

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

**A STUDY OF THE COURT SYSTEM'S
PROCESSING OF LANDLORD-TENANT
CASES AND WAYS TO EXPEDITE THEIR
MOVEMENT THROUGH THE GENERAL
DISTRICT COURTS**

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



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**COMMONWEALTH OF VIRGINIA
RICHMOND
2000**

Committee on District Courts

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Honorable Roy B. Willett, Judge, Twenty-Third Circuit
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MEMORANDUM

December 10, 1999

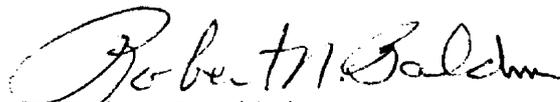
TO: The Honorable James S. Gilmore, III
Governor of Virginia

And

The General Assembly of Virginia

The 1999 General Assembly, through House Joint Resolution 672, requested that the Committee on District Courts study the district court system's processing of landlord-tenant cases and ways to expedite their movement through the general district courts. Enclosed for your review and consideration is the report which has been prepared in response to this request.

Respectfully submitted,



Robert N. Baldwin
Executive Secretary

I. Authority for Study

Through House Joint Resolution 672 (Appendix I), the 1999 General Assembly requested that the Committee on District Courts study the court system's processing of landlord-tenant cases and ways to expedite their movement through the general district courts. At the direction of the Committee on District Courts and with the assistance of the general district court clerks and judges throughout the state, the Office of the Executive Secretary undertook a review of the law and court practices regarding the processing and handling of landlord-tenant cases.

II. Study Committee

For the purpose of conducting this study, the Committee on District Courts created a study committee consisting of judges, clerks of court, sheriffs, representatives for landlords through the Virginia Association of Realtors and the Home Builders Association of Virginia, and tenant representatives through the Legal Aid Society and the Virginia Poverty Law Center. The members of the Study Committee were as follows:

Honorable William L. Wimbish, Thirteenth Judicial District,
Richmond City General District Court - Civil

Honorable Merlin M. Renne, Ninth Judicial District
York County General District Court

Brandon Beach, Esq., The Virginia Poverty Law Center, Richmond, Va.

Henry W. McLaughlin, Esq., Central Virginia Legal Aid Society, Inc.

Ms. Susie Swain, Chief Deputy Clerk, Fairfax County General District Court

Ms. Polly Myers, Clerk, Montgomery County General District Court

John G. Dicks, III, Esq., FutureLaw, L.L.C.

Carl F. Bowmer, Esq., Christian & Barton, Richmond, Va.

Honorable Raleigh Isaacs, Sr., Sheriff, Suffolk County

III. Executive Summary

The Study Committee reviewed the Virginia Residential Landlord and Tenant Act, which was enacted by Chapter 680 of the 1974 Acts of Assembly. The act was intended to simplify, clarify, modernize and revise the law governing the rental of dwelling units and the rights and obligations of landlords and tenants. The act also encouraged landlords and tenants to maintain and improve the quality of housing; and it established a single body of law relating to landlord and tenant relations throughout the Commonwealth.

In addition, the Study Committee carefully reviewed other applicable statutory provisions provided in Titles 8.01 and 16.1 and the assertions contained in the study resolution as follows:

- a) the availability of multi-family housing units at affordable rents is one of the most important housing issues facing the Commonwealth;
- b) one of the major factors contributing to the increase in rental costs of multi-family housing units is the excessive amount of time necessary to regain possession of the premises from a defaulting tenant and put the unit back on the rental market;
- c) the time for obtaining an initial court date for hearing of an unlawful detainer action has increased in many areas from two weeks to four to five weeks;
- d) processing of cases through the court involving other landlord-tenant disputes often takes a long time, during which a landlord may be without rental income or a tenant without access to the property;
- e) such delays result in property owners losing substantial revenue by being unable to re-rent multi-family units to prospective new tenants for long periods of time;
- f) one of the purposes of Virginia's landlord-tenant act is to simplify the law governing the rental of property; and
- g) expedited handling of these cases would be in the best interest of the parties and in keeping with the stated purposes of the Virginia Residential Landlord and Tenant Act.

As a result of the work of the Study Committee and staff research, the Committee on District Courts offers the following recommendations:

RECOMMENDATION 1:

The Committee on District Courts will establish a guideline that all landlord-tenant actions should be heard and decided within 21 business days from the date the action was filed with the court.

Commentary: Since there is no universally-accepted norm of what constitutes a reasonable period within which landlord-tenant actions should be tried and decided, different constituencies have differing expectations about the appropriate benchmark for the adjudication of these matters. The landlord community is concerned that these actions typically progress at too slow a pace. In contrast, the constituency representing the interests of tenants is concerned that, if these cases are adjudicated too rapidly, tenants will not have the opportunity to offer the good-faith defenses which may be relevant to their situations. The participants in the study representing the institutional perspectives of clerk's offices, the judiciary and sheriff's departments expressed concern that if a mandatory time frame became too foreshortened, then additional resources would be required to ensure that the mandate would be met.

There is evidence which suggests that 66.3% of the courts hear unlawful detainer cases within 15 business days, and 80.2% of the courts hear unlawful detainer cases within 21 business days. This indicates that the problem of delay in these matters is not pervasive throughout the general district courts in Virginia. There is also evidence implying that many of the cases which are not adjudicated within these periods are brought in more sparsely-populated jurisdictions where court is held less frequently. However, it should also be noted that there are a number of courts where the pace at which landlord-tenant actions are adjudicated could be quickened.

Considering the court system as a whole, the Committee on District Courts believes that it is not necessary at this time to create a statutory time frame for the adjudication of landlord-tenant cases. Instead, the Committee on District Courts believes it would be appropriate for the committee to establish a specific benchmark for the adjudication of these cases. The particular time frame is meant to represent a balance between the legitimate concerns that these matters be adjudicated promptly, that tenants have the opportunity to vindicate their rights and that the Commonwealth avoid the cost of additional resources for the court system or for sheriff's departments.

It is the express, clear expectation of the Committee on District Courts that typically landlord-tenant cases will be heard and decided within 21 business days from the date the case was filed with the court.

This benchmark does not act as a curb on the discretion of the judge to make whatever rulings he or she believes are appropriate to the adjudication of the matter. The benchmark is intended as an aspirational standard to be applied to all landlord-tenant cases on a state-wide, system-wide basis. Further, the Committee on District Courts directs the Office of the Executive Secretary to provide technical assistance to those courts which do not routinely adjudicate landlord-tenant cases within the time frame of the guideline. Finally, after the general district courts have operated on the basis of this guideline for one year, the Committee on District Courts will assess to what extent landlord-tenant cases are adjudicated within 21 business days after the action was filed and will determine whether further legislative recommendations are necessary.

RECOMMENDATION 2:

The Committee on District Courts directs the Office of the Executive Secretary to develop a means of filing landlord-tenant actions through an automated interface which utilizes the automated Case Management System currently in place in the court system.

Commentary: An automated interface would be developed to provide for the transfer of data entered by plaintiffs in landlord-tenant cases by computer disk, with the original "hard copy" pleadings accompanying the disk. This data transfer would assist in expediting the initial processing of landlord-tenant cases by the clerk's office.

Record input/output criteria and layout shall be furnished by the Office of the Executive Secretary to private vendors, landlords and any other interested parties. The Office of the Executive Secretary would provide the necessary technical assistance to facilitate the use of this interface by all the general district courts.

IV. General District Courts - Current Status of Processing

In order to have information about the current status of processing of landlord-tenant cases in the general district courts, a survey was mailed to the civil division of 118 general district court clerks offices. Please see Appendix III for a copy of the survey instrument.

A total of 88 survey responses were analyzed and are described below. The complete analysis is located in Appendices IV and V.

CLERK'S OFFICE PROCESSING TIME PARAMETERS

UNLAWFUL DETAINER CASES

This table reflects the total number of days required for case processing from receipt of the unlawful detainer case in the clerk's office to transmittal to the sheriff for service. Weekends and holidays were excluded, and only actual workdays were counted. Over 58% of the courts responding completed their case processing within one day. Processing was completed within two days by 79.5% of the courts responding. Ninety-two percent of all courts responding completed their case processing within five days.

Scheduling UD Cases: Days After Receipt in Clerks Office					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	1	1.1	1.1	1.1
	1.00	50	56.8	56.8	58.0
	2.00	19	21.6	21.6	79.5
	3.00	6	6.8	6.8	86.4
	4.00	1	1.1	1.1	87.5
	5.00	4	4.5	4.5	92.0
	7.00	1	1.1	1.1	93.2
	10.00	3	3.4	3.4	96.6
	15.00	3	3.4	3.4	100.0
	Total	88	100.0	100.0	

DISTRESS WARRANT CASES

This table reflects the total number of days required for case processing from receipt of the distress warrant case in the clerk's office to transmittal to the sheriff for service. Weekends and holidays were excluded, and only the actual workdays were counted in calculating the total number of days.

