

**REPORT OF THE  
COMMITTEE ON DISTRICT COURTS,  
SUPREME COURT OF VIRGINIA**

**A STUDY OF THE NEED  
AND FEASIBILITY OF  
NIGHT COURTS IN VIRGINIA**

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



**HOUSE DOCUMENT NO. 38**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1998**



EXECUTIVE SECRETARY  
ROBERT N. BALDWIN  
ASST. EXECUTIVE SECRETARY  
FREDERICK A. HODNETT, JR.

**SUPREME COURT OF VIRGINIA**  
**ADMINISTRATIVE OFFICE**  
**THIRD FLOOR**  
**100 NORTH NINTH STREET**  
**RICHMOND, VIRGINIA 23219**  
**(804) 786-6455**  
**FACSIMILE**  
**(804) 786-4542**

DIR.. DISPUTE RESOLUTION SERVICES  
GEETHA RAVINDRA  
DIR.. EDUCATIONAL SERVICES  
THOMAS N. LANGHORNE, III  
DIR.. FISCAL SERVICES  
CHARLES P. WORD, JR.  
DIR.. JUDICIAL PLANNING  
KATHY L. MAYS  
DIR.. LEGAL RESEARCH  
STEVEN L. DALLE MURA  
DIR.. MGMT. INFORMATION SYSTEMS  
KENNETH L. MITTENDORFF  
DIR.. PERSONNEL  
CATHERINE F. AGEE  
DIR.. TECHNICAL ASSISTANCE  
DONALD R. LUCIDO

**MEMORANDUM**

December 19, 1997

TO: The Honorable George F. Allen  
Governor of Virginia

And

The General Assembly of Virginia

IN RE: House Joint Resolution No. 488 - Night Courts Study

On behalf of the Committee on District Courts, I am submitting "A Study of the Need and Feasibility of Night Courts in Virginia" pursuant to the request in House Joint Resolution No. 488.

Respectfully submitted,

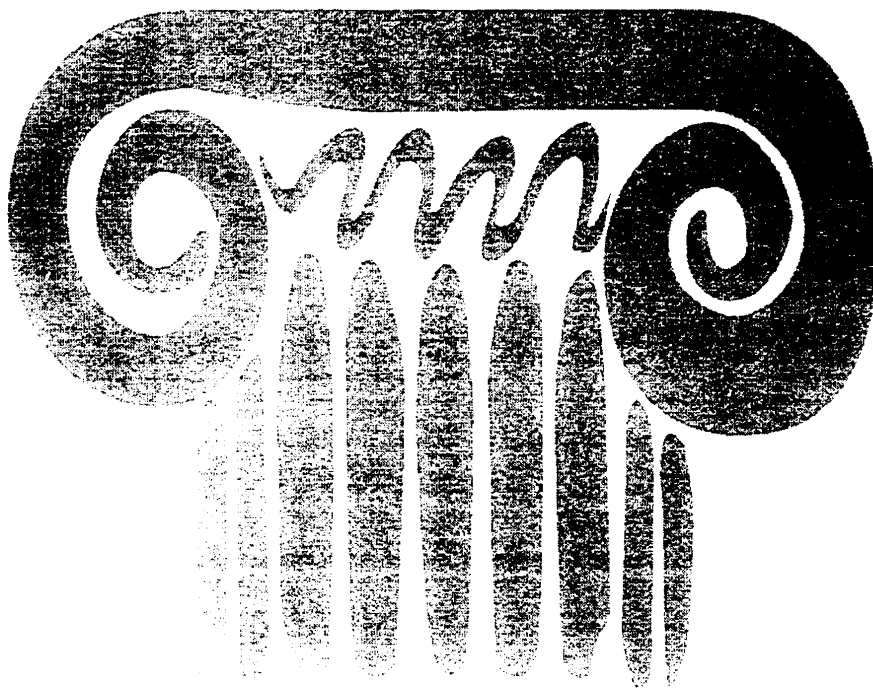


Robert N. Baldwin  
Executive Secretary

Enclosure



A Study of the  
Need and  
Feasibility of  
Night Courts in  
Virginia



Prepared in Response to  
House Joint Resolution No. 488  
by the  
Committee on District Courts

December 1997



# A Study of the Need and Feasibility of Night Courts in Virginia

## PREFACE

### Authority for study:

The 1997 General Assembly passed House Joint Resolution No. 488 requesting the Committee on District Courts (CDC) "to study the necessity and feasibility of establishing night courts in the Commonwealth."

### Committee on District Courts:

Hon. Lawrence Janow, Judge, Twenty-Fourth Judicial District; Hon. Joseph E. Hess, Judge, Twenty-Fifth Judicial District; Hon. Roy B. Willett, Judge, Twenty-Third Judicial Circuit; Hon. Joseph V. Gartlan, Jr., Member, Senate of Virginia; Hon. Joseph B. Benedetti, Member, Senate of Virginia; Hon. Jackson E. Reasor, Jr., Member, Senate of Virginia; Hon. Thomas W. Moss, Jr., Speaker of the House; Hon. James F. Almand, Member, House of Delegates; Hon. John J. Davies, III, Member, House of Delegates; Hon. Jerrauld C. Jones, Member, House of Delegates. *Judges Advisory Committee*: Hon. Joanne F. Alper, Judge, Seventeenth Judicial District; Hon. Richard L. Lewis, Judge, Thirtieth Judicial District; *Clerk's Advisory Committee*: Ms. Brenda R. Mullins, Clerk, Suffolk Juvenile & Domestic Relations District Court; Ms. Harriette P. Spencer, Clerk, Hampton General District Court; Mr. David M. Hicks, Clerk, Richmond (City) General District Court; Ms. Nancy P. Derrick, Clerk, Nottoway Combined District Court; Ms. Ann B. Lloyd, Clerk, Frederick/Winchester Juvenile & Domestic Relations District Court. *Magistrates' Advisory Committee*: Ms. Sandra M. Willis, Magistrate, Ninth Judicial District, Ms. Ruth E. Hale, Chief Magistrate, Thirtieth Judicial District; Ms. Margaret Urquhart, Chief Magistrate, First Judicial District

### Staff Participating:

Beatrice P. Monahan, Senior Planning Analyst -Study Director; Catherine F. Agee, Director, Personnel; Carolyn Brockett, Technical Assistant; Betsy Humphrey, Staffing Analyst; Kenneth L. Mittendorff, Director, Management Information Systems; John Sheldon, Technology Planner; Charles P. Word, Jr., Director, Fiscal Services

### Broad Findings:

The study concludes that night court sessions do not appear to be needed in order to expand the capacity of the district courts to hear cases. The addition of night court hours, however, could provide an opportunity for many individuals to make a court appearance, file necessary forms or papers and pay fines and costs without having to take time off from work. Night court hours might also serve the interests of some law enforcement departments.

To assure that courts seeking to establish a night court consider all issues relevant to night court operation and collaborate with the relevant stakeholders, the Committee on District Courts recommends that decisions about the feasibility of night court be made on a locality by locality basis, based on proposals submitted to the CDC by interested courts. Furthermore, the CDC recommends that the use of night court is more appropriate for the General District Courts than for the Juvenile and Domestic Relations District Courts.





## Table of Contents

<b>Executive Summary</b>	<b>i</b>
<b>Introduction</b>	
<b>A. Purpose</b>	<b>1</b>
<b>B. Methodology and Scope</b>	<b>1</b>
<b>I. Current Situation in Virginia's District Courts</b>	
<b>A. Caseload</b>	<b>3</b>
<b>B. Staffing</b>	<b>4</b>
<b>C. Hours of Operation</b>	<b>4</b>
<b>D. Magistrate System</b>	<b>5</b>
<b>E. Automated Case Management System</b>	<b>5</b>
<b>II. Experience with Night Courts</b>	
<b>A. Virginia Studies/Experience</b>	<b>6</b>
<b>B. Night Courts Elsewhere</b>	<b>7</b>
<b>C. Issues to be Considered in Establishing a Night Court</b>	<b>14</b>
<b>III. Need and Feasibility of Night Courts in Virginia's District Courts</b>	
<b>A. Need</b>	<b>25</b>
<b>B. Feasibility</b>	<b>26</b>
<b>IV. Options</b>	<b>29</b>
<b>V. Recommendations</b>	<b>30</b>
<b>Appendices</b>	
<b>A. House Joint Resolution No. 488</b>	
<b>B. Night Court Proposal: An Example</b>	



# **A Study of the Need and Feasibility of Night Courts in Virginia**

## **EXECUTIVE SUMMARY**

### **Major Issues and Findings**

The 1997 General Assembly passed House Joint Resolution No. 488 requesting the Committee on District Courts (CDC) "to study the necessity and feasibility of establishing night courts in the Commonwealth." In particular, the resolution cites the following factors as considerations for looking into night courts:

- ◆ increased demand on the district court system
- ◆ schedule disruptions for officers appearing in court
- ◆ inconvenience to witnesses who must take time from work to appear in court
- ◆ use of night courts in other jurisdictions to better serve their citizens

The study concludes that the need for and success of night courts rest very much on local circumstances, support and commitment to the program, not only by the court, but also by the other stakeholders who would be affected by night court implementation. In addition, financial impacts of night court implementation would have local as well as state-level aspects.

Night court sessions do not appear to be needed in order to expand the capacity of the district courts to hear cases. The addition of night court hours, however, could provide an opportunity for many individuals to make a court appearance, file necessary forms or papers and pay fines and costs without having to take time off from work. Night court hours might also serve the interests of some law enforcement departments.

Although the Code of Virginia does not explicitly address the issue of night courts, there appears that sufficient statutory authority currently exists to permit night court operation without any statutory changes. An existing CDC policy regarding hours of operation for the district courts in and of itself would not preclude night court operation, although it would complicate the process. Any decision to implement night courts would necessitate funding to support any additional costs that would be incurred in their operation. Furthermore, such implementation would require a major readjustment of the computer operation supporting the judicial branch.

### **Approach**

Preparation of this report began with a literature review to identify how and where night courts were being used, as well as how they were structured. Information gathered from this review was supplemented by telephone interviews with selected courts to gather more detailed information about the program and its operation. In the process it became apparent that while there is no single definition or description of a night court, all provide some level of court activity outside normal business hours. How this is accomplished reflects the purpose for which a particular court was implemented and the specific needs of the jurisdiction. Accordingly, any

decision about implementing night courts must address an extensive list of issues, including: purpose, matters to be heard/services provided, which courts to involve, frequency, hours of operation, security concerns, court and other staffing, computer support and cost.

An interdisciplinary project team within the Office of the Executive Secretary examined how night court operations could be used in the District Courts and what their benefits and impacts might be. This process included a review of the current status of the District Courts with respect to caseload, staffing, hours of operation, related Magistrate System functions, and the automated case management system that supports case processing and case management in the courts.

