entitlement to your widow's benefits. You can elect to take your **wife's benefits** on the basis of your new husband's record if they are larger than your **widow's payments**.

IF I GET DIVORCED WILL I BE ENTITLED TO BENEFITS BASED ON MY EX-HUSBAND'S EARNINGS?

The divorcee who was married to the worker for at least 20 years immediately prior to the date of divorce is entitled to:

- benefits on behalf of your ex-husband when he begins to collect his

- retirement benefits or becomes disabled, provided you are 62 or over and not remarried;
- survivor’s benefits if your ex-husband is dead and you are at least 60 (50 if disabled) and not remarried; or
- mother’s benefits if you have young children entitled to survivor’s benefits, regardless of your age, and you are not remarried.

For additional information and a statement of your contributions, you can write to:

Social Security Administration
P. O. Box 57
Baltimore, Md. 21202

Include your Social Security number and birth date as identification. Also, local Social Security offices are amply supplied with informative pamphlets and will be happy to answer any questions you have.

MEDICARE

IF I AM SICK CAN I GET FINANCIAL AID FROM THE FEDERAL GOVERNMENT?

Contributions made to Social Security while you work also provide money for Medicare. You are eligible for this health insurance program if:

- you are 65 and entitled to social security benefits as a retired worker or the spouse or widow of a retired worker who is receiving monthly social security benefits or railroad retirement benefits.
- you are disabled and have been receiving or have been entitled to receive social security benefits or railroad retirement benefits or annuities* for 2 consecutive years.

Medicare has two parts. Hospital Insurance, Part A, helps you pay for in-patient hospital care and for certain follow-up care after you leave the hospital. You get hospital insurance automatically if you qualify for social security benefits generally. If you don’t, you can purchase it for a monthly premium of about \$50, but you must also purchase Part B, Medical Insurance. This insurance helps you pay for doctors’ services, outpatient hospital services, and other medical items and services not covered by hospital insurance. Unless you are purchasing your hospital insurance, medical insurance is optional and requires you to pay an extra premium of about \$8/month (subject to increase as health care costs rise). You can sign up for Part B during a general enrollment period which takes place each year from January 1 to March 31.

For more information on Medicare and the services it covers, contact your local Social Security office.

SUPPLEMENTAL SECURITY INCOME (SSI)

CAN I RECEIVE OTHER MONEY FROM THE GOVERNMENT IF I AM VERY POOR?

SSI is a federal program administered by the state. To be eligible to receive cash assistance under it, you must:

- be over 65; or
- be blind; or
- be disabled (unable to engage in any gainful activity by reason of a mental or physical impairment which is medically determinable and which will last until death, or has lasted/is expected to last for a continuous period of at least a year); and
- have a **very low level** of income.

Inquiries about SSI should be directed to the local welfare office of the city or county in which you reside.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

CAN MY FAMILY RECEIVE “WELFARE”?

AFDC is one of the public assistance and welfare services established under the Social Security Act. Its purpose is to encourage the care of dependent children in their own homes or in the homes of relatives by helping each state to furnish financial assistance and rehabilitation and other services to needy children and the parent or relatives with whom they are living. Although you as a parent or caretaker of the child receive the AFDC check, the amount of money given you is based upon the number of eligible children living in your household. A child is considered eligible where either of the parents has died, is mentally or physically incapacitated or is continuously absent from the home. The second factor in determining if your family is eligible for aid is need. Your income will be considered to include wages, contributions from family or friends, SSI payments, and any income which is received regularly. Need will be determined by the local welfare office.

Basically, additional eligibility requirements for receiving AFDC in Virginia are these:

- the child must be a U.S. citizen;
- the child must be a resident of Virginia;
- the child must be without adequate means of support;
- the child must be under 18 years of age or between 18 and 21 and attending school or a placement and training program, except those who are:
 - ill or incapacitated;
 - younger than 16, or between 16 and 21 and a student;
 - required in the home to care for an ill family member;

- responsible for the care of a child under 6; however, as the parent or guardian you have the right to volunteer for the work and training program and a right to child care services to enable you to participate in this program;
- a mother or female caretaker and any adult male in the house is registered.
- a social security number for the applicant must be furnished;
- the applicant must assign the state any rights to support from any other person the applicant may have in his/her own behalf or in behalf of another family member for whom the applicant is applying;
- the applicant must cooperate in identifying and locating the parent of the child with regard to whom aid is claimed; in establishing the paternity of illegitimates with regard to whom aid is claimed; in obtaining support payments for the applicant and child with regard to whom aid is claimed.

If you are a parent, or a relative providing parental care for such a child in your home (or, under certain conditions, a foster care parent), you may apply for AFDC. A worker will explain your rights, responsibilities, eligibility requirements, and methods of determining how much money your family will receive if eligible.

Apply for AFDC in the welfare office of the city or county where the child lives.

FOOD STAMPS

HOW DOES THE FOOD STAMP PROGRAM OPERATE?

The Food Stamp Program is a federal program administered by the State Board of Welfare. Participants in the program pay a certain sum of money based on family size and monthly income in return for food stamp coupons worth more than their purchase price. The value of the coupons depends on the cost of a “nutritionally adequate diet” for a particular household size. Participants use the stamps like cash to purchase food at participating stores.

The local welfare office where you live has direct responsibility for individual determinations of eligibility, periodic review thereof, and actual issuance of stamps.

AM I ELIGIBLE FOR FOOD STAMPS?

You automatically qualify for food stamps if you receive AFDC or SSI payments.

If you do not fall into either of these categories you may still qualify for food stamps if:

- because of low income, temporary layoff or strike, illness or hospitalization, high medical expenses, or any number of other reasons,

your monthly income and resources measured against your expenses meet the dollar requirements established by law (in Virginia in 1977 the maximum allowable income for a household of 7 is \$873/month); and,

- you are employed or actively seeking work unless:
 - you are under 18 or over 65;
 - you are caring for dependent children under 18 or for a disabled adult;
 - you are a student enrolled at least half-time.

Contact your local welfare office for further food stamp information.

MEDICAID

WILL THE GOVERNMENT PAY FOR MY HEALTH CARE IF I AM POOR?

The Medicaid Program is designed to assist the poor in obtaining adequate health care and services. Medicaid is available only to low-income persons.

The Virginia Medical Assistance Program administers the program in Virginia. This office pays providers who furnish medical care to those eligible for Medicaid benefits. It is your local welfare office, however, which is responsible for handling applications and determining initially who is eligible.

You are automatically entitled to Medicaid if you are receiving:

- AFDC payments (described above; both parent and children are eligible).
- SSI because you are blind, aged, or disabled.

If you are in neither of these categories you may still be eligible if:

- you are “medically needy”, which means that your income and resources are not enough, as established by law, to pay for your medical care. In Virginia, income levels for the “medically needy” vary by place of residence in relation to the cost of living in the area. There are also limitations on resources and liquid assets which may be owned.

WHAT EXPENSES ARE COVERED BY MEDICAID?