The data reflects that 68.1% of the courts responding completed their case processing within one day. Processing was completed within two days by 84.7% and 91.7% of all courts responding completed their processing within five days.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	1	1.1	1.4	1.4
	1.00	48	54.5	66.7	68.1
	2.00	12	13.6	16.7	84.7
	3.00	3	3.4	4.2	88.9
	4.00	1	1.1	1.4	90.3
	5.00	1	1.1	1.4	91.7
	10.00	4	4.5	5.6	97.2
	15.00	2	2.3	2.8	100.0
	Total	72	81.8	100.0	
Missing	System	16	18.2		
Total		88	100.0		

TENANT ASSERTION CASES

This table reflects the total number of days required for case processing from receipt of the tenants assertion case in the clerk's office to transmittal to the sheriff for service. Weekends and holidays were excluded, and only the actual workdays were counted in calculating the total number of days. The data reflects that 61% of the courts responding completed their case processing in one day. Processing was completed within two days by 84.4% and 94.8% of all courts responding completed their processing within five days.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	1	1.1	1.3	1.3
	1.00	46	52.3	59.7	61.0
	2.00	18	20.5	23.4	84.4
	3.00	3	3.4	3.9	88.3
	5.00	5	5.7	6.5	94.8
	10.00	2	2.3	2.6	97.4
	15.00	2	2.3	2.6	100.0
	Total	77	87.5	100.0	
Missing	System	11	12.5		
Total		88	100.0		

CLERK'S OFFICE PROCESSING TO SCHEDULING THE FIRST HEARING TIME PARAMETERS

UNLAWFUL DETAINER

This table reflects the total number of days (excluding weekends and holidays) from initial filing to the first court hearing date docketed on unlawful detainer cases. The results indicate that 66.3% of the responses (57 courts), docket their cases within at least fifteen days from initial filing. Twenty-nine or 33.7% of the courts responding indicated that their first docket date ranged from 16 to 45 days.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	1	1.1	1.2	1.2
	2.00	2	2.3	2.3	3.5
	4.00	1	1.1	1.2	4.7
	10.00	21	23.9	24.4	29.1
	11.00	1	1.1	1.2	30.2
	12.00	1	1.1	1.2	31.4
	13.00	2	2.3	2.3	33.7
	14.00	10	11.4	11.6	45.3
	15.00	18	20.5	20.9	66.3
	16.00	1	1.1	1.2	67.4
	18.00	1	1.1	1.2	68.6
	20.00	7	8.0	8.1	76.7
	21.00	3	3.4	3.5	80.2
	30.00	16	18.2	18.6	98.8
	45.00	1	1.1	1.2	100.0
Total		86	97.7	100.0	
Missing	System	2	2.3		
Total		88	100.0		

DISTRESS WARRANT

This table reflects the total number of days (excluding weekends and holidays) from initial filing to the first court hearing date docketed on distress warrant cases. The results indicate that 75.4% of the courts responding (52 courts), docket their cases within fifteen days from initial filing. Seventeen courts or 24.5% of the courts responding indicated that their first docket date ranged from 16 to 45 days from initial filing.

		Frequency	Percent	Valid Percent	Cumulative Percent	
Valid	1.00	1	1.1	1.4	1.4	
	2.00	1	1.1	1.4	2.9	
	8.00	1	1.1	1.4	4.3	
	10.00	23	26.1	33.3	37.7	
	12.00	1	1.1	1.4	39.1	
	14.00	11	12.5	15.9	55.1	
	15.00	14	15.9	20.3	75.4	
	16.00	1	1.1	1.4	76.8	
	20.00	4	4.5	5.8	82.6	
	21.00	4	4.5	5.8	88.4	
	30.00	6	6.8	8.7	97.1	
	31.00	1	1.1	1.4	98.6	
	45.00	1	1.1	1.4	100.0	
	Total		89	78.4	100.0	
	Missing	System	19	21.6		
Total		88	100.0			

TENANT'S ASSERTION

This table reflects the total number of days (excluding weekends and holidays) from initial filing to the first court hearing date docketed on tenant assertion cases. The results indicate that 74.3% of the courts responding (55 courts), docket their cases within fifteen days from initial filing. Nineteen courts¹ or 25.7% of the courts responding indicated that their first docket date ranged from 16 to 45 business days² from initial filing.

Scheduling Tenants Assertion Cases: Days from Processing to First Hearing					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	1	1.1	1.4	1.4
	2.00	1	1.1	1.4	2.7
	3.00	2	2.3	2.7	5.4
	5.00	1	1.1	1.4	6.8
	7.00	1	1.1	1.4	8.1
	8.00	1	1.1	1.4	9.5
	10.00	16	18.2	21.6	31.1
	11.00	1	1.1	1.4	32.4
	12.00	1	1.1	1.4	33.8
	14.00	7	8.0	9.5	43.2
	15.00	23	26.1	31.1	74.3
	16.00	1	1.1	1.4	75.7
	20.00	4	4.5	5.4	81.1
	21.00	5	5.7	6.8	87.8
	25.00	1	1.1	1.4	89.2
	30.00	7	8.0	9.5	98.6
	45.00	1	1.1	1.4	100.0
	Total	74	84.1	100.0	
Missing	System	14	15.9		
Total		88	100.0		

¹ This group was comprised of all rural courts who report that civil court is held 1-2 times per month

² See § 55-248.30 -- The initial hearing on the tenant's declaration filed pursuant to § 55-248.27 must be held within fifteen calendar days from the date of service of process on the landlord or his agent as authorized in § 55-248.12, except that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such as failure of heat in winter, lack of adequate sewage facilities or any other condition which constitutes an immediate threat to the health or safety of the inhabitants of the leased premises.

SHERIFF SERVICE OF LANDLORD TENANT CASES

This table reflects the total number of days from the forwarding of the case to sheriff for service of process and return of case papers to the clerk's office. Weekends and holidays were excluded, and only actual workdays were counted. This table reflects that 46.1% of the courts responding indicated that the sheriff's service and return was completed in five days or less. Sheriff's service and return was completed within ten days or less by 84.2% of the courts, and 15.8% of those responding, indicated that the sheriff's service and return ranged from fourteen to thirty days.

Days Sheriff Requires for Service and Return of LT Cases					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	3	3.4	3.9	3.9
	2.00	6	6.8	7.9	11.8
	3.00	6	6.8	7.9	19.7
	4.00	4	4.5	5.3	25.0
	5.00	16	18.2	21.1	46.1
	7.00	10	11.4	13.2	59.2
	8.00	1	1.1	1.3	60.5
	10.00	18	20.5	23.7	84.2
	14.00	4	4.5	5.3	89.5
	15.00	6	6.8	7.9	97.4
	20.00	1	1.1	1.3	98.7
	30.00	1	1.1	1.3	100.0
Total		76	86.4	100.0	
Missing	System	12	13.6		
Total		88	100.0		

Docketing of Contested Cases

This table reflects the number of courts responding that hear contested cases on the initial court date and those that routinely continue contested cases from the initial court date to a future hearing date. Forty-seven courts, 53.4% of the courts responding, typically heard contested cases on the initial court date. Thirty-seven courts, 42% of the courts responding, routinely continued contested cases to a future court date.

Processing of Contested Cases					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	2.3	2.3	2.3
	Continues the case	37	42.0	42.0	44.3
	Hears cases on initial court date	47	53.4	53.4	97.7
	h/c	1	1.1	1.1	98.9
	n	1	1.1	1.1	100.0
	Total	88	100.0	100.0	

Limitations on Number of Cases Per Court date

This table indicates the number of courts, which limit any individual landlord to a maximum number of cases per court date. Seventy-eight courts, 88.6% of those courts responding, place no limitation on the number of cases a landlord can docket for any given court date. Four courts, 4.5% of the courts responding, place limitations on the maximum number of cases docketed for a specific court date by an individual landlord.

Limits Any Indiv. Landlord to Maximum No. of Cases per Court Date?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		6	6.8	6.8	6.8
	No	78	88.6	88.6	95.5
	Yes	4	4.5	4.5	100.0
	Total	88	100.0	100.0	

SPECIALIZED DOCKETING OF LANDLORD TENANT CASES

This table reflects the number of courts responding which schedule landlord-tenant cases on a special docket at a specific time and those that docket landlord-tenant cases amidst the general civil docket. Seventy-nine courts, 89.9% of courts responding indicated that the landlord-tenant cases are docketed with other types of civil cases on the docket. Only five courts, 5.7% indicated that they provided specialized docket times for landlord-tenant cases.

LT Cases Scheduled with Other Types of Civil Cases?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		4	4.5	4.5	4.5
	No	5	5.7	5.7	10.2
	Yes	79	89.8	89.8	100.0
	Total	88	100.0	100.0	

WAITING TIME FOR LANDLORD TENANT CASES ON COURT DATE

The data in this table reflects the mean average total amount of time litigants have to wait at the court to have their case heard. Seventy-two courts, 84.7% of the courts responding, indicated that litigants wait thirty minutes or less for their court hearing. Eleven courts, 12.9%, indicated that waiting time for litigants ranged up to one hour. One court reported waiting time to be one hour and thirty minutes and one court indicated that litigants wait up to two hours. Overall, 97.6 % of the courts responding stated that litigants wait sixty (60) minutes or less for their docketed case.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	23	26.1	27.1	27.1
	1.50	1	1.1	1.2	28.2
	2.00	12	13.6	14.1	42.4
	2.50	1	1.1	1.2	43.5
	3.00	5	5.7	5.9	49.4
	4.00	1	1.1	1.2	50.6
	10.00	4	4.5	4.7	55.3
	15.00	7	8.0	8.2	63.5
	20.00	2	2.3	2.4	65.9
	30.00	16	18.2	18.8	84.7
	40.00	1	1.1	1.2	85.9
	45.00	3	3.4	3.5	89.4
	60.00	7	8.0	8.2	97.6
	90.00	1	1.1	1.2	98.8
	120.00	1	1.1	1.2	100.0
	Total	85	96.6	100.0	
Missing	System	3	3.4		
Total		88	100.0		

Additional survey information located in Appendix V by specific court reflects:

- ◆ the unlawful detainer new and continued caseload in 1998 per court
- ◆ courts that hear contested cases on the initial return date
- ◆ courts that continue contested cases to a contested hearing date
- ◆ length of time for case processing per court
- ◆ length of time from initial filing to first hearing return per court
- ◆ length of time required for service of process per court

V. General District Courts - Time Frames

Several significant issues were considered by the Committee on District Courts:

- 1) Should mandated time frames be established for the first return date?
- 2) Should the time frames be defined in calendar or business days?
- 3) Should the time frames be measured from date of filing or date of service on the tenant?

