



Judicial Council of

*Virginia*

Report to the General Assembly  
and Supreme Court of Virginia

2009



**2009**

# **Judicial Council of Virginia**

**Report to the  
General Assembly  
and  
Supreme Court of Virginia**

## General Information for Individuals with Disabilities

In accordance with the Americans with Disabilities Act, Virginia's Judicial System has adopted a policy of non-discrimination in access to its facilities, services, programs, and activities. Individuals with disabilities who need accommodation in order to have access to court facilities or to participate in court system functions are invited to request assistance from court staff. Individuals with disabilities who believe they have been discriminated against in access may file a complaint with the ADA Coordinator, Department of Human Resources, Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Third Floor, Richmond, Virginia 23219. Individuals who need printed material published by the court system in another format or who have general questions about the court system's non-discrimination policies and procedures may also contact the ADA Coordinator. Communication through a telecommunications device (TDD) is available at (804) 786-6455. Detailed information on this policy is available on Virginia's Judicial System website, [www.courts.state.va.us](http://www.courts.state.va.us).

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**The Judicial Council of Virginia**  
**2009 Report to the General Assembly and Supreme Court of Virginia**  
**Supreme Court of Virginia, Office of the Executive Secretary**  
**Richmond, Virginia**  
**Published January 2010**

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SUPREME COURT BUILDING  
RICHMOND, VIRGINIA 23219  
804-786-6404

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January 13, 2010

**TO: Members of the General Assembly and Justices of the Supreme Court of Virginia**

I am pleased to submit the 2009 Report of the Judicial Council of Virginia as required by Code § 17.1-705. Although the Commonwealth of Virginia is confronted with a severe and continuing financial crisis, Virginia's judicial system remains committed to serving the citizens of our great Commonwealth. Unfortunately, our citizens will incur some inconvenience, and there will be reductions in services.

In 2009, Virginia's judicial system released a new Strategic Plan, *Virginia's Courts in the 21st Century: To Benefit All, to Exclude None*, in which the Judicial Branch has recommitted itself to the mission of providing an independent, accessible, and responsive forum for the just resolution of disputes. In difficult times, such a forum is even more important to the preservation of the rule of law and the protection of all the rights and liberties to which Virginians are entitled.

During the past year, the Judiciary completed significant steps toward the realization of one of its long-time goals, the implementation of an electronic filing system, that is an achievement that will provide numerous benefits and cost savings to the courts, attorneys, state agencies, and businesses that file cases in Virginia courts. Another major goal, the improvement of court system preparedness for various emergencies, has been achieved through the efforts of the Pandemic Flu Preparedness Commission that we appointed early in the year.

Virginia's courts are working actively with state agencies and the private sector to provide appropriate services for the elderly, children, disabled, and other vulnerable groups and are dedicated to ensuring that the courts remain accessible to all. With leadership from the Advisory Committee on Domestic Violence, we have implemented efforts to improve the judiciary's awareness of domestic violence. I am also pleased to report that recent resources provided by the General Assembly have enabled the courts to improve the quantity, quality, and variety of foreign language services while exercising greater control over costs.

Despite the strong need for new judgeships and staff in the trial courts, we will not seek such increases in 2010 because of the Commonwealth's unfortunate economic situation. In spite of our budget constraints, we will continue to work hard to provide justice and improve services to our fellow Virginians.

Thank you very much for your confidence in and support for Virginia's judicial system.

Very truly yours,

A handwritten signature in cursive script that reads "Leroy Rountree Hassell, Sr.".

Leroy Rountree Hassell, Sr.