Early in the study it became apparent that the potential variations on night court were so numerous that pursuing each in detail would make the study too diffuse to be constructive. In order to frame the scope of the study to manageable proportions, the study team defined a number of parameters for the study:

- ◆ Consideration of night court would be limited to the District Courts
- ◆ Night Court operations would not only include cases heard in court, but also some range of clerk's office functions
- ◆ Local issues (such as facility modifications or construction; additional funding for security) would be identified, but detailed discussion of solutions was beyond the scope of the study.

Recognizing the complexity of these interlocking factors, the study presents three options for dealing with the issue of night courts:

- 1) Decide not to pursue /allow night court in Virginia
- 2) Conduct night court pilot project
- 3) Make decisions about the feasibility of night court on a locality by locality basis for courts interested in such a program.

## **Recommendations**

The Committee on District Courts recommends Option 3. To implement that option, the CCD makes two recommendations:

- ◆ Recommendation 1 - The use of night court is more appropriate for the General District Courts than for the Juvenile and Domestic Relations District Courts.
- ◆ Recommendation 2 - Establish a procedure by which the Committee on District Courts can review and act upon proposals from individual courts that want to establish a night court operation.

Implementing Recommendation 2 would assure that courts seeking to establish a night court had considered all issues relevant to night court operation and had collaborated with the relevant stakeholders. If the request was approved and additional funding was required, the Committee on District Courts would initiate the needed budget request.

# **A Study of the Need and Feasibility of Night Courts in Virginia**

## **Introduction**

### **A. Purpose**

The 1997 General Assembly passed House Joint Resolution No. 488 requesting the Committee on District Courts “to study the necessity and feasibility of establishing night courts in the Commonwealth.” The full text of the Resolution can be found in Appendix A. This report was prepared in response to that request. In particular, the resolution cites the following factors as considerations for looking into night courts:

- ◆ increased demand on the district court system
- ◆ schedule disruptions for officers appearing in court
- ◆ inconvenience to witnesses who must take time from work to appear in court
- ◆ use of night courts in other jurisdictions to better serve their citizens

While there is no single definition or description of a night court, all provide some level of court activity outside normal business hours. How this is accomplished reflects the purpose for which a particular court was implemented and the specific needs of the jurisdiction.

Historically, night courts have been utilized for one of the following reasons or purposes:

- ◆ to expand the court’s capacity to hear cases by adding additional time to the court’s calendar,
- ◆ to avoid having to build additional courtrooms or a new facility to accommodate the number of judges in the court,
- ◆ to relieve overcrowding in the courthouse and surrounding area during the day by shifting a portion of the court’s business to the evening hours, or
- ◆ to enhance public access to the courts by providing court services at alternate times when individuals can be in court without having to take time off from work.

Although a few night courts have been structured as a “mirror image” of the court’s day operation, most are more limited in scope, e.g., arraignments, small claims, mitigation hearings, ordinance violations. They are most often found in courts of limited jurisdiction, such as Virginia’s District Courts, rather than in general jurisdiction courts, such as Virginia’s Circuit Courts.

### **B. Methodology and Scope**

Preparation of this report began with a literature review to identify how and where night courts were being used, as well as how they were structured. Information gathered from this

review was supplemented by telephone interviews with selected courts to gather more detailed information about the program and its operation.

With this information as a base, an interdisciplinary project team within the OES examined how night court operations could be used in the District Courts and what their benefits and impacts might be. This process included a review of the current status of the District Courts.

Early in the study it became apparent that the potential variations on night court were so numerous that pursuing each in detail would make the study too diffuse to be constructive. In order to frame the scope of the study to manageable proportions, the study team defined a number of parameters for the study.

- ◆ Consideration of night court would be limited to the District Courts, although some examples of general jurisdiction courts, comparable to Virginia's Circuit Courts, with night courts were found.
- ◆ Night Court operations would not only include cases heard in court, but also some range of clerk's office functions as well, to provide a wider range of services to the public
- ◆ Local issues (such as facility modifications or construction; additional funding for security) would be identified as important factors in night court development and implementation. However, so much variation would exist from location to location as to how to address these issues, that detailed discussion of solutions to these issues was beyond the scope of the study.

The report that follows sets forth the results of this process. Section I examines the current situation in Virginia's District Courts with regard to caseload, staffing, hours of operation and related services. Section II presents information on past and current night court experience in Virginia and elsewhere, and contains an extensive discussion of the issues that must be considered in establishing a night court. In light of the information presented in Sections I and II, Section III assesses the necessity and feasibility of establishing night courts in Virginia. Section IV sets forth alternative courses of action regarding the establishment of night courts in Virginia. The recommendations with respect to night courts are contained in Section V.

## **I. Current Situation in Virginia's District Courts**

### **A. Caseload**

Virginia's District Courts, both General District and Juvenile and Domestic Relations are the busiest courts in the state. They represent the primary contact most citizens have with the judicial system.

The General District (GD) Courts hear civil, traffic and criminal cases. Many of these cases involve few witnesses. Over the course of the past ten years, the number of new cases filed yearly in the General District Courts increased from 2,552,203 in 1987 to a high of 3,212,819 in 1991. By 1996, this number had declined slightly to 2,930,487. Overall, this represents a 15 percent increase in the caseload. The current caseload in the General District Courts statewide is heavily weighted to traffic cases, which in 1996 numbered 1,559,228, as compared to 423,397 criminal cases, and 947,862 civil cases. Within a particular court, the distribution of cases may show a different pattern.

The Juvenile and Domestic Relations (J&DR) District Courts have jurisdiction of cases involving juvenile delinquency and CHINS (Children in Need of Services), criminal cases where the victim is a child or family member, as well as custody, support and family abuse matters. New cases in the Juvenile and Domestic Relations District Courts have increased steadily from 250,146 to 461,418 during the past ten years. This represents an 84 percent increase. The number of hearings held in the J&DR courts shows even greater growth. In 1987 some 456,784 hearings were held statewide. By 1996 this figure had increased 222 percent to 1,015,506. Resolving cases in these courts frequently involves participation by parties, witnesses, attorneys, Department of Social Services (DSS) representatives, Guardians ad Litem, and court services units among others. Unlike General District Court cases, J&DR cases are closed proceedings, requiring those not involved in the case being heard to wait outside the courtroom.

At the same time the number of cases were increasing, the complexity in processing individual cases increased for both the General District and the Juvenile and Domestic Relations District Courts. Changes in law, additional requirements for forms, fees, and information distribution about the outcome of individual cases all added to the time required to process cases from filing to disposition.

In part due to efforts in improved calendar management in the General District Courts, since 1987 these courts have been concluding slightly more cases than were filed each year, ending a trend of disposing of fewer cases than were filed yearly. Thus few General District Courts are facing a backlog of cases waiting to be docketed. Still, the average caseload per judge in the General District Courts has gone from 24,600 new cases in 1987 to 24,835 in 1996. Since 1995 the Juvenile and Domestic Relations District Courts also have been concluding more cases than are filed each year. Currently the total new cases per judge stands at 4,806, up from 3,415 in 1987.

## B. Staffing

Each district court is presided over by one or more judges and maintains a clerk's office. In the urban areas the judges generally sit only in one court, while in the more rural areas, judges usually sit in several courts throughout the district. Of the 218 judges in the District Courts, 120 are general district court judges and 98 are juvenile and domestic relations court judges. In the smallest courts, a single clerk's office serves both the General District and the Juvenile and Domestic Relations District Courts and is referred to as a Combined Court. Although the clerk's office staff in Combined Courts process cases for both courts, the judges sit in one court or the other. The 1335.7 district court clerks include 728.9 in the general district court, 414.7 in the juvenile and domestic relations district courts and 192.1 in combined courts. As indicated in Table 1, the staffing levels varies widely for the district court clerks offices. Actual staffing per office ranges from a low of 1.2 clerks to a high of 78.6 clerks.

<b>Number of Staff</b>	<b>Number of Offices by Type and Size Range</b>		
	<b>General District</b>	<b>J&amp;DR</b>	<b>Combined</b>
71 - 80	1		
61 - 70			
51 - 60	2		
41 - 50			
31 - 40	1	2	
21 - 30	7	3	
11 - 20	6	7	
6 - 10	19	10	7
1 - 5	36	41	47
<b>Totals</b>	<b>72</b>	<b>63</b>	<b>54</b>

## C. Hours of Operation

Section 16.1-69.35 of the Virginia Code requires the district court chief judge to set the hours when court shall be held for the trial of civil, criminal or traffic cases and the hours when the courts shall be open for the transaction of business. In 1983, the Committee on District



Courts adopted a policy requiring that clerks' offices be open at least eight hours between 8:00 a.m. and 5:00 p.m. daily "to assure that court services are available to the public during normal business hours." The schedule within a particular court may be regulated by the chief judge. Both hours of the clerk's office and the court calendar are published annually in "General Information Relating to the Courts Within Each Circuit and District in Virginia." This publication is now accessible on the judicial system's homepage on the Internet ([www.courts.state.va.us](http://www.courts.state.va.us)).

In practice, most clerk's offices are open to the public from 8:00 or 8:30 until 4:00 or 4:30. A few open as early as 7:30 and a few remain open until 5:00. For most courts this provides up to an hour during the "normal business hours" (8 - 5) when the office is closed to the public. During this time clerk's office staff process paperwork in preparation of or as follow-up to court action on cases, and balance out the financial transactions for the day. With the growth of the caseloads, some court sessions run well beyond these times in order to clear the day's docket, particularly in the rural areas of the state where court may be held only once or twice a week.

#### **D. Magistrate System**

While not a part of the District Court, Virginia's Magistrates are an integral part of the judicial system. Although they are not judges, Magistrates are judicial officers performing important functions within the justice system. Based on statutory authority, Magistrates have the power to issue arrest warrants and search warrants; to admit to bail or commit to jail; to issue warrants and subpoenas; to issue civil warrants; to administer oaths and take acknowledgments; to act as a conservator of the peace; to accept prepayment for traffic and certain minor misdemeanor offenses; to issue emergency custody orders; to issue civil or criminal temporary mental detention orders; and to issue medical emergency detention orders.

The large urban areas generally utilize full-time magistrates who work on a shift to maintain an office twenty-four hours a day. The majority of rural magistrates work on an availability basis and are contacted as needed. Some magistrates work on a fixed schedule during the day and are "on call" during the night. Magistrate offices provide information to the public pertinent to judicial system processes and procedures and extend assistance whenever possible twenty-four hours a day, seven days a week.

#### **E. Automated Case Management System**

All district courts are supported by the statewide automated Case Management System (CMS) and the Financial Management System (FMS). The Supreme Court's Management Information System (MIS) staff in Richmond operates two computers 24-hours a day in support of these and other court operations. In addition to having access to the computers during the day, the courts can reach technical staff in Richmond at the "help desk" when they have questions or problems with the system. Each night, after the courts close, the information entered during the

day is processed and reports are printed in each court prior to the opening of court the next morning.