A summary of expedited eviction procedures in Arizona, Colorado, Florida, Maryland and Texas was presented for the Committee on District Courts review (Appendix VI).

Issues affecting the setting of the cases in the respective Virginia courts include calendar management practices, i.e., specialized dockets by day of the week for landlord tenant cases; lack of counsel availability to represent tenants on the first return date the case is set; and issues surrounding the service of process and the return of service of process.

Representations were made to the Committee on District Courts by the landlord community that it generally takes longer than three to four weeks for the first return date and often within five to six weeks. Landlords prefer that a first return date be set from the date of filing in certain courts so as to provide the landlord with the opportunity to get into court within the month in which the rent is due. Typically, landlords indicate that they experience the following timeline:

1. 1st of the month: rent is due;
2. 1st-5th of month: grace period for payment of the rent;
3. 6th of month: send 5 day notice;
4. 11th day of month: payment not made; and
5. 12-15th of month - Unlawful Detainer filed with court; 1st return date in some courts set as long as 6 weeks in advance.

Landlords are currently providing the following notices to the tenant:

- (a) 5 day pay or quit notice or 30 day non-remedial notice; or
- (b) 30 day repeat notice; or
- (c) 21-30 day notice.

Tenants have at least 5 days before the unlawful detainer may be filed. As a general practice, landlords routinely send a mailing copy³ of the unlawful detainer summons at the time of filing, which prevents surprise by the tenant. Therefore, landlords contend that fifteen days from the date of filing of the unlawful detainer for the first return date would be appropriate. Landlords represent that court dates typically are now between the 5th and the 15th of the following month in which the rent is due, based on 3-4 week lag time before the court can schedule the first hearing. Tenants generally owe two months rent by the time of the first court date.

Those representing tenants cited that 63.3% of the courts docket their cases within 15 days and that 80.2% of the courts docket their cases within 21 business days/29 calendar days. Many of the districts that take longer to docket cases are the smaller, rural courts that may have a traveling judge and only one day a month available to docket trials. A change of law mandating earlier trial dates could contribute to a potential need for additional judges and support staff.

Several current provisions of the law may assist in prompt filing, processing and disposition of these actions. For example, in cases where the rent is due on the first of the month, there is nothing to prevent the landlord from sending the five-day notice on the second. The contractual grace period and the statutory notice requirements can run concurrently. If this were done, the time line would be as follows:

1. First of the month: rent is due and grace period begins.
2. Second of the month: 5-day notice sent.
3. Seventh of the month: payment is not made and grace period ends.
4. Eighth of the month: Unlawful Detainer filed with courts, and 80.2% of courts set the return date within 21 business days or 29 calendar days.

³ See Va. Code §8.01-296 (2b)

VI. General District Courts - Resources

Concerns regarding resources in general district court clerk's office and sheriff's office were discussed in the event statutory time frames for the first hearing are enacted. A recommendation of an additional fee for the filing of unlawful detainer cases was considered. The proposed fee would be earmarked to fund additional resources in clerk's or sheriff's offices for the processing of landlord tenant cases. The Committee on District Courts deemed the requirement for an additional fee was an unacceptable approach due to access to justice issues for all litigants.

After a thorough review of clerk survey responses (Appendix II), and follow up interviews with clerks, it appears that offices that currently report time frames of 30 calendar days from filing to the first hearing indicate that they could absorb the workload of scheduling the cases sooner without additional staffing resources.

Clerks also indicated that the scheduling process could be expedited if landlords used software that interfaced with the courts' Case Management System.

Until the development and implementation of interface software, the clerks consulted, indicated they would make an effort to set landlord/tenant cases within 15 business days from initial filing. In addition, the clerk's office would expedite case processing in order to provide adequate service of process time for tenants.

As an example, the clerk of the court with the highest unlawful detainer caseload in the state was interviewed and indicated that their local policy has been to set the first return for 30 calendar days. This has provided sufficient time for data entry, service of process, and return of service two weeks prior to the initial hearing date. If the time frame were mandated at 15 calendar days from filing to first return date, the clerk estimates two additional data entry positions would be required. If the landlord/CMS interface were available, the clerk estimates that one additional data entry position would suffice. According to the clerk, service outside the locality requires a minimum of five additional days. However, if the time frame to be mandated was established as 15 business days or 21 calendar days, the clerk indicates the workload could be processed without additional staffing resources irrespective of the landlord/CMS interface.

VII. RECOMMENDATIONS

As a result of the work of the Study Committee and staff research, the Committee on District Courts offers the following recommendations:

RECOMMENDATION 1:

The Committee on District Courts will establish a guideline that all landlord-tenant actions should be heard and decided within 21 business days from the date the action was filed with the court.

Commentary: Since there is no universally-accepted norm of what constitutes a reasonable period within which landlord-tenant actions should be tried and decided, different constituencies have differing expectations about the appropriate benchmark for the adjudication of these matters. The landlord community is concerned that these actions typically progress at too slow a pace. In contrast, the constituency representing the interests of tenants is concerned that, if these cases are adjudicated too rapidly, tenants will not have the opportunity to offer the good-faith defenses which may be relevant to their situations. The participants in the study representing the institutional perspectives of clerk's offices, the judiciary and sheriff's departments expressed concern that if a mandatory time frame became too foreshortened, then additional resources would be required to ensure that the mandate would be met.

There is evidence which suggests that 66.3% of the courts hear unlawful detainer cases within 15 business days, and 80.2% of the courts hear unlawful detainer cases within 21 business days. This indicates that the problem of delay in these matters is not pervasive throughout the general district courts in Virginia. There is also evidence implying that many of the cases which are not adjudicated within these periods are brought in more sparsely-populated jurisdictions where court is held less frequently. However, it should also be noted that there are a number of courts where the pace at which landlord-tenant actions are adjudicated could be quickened.

Considering the court system as a whole, the Committee on District Courts believes that it is not necessary at this time to create a statutory time frame for the adjudication of landlord-tenant cases. Instead, the Committee on District Courts believes it would be appropriate for the committee to establish a specific benchmark for the adjudication of these cases. The particular time frame is meant to represent a balance between the legitimate concerns that these matters be adjudicated promptly, that tenants have the opportunity to

vindicate their rights and that the Commonwealth avoids the cost of additional resources for the court system or for sheriff's departments.

It is the express, clear expectation of the Committee on District Courts that landlord-tenant cases will typically be heard and decided within 21 business days from the date the case was filed with the court.

This benchmark does not act as a curb on the discretion of the judge to make whatever rulings he or she believes are appropriate to the adjudication of the matter. The benchmark is intended as an aspirational standard to be applied to all landlord-tenant cases on a state-wide, system-wide basis. Further, the Committee on District Courts directs the Office of the Executive Secretary to provide technical assistance to those courts which do not routinely adjudicate landlord-tenant cases within the time frame of the guideline. Finally, after the general district courts have operated on the basis of this guideline for one year, the Committee on District Courts will assess to what extent landlord-tenant cases are adjudicated within 21 business days after the action was filed and will determine whether further legislative recommendations are necessary.

RECOMMENDATION 2:

The Committee on District Courts directs the Office of the Executive Secretary to develop a means of filing landlord-tenant actions through an automated interface which utilizes the automated Case Management System currently in place in the court system.

Commentary: An automated interface would be developed to provide for the transfer of data entered by plaintiffs in landlord-tenant cases by computer disk, with the original "hard copy" pleadings accompanying the disk. This data transfer would assist in expediting the initial processing of landlord-tenant cases by the clerk's office.

Record input/output criteria and layout shall be furnished by the Office of the Executive Secretary to private vendors, landlords and any other interested parties. The Office of the Executive Secretary would provide the necessary technical assistance to facilitate the use of this interface by all the general district courts.

APPENDIX

- I. House Joint Resolution 672
- II. Study Committee Membership
- III. General District Court Clerk Survey
- IV. Survey Analysis
- V. Additional Survey Analysis
- VI. Summary of Expedited Eviction Procedures in Selected States
- VII. Study Committee Correspondence

HOUSE JOINT RESOLUTION NO. 672

Requesting the Committee on District Courts of the Supreme Court to study the court system's processing of landlord-tenant cases.

Agreed to by the House of Delegates, February 1, 1999

Agreed to by the Senate, February 18, 1999

WHEREAS, the availability of multi-family housing units at affordable rents is one of the most important housing issues facing the Commonwealth; and

WHEREAS, one of the major factors contributing to the increase in rental costs of multi-family housing units is the excessive amount of time necessary to regain possession of the premises from a defaulting tenant and put the unit back on the rental market; and

WHEREAS, the time for obtaining an initial court date for hearing of an unlawful detainer action has increased in many areas from two weeks to four to five weeks; and

WHEREAS, the processing of cases through the court involving other landlord-tenant disputes often takes a long time, during which a landlord may be without rental income or a tenant without access to the property; and
WHEREAS, such delays result in property owners losing substantial revenue by being unable to re-rent multi-family units to prospective new tenants for long periods of time; and

WHEREAS, one of the purposes of Virginia's landlord-tenant act is to simplify the law governing the rental of property; and

WHEREAS, expedited handling of these cases would be in the best interest of the parties and in keeping with the stated purposes of the Virginia Residential Landlord and Tenant Act; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Committee on District Courts of the Supreme Court be requested to study the court system's processing of landlord-tenant cases and ways to expedite their movement through the general district courts.