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\*By Invitation of the Chief Justice



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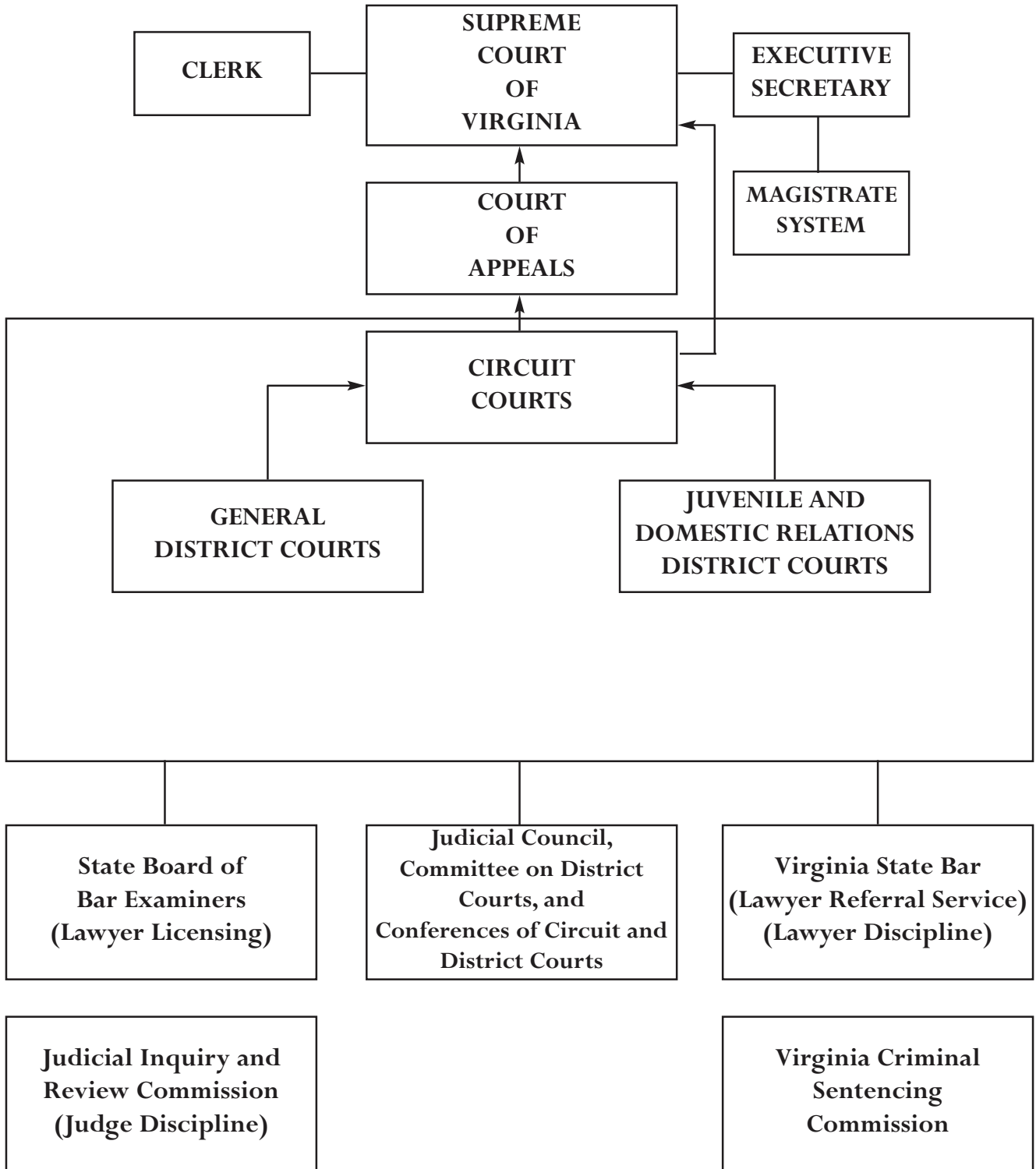
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\*By Invitation of the Chief Justice

# VIRGINIA JUDICIAL BRANCH



← Route of Appeal



Judicial Council of

*Virginia*

Proceedings of the  
Judicial Council

2009



# Chapter 1

## Proceedings of the Judicial Council of Virginia

### INTRODUCTION

The Judicial Council of Virginia was established by statute in 1930, and, pursuant to Va. Code § 17.1-703, it is charged with the responsibility of making a continuous study of the organization, rules, procedures and practice of the judicial system of the Commonwealth of Virginia. It is responsible for examining the work accomplished and results produced by the judicial system, including the Office of the Executive Secretary and individual courts. The preparation and publication of the court system's comprehensive plan is central to meeting these responsibilities.