The evenings and weekend shifts are devoted to processing the daily workload, problem resolution and data recovery, and system and application upgrades and testing. This workload peaks during weekends (including Friday evenings) and the first and last day of each month.

## **II. Experience with Night Courts**

There is no comprehensive listing of night court operations in the country. The decision to operate during evening hours usually is made at the local level. To identify courts that have or have had night court sessions and learn about their programs, various sources including the National Center for State Courts were consulted. Only one Virginia court has been identified as having had a night session, although other courts have considered the possibility of doing so.

### **A. Virginia Studies / Experience**

**Henrico Juvenile and Domestic Relations District Court.** In the late 1980's, Judge White in the Henrico Juvenile and Domestic Relations District Court scheduled an evening docket for support cases one night a week. The docket which usually included about 6 - 10 non-complex cases, began at 6:00 and concluded by 8:00 or 8:30. The evening hours made it possible for parents to come to court without having to miss work and lose pay. As word spread about the evening support dockets, individuals would call and ask to have their hearings scheduled in the evening. When Judge White retired, the evening docket was discontinued.

In addition to the judge, there were two bailiffs in the court, and sometimes a deputy clerk. No money was collected in connection with those cases, so it was not necessary to have a cashier available. Building security was not a problem since the county provided someone to monitor the scanners in the courthouse from 4:00 to midnight on a regular basis.

**Virginia Beach General District Court.** In 1988, Virginia Beach was faced with the need to expand its courtroom capacity. One additional judgeship had been approved for 1988 and another recommended for 1989. As the city contemplated building a new courts center, the city manager was asked to explore the possibility of a night session for the General District Court. An issue paper was prepared looking at the considerations arguing for and against establishing a nighttime operation for that court. The nighttime operation contemplated included all district court functions being available at night, commencing at the close of normal business operations and extending until ten o'clock, with support from the Sheriff's Department, the automated court information systems, the Commonwealth's Attorney's Office and other court support agencies.

The issue paper concluded a nighttime operation could reduce the number of courtrooms required. It also estimated a one-time cost to the central computer facility of the Supreme Court to be approximately \$350,000 for increased computer processing capacity to support a nighttime

operation. In addition, annual operating costs to provide the necessary additional clerks, bailiffs, and other court support personnel were estimated at nearly \$1,000,000. Unknown costs or benefits in terms of savings in facilities, the cost or benefit to the general public of court appearances after customary hours, and the emotional and motivational effects of the operation on individuals within the system were noted.

Virginia Beach did not establish a nighttime operation in its general district court. A new courts center now houses the courts.

**Fairfax General District Court.** The Fairfax General District Court has been considering the possibility of nighttime operation. Such an operation would provide increased service to the public and accommodate police officers with permanent evening or night shifts. Although their inquiry has been preliminary and informal, it has surfaced a number of significant issues relating to administrative problems such an expansion would create within the court. For example, they anticipate needing to develop a process to keep the day and night case processing operations separate, which could necessitate hiring additional staff. Other challenges to making such an operation feasible would involve the willingness of the Commonwealth's Attorney and private attorneys to staff the night sessions, working out an arrangement with law enforcement personnel on writing summons returnable to the night sessions, and whether to provide defendants with a choice between day and night sessions.

## **B. Night Courts Elsewhere**

The experiences of other jurisdictions in operating night courts provide valuable insights about the requirements and operation of night court sessions. While the particular circumstances vary from court to court, similar issues are common across the courts. Ultimately, the success of such programs is the result of a combination of factors including the purposes for which they were created, the funding available, and the level of support for the project among court and legal community participants. Table 2 summarizes information on many of the night court programs identified in other states. The table includes both active and discontinued program.

A number of general observations can be made about these night court programs:

- most long term programs which operate 3 or more nights a week are located in major metropolitan areas (e.g., Chicago, Birmingham, New York, Seattle, Tampa)
- most of the programs service the criminal dockets (arraignments, misdemeanors)
- most programs are in limited jurisdiction courts (city, county, municipal)
- most limit the types of cases they hear (e.g., traffic, small claims, arraignments)
- outside major metropolitan areas, night courts usually operate between once a month and once a week
- starting time ranges from 4 to 6 PM and most conclude before 10 PM
- high cost, particularly for security, was a factor in many programs that have been discontinued
- successful pilot projects may or may not translate into successful ongoing programs

**Table 2 : Night Court Programs Identified**

Location	Court	Status	Hours	Cases / Matters Heard	Staffing	Comments
Chicago	Circuit	Active (began October, 1989)	4:00 until completed (7:00 to 11:00 depending on judge) 5 days a week  started with 5 courtrooms, then moved to 8	Narcotic cases: Drug sails arrest and possession cases involving large amounts of controlled substances. Cases come to court after probable cause is established at a preliminary hearing. No jury trials (they are held during day)	Associate judges promoted from presiding over misdemeanor and traffic cases; 3 assistant state's attorneys per courtroom, plus a supervisor overseeing all courtrooms; 2 public defenders per courtroom plus two supervisors, 4 investigator, and 3 support personnel for all courtrooms; 2 probation officers per courtroom plus two supervisors; 1 clerk per courtroom plus one supervisor for all courtrooms; 42 deputies for security	Decision to establish night drug court was two fold: to postpone the need for additional courtrooms by adding a second shift; to relieve the strains placed on the system by the increased felony caseload, largely from narcotics arrests.
Birmingham, AL	Municipal	Active (30 yrs.)	4 - 8 or 9:00  M - Th .	misdemeanors, family violence, some traffic; no court arraignments (all done at jail by magistrates)	judge, court reporter, senior court clerk, court clerk, bailiff, court referral officer, probation officer, legal aid attorney, prosecutor	Originally had a great deal of traffic cases, but as the need to handle other types of cases has increased, traffic if being moved out of the night docket.
Colorado Springs, CO	County	Active (since 1989)	5-8 one evening per month; also one Saturday per month 8:30 am - 3:00 pm	Small claims - pro se parties	magistrate, clerk. Security personnel stationed at door to let individual into the courthouse, stays until all have left. They are available to respond if there are any disturbances in the courtroom	

Location	Court	Status	Hours	Cases / Matters Heard	Staffing	Comments
Tampa, FL	County	Active (since 1990)	6 - 10, T, W, Th  2 courts	arraignments, hearings, civil traffic infractions, water restriction violations, animal control, parking tickets	hearing officers/general masters; clerk, bailiff; clerks's office window was open during court, now until 6PM; defendants given approximately 1 month to pay.	Building routinely open at night with security
Philadelphia	Traffic	Active (since 1991)	8 - 8 M - W 9 - 1 Sat.	Traffic citations	judge, court officer, cashier, dispositioner, security, maintenance	Very people friendly Increased revenue to city and state
Seattle, WA	Municipal	Active 2 courts 1 - M - F 2 - M - W (20 yrs.)	1) jail court 5:30 - 9 /5 da  2) 5:30 - 9:00 3 days	1) in custody arraignments and pretrial  2) bench trials, pretrial	1) judge  2) judge, court clerks, data entry clerk, prosecutor, public defender	Also have a administrative intake process that operates at night screen for eligibility of court appointed counsel - has replaced their out of custody arraignment.
Orange County, CA	Municipal, Traffic		until 6PM (one day a week)	Traffic		
Burbank, CA	Municipal		twice a month	Traffic trials only		
San Mateo, CA	Municipal (?)		Once a month	small claims		
New York, NY	Manhattan Criminal (2 courts)	Active 1) 30 years  2) permanent since 1982	1) 5 pm - 1 am 5 da/wk + holidays 2 courts  2) 1 am - 9 am now Th - Sat	arraignments (about 120/night)	judge, court reporter, clerks, officers, support staff, Spanish interpreter, assistant DA, legal aid, police, corrections, clerical	1) judges sit 4 times a year  2) judges sit once every two years.

Location	Court	Status	Hours	Cases / Matters Heard	Staffing	Comments
North Carolina (Grant funded 18-month pilot in two courts started in 1992)	District - criminal	1) Active  2) Discont'd	1) 5:30 - 9:30 M-W  2) originally 5 night, then 3 per week	1) Victim initiated cases which did not involve law enforcement officer.  2) Administrative court - schedule traffic and criminal matters for first court appearances.	1) Emergency/recalled district court judge, assistant District Attorney, District Court Clerk. Held in building with sheriff's and magistrate's offices.  2) Emergency/recalled district court judge who could take pleas, (located just outside magistrates office)  Staff given flex time..	Intent to add court sessions where not other court space was available.  Public response favorable, no-show rate about the same as for day court, defendants reported to offices next day as required, Bar least favorable towards night court
Tucson ,AZ	City	Discont'd (budget; personnel issues)				Public Service Unit now open 7 am - 7 pm for payments of fines and civil citations
Tacoma, WA	Municipal	Discont'd (discontinued when got more space)		contested cases and mitigations; bailed arraignments; no witnesses	commissioner	
New Orleans	Municipal	Discont'd (lack of demand / support, safety concerns)		arraignments		Now have staggered hours: Court A - 10:00 am, Court B - 8:00 am; Courts C & D - 4 PM
Albuquerque	Metropolitan	Discont'd				
Spokane, WA	Municipal	Discont'd	5:00 - 6:30 twice a week	mitigations to reduce fines	judge or commissioer, bailiff, cashier	
Los Angeles	Superior (3); Municipal (1)	Discont'd (lack of support by the judges)		criminal excluding lengthy cases (e.g., multiple defendants, death penalty)	volunteers from regular court staff	
Brooklyn, NY	Supreme	Discont'd (grant funded - ran 1 year only)		felony jury trials	judge, volunteers from regular court staff	no calendar management system, no back-up system; inefficient

- commitment of the court leadership is crucial to a successful on-going program

Night courts established primarily to expand the courts' capacity to hear cases without constructing extra courtrooms usually terminate as soon as additional space becomes available. Night court does not appear to be a viable long-term solution in this situation. Night courts established to accommodate institutional goals, such as to assure the system's ability to arraign defendants within specified time periods, or to make more judge time available for other types of matters during the day court hours, are more likely to persevere. Night court programs designed to provide additional access and convenience to the public often focus on less complicated cases which require fewer participants. Such programs often cost less to operate because fewer institutional players are involved.

While most of the night courts rely on regular judges, some use commissioners, hearing officers, general masters, or retired judges. This works well in some locations, but in others has been a source of criticism as it relates to the quality of justice offered by the night courts.