The Committee shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

HJR 672 Study Committee Membership

Honorable William L. Wimbish, Thirteenth Judicial District,
Richmond City General District Court - Civil

Honorable Merlin M. Renne, Ninth Judicial District
York General District Court

Brandon Beach, Esq., The Virginia Poverty Law Center, Richmond,
Va.

Henry W. McLaughlin, Esq., Central Virginia Legal Aid Society,
Inc.

Ms. Susie Swain, Chief Deputy Clerk, Fairfax County General
District Court

Ms. Polly Myers, Clerk, Montgomery County General District
Court

John G. Dicks, III, Esq., FutureLaw, L.L.C.

Carl F. Bowmer, Esq., Christian & Barton, Richmond, Va.

Honorable Raleigh Isaacs, Sr., Sheriff, Suffolk County, Va.

GENERAL DISTRICT COURT - CIVIL DIVISION
LANDLORD-TENANT CASES
S U R V E Y

Pursuant to House Joint Resolution No. 672 (copy attached), the Committee on District Court has commissioned the study of case processing of landlord-tenant cases in the General District Court.

A Study Committee composed of landlord and tenant representatives, judges, and clerks has been organized and a meeting scheduled prior to August 1, 1999. Your responses to the following questions are a vital part of the Study Committee's work. Please complete the enclosed survey and return to this office **on or before July 23, 1999**. The survey responses may be mailed to: Mr. Don Lucido, Director, Technical Assistance Department, Supreme Court of Virginia, 100 N. 9th St., Richmond, VA. 23219 or faxed to the attention of: Don Lucido at (804) 786-4542

City/County

General District Court
Civil Division

Completed by: _____

Telephone Number: _____

QUESTION

* Note - Case Processing includes CMS entry and transmittal to Sheriff

of DAYS (exclude weekends and holidays) after receipt in clerk's office for processing*

How many DAYS from clerk's office processing (exclude weekends and holidays) is the 1st Hearing Date set?

1. Describe the time parameters generally used by the clerk's office in scheduling unlawful detainer cases for (1) clerk's office processing and (2) the first hearing date

2. Describe the time parameters generally used by the clerk's office in scheduling distress warrant cases for (1) clerk's office processing and (2) the first hearing date

3. Describe the time parameters generally used by the clerk's office in scheduling tenants assertion and complaint cases for (1) clerk's office processing and (2) the first hearing date

4. On an average how many workdays does your sheriff require for service and return to the Clerk's office of landlord/tenants cases. _____

5. Does your court (check one) hear contested cases on the initial court date or continue the case to a contested hearing date?

6. Does your court limit any individual landlord to a maximum number of cases per court date? If the answer is yes, please indicate the maximum number of cases allowed per court date: _____

7. Are any exceptions made to the docketing practices of the court based on specific requests of landlords tenants. If so, please explain.

8. If the initial court date is normally set beyond ten days (two work weeks) because of clerk's office processing, please list the factors that contribute to the clerk's office inability to docket the case more timely.

9. If the initial court date is normally set beyond ten days (two work weeks) because of court factors i.e. judge availability, please list the factors that contribute to the inability to hear the case more timely.

10. Are landlord tenant cases scheduled in mass with other types of civil cases? OR are there specialized docketing times that landlord tenants cases are heard? If yes, please specify the specialized docketing techniques or times used.

11. How long do litigants generally wait at the court on the day of hearing for the case to be called?

12. Please provide the date your small claims court became effective _____.

Please use the reverse for any comments or suggestions you may have regarding expedited docketing of landlord/tenant cases.

General District Courts of Virginia Review of Landlord-Tenant Survey Results

July 1999

Statistics

	Scheduling UD Cases: Days After Receipt in Clerks Office	Scheduling UD Cases: Days from Processing to First Hearing	Scheduling Distress Warrant Cases: Days After Receipt in Clerks Office	Scheduling Distress Warrant Cases: Days from Processing to First Hearing	Scheduling Tenants Assertion Cases: Days After Receipt in Clerks Office	Scheduling Tenants Assertion Cases: Days from Processing to First Hearing	Days Sheriff Requires for Service and Return of LT Cases	Processing of Contested Cases	Limits Any Indiv. Landlord to Maximum No. of Cases per Court Date?	Q6-B	Exceptions Made to Docking Practices on Request of	LT Cases Scheduled with Other Types of Civil Cases?	Waiting Time for Litigants on Hearing Date (Minutes)	Date Small Claims Court Established
N Valid	88	86	72	69	77	74	76	88	88	88	88	88	85	88
Missing	0	2	16	19	11	14	12	0	0	0	0	3	0	

Scheduling UD Cases: Days After Receipt in Clerks Office

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	1	1.1	1.1	1.1
	1.00	50	56.8	56.8	58.0
	2.00	19	21.6	21.6	79.5
	3.00	6	6.8	6.8	86.4
	4.00	1	1.1	1.1	87.5
	5.00	4	4.5	4.5	92.0
	7.00	1	1.1	1.1	93.2
	10.00	3	3.4	3.4	96.6
	15.00	3	3.4	3.4	100.0
	Total	88	100.0	100.0	

Scheduling UD Cases: Days from Processing to First Hearing

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	1	1.1	1.2	1.2
	2.00	2	2.3	2.3	3.5
	4.00	1	1.1	1.2	4.7
	10.00	21	23.9	24.4	29.1
	11.00	1	1.1	1.2	30.2
	12.00	1	1.1	1.2	31.4
	13.00	2	2.3	2.3	33.7
	14.00	10	11.4	11.6	45.3
	15.00	18	20.5	20.9	66.3
	16.00	1	1.1	1.2	67.4
	18.00	1	1.1	1.2	68.6
	20.00	7	8.0	8.1	76.7
	21.00	3	3.4	3.5	80.2
	30.00	16	18.2	18.6	98.8
	45.00	1	1.1	1.2	100.0
Total	86	97.7	100.0		
Missing	System	2	2.3		
Total		88	100.0		

General District Courts of Virginia

Review of Landlord-Tenant Survey Results

July 1999

Scheduling Distress Warrant Cases: Days After Receipt in Clerks Office

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	1	1.1	1.4	1.4
	1.00	48	54.5	66.7	68.1
	2.00	12	13.6	16.7	84.7
	3.00	3	3.4	4.2	88.9
	4.00	1	1.1	1.4	90.3
	5.00	1	1.1	1.4	91.7
	10.00	4	4.5	5.6	97.2
	15.00	2	2.3	2.8	100.0
	Total	72	81.8	100.0	
Missing	System	16	18.2		
Total		88	100.0		

Scheduling Distress Warrant Cases: Days from Processing to First Hearing

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	1	1.1	1.4	1.4
	2.00	1	1.1	1.4	2.9
	8.00	1	1.1	1.4	4.3
	10.00	23	26.1	33.3	37.7
	12.00	1	1.1	1.4	39.1
	14.00	11	12.5	15.9	55.1
	15.00	14	15.9	20.3	75.4
	16.00	1	1.1	1.4	76.8
	20.00	4	4.5	5.8	82.6
	21.00	4	4.5	5.8	88.4
	30.00	6	6.8	8.7	97.1
	31.00	1	1.1	1.4	98.6
	45.00	1	1.1	1.4	100.0
Total	69	78.4	100.0		
Missing	System	19	21.6		
Total		88	100.0		

General District Courts of Virginia

Review of Landlord-Tenant Survey Results

July 1999

Scheduling Tenants Assertion Cases: Days After Receipt in Clerks Office

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	1	1.1	1.3	1.3
	1.00	46	52.3	59.7	61.0
	2.00	18	20.5	23.4	84.4
	3.00	3	3.4	3.9	88.3
	5.00	5	5.7	6.5	94.8
	10.00	2	2.3	2.6	97.4
	15.00	2	2.3	2.6	100.0
	Total	77	87.5	100.0	
Missing	System	11	12.5		
Total		88	100.0		

Scheduling Tenants Assertion Cases: Days from Processing to First Hearing

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	1	1.1	1.4	1.4
	2.00	1	1.1	1.4	2.7
	3.00	2	2.3	2.7	5.4
	5.00	1	1.1	1.4	6.8
	7.00	1	1.1	1.4	8.1
	8.00	1	1.1	1.4	9.5
	10.00	16	18.2	21.6	31.1
	11.00	1	1.1	1.4	32.4
	12.00	1	1.1	1.4	33.8
	14.00	7	8.0	9.5	43.2
	15.00	23	26.1	31.1	74.3
	16.00	1	1.1	1.4	75.7
	20.00	4	4.5	5.4	81.1
	21.00	5	5.7	6.8	87.8
	25.00	1	1.1	1.4	89.2
	30.00	7	8.0	9.5	98.6
	45.00	1	1.1	1.4	100.0
Total	74	84.1	100.0		
Missing	System	14	15.9		
Total		88	100.0		

General District Courts of Virginia
Review of Landlord-Tenant Survey Results
 July 1999

Days Sheriff Requires for Service and Return of LT Cases

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	3	3.4	3.9	3.9
	2.00	6	6.8	7.9	11.8
	3.00	6	6.8	7.9	19.7
	4.00	4	4.5	5.3	25.0
	5.00	16	18.2	21.1	46.1
	7.00	10	11.4	13.2	59.2
	8.00	1	1.1	1.3	60.5
	10.00	18	20.5	23.7	84.2
	14.00	4	4.5	5.3	89.5
	15.00	6	6.8	7.9	97.4
	20.00	1	1.1	1.3	98.7
	30.00	1	1.1	1.3	100.0
	Total		76	86.4	100.0
Missing	System	12	13.6		
Total		88	100.0		