Some of the things which Medicaid will pay for include:

- hospital bills (except for mental illness and tuberculosis);
- outpatient services (e.g., lab work, x-rays);
- doctor’s bills (with certain limits imposed);
- nursing home care;
- family planning services provided under the supervision of a doctor;
- transportation for medical services (prior authorization required except in emergencies);

- abortion. Federal law prohibits the use of federal Medicaid funds for abortions throughout the fiscal year ending September 30, 1977 “except when the life of the mother would be endangered if the fetus were carried to term.” Three recent United States Supreme Court cases have held that neither the Social Security Act nor the Constitution require the states to provide their own Medicaid funds for non-therapeutic abortions.² The law in this area is controversial and in a state of flux.
Applicants for covered abortions must have completed consent forms in a doctor’s office which are then filed in the hospital.
- sterilization. Medicaid will pay for non-therapeutic sterilization for persons 21 or older. There are detailed consent and notification requirements in addition to a mandatory 72-hour waiting period (30 days if you are not a parent). No sterilization of persons under 21 or legally incapable of consenting will be covered. If you are married, your spouse must consent unless you have been separated for a year.
- fifty one-hour sessions with a psychiatrist during the patient’s lifetime;
- care to ensure good dental health for eligibles under 21 years old. For those over 21, care is limited to jaw surgery.

WILL THE GOVERNMENT PAY FOR MY CHILD’S HEALTH CARE?

In addition to Medicaid there is a special program to provide health care for children under 21 whose families cannot afford regular health care. It is known as EPSDT or the Early and Periodic Screening, Diagnosis and Treatment program. (If no EPSDT program has been established in your area you have the right to demand one.) Eligibles are to receive regular screening and treatment for dental and eye and ear care and all other services available under the regular Medicaid program. Services are performed at state health department clinics.

Contact your local welfare office or health department for further information.

RIGHTS UNDER THE WELFARE LAWS

WHAT CAN I DO IF THE WELFARE OFFICE DISCRIMINATES AGAINST ME?

The federal Civil Rights Act of 1964 prohibits welfare offices from discriminating against anyone on the basis of race, color, religion, sex, or national origin. If you believe that you have been discriminated against in relation to any public assistance program (AFDC, Food Stamps,

Medicaid, etc.) you should immediately:

- file a written complaint with your local welfare office;
- request a fair hearing if benefits have been denied or cut off or your case was not acted upon within a reasonable time (the Department of Welfare must tell you your rights and help in your appeal if you desire one);
- contact an attorney or legal aid society as quickly as possible if you are still dissatisfied (it may even be wise to do this before your fair hearing).

There may also be a chapter of the Welfare Rights Organization (WRO) in your area that will help you.

UNEMPLOYMENT INSURANCE

IF I AM OUT OF WORK, CAN I COLLECT "UNEMPLOYMENT INSURANCE"?

The unemployment insurance program provides partial income replacement for a limited period to persons who become unemployed. The Virginia Employment Commission (VEC) implements the program. Claims for unemployment benefits are filed at local VEC offices. All other inquiries should also be made there.

Eligibility is conditioned on a worker's having been engaged in an occupation subject to the federal payroll tax for a particular period of time. If you are eligible, the duration and amount of your payments depend on the length of your employment and level of earnings. Basically, to be eligible in Virginia, you must:³

- fulfill the prior earnings requirement;
- not be unemployed because of a labor dispute in which you, or a class of workers you belong to, have participated, financed, or taken a direct interest in;
- not be receiving other unemployment compensation;
- not be on a bona fide vacation;
- register for work at the local VEC office when you file your claim, and continue to report there at least once a week;
- be able to work;
- be available to work (actively seeking employment and not imposing unreasonable conditions on future employment).

WILL I GET UNEMPLOYMENT BENEFITS IF I STOP WORKING BECAUSE I AM PREGNANT?

While there are no specific provisions in the Virginia Unemployment Compensation Law relating to pregnancy, it is possible that pregnant women will face additional problems in meeting the eligibility requirements.

The law requires that an individual seeking these benefits be “able” to work. In a recent case,⁴ the United States Supreme Court ruled that an individual’s ability to work had to be determined on a case-by-case basis, and that the state could not presume inability simply because of pregnancy.

If you voluntarily leave your job because you are pregnant, but are still physically able to work, you will have to be able to prove that you are, in fact, still able. The fact that you have left your job voluntarily will also be taken into consideration, but does not in and of itself mean that you are ineligible. You may not receive benefits if you have taken maternity leave because you are no longer physically able to work— all recipients must be currently able and available for work. If you have any problems as a pregnant woman seeking unemployment benefits, you should contact an attorney or a legal aid society.

WORKER’S COMPENSATION

WILL I BE PAID IF I AM INJURED ON THE JOB?

If you are injured as a result of an accident arising out of and in the course of your employment, or are suffering from an occupational disease caused by the type of work you perform, you are entitled to receive monetary compensation under the Virginia Worker’s Compensation Act.⁵

If you believe you have such an injury or disease, you should give your employer written notice as soon as possible within thirty days of the injury. You must also file a claim with the Industrial Commission within one year of the accident to be eligible to receive compensation.

For further information, contact:

The Industrial Commission
Richmond, Virginia
1 – 804/786-3623

Women’s Control Over Their Own Bodies

BIRTH CONTROL

CAN I USE ANY FORM OF BIRTH CONTROL?

There are no specific statutory provisions regarding a woman’s access to birth control methods; however, means such as the Pill, the IUD and the diaphragm can be obtained only with a doctor’s prescription which you can get from a gynecologist or local clinic. Non-prescriptive

contraceptives are generally available in most drug stores. Although some doctors may be reluctant to dispense birth control devices to minors without parental consent, Planned Parenthood clinics are willing to do so.

ABORTION

WHEN CAN I GET AN ABORTION?

In compliance with the Supreme Court decision in *Roe v. Wade*, you can obtain a lawful abortion from a licensed physician during the first trimester (3 months) of pregnancy without any interference from the State.¹ During the second 3 months and prior to the third trimester, you may obtain an abortion from a licensed physician provided it is done in a licensed hospital.² An abortion is lawful **after** the second trimester provided: (1) the operation is performed in a licensed hospital,³ (2) the physician and 2 consulting physicians certify and record with the hospital that the pregnancy would likely result in death or "substantially and irretrievably" impair your mental or physical health. If there are any signs of viability of the fetus, life support measures must be used.

An abortion is permissible at any time, apart from the above provisions, when, in the opinion of your doctor, it is necessary in order to save your life.⁴ Federal Medicaid funds cannot currently be used to fund non-therapeutic abortions. (See **MEDICAID**.)

For comprehensive abortion referral information in Washington, D.C., contact:

The Women's Health and Abortion Project
Washington Area Women's Center
P. O. Box 13098
Washington, D.C. 20009

NOTE: Abortion raises several constitutional issues, many of which are still being litigated in the courts. You should therefore consult an attorney if you feel that an abortion has been unfairly denied you under any law.

CAN A HOSPITAL REFUSE TO GIVE ME AN ABORTION?

The Virginia Code contains a "Conscience Clause" which provides that a hospital, medical facility or physician is not required to admit a patient for an abortion and that, as long as a doctor has a written objection on record, s/he is not required to perform or participate in any abortions. The hospital or physician cannot be sued for refusal to cooperate.⁶

ARE ABORTIONS STILL ILLEGAL IN CERTAIN CIRCUMSTANCES?

