

**REPORT OF THE  
JUDICIAL COUNCIL OF VIRGINIA ON**

**IMPLEMENTATION  
OF THE  
FAMILY COURT**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 42**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1994**

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MEMORANDUM

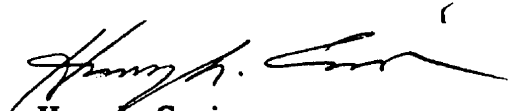
TO: The Governor  
and  
General Assembly of Virginia

On behalf of the Judicial Council of Virginia, it is my pleasure to transmit to the Governor and members of the General Assembly the Report on Implementation of the Family Court. This report has been prepared in accordance with the Fourth Enactment Clause of Chapter 929 of the 1993 Acts of Assembly.

Legislation restructuring the juvenile and domestic relations district courts and establishing family courts was enacted by the 1993 Session of the General Assembly. The culmination of years of planning and study, this legislation establishes a single court to handle all matters involving children and families, combining the jurisdiction of the present juvenile and domestic relations district courts with the jurisdiction over cases concerning divorce, annulment, affirmation of marriage, and adoption.

To provide for a smooth transition to the revised court structure, each judicial district in the Commonwealth has engaged in a comprehensive planning process during 1993 to identify the state and local resources necessary for the family court. This report presents the resources identified during this process and the recommendations of the Judicial Council of Virginia for each judicial district. The Judicial Council also recommends a method for generating the revenue necessary to fund the state costs attributable to the family court. In addition, other policy issues relevant to the implementation of the family court are set out.

It is my firm belief that with its specialized purpose, this restructured court will provide a more effective and satisfactory forum for the resolution of problems affecting children and families in Virginia. I look forward to the successful consideration of the resource needs of the Family Court by this Session of the General Assembly and by our Governor.

  
Harry L. Carrico  
Chief Justice of Virginia  
Chairman, Judicial Council of Virginia

HLC/ed  
Enclosure

# REPORT ON THE IMPLEMENTATION OF THE FAMILY COURT

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## **EXECUTIVE SUMMARY**

### **Introduction**

During the 1993 Session of the General Assembly, the members acted upon the most important piece of legislation presented in this decade to assist Virginians involved in family-related issues in the courts. This legislation establishes a family court for Virginia to be effective January 1, 1995. This is accomplished by restructuring the juvenile and domestic relations district court and creating a family court. It is the culmination of years of study on how to best serve Virginia children and families who are in crisis and before the courts. The family court bill is the direct result of two years of pilot testing in ten urban and rural courts across the state during calendar years 1990 and 1991 through the Family Court Pilot Project.

The Judicial Council of Virginia is required by the family court legislation to oversee the implementation of the family court and to make recommendations to the 1994 Session of the General Assembly which support the financial and personnel requirements of the family court system. This report fulfills this statutory mandate.

### **Family Court Planning Advisory Committee**

The Judicial Council has carried out its responsibilities for implementation of the family court with the assistance of the Family Court Planning Advisory Committee. This Committee was appointed by the Chief Justice of Virginia in the Spring of 1993. The 28 members of this Committee represent a wide array of constituencies interested in the court system. This Committee has considered, among other issues necessary amendments to Rules of the Supreme Court; procedures, forms and other relevant transition issues for the handling of cases in the family court; training for family court judges; and personnel and resources required for the family courts.

During the process of revising the Rules of the Supreme Court and developing family court procedures, several technical amendments to the statutes which govern the conduct of family court cases have been identified. This legislation is included in this report. The amendments intended to clarify the proper procedures attendant to family court cases and can generally be characterized as not proposing substantive changes in the law.

### **Local Planning Process**

Each judicial district was mandated by the family court legislation to develop a local implementation plan for the family court by September 30, 1993. The development of these plans was led by the Chief Circuit Judge and Chief Juvenile and Domestic Relations District Court Judge in each circuit and district. The legislation required that the following individuals be involved in this planning process:

- Circuit Court Clerks
- Juvenile Court Clerks
- Juvenile Court Service Unit Directors
- Members of the local bar
- Affected local governing bodies

The plans addressed the need for new judges, court personnel, mediators, equipment and facilities, and other relevant issues identified at the local level in the transition to the restructured court. The identification of this need began with the number of judges, clerks and mediators allocated to each district in accordance with the methodologies approved by the Judicial Council and described in Senate Document No. 22 as reported to the 1993 Session of the Legislature. These plans and follow-up meetings with many of the local planning teams in the fall of 1993 served as the basis for the family court resource proposals in this report.

### Recommendations for Family Court Resources

The guiding principle of the family court planning process has been to identify the resources necessary for family court judges and clerks to assume the cases transferred from the circuit court without their having to experience any increased workload burden. A total of 32 new family court judgeships, 111 court clerk personnel and 73 mediators are recommended for the 32 judicial districts. The total state cost of funding the judge and clerk positions and for purchasing the mediation services for fiscal year 1994-95 is \$7,273,834 and for fiscal year 1995-96 is \$9,596,554 for a total of \$16,870,388 for the biennium.

Each local family court plan identified the impact on its court facilities and equipment which it anticipated from implementation of the family court. The Judicial Council estimate for these local costs is \$5,096,047 on a statewide basis. If the four judicial districts with the most costly local impacts are set aside, the total local costs for the remaining 28 judicial districts is \$1,614,656. The Council recommends the continuation of the current public policy in Virginia whereby localities are responsible for funding facilities and equipment for the court system in accordance with § 16.1-69.50 of the Code of Virginia.

Some local planning teams also identified a need for additional bailiffs for the family court. The Judicial Council believes that provision for security through bailiffs in the family court is an important resource to assure the proper functioning of this court.

### Distribution of Judgeships

The allocation of new judgeships for the family court is based on the volume of family-related cases to be transferred from the circuit court. In some districts these caseloads do not justify an additional full-time judge. In order to implement the concept of a family court without building into the court system excess judicial capacity, sharing arrangements are proposed on an interim basis between certain adjoining districts. The legislation creating the new family court judgeships is included in this report and specifically incorporates these sharing arrangements.

## Mediation Services in the Family Court

The family court legislation provides for the referral of litigants in the family court to mediation. The availability of this alternative to the traditional adversarial procedures of the court system is critical to the ultimate success of the family court. The Judicial Council is committed to providing the capacity to mediate every contested divorce case in the family courts when the litigating parties agree to mediation. Funds are included in the request for family court funding to assure the availability of this service across the Commonwealth. The Council recommends that mediation services to support the family court be provided through independent contractors rather than through hiring state employees. Through this mechanism of independent contracting, localities are not required to provide physical or personnel support for mediation services.

## Recommendation for Funding the Family Court

The resources necessary to establish a family court system in Virginia will require a total of \$16,870,388 in state funds for the 1994-96 biennium: \$7,273,834 for fiscal year 1994-95 and \$9,596,554 for fiscal year 1995-96. To generate the necessary revenue to fund the family court system, the Council recommends an increase of \$3.00 in the processing fee in district court criminal and traffic cases and a \$3.00 increase in civil fees in district courts. This approach is recommended because it can produce sufficient funds to pay for the changes with the smallest impact on the individual user of the court system. Because of the large volume of cases which go through these courts, a \$3.00 increase in fees will produce the needed revenues. The Council recommends the continuation of the current state policy which provides that localities are responsible for funding facilities and equipment for the court system.

## Conclusion

A firm foundation for implementation of a statewide family court system on January 1, 1995, is provided by the recent pilot project, action by the 1993 Session of the Legislature to establish the framework for the court and by the comprehensive local planning process. What remains to be done is to provide the necessary resources to operate this restructured system in an effective manner. Legislative action which funds the family court will accord the legal problems of Virginia's families and children the priority they deserve in our court system.

## INTRODUCTION

During the 1993 Session of the General Assembly, the members acted upon the most important piece of legislation presented in this decade to assist Virginians involved in family-related issues in the courts. This legislation establishes a family court for Virginia to be effective January 1, 1995. This is accomplished by restructuring the juvenile and domestic relations district court and creating a family court. It is the culmination of years of study on how to best serve Virginia children and families who are in crisis and before the courts. The family court bill is the direct result of two years of pilot testing in ten urban and rural courts across the state during calendar years 1990 and 1991 through the Family Court Pilot Project.

The Report on the Family Court Pilot Project to the 1993 Session in Senate Document No. 22 indicated that litigants in the pilot family courts consistently rated their court experiences more positively on questions reflecting their satisfaction with the court process and their case results; their assessment of the quality of justice which they were afforded; and on the psychological impact of the proceedings on themselves and, where applicable, their children. Since at least 20% of divorces have other related cases in the juvenile court, the consolidation of all family matters is critical to the judicial system's ability to provide a quality resolution of family disputes. A court which uses only judges trained in family law and in the related aspects of how families can be dysfunctional will enhance professional excellence in decisionmaking and provide the highest quality resolution of disputes. Litigants in the pilot courts expressed significantly greater satisfaction with the overall processing of their divorces in terms of time, cost and psychological impact when they were before the family courts. Providing a family court which is adequately supported with judges, court personnel, mediation services and effective policies and procedures will make available to all Virginia families and children the more accessible and responsive judicial forum tested during the Pilot Project.

To provide for a smooth transition to this revised court structure, the Judicial Council of Virginia has overseen a statewide and local planning process during 1993. This responsibility has been carried out in accordance with the following mandate found in the Fourth Enactment Clause of Chapter 929 of the 1993 Acts of Assembly which requires this report to the Legislature.

*4. That the Judicial Council of Virginia shall oversee the development of local implementation plans for the family court in each judicial circuit. During 1993, the Chief Circuit Court Judge and the Chief Juvenile and Domestic Relations District Court Judge for each judicial circuit shall jointly develop a plan for establishing the family court in their circuit and district. This planning process shall include affected local governing bodies, Circuit Court Clerks, Juvenile and Domestic Relations District Court Clerks, and Court Service Unit Directors and members of the local bar and may include any other members of the community interested in improved court services. This effort shall be*

*supported by the Office of the Executive Secretary of the Supreme Court of Virginia.*

*The local plans shall address the need for new judges, court personnel, equipment and facilities and any other relevant issues in the transition to the new court. These plans shall be submitted to the Judicial Council of Virginia not later than September 30, 1993.*

*The Judicial Council shall make recommendations to the 1994 Session of the General Assembly which support the financial and personnel requirements of the family court system taking into consideration the local plans and shall include relevant fiscal needs in the 1994-1996 budget for the judiciary. The Council also shall submit, by December 1, 1993, to the Senate and House Courts of Justice Committees, the House Appropriations Committee, and the Senate Finance Committee, a report which is based on consultation with all entities involved in the planning process and which specifies the estimated financial impact on each locality due solely to the creation of the family court and which recommends a method for funding these costs.*

#### **Family Court Planning Advisory Committee**

The Judicial Council has carried out its responsibilities for implementation of the family court with the assistance of the Family Court Planning Advisory Committee. This Committee was appointed by the Chief Justice of Virginia in the Spring of 1993. The 28 members of this Committee represent a wide array of constituencies interested in the court system: members of the judiciary, court personnel, lawyers, legislators, local government representatives, advocacy groups, sheriffs and academia. The Advisory Committee was directed to assist the Judicial Council by addressing these issues:

- Necessary amendments to Rules of the Supreme Court
- Procedures, forms and any relevant transition issues for the handling of cases in the family court
- Training for family court judges and personnel
- Resources required for the family courts
- Ensuring the maintenance of existing judges and staff in the circuit courts
- Other issues which may arise during the course of the Committee's work



In order to complete the extensive tasks assigned to the Committee, subcommittees were established to function during 1993 and 1994 or both depending upon the required due date of the issues they were assigned. A schedule of events for the family court implementation and planning process for 1993 and 1994 can be found in Appendix D to this report.

### Subcommittee on Rules

This group is chaired by Judge E. Preston Grissom, Chesapeake Circuit Court, and is reviewing the Rules of the Supreme Court of Virginia which are applicable to cases in the family court. A draft of the revised rules will be available for review by all interested groups in early 1994. The subcommittee proposes to rename Part Eight of the Rules, Juvenile and Domestic Relations District Courts, as the rules applicable to the family court and to incorporate by reference when necessary, relevant rules from other parts. The goal is to make the Family Court Rules as complete as possible and to make their use as simple as practical. The subcommittee is cognizant of the fact that a significant number of litigants in the family court will proceed without an attorney. At the same time, the subcommittee is guided by the principle that the rules and procedures now applicable in the circuit court to the cases being transferred to the family court will be maintained in the family court, and that these rules will be consistently applied to all cases appealable to the Court of Appeals from the family court. Substantive changes will be made only when that is essential to implementing the philosophy of the restructured court.

During this rules revision process and in the development of procedures for the family court by the Subcommittee on Procedures, Forms and Transition, several technical amendments to the statutes which govern the conduct of family court cases have been identified. The Subcommittee on Rules reviewed these issues, and legislation which proposes these amendments is included in this report. Each of these amendments is intended to clarify the proper procedures attendant to family court cases and can generally be characterized as not proposing substantive changes in the law. A summary of these statutory proposals is as follows. The legislation to accomplish these changes can be found in Appendix A.

§ 8.01-217. How name of person may be changed. The amendment proposed in paragraph B permits certified copies of family court orders to be transmitted to the circuit court clerk's office for recording and indexing instead of requiring the original of such orders to be so transmitted.

§ 14.1-135.1. Fees for services in selected civil cases. In paragraph C.1, the fee to be paid the sheriff for service of process in certain cases is amended to establish a one time fee to be paid at the time of filing such a suit or petition and to prohibit the charging of any additional fees for this purpose. The fee proposed to be charged for suits for divorce, annulment or affirmation of marriage, separate maintenance and equitable distribution based on a foreign decree is \$25.00. The proposed sheriff's fee for petitions for adoption, change of name, amendment of a record of birth, and judicial review of school board actions or hearing officer decisions is \$15.00. The current law permits the assessment of a \$5.00 fee for each paper

served by the sheriff in these cases. This includes service on the respondent, witness subpoenas, and subpoenas duces tecum. Consolidation of these fees is intended to simplify the collection process for litigants and the courts. No diminution in revenue generated for the sheriffs is anticipated.

**§ 16.1-107. Requirements for appeal.** A new sentence is added at the end of this statute to make clear that this section does not apply to cases appealed to the circuit court from the family court. The law governing such appeals is found in § 16.1-296 of the Code of Virginia.

**§ 16.1-276.1. Recording evidence and incidents of trial in certain cases and cost thereof.** This new section to be added to the family court law is substantially similar to § 17-30.1 of the Code. The addition of this new section will authorize family court judges to provide for a record of the evidence and incidents of trial in those family court cases appealable to the Court of Appeals. This is the same authority currently exercised by circuit court judges for these same cases.

**§ 16.1-289. Review of court orders.** Amendments at the beginning of paragraphs A and B are intended to correct inaccurate wording used in the 1993 family court legislation to describe to which cases this section applies. This section applies to all cases "appealable" from the family court and not just to cases which are actually "appealed."

It is proposed that the final paragraph of this section added in the family court bill during the 1993 Session of the General Assembly be repealed. These two sentences which have not yet gone into effect have been found to be difficult to interpret and to be overly broad. It is now believed that other provisions of the Code or case law can adequately address the issues which originally gave rise to this language.

**§ 16.1-298. Effect of petition for or pendency of appeal; bail.** A sentence is added to the conclusion of this statute to make it clear this section does not apply to family court cases which are appealed to the Court of Appeals. It applies only to family court cases appealed to the circuit court. Whether or not a family court order is suspended pending an appeal to the Court of Appeals is governed by § 8.01-676.1.

**§ 20-107.3. Court may decree as to property of the parties.** The amendments proposed in paragraphs C and D of this section permit certified copies of family court orders to be transmitted to the circuit court clerk's office for recording and indexing or docketing instead of requiring the original of such orders to be so transmitted.

#### **Subcommittee on Procedures, Forms and Transition**

This group is chaired by Judge Roy B. Willett, Roanoke City Circuit Court, and is developing procedures to govern those cases being transferred from the circuit court into the family court. It will also review all forms applicable to cases tried in the family court. Both of these efforts are being guided by the findings of the Pilot Project that the restructured court

should be accessible, affordable and user friendly. In addition, procedures which facilitate a smooth transition from circuit court jurisdiction to family court jurisdiction over the transferred cases in accordance with Enactment Clauses 6, 7 and 8 of Chapter 929 of the 1993 Acts of Assembly will be considered.

This subcommittee also considered where mediation services to support the family court could best be located and managed. A number of alternatives were explored. These included the location of mediators in juvenile court service units, under the aegis of the family court judge or family court clerk and as independent contractors. This final option, independent contractors, was determined to present the most effective means of providing mediation services to litigants in family cases being transferred from the circuit court to the family court. This approach was adopted by the Advisory Committee and the Judicial Council and is more fully discussed later in this report.

Significant time has also been devoted by this subcommittee to developing a procedure to govern the referral of litigants to mediation and a screening of these litigants to identify any involvement in family violence. The Judicial Council is sensitive to the concerns of those who are involved with adult and child victims of domestic violence and the use of mediation with these families. This screening and referral procedure is intended to address these concerns.

Finally, a proposal of the Virginia Court Clerks' Association concerning records retention and order books in the family court was reviewed by this subcommittee. The circuit court clerks suggested that their offices be the permanent repository of all court records for cases whose jurisdiction will be transferred from the circuit court to the family court. After a full discussion, it was determined that the records management policies now in effect in the juvenile and domestic relations district courts which will be continued in the family courts will not reasonably accommodate the involvement of the circuit court clerks in family court case papers. In addition, the availability of past family court case records in the family court will be important to accomplishing the goal of the family court to more comprehensively resolve family disputes and not just decide cases.

### Subcommittee on Training

The family court legislation requires that all existing juvenile court judges and substitute and retired judges who wish to sit in the family court and appropriate personnel in the juvenile court clerk's office receive training developed by the Judicial Council or the Committee on District Courts prior to January 1, 1995. The Subcommittee on Training, chaired by Professor Robert E. Shepherd, Jr., of the University of Richmond Law School, has begun the process of developing this training and determining when it should be offered during 1994. Information about the family court will also be distributed to other individuals and entities who will be involved with the family court system but who will not be trained directly by the court administration.

Topics on which training or information for implementation of the family court are being developed include the following: family court concept and jurisdiction and overview of the legislation; family court rules; procedure and forms; annulment, affirmation and divorce; economic consequences of divorce; procedures and law of adoption; custody and visitation; child and spousal support; juvenile court law; family crimes; administrative appeals; law and procedures for mediation; Comprehensive Services Act for At-Risk Youth and Families; child development and the effect of divorce on children; and cultural competency.

#### Subcommittee on Circuit Court Resources

The Judicial Council is committed to maintaining the current number of circuit court judges and the current staffing levels in circuit court clerks' offices. No circuit court judgeships, nor personnel positions in the circuit clerks' offices are eliminated in the Judicial Council's family court proposal. Thus, this restructuring has the practical effect of improving the ability of the circuit courts to serve the public by allowing a return to the caseload levels which they experienced in the mid-1980's. Likewise, this should slow the need to add circuit court judges and circuit clerks' office personnel in the future. The Subcommittee on Circuit Court Resources, chaired by Judge Robert W. Stewart, Norfolk Circuit Court, has focused on fulfilling this commitment during the 1994 Session of the General Assembly.

#### Subcommittee on Family Court Resources

The family court legislation required that a local planning process be undertaken in each of the 32 judicial districts during 1993. These plans addressed the need for new judges, court personnel, mediators, equipment and facilities and any other relevant issues identified at the local level in the transition to the family court. Judge Robert W. Stewart chaired this Subcommittee on Family Court Resources which reviewed the requests of the judicial districts for family court judges, clerks and mediators and recommended to the full Advisory Committee the proper allocation of resources for each district. This group also considered the local costs for implementation of the family court as identified by the localities in their plans. These costs included impacts on local facilities and equipment and the need for additional bailiffs and recording equipment in courtrooms.

This subcommittee's initial deliberations in determining the appropriate number of additional judges, court personnel and mediators needed for the family court were based upon an analysis of the number of "family-related cases" that will be transferred from the circuit court to the family courts in each jurisdiction. This analysis and the resulting statistical methods used to estimate the number of additional judges and staff needed to operate the family courts effectively also was the starting point for the local planning process. The recommendations of the Judicial Council for resources for the family courts have the same foundation.

## **Description of Statistical Methods Used in Determining the Number of Additional Judges, Court Personnel and Mediators Needed to Establish the Family Court System in Virginia**

In December, 1992, the Judicial Council submitted an evaluation report to the General Assembly on the results of the Family Court Pilot Project. Included in that report was an impact study of the estimated costs involved in providing the additional judges, clerks, and mediators needed to implement a family court system effectively. The cost estimates were based upon an analysis of the number of "family-related cases" that would be transferred from the circuit courts to the family courts in each jurisdiction. A detailed description of the statistical methods used in calculating the estimated numbers of positions needed within each of the judicial districts is included in Appendix B of this report.

In developing the impact study, the Council was guided by one key objective. That objective was to determine the number of judges and clerks that currently are required to handle the volume of "family-related" caseloads in the circuit courts so that that level of resources could be used as a basis for estimating the number of additional judges and staff needed for the proposed family courts to operate effectively. In selecting this approach, the intent was to provide to family court judges and clerks the resources necessary for them to assume the cases transferred from circuit court without their having to experience any increased workload burden.

This objective was used in conducting the impact analysis and in determining the specific statistical methods to be used in projecting the number of additional positions for each district and locality. The steps followed in completing the analysis are summarized below.

### **I. Judge Resources**

#### ***Step 1: Determining the number of "family-related" cases in the circuit courts***

The first step in the analysis was to count the number of "family related" cases that would be transferred from the circuit courts to the family courts. Family-related cases were defined to include divorce cases, reinstatements (the filing of supplemental petitions in cases previously terminated, e.g. change of custody), adoptions and J&DR appeals.

#### ***Step 2: "Weighting" Family Court Caseloads***

Once caseload numbers for family-related cases were determined for each circuit, the next task was to estimate the proportion of judicial workload involved in disposing of these family-related cases. This distinction is particularly important to make in the area of divorce and domestic relations cases because the amount of time involved for the court varies substantially depending on how these are concluded (settlement, decree on depositions, judicial review of Commissioner's reports, judge trials).

Thus, a method of "weighting" all types of cases handled in the circuit courts by method of disposition was developed in order to identify workload as distinct from caseload. The weights were established by surveying a sample of Virginia's circuit court judges.

*Step 3: Converting Family-Related Caseloads in Circuit Courts to Equivalent Workloads in the J&DR Courts (Family Courts)*

Once the number of circuit court judges currently handling family-related cases was determined, it was then possible to begin looking at the number of judges needed to handle the influx of these caseloads into the J&DR courts, or the family courts. In this process, several factors had to be considered.

Because no provision is made for the use of commissioners in divorce cases in the family court, the weighted caseload calculated for circuit judges' workload had to be revised to take this into consideration. Further, in calculating the number of cases to be transferred into the J&DR courts, J&DR appeals were removed from the caseload figures.