During 2009, the Judiciary released its new strategic plan, Virginia's Courts in the 21st Century: To Benefit All, To Exclude None. In coming years, some of the tasks necessary to implement the plan will be the direct responsibility of the Judicial Council or the Office of the Executive Secretary (OES), while others will directly involve local courts. The chapters of this report include an overview of the new Strategic Plan and revised planning process and status reports of activities related to the implementation of electronic filing, the Pandemic Flu Preparedness Commission, efforts to improve the administration of justice in matters involving domestic violence, and progress in providing foreign language services in Virginia's Courts. This information is provided in order to inform members of the General Assembly, judges and court personnel, the Bar, media, and the public about the judiciary's efforts to better serve the citizens of Virginia. This report also sets forth the legislative recommendations of the Judicial Council for the 2010 Session of the General Assembly.

### LEGISLATIVE PROPOSALS FOR THE 2010 SESSION OF THE GENERAL ASSEMBLY

#### The Retirement Age for Judges

The Judicial Council of Virginia recommends a proposal to increase the mandatory retirement age for judges from 70 to 73.

**The chapters of this report include an overview of the new Strategic Plan and revised planning process and status reports of activities related to the implementation of electronic filing, the Pandemic Flu Preparedness Commission, efforts to improve the administration of justice in matters involving domestic violence, and progress in providing foreign language services in Virginia's Courts.**

**A declaration of judicial emergency would, for a brief, defined period, toll filing and other time limits for the jurisdiction or jurisdictions for which the judicial emergency is declared.**

### **Electronic Filing in Virginia's Courts**

The Judicial Council recommends a proposal suggested by the Judiciary's Electronic Filing Committee to facilitate the implementation of electronic filing (e-filing) within the court system. The proposal stems from the recognition that the majority of the Code of Virginia was adopted prior to the creation or use of documents in an electronic form. There is a concern that, without additional clarification, commonly used terms in the Code of Virginia might be limited by their historical context. For example, with the implementation of e-filing, the word "paper" will no longer mean only those documents physically written on a piece of paper, but will instead include electronic records. Rather than attempt to modify all Code sections that refer to these terms, the Committee recommended what it refers to as an "omnibus" e-filing proposal, which includes the creation of a statute in the Electronic Filing Article of Chapter 2 of Title 17.1 (§ 17.1-258.2 et. seq.), that would contain a general statement about the acceptability of traditional items in an electronic form.

The proposal also creates a new section in Title 8.01 as a cross-reference to the electronic filing language in Title 17.1. Further amendments to the Code that are included in the proposal are intended to facilitate e-filing. Additional information about electronic filing and the work of the Committee can be found in Chapter 3 of this Report.

### **Emergency Preparedness and Response**

The Judicial Council recommends two proposals that were generated by the Judiciary's Pandemic Flu Preparedness Commission. The legislative proposals include a provision that would allow the Chief Justice, under specific conditions, to declare a judicial emergency. A declaration of judicial emergency would, for a brief, defined period, toll filing and other time limits for the jurisdiction or jurisdictions for which the judicial emergency is declared. The declaration of judicial emergency could also be utilized for disasters such as hurricanes and terrorist acts.

The other legislative proposal provides for an automatic succession of authority in district courts in the event a chief district judge is unable to perform the duties required by law. Currently the Code of Virginia does not address this situation. It was identified as a concern because only the chief judge of a district court, or the Chief Justice, has authority to designate active or retired judges in the event a dis-

strict judge is ill or otherwise unable to sit, and only the chief district judge has authority to designate a substitute judge.

Additional information about the work of the Commission can be found in Chapter 4 of this Report.

## PROCEEDINGS OF THE JUDICIAL COUNCIL

### Advisory Committee on Rules of Court

The Advisory Committee on Rules of Court presented a number of recommendations to the Judicial Council in 2009. Rule recommendations that are approved or amended by the Judicial Council are then presented to the Supreme Court of Virginia. One set of recommendations were proposed restatements of the Rules of the Supreme Court (Part Five) and Rules of the Court of Appeals (Part Five-A) intended to clarify and make uniform appellate rules applicable to the Supreme Court of Virginia and the Court of Appeals. The proposed rules revisions:

- Provide clarification by better wording and use of "outline format" to emphasize the logic and structure of each rule.
- Create more forgiving mechanisms in certain aspects of appellate procedure to reduce dismissal of cases for "procedural defaults."
- Unify some important aspects of Court of Appeals and Supreme Court procedures—for example, use by both courts of an "Assignment of Error" system and terminology traditionally used by the Supreme Court, so that the appellate process has similar concepts at each level.
- Address myriad practical issues that have surfaced in the last 15 years of appellate practice in Virginia.