Yes. A person can be criminally charged (possible sentence from 2 to 10 years) if, with intent to destroy the fetus, s/he uses means that result in an abortion which is not in compliance with the conditions set forth above. This law was passed for the protection of the unborn child. The pregnant woman is not held liable but her consent is no defense to the person charged. The pregnant woman, however, cannot recover damages in a civil suit against the abortionist or in a wrongful death action.⁷

SEXUAL STERILIZATION

Sterilization is an operation which renders a person incapable of reproduction. Operations which result in sterility include vasectomy, hysterectomy, tubal ligation, and tubal cauterization. The most important thing to remember in considering sterilization is that it is not reversible.⁸

CAN I BE STERILIZED?

Yes, it is lawful for a licensed physician in Virginia to perform a sterilization procedure provided there is a written request by you and your spouse (if you are married). Childless individuals must wait 30 days for the operation.⁹ The attending doctor must also give you a full and reasonable medical explanation as to the meaning and consequences of the procedure.

MUST I HAVE MY SPOUSE'S CONSENT?

Yes, with one exception. If you can state under oath at the time of the request that you and your spouse have lived apart "without any cohabitation and without interruption" for 1 year or more or if an executed separation agreement or divorce decree is presented, a request by your spouse is not necessary.¹⁰ The constitutionality of requiring spousal consent has been challenged in Virginia, but the case is still pending.¹¹

CAN I BE FORCED TO BE STERILIZED?

Sexual sterilization may be performed by a licensed physician on a person who is at least 21 years old and who has been judged to be legally incompetent provided:

- that the court, on petition by the spouse, parent(s) if living, or committee, guardian or next friend, determines that the operation is in the best interest of the individual and society; and
- that the person is afflicted with a hereditary form of mental illness that is recurrent, or with mental retardation; and
- the physician can operate only after s/he receives a final court order.¹²

A minor can only be sterilized if s/he meets the above provisions with two qualifications: there is no need for a finding of incompetency, and endangerment to the minor's health is justification for the operation.

The adult incompetent is made a party defendant and is served with process; an attorney is appointed as *guardian ad litem*⁹ to represent the defendant.

The director of a state hospital has power to act as next friend.¹⁴

STERILIZATION ABUSE

You should be alert to the fact that sterilization abuse is prevalent and occurs when a woman does not knowingly consent to the operation. The most common forms of sterilization abuse are:

- sterilizations performed immediately after an abortion or childbirth without the woman's knowledge;
- consent obtained under duress, as when a woman is actually in labor;
- a non-English speaking patient signs a consent form without understanding what it says;
- specific threats of loss of public assistance benefits.¹⁵

Women in the Criminal Justice System

RAPE

WHAT IS RAPE?

The legal definition of rape, in Virginia, is sexual intercourse with a woman by force and against her will or with a female child younger than 13 whether with or without her consent.¹ Penetration is required but emission is not.²

Rape is often thought of as a crime of sexual passion, yet research in psychology and criminology indicates that it is motivated, like other violent acts, by hostility and rage. It is a physical assault resulting in a high degree of mental agony for the victim and, often, some degree of internal injury in the form of abrasion, venereal disease or infection.

Rape is a brutal and degrading crime which could happen to any woman. Statistics show that it is the number one violent crime in Virginia. Perpetrators and victims are most often between the ages of 15 and 20 in

this state, and the cities of Richmond and Norfolk report the greatest number of incidents.

If you are unfortunate enough to become a victim of rape, it is important that you know what to do and what to expect.

SHOULD I REPORT MY RAPE TO THE POLICE?

The crime of rape is vastly underreported, and despite possible unpleasant aspects of questioning and trial, a report to the police is the only way in which a rapist might be stopped from future assaults. You may also report the rape to the police without pressing charges and without using your name, if you wish. This is helpful to law enforcement officers in at least identifying areas where rapes occur, patterns of the rapist and maybe the rapist himself, though no legal action can be taken against him unless charges are pressed. This is, of course, a personal choice each woman must make.

If you decide to report the rape and if you have a sympathetic doctor, call him/her first, and then the police. As a practical matter, an immediate complaint is much more likely to be taken seriously by the police and prosecutor.

WHAT SHOULD I DO WHILE WAITING FOR THE POLICE?

It is important to gather as much evidence as possible against the man who has raped you. Do not change clothes, wash yourself or tend your wounds immediately after an attack since by doing so you will destroy any evidence you have, such as stains, hairs and the like on clothing. You may wish to call a relative, friend, or professional helper from your local Rape Crisis Center, to stay with you during the investigation.

WHAT WILL THE POLICE ASK ME?

S/he will ask for a description of your assailant, which will be radioed in so that all patrol cars can begin looking for him. You will also be questioned later by a police detective. Some of the questioning may be very intimate and embarrassing, but it is necessary. You should be able to expect and demand courteous and respectful treatment by the police personnel. The detective should also help you in filling out a formal complaint. There is no need to go to police headquarters for this.

WILL I BE REQUIRED TO GO TO THE HOSPITAL?

If you have reported your rape to the police with the intent of prosecuting your assailant, the police will take you to a hospital emergency room for a medical examination.

The doctor will perform a detailed pelvic examination, collecting fluid, hair, semen, etc. You should take a change of clothing to the hospital, since the clothing you were wearing may be taken into evidence.

After all evidence is gathered, you should talk with your doctor about the possibility of unwanted pregnancy or venereal disease.

You should not be billed by the hospital for your treatment. If you are, contact the Commonwealth Attorney's office.

MUST I GO TO COURT? WHAT WILL HAPPEN THERE?

If the man who raped you is apprehended and you wish to prosecute, you may have to appear in court. This will not be necessary if the attacker enters a plea of guilty. It will not be necessary for you to retain your own lawyer. The State Commonwealth's Attorney will represent you. You will testify at a preliminary hearing about what happened to you. If the judge finds "probable cause" to hold your attacker for trial, he will send this finding to a "grand jury" of seven people for review. If the grand jury agrees with the judge's ruling, your case will be scheduled for a circuit court trial.

You should be prepared for a trial where the lawyer for your attacker will do his/her best to show that you consented to sexual intercourse with the defendant. In trying to prove consent, the "general character" of your chastity can be attacked by showing the nature of your previous conduct. Evidence of specific acts of unchastity with persons other than the man on trial will not be admitted as evidence in court, however.³ You must also, generally, be able to show your attacker used force to overcome your resistance. You are not required to have resisted to the utmost of your physical strength if you believed it would have been useless or resulted in serious bodily injury.⁴ There need not have been witnesses to your assault. Your testimony alone may be sufficient to convict your attacker.⁵

If your attacker's lawyer consents, your testimony may be taken outside court at a time and place on which the lawyers agree. No persons other than your attacker and the lawyers will be present unless expressly permitted by the judge. This testimony will be read to the jury at trial and will have the same effect as though you had physically appeared in court.⁶

IF MY ATTACKER IS FOUND GUILTY, HOW WILL HE BE PUNISHED?

If he is convicted of having intercourse with a woman 13-15 years old without the use of force (statutory rape) the penalty is 2-10 years. If the

woman is 13-15 years old and 3 or more years younger than the accused, he can be sentenced to 1-5 years in the state penitentiary or, if he is a minor, to jail for 12 months and/or \$1,000 fine. If she is less than 3 years his junior, and consents to the sexual act, he may be fined \$100. If she is over 13 years he may be sentenced for forcible rape. The penalty for forcible rape generally is 5 years to life imprisonment.⁷

WIFE AND CHILD ABUSE

Wife battery is the most unreported crime committed in the United States today.⁸ The wife, often afraid that her husband will lose his job or that he may beat her again, hesitates to call the police. When she does call the police they, like the courts, are reluctant to interfere with "family squabbles", given the strong state policy which favors independence of the marital relationship. Although the current laws do not sufficiently protect battered women, aggression which results in physical injury is against the law.