The next task was to determine a method for converting family-related cases into equivalent workload or caseload units in the J&DR courts. This was necessary because of the different rates at which circuit and district court judges process cases.

Therefore, before measuring the impact of adding family-related cases to the J&DR courts, the weighted cases were translated into a number which made them more comparable to the existing cases being handled by judges in the J&DR courts. This was done by applying a "conversion" factor. The conversion factor used was the ratio of the average number of weighted cases concluded per circuit court judge to the average number of cases concluded per judge in the J&DR courts.

Applying the conversion factor to the weighted cases from circuit courts produced an equivalent workload to be added to the caseloads of judges in the J&DR District Courts, or the family court.

*Step 4: Evaluation of the Impact of the Transferred Workloads*

The impact of transferring the additional workload to the J&DR courts in each district then was evaluated using four statistical methods, as summarized below.

- a) **The District's Cases per Judge Standard Method.** The first method applied the number of concluded cases per judge in each district to the additional workload (converted cases) that will be handled in the family court. The advantage of using this method is that it provides an estimate of the additional judicial resources needed to allow case processing of the increased workload to proceed at the same level as is currently being handled in the juvenile and domestic relations district courts in each district.

- b) **The State's Urban and Rural Standards Method.** Secondly, the state urban and rural averages of cases concluded per judge were used as workload standards. This resulted in another estimate of the judgeships needed to handle the increase in the number of cases due to the influx of family-related cases from circuit courts and assumes that each district's judges process cases at the urban or rural average.
- c) **Percentage of Caseload Method.** A third method for determining the impact of transferring family-related cases from the circuit courts involved applying a percentage increase in the number of cases to the number of judges. In this method, the percentage of total caseload in each district represented by the family-related cases being transferred was calculated. The number of judges necessary to handle this caseload was determined by increasing the number of current judgeships by this percentage.
- d) **Percentage of Time Method.** The fourth method employed a "guesstimate" of the percentage of a circuit court judge's time used in family-related matters to estimate the number of full-time equivalent judgeships currently handling family-related cases. According to a survey of circuit judges, approximately 22 percent of a judge's time is occupied by family matters in the circuit courts. The number of judges handling the family-related caseload in a circuit, then, was estimated by taking 22 percent of the total number of circuit judges serving in that circuit.

## II. Estimate of the Number of Additional Personnel for the Family Court Clerks' Offices

The analysis of additional personnel needs for the family court clerks' offices utilized the same objective that guided the examination of judgeship needs. That objective is to provide the additional resources necessary for family court clerks offices to assume the cases transferred from circuit court without existing personnel having to experience an increased workload burden.

### *Step 1: Analysis of resources used in circuit court clerks' offices to handle family related cases*

A methodology similar to the judges' resource analysis also was used. Using information on current circuit court resources as supplied by the State Compensation Board, this analysis examined the existing resources being used in the circuit courts to process family-related caseloads. Information on these circuit court resources served as the basis for determining the need for additional personnel in the J&DR courts, or the family courts in each locality.

### *Step 2: Analysis of District Court Clerks' Resource Needs*

The next step was to tabulate the current number of full-time (FTE) positions in the Juvenile and Domestic Relations District Court clerks' offices. For combined courts, an estimate was made of the number of FTEs serving the J&DR court.

To determine the additional workload that would be added to J&DR District Court clerks, the total unweighted number of family-related cases (which does not include J&DR Appeals) was converted to equivalent district court work units by applying a conversion factor. Rationale for this conversion step is the same as that used in the analysis of additional judgeships, i.e., the different rates on average at which personnel are able to process cases in circuit and district courts. Then, the number of cases concluded per FTE position in each J&DR court in the district in 1992 was used as a workload standard to determine the additional staff required to handle the additional workload. Again, using this standard followed the principle that additional resources should be granted at a level sufficient enough so that the additional caseload can be processed without changing workloads of existing personnel.

### III. Determining the Need for Mediator Positions

The methodology used to project the number of mediators needed to serve the family court was based upon research conducted in Virginia circuit courts. Based upon this research, it is estimated that approximately 28 percent of divorce cases filed are contested. In consultation with experienced mediators currently handling cases in the J&DR courts, an estimate of the number of cases that can be handled by a full-time mediator was established: 125 cases per year. Then, 28 percent of the total number of divorces concluded in 1992 in each locality was calculated and divided by the standard of 125 cases per full-time mediator. This resulted in an estimate of the number of mediators needed for each locality within each district.

#### Local Planning Process

Each judicial district was mandated by the family court legislation to develop a local implementation plan for the family court by September 30, 1993. The development of these plans was led by the Chief Circuit Judge and Chief Juvenile and Domestic Relations District Court Judge in each circuit and district. The legislation required that the following individuals be involved in this planning process:

- Circuit Court Clerks
- Juvenile Court Clerks
- Juvenile Court Service Unit Directors
- Members of the local bar
- Affected local governing bodies

Initial drafts of these local plans were completed and submitted to the Judicial Council in August 1993. The plans addressed the need for new judges, court personnel, mediators, equipment and facilities, and other relevant issues identified at the local level in the transition to the restructured court. The local planning efforts were supported by the Office of the Executive Secretary, Supreme Court of Virginia (OES). This staff assistance began with the distribution of local planning materials to each chief circuit judge and each chief juvenile judge in April 1993. These planning materials included an identification of the number of judges, clerks and mediators allocated to each district in accordance with the methodologies approved by the Judicial Council and described in Senate Document No. 22 as reported to the 1993



**Session of the Legislature.** When requested by a judicial district, OES staff made technical assistance visits in May through July of 1993 with local planning teams to explain the local planning materials prepared for each of the courts as well as to discuss the overall philosophy and intent of the family court planning process. The planning process and worksheets used by each of the districts in the completion of their implementation plans can be found in Appendix C to this report.

After the Judicial Council received the plans in August 1993 and the requests of the districts for resources and identification of local costs were reviewed, follow-up contacts were made by OES. During the months of August through November 1993, approximately one-third of the local plans of the judicial districts were finalized. Staff visits were scheduled with the remaining districts during October and November in an attempt to resolve outstanding resource requests. Districts which continued to disagree with the resources allocated to them in accordance with the methodologies previously approved by the Judicial Council were invited to appear before the Subcommittee on Family Court Resources of the Family Court Planning Advisory Committee. This subcommittee heard presentations from 12 districts and considered the plans of 7 other districts which chose not to appear. At the conclusion of these deliberations, the subcommittee determined to increase the allocation of judges and clerks for certain districts based upon these presentations and their plans, while other requests were not approved. Those districts which continued to disagree with the allocation of resources were invited to submit additional written documentation which had not been previously presented prior to the final December 1993 meeting of the Family Court Planning Advisory Committee. Four districts took advantage of this opportunity, and their positions were considered in the final recommendations for family court resources made by the Advisory Committee.

The passage of legislation establishing a family court system in Virginia presents an exciting opportunity for the court system to better serve families and children. To take full advantage of this opportunity, the expertise and resources of the local courts, members of the bar and local governing bodies is being utilized in planning for the implementation of the family courts. The Judicial Council is appreciative of the many hours devoted by several hundred people across the Commonwealth this year in the development of these local family court plans.

### **Recommendations for Family Court Resources**

The recommendations of the Judicial Council for judges, clerks and mediators in each judicial district are founded upon the statistical methods previously described and modified by the requests of the local planning teams and the work of the Family Court Planning Advisory Committee. The guiding principle of this planning process has been to identify the resources necessary for family court judges and clerks to assume the cases transferred from the circuit court without their having to experience any increased workload burden. The process did not attempt to allocate additional resources to juvenile courts which are overburdened with their current caseloads. Such adjustments for judges and clerks will be addressed in the normal biennial budget process.

The numbers of judges, clerks and mediators recommended for each judicial district are set out in the "Table of Family Court Resources Recommendations" on page 14. A total of 32 new family court judgeships, 111 court clerk personnel and 73 mediators are recommended for the 32 judicial districts. The total state cost of funding the judge and clerk positions and for purchasing the mediation services for fiscal year 1994-95 is \$7,273,834 and for fiscal year 1995-96 is \$9,596,554 for a total of \$16,870,388 for the biennium. In some instances, less than a full-time position is recommended for a judge, clerk or mediator. In the case of judges, it is anticipated that some judicial districts whose transferred caseloads do not justify an additional full-time judge will share a judge with an adjourning district. This arrangement is discussed later in this report. In the case of clerks, it is currently a common practice in many clerks' offices to employ part-time personnel when full-time employees are not warranted by the workload. Mediators will be independent contractors who will be paid for handling a specific caseload, so the number of mediators allocated per district more fairly represents the purchase of service dollars that district will be allocated.

Each local family court plan identified the impact on its court facilities and equipment which it anticipated from implementation of the family court. Those costs are reported in two ways in the final column of the "Table of Family Court Resources Recommendations." The column entitled "Local Estimate" includes all costs identified in the plans filed by each district and totals \$7,697,141. The column entitled "Judicial Council Estimate" is significantly lower and amounts to \$5,096,047. This estimate subtracts from these local costs all facility and equipment costs attributable to mediators. The mediators will not be state employees but will be contracted with on an independent basis. Local governments will not be required to provide office space or equipment for the mediators. The policy decision to use independent contractors for mediation was arrived at after the local plans were filed.

In selected districts as noted in the footnotes, additional costs have been subtracted from the local estimates when expenses have been identified that are not directly related to the family court. In many instances, improvements to local court facilities are needed, but the expenditures are not solely related to the creation of the family court. It can be noted that the local costs identified for Districts 2 (\$492,671), 3 (\$444,877), 19 (\$1,821,000) and 31 (\$722,843) account for \$3,481,391 of the total statewide local costs. If these jurisdictions' costs are set aside, the total local costs for the remaining 28 judicial districts are \$1,614,656.

The Judicial Council presents these local cost estimates in fulfillment of its commitment to identify fully the fiscal impact of the family court. The local cost estimates were generally developed by local government officials in consultation with the local planning teams. The Council acknowledges that these costs are reasonable estimates of the local fiscal impact of implementing the family court but has not independently verified each projection. The Council recommends the continuation of the current public policy in Virginia whereby localities are responsible for funding facilities and equipment for the court system in accordance with § 16.1-69.50 of the Code of Virginia.

Each local district was also asked to complete a questionnaire concerning the use of bailiffs in family court, the provision of recording equipment and the current costs incurred by circuit courts in microfilming the records of cases being transferred from the circuit court to the family court. A summary of that information is presented in the table entitled "Summary of Local Plan Responses to Questions" which can be found beginning on page 17. This information was requested in order to adequately identify and plan for the services needed in the family court. With regard to bailiffs, the Judicial Council believes that provision for security through bailiffs in the family court is an important resource to assure the proper functioning of this court. The case types to be combined in the family court involve some of the most volatile and emotional issues handled by the court system, and security must be provided for the court and the visiting public. In some areas of Virginia, sheriffs will be able to absorb the work associated with the cases being transferred to the family court. In jurisdictions where the sheriff's workload precludes the assumption of this additional work, localities will be asked to provide such resources through supplements to the sheriff's office budget, since state law does not permit the State Compensation Board to fund bailiffs in civil cases.

Recording equipment is not required in circuit courts and is not a requirement for family courts. The majority of district courts do not have recording equipment and will not have it as family courts. It will continue to be the responsibility of the litigants to provide a court reporter for making a record or otherwise prepare a statement of facts for an appeal to the Court of Appeals.

Finally, each locality was asked to identify the annual cost of microfilming court records in the circuit court clerk's office and the portion of this amount believed to be attributable to those cases being transferred to the family court. These are costs currently being incurred by the court system and paid for with a combination of state and local funds. Although state law does not require microfilming of case records, the cases being transferred from the circuit court to the family court have generally been determined to fall within the provisions of § 17-47.4D of the Code of Virginia and to require permanent retention of the case file. Sections 16.1-69.55 and 16.1-306.1 in the family court legislation conform to the relevant provisions of § 17-47.4. During 1994 a uniform approach to preserving these family court records and ensuring their security will be developed. In this effort, the data collected on current local expenses for microfilming will be utilized. The budget recommendations for the family court include funds for microfilming.

## TABLE OF FAMILY COURT RESOURCES RECOMMENDATIONS

Circuit/District	Judges	Clerks	Mediators	Costs	
	Judicial Council Recomm.	Judicial Council Recomm.	Judicial Council Recomm.	Local Estimate	Judicial Council Estimate *
1 Chesapeake	1.00	2.00	1.65	\$216,215	\$195,564
2 Virginia Beach	2.60	7.00	6.00	\$800,071	\$492,671 (a)
2A Accomack, et. al.	0.40	0.80	0.50	\$76,930	\$12,210 (b)
3 Portsmouth	0.60	1.40	2.00	\$610,922	\$444,877
4 Norfolk	2.00	3.00	3.00	\$238,740	\$168,435
5 Franklin, et. al.	0.40	1.80	1.00	\$18,785	\$9,785
6 Brunswick, et. al.	0.40	2.00	1.00	\$29,497	\$20,997
7 Newport News	1.00	2.50	2.50	\$47,370	\$19,816
8 Hampton	1.00	1.32	1.25	\$142,878	\$97,503 (c)
9 Charles City, et. al.	1.00	3.20	2.00	\$245,159	\$94,434 (d)
10 Appomattox, et. al.	1.00	2.40	1.40	\$39,318	\$28,073 (e)
11 Amelia, et. al.	0.60	1.80	1.00	\$59,015	\$25,890 (f)
12 Chesterfield, et. al.	1.00	3.26	3.00	\$268,037	\$22,900 (g)
13 Richmond	1.00	3.00	2.00	\$26,490	\$19,900
14 Henrico	1.00	3.00	3.00	\$73,945	\$22,823 (h)
15 Caroline, et. al.	1.00	4.50	3.00	\$135,811	\$48,034 (i)
16 Albemarle, et. al.	1.00	4.00	2.26	\$214,890	\$71,405
17 Arlington	1.00	4.00	2.00	\$37,720	\$27,870
18 Alexandria	1.00	4.00	2.50	\$250,550	\$100,550 (j)
19 Fairfax	4.00	14.00	8.00	\$1,855,000	\$1,821,000
20 Fauquier, et. al.	0.80	2.64	1.55	\$53,295	\$15,105
21 Henry, et. al.	0.40	2.00	1.35	\$27,380	\$16,030
22 Danville, et. al.	0.60	2.40	2.00	\$30,325	\$23,500
23 Roanoke City, et. al.	1.00	5.00	3.05	\$88,090	\$54,790
24 Amherst, et. al.	1.00	4.00	2.00	\$145,112	\$84,687 (k)
25 Alleghany, et. al.	0.50	4.60	2.00	\$51,350	\$39,895
26 Clarke, et. al.	0.50	4.60	3.00	\$882,813	\$262,825 (l)
27 Bland, et. al.	1.00	6.00	2.64	\$171,985	\$87,655 (m)
28 Bristol, et. al.	0.40	1.39	1.22	\$104,250	\$16,275 (n)
29 Buchanan, et. al.	0.60	3.00	1.49	\$13,770	\$13,770
30 Lee, et. al.	1.00	2.33	1.43	\$18,585	\$13,935 (o)
31 Prince William, et. al.	1.20	4.00	2.22	\$722,843	\$722,300
<b>Total</b>	<b>32.00</b>	<b>110.94</b>	<b>73.01</b>	<b>\$7,697,141</b>	<b>\$5,096,047</b>

\* All local costs attributable to mediators for the family courts have been subtracted from the local estimates of costs submitted in August 1993. The mediators will not be state employees but will be contracted with on an independent basis. Local government will not be required to provide office space or equipment for the mediators. This policy decision was made after the local family court plans were filed.

## NOTES

- (a) District 2 The costs of computers for clerks (\$41,750) and for judges (\$10,500) have been subtracted since this equipment is paid for through the Office of the Executive Secretary, Supreme Court of Virginia (OES). In addition, the costs for 3 clerks' workstations (\$8,250) have been deducted since the Judicial Council approved 3 less clerk positions than were requested.
- (b) District 2A The costs for additional hearing rooms in both Accomack and Northampton Counties (\$52,300) have been subtracted since they do not appear to be justified by the caseload transferred to these courts by the family court project (208 cases for the district). While the existing workload in these localities may require additional courtroom space, without a resident family court judge, additional courtrooms should not be necessary for the family court.
- (c) District 8 The costs for 1 clerk's workstation (\$3,245) have been deducted since the Judicial Council approved 1 less clerk position than was requested.
- (d) District 9 The costs identified for the storage of records in the clerk's office in King and Queen County (\$5,700) and for judge's chambers and a hearing room in this same locality (\$92,300) have been subtracted since they do not appear to be justified by the caseload being transferred to this court by the family court project (23 cases).
- (e) District 10 The Juvenile Court Clerk's Office in Lunenburg has agreed to a reduction of \$3,795 in the cost of filing units for this court.
- (f) District 11 The costs identified for the storage of records in the clerk's office in Petersburg (\$10,000 in floor space) and for a hearing room (\$7,100) in Petersburg have been subtracted since they do not appear to be justified by the caseload being transferred to this court by the family court project (162 cases).
- (g) District 12 The cost of a computer for the judge (\$4,000) has been subtracted since this equipment is through the OES. In addition, the costs identified for chambers and a hearing room for one judge (\$100,821) have been subtracted in light of county plans to build a new courthouse for the juvenile court in 1997-98 and it is questionable whether adding on to the current court facility would be economically feasible in the short term.
- (h) District 14 The costs for computers (\$14,500) have been subtracted since this equipment is paid for through OES. In addition, the facility costs for a judge's secretary (\$7,048) and two clerks (\$2,736) have been deducted since these positions were not approved by the Judicial Council. Finally, these reduced costs resulted in reduced contingency and inflation factors accounted for by the district in the amount of \$6,860.

- (i) District 15 The costs for an additional hearing room in Richmond County (\$19,900) have been deducted since they do not appear to be justified by the caseload transferred by the family court project, (31 cases). In addition, facility costs for two clerks (\$9,300) have been deducted since Spotsylvania has been allocated only 1 clerk's position. The costs of filing space in Spotsylvania have also been reduced by \$5,560 since the incorrect number of cases to be transferred was cited in justifying this cost.
- (j) District 18 Revised costs were submitted by Alexandria to reflect the amount shown.
- (k) District 24 The costs identified for the Bedford Juvenile Court Clerk's Office of \$48,000 have been subtracted since they do not appear to be justified by the caseload transferred to this court by the family court project (326 cases).
- (l) District 26 The costs for a judge's chambers and a hearing room in Shenandoah County of \$440,000 have been subtracted since they do not appear to be justified by the caseload transferred to this court by the family court project (183 cases). While the existing workload in this locality may require additional space in the courthouse, without a resident family court judge, these expenditures should not be necessary for the family court.
- (m) District 27 The cost of a computer (\$3,500) has been subtracted since this equipment is paid for through OES. In addition, a revised estimate of local costs submitted by Pulaski County reduced the costs in the clerk's office by \$10,000.
- (n) District 28 The costs for judge's chambers and hearing rooms in Washington and Smyth Counties of \$43,050 have been subtracted since they do not appear to be justified by the family court project. The addition of two days per week of a judge to this district should not require such expenditures.
- (o) District 30 The costs of one workstation (\$1,375) for a clerk in Wise County have been subtracted as agreed to in the meeting held with District 30 on November 17, 1993.

## FAMILY COURT PROPOSAL - SUMMARY OF LOCAL PLAN RESPONSES TO QUESTIONS

		1	2	3	4	5	6	7	8	9
District / Circuit		Are bailiffs now used in juvenile court?	If "yes," can they absorb FC cases?	If "no," can circuit court bailiffs be used in FC?	Additional bailiff hours per week needed in FC	Annual cost	Will locality provide recording equipment?	Cost of purchase and installation of recording equipment	Annual cost of micro-filming in circuit court	Microfilm cost attributable to FC
1	Chesapeake	Yes	No	No	80	\$61,820	No	N/A	\$123,000	\$3,144
2	Virginia Beach	Yes	No	No	160	\$95,760	Yes	\$24,000	\$3,000	\$600
2A	Accomack	Yes	No	No	128	\$59,840	No	N/A	\$10,000	\$725
	Northampton	Yes	No	No	43	\$19,850	No	N/A	\$6,435	\$650
3	Portsmouth	Yes	No	No	24	\$14,400	No	N/A	\$19,067	\$6,873
4	Norfolk	Yes	No	No	40	\$25,000	No	N/A	\$19,585	\$7,000
5	Franklin	See Southampton.								
	Isle of Wight	Yes	Yes	N/A	8	\$6,200				
	Southampton	Yes	No	No	20	\$11,621	No	\$5,000	\$65	\$65
	Suffolk	Yes	No	No	40	\$20,000	No	N/A	\$19,500	\$300
6	Brunswick	Yes	Yes	N/A	N/A	N/A	No	N/A	\$4,000	Not Known
	Emporia	Yes	Yes	N/A	N/A	N/A	No	N/A	\$7,800	Not Known
	Greensville	Yes	Yes	N/A	N/A	N/A	No	N/A	\$4,000	Not Known
	Hopewell	Yes	Not Known	Not Known	Not Known	N/A	Not Known	\$3,000	\$2,500	Not Known
	Prince George	Yes	No	Yes	N/A	N/A	No	N/A	Not Known	Not Known
	Surry	Yes	Yes	N/A	N/A	N/A	No	N/A	\$7,800	\$390
	Sussex	Yes	Yes	N/A	N/A	N/A	No	N/A	\$7,800	Not Known
7	Newport News	Yes	No	No	40	\$25,000	No	N/A	\$16,350	\$4,087
8	Hampton	Yes	Yes	N/A	N/A	N/A	No	N/A	\$8,200	\$3,280
9	Charlottesville	Yes	No	No	4	\$2,050	No	N/A	\$8,004	\$375
	Gloucester	Yes	Yes	No	16	\$7,199	No	N/A	Not Known	Not Known
	King & Queen	Yes	Yes	N/A	N/A	N/A	No	N/A	\$3,000	\$1,600
	King William	Yes	Yes	N/A	4	\$0	No	N/A	\$6,000	\$1,200
	Mathews	Yes	No	No	12	\$25,000	No	N/A	Not Known	\$110
	Middlesex	Yes	No	No	8	\$2,880	No	N/A	\$720	\$180
	New Kent	Yes	No	No	4	\$1,560	No	N/A	\$6,000	\$60
	Williamsburg	Yes	Yes	N/A	N/A	N/A	No	N/A	Use Optical Disc	Not Known
	York/Poquoson	Yes	No	Yes	N/A	N/A	No	N/A	\$23,750	Not Known
10	Appomattox	Yes	Yes	N/A	N/A	N/A	Yes	\$3,000	N/A	\$84
	Buckingham	Yes	Yes	Yes	N/A	N/A	Not Known	N/A	Not Known	Not Known
	Charlotte	Yes	Yes	Yes	N/A	N/A	Yes	\$3,000	\$4,500	\$1,500
	Cumberland	Yes	Yes	N/A	N/A	N/A	Yes	Share with CC	\$78	\$12
	Halifax	Yes	No	No	12.3	\$6,711	No	Not Known	\$10,800	\$1,000
	Lunenburg	Yes	Yes	N/A	N/A	N/A	No	N/A	\$4,150	\$350
	Mecklenburg	Yes	Yes	N/A	N/A	N/A	Yes	Now in place	\$9,472	\$320