The Judicial Council unanimously endorsed and approved the package of rules amendment proposals for both the Supreme Court and the Court of Appeals and recommended that the Supreme Court adopt and promulgate these rules as amended.

Another Advisory Committee recommendation that was approved by the Council would amend the Uniform Pretrial Scheduling Order created pursuant to Rule 1:18 to specify the timeframe within which portions of non-party depositions to be used at trial must be designated or counterdesignated. This proposal originated with the Boyd-

**The proposed rules revisions... [c]reate more forgiving mechanisms in certain aspects of appellate procedure to reduce dismissal of cases for "procedural defaults."**



**E**lectronic publication has a number of advantages. In addition to offering cost savings, the electronic version is always more current.

Graves Conference.

In addition, Council endorsed revisions of Part Two-A, the rules governing appeal of administrative rulings. The changes would modernize and streamline the procedural rules that control appeals to circuit court of agency dispositions. The amendments would update and revise provisions concerning the notice of appeal in administrative matters, the record on appeal, the petition for appeal process, and further procedures for the maturation and presentation of such appeals for decision. A new small business challenge procedure is also included that implements procedures that have been allowed by statute for some time.

Lastly, Council approved a proposed revision to Rule 4:1 that is intended to reduce uncertainty among trial judges in Virginia whether there should be any routine suspension of discovery while a dispositive motion or similar application is pending, such as a demurrer to all counts of the case or a special plea.

### **Rule Changes Proposed by the Office of the Executive Secretary**

Under Rules 1:15, 1:20, and 7A:15, the Executive Secretary of the Supreme Court is required to collect and publish information related to local trial courts' management, scheduling, and other business in a document titled "General Information Relating to the Courts within Each Circuit and District in Virginia." In 2009, the Executive Secretary advised Council that this publication is provided by the OES each year on July 1. It is also made available on the Judicial System's Internet and Intranet sites. In an effort to control costs over the past few years, the OES has been reducing the number of printed copies. In 2006, 5,000 copies were published at a cost of approximately \$13,000. In 2008, this was reduced to 1,200 copies at a cost of approximately \$6,000.

The Executive Secretary introduced proposed changes to Rules 1:15, 1:20, and 7A:15 that would make clear that publication of the directory in an electronic version satisfies the rules. Electronic publication has a number of advantages. In addition to offering cost savings, the electronic version is always more current. As soon as a paper version is printed, it is essentially out-of-date. Judges retire, chief judges change, and courts alter schedules such that the information quickly becomes inaccurate. The electronic version, however, is updated at



least every other week as the information changes. Council approved the proposed changes.

### **The Honorable Harry L. Carrico Outstanding Career Service Award**

In 2004, the Judicial Council of Virginia created an Outstanding Career Service Award in honor of the Honorable Harry L. Carrico, retired Chief Justice of Virginia. This award is presented annually to one who, over an extended career, demonstrates exceptional leadership in the administration of the courts while exhibiting the traits of integrity, courtesy, impartiality, wisdom, and humility. The 2009 recipient of this award was the Honorable Thomas D. Horne.

Judge Horne has served over 27 years on the Loudoun Circuit Court, having previously served as Commonwealth's Attorney and Assistant Commonwealth's Attorney in Loudoun County. He has been an active participant and leader in a multitude of community, bar, and Judicial Branch activities, the whole of which would be too numerous to list here. A sample of Judge Horne's community activities and achievements include being a coach of youth soccer and lacrosse programs, a Boy Scouts of America cub master, a president of high school and elementary school PTAs, a member and former president of the Leesburg Rotary Club, and a former commander of American Legion Post 34. Within the legal community, he is a former president of the Loudoun County Bar Association, a former member of the Commonwealth's Attorney's Services and Training Council, a founder of the Loudoun County Victim-Witness Program, a faculty member on the State Bar's Professionalism Course, and founder of the Leadership in Law summer camp for high school students in Loudoun and Fauquier Counties.