IS WIFE-BEATING A CRIMINAL OFFENSE?

Yes, it may result in a charge of criminal assault and battery, a misdemeanor, punishable by confinement in jail up to one year;⁹ or in a charge of aggravated assault and battery, a felony, punishable by a prison term ranging from one to twenty years.¹⁰ The police will make an arrest for a misdemeanor only when the offense is committed in their presence or when they have obtained a warrant.¹¹ If the crime is a felony, the officer does not need either to witness the offense or to obtain a warrant.¹²

WHAT CAN I DO IF THE OFFICER IS RELUCTANT TO ARREST MY HUSBAND?

As a private citizen, you have the right to make an arrest without a warrant when a breach of the peace is committed in your presence. Thus, you can ask the officer to take your husband into custody.¹³

CAN I DIVORCE MY HUSBAND FOR BEATING ME?

You can divorce your husband on grounds of "cruelty and reasonable apprehension of bodily harm."¹⁴ However, there is a one-year waiting period from the date of the act until the divorce is granted.

CAN I SUE MY HUSBAND FOR PERSONAL INJURIES?

No, a wife cannot sue her husband in tort for assault and battery under these circumstances.¹⁵

WILL THE STATE COMPENSATE ME FOR MY INJURIES?

No. While there are statutes that provide compensation for needy victims, they exclude family members of the person criminally responsible for the action.¹⁶

In conclusion, it is clear that there are, in practice, inadequate legal means to afford protection to battered wives. Additionally, Virginia has no shelters where a woman could seek immediate refuge. Such a program of shelters would provide the needed care, counseling and rehabilitation for the victim as well as assist the police and the courts in upholding the law. If you are a victim of wife-beating, you must remember that you are not alone. This is a pervasive problem over which the victim should feel no guilt or embarrassment.

WHAT IS CHILD ABUSE?

Child abuse is so serious a social problem (an average of 60 complaints of suspected abuse or neglect are received daily in Virginia) that the Virginia General Assembly has made its eradication an official goal of the Commonwealth.¹⁷ An "abused or neglected child" is defined as any child under 18 years of age whose parent(s) or other person responsible for his/her care:

- inflicts, threatens to inflict, or allows someone else to inflict deliberate physical or mental injury;
- neglects or refuses to provide the necessary care for his/her health;
- abandons the child; or
- commits or allows to be committed any sexual act upon the child in violation of the law.¹⁸

WHO REPORTS ALLEGED CASES OF ABUSE?

Certain professionals are now **required by law** to report cases of child abuse. They include doctors, nurses, social workers, teachers, police officers, and paid child-care workers. A failure to report a case may result in a \$500 fine.¹⁹

WHAT SHOULD I DO IF I SEE OR SUSPECT CHILD ABUSE?

Anyone who sees or suspects child abuse should report it to the local welfare office or call, toll-free, 1-800/552-7096 at any time. Any person reporting an incident will be immune from liability unless s/he acted with malicious intent.²⁰

WHAT HAPPENS WHEN I REPORT A CASE OF CHILD ABUSE?

When a suspected case of child abuse is reported, it is referred to a local welfare worker who investigates the complaint. If the complaint is valid, services are provided to the family involved by the local child protective unit of the welfare department.²¹

ADULTERY, FORNICATION AND COHABITATION

CAN I BE PUNISHED UNDER LAW FOR ADULTERY OR UNMARRIED SEX?

If you are married and voluntarily have intercourse with any person not your spouse, you can be punished by a fine of up to \$100.²²

If you are unmarried and voluntarily have intercourse with any other person, you can be punished by a fine of up to \$100.²³

Unmarried persons who "lewdly" live together or, whether married or not, are openly and grossly "lewd and lascivious," are each punishable by a maximum fine of \$500. Subsequent convictions are punishable by up to 12 months in jail and/or a fine of up to \$1,000.²⁴

BIGAMY

CAN I BE HELD CRIMINALLY LIABLE FOR BEING MARRIED TO MORE THAN ONE PERSON AT THE SAME TIME?

If you are already married and later marry another person in Virginia (or marry outside the State and live together in Virginia), you can be imprisoned for 2 to 10 years.²⁵ If you marry someone whom you know to be already married, you may be convicted of aiding and abetting the commission of bigamy and can be convicted as if you had committed bigamy yourself.²⁶

You cannot be convicted of the crime of bigamy if your husband has been continuously absent for 7 years before your marriage to another man and is not known to be living within that time. Secondly, you cannot be convicted if you show that the second marriage was contracted in good faith with a reasonable belief that your former husband was dead, or that you were divorced, or that your former marriage was void.²⁷

PROSTITUTION AND SEDUCTION

HOW IS PROSTITUTION PUNISHED IN VIRGINIA?

To engage in illicit sexual intercourse or offer to do so for money or its equivalent is unlawful in Virginia for men or women. It can be punished by up to 12 months in jail and/or by a fine of up to \$1000.²⁸ It is also unlawful to keep, reside in, or visit for immoral purposes a place used for prostitution.²⁹

IS IT ILLEGAL TO ENCOURAGE PROSTITUTION?

Yes, when a person detains a woman for the purpose of prostitution, or monetarily profits by it, s/he may be imprisoned for 10 years.³⁰

IS IT ILLEGAL FOR A MAN TO SEDUCE YOU?

Yes, if you voluntarily have sexual intercourse with a man because he has made a promise to marry you, or otherwise bribes you, he may be convicted of seduction. If he is a married man, it is not necessary that he promise to marry you. A doctor's assurance that you "need" to have sexual intercourse with him is also considered seduction. The penalty for seduction is 2-10 years in prison.³¹ Most other states have repealed such statutes because of the potential for blackmail.

Although the crimes of adultery, fornication, cohabitation, bigamy and seduction are still technically in force, they are very rarely prosecuted.

CHILD MOLESTING

WHAT IS "CHILD MOLESTING"? HOW IS IT PUNISHED IN VIRGINIA?

Any person older than 18 years of age who towards a child less than 18 years of age:

- exposes his/her genital or sexual parts;
- fondles or attempts to fondle the sexual or genital parts of the child;
- proposes that his/her genital or sexual parts be fondled;
- proposes an act of sexual intercourse;
- or entices any child under the age of 14 years to whom such person is not legally married

is guilty of child molesting. S/he may be imprisoned for 1 to 5 years or put in jail for a maximum of 12 months and/or fined \$1000.³²

Any person 18 years or older (including the parent) who subjects a child under the age of 18 years to vicious or immoral influences can be punished by up to 12 months in jail and/or by a fine of up to \$1,000. If the offense consists of attempting intercourse with a woman under the age of 18, the fact that she was not of previously chaste character may be shown in mitigation.³³

SODOMY

WHAT IS SODOMY?