## FAMILY COURT PROPOSAL - SUMMARY OF LOCAL PLAN RESPONSES TO QUESTIONS

		1	2	3	4	5	6	7	8	9
District / Circuit		Are bailiffs now used in juvenile court?	If "yes," can they absorb FC cases?	If "no," can circuit court bailiffs be used in FC?	Additional bailiff hours per week needed in FC	Annual cost	Will locality provide recording equipment?	Cost of purchase and installation of recording equipment	Annual cost of micro-filming in circuit court	Microfilm cost attributable to FC
11	Prince Edward	Yes	Yes	N/A	N/A	N/A	Yes	Now in place	\$2,829	\$85
	Amelia	Yes	Yes	Yes	N/A	N/A	No	N/A	\$7,800	\$7,200
	Dinwiddie	Yes	Yes	N/A	N/A	N/A	No	N/A	\$0	N/A
	Nottoway	Yes	Yes	N/A	N/A	N/A	No	N/A	\$3,600	\$500
	Petersburg	Yes	Yes	N/A	N/A	\$2,500	No	N/A	\$16,000	\$5,500
12	Powhatan	Yes	Yes	Yes	N/A	N/A	No	N/A	N/A	N/A
	Chesterfield	Yes	No	No	100	\$52,000	Yes	\$50,000	\$24,000	
Colonial Heights		See Chesterfield.								
13	Richmond	Yes	No	No	120	\$75,000	Yes	\$3,000	\$55,000	\$1,800
14	Henrico	Yes	No	No	80	\$60,000	Yes	\$2,595	\$4,630	\$2,500
15	Caroline	Yes	No	No	8	\$4,200	No	N/A	\$18,000	\$600
	Essex	Yes	Yes	N/A	N/A	N/A	Not Known	N/A	Not Known	Not Known
	Fredericksburg	Yes	No	No	8	\$3,640	No	N/A	N/A	N/A
	Hanover	Yes	No	No	8	\$5,408	No	Now in place	\$5,800	\$2,500
	King George	Yes	Yes	N/A	N/A	N/A	Yes	Not Known	Not Known	Not Known
	Lancaster	Yes	Yes	No	N/A	N/A	No	N/A	\$3,000	\$0
Northumberland		See Lancaster.								
	Richmond	Yes	Yes	No	N/A	N/A	No	N/A	\$3,000	\$0
	Spotsylvania	Yes	No	No	16	\$5,320	Not Known	N/A	\$25,000	\$6,250
	Stafford	Yes	No	No	7	\$5,096	No	N/A	\$62,500	\$1,562
	Westmoreland	Yes	Yes	Yes	N/A	N/A	No	N/A	N/A	N/A
16	Albemarle	Yes	No	No	8	No	No	N/A	\$17,000	\$2,000
	Culpeper	Yes	Yes	N/A	N/A	N/A	No	N/A	\$12,825	\$2,800
	Charlottesville	Yes	No	No	8	No	No		See Albemarle	See Albemarle
	Fluvanna	Yes	Yes	Yes	0	\$0	No	N/A	Not Known	\$300
	Goochland	Yes	Yes	N/A	N/A	N/A	No	N/A	\$6,800	\$250
	Greene	Yes	Yes	N/A	N/A	N/A	Yes	N/A	\$3,972	\$250
	Louisa	Yes	No	No	4	\$5,200	No	N/A	\$15,000	\$320
	Madison	Yes	No	Yes/No	6 to 8	\$1,820	Yes	N/A	\$4,296	\$1,600
	Orange	Yes	No	No	4	\$5,200	No	N/A	\$22,000	\$3,000
17	Arlington	Yes	Yes	N/A	N/A	N/A	Yes	N/A	\$13,000	\$4,000
	Falls Church	Yes	Yes	N/A	N/A	N/A	Yes	N/A	Included in Arlington.	
18	Alexandria	Yes	No	No	82	\$80,000	Undecided	Not Known	\$11,500	\$2,530
19	Fairfax	Yes	No	No	320	\$371,720	No	N/A	\$13,100	\$393
20	Fauquier	Yes	No	No	11.28	\$7,895	No	N/A	Not used	Not used



## FAMILY COURT PROPOSAL - SUMMARY OF LOCAL PLAN RESPONSES TO QUESTIONS

		1	2	3	4	5	6	7	8	9	
District / Circuit		Are bailiffs now used in juvenile court?	If "yes," can they absorb FC cases?	If "no," can circuit court bailiffs be used in FC?	Additional bailiff hours per week needed in FC	Annual cost	Will locality provide recording equipment?	Cost of purchase and installation of recording equipment	Annual cost of micro-filming in circuit court	Microfilm cost attributable to FC	
21	Loudoun	Yes	No	No	14.36	\$10,730	Yes	Not Known	Not Known	Not Known	
	Rappahannock	Yes	Yes	No	1.56	N/A	No	N/A	Not Known	Negligible	
	Henry	Yes	Yes	N/A	N/A	N/A	No	N/A	\$10,000	\$1,000	
	Martinsville	Yes	No	No	15	\$7,500	No	N/A	\$7,700	\$770	
	Patrick	Yes	No	No	10	\$7,500	No	N/A	N/A	N/A	
22	Danville	Yes	No	No	N/A	N/A	No	Not Known	Not Known	Not Known	
	Franklin	Yes	Yes	N/A	N/A	N/A	No	\$2,000	Not Known	Not Known	
	Pittsylvania	Yes	Yes	N/A	N/A	N/A	Yes	Now in place	Not Known	Not Known	
23	Roanoke City	Yes	No	Yes	N/A	N/A	Yes	Now in place	\$85,000	\$3,400	
	Roanoke County	Yes	No	Yes	N/A	N/A	Yes	Now in place	\$105,751	\$5,287	
	Salem	Yes	No	Yes	N/A	N/A	Yes	Now in place	\$13,500	\$540	
24	Amherst	Yes	Yes	Yes	12	\$6,296	No	\$1,500	\$10,000	\$1,000	
	Bedford	Yes	No	No	24	\$23,000	Yes	Now in place	\$35,218	\$583	
	Campbell	Yes	No	No	24	\$30,000	Yes	Now in place	\$11,804	\$1,088	
	Lynchburg	Yes	No	No	16	\$30,883	Yes	\$15,000	\$8,586	\$756	
	Nelson	Yes	Yes	Yes	3	\$1,682	Yes	\$1,500	\$7,200	\$68	
25	Alleghany	Yes	Yes	Yes	N/A	N/A	Yes	Now in place	\$14,000	\$250	
	Augusta	Yes	Yes	N/A	N/A	N/A	No	N/A	\$21,433	\$700	
	Bath	Yes	Yes	Yes	N/A	N/A	No	N/A	\$7,800	\$125	
	Botetourt	Yes	No	No	12	\$12,000	N/A	\$1,000	\$12,000	\$1,000	
	Buena Vista	Yes	Yes	N/A	N/A	N/A	Yes	N/A	\$1,200	\$120	
	Clifton Forge	Yes	Yes	Yes	N/A	N/A	No	N/A	\$3,000	\$50	
	Craig	Yes	Yes	N/A	N/A	N/A	Yes	N/A	\$1,200	\$120	
	Highland	Yes	Yes	N/A	N/A	N/A	No	N/A	\$1,200	\$18	
	Rockbridge	Yes	No	Yes	6	\$6,000	Yes	N/A	\$10,000	\$1,500	
	Staunton	Yes	Yes	N/A	N/A	N/A	No	N/A	\$6,262	\$544	
26	Waynesboro	Yes	Yes	Yes	N/A	N/A	No	\$5,000	\$5,800	\$100	
	Clarke	Yes	Yes	N/A	N/A	N/A	No	\$3,000	\$3,814	\$75	
	Frederick	See Winchester.									
	Page	Yes	No	No	8	\$5,600	No	N/A	\$13,787	\$1,378	
	Rockingham (Harrisonburg)	Yes	No	No	20	\$14,000	Yes	\$5,000	\$37,466	\$3,747	
	Shenandoah	Yes	No	No	20	\$10,400	No	N/A	\$10,300	\$1,030	
	Warren	Yes	No	No	12	\$7,000	No	\$8,000	\$12,000	\$500	
	Winchester	Yes	No	No	20	\$10,216	N/A	N/A	\$15,000	\$5,733	

## FAMILY COURT PROPOSAL - SUMMARY OF LOCAL PLAN RESPONSES TO QUESTIONS

	1	2	3	4	5	6	7	8	9
District / Circuit	Are bailiffs now used in juvenile court?	If "yes," can they absorb FC cases?	If "no," can circuit court bailiffs be used in FC?	Additional bailiff hours per week needed in FC	Annual cost	Will locality provide recording equipment?	Cost of purchase and installation of recording equipment	Annual cost of micro-filming in circuit court	Microfilm cost attributable to FC
27 Bland	Yes	Yes	N/A	N/A	N/A	No	N/A	\$4,000	\$500
Carroll	Yes	Yes	Yes	4	N/A	No	N/A	N/A	N/A
Floyd	Yes	Yes	N/A	N/A	N/A	No	N/A	\$3,000	\$210
Galax	Yes	Yes	N/A	6	\$5,220	Yes	\$4,220	N/A	N/A
Giles	N/A	N/A	N/A	8	\$900	N/A	N/A	\$5,200	\$750
Grayson	Yes	Yes	Yes	5	N/A	No	N/A	\$800	\$75
Montgomery	Yes	Yes	No	24	\$53,802	No	N/A	\$35,165	\$7,033
Pulaski	Yes	Yes	N/A	N/A	N/A	No	N/A	\$5,166	\$0
Radford	Yes	No	No	16	\$6,348	No	N/A	\$3,300	\$825
Wythe	Yes	No	No	16	\$8,000	No	N/A	N/A	N/A
28 Bristol	Yes	Yes	N/A	N/A	N/A	No	N/A	\$1,000	\$1,000
Smyth	Yes	Yes	N/A	N/A	N/A	No	N/A	\$1,000	\$1,000
Washington	Yes	No	No	40	\$19,000	No	N/A	\$1,200	\$1,200
29 Buchanan	Yes	Yes	N/A	N/A	N/A	No	N/A	Not known	Not known
Dickenson	Yes	Yes	N/A	N/A	N/A	No	N/A	Not known	Not known
Russell	Yes	Yes	Yes	8	N/A	No	N/A	Not known	Not known
Tazewell	Yes	No	No	8	N/A	No	N/A	\$15,000	\$4,000
30 Lee	Yes	Yes	N/A	N/A	N/A	No	N/A	\$6,813	\$193
Scott	Yes	No	No	6	\$3,600	No	N/A	\$16,061	\$241
Wise	Yes	Yes	N/A	N/A	N/A	Not Known	N/A	N/A	N/A
31 Prince William	Yes	No	No	40	\$33,498	N/A	N/A	N/A	N/A
<b>Totals</b>					<b>\$1,395,695</b>		<b>\$139,815</b>	<b>\$1,255,854</b>	<b>\$128,134</b>

## **Distribution of Judgeships**

The allocation of new judgeships for the family court is based on the volume of family-related cases to be transferred from the circuit court. In some districts these caseloads do not justify an additional full-time judge. In order to implement the concept of a family court without building into the court system excess judicial capacity, sharing arrangements are proposed on an interim basis between certain adjoining districts. It is anticipated that many of these districts will be able to justify a full judgeship on their own in the near future. The Council believes this approach to staffing the family courts permits the statewide establishment of an improved system for adjudicating family disputes and, at the same time, makes wise use of state tax dollars.

In selecting districts to share a family court judgeship, consideration has been given to a community of interest between the districts, the proximity of localities where judicial resources will be needed, and the number of transferred cases that will need to be handled. The map of Virginia on page 23 indicates where sharing arrangements are proposed. The legislation creating the new family court judgeships, which can be found in Appendix A to this report, specifically incorporates these sharing arrangements. The sharing arrangements endorsed by the Judicial Council are as follows:

**District 2 and 2A:** The City of Virginia Beach, District 2, is allocated two full-time judges. In addition, its transferred caseload justifies an additional judge three days per week. It is proposed that the remaining two days per week be shared with District 2A which is comprised of Accomack and Northampton Counties on the Eastern Shore. The Council recommends that this shared judgeship be in residence in Virginia Beach.

**District 3 and 5:** The City of Portsmouth, District 3, has a transferred caseload which justifies an additional judge three days per week. It is proposed that the remaining two days per week be shared with District 5 which is comprised of the Cities of Franklin and Suffolk and the Counties of Isle of Wight and Southampton. The Council recommends that this shared judgeship be in residence in Portsmouth.

**Districts 6 and 11:** District 6 is comprised of the Counties of Brunswick, Greensville, Prince George, Surry, and Sussex, and the Cities of Emporia and Hopewell. Its transferred caseload justifies an additional judge two days per week. It is proposed that the remaining three days per week be shared with District 11 which is comprised of the Counties of Amelia, Dinwiddie, Nottoway, Powhatan and the City of Petersburg. The Council recommends that this shared judgeship be in residence in District 6.

**Districts 20 and 31:** The County of Prince William, District 31, is allocated one full-time judge. In addition, its transferred caseload justifies an additional one day per week of a judge. District 20, which is comprised of the Counties of

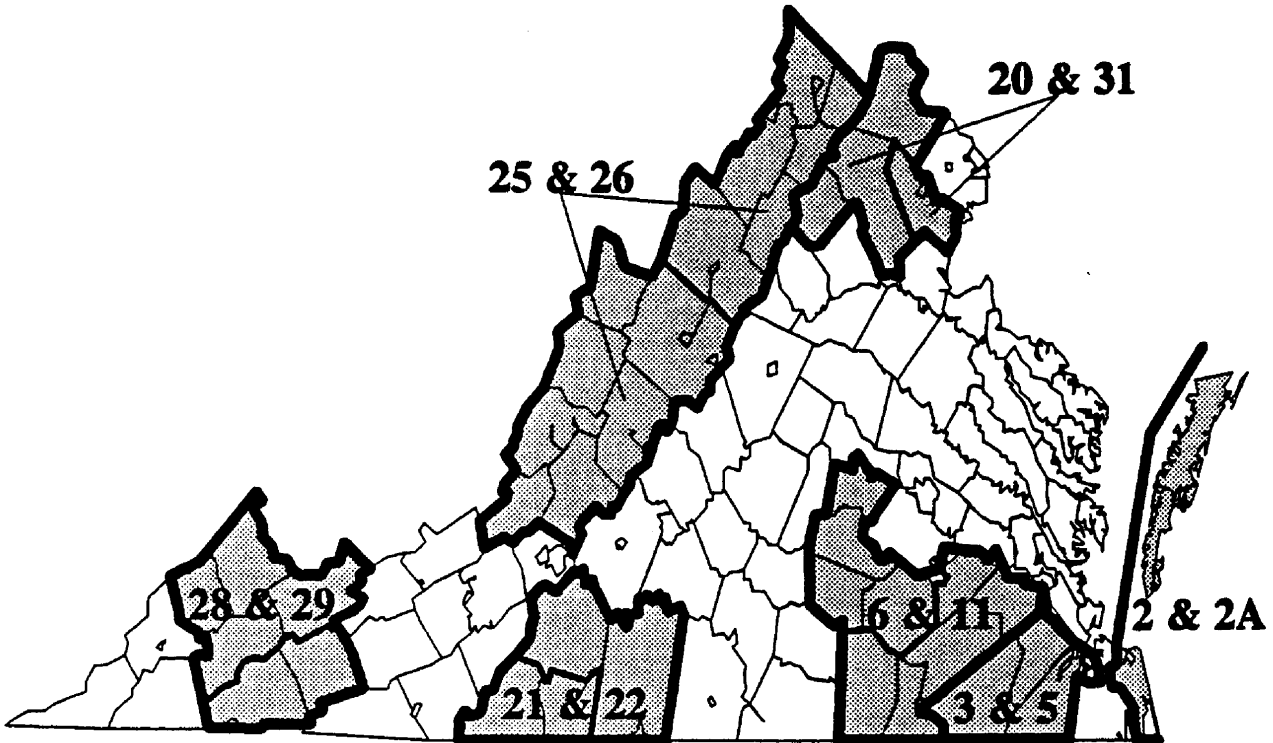
Fauquier, Loudoun and Rappahannock, has a transferred caseload which justifies an additional judge four days per week. It is proposed that Districts 20 and 31 share this one additional judge, and that this judge be in residence in District 20.

Districts 21 and 22: District 22 is comprised of the City of Danville and the Counties of Franklin and Pittsylvania. This district's caseload indicates a need for an additional judge three days per week. It is proposed that the remaining two days per week be shared with District 21 which is comprised of the Counties of Henry and Patrick and the City of Martinsville. The Council recommends this shared judgeship be in residence in District 22.

Districts 25 and 26: These two districts are comprised of a large number of jurisdictions. Population centers where a significant amount of the caseload is located, however, are in two adjoining counties which have cities located therein. These localities are the County of Augusta and the Cities of Staunton and Waynesboro in District 25 and the County of Rockingham and the City of Harrisonburg in District 26. Both districts have transferred caseloads which justify a half-time judge. The Council proposes an equal allocation of judicial resources between these districts with this shared judgeship in residence in District 25.

Districts 28 and 29: District 29 is comprised of the Counties of Buchanan, Dickenson, Russell and Tazewell. This district's transferred caseload indicates a need for an additional judge three days per week. It is proposed that the remaining two days per week be shared with District 28 which is comprised of the City of Bristol and the Counties of Smyth and Washington. The Council recommends that this shared judgeship be in residence in District 29.

# JUDGESHIP SHARING ARRANGEMENTS



District	Allocation	Residence
2 & 2A	2.6 & .4	2nd
3 & 5	.6 & .4	3rd
6 & 11	.4 & .6	6th
20 & 31	.8 & 1.2	20th
21 & 22	.4 & .6	22nd
25 & 26	.5 & .5	25th
28 & 29	.4 & .6	29th

## **Mediation Services in the Family Court**

In response to concerns that adversarial approaches only serve to exacerbate family conflict, alternative means of resolving divorce disputes and related child and family cases have been developed. Within the framework of a comprehensive court for family law cases, Virginia courts must more fully embrace non-traditional dispute resolution alternatives like mediation. While adjudication and other dispute resolution methods should continue to be available, litigants should be offered the opportunity to choose the best method for resolving their differences. The Judicial Council believes the courts should be actively involved in referring family law litigants to alternative services for dispute resolution in order to encourage the use and development of such alternatives.

Sections 16.1-272.1 and 16.1-272.2 of the family court legislation provide for the referral of litigants in the family court to mediation. The availability of this alternative to the traditional adversarial procedures of the court system is critical to the ultimate success of the family court. The Judicial Council is committed to providing the capacity to mediate every contested divorce case in the family courts when the litigating parties agree to mediation. Funds are included in the request for family court funding to assure the availability of this service across the Commonwealth. These funds include \$1,347,179 for six months of operation in fiscal year 1994-95 and \$2,694,357 for a full year's operation in fiscal year 1995-96. Just as the adversarial procedures of the court are basically free to the litigants, it is important that no additional fee be charged for mediation in cases transferred to the family court from the circuit court.

In order to appreciate the importance of offering this service, it is necessary to understand the mediation process itself, and what separates it from traditional adversarial problem-solving models. Mediation is not litigation. It does not determine who is right or wrong. The parties are encouraged to talk about what is important to them, and to hear what is important to the other party. In that way, both parties have an opportunity to "win." Mediation is also not counseling. It recognizes that there are emotional issues in a conflict, but it focuses the parties on finding a workable solution to the problem rather than on dwelling on the cause of the problem. Mediation is a voluntary process and is non-adversarial in nature. It takes place in a neutral setting, is confidential, and allows the outcome to be determined by the parties themselves.

In contrast to the adversarial process, which encourages people not to talk to one another, mediation brings disputing parties together and provides them with an opportunity to resolve their conflicts. It is a structured but informal process conducted not as a hearing, but as a facilitated discussion between the parties to the conflict. In a divorce in which children are involved, it provides a non-adversarial forum in which the parties are encouraged to think about how they will continue to operate as parents even as they are ceasing to function as spouses. Even in a divorce where the only issues involve property, the process can be very valuable as it provides the parties with the opportunity to identify what is important to them about particular items, so that reasonable decisions can be made instead of unreasonable demands.

The role of the mediator is to facilitate discussion and to keep the parties focused on the future; the mediator has no authority over the parties and cannot compel or coerce them to reach a settlement. In the family context, the mediation may take several one or two hour sessions over a period of several weeks.

In order to receive referrals from a court to perform mediation services, mediators in Virginia must be certified by the Office of the Executive Secretary, Supreme Court of Virginia, pursuant to guidelines promulgated by the Judicial Council. Mediators who receive referrals from the family courts will be required to take special family court training during 1994.

The Judicial Council recommends that mediation services to support the family court be provided through independent contractors. The Office of the Executive Secretary should manage the process of contracting with mediators in each judicial district. The judges of each judicial district should be involved in the selection of the mediators to serve their district and should control the final selections. The mediators selected would be responsible for taking care of all of the arrangements for mediations with litigants referred to the mediator by the courts. OES should be the contact point for evaluations of the mediation process completed by the litigants.

The process of identifying appropriate mediation services around the state would be through a Request for Proposals issued by the Office of the Executive Secretary. Contracts awarded through this process would make it clear that it would be the responsibility of the mediator to meet all applicable standards of ethics and professional responsibility, to be available as necessary to conduct the mediations referred by the family court, to provide appropriate space to hold the mediations, and to have necessary staff and/or equipment to perform the work. Through the mechanism of independent contracting, localities are not required to provide physical or personnel support for mediation services.

There will not be a single contract that will cover the entire state. Rather, the contracts will, of necessity, vary from judicial district to judicial district. In some jurisdictions, more than one full-time person will be required to meet the demand. In others, an individual might be required to travel from one court to another, as a "circuit rider" in order to have sufficient cases. Thus, the contracts will be tailored to meet the specific needs of judicial districts around that state. As indicated above, the Office of the Executive Secretary will work with local judges to determine how the contracts should be awarded to provide the best possible service to users of the family court system.

While mediation services will be provided through independent contractors, the amount of money included in the budget request is equivalent to 73 full-time employees. These funds will be allocated to each judicial district based on the estimated number of contested divorce cases in the caseload to be transferred to the family court from the circuit court. It has been estimated that a full-time mediator can handle 125 such cases per year. Funds equivalent to the cost of one full-time mediator will be allocated to each judicial district for every 125 contested cases that are transferred from the circuit court.

## Recommendation for Funding the Family Court

The resources necessary to establish a family court system in Virginia will require a total of \$16,870,388 in state funds for the 1994-96 biennium: \$7,273,834 for fiscal year 1994-95 and \$9,596,554 for fiscal year 1995-96. The following chart sets forth the proposed expenditures for the family court.