Few evaluations of these nighttime operations exist. One that was available, however, involved a night drug court that was instituted in 1989 in Chicago. In 1993 the Bureau of Justice Assistance published an evaluation of the Cook County Circuit Court (Chicago) Drug Night Court Program. The report, prepared by a team from the American Bar Association and Loyola University (Chicago) describes how that court was established, the impact it had on the various offices and individuals necessary to the successful operation of five and then eight courtrooms hearing drug cases nightly, and identified problems and concerns among those staffing the courts.

The report's principal findings were: 1) Night operations can be quite efficient; 2) Those wishing to set up drug night courts need to be vigilant to ensure that the quality of justice in narcotics cases is not compromised; 3) Quality staff can be successfully found for evening hours; and 4) To maintain high morale and efficiency, jurisdictions considering evening operations must be alert to special problems their staff members may encounter when working at night.

In addition, the report included results of a national survey seeking information on the experience of other cities in running court sessions at night. Questionnaires were sent to the presiding judge, district attorney, and public defender in the nation's fifty largest counties. Responses received from all the jurisdictions sampled indicated that eight had current nighttime operations, six had previously had night hours, and 10 were considering implementing nighttime hours. With the exception of Cook County, all current night court operations reported were only for arraignments.

**Outside the United States.** The National Center for State Courts also provided information about several night court programs or pilots in Canada, Australia, New Zealand and Scotland. A 1996 Canadian National Survey indicated that five of the nine Canadian provinces have some form of night court. They involve traffic cases (British Columbia, Manitoba, New

Brunswick), small claims (Ontario, Nova Scotia), provincial offences (Ontario - recently cut in cost saving measure), and summary offences, mostly traffic (Nova Scotia). Hours vary: 6:30 - 9:00; 7:00 - 9:00; 7:00 until docket clears about 9:00 or 9:30; 7:00 - 10:00; 7:00 - 10:30.

Pilot or model court projects were initiated in Scotland, New Zealand, and Australia. The Scottish pilot involved small claims hearings and required the agreement of both parties to the evening hours. The pilot ran for six months, with evening sittings held once a month. While there was support for the program, there was not a high demand. Staff serving in the night session did so after their regular shift. One suggestion growing out of the pilot was to consider adjusting the work schedule so individuals could take time off earlier in the day when they would be working night court.

The four month New Zealand pilot included minor traffic and small claims matters. Here the night court hearings were an alternative, not an addition, to the regular hearings. The goals were to make the courts more accessible to the user public, to reduce the cost of public participation in the justice system, and to improve public perception of the court system. The program was popular with members of the public who did not have to miss work to attend hearings. The evaluation recognized that the pilot settings might differ from implementation on a larger scale. The pilot involved courts which volunteered to participate, staff who volunteered for evening duty for a short duration, and cases that involved referees, not judges, and relatively few actors or parties. Thus, it was recommended that an assessment of the needs of local clients as well as consultation with interested and affected parties be undertaken prior to permanent implementation elsewhere. Other recommendations include starting with one night a week, improvements to security including providing more information in advance to clients using night court concerning parking and security measures in place for night court, providing better signage and the need for a carefully planned publicity program to increase public awareness of night hearings.

In 1986 a twelve month night court model court project commenced in the Blacktown Local Court in New South Wales, Australia. Cases included traffic and other matters heard by a magistrate. The purposes of the model were to "avoid loss of work time for court appearances, to reduce court delays, and to improve service to the community." A 1987 evaluation recommended continuation of the model court and that "night sittings should be extended to other local courts in a planned and carefully phased manner." The following criteria were recommended for courts to be added to the next phase of the project: that they be in metropolitan areas or major centers, that they have a minimum of 12 staff, that they have high caseload requiring some assistance to reduce delay, and that they have new case filing levels similar to the initial site. Another of the recommendations was that "night courts should be available for short and predictable matters (e.g., pleas or mentions), and should only list contested hearings if they too can be predictable and brief, or if a second court were to be available."



**Table 3  
Issues to be Considered in Establishing a Night Court**

<b>Issue</b>	<b>Options / Considerations</b>
<b>Purpose</b>	<ul style="list-style-type: none"> <li>▶ Increase capacity to hear cases</li> <li>▶ Avoid building new courtrooms</li> <li>▶ Increase public access to the courts</li> <li>▶ Reduce backlog and delay</li> </ul>
<b>Matters to be heard/ services provided</b>	<ul style="list-style-type: none"> <li>▶ Full range of day court / clerk's office functions</li> <li>▶ Cases that involve few witnesses, law, enforcement, etc.</li> <li>▶ Cases that would provide greater service to public in not having to take time from work to attend court</li> </ul>
<b>Which courts</b>	<ul style="list-style-type: none"> <li>▶ All District Courts</li> <li>▶ General District Courts only</li> <li>▶ Juvenile and Domestic Relations District Courts only</li> <li>▶ Urban courts only</li> <li>▶ At option of each court</li> <li>▶ Setting cases on the night docket</li> </ul>
<b>Frequency</b>	<ul style="list-style-type: none"> <li>▶ Every night</li> <li>▶ 2 - 4 nights each week</li> <li>▶ Once a week</li> <li>▶ Several times a month</li> </ul>
<b>Hours</b>	<ul style="list-style-type: none"> <li>▶ Full additional shift (additional 8 hours)</li> <li>▶ Approximately 4 hours</li> <li>▶ Less than four hours</li> <li>▶ Staggered shifts</li> </ul>
<b>Security</b>	<ul style="list-style-type: none"> <li>▶ Of public</li> <li>▶ Of court personnel</li> <li>▶ Of facility</li> <li>▶ Of funds</li> </ul>
<b>Court Staffing</b>	<ul style="list-style-type: none"> <li>▶ Hire new staff</li> <li>▶ Use existing staff</li> <li>▶ Develop flexible schedules</li> <li>▶ Pay overtime</li> </ul>
<b>Other Staffing</b>	<ul style="list-style-type: none"> <li>▶ Bailiffs</li> <li>▶ Building Security</li> <li>▶ Commonwealth Attorney</li> <li>▶ Public Defender / Legal Aid</li> <li>▶ Court services</li> <li>▶ Law Enforcement</li> <li>▶ Private Bar</li> <li>▶ Programs - e.g., VASAP</li> </ul>
<b>Computer Support</b>	<ul style="list-style-type: none"> <li>▶ For courtroom/clerks office operation</li> <li>▶ Impact on centralized processing</li> </ul>
<b>Cost</b>	<ul style="list-style-type: none"> <li>▶ Personnel</li> <li>▶ Equipment</li> <li>▶ Facility modifications</li> <li>▶ To state / locality / participants</li> </ul>

### **C. Issues to be Considered in Establishing a Night Court**

Whether deciding to implement a night court in a single jurisdiction or on a statewide basis, a substantial number of issues must be considered. The size and scope of the proposed night court operation will affect the complexity of some of these issues, but all are important to the final decision. These issues pertain to the court and its staff, the support and cooperation of others outside the court, and the impact night operations may have on other operations. Table 3 provides an overview of the issues which are discussed in this section.

**Purpose.** The purpose for which a night court is established will have a significant impact on how the program is designed and what it will cost. If the night court is created to increase the court's capacity to hear cases, the expectation would be that the number of cases processed by the court would increase. To accomplish this additional judges and clerk's office staff would be needed. To maximize this increased capacity, all types of cases handled by the court would be considered for inclusion on the night dockets.

If on the other hand, the purpose were to increase the public's access to the courts by holding court at times when they could attend without taking time from work, or substantially reducing their time away from work, a court's caseload would be redistributed rather than increased. In theory, readjusting or shifting the work schedules of existing staff would significantly reduce or eliminate the need to hire additional staff for night court. In practice, however, managing the court's workload with reduced staffing during portions of the day may be more difficult. In addition, the experience of other courts indicates a strong need for continuity and supervision of night staff, so that some additional night court positions may be needed. Night courts designed for increased public access and service would most likely concentrate on uncomplicated cases involving private citizens, few witnesses and limited numbers of institutional players.

**Matters to be Heard/Services to be Provided.** At one end of the spectrum of the scope of a night court operation is the "mirror image" of the day court operation. All courtroom and clerks office functions available during the day would be available at night. At the other end would be a limited night court function, handling one specific type of case and the ancillary clerk's office functions necessary to support the processing of those cases at night. Between these two extremes is a sliding scale of service levels which could be designed to meet the needs of the individual court and community. Decisions on which kinds of cases would be handled and which services would be provided need to take into account what other offices and services are needed to make the court and clerk's office operations successful. Some of the other decisions to be made include the following: Would it be acceptable to offer separate nights for each type of case (e.g., civil, traffic, criminal), or would all matters need to be heard on the same night? Would the operation of one or more courtrooms per night be preferable? In programs reviewed, most courts, particularly those outside major urban area, ran only one courtroom.

In addition to deciding which types of cases would be eligible to be heard in night court, the mechanisms for actually placing cases on the night dockets would have to be developed. For traffic and criminal cases, coordination with law enforcement would be required on this point. Also, a decision would need to be made on whether cases would be assigned to the night docket or whether the option of having a case heard at night would be given to the defendant / parties. Some jurisdictions require both parties to consent to placing a case on the night docket.

Many of the existing night court programs limit the clerk's office functions to cashiering and processing paperwork for cases on the docket. It is interesting to note, however, that one court which discontinued its night court sessions has extended its Public Service Unit hours from 7 am to 7 pm to facilitate payment of fines and civil citations.

**Which Courts.** Virginia's District Courts vary in size and caseload. The need and ability of individual courts to support a night court operation would vary significantly throughout the state. An urban court with a large staff which operates several courtrooms every day could potentially shift a portion of its docket and staff to the evening hours without disrupting its day operation. A rural court with a very small staff that operates one courtroom one or two days per week would likely need to hire additional staff to cover both day and night hours. While the former would have a number of resident judges who could rotate to cover the night dockets, the latter share judges who move from court to court within the district throughout the week. The combination of later work hours and travel to the next court could result in fatigued judges taking the bench the next morning. It could also increase travel cost if late court hours made it less feasible to return on some nights before moving on to the next court. Providing night courts in these areas might require additional judgeships or increased use of substitute judges or retired judges.

**Frequency.** Examples of night court operations range from every night to once a month. Few night courts operate on a daily basis outside major metropolitan areas. Some courts which have begun at a five night level have cut back to three or four as being a more efficient use of resources to meet the demand for night court.

**Hours.** A decision on the hours of night court operation, both in terms of what time to start and how long to run the night court session needs to take into account a variety of factors. With respect to the starting time, the goal would be to accommodate both the efficient conclusion of the day court and the timely commencement of the night court. To achieve this, answers to questions such as the following would need to be considered: Do the regular day court sessions need to be concluded before the night staff and operations can begin? If so, are the regular day sessions always concluded by the end of normal business hours? Will the cashiering function need to be closed out for the day shift and a new accounting started for the evening shift? Is there anything in the typical work / commuting pattern of the community that would make an earlier or later starting time more convenient?