While serving within the Judicial Branch, Judge Horne's contributions have been similarly numerous and noteworthy. Since 1984, he has been chairman and an editorial writer for the Circuit Court Judges Benchbook Committee. He has served on the faculty of the new judge training program and been a member of several committees of the Judicial Conference, including the Executive Committee. He is currently chair of the Legal / Benchbook Committee of the Supreme Court's Pandemic Flu Preparedness Commission.

**The 2009 recipient of [the Harry L. Carrico Outstanding Career Service Award] was the Honorable Thomas D. Horne.**



## Chapter 2

# The Judiciary's New Strategic Plan and the Comprehensive Planning Process

In Virginia's courts, the comprehensive planning process produces both a long-term Strategic Plan (SP) for the entire court system and a shorter-term Operational Plan (OP) that guides the internal workings of the Office of the Executive Secretary (OES) of the Supreme Court of Virginia. In 2009, the Supreme Court of Virginia adopted a new Strategic Plan for the Virginia Judicial System, Virginia's Courts in the 21st Century: To Benefit All, To Exclude None; [http://www.courts.state.va.us/courtadmin/aoc/judpln/reports/2009\\_strat\\_plan.pdf](http://www.courts.state.va.us/courtadmin/aoc/judpln/reports/2009_strat_plan.pdf). The new Strategic Plan will apply for at least five years—a departure from what has been a largely biennial timeframe. For its own guidance, OES maintains a continuously-updated Operational Plan (OP) that helps implement the strategies of the Strategic Plan.

**The new [Strategic] Plan preserves the core values from the original ten visions in seven new vision statements.**

### THE NEW STRATEGIC PLAN

The Strategic Plan for Virginia's courts begins with the Judicial System's mission or purpose. The mission statement of the courts was developed twenty years ago by the first court futures commission and continues in the new Strategic Plan:

**The mission of the Judicial System of Virginia is to provide an independent, accessible, responsive forum for the just resolution of disputes in order to preserve the rule of law and to protect all rights and liberties guaranteed by the United States and Virginia constitutions.**

To clarify the mission, Virginia's courts have also developed vision statements that express values or describe what the justice system should be like—in the future, if not now—when it is successfully fulfilling its mission. During the first futures commission, the Virginia courts developed ten vision statements that served as the structural framework for strategic planning through the 2004-2006 Strategic Plan and the second futures commission. The new Plan preserves the core values from the original ten visions in seven new vision state-

## THE JUDICIARY'S NEW VISIONS

### VISION 1

Virginia's courts will be distinctive and independent—as a branch of government and in judicial decision making.

### VISION 2

Virginia's courts will ensure due process through the equal application of law and procedure to all cases and controversies.

### VISION 3

Virginia's courts will maintain human dignity and provide effective access to Justice for all persons.

### VISION 4

Virginia's courts will be responsive to the changing needs of society—in the development and operation of the law, in the functions of the judicial process, and in the delivery of public services.

### VISION 5

Virginia's courts will be expeditious, economical, and fair in the resolution of disputes.

### VISION 6

Virginia's courts will demonstrate accountability to the public through effective management practices, including the use of the most appropriate processes and technologies for court operations.

### VISION 7

Virginia's courts will operate in a manner that fosters public trust and confidence in and respect for the courts and for legal authority.

ments [see List 1, “The Judiciary’s New Visions,” below]. Some elements from the old visions are also preserved among the strategies that support the new visions.

Vision 1 affirms one of the highest governmental ideals, judicial independence. Vision 2 verifies the high value that our society places on equality before the law. Human dignity and meaningful access to justice are the values highlighted in Vision 3. Vision 4 emphasizes the need for the courts to adapt to changing societal demands. The aspiration for justice to be affordable and reasonably swift is expressed in Vision 5. Vision 6 recognizes the need for public accountability through effective management practices, and Vision 7 confirms the conscious connection that should exist between court operations and public trust and confidence.