Family Court Implementation Costs 1994-95 and 1995-96		1994-95	1995-96
110.90 FTE	Court employees - effective 7/1/94	\$2,543,117	\$2,543,117
32.00 FTE	Judgeships - effective 10/1/94	3,175,744	4,089,536
Independent Contractors	Mediators - effective 1/1/95 (73 FTE)	1,347,179	2,694,357
390 Days	Substitute/Retired Judges	62,975	62,975
	Personnel Wage Funds	90,819	90,819
	Microfilm	0	100,000
	Education/Training	30,000	0
	Books/Materials	24,000	15,750
<b>Total</b>		<b>\$7,273,834</b>	<b>\$9,596,554</b>

	General Funds	
1994-96 Biennium Request	Funding	16,870,388
	FTE	142.90

While the General Assembly can certainly choose to fund this restructured court from existing revenues, the Council believes it should not propose a change in the court system without also suggesting an alternative method of financing the change which will not deplete existing revenues. To do this, the Council recommends an increase of \$3.00 in the processing fee in district court criminal and traffic cases and a \$3.00 increase in civil fees in district courts. This approach is recommended because it can produce the necessary revenues to pay for the changes with the smallest impact on the individual user of the court system. Because of the large volume of cases which go through these courts, a \$3.00 increase in fees will produce the needed revenues. This will not place an unreasonable burden on anyone and is well in line with what other states charge. The Council's objective is to keep the court accessible by charging the lowest fees possible, yet producing enough revenue to have a court system which can truly serve our citizens in the best way possible.



**DISTRICT COURT FILING FEES AND REVENUE PROJECTIONS  
FOR PROCESSING FEE INCREASE OF \$3**

Case Type	Current Processing Fee	Proposed Processing Fee	Current Additional Fees			Total Maximum Additional Fees
			DEJF Fee	CHMF Fee	Other Fees	
District Criminal	\$22.00	\$25.00	\$2.00	\$2.00	---	\$4.00
District Traffic	\$22.00	\$25.00	\$2.00	\$2.00	---	\$4.00
District Civil	\$12.00	\$15.00	Civil Cases	\$2.00	\$4 Law Lib	\$4.00
					\$2 Legal Aid	\$6.00
If Law Library fee is assessed (civil only), maximum add ons total \$4.						
With Legal Aid fee included (civil only), maximum add ons total \$6.						

Based on anticipated caseloads, the Judicial Council projects that an increase of three dollars in the processing fee in district court criminal and traffic cases and a three dollar increase in civil filing fees in district courts will produce additional revenues of \$16,954,500 in the 1994-1996 biennium.

The local costs attributable to the family court for impacts on facilities and equipment have been identified by the localities and estimated by the Judicial Council as \$5,096,047. When local costs for the four most costly localities are set aside, the total local costs for the remaining 28 judicial districts are \$1,614,656. The Council recommends the continuation of the current state policy which provides that localities are responsible for funding facilities and equipment for the court system.

**Conclusion**

For more than 40 years, the judicial and legislative branches of a government have been concerned about the handling of family law matters in Virginia's courts. The 1993 Session of the General Assembly took affirmative action to address these concerns by restructuring the juvenile and domestic relations district court. The establishment of one trial court which has comprehensive jurisdiction over child and family-related issues will benefit Virginians in significant ways.

A comprehensive family court will consolidate within one structure the resolution of domestic legal issues with their psychological and social ramifications. The family court will enable the judicial system to be more sensitive to the psychological impact of litigation on the parties by consolidating cases related to that family; by providing mediation services when that method of dispute resolution will best address the issues involved in the case; and by providing

finality to the court's decisions. It will eliminate duplicative court hearings and the attendant misuse of litigant and court resources. A family court which embodies these principles in its structure and procedures, together with a fair and professional court administration, will provide our citizenry with a quality resolution of family disputes.

A firm foundation for implementation of a statewide family court system on January 1, 1995, is provided by the Family Court Pilot Project which operated during 1990 and 1991; the action of the 1993 Session of the General Assembly which established the substantive legal framework for the family court; and the comprehensive local planning process undertaken during 1993 by each of the 32 judicial districts in the Commonwealth. What remains to be done is to provide the necessary resources to operate this restructured system in an effective manner. The time has come for acting on our conviction that families and children are the basic cornerstone of our society and for implementing the family court. This action will accord the legal problems of Virginia's families and children the priority they deserve in our court system.

The Judicial Council believes this restructuring of family law cases in the judicial system will provide better service to families and children. Working together, the challenge of successfully implementing this change in the court system can be met.

**APPENDIX A**  
**Proposed Legislation**

**Technical Amendments Bill**  
**Fee Increase and Judgeship Bill**  
**Budget Amendment**  
**Tables of Fees Charged**  
**in Other States**

A Bill to amend and reenact §§ 8.01-217, 14.1-135.1, 16.1-107, 16.1-289, 16.1-298 and 20-107.3 of the Code of Virginia; and to amend the Code of Virginia by adding a section numbered 16.1-276.1, the amended and added sections relating to procedures and fees affecting cases in the family court.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-217, 14.1-135.1, 16.1-107, 16.1-289, 16.1-298 and 20-107.3 of the Code of Virginia are amended and reenacted, and that Code of Virginia is further amended by a section numbered 16.1-276.1 as follows:

**§ 8.01-217. (Delayed effective date - See notes) How name of person may be changed.**

A. Except as provided in subsection B, any person desiring to change his own name, or that of his child or ward, may apply therefor to the circuit court of the county or city in which the person whose name is to be changed resides, or if no place of abode exists, such person may apply to any circuit court which shall consider such application if it finds that good cause exists therefor under the circumstances alleged. Applications of probationers and incarcerated persons may be accepted if the court finds that good cause exists for such application. An incarcerated person may apply to the circuit court of the county or city in which such person is incarcerated. In case of a minor who has no living parent or guardian, the application may be made by his next friend. In case of a minor who has both parents living, the parent

who does not join in the application shall be served with reasonable notice of the application and, should such parent object to the change of name, a hearing shall be held to determine whether the change of name is in the best interest of the minor. If, after application is made on behalf of a minor and an ex parte hearing is held thereon, the court finds by clear and convincing evidence that such notice would present a serious threat to the health and safety of the applicant, the court may waive such notice.

Every application shall be under oath and shall include the place of residence of the applicant, the names of both parents, including the maiden name of his mother, the date and place of birth of the applicant, the applicant's felony conviction record, if any, whether the applicant is presently incarcerated or a probationer with any court, and if the applicant has previously changed his name, his former name or names. On any such application and hearing, if such be demanded, the court shall, unless the evidence shows that the change of name is sought for a fraudulent purpose or would otherwise infringe upon the rights of others or, in case of a minor, that the change of name is not in the best interest of the minor, order a change of name and the clerk of the court shall spread the order upon the current deed book in his office, index it in both the old and new names, and transmit a certified copy to the State Registrar of Vital Records and the Central Criminal Records Exchange. Transmittal of a copy to the State Registrar of Vital Records and the Central Criminal Records Exchange shall not be required of a person who changed his or her

former name by reason of marriage and who makes application to resume a former name pursuant to § 20-121.4. If the applicant shall show cause to believe that in the event his change of name should become a public record, a serious threat to the health or safety of the applicant or his immediate family would exist, the chief judge of the circuit court may waive the requirement that the application be under oath or the court may order the record sealed and direct the circuit court clerk not to spread and index any orders entered in the cause, and shall not transmit a certified copy to the State Registrar of Vital Records or the Central Criminal Records Exchange. Upon receipt of such order by the State Registrar of Vital Records, for a person born in this Commonwealth, together with a proper request and payment of required fees, the Registrar shall issue certifications of the amended birth record which do not reveal the former name or names of the applicant unless so ordered by a court of competent jurisdiction. Such certifications shall not be marked "amended" and show the effective date as provided in § 32.1-272. Such order shall set forth the date and place of birth of the person whose name is changed, the full names of his parents, including the maiden name of the mother and, if such person has previously changed his name, his former name or names.

B. Proceedings for a change of name in the family court pursuant to § 16.1-241 shall be governed by the provisions of this section. However, (i) a certified copy of the order for change of name shall be transmitted by the family court clerk to the clerk of the circuit court for recording and indexing the order in the

current deed book in his office and (ii) except when transmittals of such orders are not required by subsection A of this section, a certified copy of such order shall be transmitted by the family court clerk to the State Registrar of Vital Records and the Central Criminal Records Exchange.

**§ 14.1-135.1. (Delayed effective date - See note) Fees for services of family court judges and clerks in selected civil cases.**

A. Fees in civil cases for services performed by the judges or clerks of family courts shall be as provided in this section:

1. In all suits for divorce and annulment or affirmation of marriage, the fee chargeable to the plaintiff shall be forty dollars to be paid at the time of instituting the suit. No additional fee shall be charged for:

a. The furnishing of a duly certified copy of the final decree. In divorce cases where there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, no fee shall be charged for the furnishing of a duly certified copy of both such decrees.

b. The filing of a cross-bill in any pending suit.

c. The docketing of any judgment, order or decree in the circuit court by order of the family court or as otherwise provided by law. Pursuant to this subsection, the family court clerk shall transmit an abstract of such judgment, order or decree together with the fee provided in § 14.1-112 (22) to the clerk of the circuit court to which criminal cases in that family court may be appealed. The family court clerk, upon request, shall furnish at no

cost additional abstracts to a party, who may docket such judgment, order or decree in any other court as otherwise provided by law.

d. The recording of a final decree transferring an interest in real property pursuant to § 20-107.3. The family court clerk shall transmit a certified copy of the decree together with the fees provided in subsections (1) and (2) of § 14.1-112 to the clerk of the circuit court in whose current deed book such decree is to be recorded.

2. In adoption proceedings, the fee chargeable to the petitioner or petitioners shall be twenty dollars.

3. In proceedings to amend a birth certificate pursuant to § 32.1-260, the fee chargeable to the petitioner or petitioners shall be forty dollars.

4. In matters relating to a change of name which are ancillary to any family court case, the fee chargeable to the person or persons seeking a name change shall be twenty dollars. The family court clerk shall transmit a certified copy of the order together with the fees provided in subsections (1) and (2) of § 14.1-112 to the clerk of the circuit court in whose current deed book such order is to be recorded.

B. The fees paid by the family court clerk to the clerk of the circuit court for recording and docketing services pursuant to subsection A shall be paid out of fees collected by the family court clerk pursuant to subsection A.

C. The following additional fees as may be applicable shall be paid at the time of the filing of the above-described proceedings



by the person or persons initiating the proceedings:

1. ~~§ 14.1-105, for process served by the sheriff~~ In suits for divorce, annulment or affirmation of marriage, separate maintenance, or equitable distribution based on a foreign decree, a one-time fee of twenty-five dollars shall be paid at the time of filing such a suit for service by the sheriff of all orders, notices, summonses and all other civil process in such a suit, and no additional fees shall be charged by the sheriff. In addition, in petitions for adoption, change of name, amendment of a record of birth, or judicial review of school board actions or of hearing officer decisions, a one-time fee of fifteen dollars shall be paid at the time of filing such a petition for service by the sheriff of all orders, notices, summonses and all other civil process in such a case, and no additional fees shall be charged by the sheriff.

2. § 14.1-125.1, for funding legal services to indigents.

3. § 14.1-133.2, when a courthouse maintenance fee has been imposed by ordinance.

4. § 42.1-70, when a law library fee has been imposed by ordinance.

D. The fees provided for in this section shall be included in the taxed costs and shall not be refunded except in the case of error.

**§ 16.1-107. (Delayed effective date--See notes) Requirements for appeal.--No appeal to the circuit court shall be allowed unless and until the party applying for the same or someone for him shall give bond, in an amount and with sufficient surety approved by the**

judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if such appeal is perfected, or if not so perfected, then to satisfy the judgment of the court in which it was rendered. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict, an insane person, or the interest of a county, city or town. ~~Further, no bond shall be required of a party applying for an appeal from an order of a family court to the circuit court.~~

If such bond is furnished by or on behalf of any party against whom judgment has been rendered for money or property or both, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against such party on appeal, and for the payment of all costs and damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery except for costs, the bond shall be conditioned for the payment of such costs and damages as may be awarded against him on the appeal.

In addition to the foregoing, the party applying for appeal to the circuit court shall, within thirty days from the date of the judgment, pay to the clerk of the court from which the appeal is taken the amount of the writ tax of the court to which the appeal is taken and costs as required by subdivision (17) of § 14.1-112.

The provisions of this section shall not apply to appeals to the circuit court from the family court.

§ 16.1-276.1. Recording evidence and incidents of trial in

certain cases and cost thereof; cost of transcripts; preservation of original notes or records; certified transcript prima facie correct.--(a) In all cases appealable in accordance with § 16.1-296.2, the court or judge trying the case may by order entered of record provide for the recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or electronic devices approved by the court. The expense of reporting and recording the trial of such a case shall be paid by the litigants in the manner and in the proportion as the court may in its discretion direct. A transcript of the record, when required by any party, shall be paid for by such party; provided, that the court on appeal pursuant to § 16.1-296.2 may provide that such cost may be reimbursed to the party prevailing. The failure to secure the services of a reporter, or the failure to have the case reported or recorded for any other reason, shall not affect the proceeding or trial. The reporter or other individual designated to report and record the trial shall preserve the original shorthand notes or other original records for not less than ten years, except that the suspension or tolling of the statute of limitations as provided for in § 8.01-229 shall also be applicable to this section. The transcript in any case certified by the reporter or other individual designated to report and record the trial shall be deemed prima facie a correct statement of the evidence and incidents of trial.

The administration of this section shall be under the direction of the Supreme Court of Virginia.

**§ 16.1-289. (Delayed effective date - See notes) Review of court orders.**

A. In cases ~~appealed~~ appealable in accordance with § 16.1-296, the family court or the circuit court, as the case may be, of its own motion may reopen any case and may modify or revoke its order. The family court or the circuit court shall before modifying or revoking such order grant a hearing after notice in writing to the complainant, if any, and to the person or agency having custody of the child; provided, however, that this section shall not apply in the case of a child committed to the Department after sixty days from the date of the order of commitment.

B. In cases ~~appealed~~ appealable in accordance with § 16.1-296.2, the family court may modify, vacate or suspend any final judgment, order or decree within twenty-one days after the date of entry and no longer. The date of entry of any final judgment, order or decree shall be the date the judgment, order or decree is signed by the judge.

Nothing contained in this subsection shall operate to alter the granting of a new trial by the court pursuant to § 8.01-428, or to alter the requirements for appeal from any judgment of any family court as otherwise provided by law.

~~Any final judgment, order or decree of a family court may be reviewed at any time based upon a change in circumstances. This provision for review of family court judgments, orders and decrees shall not affect their finality for purposes of appeal.~~

**§ 16.1-298. (Delayed effective date - See notes) Effect of**

petition for or pendency of appeal pursuant to § 16.1-296; bail.

A. Except as provided herein, on appeal in a case specified in subsection A of § 16.1-296, the pendency of an appeal in the circuit court or a subsequent petition for appeal or writ of error shall not suspend any judgment, order or decree of the family court nor operate to discharge any child concerned or involved in the case from the custody of the court or other person, institution or agency to which the child has been committed unless so ordered by the judge of the family court, the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a judge or justice thereof.

B. The judgment, order or decree of the family court shall be suspended during the pendency of an appeal in the circuit court or upon a subsequent petition for appeal or writ of error:

1. In cases of delinquency in which the final order of the family court is pursuant to subdivision 8, 9, 10, 12, 14, or 15 of § 16.1-278.8.

2. In cases involving a child and any local ordinance.

3. In cases involving any person over the age of eighteen years.

Such suspension as is provided for in this subsection shall not apply to (i) an order for support entered pursuant to Chapter 5 (§ 20-61 et seq.) of Title 20 or (ii) an order disposing of a motion to reconsider relating to participation in continuing programs pursuant to § 16.1-289.1 unless so ordered by the judge of a circuit court or directed in a writ of supersedeas by the Court

of Appeals or the Supreme Court.

C. In cases where the order of the family court is suspended pursuant to subsection B hereof or by order of the family court or the circuit court, bail may be required as provided for in § 16.1-135.

The provisions of this section shall not apply to cases appealed to the Court of Appeals pursuant to § 16.1-296.2.

§ 20-107.3. (Delayed effective date--See notes) Court may decree as to property of the parties.

A. Upon decreeing the dissolution of a marriage, and also upon decreeing a divorce from the bond of matrimony, or upon the filing with the court as provided in subsection J of a certified copy of a final divorce decree obtained without the Commonwealth, the court, upon request of either party, shall determine the legal title as between the parties, and the ownership and value of all property, real or personal, tangible or intangible, of the parties and shall consider which of such property is separate property, which is marital property, and which is part separate and part marital property in accordance with subdivision A 3. The court shall determine the value of any such property as of the date of the evidentiary hearing on the evaluation issue. Upon motion of either party made no less than twenty-one days before the evidentiary hearing the court may, for good cause shown, in order to attain the ends of justice, order that a different valuation date be used. The court, on the motion of either party, may retain jurisdiction in the final decree of divorce to adjudicate the

remedy provided by this section when the court determines that such action is clearly necessary, and all decrees heretofore entered retaining such jurisdiction are validated.

1. Separate property is (i) all property, real and personal, acquired by either party before the marriage; (ii) all property acquired during the marriage by bequest, devise, descent, survivorship or gift from a source other than the other party; (iii) all property acquired during the marriage in exchange for or from the proceeds of sale of separate property, provided that such property acquired during the marriage is maintained as separate property; and (iv) that part of any property classified as separate pursuant to subdivision A 3. Income received from separate property during the marriage is separate property if not attributable to the personal effort of either party. The increase in value of separate property during the marriage is separate property, unless marital property or the personal efforts of either party have contributed to such increases and then only to the extent of the increases in value attributable to such contributions. The personal efforts of either party must be significant and result in substantial appreciation of the separate property if any increase in value attributable thereto is to be considered marital property.

2. Marital property is (i) all property titled in the names of both parties, whether as joint tenants, tenants by the entirety or otherwise, except as provided by subdivision A 3, (ii) that part of any property classified as marital pursuant to subdivision A 3, or (iii) all other property acquired by each party during the

marriage which is not separate property as defined above. All property including that portion of pensions, profit-sharing or deferred compensation or retirement plans of whatever nature, acquired by either spouse during the marriage, and before the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, is presumed to be marital property in the absence of satisfactory evidence that it is separate property. For purposes of this section marital property is presumed to be jointly owned unless there is a deed, title or other clear indicia that it is not jointly owned.

3. The court shall classify property as part marital property and part separate property as follows:

a. In the case of income received from separate property during the marriage, such income shall be marital property only to the extent it is attributable to the personal efforts of either party. In the case of the increase in value of separate property during the marriage, such increase in value shall be marital property only to the extent that marital property or the personal efforts of either party have contributed to such increases, provided that any such personal efforts must be significant and result in substantial appreciation of the separate property.

For purposes of this subdivision, the nonowning spouse shall bear the burden of proving that (i) contributions of marital property or personal effort were made and (ii) the separate property increased in value. Once this burden of proof is met, the owning spouse shall bear the burden of proving that the increase in



value or some portion thereof was not caused by contributions of marital property or personal effort.

"Personal effort" of a party shall be deemed to be labor, effort, inventiveness, physical or intellectual skill, creativity, or managerial, promotional or marketing activity applied directly to the separate property of either party.

b. In the case of any pension, profit-sharing, or deferred compensation plan or retirement benefit, the marital share as defined in subsection G shall be marital property.

c. In the case of any personal injury or workers' compensation recovery of either party, the marital share as defined in subsection H of this section shall be marital property.

d. When marital property and separate property are commingled by contributing one category of property to another, resulting in the loss of identity of the contributed property, the classification of the contributed property shall be transmuted to the category of property receiving the contribution. However, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, such contributed property shall retain its original classification.

e. When marital property and separate property are commingled into newly acquired property resulting in the loss of identity of the contributing properties, the commingled property shall be deemed transmuted to marital property. However, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, the contributed property shall

retain its original classification.

f. When separate property is retitled in the joint names of the parties, the retitled property shall be deemed transmuted to marital property. However, to the extent the property is retraceable by a preponderance of the evidence and was not a gift, the retitled property shall retain its original classification.

g. Subdivisions A 3 d, e and f of this section shall apply to jointly owned property. No presumption of gift shall arise under this section where (i) separate property is commingled with jointly owned property; (ii) newly acquired property is conveyed into joint ownership; or (iii) existing property is conveyed or retitled into joint ownership. For purposes of this subdivision A 3, property is jointly owned when it is titled in the name of both parties, whether as joint tenants, tenants by the entireties, or otherwise.

B. For the purposes of this section only, both parties shall be deemed to have rights and interests in the marital property. However, such interests and rights shall not attach to the legal title of such property and are only to be used as a consideration in determining a monetary award, if any, as provided in this section.

C. Except as provided in subsection G, the court shall have no authority to order the division or transfer of separate property or marital property which is not jointly owned. The court may, based upon the factors listed in subsection E, divide or transfer or order the division or transfer, or both, of jointly owned marital

property, or any part thereof. The court shall also have the authority to apportion and order the payment of the debts of the parties, or either of them, that are incurred prior to the dissolution of the marriage, based upon the factors listed in subsection E.

As a means of dividing or transferring the jointly owned marital property, the court may (i) transfer or order the transfer of real or personal property or any interest therein to one of the parties, (ii) permit either party to purchase the interest of the other and direct the allocation of the proceeds, provided the party purchasing the interest of the other agrees to assume any indebtedness secured by the property, or (iii) order its sale by private sale by the parties, through such agent as the court shall direct, or by public sale as the court shall direct without the necessity for partition. All decrees entered prior to July 1, 1991, which are final and not subject to further proceedings on appeal as of that date, which divide or transfer or order the division or transfer of property directly between the parties are hereby validated and deemed self-executing. All orders or decrees which divide or transfer or order division or transfer of real property between the parties shall be recorded and indexed in the names of the parties in the appropriate grantor and grantee indexes in the land records in the clerk's office of the circuit court of the county or city in which the property is located. Copies of such final orders entered by the family court and certified by the family court clerk shall be transmitted promptly by the family

court clerk to the circuit court of the city or county where the property is located where they shall be promptly recorded and indexed as required by this section.

D. In addition, based upon (i) the equities and the rights and interests of each party in the marital property, and (ii) the factors listed in subsection E, the court has the power to grant a monetary award, payable either in a lump sum or over a period of time in fixed amounts, to either party. The party against whom a monetary award is made may satisfy the award, in whole or in part, by conveyance of property, subject to the approval of the court. An award entered pursuant to this subsection shall constitute a judgment within the meaning of § 8.01-426 and shall not be docketed by the clerk on the judgment lien docket maintained by the circuit court unless the decree so directs. If the order or decree so directs, the clerk of the family court shall certify a copy of such order or decree and transmit promptly such a certified copy of the order or decree to the circuit court named in the order or decree for docketing on the judgment lien index. The provisions of § 8.01-382, relating to interest on judgments, shall apply unless the court orders otherwise.