Processing of Contested Cases

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	2.3	2.3	2.3
	Continues the case	37	42.0	42.0	44.3
	Hears cases on initial court date	47	53.4	53.4	97.7
	h/c	1	1.1	1.1	98.9
	n	1	1.1	1.1	100.0
	Total	88	100.0	100.0	

Limits Any Indiv. Landlord to Maximum No. of Cases per Court Date?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		6	6.8	6.8	6.8
	No	78	88.6	88.6	95.5
	Yes	4	4.5	4.5	100.0
	Total	88	100.0	100.0	

General District Courts of Virginia

Review of Landlord-Tenant Survey Results

July 1999

Q6-B

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		83	94.3	94.3	94.3
	n	3	3.4	3.4	97.7
	n/a	1	1.1	1.1	98.9
	no limit	1	1.1	1.1	100.0
	Total	88	100.0	100.0	

Exceptions Made to Docketing Practices on Request of

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		71	80.7	80.7	80.7
	Landlords	11	12.5	12.5	93.2
	Both Landlords and Tenants	6	6.8	6.8	100.0
	Total	88	100.0	100.0	

..T Cases Scheduled with Other Types of Civil Cases?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		4	4.5	4.5	4.5
	No	5	5.7	5.7	10.2
	Yes	79	89.8	89.8	100.0
	Total	88	100.0	100.0	

General District Courts of Virginia

Review of Landlord-Tenant Survey Results

July 1999

Waiting Time for Litigants on Hearing Date (Minutes)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	23	26.1	27.1	27.1
	1.50	1	1.1	1.2	28.2
	2.00	12	13.6	14.1	42.4
	2.50	1	1.1	1.2	43.5
	3.00	5	5.7	5.9	49.4
	4.00	1	1.1	1.2	50.6
	10.00	4	4.5	4.7	55.3
	15.00	7	8.0	8.2	63.5
	20.00	2	2.3	2.4	65.9
	30.00	16	18.2	18.8	84.7
	40.00	1	1.1	1.2	85.9
	45.00	3	3.4	3.5	89.4
	60.00	7	8.0	8.2	97.6
	90.00	1	1.1	1.2	98.8
	120.00	1	1.1	1.2	100.0
	Total	85	96.6	100.0	
Missing	System	3	3.4		
Total		88	100.0		

General District Courts of Virginia

Review of Landlord-Tenant Survey Results

July 1999

Date Small Claims Court Established

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	01-JUL-91	1	1.1	1.1	1.1
	28-JUN-95	1	1.1	1.1	2.3
	01-JAN-96	1	1.1	1.1	3.4
	01-JUL-96	4	4.5	4.5	8.0
	01-JUL-98	1	1.1	1.1	9.1
	01-OCT-98	1	1.1	1.1	10.2
	01-JAN-99	12	13.6	13.6	23.9
	01-FEB-99	2	2.3	2.3	26.1
	03-FEB-99	1	1.1	1.1	27.3
	04-FEB-99	1	1.1	1.1	28.4
	01-MAR-99	1	1.1	1.1	29.5
	02-MAR-99	1	1.1	1.1	30.7
	26-MAR-99	1	1.1	1.1	31.8
	01-APR-99	1	1.1	1.1	33.0
	12-APR-99	1	1.1	1.1	34.1
	22-APR-99	1	1.1	1.1	35.2
	01-MAY-99	3	3.4	3.4	38.6
	12-MAY-99	1	1.1	1.1	39.8
	01-JUN-99	1	1.1	1.1	40.9
	02-JUN-99	1	1.1	1.1	42.0
30-JUN-99	1	1.1	1.1	43.2	
01-JUL-99	49	55.7	55.7	98.9	
29-JUL-99	1	1.1	1.1	100.0	
	Total	88	100.0	100.0	

HJR 672 Landlord-Tenant Study Clerk Survey Responses Time Parameters (Business Days) for scheduling 1st hearing in Unlawful Detainer Cases				
10 Days*	15 Days*	15-20 Days	30 days	7-21 Days
10-20 Days	10-15 Days	14-21 Days	10-30 days	
10-21 Days	12-15 days	15-18 Days	15-30 days	
12-20 Days	12-14 Days	20 Days	20-30 days	
	5-15 Days	21 Days		
Accomac	Alexandria*	Bedford	Brunswick	Charlottesville
Alleghany	Amelia*	Fredericksburg	Caroline	
Bristol*	Bland	Hanover	Fauquier	
Buckingham*	Botetourt	Isle of Wight	Franklin Co.	
Carroll	Campbell *	Lunenburg	Henrico	
Chesapeake*	Chesterfield	Northampton	Cumberland	
Clarke*	Essex	Petersburg	Richmond Co.	
Craig*	Fairfax Co.	Dickenson	Richmond City	
Culpepper*	Falls Church	Radford	Roanoke Co	
Danville	Floyd	Va. Beach	Salem	
Hampton	Frederick/ Winchester		Washington Co.	
Lancaster	Galax		Waynesboro	
Mecklenburg	Harrisonburg/ Rockingham			
Montgomery*	Henry Co/ Martinsville			
Nottoway	Hopewell			
Orange*	King George *			
Page	Lexington/ Rockbridge			
Patrick	Louisa *			

HJR 672 Landlord-Tenant Study
 Clerk Survey Responses
 Time Parameters (Business Days) for scheduling 1st hearing in Unlawful Detainer Cases

Powhatan*	Newport News			
10 Days 10-20 Days 10-21 Days 12-20 Days	15 Days 10-15 Days 12-15 days 12-14 Days 5-15 Days	15-20 Days 14-21 Days 15-18 Days 20 Days 21 Days	30 days 10-30 days 15-30 days 20-30 days	7-21 Days
Prince Edward*	Norfolk *			
Prince William*	Northumberland			
Rappahannock*	Portsmouth			
Roanoke City*	Pulaski			
Russell	Spotsylvania *			
Shenandoah*	Suffolk			
Smyth*	Warren			
Staunton*	York*			
Sussex*				
Tazewell*				
Westmoreland*				

COURT	NEW CASES 1	CONT CASES 2	CON RET 3	Cont CONT 4	Clerk Process 5	Return Date 6	Sheriff Service 7	Comments
Accomac	88	25	X		1 day	10-20 days	10 days	
Albermarle	614	190						
Alexandria	5400	660		X	10 days	15 days	2-3 days	Large caseload; need for more personnel
Alleghany	62	11	X		2 days	10-21 days	2 days	Out of town service requires mail time
Amelia	25	6	X		2 days	15 days	5 days	Court one day a week
Amherst	91	12						
Appomattox	19	7						
Arlington	3334	534		X	2-3 days			30 case limit per landlord per court date
Augusta	209	61						
Bath	8	4	X		1 day	Not provided	7 days	

1 Total number of new Unlawful Detainer cases scheduled in 1998

2 Total number of continuances in Unlawful Detainer cases in 1998

3 Indicates Contested Cases heard on initial return date

4 Indicates Contested Cases are not heard on the initial return date but are continued to a Contested Hearing Date

5 Clerk's Office Processing Time Parameters from date of filing of the Unlawful Detainer Case

6 Time Parameters in which the clerk's office schedules the initial hearing date from filing

7 Time parameters for service of process and return to the clerk's office

Bedford	213	42	X		1-2 days	15-20 days	5-10 days	Court once a week
Bland	9	7	X		1 day	12-15 days	10-15 days	Sheriff usually serves on the day received; court once a week
Botetourt	56	26	X		1-2 days	10-15 days	NP	Out of jurisdiction service takes a week or more for return
Bristol	210	24	X		1 day	10 days	10 days	
Brunswick	73	38	X		1 day	30 days	10 days	Court twice a month
Buchanan	35	11						
Buckingham	24	4	X		1 day	10 days	5 days	
Buena Vista	24	2						
Campbell	278	24	X		3-5 days	15 days	15 days	Landlord may have earlier date upon request
Caroline	192	39		X	1 day	30 days	10 days	Court once a month/need time for service
Carroll	33	13			1-2 days	10-20 days	NP	
Charles City	10	6						
Charlotte	36	5						
Clottesville	946	405			1-2 days	7-21 days	3-5 days	
Chesapeake	6355	501	X		1 day	10 days	3 days	

Chesterfield	4312	796		X	1 day	10-15 days	NP	Large volume of cases and understaffing
Clarke	16	12		X	1-2 days	10 days	1-2 days	
Clifton Forge	35	18						
Colonial Heights	275	39			1 day			
Craig	11		X		1 day	10 days	7 days	
Culpeper	377	171			1 day	10 days	4 days	The only delay occurs when papers are not complete or fees are wrong
Cumberland	11	5	X		1 day	30 days	2-3 days	Very few UD cases
Danville	2399	83	X		3 days	10-13 days	10 days	Sheriff service time
Dickenson	13	6	X		1 day	14-21 days	3-7 days	Sheriff service time/very few UD cases
Dinwiddie	106	42	X		1 day			Court
Emporia	165	23						
Essex	35	7		X	3-5 days	10-15 days	7-14 days	2 court dates per month
Fairfax County			X		2-3 days	12-14 days	2-3 days	Landlord/tenant cases heard on Friday
Falls Church	71	23		X	1 day	5-15 days	NP	Court twice a month
Fauquier	199	84		X	1 day	30 days	10-14 days	Court once a week