The length of the night court session would depend on the purpose set forth for the night court. In a "day court mirror image" model, an eight hour schedule commencing at some time following the conclusion of the day court could be required. In an increased public access model, the time might more appropriately reflect the time typically scheduled for a day docket of the type of cases being heard, probably in the range of two to four hours. This additional access could be accommodated by using a swing or staggered shift assignment.

The length of night court would also be impacted by the availability of any ancillary or support services needed to conduct court business. For example, accessibility to the automated CMS and FMS would be crucial.

**Security.** One of the major concerns and expenses raised in connection with night court programs involves security: for individuals working in and using the courthouse, for the monies taken in during night hours, for the facility itself. The amount of security needed in the courtroom and elsewhere in the courthouse would, in part, be a factor of the types of cases being heard and the number of courtrooms operating. Proceedings involving in-custody defendants require higher levels of security than those not involving them. Security should be provided until all court employees have departed from the building.

The amount of security needed elsewhere in the courthouse would reflect the building's size and occupants, the relationship of the courtroom to the clerk's office and the proximity to the courthouse entrance to the clerk's office and courtroom. Security for a court located in a building with other non-court offices that is regularly open at night, or that is already provided with night security personnel, would require less adjustment to make it secure for night court operation. When the courtroom used for night court is one of many in a courthouse, or when the court shares a building with other government offices that are not open at night, the issues involving security increase as plans are made to assure that individuals in the courthouse after normal business hours remain only in the areas necessary for conducting business with the court.

Achieving an acceptable security plan for night court operation may require some modifications to the building to contain night users in designated areas of the courthouse, or to provide sufficient security for the cashiering station.

If the court is located in an area where staff or the public may not feel safe walking to and from the building at night, it may be necessary to provide added security in and around the parking areas for the courthouse. In some circumstances it may also be beneficial to coordinate additional police patrolling of the courthouse area during the extended court hours.

**Court Staffing.** The issue of court staffing is comprised of two components: 1) how many and what kinds of staff are needed to operate a night court and 2) how do you assign these individuals to that function.

The staff provided for night court should be sufficient to provide services comparable to those provided to the public attending the day court sessions, with adjustments as needed to make the night court operation effective. In addition to the security personnel discussed below, every night court would need at a minimum a judge, a courtroom clerk and a cashier. In addition, there would need to be one or more staff, including a supervisor, in the clerk's office to handle phones, direct participants to the courtroom, take filings, issue process, provide assistance as needed to the courtroom staff, and respond to requests from the public. The size and type of docket would impact the level of activity within the courtroom and between the courtroom and the clerk's office, and the amount of staffing needed. The greater the number of services provided, the larger the staff would need to be.

Other courts that have undertaken night court have recruited/assigned staff in a variety of ways. Some have hired additional or separate night staff. Others have used existing staff either by shifting schedules or by paying overtime for the nights staff work. Some seek volunteers for the night hours. The scope and frequency of night court would affect the feasibility of employing these methods for staffing the night court. A night court held every night would require different staffing solutions than one held once a week or once a month.

Working nights or into the evening hours may appeal to some employees, particularly if the day's work schedule is shifted, thus providing more time during the day to attend to personal matters. Coping with evening or night work may cause transportation, child care or other problems for staff. Staff hired with the expectation of working nights would anticipate making the necessary adjustment for the hours involved. Those hired for days who are later asked or required to work alternate schedules may or may not have the flexibility and desire to make such adjustments.

An infrequent night court could be staffed by regular court staff working on a flex schedule, or receiving overtime for the additional hours. A frequent night court (several nights a week) would need at least one permanent night staff position to assure continuity and consistency between day and night court. Rotation of judges and clerks between the day and night court sessions would present a management challenge to the court's leadership. The challenge is made more complex by the need to cover the night assignments even when "regular" night court staff are sick or on leave. The addition of night court might also complicate the process of obtaining substitute judges for assignments that will include night court hours.

**Other Staffing.** Depending on the types of cases to be heard in the night court, successful operation of the sessions may require the cooperation and participation of other justice system stakeholders. Criminal matters can require the presence of Commonwealth Attorneys, Public Defenders, probation, court-appointed or private attorneys, as well as law enforcement officers. Representatives of programs to which defendants may be referred may also need to be present, such as VASAP or those programs funded through the Comprehensive Community Corrections Act for Local-Responsible Offenders.

Careful consideration would need to be given to the number of bailiffs assigned to a night court. At least one bailiff would be needed in the courtroom. In addition, security personnel - in the form of a bailiff or private security guard would be needed at the courthouse entrance. With fewer people and security staff in the courthouse, the demands on security staff would be in some ways different from day court. For example, there might need to be more active patrolling of the facility by security staff including regular checks of the cashiering station. On nights when defendants may be taken into custody following court proceedings, an additional bailiff would be needed to deal with these individuals while awaiting the prisoners' transport to the jail. Fewer security officers would be available as backup to respond to an emergency situation. And, if during the day court sessions a bailiff escorts defendants from the courtroom to the clerks office for the payment of fines, fees and costs, that same duty should be a part of the evening operation.

**Computer Support.** Unlike many of the existing night court programs which either do not require computer support or are not tied into a central computer system, all aspects of case processing and financial transactions in Virginia's District Courts rely on computer support. Thus, any implementation of night courts in the District Courts would impact the judiciary's Management Information System (MIS) Department and its ability to provide support to all court operations.

Under current procedures, the Computer Center runs 24 hours a day, with three shifts. First Shift covers the day hours, while Second and Third cover the evening and night hours. The computer system is used by the courts from 6:30 a.m. to 6:00 p.m. The rest of the time, two shifts of MIS staff are devoted to nightly processing, data back-ups, and remote printing back to individual courts. The records are updated and reports are completed and made available in the courts in time for the start-up of business the next morning.

The First Shift has an Operator to provide support to court users in troubleshooting communications, hardware and software problems and is able to provide a response to any Help Desk situations. No such capability exists in the evening hours.

Additionally, technical questions regarding the applications are now referred by the Operators to a Court Analyst for resolution. The Court Analysts currently are assigned only to the First Shift. When out of the office conducting training or working in the field at various courts, these individuals can, through the use of pagers, respond quickly to users by phone and in person.

The major impacts of night court operation for the MIS department include the following.

**Potential System Operation Degradation.** The most serious night court impact would be the loss of the existing margin of recovery time. Presently, when a problem is encountered, there is sufficient time during the evening hours to recover from it in time to have the automated systems fully available to the courts when they come online in the morning. But this margin is none too large - several times a year MIS is able to make corrections and recover with only

minutes to spare. The delay in nightly processing imposed by even a few Night Courts would likely mean that there would be 2-3 occasions each year when all of the courts across the Commonwealth would not have access to the automated applications at the start of the day.

***Need For Additional Staff.*** An additional Operator would be needed for the Second Shift in the Computer Center to assist in processing the later-arriving workload, and especially to provide support to Night Court users in troubleshooting communications, hardware, and software problems.

Additional staffing would also be necessary to provide access to a Court Analyst for technical questions regarding the applications. Without this addition, the Night Courts would have to go without such support (leading to unanswered questions and delays in using the automated systems which the courts depend upon). The additional Court Analyst support would be provided, either in the form of over-time (including when this would be done by placing the person "on-call") or by hiring an additional part-time person. Given the requirement of familiarity with existing systems, the overtime method would be the most practical.

***Hardware Costs.*** Additional hardware – chiefly in the form of tape drives and disk drives – would have to be acquired to speed workload processing so as to be able to accomplish the nightly processing operations in the reduced time-frame resulting from extended court hours. Depending upon the number of Night Courts which are established, and the particular workload of those courts, additional mainframe system costs could be incurred as well.

***Difficulties in Making System Upgrades.*** The courts' automated systems and applications are frequently changed and upgraded – some minor system or application changes are made almost every week. Larger changes are reserved for completion during the weekends.

The current operating procedure is to have selected First Shift technical staff (system programmers, applications programmers, Court Analysts, etc.) stay late to work with Second Shift on making the changeover and to then test it. However, if court operating hours were extended, then this work could not start until 9:00 in the evening and holding-over First Shift staff would not be a viable option. Delaying the upgrades to be done on the weekends is not a workable solution because many of the changes need to be accomplished immediately. Postponing all of the upgrades to the weekends would also require additional staff for testing.

***Cost.*** The costs involved in establishing a night court operation in Virginia would be a function of the scope of such an operation and would impact both state and local budgets. For example, a single court running a night court once a month and a mandated night court program for all courts would require vastly different resources, although both would increase the demands on the judicial system's automated information system. A night court operating in a courthouse that also houses non-court offices which are open at night and for which security is already provided would create less of a budgetary impact on a locality than a night court in a courthouse that normally closes the end of the business day and has no nighttime security.

In order to consider diverse cost implications of a night court program, Table 4 highlights the major cost elements that could be a part of a night court program, indicating which would be considered start-up costs and which would be on-going costs. The Table also notes which would be borne by the state and which by the localities. Where a per unit cost figure can be determined, it also is noted. However, many of these items would be the responsibility of the locality, needed only if not already available, and subject to local procurement procedures. Such items are noted, but no unit cost is identified.

**Court Personnel.** Any increased personnel costs for judges or clerk's office staff would require additional funding in the judiciary's budget. Increases here could come from 1) overtime for clerks working an extended shift to accommodate the night court; 2) new positions needed to staff the night court; 3) additional judgeships; 4) a differential paid to staff when working night shift.

Compensation for shift work often varies, with night shifts paying a differential over the day shifts. This differential serves as an incentive to attract and retain individuals to work the non-traditional hours. It also recognizes the inconvenience incurred as a result of working these shifts. If the courts institute a program that involves night work for clerk's office staff, a 5% differential paid for the night shift hours worked would make salaries more competitive with private industry using shift work.

**Other Personnel.** Costs for bailiffs and other security personnel would primarily be state expenses, although the localities have the option of supplementing either the salaries or funding additional positions. Whether this would represent an additional cost would depend upon whether there are sufficient sheriff's deputies available to reassign the requisite number to the night court, and the existing night security staffing at the courthouse. Potential local expenses for law enforcement involved with the operation of a night court would depend on local circumstances: would night court fall within the officers' regular shifts or would attendance be an overtime expense. The level of night court impact on local law enforcement would also depend on the frequency of night court sessions dealing with criminal or traffic matters.

Similar scheduling factors would impact the need for Commonwealth's Attorneys, Public Defenders and Legal Aid personnel in the courtroom, and whether their hours spent on night court represent additional or shifted hours. Expenses for these individuals would fall to the state.