Any marital property, which has been considered or ordered transferred in granting the monetary award under this section, shall not thereafter be the subject of a suit between the same parties to transfer title or possession of such property.

E. The amount of any division or transfer of jointly owned marital property, and the amount of any monetary award, the

apportionment of marital debts, and the method of payment shall be determined by the court after consideration of the following factors:

1. The contributions, monetary and nonmonetary, of each party to the well-being of the family;

2. The contributions, monetary and nonmonetary, of each party in the acquisition and care and maintenance of such marital property of the parties;

3. The duration of the marriage;

4. The ages and physical and mental condition of the parties;

5. The circumstances and factors which contributed to the dissolution of the marriage, specifically including any ground for divorce under the provisions of § 20-91 (1), (3) or (6) or § 20-95;

6. How and when specific items of such marital property were acquired;

7. The debts and liabilities of each spouse, the basis for such debts and liabilities, and the property which may serve as security for such debts and liabilities;

8. The liquid or nonliquid character of all marital property;

9. The tax consequences to each party; and

10. Such other factors as the court deems necessary or appropriate to consider in order to arrive at a fair and equitable monetary award.

F. The court shall determine the amount of any such monetary award without regard to maintenance and support awarded for either party or support for the minor children of both parties and shall,

after or at the time of such determination and upon motion of either party, consider whether an order for support and maintenance of a spouse or children shall be entered or, if previously entered, whether such order shall be modified or vacated.

G. In addition to the monetary award made pursuant to subsection D, and upon consideration of the factors set forth in subsection E:

1. The court may direct payment of a percentage of the marital share of any pension, profit-sharing or deferred compensation plan or retirement benefits, whether vested or nonvested, which constitutes marital property and whether payable in a lump sum or over a period of time. The court may order direct payment of such percentage of the marital share by direct assignment to a party from the employer trustee, plan administrator or other holder of the benefits. However, the court shall only direct that payment be made as such benefits are payable. No such payment shall exceed fifty percent of the marital share of the cash benefits actually received by the party against whom such award is made. "Marital share" means that portion of the total interest, the right to which was earned during the marriage and before the last separation of the parties, if at such time or thereafter at least one of the parties intended that the separation be permanent.

2. To the extent permitted by federal or other applicable law, the court may order a party to designate a spouse or former spouse as irrevocable beneficiary during the lifetime of the beneficiary of all or a portion of any survivor benefit or annuity

plan of whatsoever nature, but not to include a life insurance policy. The court, in its discretion, shall determine as between the parties, who shall bear the costs of maintaining such plan.

H. In addition to the monetary award made pursuant to subsection D, and upon consideration of the factors set forth in subsection E, the court may direct payment of a percentage of the marital share of any personal injury or workers' compensation recovery of either party, whether such recovery is payable in a lump sum or over a period of time. However, the court shall only direct that payment be made as such recovery is payable, whether by settlement, jury award, court award, or otherwise. "Marital share" means that part of the total personal injury or workers' compensation recovery attributable to lost wages or medical expenses to the extent not covered by health insurance accruing during the marriage and before the last separation of the parties, if at such time or thereafter at least one of the parties intended that the separation be permanent.

I. Nothing in this section shall be construed to prevent the affirmation, ratification and incorporation in a decree of an agreement between the parties pursuant to §§ 20-109 and 20-109.1. Agreements, otherwise valid as contracts, entered into between spouses prior to the marriage shall be recognized and enforceable.

J. A court of proper jurisdiction under § 20-96 may exercise the powers conferred by this section after a court of a foreign jurisdiction has decreed a dissolution of a marriage or a divorce from the bond of matrimony, if (i) one of the parties was domiciled

in this Commonwealth when the foreign proceedings were commenced, (ii) the foreign court did not have personal jurisdiction over the party domiciled in the Commonwealth, (iii) the proceeding is initiated within two years of receipt of notice of the foreign decree by the party domiciled in the Commonwealth, and (iv) the court obtains personal jurisdiction over the parties pursuant to § 8.01-328.1 A 9, or in any other manner permitted by law.

K. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section, including the authority to:

1. Order a date certain for transfer or division of any jointly owned property under subsection C or payment of any monetary award under subsection D;

2. Punish as contempt of court any willful failure of a party to comply with the provisions of any order made by the court under this section;

3. Appoint a special commissioner to transfer any property under subsection C where a party refuses to comply with the order of the court to transfer such property; and

4. Modify any order entered in a case filed on or after July 1, 1982, intended to affect or divide any pension, profit-sharing or deferred compensation plan or retirement benefits pursuant to the United States Internal Revenue Code or other applicable federal laws, only for the purpose of establishing or maintaining the order as a qualified domestic relations order or to revise or conform its



terms so as to effectuate the expressed intent of the order.

2. That the provisions of this act shall become effective  
January 1, 1995.

A Bill to amend and reenact §§ 14.1-123, 14.1-125 and 16.1-69.6:1 of the Code of Virginia relating to fee increases for certain district court cases and the appointment of additional judges for the family court.

Be it enacted by the General Assembly of Virginia:

1. That § 14.1-123, 14.1-125 and 16.1-69.6:1 of the Code of Virginia are amended and reenacted as follows:

**§ 14.1-123. Fees for services performed by judges or clerks of district courts in criminal or traffic cases.**

Fees for services performed by the judges or clerks of district courts in criminal or traffic actions and proceedings shall be as follows and such fees shall be included in the taxed costs:

1. For processing a case of a misdemeanor or a traffic violation, including a case in which there has been written appearance and waiver of court hearing, and including swearing witnesses and taxing costs, ~~twenty-four~~ twenty-seven dollars.

Assessment of this fee shall be based on:

(i) An appearance for court hearing in which there has been a finding of guilty;

(ii) A written appearance with waiver of court hearing and entry of guilty plea;

(iii) For a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty. In addition to any other fee prescribed by this subsection, a fee of five dollars

shall be taxed as costs whenever a defendant, charged with a traffic infraction, fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the fee provided in this subsection more than once for a single appearance or trial in absence related to that incident. A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence; or

(iv) An appearance for court hearing in which the court requires that the defendant successfully complete traffic school or a driver improvement clinic, in lieu of a finding of guilty.

2. For processing any check tendered in a case of traffic violation that has been returned unpaid by any banking institution, such fee as is determined pursuant to § 19.2-353.3.

**§ 14.1-125. Fees for services of district court judges and clerks and magistrates in civil cases.**

Fees in civil cases for services performed by the judges or clerks of general district courts or magistrates in the event any such services are performed by magistrates in civil cases shall be as provided in this section, and, unless otherwise provided, shall be included in the taxed costs and shall not be refundable, except in case of error or as herein provided.

For all court and magistrate services in each district, detinue, interrogatory summons, unlawful detainer, civil warrant,

notice of motion, garnishment, attachment issued, or other civil proceeding, the fee shall be ~~twelve~~ fifteen dollars unless otherwise provided in this section. No such fee shall be collected (i) in any tax case instituted by any county, city or town except in a case instituted by any city having a population of not less than 300,000 or (ii) in any case instituted by a school board for collection of overdue book rental fees.

The judge or clerk shall collect the foregoing fee at the time of issuing process. Any magistrate or other issuing officer shall collect the foregoing fee at the time of issuing process, and shall remit the entire fee promptly to the court to which such process is returnable, or to its clerk. When no service of process is had on a defendant named in any civil process other than a notice of motion for judgment, such process may be reissued once by the court or clerk at the court's direction by changing the return day of such process, for which service by the court or clerk there shall be no charge; however, reissuance of such process shall be within three months after the original return day.

The clerk of any district court may charge a fee for making a copy of any paper of record to go out of his office which is not otherwise specifically provided for. The amount of this fee shall be set in the discretion of the clerk but shall not exceed one dollar for the first two pages and fifty cents for each page thereafter.

The fees prescribed in this section shall be the only fees charged in civil cases for services performed by such judges and

clerks, and when the services referred to herein are performed by magistrates such fees shall be the only fees charged by such magistrates for the prescribed services.

§ 16.1-69.6:1. (Delayed effective date - See notes) Number of judges.

For the several judicial districts there shall be full-time general district court judges and family court judges, the number as hereinafter set forth, who shall during their service reside within their respective districts, except as provided in § 16.1-69.16, and whose compensation and powers shall be the same as now and hereafter prescribed for general district court judges and family court judges.

The number of judges of the districts shall be as follows:

	General District Court	
	Judges	Family Court
Judges		
First	3	23
Second	6	58
<u>The family court judges of the second district shall render assistance on a regular basis to the family court judges of district two-A as specified by the Committee on District Courts.</u>		
Two-A	The General and <del>Juvenile</del> and <del>Domestic Relations</del>	1
	<u>District Court and Family Court</u>	
Third	3	23

The family court judges of the third district shall render assistance on a regular basis to the family court judges of the fifth district as specified by the Committee on District Courts.

Fourth	6	<u>46</u>
Fifth	2	2
Sixth	3	<u>23</u>

The family court judges of the sixth district shall render assistance on a regular basis to the family court judges of the eleventh district as specified by the Committee on District Courts.

Seventh	3	<u>34</u>
Eighth	3	<u>23</u>
Ninth	3	<u>23</u>
Tenth	3	<u>23</u>
Eleventh	2	2
Twelfth	3	<u>34</u>
Thirteenth	8	<u>45</u>
Fourteenth	4	<u>23</u>
Fifteenth	5	<u>45</u>
Sixteenth	4	<u>34</u>
Seventeenth	3	<u>23</u>
Eighteenth	2	<u>12</u>
Nineteenth	10	<u>610</u>
Twentieth	3	<u>23</u>

The family court judges of the twentieth district shall render assistance on a regular basis to the family court judges of the thirty-first district as specified by the Committee on District

Courts.

Twenty-first	2	2
Twenty-second	2	<del>2</del> 3

The family court judges of the twenty-second district shall render assistance on a regular basis to the family court judges of the twenty-first district as specified by the Committee on District

Courts.

Twenty-third	5	<del>3</del> 4
Twenty-fourth	4	<del>3</del> 4
Twenty-fifth	5	<del>3</del> 4

The general district court judges of the twenty-fifth district shall render assistance on a regular basis to the general district court judges of the twenty-sixth district by appropriate designation.

The family court judges of the twenty-fifth district shall render assistance on a regular basis to the family court judges of the twenty-sixth district as specified by the Committee on District

Courts.

Twenty-sixth	4	2
Twenty-seventh	4	<del>3</del> 4
Twenty-eighth	2	2
Twenty-ninth	3	<del>2</del> 3

The family court judges of the twenty-ninth district shall render assistance on a regular basis to the family court judges of the twenty-eighth district as specified by the Committee on District

Courts.

Thirtieth	2	<u>23</u>
Thirty-first	4	<u>45</u>

The election or appointment of any district judge shall be subject to the provisions of § 16.1-69.9:3.

2. That the provisions of §16.1-69.6:1 shall become effective October 1, 1994.



Supreme Court of Virginia  
Budget Amendment  
1994-96 Biennium

**Juvenile and Domestic Relations District Court (115)**

	First Year	Second Year
Item 28. Pre-Trial, Trial and Appellate Processes (3210000)		
Trial Processes (3210300)	\$7,273,834	\$9,596,554

C. This item includes funds to implement the provisions of Chapter 929 of the 1993 Acts of Assembly which establishes a statewide system of family courts. These amounts are sufficient to fund 32 additional family court judgeships and 110.9 additional family court clerk employees and to provide mediation services through independent contractors for each judicial district.

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**Explanation --**

This funding will permit the implementation of the family court legislation passed by the 1993 Session of the General Assembly. The positions identified will enable the current juvenile and domestic relations district court system to absorb the expanded jurisdiction of the family court which consists primarily of cases of divorce and adoption, thus establishing one trial court with comprehensive jurisdiction over child and family-related legal issues. This funding will make available to litigants who wish to use it mediation in family law conflicts through court referrals to independent contractors to reduce the adversarial nature of our legal practices and procedures.

The Judicial Council has proposed introduction of legislation to increase certain court fees to generate revenue sufficient to offset the cost of this amendment. Based on anticipated caseloads, the Judicial Council projects that an increase of three dollars in the processing fee in district court criminal and traffic cases and a three dollar increase in civil filing fees in district courts will produce additional revenues of \$16,954,500 in the 1994-1996 biennium.

## **Tables of Fees Charged in Other States**

## CIVIL FILING & ANSWER FEES IN STATE COURTS

STATE	COURT OF LIMITED JURISDICTION	
	FILING	ANSWER
ALABAMA	\$59.00	None
ALASKA	\$60.00**	None
ARIZONA*	\$20.00***	\$10.00
ARKANSAS	Varies**	None
CALIFORNIA	Varies**	Varies**
COLORADO	\$24.00	\$20.00
CONNECTICUT*		
DELAWARE	\$15.00	None
DISTRICT OF COLUMBIA	N/A	N/A
FLORIDA*	\$25.00***	None
GEORGIA	Varies	None
HAWAII	\$10.00*	None
IDAHO*	\$46.00***	\$26.00
ILLINOIS* (86)	N/A	N/A
INDIANA	\$55.00	None
IOWA	\$70.00**	None
KANSAS	\$10.00** \$30.00**	-----
KENTUCKY	\$30.00*	None
LOUISIANA	\$2-111*	\$2-50*
MAINE	\$50.00	None
MARYLAND	\$10.00	None
MASSACHUSETTS	\$60.00**	None
MICHIGAN	Varies***	None
MINNESOTA	N/A	N/A
MISSISSIPPI	\$15.00	None
MISSOURI	\$12.00* \$15.00**	None None
MONTANA	\$7.50	\$7.50
NEBRASKA	\$18.00	None
NEVADA*	\$25, \$35***	\$10.00*

STATE	COURT OF LIMITED JURISDICTION	
	FILING	ANSWER
NEW HAMPSHIRE	\$30.00	None
NEW JERSEY (86)	\$10.00*	None
NEW MEXICO	\$25.00	None
NEW YORK	\$110.00**	None
NORTH CAROLINA	\$32.00	None
NORTH DAKOTA	\$30.00**	None
OHIO	Varies*	None
OKLAHOMA	-----	-----
OREGON	\$48.00	\$24.00
PENNSYLVANIA	Varies**	None
PUERTO RICO	\$10.00	\$10.00
RHODE ISLAND	\$25.00	None
SOUTH CAROLINA	\$15.00	None
SOUTH DAKOTA	N/A	N/A
TENNESSEE	-----***	-----
TEXAS	\$40.00* \$15.00**	None None
UTAH	\$35.00* \$15.00** \$15.00***	None None None
VERMONT	\$35.00	None
VIRGINIA	\$10.00	None
WASHINGTON	\$25.00	None
WEST VIRGINIA	\$20.00	None
WISCONSIN	-----	-----
WYOMING	\$10.00* \$15.00**	None

**LEGEND:**

----- (No Information Provided)  
 N/A (Not Applicable--No Court)

Source: National Center for State Courts, 1992.

**FEES AND CHARGES IMPOSED IN CRIMINAL CASES IN STATE COURTS**

State	Fees and Miscellaneous Charges Imposed on Felony Convictions		Fees and Miscellaneous Charges Imposed on Misdemeanor Convictions	
	Type of Fee or Charge	Amount	Type of Fee or Charge	Amount
Alabama	Jury Demand Felony docket fee Public defender fee Witness subpoena fees (all courts)	\$50.00 \$145.00 Set by local law \$8.00	Violation/misdemeanor docket fee Traffic infraction docket fee Preliminary hearing Other court costs	\$70.00 \$40.50 \$30.00 Set by municipal courts
Alaska	N/A <sup>1</sup>		N/A	
Arizona	Appointed counsel  Probation	Determined by judge Up to \$30.00 per month	N/A	
Arkansas	Prosecuting attorney  Witness Sheriff	\$25.00 [A.C.A. 21-6-410] \$5.00 per witness As assessed for service of warrants, subpoenas, etc.	Prosecuting attorney  Witness Sheriff	\$10.00 [A.C.A. 21-6-410] \$5.00 per witness As assessed for service of warrants, subpoenas, etc.
California	Appointed counsel Incarceration as condition of probation Probation  Weekend jail program Diversion program Restitution collection fee  Discharged probationer requesting rehabilitation and pardon	Actual costs Varies Probation cost schedule (Not provided) \$150.00 maximum 10% of restitution maximum \$60.00 maximum	Appointed counsel Incarceration as condition of probation Probation  Weekend jail program Diversion program Restitution collection fee  Discharged probationer requesting rehabilitation and pardon To seal the record of a minor	Actual costs Varies Varies  (Not provided) \$100.00 maximum 10% of restitution maximum \$60.00 maximum
Colorado	Felony docket fee Victim compensation fee Jury fee  Court appointed counsel Sheriffs' costs	\$30.00 \$100.00 Actual costs of jury may be assessed Varies	Misdemeanor docket fee Victim compensation fee Jury fee  Useful public service	\$16.00 \$40.00 Actual costs of jury may be assessed Up to \$60.00
Connecticut	Any person convicted of a felony; C.G.S. § 54-143(a)	\$20.00 <sup>2</sup>	Any person convicted of a misdemeanor, speeding, reckless driving, racing, failure to assist or cooperate at scene of an accident, or DUI of alcohol or drugs; C.G.S. § 54-143(a) Any person convicted of infractions; speeding; or improper use of marker, registration, or license; C.G.S. § 54-143a	\$15.00 <sup>2</sup>  \$20.00 <sup>3</sup>
Delaware	Jury trial, court trial sentencing	\$75.00	Court of Common Pleas Family Court	\$15.00 per charge \$5.00 per charge
District of Columbia	N/A		N/A	
Florida				
Georgia <sup>4</sup>	Service provided in cases in which defendant is tried, pleads guilty, or there is a settlement Preparation and transmission of documents to superior court sentence review panel	\$10.00 \$1.50	Service in cases in which defendant is tried Executing and returning any warrant Serving any warrant or bad check citation Summoning each witness Escorting prisoner to and from jail to appear before judge Taking bonds	\$10.00 \$20.00 \$20.00 \$4.50 \$4.50 \$10.00

Source: National Center for State Courts, 1992.

State	Fees and Miscellaneous Charges Imposed on Felony Convictions		Fees and Miscellaneous Charges Imposed on Misdemeanor Convictions	
	Type of Fee or Charge	Amount	Type of Fee or Charge	Amount
Hawaii	N/A		N/A	
Idaho	Felony conviction	\$14.50 <sup>5</sup>	Misdemeanor conviction	\$14.50 <sup>5</sup>
Illinois	Each person convicted of a felony When Court Appearance Required Motions to vacate or amend final orders	\$40 <sup>6</sup> or \$80 <sup>7</sup> \$15 <sup>6</sup> , \$30 <sup>7</sup> or \$15 <sup>8</sup>	Each person convicted of a misdemeanor Each person convicted of: leaving the scene of an accident, driving while intoxicated, reckless driving or drag racing, driving when license revoked or suspended, overweight, or no interstate commerce certificate Each person convicted of a business offense Each person convicted of a petty offense Minor traffic, conservation, or ordinance violation <sup>6</sup> : (1) For each offense (2) For each notice sent to the defendant's last known address pursuant to subsection (c) of § 6-306.4 of the Illinois Vehicle Code <sup>9</sup> (3) For each notice sent to the Secretary of State pursuant to subsection (c) of § 6-305.1 of the Illinois Vehicle Code Minor Traffic or Ordinance Violation Motions to vacate or amend final orders When Court Appearance Required	\$25 <sup>6</sup> or \$50 <sup>7</sup> \$25 <sup>6</sup> \$25 <sup>6</sup> or \$50 <sup>7</sup> \$25 <sup>6</sup> or \$50 <sup>7</sup> \$10.00 \$2.00 \$2.00 \$2.00 \$20 <sup>7</sup> or \$10 <sup>8</sup> \$10 <sup>6</sup> or \$20 <sup>7</sup> \$15 <sup>6</sup> , \$30 <sup>7</sup> or \$15 <sup>6</sup>
Indiana				
Iowa	Fees for various services, including docketing	\$25.00	Fees for various services including docketing	\$10/15/20 <sup>10</sup> \$25.00 <sup>11</sup>
Kansas				
Kentucky	Circuit court expenses	\$55.00	Prepayment permitted Prepayment not permitted	\$42.00 \$47.00
Louisiana	Imposed locally	Varies	Imposed locally	Varies
Maine	N/A		N/A	
Maryland	General jurisdiction court fee Limited jurisdiction court fee	\$80.00 \$10.00	General jurisdiction court fee Limited jurisdiction court fee	\$80.00 \$10.00
Massachusetts				
Michigan				

State	Fees and Miscellaneous Charges Imposed on Felony Convictions		Fees and Miscellaneous Charges Imposed on Misdemeanor Convictions	
	Type of Fee or Charge	Amount	Type of Fee or Charge	Amount
Minnesota	Sheriffs' fees Defense expenses Prosecution expenses	Vary Vary Vary	Sheriffs' fees Defense expenses Prosecution expenses Administrative fee <sup>12</sup> Imposed on guilty plea or case otherwise disposed without trial <sup>13</sup> Arraignments without preliminary examination <sup>13</sup> All other cases where defendant stands trial or has preliminary examination <sup>13</sup>	Vary Vary Vary Vary \$5.00 \$10.00 \$15.00
Mississippi				
Missouri	Preliminary hearing Information/indictment Sheriff's fee  Jury fee  Incarceration costs  Witness fee  Court reporter fee (if used) Prosecuting attorney fee	\$15.00 \$30.00 Statute provides for 40 different fee amounts \$.07/mile/person and up to \$20/day/person (if locally authorized) Fixed by governing body \$.07 or .10/mile/person and up to \$15/day/person \$5.00 \$10.00-\$150.00	Misdemeanor (heard in the first instance) Sheriff's fee  Jury fee  Incarceration costs Witness fee  Court reporter fee (if used) Prosecuting attorney fee	\$15.00 Statute provides for 40 different fee amounts \$.07/mile/person and up to \$20/day/person (if locally authorized) Fixed by governing body \$.07 or .10/mile/person and up to \$15/day/person \$5.00 \$10.00
Montana	Juror, attorney, and witness expenses	Vary	Juror, attorney, and witness expenses	Vary
Nebraska	Docket fee	\$40.00	Docket fee	\$18.00
Nevada	N/A		N/A	
New Hampshire	Attorney fees <sup>14</sup>  Administrative fee <sup>15</sup> Transcript cost <sup>16</sup>	Felony \$490.00 Other <sup>17</sup> \$143.00 \$50.00 Depends on length of transcript <sup>18</sup>	Attorney fees <sup>14</sup>  Administrative fee <sup>15</sup> Transcript cost <sup>16</sup>	Misdemeanor-\$175.00 Misdemeanor appeal-\$278.00 Other <sup>17</sup> -\$143.00 \$50.00 Depends on length of transcript <sup>18</sup>
New Jersey				

State	Fees and Miscellaneous Charges Imposed on Felony Convictions		Fees and Miscellaneous Charges Imposed on Misdemeanor Convictions	
	Type of Fee or Charge	Amount	Type of Fee or Charge	Amount
New Mexico	Probation cost (2nd Judicial District only)	\$15.00/month while on probation	Misdemeanors and Motor Vehicle Code: Correction fee  Crime lab fee—DWI —Controlled substance abuse  Motor Vehicle Code: Court automation fee  Traffic safety fee  <u>Metropolitan Courts:</u> Driver Improvement School DWI School   Petit Larceny School	\$10.00/violation upon conviction \$35.00; \$75.00  \$3.00/violation upon conviction \$3.00/violation upon conviction  \$10.00 \$100.00 (\$75.00 court; \$25.00 Traffic Safety Bureau \$30.00
New York	N/A		N/A	
North Carolina	Process fee Court facilities fee Law Enforcement Officers' Benefit and Retirement Fund General Court of Justice Support fee	\$5.00 <sup>19</sup> \$23.00 \$8.00 \$40.00	Process fee Court facilities fee Law Enforcement Officers' Benefit and Retirement Fund General Court of Justice Support fee	\$5.00 <sup>19</sup> \$5.00 \$8.00 \$33.00
North Dakota	Actual expenses of prosecution, witnesses, experts and forensic tests <sup>20</sup>	Judicial discretion	Actual expenses of prosecution, witnesses experts and forensic tests <sup>20</sup>	Judicial discretion
Ohio	(Imposed locally)		(Imposed locally)	
Oklahoma	Felony convictions Felony DUI Sheriff's fee Court reporter (if used) Jury trial Bail bondsman Preparing, transmitting record for appellate review	\$84.00 \$164.00 \$20.00 \$20.00 \$30.00 \$10.00 \$30.00	Misdemeanor/conviction Misdemeanor DUI Traffic violation Sheriff's fee Court reporter (if used) Jury trial Preparing, transmitting record for appellate review City appeals Bail bondsman Registering license	\$64.00 \$164.00 \$64.00 \$20.00 \$20.00 \$30.00 \$30.00 \$40.00 \$10.00 \$10.00
Oregon	Court appointed attorney fee	Varies	Court appointed attorney fee	Varies

State	Fees and Miscellaneous Charges Imposed on Felony Convictions		Fees and Miscellaneous Charges Imposed on Misdemeanor Convictions	
	Type of Fee or Charge	Amount	Type of Fee or Charge	Amount
Pennsylvania				
Puerto Rico				
Rhode Island				
South Carolina				
South Dakota	N/A		N/A	
Tennessee	Jury impaneling fee Witness subpoena Filing each criminal warrant exhibit, motion, document	\$2.00 <sup>21</sup> \$2.00 \$2.00	Summoning jurors Serving witness subpoena Data processing services Step charges	\$4.00 \$4.00 \$1.00 Vary <sup>22</sup>
Texas				
Utah				
Vermont	N/A		N/A	
Virginia	Clerk's fee Court appointed counsel Receiving/discharging jail prisoners Mileage/tolls (prisoner transportation)	\$32.00 Up to \$575.00 \$4.00 \$.205/mile and tolls	Processing fee Court appointed attorney fee C.I.C.F.	\$22.00 \$100.00 \$20.00
Washington				
West Virginia				
Wisconsin	Felony conviction (Circuit Court only)	\$20.00	Misdemeanor conviction (Circuit Court only)	\$20.00
Wyoming	N/A		Traffic violation	\$20.00 <sup>23</sup>

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<sup>1</sup> A.S. § 18.85.120(C), effective September 19, 1990, authorizes the court to enter judgment against a person convicted of a felony or misdemeanor to cover the cost of court-appointed counsel and other costs.