In the new Strategic Plan, the broad methods by which the mission and visions will be realized—strategies—are listed under the visions. Specific short-term or ongoing tasks by which the strategies themselves will be implemented are spelled out in other documents such as the OP. Ideally, individual courts will engage in their own local planning to identify tasks that also further the implementation effort.

The OES Operational Plan currently has over 600 tasks divided among twelve departmental units. Some of these tasks cover routine, ongoing activities that are nonetheless necessary for organizational operations in support of the court system. Other tasks are more directed at the implementation of specific strategies of the Strategic Plan. The relationship of OP tasks to the Strategic Plan is illustrated in the display on page 4:

Vision 5 of the Strategic Plan is concerned with achieving optimum levels of speed and costs in case processing, with the goal of fairness to the parties being a tempering principle. This vision has a strategy (5.4) that provides that the Judicial Branch will “Improve case management to reduce unnecessary costs to the courts and litigants.” This strategy recognizes that effective case management practices are the most important single factor in successfully handling court workloads within existing resources while also reducing costly delays for litigants. And how are the courts going to improve case management practices? The tasks listed under 5.4 are selections from at least 25 current operational responsibilities of OES departments that help implement that strategy and ultimately allow for continuing fulfillment of Vision 5. There may be other tasks that could be performed by OES or by offic-

**[T]he broad methods by which the mission and visions will be realized—strategies—are listed under the visions.**

## VISION 5

Virginia's courts will be expeditious, economical, and fair in the resolution of disputes.

- 5.4 Improve case management to reduce unnecessary costs to the courts and litigants.

**Task Description**

- Provide technical assistance for child dependency cases
- Support best practices for termination of parental rights appeals in circuit courts and the Court of Appeals
- Enhance the juvenile and domestic relations district court's case management system (CMS)
- Train judges and local court staff on CMS enhancements
- Administer and monitor the District Court Clerks' Certification Program (CCP)
- District Court Clerks' Conference (biennial, even years)
- Circuit Court Clerks' Conference (biennial, odd years)
- Conduct an annual review of fiscal policies
- Application Support: circuit court Case Management System (CMS)
- Application Support: Financial Management System (FMS)
- Expand the number of dispute resolution coordinators in the trial courts in order to screen appropriate cases for mediation and to provide effective management of such cases
- Conduct technical assistance visits as necessary
- Prepare audit letters to courts receiving negative audits to offer assistance in achieving positive results
- Conduct court management analysis visits requested for general district courts.
- Prepare audit letters for district courts and follow up with courts which receive management points.
- Conduct management analysis visits requested for juvenile and domestic relations district courts
- Provide technical assistance training and materials to judges and clerks on the use of caseload and other management information reports

es and individuals elsewhere in the court system to implement Strategy 5.4; however, those now in the OP are the ones that OES has committed to perform with its existing resources.