Floyd	25	14	X		1 day	10-13 days	5 days	
Fluvanna	33	15	X		1 day			Court once a week
Franklin Co.	139	13	X		5 days	30 days	30 days	
Franklin City	170	48						
Fredericksburg	532	139	X		15 days	15-18 days	15 days	Processing and Service return
Frederick-Winchester	921	323		X	1 day	10-15 days	7 days	Expedited safety issues/law violations/UD's set 1st Thurs of month by request for landlord to get full month's rent
Galax	43	15	X		1 day	10-15 days	7 days	Court twice a month
Giles	45	7						
Gloucester	324	68						
Goochland	19	6	X		2 days			Very few UD cases
Grayson	16	8			1-2 days			One civil docket per mo
Greene	64	24	X		1-2 days			Court once a week
Greenville/Emporia	25	18			1 day	NP	NP	
Halifax	122	30	X		1-2 days			Court once a week
Hampton	7951	667		X	1-2 days	10-11 days	NP	

Hanover	522	73		X	2 days	15-20 days	10-15 days	
Harrisonburg/ Rockingham	851	205		X	1 day	10-15 days	1-2 days	
Henrico	7305	686		X	3 days	10-30 days	5 days	
HenryCo Martinsville	344	35	X		1 day	12-15 days	3-5 days	
Highland	1		X		1 day			
Hopewell	1443	166	X	X	1-2 days	10-15 days	12-18 days	Court once a week
Isle of Wight	424	51	X		1 day	20 days	10-15 days	Takes sheriff's department 2-3 weeks to serve and return
King George	213	28	X		1 day	15 days	7-10 days	Court once a week
King Wm./King & Queen	23	8	X		2 days			Request for earlier date honored/very few UD cases
Lancaster	57	12		X	1 day	10-20 days	10 days	Regular civil once per month
Lee	39	9						
Lexington Rockbridge	158	41		X	2 days	10-14 days	7 days	Earlier date may be requested by plaintiff
Loudoun	551	183			15 days			40 case limit per court date per landlord

Louisa	242	17	X		1-2 days	15 days	3-5 days	Heavy docket and time for service
Lunenburg	36	7	X		1 day	21 days	10 days	Service of process
Lynchburg	1664	157	X		5-10 days			Cannot set cases earlier than 15-20 days for processing and service
Madison	20	10						
Mathews/Middlesex	1	2			NP			Few UD cases
Mecklenburg	103	16	X		1 day	10-20 days		Court twice a month; clerk's office requires minimum of 10 days for processing, sheriff's service, and return, preparing cases for court
Middlesex	2	1						
Montgomery	613	141	X		NP	10 days	NP	Serious situation scheduled within 5 days; court once a week at 2:00 p.m.
Nelson	57	12						
New Kent	10	6						
Newports News	14775	461		X	2-5 days	10-15 days	5-7 days	Personnel and workload issues; UD's first available court date
Norfolk	24445	2132		X	2 days	15 days	7 days	Extreme emergency within 10 days
Northampton	34	5	X		1 day	20 days	20 days	Sheriff requires at least 4 weeks for service/1 civil process server
Northumberland	27	4		X	1 day	14 days	4 days	Court twice a month
Nottoway	38	10	X		1 day	7-10 days	1 day	
Orange	36	10	X		1 day	10 days	2 days	

Page	66	21		X	2 days	10-14 days	7 days	Court twice a month
Patrick	26	13	X		1-2 days	10-20 days	5 days	Landlord may have case heard within two weeks if requested
Petersburg	3349	364		X	2 days	15-20 days	NP	75 case limit per landlord per court date
Pittsylvania	119	15						
Portsmouth	5490	580	X		10-15 days	10-15 days	5 days	Landlords frequently request a later date
Powhatan	30	9	X		1 day	10 days	2 days	
Prince Edward	95	32		X	1 day	10 days	10 days	
Prince George	183	25						
Prince William	5015	953	X		1 day	10 days	2-3 days	Expedited hearings for hazard or safety reasons
Pulaski	196	40	X		10 day	14 days	3-5 days	
Radford	77	11		X	1-2 days	15-20 days	5-10 days	
Rappahannock	15	6		X	1 day	10 days	7 days	Court 3 days a month
Richmond Co	15	6		X	2-7 days	30 days	7-10 days	Court once a month

Richmond City	19595	2571		X	1-3 days	30 days	10 days	Landlord shorter dates given for drug violence reasons/tenant shorter dates for emergency/Clerk's office uses 10 days return of service for data entry, prepare dockets, 3rd party pick-up
Roanoke County	599	87		X	1-2 days	30 days	5 days	
Roanoke City	3529	738		X	2 days	10 days	10 days	
Russell	31	5	X		1 day	10-20 days	NP	Sheriff requests ample time for 5 day service requirement
Salem	306	59		X	1 day	15-30(PLT request)	2 days local/7-10 all others	Atty. schedules
Scott	34	18						
Shenandoah	109	44	X		1 day	10 days	5 days	
Smyth	82	22	X		1 day	10 days	NP	
Southampton	86	37						
Spotsylvania	530	115		X	1 day	15 days	4 days	Court twice a month
Stafford	750	7210						
Staunton	359	103		X	1 day	10 days	2 days	Court 1 day per week
Suffolk	1695	213		X	1 day	16 days	5 days	Time for service; 30-60 days out of town
Surry	159	9						
Sussex	79	38	X		1 day	10 days	1-3 days	Court one day per week

Tazewell	123	21	X		2 days	10 days	5-10 days	Never had request for earlier court date than 2 weeks
Va. Beach	11990	1004		X	5 days	18 days	7 days	Resource issues
Warren	199	84		X	1 day	12 days	1 day	Court twice a month
Washington Co	125	41	X		5 days	20-30 days	7-14 days	Earlier hearing by request
Waynesboro	528	111		X	1 day	21-30 days	14 days	Time for service
Westmoreland	69	28		X	1 day	10 days	7 days	UD cases once a week
Williamsburg	1406	186						
Wise	119	59						
York	465	65		X	1 day	15 days	10 days	Violent crime landlord request within 7 days if served within 5 days/Court one day per week

**SUMMARY OF EXPEDITED EVICTION PROCEDURES IN
SELECTED STATES**

ARIZONA

1. Notice - Written notice from the landlord to the tenant specifying acts and omissions which constitute breach and indicating the rental agreement will terminate in not less than 10 days after receipt of notice if breach is not remedied in 10 days. If nonpayment of rent, the tenant has 5 days to remedy after notice. In certain other situations involving health and safety issues, the tenant has 5 days to remedy or 0 days to remedy for certain unlawful actions.
2. A summons shall issue to the tenant on the same day the landlord files the special detainer complaint.
3. The tenant shall be commanded in the summons to appear to answer the complaint no more than 6 days and no less than 3 days from the date of the summons. If the breach is due to certain unlawful actions defined as material and irreparable breaches, the trial date and return date shall be set no later than the 3rd day following the filing of the complaint.
4. The summons must be served at least 2 days before the return date. The tenant is deemed to have received the summons 3 days following the posting and mailing by certified mail, return receipt requested to the last known address if personal service is attempted and fails. If the
5. The trial may be postponed for no more than 3 days in justice court or 5 days in superior court for good cause shown supported by an affidavit.

COLORADO

1. Notice - for nonpayment of rent or other violation of lease, the tenant receives a notice in writing to either remedy the situation or provide possession of the property to the landlord within three days. For a substantial violation, the rental agreement is terminated three days after service of written notice to quit.
2. Complaint filed with the court. The clerk of court or the attorney for the plaintiff issues a summons for the defendant to appear in court on a date and time no less than 5 days nor more than 10 days from the date of issuance of the summons. The summons must contain a notice regarding the requirement of an answer.
3. Personal service or service by posting with a copy mailed by first class mail shall be made at least 5 days before the day for appearance. Posting with mailing shall only be used following a diligent effort to make personal service on the defendant.
4. The defendant must file an answer at or before the time specified for his appearance in the summons.
5. If either party requests a delay in trial longer than 5 days, the court may require either party to give

bond in an amount that would cover the damage suffered by the other party due to the delay.

6. If service is by posting the court may either decide the case or may continue the case until personal service upon the defendant is had.

7. No writ of restitution shall be issued until 48 hours after entry of the judgment.

FLORIDA

1. Notice - for nonpayment of rent or other material breach, the tenant must be given 3 days notice in writing requiring either cure of the breach or possession of the premises.

2. Complaint is filed and served on defendant. After two attempts to serve the defendant, the sheriff may serve the summons by attaching it to some part of the premises involved in the proceeding. The two attempts must be at least 6 hours apart. If posting is used, two copies of the complaint and two envelopes, one addressed to the location designated by the tenant for receipt of notice or the residence and the other addressed to the defendant's last known business address. The clerk mails the two copies in the envelopes provided. Service is effective upon the date of posting or mailing whichever is latest. Judgment for removal of the defendant may not be entered until at least 5 days from the date of service.

3. The defendant's answer shall be filed within 5 days after service of process. If there is a counterclaim, the plaintiff's answer shall be served within 5 days after service of the counterclaim.

4. Five days after the complaint is served, the plaintiff can request that the court set a hearing. If the plaintiff is requesting money damages, the plaintiff must wait 20 days to set a hearing.

5. After entry of the judgment in favor of the landlord, the clerk shall issue a writ. Following service of the writ by the sheriff, the tenant has 24 hours to vacate the premises.

MARYLAND

For failure to pay rent:

1. When a tenant fails to pay rent, the landlord must file a written complaint with the district court to repossess the premises.

2. The district court issues a summons to be served and mailed ordering the tenant to appear for trial to be held on the 5th day after the filing of the complaint. If the tenant cannot be found, posting along with the mailing of the summons is sufficient.

3. The court may adjourn the trial for a period not exceeding one day to enable either party to procure necessary witnesses. If the parties consent, the trial may be adjourned for a longer period of time.