<sup>2</sup> Funds collected are deposited in the General Fund but credited to the criminal injuries compensation fund. C.G.S. § 54-215.

<sup>3</sup> This fee is in addition to any imposed under C.G.S. § 54-143. Funds collected are deposited in the General Fund.

<sup>4</sup> When fees and charges are assessed in Superior Court, the minimum amount in the disposition of any criminal offense is \$100.00. Uniform Superior Court Rule 36.15. When fees and charges are assessed in State Court, the minimum amount in the disposition of any criminal offense is \$50.00. Uniform State Court Rule 36.15. Any surcharge will be in addition to these minima.

<sup>5</sup> A flat fee of \$14.50 is assessed, unless waived by court for indigency of defendant.

<sup>6</sup> In counties with populations of 650,000 or less.

<sup>7</sup> In counties with populations over 650,000.

<sup>8</sup> In counties with populations over 650,000 but less than 3,000,000 when the violation complaint is issued by a municipal police department.

<sup>9</sup> Chapter 95½, paragraph 16-104a.

<sup>10</sup> For simple misdemeanors.

<sup>11</sup> For serious and aggravated misdemeanors.

<sup>12</sup> Charged to municipalities within the county for processing petty misdemeanors, misdemeanors, and local ordinances in district court. Violations of parking ordinances are not subject to this fee.

<sup>13</sup> This fee is charged to state and local governmental subdivisions located outside the county for processing petty misdemeanors and other criminal matters.



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<sup>16</sup> Requesting party pays for the cost of a transcript.

Includes fugitive, extradition, contempt, probation violation.

<sup>18</sup> One minute = 1 page; \$2.25 for each original page; .75 for each additional copy.

<sup>19</sup> Trial de novo fees for misdemeanor convictions to the superior court are the same as for felonies tried in the superior court.

<sup>20</sup> There is no fixed cost list. Certain expenses are specifically excluded and cannot be included in assessments. These exclusions include salaries of judicial and law enforcement personnel, maintenance and utility costs, jury costs, and amortization of capital expenditures. N.D. Cent. Code § 29-26-22; Rule 23.1, N.D. R. Crim. P.

<sup>21</sup> Costs assessed in fraudulent check cases only (limited jurisdiction courts).

<sup>22</sup> There are numerous step costs, ranging from \$1.00 to \$20.00, some of which include: \$2.00 for affixing a seal; \$1.50 for entering each continuance; and \$3.50 for copy of sentence for warden, for workhouse superintendent, and for judge.

<sup>23</sup> \$10.00 is placed in court computer fund in state auditor's office. See table of criminal surcharges.

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## **APPENDIX B**

**Description of Statistical Methods Used in Determining  
the Number of Additional Judges, Court Personnel and Mediators  
Needed to Establish the Family Court System in Virginia**

# **Description of Statistical Methods Used in Determining the Number of Additional Judges and Court Personnel Needed to Establish the Family Court System in Virginia**

## **Introduction**

In December, 1992, the Judicial Council submitted an evaluation report to the General Assembly on the results of the Family Court Pilot Project. Included in that report was an impact study of the estimated costs involved in providing the additional judges, clerks, and mediators needed to implement a family court system effectively. The cost estimates were based upon an analysis of the number of "family-related cases" that would be transferred from the circuit courts to the family courts in each jurisdiction.

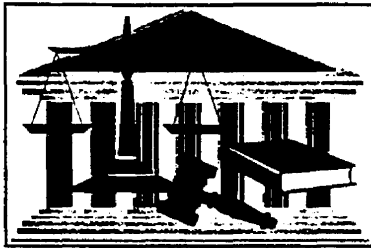
**This section offers an executive summary of the impact study.** It provides an explanation of the overall approach and methods used in estimating the number of additional positions required in each judicial district and locality. It is included here to assist in understanding the statistical projections that serve as a starting point for local teams to use in developing their estimates of the need for increased judgeships, court personnel and mediators in each district.

The statistics used to prepare this analysis came from the monthly caseload reports submitted in 1992 by each circuit and juvenile and domestic relations district court in Virginia. Estimates for additional judgeships are calculated at the district level. Clerk and mediator positions are projected for each locality.

## **Understanding the Approach Used in Conducting the Impact Study**

In developing the impact study, the Council was guided by one key objective. That objective was to determine the number of judges and clerks that currently are required to handle the volume of "family-related" caseloads in the circuit courts so that that level of resources could be used as a basis for estimating the number of additional judges and staff that would be needed for the family courts to operate effectively. In selecting this approach, the intent was to provide to family court judges and clerks the resources necessary for them to assume the cases transferred from circuit court without their having to experience any increased workload burden.

This objective was used in conducting the impact analysis and in determining the specific statistical methods to be used in projecting the number of additional positions for each district and locality. The steps followed in completing the analysis are summarized below.



# JUDICIAL RESOURCES ANALYSIS

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## I. Judge Resources

### *Step 1: Determining the number of "family-related" cases in the circuit courts*

The first step in the analysis was to calculate the number of "family-related" cases that would be transferred from the circuit courts to the new family court. Family-related cases were defined to include divorce cases, reinstatements (the filing of supplemental petitions in cases previously terminated, e.g. change of custody), adoptions and J&DR appeals.

### *Step 2: "Weighting" Family Court Caseloads*

Once those caseload numbers were determined for each circuit, the next task was to estimate the proportion of judicial **workload** involved in disposing of these family-related cases. This distinction is particularly important to make in the area of divorce and domestic relations cases because the amount of time involved for the court varies substantially depending on how these are concluded (settlement, decree on depositions, judicial review of Commissioner's reports, judge trials).

Thus, a method of "weighting" all types of cases handled in the circuit courts by method of disposition was developed in order to identify workload as distinct from caseload. The weights were established by surveying a sample of Virginia's circuit court judges.

Applying these weights to the 1992 caseload figures produced a "total weighted caseload" for each circuit. More specifically, weighted family-related caseloads were established by multiplying the actual number of cases by the appropriate weights for each method of disposition.

Weighting the circuit's **caseload** reduced cases to a number that could be considered as a measure of **workload**. Cases expressed in this manner represent the number of cases that would be handled by judges in the circuit if every case was concluded by a judge trial.

As a result of this exercise, it was possible to use a number of statistical standards, such as concluded cases per judge, to calculate the number of circuit judges currently required to handle family-related caseloads in circuit courts.

*Step 3: Converting Family-Related Caseloads in Circuit Courts to Equivalent Workloads in the J&DR Courts (Family Courts)*

Once the number of circuit court judges currently handling family-related cases was determined, it was then possible to begin looking at the number of judges needed to handle the influx of these caseloads into the J&DR courts, or the family courts.

Because no provision is made for the use of commissioners in divorce cases in the family court, the weighted caseload calculated for circuit judges' workload had to be revised to take this into consideration. For purposes of measuring the impact on J&DR judges' workload, the weight given to cases concluded by reports by commissioners in chancery was changed. In weighting commissioner cases, one half were weighted as judge trials and one half were given the same weight as decrees on depositions.

Further, in calculating the number of cases to be transferred into the J&DR courts, J&DR appeals were removed from the caseload figures. In this context, J&DR appeals relate only to civil cases and not to appeals of delinquency and status offenses. Since custody, visitation, and support will be appealed on the record to the Court of Appeals, this type of J&DR appeal will not exist as a workload to be absorbed by the family court. Once these revisions were made, the total number of weighted cases to be transferred from each circuit could be calculated.

The next task was to determine a method for converting family-related cases into equivalent workload or caseload units in the J&DR courts. This was necessary because of the different rates at which circuit and district court judges process cases. For example, in urban circuits, the average number of weighted cases per circuit judge was 663 cases. J&DR Court judges in urban areas concluded an average of 5,111 cases per judge.

There are a number of reasons for the difference, including the fact that, some divorce and domestic relations cases take longer to conclude than the average J&DR court case. Thus, merely adding the total number of weighted family-related cases coming from circuit court to the total number of J&DR cases would have been inappropriate, because it would not have compared "apples" to "apples".

Therefore, before measuring the impact of adding family-related cases to the J&DR courts, the weighted cases were translated into a number which made them more comparable to the existing cases being handled by judges in the J&DR courts. This was done by applying a "conversion" factor. The conversion factor used was the ratio of the average number of weighted cases concluded per circuit court judge to the average number of cases concluded per judge in the J&DR courts. For example, in urban circuits, the calculation was  $5,111/663 = 7.71$ ; in rural circuit/districts, the calculation was  $4,289/639 = 6.71$ . Then, the total number of weighted family-related cases coming from circuit court was multiplied by the appropriate urban or rural factor.

Applying this factor increased the number of cases upon which the need for additional resources is based by a factor of 6.71 or 7.71 BEFORE determining how many additional judgeships will be needed to process the additional caseload. Thus, for purposes of the analysis, if the applicable caseload being transferred from an urban circuit court was 10 family-related cases, then 77 cases were, in fact, projected as the caseload being assumed by the family court. Estimates of judicial resources required then were based on 77 additional cases rather than 10.

Applying the conversion factor to the weighted cases from circuit courts produced an equivalent workload to be added to the caseloads of judges in the J&DR District Courts, or the family court.

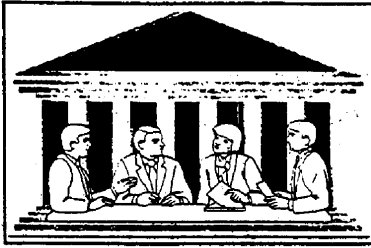
#### *Step 4: Evaluation of the Impact of the Transferred Workloads*

The impact of transferring the additional workload to the J&DR courts in each district then was evaluated using four statistical methods, as described below.

- a) **The District's Cases per Judge Standard Method.** The first method applied the number of concluded cases per judge in each district to the additional workload (converted cases) that will be handled in the family court. Using this "district standard" resulted in the estimate of additional judgeships required. The advantage of using this method is that it provides an estimate of the additional judicial resources needed to allow case processing of the increased workload to proceed at the same level as is currently being handled in the juvenile and domestic relations district courts in each district. *Thus, this method is recommended for review and examination by the teams in developing local implementation plans. It should be used as a starting point and as a fairly clear presumption of the resources needed in each district.*
- b) **The State's Urban and Rural Standards Method.** Secondly, the state urban and rural averages of cases concluded per judge were used as workload standards. This resulted in another estimate of the judgeships needed to handle the increase in the number of cases due to the influx of family-related cases from circuit courts. This method provides less resources to those districts working under the state standards and more resources to those working over the state standard.
- c) **Percentage of Caseload Method.** A third method for determining the impact of transferring family-related cases from the circuit courts involved applying a percentage increase in the number of cases to the number of judges. In this method, the percentage of total caseload in each district represented by the family-related cases being transferred was calculated. The number of judges necessary to handle this caseload was determined by increasing the number of current judgeships by this percentage. In many districts, this method resulted in providing essentially the same amount of resources as the first method.
- d) **Percentage of Time Method.** The fourth method employed a "guesstimate" of the

percentage of a circuit court judge's time used in family-related matters to estimate the number of full-time equivalent judgeships currently handling family-related cases. According to a survey of circuit court judges, approximately 22 percent of a judge's time is occupied by family matters in the circuit courts. The number of judges handling the family-related caseload in a circuit, then, was estimated by taking 22 percent of the total number of circuit judges serving in that circuit. This number of judges is considered an estimate of the additional judgeships necessary in the family court in each district. Given the fact that this method does not rely upon any empirical data, its results also are considered less reliable than the other methods used.

For each district a comparison was made of the results of using all four statistical methods to estimate the need for additional judgeships. Again, the district standard method should be viewed as the most accurate projection with the other methods providing confirming data or parameters.



# PERSONNEL RESOURCES ANALYSIS

## II. Estimate of the Number of Additional Personnel for the Family Court Clerks' Offices

The analysis of additional personnel needs for the family court clerks' offices utilized the same objective that guided the examination of judgeship needs. That objective is to provide the additional resources necessary for family court clerks offices to assume the cases transferred from circuit court without existing personnel having to experience an increased workload burden.

### *Step 1: Analysis of resources used in circuit court clerks' offices to handle family related cases*

A methodology similar to the judges' resource analysis was used. This analysis examined the existing resources being used in the circuit courts to process family-related caseloads. Information on these circuit court resources served as the basis for determining the need for additional personnel in the J&DR courts, or the family courts in each locality. In evaluating the number of circuit court clerks' office personnel processing family-related cases, the first task was to tabulate the current number of FTE positions in each circuit. This number was obtained from the State Compensation Board report of positions issued July 1, 1992.

The most recent inventory of duties or service areas for positions (FTEs) in the circuit court clerks' offices appeared in a statewide study of staffing in the clerks' offices completed by the Joint Legislative Audit and Review Commission (JLARC) in 1990. From this study it was estimated that approximately 47 percent of each FTE position could be defined as having case processing responsibilities. The number of concluded cases per FTE for these positions then was used as a workload standard for the number of family-related cases that would be transferred to the proposed family court. (Family-related cases were identified as divorce, reinstatements, and adoptions, and taken from monthly caseload reports.) This resulted in an estimate of the staff currently processing family-related cases in the circuit court. While the workload for these positions would be transferred to the family court, these positions will be retained in the circuit court clerks' offices to reduce existing workload burdens and to slow future growth.



*Step 2: Analysis of District Court Clerks' Resource Needs*

The next step was to tabulate the current number of FTE positions in the Juvenile and Domestic Relations District Court clerks' offices. For combined courts, an estimate was made of the number of FTEs serving the J&DR court. This was done using a formula which looks at the number of existing combined court FTEs and then assigns a weight of 4.5 to J&DR cases and 1.0 to general district cases. The formula, in effect, considers J&DR cases as 4.5 more time consuming than general district cases and estimates the number of personnel required to handle these more involved types of cases.

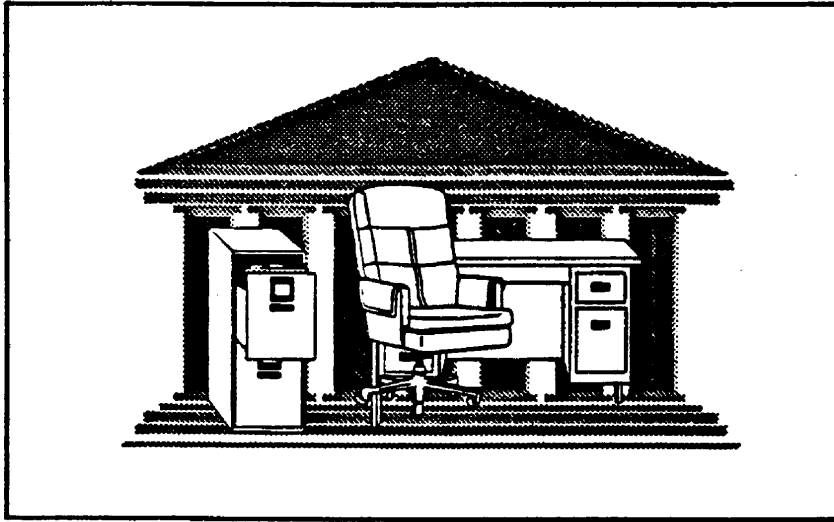
To determine the additional workload that would be added to J&DR District Court clerks, the total unweighted number of family-related cases (which does not include J&DR Appeals) was converted to equivalent district court work units by applying a conversion factor. Rationale for this conversion step is the same as that used in the analysis of additional judgeships, i.e., the different rates on average at which personnel are able to process cases in circuit and district courts. This factor is the ratio of the number of J&DR cases concluded per FTE position to the number of circuit cases concluded per FTE position for urban and rural districts, as is illustrated below.

Circuits/Districts	Circuit Cases Concluded per FTE 1992	J&DR Cases Concluded per FTE 1992	Conversion Factors
Urban	488	963	$963 / 488 = 1.97$
Rural	334	824	$824 / 334 = 2.47$
State	409	894	$894 / 409 = 2.19$

Then, the number of cases concluded per FTE position in each J&DR court in the district in 1992 was used as a workload standard to determine the additional staff required to handle the additional workload. Again, using this standard follows the principle that additional resources should be granted at a level sufficient enough so that the additional caseload can be processed without changing workloads of existing personnel.

## **APPENDIX C**

### **Planning Process and Worksheets Used by the Local Planning Teams**



# **PLANNING PROCESS AND WORKSHEETS**

# **PLANNING PROCESS AND WORKSHEETS**

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## **Introduction**

This section attempts to provide a step-by-step process which will allow the Circuit/District Planning Teams to address the issues which must be considered in formulating an implementation plan for the family court. The worksheets incorporated as Tables in this section provide both a checklist of issues to review and a means of collecting and reporting the information necessary for the plan. Instructions on how to complete each Table are provided. Tables X, Y, Z and the Family Court Implementation Questionnaire must be completed and returned to the Office of the Executive Secretary (OES) by August 2, 1993. Once these Tables are submitted, if necessary, a visitation team will be convened to visit and assist each Circuit/District Team in finalizing its plan.

As the team proceeds through the planning process, questions may arise. The OES is available to respond to any such inquiries. As with any project of this scope, some issues will have to be resolved as the process proceeds. The Family Court Planning Advisory Committee provides a vehicle through which these issues can be resolved. Some of the types of issues which are yet to be resolved and other random items which may have some impact on your local plan are as follows:

1. **Supervision of mediators.** There are several options which exist regarding the most appropriate entity to house and administratively manage the new mediators. One option is within the Court Service Units, however, other alternatives also exist. The Family Court Planning Advisory Committee will be discussing this issue during 1993. Since this issue has not been resolved, the Facility Planning Table requests the Circuit/District Team to identify any existing local facilities within court-related governmental agencies which might be available regardless of how this question is resolved. Hopefully, this issue can be decided prior to the visitation team visits and the finalization of the draft plans.
  
2. **Microfilming of court records.** This question is addressed in detail in Appendix B.3, page B.3-2. As indicated there, the Family Court Planning Advisory Committee will be reviewing the options on this issue. To facilitate this discussion and to gain information on likely costs, the Family Court Implementation Questionnaire requests the Circuit/District Team to identify the amounts currently being expended by the circuit courts for microfilming of these family-related cases. Notwithstanding that any expenses for microfilming these records will not be a new expense as these orders are currently microfilmed in circuit court, it is necessary to identify this cost.

3. **Court Service Unit Staff.** The Planning Process Worksheets do not address any impact on Court Service Unit personnel. Although at the beginning of the Family Court Pilot Project concern was expressed about this potential impact, the pilot project demonstrated virtually no impact on court service units. Since no impact occurred in these ten courts over two years, no major impact is anticipated with the implementation of the Family Court. However, this issue should be explored keeping in mind that the objective of the planning process is to identify the resources necessary to receive the caseload to be transferred from circuit court not to establish new programs.
4. **Court Security.** While there is no statutory recognition of the provision of security in civil cases, most juvenile and domestic relations district courts have access to bailiffs in these matters. Since no new cases are being created and since the number of cases being transferred from the circuit court to the family court which are contested and in which there is actually a hearing is small, it is anticipated that these cases can be accommodated through realignment of schedules of existing bailiffs. The Family Court Implementation Questionnaire provides an opportunity for the Circuit/District Team to address this need.
5. **Circuit Court Judges' Secretaries.** In identifying the need for additional family court clerks' office personnel, primary attention was devoted to determining the number of people currently processing these cases in the circuit court clerks' offices. This was the basis for the projection of needs for the family court clerks' offices personnel. If in your circuit, a circuit court judge's secretary performs any major function regarding these family-related cases being transferred, this should be accounted for in establishing the estimate of family court clerks' office needs. Please keep in mind that even though the judge's secretary may perform some docketing or scheduling function in the circuit court, this function will be integrated into the normal docketing process in the family court.
6. **Location of new judgeships.** While the determination of the need for additional judicial resources is a relatively straightforward process, the identification of the facilities and equipment impact for these new judges is more difficult in multi-jurisdiction circuits/districts. It is obviously difficult to project the impact on office space and equipment until it is known what jurisdiction will serve as the home court for the new judge. This, of course, is not

generally known until the person has been elected to the position. This is complicated even further by the fact that in some instances a circuit/district will not be able to justify a full new judgeship solely because of the transferring of the new family-related cases. In these instances, an at-large judgeship must be created to assist in more than one circuit/district.