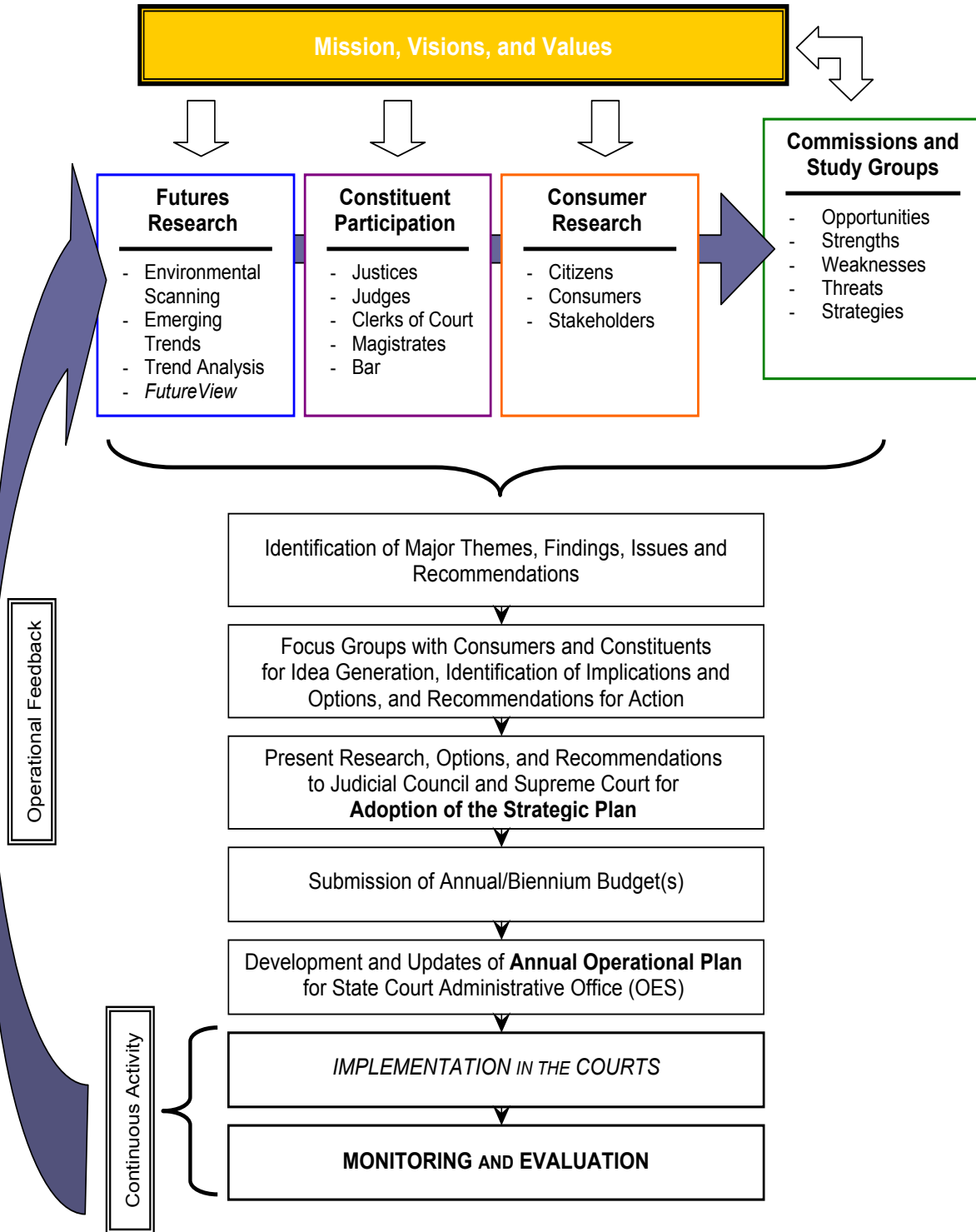
### The Comprehensive Planning Process

The OES monitors the implementation of the strategic and operational planning system over time [see Chart 1, “The Comprehensive Strategic and Operational Planning System for Virginia’s Courts,” on page 12]. Ongoing tasks may change little over the course of the planning cycle, but many tasks are completed and replaced each year. Some tasks may be placed on hold if resources are lacking; others may be dropped if better alternatives become available, such as the provision of educational content online rather than on CD-ROMs. Commissions and study groups often influence the development of tasks and the relative priority of tasks. Occasionally, they may identify new strategies or call for the abandonment of old ones. Other sources of information, gathered from futures research, constituents, and consumers, inform both the development of plans and their implementation. Under the direction of the Chief Justice, policy-making bodies such as the Judicial Council and the Committee on District Courts provide guidance about strategies and tasks.

As the comprehensive planning process shifts from a biennial to a roughly five-year cycle, a new timeframe is being developed for some of the larger steps in the development of the next strategic plan. The greatest effect of the shift will be on the timing of activities around the major information engines of the planning process. While futures research—environmental scanning, trends analysis, and other futures techniques—will be ongoing, and commissions and study groups will convene as the Chief Justice and Supreme Court direct, constituent (internal) and consumer (public/external) input will be more spread out. These last efforts did not offer the optimum marginal benefit when done every two years in the old cycle. Specifically, constituent studies are now envisioned taking place every second and fourth year, and statewide consumer surveys every third year. The second year will probably also be a period for bringing together and analyzing disparate information, especially from previous years of futures research and feedback from ongoing monitoring of the strategic plan and its implementation. The major themes, issues, findings, and recommendations identified during this effort will largely determine the topics that will

**U**nder the direction of the Chief Justice, policy-making bodies such as the Judicial Council and the Committee on District Courts provide guidance about strategies and tasks.