4. If judgment is given in favor of the landlord, the tenant is ordered to render possession of the premises to the landlord within 4 days after the trial unless it is established that surrender of the premises within 4 days would endanger the health or life of the tenant or another occupant. The court may not extend the time for surrender of the premises beyond 15 days after the trial.

5. If after the expiration of the 4 days, the tenant has not left a warrant of restitution shall issue. If the

landlord does not request a warrant of restitution within 60 days of the date of judgment, the judgment of possession is stricken. Execution of the warrant of restitution may be stayed due to severe weather conditions.

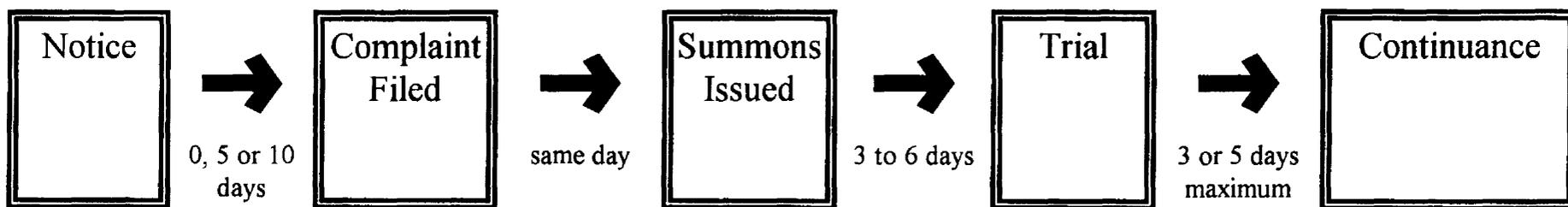
For other breaches of the lease or holdovers:

One month notice to quit must be given to the tenant. Complaint is filed with the district court. A summons is issued to notify the tenant to appear before the court on a date and time specified by the summons. If either party fails to appear, the court may continue the case for not less than 6 nor more than 10 days and notify the parties of the continuance.

TEXAS

1. Notice - A landlord must give a tenant who defaults or holds over at least 3 days written notice to vacate prior to filing a forcible detainer suit. The landlord may recover fees and costs of suit only if the tenant is given 10 days written notice to vacate by registered mail or certified mail, return receipt requested.
2. Once a complaint is filed, a citation shall issue immediately to the defendant commanding him to appear not more than 10 days nor less than 6 days from the date of service of the citation.
3. If the plaintiff files a bond for the cost of the defendant, the defendant must file a counterbond within 6 days of receiving notice of plaintiff's bond to remain in possession of the premises. Defendant may demand a trial prior to the expiration of the 6 days.
4. Service must be by personal service or service by leaving a copy with someone at the defendant's usual place of abode. If such service cannot be made, the officer may apply to the justice to authorize other types of service.
5. Any party may request a jury on or before 5 days from the date the defendant is served with the citation.
6. The trial may be postponed not exceeding 6 days for good cause shown, supported by affidavit of either party.
7. No writ shall issue until expiration of five days from the time the judgment is signed.

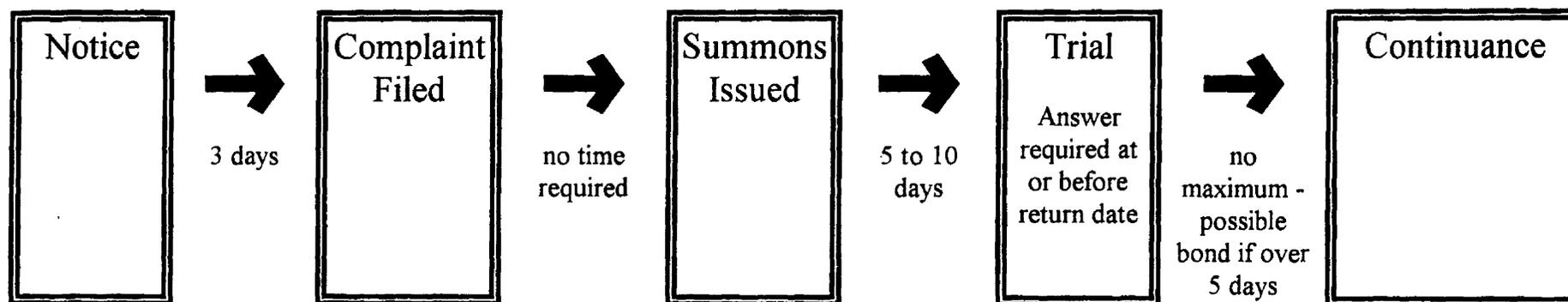
ARIZONA



Summons must be served at least 2 days before return date.

If it is a material and irreparable breach of lease, the trial date shall be 3rd day following filing of complaint.

COLORADO

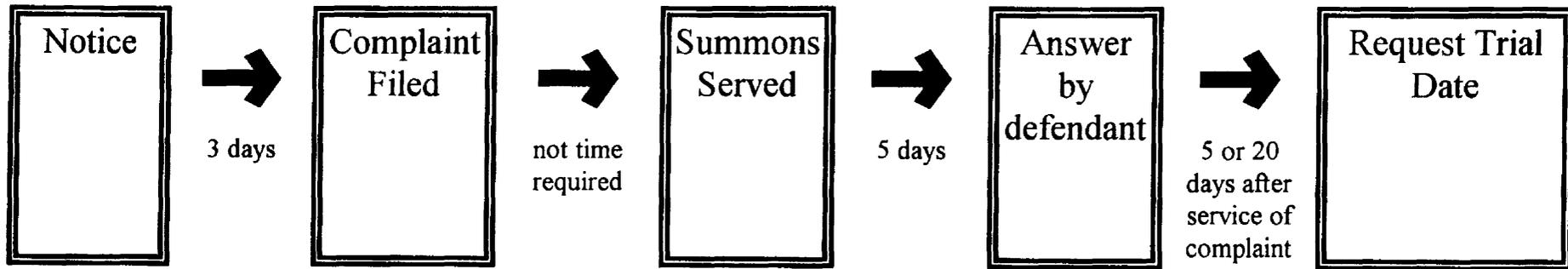


Summons must be served at least 5 days before return date.

If posted service is utilized, the court may continue the case until personal service is had on the defendant.

No Writ of Restitution shall be issued until 48 hours after entry of the judgment.

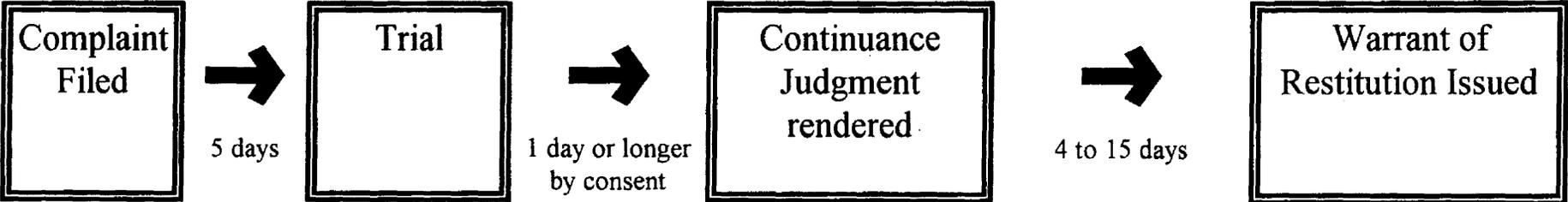
FLORIDA



Summons must be served at least 5 days before judgment of removal.

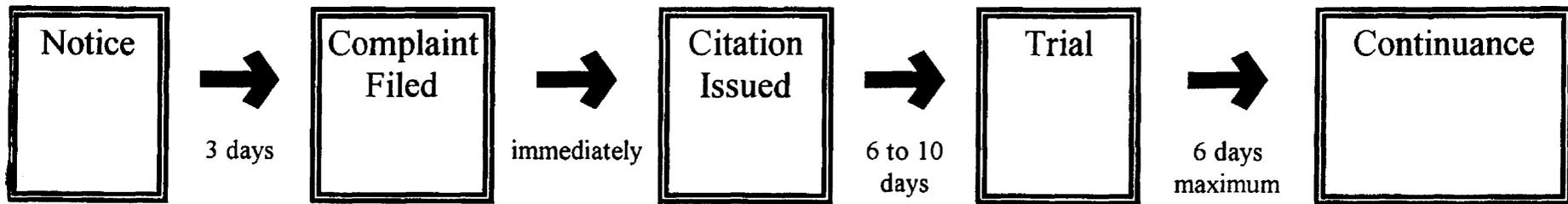
Writ issues after entry of judgment and tenant has 24 hours to vacate following service.

MARYLAND



In any action other than for failure to pay rent, these expedited procedures do not apply.

TEXAS

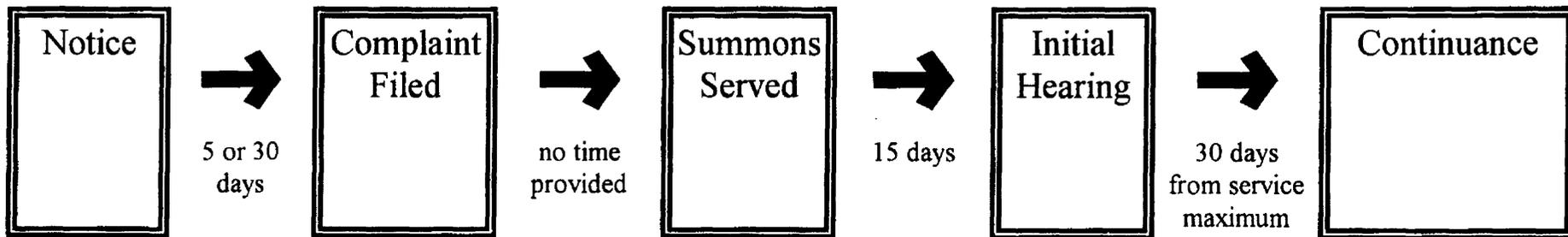


Summons must be served at least 6 days before return date.