For purposes of developing the financial impact when estimates indicate the need for a new full judgeship, the Circuit/District Team should attempt to project the most likely jurisdiction for that judge to be located in and should anticipate the schedules for all judges given the additional position. Once the projected arrangement of schedules has been completed, the impact on the local facilities and equipment can be projected.

For those circuits/districts which will be served by an at-large judgeship, again, the anticipated schedules should be developed and used to project the demands on the local facilities. The number of days a judge may be needed in a given jurisdiction can be determined even if that judge has his/her principle office outside the circuit/district.

Please do not hesitate to contact the Office of the Executive Secretary when questions arise as you proceed with this plan.

**(CIRCUIT/DISTRICT #)**

**CIRCUIT/DISTRICT PLANNING TEAM**

**Team Representatives:**

(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
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(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)
(Name)	(Title)	(Representing)



# TABLE X - CIRCUIT/DISTRICT TEAM WORKSHEET

## JUDICIAL COUNCIL ESTIMATES

## LOCAL ESTIMATES

	ESTIMATED NEW JUDGESHIPS	ESTIMATED NEW CLERKS	ESTIMATED NEW MEDIATORS		ESTIMATED NEW JUDGESHIPS	ESTIMATED NEW CLERKS	ESTIMATED NEW MEDIATORS
<b>DISTRICT LEVEL: (Enter District #)</b>							
	—	N/A	N/A		—	N/A	N/A
<b>TOTAL</b>	—	N/A	N/A		—	N/A	N/A
<b>LOCAL LEVEL: (Enter Locality Name)</b>							
1)	N/A	—	—		N/A	—	—
2)	N/A	—	—		N/A	—	—
3)	N/A	—	—		N/A	—	—
4)	N/A	—	—		N/A	—	—
5)	N/A	—	—		N/A	—	—
6)	N/A	—	—		N/A	—	—
7)	N/A	—	—		N/A	—	—
8)	N/A	—	—		N/A	—	—
9)	N/A	—	—		N/A	—	—
10)	N/A	—	—		N/A	—	—
11)	N/A	—	—		N/A	—	—
<b>TOTAL</b>	N/A	—	—		N/A	—	—

**NOTE:** Table to be completed by the Circuit/District Team.

**USING THIS FORM - TABLE X**

**1. Prepared By**

Circuit/District Team

**2. Copies**

One completed copy of Table X should be returned to the Judicial Council.

**3. Attachments**

Supporting documentation if Circuit/District Team determines that any of the estimates provided by the Judicial Council differ from the findings of the Circuit/District Team.

**4. Preparation Details**

- a. Table X is designed to be used as a worksheet by the Circuit/District Team in comparing the estimates provided by the Judicial Council and estimates developed by the Circuit/District Team. Circuit/District Teams must complete Data Elements Nos. 1-14. See page III-9. Data Element Nos. 9-14 must be completed by the Circuit/District Team even when the team determines that the estimates provided by the Judicial Council reflect the actual need of the District or Locality.
- b. Data Element No. 2 - Estimate of additional judgeships required is found on **Page II-6, Table 1 - JUDICIAL RESOURCES ANALYSIS (District Cases per Judge Standard)**, Column 7 which reflects estimates using the District Standard Method.
- c. Data Element No. 5 - Estimate of additional clerks required is found on **Page II-9, Table 3 - PERSONNEL RESOURCES ANALYSIS (Cases Per FTE Standard)**, Column 6 - Estimate of Additional Clerks Required which reflects estimates using the Cases per Court FTE Standard Method.
- d. Data Element No. 6 - Estimate of mediators required is found on **Page II-10, Table 4 - MEDIATOR RESOURCE ANALYSIS**, Column 4 - Estimate of Mediators Required which reflects projections using the number of contested cases transferred to the Family Court.
- e. Data Element No. 11 - Estimates for the number of clerk's office staff may be entered as FTE's (full-time employees).

For example, using the formula below, if estimated increase is for one full-time clerk's office staff position and an additional person is needed to work 20 hours per week, the total estimation would be entered as 1.5 FTE.

**FTE Formula**

1 day or 8 hours	=	0.2
2 days or 16 hours	=	0.4
3 days or 24 hours	=	0.6
4 days or 32 hours	=	0.8
5 days or 40 hours	=	1.0

**INSTRUCTIONS FOR COMPLETING  
DATA ELEMENTS ON TABLE X**

**DATA  
ELEMENT**

**INSTRUCTIONS**

1. Enter District number.
2. Enter the number of Judicial Council estimated new judgeships found on Page II-6, Table 1 - JUDICIAL RESOURCES ANALYSIS (District Cases per Judge Standard), Column 7 - Estimates of Additional Judgeships Required for your District. See Using This Form, 4(b) - Page III-7.
3. Enter the total number of judgeships estimated by the Judicial Council for your District. Number entered will be the same as entered in Data Element No. 2.
4. Enter each locality's name located within the District entered in Data Element No. 1.
5. Enter the number of Judicial Council estimated new clerks found on Page II-9, Table 3 - PERSONNEL RESOURCES ANALYSIS (Cases per FTE Standard), Column 6 - Estimate of Additional Clerks Required. See Using This Form, 4(c)-Page III-7.
6. Enter the number of Judicial Council estimated new mediators found on Page II-10, Table 4 - MEDIATOR RESOURCE ANALYSIS, Column 4 - Estimate of Mediators Required. See Using This Form, 4(d) - Page III-7.
7. Enter the total number of clerks estimated by the Judicial Council. The number entered here is the sum of all clerks entered in Data Element No. 5.
8. Enter the total number of mediators estimated by the Judicial Council. The number entered here is the sum of all mediators entered in Data Element No. 6.
9. Enter the number of estimated new judgeships based upon the Circuit/District Team's evaluation of all localities within the district.
10. Enter the total number of judgeships estimated by the Circuit/District Team for your District. Number entered will be the same as entered in Data Element No. 9.
11. Enter the number of Circuit/District Team estimated new clerks. See Using This Form, 4(e).
12. Enter the number of Circuit/District Team estimated new mediators.
13. Enter the total number of clerks estimated by the Circuit/District Team for your District. The number entered here is the sum of all clerks entered in Data Element No. 11.
14. Enter the total number of mediators estimated by the Circuit/District Team for your District. The number entered here is the sum of all mediators entered in Data Element No. 12.

# TABLE X - CIRCUIT/DISTRICT TEAM WORKSHEET

## JUDICIAL COUNCIL ESTIMATES

## LOCAL ESTIMATES

	ESTIMATED NEW JUDGESHIPS	ESTIMATED NEW CLERKS	ESTIMATED NEW MEDIATORS		ESTIMATED NEW JUDGESHIPS	ESTIMATED NEW CLERKS	ESTIMATED NEW MEDIATORS
<b>DISTRICT LEVEL: (Enter District #)</b>							
①	②	N/A	N/A		⑨	N/A	N/A
<b>TOTAL</b>	③	N/A	N/A		⑩	N/A	N/A
<b>LOCAL LEVEL: (Enter Locality Name)</b>							
1)	N/A	—	—		N/A	—	—
2)	N/A	—	—		N/A	—	—
3) ④	N/A	⑤	⑥		N/A	⑪	⑫
4)	N/A	—	—		N/A	—	—
5)	N/A	—	—		N/A	—	—
6)	N/A	—	—		N/A	—	—
7)	N/A	—	—		N/A	—	—
8)	N/A	—	—		N/A	—	—
9)	N/A	—	—		N/A	—	—
10)	N/A	—	—		N/A	—	—
11)	N/A	—	—		N/A	—	—
<b>TOTAL</b>	N/A	⑦	⑧		N/A	⑬	⑭

6-III

Note: Table to be completed by the Circuit/District Team

# TABLE X - CIRCUIT/DISTRICT TEAM WORKSHEET

## JUDICIAL COUNCIL ESTIMATES

## LOCAL ESTIMATES

	ESTIMATED NEW JUDGESHIPS	ESTIMATED NEW CLERKS	ESTIMATED NEW MEDIATORS		ESTIMATED NEW JUDGESHIPS	ESTIMATED NEW CLERKS	ESTIMATED NEW MEDIATORS
<b>DISTRICT LEVEL: (Enter District #)</b>							
# 01	.67	N/A	N/A		.67	N/A	N/A
<b>TOTAL</b>	<u>.67</u>	N/A	N/A		<u>.67</u>	N/A	N/A
<b>LOCAL LEVEL: (Enter Locality Name)</b>							
1) Chesapeake	N/A	1.57	1.65		N/A	1.6	1.65
2)	N/A	---	---		N/A	---	---
3)	N/A	---	---		N/A	---	---
4)	N/A	---	---		N/A	---	---
5)	N/A	---	---		N/A	---	---
6)	N/A	---	---		N/A	---	---
7)	N/A	---	---		N/A	---	---
8)	N/A	---	---		N/A	---	---
9)	N/A	---	---		N/A	---	---
10)	N/A	---	---		N/A	---	---
11)	N/A	---	---		N/A	---	---
<b>TOTAL</b>	N/A	<u>1.57</u>	<u>1.65</u>		N/A	<u>1.6</u>	<u>1.65</u>

NOTE: Table to be completed by the Circuit/District Team.

# FACILITY PLANNING - FAMILY COURT (TABLE Y)

<b>DISTRICT #:</b> <i>(Enter District #)</i>	<b>LOCALITY:</b> <i>(Enter locality name)</i>	<b>New/ Required (Column 1)</b>	<b>Estimated Local Cost (Column 2)</b>
<b>I. CLERK'S OFFICE</b>		<b>Enter #</b>	<b>Enter \$</b>
A. Number of estimated additional clerks.		_____	N/A
B. Workstation (how many and sq. ft.?)*		_____/_____ _____	N/A
- desk/counter		_____	_____
- chair		_____	_____
- typewriter		_____	_____
- phone		_____	_____
- other (please specify)		_____	_____
C. Additional Floor space**, if any, to accommodate B above:		<b>Enter Y or N</b>	<b>Enter \$</b>
- use existing facility		_____	_____
- add to existing facility		_____	_____
- use of other vacant facility available to locality		_____	_____
<b>II. MEDIATORS</b>		<b>Enter #</b>	<b>Enter \$</b>
A. Number of estimated new mediators.		_____	N/A
B. Office (how many and sq. ft.?)*		_____/_____ _____	N/A
- desk		_____	_____
- chair		_____	_____
- side chair(s)		_____	_____
- bookshelf		_____	_____
- phone		_____	_____
- other (please specify)		_____	_____
C. Additional Floor space **, if any, to accommodate B above:		<b>Enter Y or N</b>	<b>Enter \$</b>
- use existing facility		_____	_____
- add to existing facility		_____	_____
- use of other vacant facility available to locality		_____	_____

**TOTAL ESTIMATED LOCAL COSTS:**  
of Column 2, Sections I & II      A. \$ \_\_\_\_\_

\* See Chart A - Page III-23 for estimated cost of equipment provided under state contract.  
\*\* See Chart B - Page III-24 for a summary of space requirements for many areas of the courthouse. Source: Virginia Courthouse Facility Guidelines

**FACILITY PLANNING - FAMILY COURT (TABLE Y)**  
**(Continued)**

<b>III. FILE SPACE:</b>	<i>Estimated # of new cases</i>  (Col. 1)	<i>Shelves Needed</i>  (Col. 2)	<i>Shelves to be Purchased</i>  (Col. 3)	<i>Filing Units Needed</i>  (Col. 4)	<i>Floor Space</i>  (Col. 5)	<i>Additional Square ft</i>  (Col. 6)	<i>Estimated Local Cost: Filing Units</i>  (Col. 7)	<i>Estimated Local Cost: Floor Space</i>  (Col. 8)

*Estimated Local Costs  
of Columns 7 & 8, Section III*

**B. \$** \_\_\_\_\_

**TOTAL LOCAL COST:**  
(Total A + B)

**\$** \_\_\_\_\_

## **INSTRUCTIONS FOR COMPLETING TABLE Y**

**SECTION: I. CLERK'S OFFICE  
II. MEDIATORS**

The instructions below are to be used as a guide for completing TABLE Y. *One* table per locality should be completed by the local team.

Review the present juvenile court facility and assess the most efficient use of current space considering issues such as those listed below:

- (1) Is it feasible to combine existing workstations or use workstations by more than 1 individual on a scheduled basis? For example: 1 workstation shared by multiple part-time employees.
- (2) Is it feasible to store older records off-site to provide floor space for workstations or other identified needs?
- (3) Is it feasible for mediators to share office space located in the court facility that is currently used by other agencies (DCSE, CSU, Social Services, etc.) ?
- (4) Does the locality have space available in other locations to accommodate additional staff or other court facilities that may be needed?

**STEP 1** Enter District Number and Locality Name in the top left-hand corner of TABLE Y.

**STEP 2** Complete Section I.A and II.A of TABLE Y by inserting local estimates found in TABLE X.

**STEP 3** Determine if additional workstations will be needed for the clerk's office personnel. If additional workstations will be needed, enter the number of such workstations and their square footage requirements on the first line of Column 1, Section I.B in TABLE Y. If current workstations will be utilized, enter "0." If additional workstations will be required, complete Section I.B. by inserting in Column 1 the total number of each item needed to be purchased to equip the new workstations.



**INSTRUCTIONS FOR COMPLETING**  
**TABLE Y**  
**(Continued)**

**STEP 4** Determine the total estimated cost of the type of items listed in Column 1, Section I.B and enter the total cost for each type in Column 2.

**EXAMPLE:** Under clerk's office area, it was determined two desks will need to be purchased at a cost of \$800.00 each (2 x \$800.00 = \$1600.00). The total cost of desks \$1600.00 would be entered in Column 2.

**NOTE:** When calculating the estimated cost of each item required in Steps 4 and 6, please refer to Chart A-Page III-23 for cost estimates of equipment provided from vendors on state contract in addition to any local information regarding local vendors, special purchases, etc.

Please attach supporting documentation if costs are estimated from sources other than Chart A - Page III-23.

**STEP 5** Determine if new offices will be needed for mediators. If new offices will be needed, enter the number of such offices and their square footage requirements on the first line of Column 1, Section II.B in Table Y. If current office space will be utilized, enter "0." If additional offices will be required, complete Section II.B by inserting in Column I the total number of each item needed to be purchased to equip the new offices.

**STEP 6** Determine the total estimated cost of the type of items listed in Column 1, Section II.B and enter the total cost for each type in Column 2. If additional floor space for offices is identified as being needed in Column 1, Section B., the cost of this space will be listed in Column 2, Section II.C.

**STEP 7** Complete Section I.C and II.C of TABLE Y by inserting a "Y" or "N" in Column 1.

**STEP 8** Complete Section I.C and II.C of TABLE Y by inserting the estimated cost in Column 2 of the required additional floor space previously identified. If it is determined that existing floor space will accommodate additional personnel, then enter a "0" in Column 2.

**NOTE:** Floor space cost estimates need to be determined locally since cost per square foot price ranges vary significantly based on whether additional space is leased, renovated or new construction.

**NOTE:** Refer to Chart B-Page III-24 for a summary of space requirements for many of the areas within the courthouse. Items listed in Chart B are excerpts from the Virginia Courthouse Facilities Guidelines.

**INSTRUCTIONS FOR COMPLETING**  
**TABLE Y**  
**(Continued)**

***SECTION: III. FILE SPACE***

**NOTE:** Consideration should be given to the fact that the new cases filed as a result of the creation of the Family Court will be merged into the current Juvenile Court filing system.

**STEP 1** Retrieve the estimated number of new cases your court will receive annually (See Page II-6 - Table 1 - JUDICIAL RESOURCES ANALYSIS, Column 3) and *enter that number in Column 1.*

**STEP 2** Considering that approximately 150 new cases can be stored or filed on one 36" lateral open shelf, calculate the number of 36" shelves needed to accommodate the new cases listed in column 1.

**NOTE:** New case figure listed in column 1 divided by 150 equals number of shelves (36") needed.

*Enter the total number of shelves needed in Column 2.*

**STEP 3** Evaluate the filing space in the present J&DR Clerk's office to determine if the estimated annual caseload increase can be accommodated on existing shelf space. Based on this evaluation, determine the total number of 36" shelves not currently available that would need to be purchased in order to accommodate new files received for a one year period.

*Enter the number of shelves to be purchased in column 3.*

If current filing space exists to accommodate the new cases the *enter a "0" in column 3.*

**STEP 4** In the current *J&DR filing system*, one open lateral filing unit consists of five - 36" shelves. Based on this standard, calculate how many filing units would be needed to store the new cases listed in column 1.

**NOTE:** Take the total number of 36" shelves indicated in column 2 and determine the number of filing units needed by reviewing the following chart:

1 to 5 shelves = one filing unit  
6 to 10 shelves = two filing units  
11 to 15 shelves = three filing units

*Enter the total number of filing units in column 4.*

**INSTRUCTIONS FOR COMPLETING**  
**TABLE Y**  
**(Continued)**

**STEP 5** If adequate floor space currently exists in the present J&DR Clerk's Office to accommodate the purchase/installation of the additional filing units indicated in column 4, then enter "yes" in Column 5.

If space does not exist in your current J&DR Clerk's Office to accommodate the purchase/installation of the additional filing units indicated in column 4, then enter "no" in Column 5.

**STEP 6** If you answered "yes" in column 5, then enter "0" in Column 6.

If you answered "no" in column 5, then enter the total number of square feet needed in Column 6.

**NOTE:** Square footage can be determined by taking the number of filing units entered in column 4 and multiplying that number by 12 (12 feet).

(1 Unit = 12 square feet)

**STEP 7** Review Columns 3 & 4 and calculate the estimated cost of additional shelves or filing units required, if any.

Enter total amount of estimated cost for additional filing shelves/units in Column 7. Enter "0" if no additional cost is estimated.

**NOTE:** Refer to Chart A - Page III-23 for cost estimates of filing units in addition to any local information available.

**STEP 8** Review Columns 3, 4 and 6 and calculate the estimated cost of additional floor space required, if any.

Enter total amount of estimated cost for additional floor space in column 8. Enter "0" if no additional cost is estimated.

**NOTE:** Floor space cost estimates need to be determined locally since cost per square foot price range varies significantly based on whether additional space is leased, renovated or new construction.

**FACILITY PLANNING - FAMILY COURT (TABLE Z)**

<b>DISTRICT #:</b> <i>(Enter District #)</i>	<b>LOCALITY:</b> <i>(Enter locality name)</i>	<b>New/ Required (Column 1)</b>	<b>Estimated Local Cost (Column 2)</b>
<b>I. JUDGES</b>		<b>Enter #</b>	<b>Enter \$</b>
A. Number of additional estimated judgeship days.		_____	N/A
B. Office/Chambers <i>(how many and sq. ft.)*</i>		/	N/A
- desk		_____	_____
- chair		_____	_____
- side chair(s)		_____	_____
- bookshelf		_____	_____
- phone		_____	_____
- other (please specify)		_____	_____
C. Hearing Room <i>(how many and sq. ft.)*</i>		/	N/A
- table		_____	_____
- chairs		_____	_____
- other (please specify)		_____	_____
D. Additional Floor space **, if any, to accommodate B & C above:		<b>Enter Y or N</b>	<b>Enter \$</b>
- use existing facility		_____	_____
- add to existing facility		_____	_____
- use of other vacant facility available to locality		_____	_____

**TOTAL LOCAL COST: \$ \_\_\_\_\_**

\* See Chart A - Page III-23 for estimated cost of equipment provided under state contract.

\*\* See Chart B - Page III-24 for a summary of space requirements for many areas of the courthouse. Source: Virginia Courthouse Facility Guidelines

**INSTRUCTIONS FOR COMPLETING  
TABLE Z**

The instructions below are to be used as a guide for completing TABLE Z. One table per locality should be completed by the Circuit/District Team.

Review the present juvenile court facility and assess the most efficient use of current space. Also consider any other issues such as the following:

Is it feasible for the current judge's chambers to be used by two or more judges if their respective courts are held on different days of the week?

Is it feasible to use better facilitating tools, such as calendaring of cases by specific time to allow the most efficient use of current court facilities?

**STEP 1** Enter your District number and your locality name at the top of the table.

**STEP 2** Review your Circuit/District Team's projections for additional judgeships found in TABLE X. If local projections do not support any additional judgeships then enter a "0" in Column 1 of Section A.

**(IF A "0" IS ENTER IN COLUMN 1, THEN THE REMAINING SECTIONS B, C, AND D, OF THIS TABLE DO NOT NEED TO BE COMPLETED.)**

**STEP 3** If your local team's projections support additional judgeship resources, then enter the number of additional days per week a judge will be required to sit in this locality in Column 1 of Section A.

**NOTE: If Section A has been completed with any number of days other than zero, you need to complete the remaining sections B, C, and D.**

**STEP 4** Determine if additional chambers will be needed, and enter the number of such chambers and their square footage requirements on the first line of Column 1, Section B. If current chambers will be utilized, enter "0." If additional chambers will be required, complete the remainder of Section B by inserting in Column 1 the total number of each item needed to be purchased to equip the new chambers.

**STEP 5** Determine the total estimated cost of all items in Column 1 for Judge's chambers and enter the total cost for each type of item in Column 2. If additional chamber space is identified as being needed in Column 1 of Section B, the cost of this space will be listed in Column 2 of Section D.

**STEP 6** Determine if additional hearing rooms will be needed, and enter the number of such hearing rooms and their square footage requirements on the first line of Column 1, Section C. If current hearing rooms will utilized, enter "0." If additional hearing rooms will be needed, complete the remainder of Section C by inserting in Column 1 the total number of each item needed to be purchased to equip the new hearing rooms.

**INSTRUCTIONS FOR COMPLETING**

**TABLE Z**

**(Continued)**

**STEP 7** Determine the total estimated cost of all items in Column 1 for hearing rooms and enter the total cost for each type of item in Column 2. If additional hearing room space is identified as being needed in Column 1 of Section C, the cost of this space will be listed in Column 2 of Section D.

**NOTE:** When calculating the estimated cost of each item required, please refer to Chart A-Page III-23 for cost estimates of equipment provided from vendors on state contract in addition to any local information regarding local vendors, special purchases, etc.

**STEP 8** Complete Section D for additional floor space to accommodate Judge's chambers and/or hearing room by inserting a "Y" or "N" in Column 1 of Section D.

**STEP 9** Complete Section D, Column 2 by inserting the estimated cost anticipated for any additional floor space identified.

**NOTE:** Floor space cost estimates need to be determined locally since cost per square foot price ranges vary significantly based on whether additional space is leased, renovated or new construction.