Under Virginia's sodomy laws, it is unlawful to engage in sex with any animal, to engage in oral or anal intercourse with any person, or to submit voluntarily to such activity. The penalty for such activity can include imprisonment for a period of 1 to 5 years, or put in jail for one year and/or a fine of \$1000. If you force a person to engage in anal inter-

course or oral intercourse you may be imprisoned for 2 to 10 years. Proof of penetration of/by the sexual organ is essential to conviction.³⁴

The constitutionality of the Virginia sodomy statute is not entirely clear. One district court has held that it is constitutional where applied to forced acts of sodomy by a husband on his wife.³⁵ Another district court held that when applied to married couples, it threatens an invasion of privacy. In any case it seems clear that the burden of insuring privacy is on the participants. If such persons voluntarily relinquish that privacy, they are not protected by the Constitution and can be prosecuted for the unlawful acts in which they engage.³⁶

Rights in Prison

The State prison for women is located in Goochland County, Virginia and is the only state facility for convicted females. Currently, there are about 260 women housed at Goochland.¹

WHAT ACTIVITIES CAN I PARTICIPATE IN WHILE I AM IN PRISON?

For the duration of your sentence, you will be employed and can earn anywhere from \$8 to \$60 a month. An income is necessary in order to procure clothes and personal items. Classes are available, ranging from elementary to college level. You may take the program to receive the equivalent of a high school diploma (GED). There is also vocational rehabilitation in either cosmetology or keypunch.

The work at Goochland is limited; many women work at routine jobs such as those in the laundry room or kitchen. The training and educational programs are similarly limited and are geared to traditionally "female" occupations (e.g. secretary or beautician). The convicted female population is comparably much smaller than the male and, as such, is given less funding and attention. It has been suggested that as long as the prison population is segregated, women will continue to receive unequal treatment.²

WHAT HAPPENS IF I BREAK A RULE?

If you violate a rule while committed to Goochland, you must go before the adjustment committee. If you face severe punishment (e.g. solitary confinement), you must receive advance notice of the alleged violation at least 24 hours before the hearing and receive a statement of fact findings by the committee as to evidence relied on and reasons for the disciplinary action. You can call witnesses and present evidence when it is not hazardous to the safety or goals of the institution.³ There is no constitutional right to an attorney; however, a law student or inmate

representative is allowed to advise you. There is no absolute right to cross-examine the witnesses testifying against you. The hearing shall occur within a reasonable time and the adjustment committee members be sufficiently impartial. If you are unco-operative, your rights are deemed waived. Whether you can appeal the decision is up to the authorities at Goochland—an appeal is not required by due process.

If the infraction is a minor one, for example where the punishment involves loss of commissary rights or restriction of recreation privileges, your right to be represented and the requirement of written notice are suspended.

But note: you cannot be punished for the exercise of constitutionally protected rights (e.g. conducting litigation on your own, defending another inmate, expressing political beliefs or the freedom to worship).

Prison regulations must be defined and made available as a prerequisite to discipline.⁴ The Post Conviction Project (P-CAP) located at the University of Virginia Law School will represent prisoners in disciplinary hearings.

CAN I HAVE VISITORS OR BE ALLOWED TO GO HOME ON FURLOUGHS?

You are allowed one visit per week, but can't personally leave the facility unless you are granted a furlough (not to exceed three days) or have to attend a funeral. You are not eligible for a furlough, however, unless you are in the year of parole eligibility and have consecutively served the same number of months as there are years in your sentence ("A Custody"). A furlough must be approved by the superintendent at Goochland and by the Department of Corrections.

WHEN AM I ELIBIGLE FOR PAROLE?

You are eligible for parole after serving one-fourth of the term or 12 years, whichever is less. If you have received consecutive sentences, the total time given serves as the basis for calculation; if there are concurrent sentences, the longest amount of time is used as the basis of determining eligibility for parole. If serving a life sentence, you are eligible for parole after 15 years. If you are serving two or more life sentences and you were sentenced after July 1, 1976, you are eligible for parole after 20 years. A death sentence provides for no eligibility.⁵ Although you may be eligible you may not be granted parole. The Parole Board must review your case at least once a year.⁶

The Board's procedures must be "fundamentally fair" and their standards and criteria must be published. You have a right of access to information regarding your parole, to a personal hearing and to a statement of

reasons why parole is denied. However, there are no constitutionally guaranteed requirements for counsel or the calling of witnesses.⁷

DO I LOSE CITIZEN RIGHTS WHILE I AM IN PRISON?

If you are to be incarcerated for one year or more, the court can select someone to take charge of your property until you have been discharged. Any interested party can ask the court to take this action.⁸ This provision is designed to alleviate the consequences of the common law rule which permitted one convicted of a felony to be sued but not to appear in court to defend his/her case. The person charged with your estate can be sued or sue with respect to claims regarding the estate.

WHAT RIGHTS DO I HAVE TO MY HUSBAND'S PROPERTY IF HE IS IN PRISON?

While your husband is incarcerated you are entitled to the income from the same one-third interest in his estate (personal and real property) that you have as a widow (See **PROPERTY RIGHTS**). The wife and family are entitled to sufficient maintenance out of the estate.⁹

CAN I GET DIVORCED WHILE I OR MY HUSBAND IS IN PRISON?

If you are sued for divorce while in prison, it is the duty of the superintendent to deliver the subpoena to you and a *guardian ad litem*¹⁰ is appointed by the court who shall defend you on your behalf.¹⁰

Gay Rights

ARE HOMOSEXUAL ACTIVITIES PUNISHABLE IN VIRGINIA?

The sodomy statute, discussed in **WOMEN IN THE CRIMINAL JUSTICE SYSTEM**, is interpreted to prohibit sexual conduct between members of the same sex although the statute does not say so on its face. The U.S. Supreme Court affirmed a decision stating that the statute is constitutional when applied to active and regular homosexual relations between consenting adults in private.¹

Marriage to a person of the same sex is also prohibited by the Virginia law.²

CAN I BE FIRED BECAUSE OF MY SEXUAL PREFERENCE?

Many homosexuals lose their job when an employer finds out about their sexual preference. In recent years, some courts have taken the view that any inquiries into an employee's sex life must bear directly on suitability for particular employment. These courts seem to be saying that an employee's private life is not the business of an employer.

CAN I LOSE CUSTODY OF MY CHILD BECAUSE OF MY SEXUAL PREFERENCE?

Many homosexuals, and especially lesbian mothers, have had to face court battles challenging their fitness as a parent. Many have lost. Other courts, however, have held that the mere fact of being a homosexual is not sufficient to prove unfitness.

Virginia's Equal Rights Amendment

DOES THE VIRGINIA CONSTITUTION PROHIBIT DISCRIMINATION BASED ON SEX?

Yes. The Constitution for the State of Virginia includes, as part of its Bill of Rights, a prohibition against official discrimination on the basis of sex. Like the proposed federal Equal Rights Amendment (ERA), the state amendment is intended to ensure that an individual's personal characteristics and abilities (such as strength or intelligence) and **not** his/her sex will determine the way s/he will be treated under the law.

In part, this section of the Constitution guarantees that:

the right to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex or national origin shall not be abridged, except that mere separation of the sexes shall not be considered discrimination.¹

WHAT KIND OF PROTECTION ARE WOMEN AFFORDED UNDER THIS AMENDMENT?

In reality, the scope of protection provided by this amendment is quite limited, notwithstanding the broad and inclusive language used in the Constitution.

While the state legislature, in passing the amendment, intended that sex be given the same kind of full constitutional protection afforded race,² the Supreme Court of Virginia has decided to restrict its possible application.

The Court several years ago upheld a state law embodying the kind of sexual classification which presumably the legislature had intended to invalidate.³ In its decision, the Court ruled that the state could use a sex-based classification where this serves a reasonable function in terms of furthering the state's objectives in passing the law. This decision effectively gives the state considerable leeway in using sex as a means of classification in potentially discriminating ways.