**OES Support.** Providing adequate Computer Center support to courts with night court operations while maintaining existing levels of service to the entire court system, would entail increased personnel and hardware costs. An additional Operator position for second shift in the Computer Center would be needed at an annual cost (including benefits) of approximately \$37,500. Extending the help desk function into the evening hours would require additional overtime for experienced Court Analysts. Upgrades to the computer hardware would represent the largest cost element generated by the implementation of night courts. The addition of more tape drives and disk drives would allow the Second and Third Shift Operators to process the



Table 4: Night Court Cost Elements

Cost Elements	Cost paid by :		Expense is:		Cost per unit	Comments
	State	Locality	Start-up	On-going		
<b>I. Court Personnel</b>						
Judge	x		x	x	\$141,046	These costs would apply to the extent a night court design required the addition of personnel. In that context they would also be considered start-up costs. For all personnel other than the judge, a 5% differential should be allowed for night hours worked. Differential is not included in the figures listed. Cost figures represent 1998-99 levels, including benefit costs.
Courtroom Clerk	x		x	x	\$28,288	
Assistant Clerk	x		x	x	\$22,395	
Cashier	x		x	x	\$22,395	
Counter Clerk	x		x	x	\$22,395	
Supervisor Clerk	x		x	x	\$28,288	
<b>II. Other Personnel</b>						
Building Security	x	Supp.		x	\$28,116	These costs would apply if additional personnel were needed to staff the night court operation. The composition of the dockets would influence how frequently individuals other than security and Bailiffs would need to attend the night sessions.
Bailiff	x	Supp.		x	\$29,516	
Asst. Commonwealth's Attorney	x			x	\$44,510	Cost figures represent 1998-99 levels, including benefit costs. For all personnel other than the bailiffs, a 5% differential should be allowed for night hours worked. Payment of shift differentials is not approved for Bailiffs, but localities may pay them supplements. Localities may also fund additional positions. Differential is not included in the figures listed.
Asst. Public Defender / Legal Aid / Services	x			x	\$44,510	
Law Enforcement	x	x		x		

X = applies

? = May apply in local circumstance

Supp. = locality may supplement salary or positions

Cost Elements	Cost paid by :		Expense is:		Cost per unit	Comments
	State	Locality	Start-up	On-going		
<b>III. OES Support</b>						
MIS Services						Hardware costs would support necessary processing levels in reduced time. Personnel costs would assure night courts having access to the same support services as are available to day court operations.  Cost figures represent 1998-99 levels, including benefit costs
Hardware						
Tape Drives	x		x		\$67,836	
Disk Drives	x		x		\$43,550	
Personnel						
Computer operator	x		x	x	\$37,500	
Court Analyst Overtime	x			x		
<b>IV. Equipment</b>						
PCS (Notebook / Desktop)	x		x		\$4,000	Would be needed by additional judges or staff who overlap with day staff in a court where both would need access to the computer at the same time. If night staff arrived after day staff left, existing computers would be shared.
PCR (register)	x		x		\$4,000	Needed if existing cash register could not be used for night operation due to location, security, etc.
Maintenance agreements		x		x		
Safe		x	x			Needed only if one is not already available in courthouse.
<b>V. Facilities</b>						
Cashier Station		?	?			Each court facility would need to be assessed to determine what, if any, modifications would be needed in connection with implementing a night court. Some may need none, others may need many. The use patterns, security concerns, and wear and tear on the facility would all need to be considered, and a suitable plan adopted by the locality.  The items listed here should all be considered in the process.
Access Control		x	x	?		
Lighting		x		x		
Heating, Ventilation, and Air Conditioning (HVAC)		x		x		
Building Maintenance		x		x		

X = applies

? = May apply in local circumstance

Supp. = locality may supplement salary or positions

Cost Elements	Cost paid by :		Expense is:		Cost per unit	Comments
	State	Locality	Start-up	On-going		
Custodial Services		x		x		
Office/Work area		x	x			
Food Service		?	?			
<b>VI. Parking</b>						
Security, Lighting, and Personnel		x	?	x		Any court offering Night Court should reassess the availability, security and lighting of parking for those using the courthouse, particularly after dark.

X = applies

? = May apply in local circumstance

Supp. = locality may supplement salary or positions

required workload in the shortened time frame. The estimated cost for additional tape drives is \$67,836 and for the disk drives \$43,550.

Less quantifiable are the costs to the system that may result from those few occasions annually when there is insufficient time overnight to resolve problems encountered in processing the nights work before the courts need access to the computer in the morning. In such cases over 300 courts statewide would be without computer support until the problems are resolved. None of their routine activities involving the computer could be engaged in, and where manual recordation of actions or transactions could be used, all would need to be entered into the computer once the system was up and running. In essence, this would create not only an inconvenience to the courts, but also double work of the clerks.

Similarly, the delays in making changes and upgrades to the automated systems and applications cannot readily be assigned a dollar amount. Part of the cost would consist of having additional staff on overtime on the weekends to test upgrades, and part would be the inconvenience and frustration faced by the courts when needed changes were delayed until the weekends.

**Equipment.** The addition of court staff whose work time would overlap with day staff would result in the need for additional computers for these staff to use. If the two shifts were not overlapping, or if day staff simply shifted their work schedule so their shifts included night hours, additional computers would not be needed. If the logistics of processing individuals from the courtroom to the cashier for payments were such that a pay station were needed near the courtroom, an additional cash register would be needed, as well. The cost for both the computers and cash registers would be the responsibility of the state. Each runs approximately \$4,000.

If additional staff were hired for night court, and overlapping schedules prevented them from sharing desk space with day workers, additional office furniture would be needed. If night court case processing required separate file cabinets for night court cases, this additional equipment would be paid for locally.

From a security perspective, if there was not a safe in the clerk's office that could be used to hold the night court receipts pending deposit the next day, the locality would have to purchase one as a start-up cost. Use of the safe would not only protect the funds, it would eliminate the need for staff, with a security escort, to carry money after the close of the office to a bank night deposit box.

**Facilities.** The extent to which facilities costs would be incurred for a night court is very much a local circumstance, and a local expense. One aspect of such costs would be determined by security and processing concerns in the courthouse. If security devices, gates, etc. are needed to limit access to parts of the building, some level of expense would be involved, primarily as a start-up cost. Similarly, if there is a need for constructing a cashiering station as mentioned above, this too would represent a start-up cost. If additional, staff with overlapping work

schedules were employed, provision would need to be made for work space for them. This might or might not incur additional expenses.

The second category of facility cost for night court relates to the added cost of operating the court facility for additional hours. Expenses for basic utilities, maintenance and custodial services could increase, unless the building is already used in the evening for other purposes.

Depending upon the hours involved in night court, it may be necessary to make some provision for food service for staff and the public comparable to what is available during the day. Whether this would involve extending cafeteria hours in the courthouse, adding vending machines or making some other arrangements would be a decision to be made at the local level.

**Parking.** In many instances parking may be more readily available to users of night court than of day court. If, however, the parking normally serving court users during the day, regularly serves others in the evening hours, consideration would need to be given to parking alternatives for night court users.

In all circumstances, localities would need to review the lighting and security of such parking with respect to the potential safety for members of the public and staff involved in night court. If a parking deck serves the court during the day, the hours may need to be extended, thus incurring additional costs for the attendant as well as any other costs involved in extended use of the parking facility. It may be that lighting in and around the parking areas would need to be upgraded, which would involve an initial start-up cost, as well as an on-going increased utility cost for that lighting.

### **III. Need and Feasibility of Night Court in Virginia's District Courts**

Underlying any decision with respect to the addition of night court operations in Virginia's District Courts, must be a recognition of the need to preserve the dignity, quality, and integrity of the services these courts provide to the people they serve. Night court, if offered, should neither impair the ability of the day court operations by drawing off necessary resources, nor be themselves provided with inadequate resources to provide the services for which they are intended. It would not serve the system well to do so. Nor would public trust and confidence in the courts be enhanced if night courts were to be seen as a "second class" form of justice.

#### **A. Need**

**To Increase Capacity.** Statewide, the current status of the District Court dockets is good. Although judges and clerks deal with a substantial and growing caseload, overall these courts are disposing of more cases than are filed each year. Thus there does not appear to be a compelling need to expand the capacity to hear cases by adding night court sessions.

Most existing night courts include or deal exclusively with arraignments. Those courts provide a forum where any of the following may occur: probable cause determinations in arrests in which a warrant had not been issued, bond decisions and determination of detention or release, taking pleas, determining eligibility for and appointment of counsel, setting appearance dates. Virginia already has a 24 hour Magistrate System which provides an opportunity for probable cause determinations, as well as bond decisions and determinations regarding detention and release.

Whether the addition of night court operations would provide an alternative to building additional courtrooms in particular localities is a local issue. However, based on the information available, if the primary motivation for implementing night court operations was avoid construction costs, the night court function would most likely be discontinued when additional courtroom space eventually became available. The trade off here would be an interesting one. Both the locality and the state would incur additional cost for the night court. For the locality these could include security, building modification and building maintenance. Such costs would be offset by the postponed construction cost. The state would have to assume the cost of the additional personnel to staff the night court and the added demand on the computer operation.

**To Better Serve the Public.** The addition of night court hours could provide an opportunity for many individuals to make a court appearance, file necessary forms or papers and pay fines and costs without having to take time off from work. It could increase and ease public access to the courts and might improve public perceptions of the courts. The Virginia Trial Court Performance Standards advocate making courts accessible and reducing where possible the cost of access to the courts. A night court option could reduce the cost to some individuals by making it possible to appear in courts without missing work. This supposition is supported by information gathered during consumer research conducted for Virginia's courts. In focus groups and surveys some respondents indicated that it was not worth their time to miss work to contest a traffic ticket or pursue a small claim, even when they felt their cause would prevail. Such concerns for accommodating the public have motivated a number of the existing night court programs.

Night court hours might also serve the interests of some law enforcement departments. Depending on shift assignments, holding night court might make it possible for some police officers to make their court appearances during regular shifts rather than on their off-duty hours. Such arrangements might also reduce overtime expenses to their localities.

## **B. Feasibility**

The question of feasibility of establishing night courts in Virginia's District Courts encompasses both the issues of what would be necessary to enable a court to establish night court (e.g., would existing statutes or policies have to be changed), as well as what would be required to make a night court a reality (e.g., what personnel and scheduling changes would be needed

within the court, what support would be needed from the OES and the locality, how much would it cost and who would pay for it).

**Enabling Night Courts.** Although the Code of Virginia does not explicitly address the issue of night courts, there is nothing in the statutes that prevents it. The chief judge already has the authority to establish divisions within the court for its more efficient operation, making the designation of a night court division a possibility. Furthermore, the chief judge has the authority to set the hours at which various matters will be heard in the court. Designation of evening hours is not precluded. The chief judge also sets the hours the clerk's office is to be open for transacting business. Thus, there appears that sufficient statutory authority currently exists to permit night court operation without any statutory changes.