Plaintiff may file a bond. Defendant must then file a counterbond within 6 days to keep possession of premises. Defendant may demand that trial be held in that 6 day period.

No writ of possession shall issue until the expiration of 5 days from the time the judgment is signed.

VIRGINIA



If the breach involves or constitutes a criminal or wilful act, which is not remediable and poses a threat to health or safety, no notice of termination of rental agreement is required. The landlord may proceed immediately to obtain possession of the premises.

Attorneys-at-Law

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November 17, 1999

Committee on District Courts
c/o Supreme Court of Virginia
Administrative Office
100 North Ninth Street
Richmond, Virginia 23219-2334

Re: Report in Response to House Joint Resolution 672

To the Honorable Committee on District Courts:

The purpose of this letter is to state a minority view relative to the Report from the District Courts Committee prepared in Response to House Joint Resolution 672 to be submitted to the General Assembly. It is my view, as a member of the Study Committee, that the Report should make specific recommendations as to how to expedite the processing of unlawful detainer cases in the general district courts throughout the Commonwealth.

After considerable discussion, as well as an inability to reach consensus on the core issue, the Study Committee decided to make no recommendation to the General Assembly on establishing a finite period within which an unlawful detainer action would be heard on the first docket call of the case. In my view, there was ample evidence before the Study Committee to the effect that unlawful detainer cases could be processed by the general district courts in the Commonwealth within a 15 day period from the date of filing. As stated in the survey, the 15 day period did not include weekends or holidays (therefore business days as often referred to in the Report) which means that on a calendar day basis, the timeframe is more like 21 calendar days.

In fact, many courts already comply with a 15 calendar day processing timeframe, according to the surveys received from the general district courts as part of this Study. In addition, apparently as a result of this Study, some other general district courts have committed to Supreme Court Staff to make changes in their procedures to "voluntarily" meet a 15 calendar day from the date of filing timeframe. The only evidence before the Study Committee of an inability of court compliance with a 15 calendar day timeframe for processing of unlawful detainers was with respect to rural general district courts, which could have been easily exempted by a recommendation that allowed for impracticability of the docket due to judges availability. As the Study Committee heard, the real problem is in the more populated areas anyway.

Tenant representatives, as is stated in detail in the Report, offered to compromise with a 15 calendar day timeframe from the *date of service*, but only if the

recommendation included a condition outside the scope of this Study as defined by the General Assembly. That condition, as stated by the tenant representatives, was that every general district in the Commonwealth have the authority to send out notices to litigants that free legal services may be available through legal aid offices throughout the Commonwealth. Needless to say, this kind of provision is not within the parameters of the Study and in my view, would serve only to promote litigation in the general district courts.

The Study did identify two ways which will assist in expediting of unlawful detainer cases in general district courts throughout the Commonwealth. First, tenant representatives pointed out that landlords do not need to wait for the customary 5 day grace period to expire for payment of rent before sending the 5 day notice for nonpayment since the default occurs by a tenant's nonpayment on the 1st day of a given month. A number of general district court judges in the Commonwealth, however, have been requiring landlords to wait for this 5 day grace period to expire at which time the landlord has to wait another 5 days for the noncompliance period to run pursuant to the 5 day default notice. A clarification of the law may well be necessary in the 2000 General Assembly on this point. With the support of the tenant representatives on this point, there should not be any controversy about passage of this kind of clarifying legislation.

Second, there was unanimous consensus that the general district courts should seek to cut the processing time for unlawful detainers, as well as other civil actions, by the use of technology. Currently, landlords type the unlawful detainers and the clerk's offices re-enter all the same data which results in a time lag of processing the documents. The Report recommends a private sector solution which enables the competitive marketplace to meet this need. The Supreme Court will strongly encourage all general district courts to put procedures in place to take advantage of technology resources and eliminate the duplication of data entry.

I appreciate the opportunity to serve on this Study Committee and thank the Committee on District Courts for inclusion of this letter with the Report. Should questions arise, please do not hesitate to contact me.

With warm regards, I am,

Very truly yours,


John G. "Chip" Dicks

Cc: Study Committee Members

RECEIVED
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Audrey V. Green, Training & Projects Coordinator

November 17, 1999

Committee on District Courts
c/o Supreme Court of Virginia
Administrative Office
100 North Ninth Street
Richmond, Virginia 23219-2334

The purpose of this letter is to state a minority view relative to the Report from the District Courts Committee prepared in Response to House Joint Resolution 672 to be submitted to the General Assembly. I appreciate the opportunity to attach a letter to this report.

First, I would like to point out that the survey indicates that many courts already comply with a 15 **business day** time frame and not a 15 calendar day time frame. There was absolutely no evidence that showed that the courts could comply with a 15 calendar day time frame. Rather, the evidence indicated that the courts would have a difficult time complying with a 15 calendar day time frame. Indeed, the evidence shows that a significant number of courts are already unable to comply with the statutory requirement that a tenant's assertion be heard within fifteen days. As the chart on page nine (9) of the Committee's Report indicates, nineteen (19) courts are currently unable to meet this statutory requirement. I agree with the general assertion that most courts are already processing unlawful detainer cases quickly, (within 15 business days, or 21 calendar days). However, this fact conflicts with the initial assertion that the time frame for obtaining an initial court date in many areas is "four to five weeks". It might be beneficial for the General Assembly to review the data collected by the committee and reconsider whether or not the facts support the original assertion that there is currently a serious problem which warrants specific legislation at this time.

Second, I would like to offer a specific recommendation as to how the unlawful detainer process can be expedited. According to the findings of HJR 672, "one of the major factors contributing to the increase in rental costs of multi-family housing units is the excess amount of time necessary to regain possession of the premises from a defaulting tenant and put the unit back on the rental market." This problem could be solved by legislation that would give the defaulting tenant an incentive to vacate the unit.

As the law stands now, even if a tenant were to cooperate and vacate the unit when the landlord sent a five-day pay or quit notice, the tenant would still be liable for the landlord's lost rent, up to the amount owed on the lease. Naturally, it is in the tenant's best interest to remain on the premises as long as possible because the tenant will ultimately be charged rent for the unit

whether or not the tenant vacates the unit. The common practice is for landlords to sue for lost rent after the eviction and then to pursue collection against the tenant for lost rent for the remainder of the lease. As many landlords would agree, the resulting judgments are often “paper judgments” because the tenant has no money to collect. This is not surprising because in the vast majority of cases, if the tenant had the money, the tenant would have paid the rent. In situations such as this, the landlord’s main goal is to get quick possession of the unit so that the unit can be re-rented.

I propose the following addition to the Virginia Residential Landlord Tenant Act:

Tenant voluntarily vacates premises pursuant to notice

If the tenant vacates the premises within the time provided pursuant to a five-day pay or quit notice, then the final rent shall be prorated to the date the tenant vacates. If the tenant vacates the premises at or prior to the date of lease termination specified in a (1) 21/30 day notice of termination for a remediable breach, (2) 30 day notice of termination for a non-remediable breach, or (3) 30 day notice of termination for a subsequent remediable breach of a like nature; then the final rent shall be prorated to the date of termination specified in the notice of termination. The landlord may collect damages for lost rent if the premises is unable to be rented due to damage caused by the tenant or the guests or members of the tenant’s household. This in no way relieves the landlord of the duty to act reasonably to mitigate his or her damages.

Adding this language to the Virginia Residential Landlord Tenant Act would encourage tenants to attempt to quickly resolve their problems without having to go through a lengthy court process. This would benefit all parties involved. Tenants who have fallen on hard times and are unable to pay their rent would be able to cut their losses by vacating their apartment within the time specified in the notice. Landlords would be able to quickly regain possession of the premises so that they could re-rent the unit. Landlords would not have to waste any time or money pursuing litigation in the courts, which often bears little fruit even if the landlord is successful. Any prorated rent could simply be taken out of the security deposit without legal action.

Besides being beneficial to both the parties, the courts and the sheriff’s department would also benefit. Some courts are currently overburdened with heavy unlawful detainer caseloads. These courts would see their case loads thin allowing them to process their remaining cases more quickly. The Sheriff’s Department would have fewer unlawful detainer warrants to serve and fewer evictions allowing them to serve the remaining process and carry out the remaining evictions more quickly.

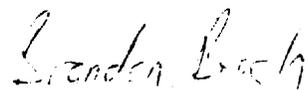
The reduction in the number of cases filed and the number of evictions ordered would naturally speed up the processing of the remaining unlawful detainer cases. This change would not create any need for additional court staff or judges. This change would not require the General Assembly to allocate a larger amount of the Commonwealth’s limited resources to the effort to expedite evictions. Lastly, this change would not require special or varying requirements or exemptions for either rural or urban courts which would accomplish the stated goal of the VRLTA which is to “establish a single body of law relating to landlord tenant

relations throughout the Commonwealth.”

Representatives for the landlords may argue that many tenants would not take advantage of such a change. While I contend that many tenants would take advantage of such a change, I also point out that in cases where a tenant did not take advantage of this change, landlords would be in no worse a position than they claim to be in now.

I appreciate the opportunity to serve on this Study Committee and thank the Committee on District Courts for inclusion of this letter with the Report.

Sincerely,

A handwritten signature in cursive script that reads "Brandon Beach".

Brandon Beach