Although the Court so far has seemed to favor a conservative interpretation of this amendment, further judicial decisions will be necessary before the practical significance of the sexual classification can be understood.

Equal Rights Amendment

WHAT IS "ERA"?

In 1972, the Equal Rights Amendment (ERA) to the U. S. Constitution was passed by the United States Congress. The Constitution requires that three quarters of the state legislatures (38 out of 50) must ratify it within 7 years (by 1979) before it can become law.

As of June 1977, three more states must ratify the amendment before it becomes law. Virginia has not ratified the amendment. It is one of only two states in which the amendment has not been put to a vote before both houses of the legislature.

The amendment will not be put into effect until two years after ratification. The two-year period was created to give the states time to rewrite their laws to comply with the ERA. The text of the ERA states:

Sec. 1: Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Sec. 2: The Congress shall have the power to enforce by appropriate legislation, the provision of this article.

Sec. 3: This amendment shall take effect 2 years after the date of ratification.

WHAT ACTIVITIES ARE AFFECTED BY THE ERA?

The Amendment applies only to governmental action; it does not affect private action or the purely social relationships between men and women.¹

WHAT WOULD THE ERA MEAN TO ME?

Passage of the ERA will mean that sex is no longer a permissible factor in determining the legal rights of women or of men.

As part of the Constitution, the ERA will ensure that differences of treatment under the law will be based upon the characteristics and abilities of the individual and not on sexual stereotypes.



WHAT ARE THE MYTHS AND REALITIES CONCERNING THE ERA?

As a result of the ERA, spouses will probably share a reciprocal duty to support each other where circumstances make this possible. It will not dictate categorically that wives lose their rights to support now provided by their husbands.

The ERA will prohibit a state from imposing a greater liability on one spouse than on the other merely because of sex. The support obligation of each spouse would be defined in functional terms such as each spouse's earning power, current resources and nonmonetary contributions to the family welfare. Where one spouse is the primary wage earner and the other runs the home, the wage earner would have a duty to support the spouse who stays at home in compensation for the performance of her or his duties. In 1975, the Virginia General Assembly passed H.B. 1470 which already has eliminated "preferential treatment" for women in divorce proceedings.²

The ERA will not force coed prisons, public restrooms, sleeping quarters, barracks, etc.

The ERA will not require that all women serve in the military. It will mean that women who meet certain physical and other requirements may be subject to conscription. Those women who are exempt because of their responsibilities (e.g. certain public officials or those with dependents) will not have to serve.

Women will be allowed to volunteer for military service on the same basis as men and receive the same benefits, including educational benefits of the GI bill, job preferences in government and the private sector and medical care.³

HOW WILL THE ERA AFFECT LAWS IN VIRGINIA?

In 1974, a State Task Force, created by the Virginia legislature, reported that only a minimal number of changes would be necessary to bring Virginia's laws into agreement with the ERA because of the State ERA section included in Virginia's new constitution. The Task Force stated that most changes would occur in criminal and military law but changes in family life would be few. ERA's primary impact would be to reinforce the Equal Pay Act and the Civil Rights Act.⁴ In situations where a court finds a state or Federal law in conflict with the ERA the law could be expanded to include both sexes or would be nullified entirely.⁵

For further information contact:

Virginia ERA Ratification Council
P. O. Box 5489
Charlottesville, Virginia 22903

Virginia Steering Committee To Stop
135 OAK LANE
RICHMOND, VA. 23221

Appendix A

FOOTNOTES

DOMESTIC RELATIONS

¹Va. Code Ann. § 20-45.1.

²Va. Code Ann. §§ 20-13, -13.1, -14, -14.1, -15.

³Va. Code Ann. § 20-1.

⁴Va. Code Ann. § 20-5.

⁵Va. Code Ann. § 64.1-7.

⁶Va. Code Ann. § 8-577.1.

⁷Va. Code Ann. § 8-577.1.

⁸In *Re Strikwerda*, 216 Va. 470, 220 S.E.2d 245 (1975).

⁹Va. Code Ann. § 20-107.

¹⁰Va. Code Ann. § 20-61.1.

¹¹Va. Code Ann. § 20-61.

¹²Va. Code Ann. § 20-89.1.

¹³A marriage which is void is invalid without court intervention, though the parties may wish it decreed void formally by a court. A marriage which is voidable is valid until annulled in court.

¹⁴Va. Code Ann. § 20-89.1.

¹⁵Note that these marriages under Virginia law seem to be void without court decree. An ambiguity exists in the law, however, which suggests that they are merely voidable, i.e. valid unless annulled. Check with your lawyer if you seek to terminate such a marriage.

¹⁶Va. Code Ann. § 20-97.

¹⁷Va. Code Ann. § 20-91.

¹⁸Note that divorce will not be granted on this ground if the spouses voluntarily lived together after the occurrence, if the occurrence took place five years before the institution of the suit, or if the complaining party somehow duped the offending spouse into committing the act. Va. Code Ann. § 20-94.

¹⁹Va. Code Ann. §§ 20-95, 121.

²⁰Va. Code Ann. § 20-108.

²¹Va. Code Ann. § 20-107.

²²Va. Code Ann. § 20-103.

²³Va. Code Ann. § 20-107.

²⁴Va. Code Ann. § 20-109.

²⁵Va. Code Ann. §§ 20-113, -114, -115.

²⁶If you are receiving welfare benefits, your local welfare board will usually help you with legal action against your husband for nonsupport.

Otherwise you can seek a warrant for nonsupport under this section.

²⁷Va. Code Ann. § 20-61.

²⁸Va. Code Ann. § 20-67.

²⁹Va. Code Ann. § 20-64.

³⁰Va. Code Ann. §§ 20-88.16 et. seq.

³¹This section states only the bare bones of the law in this area. Specific references have been omitted but can be found in the Va. Code Ann. §§ 63.1-220 to -238.

³²Va. Code Ann. § 63.1-225(2) provides that the consent of a father of an illegitimate child is required before that child can be adopted unless:

- his identity is not reasonably ascertainable; or
- he was given notice of the adoption proceeding by registered or certified mail to his last known address and failed to object within 21 days.

³³A frequent problem encountered in stepparent adoptions is refusal of consent by the non-custodial natural parent. In *Malpass v. Morgan*, 213 Va. 393 (1972), Virginia ruled that the rights of this parent—where s/he has not lost rights to the child nor has been shown unfit—will be respected where consonant with the best interest of the child. It is rather difficult to show that the non-consenting parent is obstinately self-willed and acting prejudicially to the child's interest. Evidence in this case of friction among the adult parties, with "some reaction" on the part of the child was held insufficient.

PROPERTY RIGHTS OF WOMEN

¹Va. Code Ann. § 55-43.

²Va. Code Ann. §§ 55-35, -37.

³Va. Code Ann. § 55-35.

⁴Va. Code Ann. § 55-47.1.

⁵Va. Code Ann. §§ 55-20, -21.

⁶Va. Code Ann. § 55-39.

⁷Va. Code Ann. §§ 55-40, -41.

⁸Va. Code Ann. § 55-36.

⁹Va. Code Ann. § 55-37.

¹⁰Va. Code Ann. § 64.1-86.

¹¹Va. Code Ann. §§ 64.1-49, -47.