An existing Committee on District Courts Policy requires courts to be open for eight hours between 8:00 am and 5:00 pm. Although it does not forbid longer hours, the extension of hours could have an impact on the personnel budget for the courts. The policy in and of itself would not preclude night court operation, although it does complicate the process. First, the office must be staffed during those eight hours. Night court hours would add to the length of the day and require staffing adjustment within the court. This could be accomplished by staggering staff hours with all but the night court staff working regular hours, and having the night courts staff assigned to shifts that would encompass the night court hours, for example from 1:00 to 10:00. This arrangement would avoid the overtime issue. If staff size would not permit this type of scheduling, then regular staff could be extended into the night hours and overtime paid accordingly. Such an arrangement could be authorized by the clerk. Any program that would routinely call for the use of overtime hours by staff, however, would need to be carefully examined with respect to its impact on the amount budgeted for overtime. Additional funding for this budget item might need to be sought. An additional concern here would be for the quality of the night court operation if judges and court staff were routinely working extended hours.

In addition to these concerns, funding would need to be committed to supporting any additional costs that would be incurred in the operation of night courts. Primary among these would be the need for additional capacity for the judiciary's automated information system, but also included would be personnel cost within the Judicial Branch and among the other agencies whose personnel would be needed in the courts.

**Implementing Night Courts.** The implementation of any night courts would require a major readjustment of the computer operation supporting the judicial branch. Whether one court or all courts ran a night court, the night staff responsible for processing the day's transactions from the courts would lose several hours from the time currently used for that purpose. Developing an acceptable, alternate schedule that would allow the night courts to be serviced while at the same time protecting the integrity of the automated support system for the Judicial Branch would need to be developed and its parameters shared with the district courts.

**Table 5**  
**Night Court Stakeholder List**

Judges

Clerks

Bailiffs

Commonwealth's Attorneys

Public Defenders

Legal Aid

Court Appointed Counsel

Private Bar

Probation

Virginia Alcohol Safety Action Program (VASAP)

Comprehensive Community Corrections Act for  
Local-Responsible Offenders funded programs

Civil Litigants

Criminal Defendants

Witnesses

Law Enforcement

Office of the Executive Secretary (OES)

especially the Management Information System (MIS) Department

Local Governments

Department of Social Services (DSS)

Guardians ad Litem

Mental Health Providers



If not otherwise mandated by statute, individual courts would need to identify what night court services they would offer and with what frequency. This should be done in consultation with the other institutional players whose cooperation and support would be needed for a successful night court program (Commonwealth Attorney, law enforcement, bar, Public Defender, Sheriff, etc.) The Court's leadership would need to develop the staffing requirements for the night court, and determine how they would be filled (altering schedules within the existing staff, hiring additional staff). In addition, there would need to be discussions with individuals responsible for the courthouse and its maintenance about the implications, costs and requirements of extending courthouse use for night court. The court, in consultation with representatives of key stakeholders would need to determine the process for putting cases on the night dockets as well as procedures for effecting a transfer to the day dockets. Table 5 identifies the various stakeholder groups that would need to be involved or considered in this planning process.

#### **IV. Options**

Given the factors and implications of instituting Night Court in Virginia, there are several options which can be considered. Each has its strengths and weaknesses.

##### **Option 1: Decide not to pursue /allow night court in Virginia.**

At the present time there is no demonstrated need for night courts as a means of increasing the court capacity to hear cases. Few courts have a sufficiently large staff to routinely accommodate both day and night sessions. Even among courts with larger clerk's office staff, the introduction of night courts would very likely disrupt the current balance of workload that has recently permitted these courts to regularly dispose of more cases than are filed.

A decision against night courts would preclude a potential opportunity to offer increased access and service to many members of the public. Individual jurisdictions that might have an interest in this option would be prevented from doing so.

##### **Option 2: Conduct night court pilot project.**

The myriad of issues implicit in a night court operation makes it difficult to predict its benefits and problems. Given that night courts can be structured in numerous ways, it would be necessary to test one or two to ascertain how effective and appropriate they are in Virginia. While the experiences of courts in other states provide valuable insights and experiences upon which to build, in the final analysis each night court reflects the needs and circumstances of the jurisdiction in which it operates. Testing various options in Virginia and evaluating their effectiveness would be beneficial to a final decision on whether and in what form night courts might be used in Virginia.

**Option 3: Make decisions about the feasibility of night court on a locality by locality basis for courts interested in such a program.**

The need for and success of night courts rest very much on local circumstances, support and commitment to the program. The particulars to be resolved in the design of a night court may vary significantly from court to court. The financial impact of night court implementation would have local as well as state-level aspects. Thus it would be difficult, and may not be productive, to try to make a decision about night courts absent a specific context. Responding to individual requests, however, would allow the decision making process to be informed by the relevant circumstances of the requesting court, with a perspective for the implications of state level operations.

**V. Recommendations**

Upon review of the factors set forth in this study and in consideration of the implications of the introduction of night courts for the operation of Virginia's courts, the Committee on District Courts believes Option 3 represents the preferred approach to night courts. In order to implement Option 3, the Committee on District Courts makes the two following recommendations.

**Recommendation 1: The use of night court is more appropriate for the General District Courts than for the Juvenile and Domestic Relations District Courts.**

Even though the only past night court activity in Virginia involved a support docket in a Juvenile and Domestic Relations District Court, the types of cases handled by the general district courts are better suited to the night court environment than those of the J&DR courts. The general district court cases generally involve fewer individuals and can be handled in less time. None of the programs identified elsewhere involved either domestic or juvenile cases.

**Recommendation 2: Establish a procedure by which the Committee on District Courts can review and act upon proposals from individual courts that want to establish a night court operation.**

Experience in other courts indicates that the impetus for night courts usually develops at the local level, and that successful night courts have the support of local court leaders and cooperation of related agencies. Requiring courts to submit a proposal in order to implement a night court would assure that they had considered all issues relevant to night court operation and had collaborated with the relevant stakeholders. Proposals would describe how the night court would operate, addressing the issues covered in this study report, and include cost projections.

Staff of the Committee on District Courts would review the proposals for completeness and financial impact. Staff would report the results of their review, including mention of any issues not addressed by the proposal, to the CDC which would then make a determination of whether

the requested program should be implemented and whether such implementation would be contingent upon securing additional funding. If the request was approved and additional funding was required, the CDC would initiate the needed budget request.

Without a procedure for reviewing the merits and implications of a proposed night court operation and approving its design, it would be difficult to plan and budget for state level expenses. Additional employees and overtime expenses, as well as the impact on scheduling judges in the multi-court districts would be less predictable if courts were to decide to implement a night court at will. The impact on the system's automated information system would be difficult to predict or control, potentially jeopardizing automated support to the entire judicial branch.



## **Appendix A**

**House Joint Resolution No. 488**



1997 SESSION

979015825

HOUSE JOINT RESOLUTION NO. 488

Offered January 16, 1997

Requesting the Committee on District Courts to study the feasibility of establishing night courts in the Commonwealth.

Patrons—Cunningham, Almand, Davies, Guest, Moore, Watts and Woodrum; Senators: Howell, Lucas, Stolle and Waddell

Referred to Committee on Rules

WHEREAS, the demands placed on the district court system have dramatically increased over the last ten years; and

WHEREAS, officers who must appear in court often face frequent disruptions of their scheduled work assignments to appear in court under the current system; and

WHEREAS, witnesses who are employed often must take personal time off from their employment in order to appear and testify in cases; and

WHEREAS, other jurisdictions have successfully alleviated some of these problems by offering a more flexible court schedule to better serve their citizens; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Committee on District Courts be requested to study the necessity and feasibility of establishing night courts in the Commonwealth.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the Office of the Executive Secretary of the Virginia Supreme Court. All agencies of the Commonwealth shall provide assistance to the Committee, upon request.

The Committee shall complete its work in time to submit its findings and recommendations to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

979015825

HJ488

1/16/97 17:56

Official Use By Clerks			
<b>Passed By</b>		<b>Passed By The Senate</b>	
The House of Delegates		without amendment	<input type="checkbox"/>
without amendment	<input type="checkbox"/>	with amendment	<input type="checkbox"/>
with amendment	<input type="checkbox"/>	substitute	<input type="checkbox"/>
substitute	<input type="checkbox"/>	substitute w/amdt	<input type="checkbox"/>
substitute w/amdt	<input type="checkbox"/>		
Date: _____		Date: _____	
_____	Clerk of the House of Delegates	_____	Clerk of the Senate





## **Appendix B**

### **Night Court Proposal: An Example**



**Night Court Proposal: An Illustration**  
**Basic Assumptions**

<b>Assumption</b>	<b>Comments</b>
<p>1. <b>Purpose of Night Court:</b> To increase / improve service to the public by scheduling court times and clerk's office services after normal business hours.</p>	<p>The primary benefit of providing a night court would be to increase public access to the courts by allowing people to transact business with the court without taking time off from work. The models shift, but do not expand, the workload of the courts. One benefit of this shift would be to relieve some of the crowding of the courthouse in during the day and relieve pressure on available parking. Because backlog and delay in the General District Courts are not major problems, increasing the capacity of these courts by expanding the workload is not called for.</p>
<p>2. <b>Which Courts:</b> Night court would be most appropriate to an urban jurisdiction where both the caseload and the existing staff can support the shift of part of the workload to the evening/night hours without adverse impact on the daytime operation of the court.</p> <p>Night courts would be implemented in the General District Courts, not the Juvenile and Domestic Relations District Courts.</p>	<p>Night court could be operated in any court that feels it would be beneficial. The logistics and frequency of doing so in small rural courts would involve a modification of the one night model, perhaps on a once or twice a month basis. This approach is not included in the scope of the present modeling.</p> <p>Juvenile and Domestic Relations District Court hearings typically involve more participants and more complex issues than those in the General District Courts.</p>
<p>3. <b>Services to be available through Night Court:</b> Clerk's Office services and one courtroom hearing most traffic, civil and criminal matters within the court's jurisdiction.</p>	<p>Arraignments would not be included in the night court models due to the costs associated with security and transportation required when in-custody defendants are in the court.</p>
<p>4. <b>Matters to be heard in Night Court:</b> Nightly dockets would be segregated by casetype: civil, criminal and traffic would be heard on separate nights. The four night model contemplates 2 nights of traffic, one of civil and one of criminal. One and two night models would cover all case types in the course of the month.</p>	<p>Docketing in this manner would reduce the number of nights that related agencies would need to make personnel available for court - e.g., Commonwealth's Attorney, law enforcement, Public Defenders/Legal Aid. Final decision on how to schedule dockets would reflect local caseload.</p>