**NOTE:** Refer to Chart B-Page III-24 for a summary of space requirements for many of the areas within the courthouse. Items listed in Chart B are excerpts from the Virginia Courthouse Facilities Guidelines.

# FAMILY COURT IMPLEMENTATION QUESTIONNAIRE

## THE FOLLOWING QUESTIONS SHOULD BE COMPLETED FOR EACH LOCALITY:

I(a). Are bailiffs currently available in the J&DR civil proceedings? Yes No  
(Circle One)

I(b). If the answer to question I(a) is "YES", can the bailiffs being utilized by the J&DR court absorb the new Family Court caseload? Yes No  
(Circle One)

**NOTE:** Review data provided on Page II-6 - Table 1 - JUDICIAL RESOURCES ANALYSIS, Column 3. Consideration should be given to the fact that only an estimated 28% of these new Family Court cases will be contested and even a smaller number of cases will require an ore tenus hearing.

I(c). If not, can the bailiff resources currently used in the Circuit Court be used for the additional caseload to be handled by the Family Court? Yes No  
(Circle One)

If the answers to either question I(b) or I(c) is "YES" then go directly to question II(a). If the answers to either of these questions are "NO", then proceed to I(d).

I(d). Additional hours per week of bailiff services needed to support the new Family Court caseload? \_\_\_\_\_  
(Enter hours per week)

I(e). Estimated annual cost of the additional hours projected above. \$ \_\_\_\_\_

II(a). Has your locality decided to provide recording equipment as a enhancement to your facility, even though there are no requirements for this provision? Yes No  
(Circle One)

# FAMILY COURT IMPLEMENTATION QUESTIONNAIRE

(Continued)

II(b). Estimated cost of recording equipment purchase and installation? \$ \_\_\_\_\_

III(a). What is the current annual cost or budget for all microfilming services used the Circuit Court? \$ \_\_\_\_\_

III(b). What portion of the expense listed in III(a) can be attributed to the cases being transferred to the Family Court. \$ \_\_\_\_\_





## CHART A

### Estimated cost of Equipment:

Executive Desk (comparable to JOFCO 2600 Series) CF 2676	\$800.00
Secretarial Desk (comparable to JOFCO 2600 Series) CRT-C-2600	875.00
Executive Chair (comparable Jasper Seating) #2855	500.00
Secretarial Chair (comparable to Herman Miller) #ER355	250.00
Side Chair, Executive Style (comparable to Jasper Seating) #1531	250.00
Side Chairs, Secretarial (comparable to Herman Miller) EQ400S	250.00
Bookcase - 6 Shelf (comparable to Boling - B72-TB)	325.00
Open Shelf Filing Unit (36" W, 5-tier high - comparable to Wright Line 5M56)	695.00

\*prices as of 4/93

# CHART B

## VIRGINIA COURTHOUSE FACILITY GUIDELINES

### SUMMARY OF SPACE REQUIREMENTS

The following space needs summarize the requirements for many of the individual areas of the courthouse. They are based upon a wide variety of sources, and offer only general guidelines as to what may be required in any particular

courthouse. Determination of exact requirements requires a detailed facilities program and will depend upon the exact nature of individual circumstances.

Activity Area	Approximate Area Requirements (sq. ft.)	Comments
<b>Courtroom</b> <b>Overall Dimensions</b>  Hearing Room Small Courtroom Medium Courtroom Large Courtroom	540-1150 950 1200 1600	Should hold at least 15 persons other than spectators.
Bench	40-75	Includes minimum of 4ft. from bench to nearest obstruction.
Attorney's Table	154/table	Includes a minimum of 4 ft. from nearest obstruction.
Witness Stand	15-20	Includes circulation space; 10 sq. ft for stand itself.
Court Reporter	15-20	Includes table. May vary depending upon equipment needed.
Courtroom Clerk	30-40/clerk	Includes circulation; 10-15 sq. ft. for work space.
Baliff's Station	10-20	Includes circulation.
Public /Spectators	8-12/person	
Judge's Private Office	250-500	Includes toilet, work area, small conference area, personal library, and robing area.
Private Office	250-350	Includes small conference table.
General work space	44-63/clerk	

**APPENDIX D**

**Schedule of Events**  
**for the**  
**Family Court Implementation and Planning Process**

**Schedule of Events**  
**Family Court Implementation and Planning Process**

- |                          |   |
|--------------------------|---|
| <b>February 28, 1993</b> | <b>General Assembly adjourns having passed family court legislation.</b>  |
| <b>April 2, 1993</b>     | <b>First meeting of Family Court Planning Advisory Committee.</b>   |
| <b>April 5-9, 1993</b>   | <b>Regional Meetings on Family Court Legislation and Implementation.</b>  |
| <b>April, 1993</b>       | <b>Local planning materials are mailed to all chief circuit and juvenile and domestic relations district court judges.</b>  |
| <b>April-Sept., 1993</b> | <b>Local planning teams are convened to develop local family court plans.</b>   |
| <b>May-Aug., 1993</b>    | <b>Technical assistance visits with local teams to support planning process.</b>  |
| <b>June, 1993</b>        | <b>Meetings of the Subcommittee on Rules; Training; and Procedures, Forms and Transition of the Family Court Planning Advisory Committee begin.</b>   |
| <b>August 2, 1993</b>    | <b>Draft implementation plans from the local planning teams are due.</b>  |
| <b>Aug.-Nov., 1993</b>   | <b>OES staff visits to districts, as needed.</b>  |
| <b>September, 1993</b>   | <b>Meetings of the Subcommittee on Circuit Court Resources and of the Subcommittee on Family Court Resources of the Advisory Committee begin. Their work is to be completed by January 1, 1994.</b>   |
| <b>Sept. 30, 1993</b>    | <b>Draft local plans completed.</b>   |
| <b>Fall, 1993-1994</b>   | <b>Implementation of automated systems in the Juvenile and Domestic Relations Clerk's offices is ongoing.</b>   |
| <b>Oct.-Dec., 1993</b>   | <b>Family Court Planning Advisory Committee considers recommendations of its Subcommittees.</b>   |
| <b>December, 1993</b>    | <b>Judicial Council of Virginia considers recommendations of the Family Court Planning Advisory Committee.</b>  |
| <b>December 1, 1993</b>  | <b>Judicial Council reports to the Senate and House Courts of Justice Committees, the House Appropriations Committee, and the Senate Finance Committee on the financial impact on each locality due solely to the creation of the family court and on a method for funding these costs.</b> |
| <b>January, 1994</b>     | <b>Draft revision of the Rules of the Supreme Court to support the family court legislation is available for review.</b>  |

- January, 1994**      **Judicial Council of Virginia submits these documents to the 1994 Session of the General Assembly:**
- 1.      Budget amendments to provide the resources for the family court system.**
  - 2.      Legislation which increases court fees to generate the revenue necessary to finance the family court system.**
  - 3.      Legislation which specifies where in Virginia new judgeships are necessary to support the family court system.**
- March, 1994**      **Actions of the 1994 Session are assessed to determine their impact on the family court implementation process.**
- April-Dec., 1994**      **Work of the Subcommittees on Training and on Procedures, Forms and Transition continues.**
- May-June, 1994**      **Personnel are interviewed for positions in the Family Court Clerk's office.**
- July 1, 1994**      **Suggested effective date for fee increase to fund the family court system and for employment of new court personnel.**
- October, 1994**      **Newly-elected family court judges take office.**
- July-Dec., 1994**      **Training is held for judges, court personnel and mediators.**
- January 1, 1995**      **Family court system begins operation.**

## **APPENDIX E**

### **Membership Lists**

## **JUDICIAL COUNCIL OF VIRGINIA**

**Honorable Harry L. Carrico, Chief Justice**

**Honorable Lawrence L. Koontz, Chief Judge**

**Honorable William W. Sweeney, Judge**

**Honorable Rudolph Bumgardner, III, Judge**

**Honorable William L. Winston, Judge**

**Honorable Robert W. Stewart, Judge**

**Honorable William C. Fugate, Judge**

**Honorable John F. Daffron, Jr., Judge**

**Honorable Charles E. Poston, Judge**

**Honorable Suzanne K. Fulton, Judge**

**\* Honorable Hunter B. Andrews, Senator**

**Honorable Edward M. Holland, Senator**

**\* Honorable Thomas W. Moss, Jr., Speaker of the House**

**Honorable James F. Almand, Delegate**

**Mr. William G. Broaddus, Attorney-at-Law**

**Mr. Allen C. Goolsby, III, Attorney-at-Law**

**Mr. Robert N. Baldwin, Ex-Officio Secretary**

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**\* By invitation of the Chief Justice**



**JUDICIAL COUNCIL  
FAMILY COURT PLANNING ADVISORY COMMITTEE**

**Honorable Robert W. Stewart, Judge (Chairman)  
Fourth Judicial Circuit**

**Honorable George H. Heilig, Jr., Member  
House of Delegates**

**Honorable W. Tayloe Murphy, Jr., Member  
House of Delegates**

**Honorable Jackson E. Reasor, Jr., Member  
Senate of Virginia**

**Honorable Robert E. Russell, Member  
Senate of Virginia**

**Honorable Charles E. Poston, Judge  
Norfolk Juvenile & Domestic  
Relations District Court**

**Honorable Roy B. Willett, Judge  
Roanoke City Circuit Court**

**Honorable Jean H. Clements, Judge  
Loudoun Juvenile & Domestic  
Relations District Court**

**Honorable E. Preston Grissom, Judge  
Chesapeake Circuit Court**

**Honorable Dale H. Harris, Judge  
Lynchburg Juvenile & Domestic  
Relations District Court**

**Honorable J. Curtis Fruit, Clerk  
Virginia Beach Circuit Court**

**Honorable John M. Powell, Clerk  
Madison Circuit Court**

**Ms. Sue B. Flanagan, Clerk  
Bristol Juvenile & Domestic  
Relations District Court**

**Ms. Beverly Vaughan, Clerk  
Chesterfield Juvenile & Domestic  
Relations District Court**

**Mr. David Jones, Director  
Henrico Court Services Unit**

**Glenn C. Lewis, Esquire  
Lewis, Dack, Paradiso, O'Connor & Good**

**Lawrence D. Diehl, Esquire**

**Carol D. Woodward, Esquire**

**Dennis J. Smith, Esquire  
Shoun, Smith and Bach, P.C.**

**Carol B. Gravitt, Esquire  
Gravitt & Gravitt**

**Professor Robert E. Shepherd, Jr.  
T. C. Williams School of Law**

**Dr. Victor E. Flango  
National Center for State Courts**

**Ms. Cathy Burch  
Parents Action for Child Support Enforcement**

**Cherry Harmon, Esquire  
Virginia Poverty Law Center**

**Ms. Nancy H. Ross, Executive Director  
Commission on Youth**

**C. Flippo Hicks, Esquire  
Virginia Association of Counties**

**Ms. Betty Long  
Virginia Municipal League**

**Honorable Robert Crockett, Sheriff  
Accomack County Sheriff's Office**

**Lelia B. Hopper, Esquire  
Family Court Project Director**

**APPENDIX F**

**Report on the Family Court Pilot Project  
Senate Document No. 22  
1993 Session of the General Assembly  
Executive Summary**

## **EXECUTIVE SUMMARY**

### **Introduction**

For over forty years, the judicial and legislative branches of government have been concerned about the handling of family law matters in Virginia's courts and have debated whether a court which has jurisdiction over all family controversies would better serve our citizens. Numerous studies have been conducted by both the General Assembly and the Judicial Council of Virginia regarding the adjudication of family matters.

The 1989 Session of the General Assembly enacted legislation which directed that the Judicial Council establish an experimental family court program (Chapter 641, 1989 Acts of Assembly.) Pilot courts began operating under the program January 1, 1990 and ceased to accept new family court cases as of December 31, 1991. The Judicial Council is charged by § 20-96.2 of the Code of Virginia with the responsibility of reporting "its findings concerning the impact of the experimental family court program on the Commonwealth's judicial system by December 31, 1992, to the Governor and the General Assembly." This report by the Judicial Council fulfills this statutory mandate.

The enabling legislation for the Family Court Pilot Project placed jurisdiction and responsibility for child and family-related court issues in one court, a family court. The pilot family courts were authorized to hear not only all cases normally within the jurisdiction of the juvenile and domestic relations district courts but also suits for annulling or affirming a marriage and for divorce that were referred to them by the designated circuit courts. The designated circuit courts were required to refer to the family courts no less than 20% nor more than 50% of all suits for annulment or affirmation of a marriage and for divorce filed in the circuit court. The addition of divorce suits to the jurisdiction of the juvenile court which is traditionally charged with responsibility for child and family-related cases provided an opportunity in the family court to consolidate related family issues.

Final orders of the family court were appealed on the record to the Court of Appeals in any case involving a suit for annulling or affirming a marriage and for divorce, custody, visitation or civil support of a child, spousal support, and termination of residual parental rights and responsibilities as well as enforcement or modification of circuit court orders pursuant to § 20-79(c). This statute excluded the use of de novo appeals to the circuit court for the pilot family courts in these specified case types.

As required by law, the judges who served as family court judges were drawn from both the circuit court bench and the juvenile and domestic relations district court bench. They represented both urban and rural areas of the Commonwealth. One characteristic common to the judges who served on the family court bench was their special interest in child and family legal issues. The use of commissioners in chancery by the family courts was prohibited.

## Project Findings and Conclusions

As set forth by the Judicial Council, the mission of Virginia's judicial system is:

**"To provide an independent, accessible, responsive forum for the just resolution of disputes in order to preserve the rule of law and to protect all rights and liberties guaranteed by the United States and Virginia Constitutions."**

The ability of the courts to provide effective access to justice, to afford a quality resolution of disputes, and to instill in the public confidence and respect for the courts is essential to achieving this overall mission. The performance of the pilot courts in better serving troubled families is analyzed relative to these themes. The report also addresses problems with the current court structure and procedures in family law cases which detract from accomplishing this mission.

### **Effective Access to Justice**

A judicial system which provides the opportunity to resolve disputes without undue hardship, cost, inconvenience or delay establishes the basis for effective access to justice by all persons. In practical terms for family law disputes, this means that a citizen's ability to gain access to the court is assisted by simple procedures; that the judges and other court personnel are courteous and responsive to the public; that legal services are available for the poor and those of modest means; that court fees for access to and participation in its proceedings are reasonable for the matter before the court; that the court has before it at the time the citizen appears all relevant issues requiring resolution; and that the responsibilities of the court are discharged in a timely and expeditious fashion.

- The procedures and structure of the court system that adjudicates family law cases need to be as simple as possible to be accessible to a broader range of the public and to accommodate litigants who use the courts without the benefit of legal counsel. The family courts were rated by the litigants as being the most user friendly when addressing sensitive family and child issues.

- The court system should seek to reduce the overall cost of litigation by making it easier to handle uncontested family matters, by providing uncomplicated procedures to handle simple family disputes, by establishing alternative methods for resolving appropriate cases, and by limiting the use of decisionmakers outside the court system which require litigants to pay additional legal costs.

- Families involved in a divorce suit are often also involved in one or more related cases before the juvenile court. In order to avoid fragmentation in the judicial system's resolution of multiple family problems, a comprehensive approach to family law cases must be developed.

- Limiting the length of time required to resolve emotionally charged family issues and bringing to a conclusion litigation which can have a detrimental impact on the children and adults involved is essential to the performance of a quality system of justice. The family courts

were rated by the litigants most positively in all instances with regard to the timeliness of the conclusion of their divorce cases.

### **Quality Resolution of Disputes**

Resolving disputes is the basic function of a court system. The challenge is to perform this task in such a way as to resolve disputes fairly and with a high quality of justice. In order to accomplish this task, especially in the area of family law, the courts should seek to resolve disputes rather than simply decide cases. The expectations of a family bringing its legal problems to court include a judicial system which is sensitive to the psychological impact on the parties of the litigation; which consolidates all cases related to that family; which is fairly and professionally administered; which provides finality to the court's decisions; and which treats all similarly situated litigants uniformly. Integration of these principles in the court system's structure and procedures should contribute to the quality resolution of disputes.

- Judicial resolution of family disputes must be comprehensive, provided quickly and delivered with a degree of certainty that permits families to reestablish stability for their children. The family courts received the most positive ratings from the litigants on issues concerning the psychological impact of the proceedings on the family.

- Since at least 20% of divorces have other related cases in the juvenile court, the consolidation of all family matters is critical to the judicial system's ability to provide a quality resolution of family disputes. All facts germane to the family situation need to be available to the court and be presented by the lawyers, witnesses and parties without the necessity of duplicative proceedings. The goal should be to assure that the greatest possible amount of information is in the hands of the decisionmakers.

- In family disputes, when the focus should be on reorganizing the family unit and on reestablishing stability, especially when children are involved, the court system's procedures should provide the disputants a role in determining a mutually acceptable settlement of the issues in dispute.

- A court which uses only judges trained in family law and in the related aspects of family dysfunctioning will enhance professional excellence in decisionmaking and provide the highest quality resolution of disputes. Litigants expressed significantly greater satisfaction with the overall processing of their divorces in family court.

- Providing an appeal de novo in family law matters allows the adversarial process to protract already emotionally charged issues and to delay the restoration of the reorganized family unit. These cases should be tried on the record so that the litigants and their children can adjust their relationships and resume their lives without the fear of another court reordering the scheme of things.

### **Public Confidence and Respect for the Courts**

In order for the court system to fulfill its mission of preserving the rule of law, courts must maintain the respect, confidence and trust of the public. How well a court system performs in providing effective access to justice and a quality resolution of the disputes before it will

determine whether the public has confidence and respect for the system. The deference accorded to courts stems not only from their actual performance, but also from how the public perceives justice to be done. A court which offers effective, responsive and appropriate methods for resolving disputes, which functions fairly, and which demonstrates that its decisions have integrity will not only afford a quality resolution of disputes but will earn the trust and confidence of the public.

- Litigants in the family courts consistently rated their court experiences more positively on questions reflecting their satisfaction with the court process and their case results, their assessment of the quality of justice which they were afforded and on the psychological impact of the proceedings on themselves and, where applicable, their children.

- The family courts, in particular as they operated with the juvenile court judges, performed more satisfactorily and earned greater respect and confidence than the courts which traditionally adjudicate family law matters, according to the project participants.

- The pilot project findings suggest that in family law cases the public wants courts which provide courteous assistance to citizens using the courts; which affordably and efficiently process the cases before them; and which have judges who are trained in family law and sensitive to the psychological and emotional impact of the litigation they hear.

### Recommendations

Based on the project's findings and conclusions, recommendations are offered to improve the current methods of adjudicating child and family-related cases in Virginia. These recommendations are intended to be viewed as guiding principles which should be incorporated in the structure and procedures of Virginia's court system.

1. There should be one trial court which has comprehensive jurisdiction over child and family-related legal issues.
2. Wherever possible, the adversarial nature of our legal practices and procedures in the resolution of family law conflicts should be reduced. Litigants should have available dispute resolution methods which reduce hostility, address the underlying causes of the dispute, promote cooperation and communication, and restore a sense of control to the parties.
3. The use of commissioners in chancery in family law matters should be limited and ultimately abolished.
4. Trial court decisions in child and family-related cases should be appealed on the record as a matter of right to the Court of Appeals. The right of a trial de novo on appeal in such cases should be abolished.
5. A comprehensive court which adjudicates all family law cases should be easily accessible, affordable, user friendly and expeditious for all who desire and are required to use it.

6. The previous five recommendations should be implemented by transferring from the circuit court to the juvenile court jurisdiction over all family matters. This jurisdiction includes divorce, annulment or affirmation of a marriage, custody, visitation, support, determination of parentage, termination of parental rights, change of name, separate maintenance, adoptions, petitions regarding records of birth, and appointment and supervision of guardians of the person of a child. Appeals of these cases would be on the record to the Court of Appeals. Criminal jurisdiction (delinquency, adult criminal, traffic, etc.) would remain not of record, with appeals de novo to the circuit court. The juvenile and domestic relations district court would be renamed the Family Court.

### Implementation Plan

The Judicial Council proposes to implement the six recommendations arising out of the Family Court Pilot Project through a series of actions. These actions address revising the current court structure and its procedures; planning and providing for the necessary personnel and financial resources; and funding improved services for the families and children who come before the courts.

1. *Court Structure.* The principles of the Judicial Council's recommendations should be implemented by transferring from the circuit court to the juvenile court jurisdiction over family matters. The juvenile and domestic relations district court would be renamed the Family Court. Juvenile court judges and the clerks and personnel currently in the juvenile court clerks' offices would serve in the Family Court, after appropriate training to be provided by the Judicial Council of Virginia.

The Judicial Council will pursue amending the Rules of the Supreme Court of Virginia to provide for the appropriate conforming changes necessary to effect the Family Court.

2. *Personnel and Financial Resources.* The expanded jurisdiction of the new Family Court will require additional family court judgeships, clerks' office positions and mediators. A financial impact study conducted by the Office of the Executive Secretary of the Supreme Court shows that the required new resources would cost approximately \$7.5 million annually. It is proposed that revenue be generated to offset these costs by a \$3.00 increase in district court filing fees in civil cases and processing fees in traffic and criminal cases.

Several important assumptions were made in determining the estimated annual cost of the new family court system. No reduction in circuit court judgeships or in employees in the circuit court clerks' offices is proposed. The loss of the domestic relations workload will allow circuit court judges to return to a manageable caseload similar to that experienced ten years ago. It should also slow future growth of the need for new circuit court judgeships. Similarly, it has long been acknowledged that circuit court clerks' offices have been understaffed to handle their workload. Maintaining their current position levels will permit these clerks to more effectively process circuit court cases, provide better service to the public, and slow the need for new positions in the near future.



It is projected that approximately 25 new Family Court judges and 90 new court employees will be needed for the Family Court. Approximately 68 mediators will be required on a statewide basis to provide the capacity to have mediated any contested civil matter in the Family Court where the parties so agree.

3. *Timeframes for Legislative Action and Local Plans.* Legislation will be introduced in the 1993 Session of the General Assembly to implement the recommendations of this report with an effective date for the Family Court structure of January 1, 1995. To prepare for the statewide system of Family Courts, several steps should be taken.

During 1993, the Chief Circuit Court Judge and Chief Juvenile and Domestic Relations District Court Judge should be required to develop jointly a plan for establishing a Family Court in their circuit. This planning process should involve the Circuit Court Clerk, Juvenile Court Clerk and Court Service Unit Director, interested members of the local bar and others concerned with better court service to the community. This effort would be supported by the Office of the Executive Secretary. Each circuit's plan should address the need for new judges, court personnel, equipment and facilities and relevant issues in the transition to the new court. These individual implementation plans will provide a vehicle to ensure that all resource and procedural issues are covered.

These plans would be submitted to the Judicial Council during the fall of 1993. The Council would then make recommendations to the 1994 Session of the General Assembly based on the circuit plans and include relevant fiscal needs in the 1994-1996 budget for the judiciary. It is proposed that the previously referenced fee increases become effective July 1, 1994, to permit the funding of needed personnel and the provision of training during the first six months of the fiscal year. The new Family Court system would then be staffed and ready to operate fully on January 1, 1995.