¹²Va. Code Ann. § 64.1-55.

¹³Va. Code Ann. §§ 64.1-19, -22, -30, -127.

¹⁴Va. Code Ann. §§ 64.1-16, -11.

¹⁵Va. Code Ann. § 34-4.

¹⁶Va. Code Ann. § 34-12.

¹⁷Va. Code Ann. §§ 64.1-22, -29.

¹⁸ Va. Code Ann. §§ 6.1-73, -72, -77.

¹⁹ Va. Code Ann. § 6.1-73.1.

²⁰ Va. Code Ann. § 64.1-1.

²¹ Va. Code Anri. § 64.1-11.

²² Va. Code Ann. § 64.1-5.

²³ Va. Code Ann. § 64.1-8.

²⁴ Va. Code Ann. §§ 36-87 to 96.

²⁵ Va. Code Ann. §§ 36-88 to 91.

²⁶ Va. Code Ann. § 36-90.

²⁷ Va. Code Ann. § 36-94(b).

²⁸ Va. Code Ann. §§ 36-94(a), -95.

²⁹ Va. Code Ann. § 55-248.47.

FINANCES

¹ Va. Code Ann. §§ 59.1-21.19 to 21.24.

² 15 U.S.C. § 1691.

³ 15 U.S.C. § 1681.

⁴ Va. Code Ann. § 38.1-381.5.

⁵ Va. Code Ann. § 38.1-381.6.

TAXES

¹ Va. Code Ann. § 58-151.011.

² Va. Code Ann. § 58-152.

³ Va. Code Ann. § 58-218.

⁴ Va. Code Ann. § 58-758 (Real Property).

⁵ Va. Code Ann. § 58-1145.

EMPLOYMENT

¹ Civil Rights Act of 1964, as amended by the Equal Employment Opportunities Act of 1972, 42 U.S.C.A. § 2000e (1974).

² Civil Rights Act of 1964, as amended by the Equal Employment Opportunities Act of 1972, § 703(e), 42 U.S.C.A. § 2000e-2(e).

³ Civil Rights Act of 1964, as amended by the Equal Employment Opportunities Act of 1972, § 706(f) (1), 42 U.S.C.A. § 2000e-5(f) (1).

⁴ Fair Labor Standards Act of 1964, as amended by the Equal Pay Act of 1963, § 6(d), 29 U.S.C.A. § 206(d) (1974).

⁵ Equal Pay Irrespective of Sex, Va. Code Ann. § 40.1-28.6 (1976).

⁶ 3 C.F.R. 169 (1974).

⁷ Va. Code Ann. §§ 2.1-374 through 376 (1976 supp.).

⁸Title IX of the Education Amendments Act of 1972, 42 U.S.C.A. § 2000(c) (1974).

⁹Age Discrimination in Employment Act, 29 U.S.C.A. § 621 (1975).

¹⁰Rehabilitation Act of 1973, as amended, 29 U.S.C.A. § 701 (1975).

¹¹Va. Code Ann. § 40.1-28.7 (1976).

¹²Va. Code Ann. §§ 40.1-34 through 38 (Repealed by Acts, 1974, c. 272).

¹³Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974).

¹⁴General Electric Co. v. Gilbert, _____ U. S. _____, 97 S. Ct. 401 (1976).

SOCIAL WELFARE LAWS

¹Weinberger v. Weisenfeld, 420 U.S. 636 (1975): Formerly only women were entitled to these so called "mother's benefits". Califano v. Goldfarb, 45 U.S. L.W. 4237 (March 2, 1977): Formerly a man was required to prove that one-half of his support derived from his wife's income before he was eligible for survivor's benefits.

²Pub. L. No. 74-439 (1976); Beal v. Doe, 45 U.S.L.W. 4781 (U.S. June 20, 1977); Maher v. Roe, 45 U.S.L.W. 4787 (U.S. June 20, 1977); Poelker v. Doe, 45 U.S.L.W. 4795 (U.S. June 20, 1977). See "Doe v. Beal: Abortion, Medicaid, and Equal Protection," 62 Virginia Law Review 811 (1976).

³Va. Code Ann. § 60.1-52 (1973).

⁴Turner v. Dept. of Employment Security, 423 U.S. 44 (1975).

⁵Va. Code Ann. § 65-1 (1973).

WOMEN'S CONTROL OVER THEIR OWN BODIES

¹410 U.S. 113 (1973); Va. Code § 18.2-72.

²Va. Code § 18.2-73.

³Va. Code § 18.2-74.

⁴Va. Code § 18.2-74.1.

⁵Va. Code § 18.2-76.

⁶Va. Code § 18.2-75.

⁷Va. Code § 18.2-71.

⁸*A Handbook on Women and the Law in Missouri*, MoPIRG Foundation, (St. Louis, 1977), p. 34.

⁹Va. Code § 32-423.

¹⁰*Id.*

¹¹Doe v. Temple, 409 F. Supp. 899 (1976).

¹²Va. Code § 32-424.1.

¹³Va. Code § 32-424.

¹⁴Va. Code § 37.1-171.1.

¹⁵ *A Handbook on Women and the Law in Missouri*, MoPIRG Foundation, (St. Louis, 1977), p. 35.

CRIMINAL LAW

We are indebted to ROAR (Richmond Organized Against Rape) who published "*It Could Never Happen to Me*"; *A Handbook for Rape Victims*, a major portion of which was reprinted here.

¹ Va. Code Ann. § 18.2-61.

² *Coles v. Peyton*, 389 F.2d 244 (4th Cir. 1968).

³ *Coles v. Peyton*, *supra*; *Wynne v. Commonwealth*, 216 Va. 355, (1975).

⁴ *Barnett v. Commonwealth*, 216 Va. 200 (1975).

⁵ *Ibid.*

⁶ Va. Code Ann. § 18.2-67.

⁷ Va. Code Ann. §§ 18.2-26, 61, 63.

⁸ We are indebted to Andy Wright, University of Virginia Law School, for information derived from his paper, "Wife Abuse: The Problem and a Proposal for Virginia," Spring, 1977.

⁹ Va. Code Ann. §§ 18.2-57, -11.

¹⁰ Va. Code Ann. §§ 18.2-51, -10.

¹¹ Va. Code Ann. §§ 19.2-72, -73, -81.

¹² Va. Code Ann. § 19.2-81.

¹³ *2A Michie's Jurisprudence Arrest* § 4 (1969).

¹⁴ Va. Code Ann. § 20-91(b).

¹⁵ *Korman v. Carpenter*, 216 Va. 86 (1975).

¹⁶ Va. Code Ann. §§ 19.2-368.1 to -368.18.

¹⁷ Va. Code Ann. § 63.1-248.1.

¹⁸ Va. Code Ann. § 63.1-248.2.

¹⁹ Va. Code Ann. § 63.1-248.3.

²⁰ Va. Code Ann. §§ 63.1-248.4 to 248.5.

²¹ Va. Code Ann. § 63.1-248.6.

²² Va. Code Ann. § 18.2-365.

²³ Va. Code Ann. § 18.2-344.

²⁴ Va. Code Ann. § 18.2-345.

²⁵ Va. Code Ann. § 18.2-362.

²⁶ *Adkins v. Commonwealth*, 175 Va. 590 (1940).

²⁷ Va. Code Ann. § 18.2-364.

²⁸ Va. Code Ann. § 18.2-346.