5.	<p><b>Frequency of Night Court:</b> As the demand for night court varies, models propose one, two or four nights a week. Court would not be scheduled on the last night of the month when computer support would not be available from MIS staff in Richmond due to preparation of end-of-month financial processing and reporting.</p>	<p>The four night model contemplates Monday through Thursday operation in a large urban jurisdiction. One and two night models contemplate smaller urban and rural jurisdictions which hold day court every day. Rural jurisdictions which hold day court on a less than daily basis are not covered in current models. If interested in night court, they probably would operate on a once or twice a month basis.</p>
6.	<p><b>Hours of Night Court:</b> Dockets for the one and two night models would be scheduled from 5:30 - 7:30 and from 7:00 - 9:00 in the four night model. The Clerk's Office would extend its open to the public hours from the regular closing time until either 7:30 or 9:00 depending on the model.</p>	<p>The one and two night models are proposed for smaller jurisdictions where access to the court is likely to be feasible by 5:30. In larger urban areas, commuting time and rush hour congestion is taken into account in the later starting time. Although court ends at 7:30 or 9:00 in these models, staff time would extend for another hour to allow for post court processing of cases.</p>
7.	<p><b>Staffing of Night Court:</b> With the exception of the four night model, existing staff would be used for night court. In the four night model, an additional supervisor would be required to coordinate the night court operations.</p>	<p>In all models, the courtroom, clerk's office and judicial staff would rotate daily, weekly or monthly for night court duty. In order to assure continuity in the night court operation in the four night model, one supervisor would be added with night court as a permanent function of the new position. With a shift running from 1 PM until 10 PM, this individual would also serve as a "floating" staff member for the clerk's office during the afternoon.</p>
8.	<p><b>Security for Night Courts:</b> Adequate security is key to a successful night court program. Individuals (staff and the public) must feel safe in and coming to the courthouse in the evening hours.</p>	<p>Implications for security extend beyond having a bailiff in the courtroom. For example, it would be necessary to have security at the entrance of the courthouse, and a means of limiting access only to those parts of the courthouse needed to transact business with the night court. Adequate arrangements would need to be made for security throughout the evening hours while staff would be working. Although cases involving in-custody defendants are not contemplated in these models, plans would need to encompass detaining and transporting individuals taken into custody as a result of court actions. Arrangements with the locality for adequate patrolling of the courthouse and surrounding area where court users must park would be another piece of the security issue.</p>

<p>9.</p>	<p><b>Management of Night Court:</b> Shifting the court's schedule to include a night court session raises many management issues for the court managers. The more nights a night court operates, the greater the management challenge.</p>	<p>Among the management issues are the following:</p> <ul style="list-style-type: none"> <li>&gt; scheduling cases</li> <li>&gt; scheduling staff on an equitable basis</li> <li>&gt; assuring adequate coverage for daytime activities</li> <li>&gt; accounting for sick and annual leave when working out coverage for both day and night shifts.</li> <li>&gt; implications for obtaining substitute judges when needed for night court hours</li> <li>&gt; scheduling around "end-of-month" nights</li> <li>&gt; coordination with law enforcement and other agencies that may be needed in night court</li> <li>&gt; coordinating the duties and space needs of day and night staff to assure the work of the court is managed effectively.</li> <li>&gt; publicizing availability of night court option for court users.</li> <li>&gt; assuring same quality of justice in night court as in day court.</li> </ul>
-----------	---	--

**Night Court Proposal: An Illustration  
Cost Element Table**

Additional Expenses: Cost Elements	Proposed Nights per week			Responsible for Cost		Type of Expense		Comments  Number(s) in brackets [ ] preceding comment indicates nights per week to which comments apply.
	1	2	4	State	City/ Co.	Start- up	On- going	
<b>I. Court Personnel</b>								
I.A Judge								[1,2,4] Because the models shift some of the dockets to the evening hours, existing judges would be used. In multi-judge courts one judge would be assigned to night court on a given day. That judge's calendar would shift to cover the evening hours, while the other judges in the court hear their regular day court calendars. Additional management issues may arise when substitute judges are needed. Also in multi-court districts, extended hours certainly would impact non-resident judges' travel schedules and expectations, possibly adding costs for overnight accommodations.
I.B Courtroom Clerk	Diff.	Diff.	Diff.	x			x	[1,2,4] Diff. = differential. Shift differential of 5% would be paid to all staff for night court hours worked. [1, 2] In smaller courts it might also be necessary to pay overtime to existing staff or hire part-time individuals to staff the night court - may not be able to close court during day and shift entire staff to later shift.
I.C Assistant Clerk	Diff.	Diff.	Diff.	x			x	
I.D Cashier	Diff.	Diff.	Diff.	x			x	
I.E Counter Clerk	Diff.	Diff.	Diff.	x			x	
I.F Supervisor Clerk	Diff.	Diff.	x/ Diff.	x		x	x	[1,2,4] Diff. = differential. Shift differential of 5% would be paid to all staff for night court hours worked. [4] New supervisory position needed to coordinate between day and night court in large courts holding night court 4 nights a week. Individual will serve as "floating" staff when not needed for night court related duties.

B - 4

x = applies    ? = may apply in local circumstance    Dif. = Differential    Supp. = Supplement possible

Additional Expenses: Cost Elements	Proposed Nights per week			Responsible for Cost		Type of Expense		Comments  Number(s) in brackets [ ] preceding comment indicates nights per week to which comments apply.
	1	2	4	State	City / Co.	Start- up	On- going	
<b>II. Other Personnel</b>								
II.A Building Security (variable)	x	x	x	x	Supp		x	[1,2,4] Number needed would depend on the configuration of the facility - e.g., the distance from the front door to the courtroom, the access control measures /devices in the courthouse to confine night court users to specified parts of the facility, location and security of payment stations in clerk's office or elsewhere.
II.B Bailiff (2) Plus arrangements for prisoner custody in courthouse and transportation to jail.	x	x	x	x	Supp		x	[1,2,4] Security situation in courthouse is different at night than during the day. A single bailiff in courtroom would not be sufficient should a disturbance occur. At night there would be no back-up to call from another part of the building. This may be one of the "special circumstance" for which a judge could request more than one bailiff for security while the court is in session.
II.C Commonwealth's Attorney	?	?	?	x			x	[1,2,4] Need would vary with the composition of the dockets: for criminal and some traffic, not for civil.
II.D Public Defender / Legal Aid / Services	?	?	?	x			x	[1,2,4] Unless local practice mandates otherwise, would not be required as part of court staffing, but would need to appear when individuals they are representing are scheduled for night court.
II.E Law Enforcement	x	x	x	x	x		x	[1,2,4] Need would vary with composition of docket. To the extent that state and local police are needed to testify in cases heard in night court, the state and localities, respectively, may incur costs for overtime paid to these individuals.

x = applies    ? = may apply in local circumstance

Diff = 5% Differential

Supp. = Supplement possible

Additional Expenses: Cost Elements	Proposed Nights per week			Responsible for Cost		Type of Expense		Comments  Number(s) in brackets [ ] preceding comment indicates nights per week to which comments apply.
	1	2	4	State	City / Co.	Start- up	On- going	
<b>III. OES Support</b>								
III.A MIS Services	?	?	x	x			x	[1,2,4] Richmond staffing would need to be sufficient to support the number of courts open at night. Existing staff and processing capacity may be sufficient for a limited number of night court operations with some adjustments. With increasing participation, current night shifts and hardware may have to be increased.
<b>IV. Equipment</b>								
IV.A PCS (Notebook / Desktop)			x	x		x		[4] New supervisor would need desktop computer
IV.B PCR (register)	?	?	?	x		x		[4] If pay station needs to be created near the courtroom, an additional cash register will be needed. [1, 2] May be difficult to justify for a one or two night operation.
IV.C Maintenance agreements	?	?	x		x		x	[1,2,4] Equipment essential to the operation of the clerk's office and the courtroom operations need to be covered by a service agreement that would provide for prompt night hours response. If the locality already has such an agreement, this would not be an additional expense. This issue is most pressing for the 4 night court.
IV.D Safe	?	?	?		x	x		[1,2,4] If the clerk's office does not have a safe into which the staff can deposit monies collected during the night court hours, one would need to be installed. In keeping with security concerns noted above, staff should not be expected to make deposits to a bank's night drop box upon the completion of court.

B-6

x = applies ? = may apply in local circumstance

Diff = % Differential

Supp. = Supplement possible



Additional Expenses: Cost Elements	Proposed Nights per week			Responsible for Cost		of Expense		Comments  Number(s) in brackets [ ] preceding comment indicates nights per week to which comments apply.
	1	2	4	State	City / Co.	Start- up	On- going	
<b>V. Facilities</b>								
V.A Cashier Station	?	?	?		?	?		[4] If an additional cashiering station were needed, it would involve a locality start up expense. [1,2] In one or two night models, option would be to create station if needed, or devise other procedures, patterns to facilitate taking of payments from those leaving courtroom.
V.B Access Control	?	?	x		x	x	x	[1,2,4] If physical access control devices were needed, this would be a start-up cost. If access control were to be accomplished by security personnel, then this would be an on-going cost covered under personnel, above.
V.C Lighting	x	x	x		x		x	[1,2,4] Additional cost for power consumption during extended hours.
V.D Heating, Ventilation, and Air Conditioning (HVAC)	?	?	?		x		x	[1,2,4] If the locality employs an HVAC control system to regulate temperature and air flow in the courthouse, adjustments to the system could result in added utility costs for the extended hours.
V.E Building Maintenance	x	x	x		x		x	[1,2,4] Court staff would need access to building maintenance staff in the event of emergencies (e.g., broken pipes). Additional expense factors would depend on whether the locality has such services available through the evening hours, or would need to make special arrangements for such coverage.
V.F Custodial Services	x	x	x		x		x	[1,2,4] Extended use of the facilities may require additional scheduling of custodial services to assure public facilities are clean and supplied for extended hours.

x = applies ? = may apply in local circumstance

Diff = 5% Differential

Supp. = Supplement possible

Additional Expenses: Cost Elements	Proposed Nights per week			Responsible for Cost		Type of Expense		Comments  Number(s) in brackets [ ] preceding comment indicates nights per week to which comments apply.
	1	2	4	State	City / Co.	Start- up	On- going	
V.G Office/Work area (new supervisor)			x		x	x		[4] New supervisor would work across shifts and would need to be provided with a workspace and basic office furniture and equipment for use during both the day and night court hours.
<b>VI. Parking</b>								
VI.A Security, Lighting, and Personnel	?	?	?		x	?	x	[1,2,4] Any court offering Night Court should reassess the availability, security and lighting of parking for those using the courthouse, particularly after dark. If additional security or lighting is needed, this would represent a start-up cost as well as an on-going cost. If locality has attended parking lot/deck for court users during the day, services should be extended into the evening hours.

. = applies ? = may apply in local circumstance

Di

Differential

Supp.= Supplement possible