²⁹ Va. Code Ann. § 18.2-347.

³⁰ Va. Code Ann. §§ 18.2-355 to -358.

³¹ Va. Code Ann. § 18.2-68.

³²Va. Code Ann. § 18.2-370.

³³Va. Code Ann. § 18.2-371.

³⁴Ashby v. Commonwealth, 208 Va. 443 (1968).

³⁵Towler v. Peyton, 303 F. Supp. 581 (W.D. Va. 1969).

³⁶Lovisi v. Slayton, 363 F. Supp. 620 (E.D. Va. 1973) aff'd 539 F.2d 349 (4th Cir. 1976).

RIGHTS IN PRISON

¹Portions of the factual information in this section were derived from conversations with Ann Downs, Superintendent at Goochland.

²82 Yale L. Jrl. 1229 Note, *The Sexual Segregation of American Prisons* (1973).

³Wolff v. McDonnell, 418 U.S. 539 (1974).

⁴Information obtained through P-CAP of the University of Va. Law School—especially, *Memorandum: Discipline*, March 3, 1976, by Amy Ginsky, Andy Rogoff.

⁵Va. Code Ann. § 53-25.

⁶Va. Code Ann. § 3-252.

⁷Franklin v. Shields, 399 F. Supp. 309 (W.D. Va. 1975).

⁸Va. Code Ann. § 53-305.

⁹Va. Code Ann. § 53-308.

¹⁰Va. Code Ann. § 8-55.

GAY RIGHTS

¹John Doe v. Commonwealth's Attorney, 403 F. Supp. 1199 (E.D. Va. 1975), aff'd 425 U.S. 901, 96 S. Ct. 1489, 47 L.Ed. 2d 751 (1976).

²Va. Code Ann. § 20-45.2.

VIRGINIA'S EQUAL RIGHTS AMENDMENT

¹Va. Const. Art. I § 11, par. I.

²A. E. Dick Howard, *Commentaries on the Constitution of Virginia* (Charlottesville: University of Virginia Press, 1974) pp. 234-243.

³Archer v. Mayes, 213 Va. 633, 194 S.E. 2d 707 (1973).

EQUAL RIGHTS AMENDMENT

¹Citizens' Advisory Council on the Status of Women, *Interpretation of the ERA in Accordance with Legislative History*, p. 3.

²Task Force *Rebuttal*.

³*Interpretation of ERA*, p. 10.

⁴Task Force *Rebuttal*, p. 3.

⁵*Interpretation of ERA*, p. 9.

Appendix B

SOURCES OF LEGAL HELP AND WOMEN'S ORGANIZATIONS

Office of the Attorney General
900 Fidelity Building
1101 E. Broad Street
Richmond, Va. 23219

American Civil Liberties Union of Virginia
1001 E. Main Street
Richmond, Va. 23219
804/644-8022

U. S. Commission on Civil Rights
Virginia State Advisory Committee
Box 782
Lexington, Va. 24450
703/463-9111

Virginia American Civil Liberties
Women's Rights Project
P. O. Box 279
Herndon, Va. 22070
703/548-6861

Public Interest Law Center of Virginia
1908 A Lewis Mountain Road
Charlottesville, Va. 22903

Women's Legal Defense Fund Legal Project
1736 R Street N.W.
Washington, D.C. 20009
202/232-5293

NOW Legal Defense and Education Fund
9 West 57th Street
New York, New York 10019

PUBLICATIONS

WEAL Washington Report
621 National Press Building
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Appendix C

GLOSSARY

adoptee: a person who is adopted.

aggrieved party: also known as the plaintiff or complainant, this person is the one who initiates legal action to seek relief for an injury to his/her person, property, or rights.

beneficiary: a person receiving or entitled to receive, e.g., a gift; land or personal property left under a will; proceeds from a trust; profit or advantage from a contract or estate; proceeds from a life insurance policy upon the death of the insured; or the proceeds or share of the proceeds awarded by a court in an action defined by statute.

class action: an action in which one or more members of a particular class, e.g. women employees at a particular company, sue for themselves and other members of the class who have suffered a similar injury.

co-signer: one who, jointly with another, authorizes a document.

curtesy: the traditional right of a husband to an estate for his lifetime in the real property his wife owns at death, provided they have children capable of inheriting the property.

damages: money which may be recovered in court by any person who has suffered loss, detriment, or injury, whether to his/her person, property, or rights through the unlawful act or omission or negligence of another.

actual damages: the sum of money awarded to a successful complainant in compensation for his/her loss or injury suffered. For example, in an employee's action complaining of sexually discriminatory salary rates, actual damages would be the difference between the salary that the complainant received and the salary s/he should have received.

punitive damages: the sum of money awarded to a successful complainant which is designed not to compensate for his/her injury but to punish the opposing party who caused the injury and discourage that party from similar action in the future.

defendant: the party against whom a legal action or proceeding is brought.

dependent: a person related by blood or marriage, or a member of another's household, who relies on the other for support.

domicile: the place where a person has his/her true permanent home from which s/he has no present intention of moving.

equitable estate: estate in land which is recognized in equity rather than at law. The distinction between law and equity is an ancient one which today still affects various aspects of the legal system. In this context, however, ownership of an equitable estate is "real" ownership in the usual sense of the word.

guardian *ad litem*: a person appointed by the court during the course of litigation to represent the interests of a minor or mentally incompetent person who is a party to the action.

inchoate: imperfect; partial; unfinished. The word, when modifying "curtesy" or "dower", indicates that a spouse's interest in the other's land is imperfect or does not fully mature or become effective until the other's death.

injunctive relief: a formal command of the court directing a party to refrain from doing certain acts or to take steps to undo the wrong or injury with which s/he is charged. For example, in an employee's action complaining of sexually discriminatory salary rates, a successful complainant might not only receive money damages but also **injunctive relief** in which the court might order the employer to equalize its salary rates for men and women and to refrain from future discrimination.

***in loco parentis*:** in the place of a parent; one who is charged with a parent's right, duties, and responsibilities.

joint tenants with right of survivorship: an arrangement whereby two or more persons share an interest in the undivided whole of certain real estate; each person does not own a fractional interest, but yet may sever his/her interest and convey it to a third party, thus destroying the joint tenancy. When one joint tenant dies, the survivor(s) absorbs his/her interest, and nothing passes to the heirs of that deceased joint tenant.

next friend: the person through whom a minor maintains or defends a suit in the absence of a guardian *ad litem*.

railroad disability annuities: an insurance policy in the railroad industry providing for periodic payments to begin when the insured is disabled and to continue throughout his/her life.

tenancy by the entirety: an arrangement like a joint tenancy with right of survivorship but which can only be created between husband and wife. Usually, neither spouse can dispose of his/her interest without the permission of the other and the creditors of one spouse cannot reach real estate owned in this manner.

terminable interest: an interest in real estate which is not absolute, perpetual or indefinite, but which is limited or liable to terminate upon the happening of an event or at the expiration of a specific period of time.

vested: a word used to describe an estate, gift, interest, right, etc. The use of the term indicates that a fixed, absolute, unconditional and immediate legal transaction has taken place. For instance, when a right or interest "vests", that interest or right is owned by the person in whom it vests though its enjoyment may be postponed.

wrongful death: an action in court provided by constitution or statute which enable a person — often a relative — to recover from one whose wrongful act, neglect or default resulted in the death of the person under whom the plaintiff claims.