# THE COMPREHENSIVE STRATEGIC AND OPERATIONAL PLANNING SYSTEM FOR VIRGINIA COURTS





be discussed by focus groups, most likely during the third year.

By the final quarter of the fourth year of the planning cycle, most of the significant points will have been identified for consideration in the development of the next strategic plan. These points will influence the degree to which the mission, visions, or strategies of the current strategic plan should be changed. Given the long-term nature of the 2009 Strategic Plan, there may not be a need for significant changes five years from now. During the first quarter of the fifth year, the OES will draft a new strategic plan that will then be presented for approval by the major policy-making bodies of the Judicial Branch (e.g., the Judicial Council and the Committee on District Courts) during the second quarter of that year. A final draft of the new strategic plan should be complete by the third quarter of the year followed by official publication of the plan in the last quarter of the fifth year.

During the five-year arc of the strategic planning cycle, the other half of the comprehensive planning process—the OES Operational Plan—will pass through five annual cycles. The Operational Plan is largely task-focused. Monthly meetings between the Executive Secretary and individual departmental directors, along with periodic departmental planning sessions, will help to keep the OP up-to-date. Some operational planning variations will occur each year as OES departments participate in the strategic planning cycle and bring knowledge and experience from that process into considerations of their short-term tasks.

## CONCLUSION

The larger and more complex an organization, the more it can benefit from the focus and coordination that strategic planning makes possible. Organizations often struggle to make time for planning, getting caught in the trap of letting the “urgent” so monopolize their energies that what is truly important for the long-term is neglected. Planning itself is often viewed as a luxury to be engaged in when all is right with the world; however, the need for prioritization of organizational activities is never more important than when resources are scarce. Much energy can be saved and performance levels maintained or improved if an organization is alert in recognizing opportunities and threats. It is for such reasons that the Virginia Judicial Branch has long maintained a comprehensive planning process—including a futures research component—and continues to adjust and update that process to make it as effective as possible.

**[T]he need for prioritization of organizational activities is never more important than when resources are scarce.**



## Chapter 3

# Implementation of E-Filing in Virginia's Courts

The implementation of electronic filing (E-Filing) in Virginia's courts will allow the remote submission of documents required to initiate a case in an electronic format, without the creation of paper documents. The E-Filing System is expected to provide numerous benefits and cost savings to the courts, attorneys, state agencies, and businesses that file in Virginia courts. It is anticipated that the courts will see a significant reduction in data entry currently associated with opening new cases, as well as a significant reduction in the number of telephone calls and courthouse visits from litigants. Over time, the courts should also see a dramatic reduction in paper use and the need for physical storage space for paper case files. Litigants will be able to submit initial and subsequent filings from any computer with Internet access, with extended filing hours until midnight on any business day. Court users will no longer be required to print and deliver documents to the court, thereby saving time, paper, and printing costs.

The creation of an electronic filing (E-Filing) capability for Virginia's courts has been part of the Virginia Judicial System's strategic plan since the Commission on the Future of Virginia's Judicial System issued its initial recommendation to create an E-Filing capability in 1989. In 2007, Chief Justice Leroy R. Hassell, Sr., established the Electronic Filing Committee, which is composed of judges, attorneys, clerks of court, and staff members of the Office of the Executive Secretary, to steer the Judicial System's electronic filing initiative. The Honorable Junius P. Fulton, III, judge of the Norfolk Circuit Court, was appointed chairman of the Committee.

The Electronic Filing Committee held two exploratory meetings during 2007, and in January of 2008, a full-time project manager, within the Office of the Executive Secretary, was assigned to this project. The Committee reviewed the electronic filing initiatives of the federal courts, as well as other state and local courts, to identify the best practices and processes that might be incorporated into Virginia's E-Filing system. The court systems reviewed included the Federal District and Bankruptcy Courts; the Superior Court of King County, Washington; the Court of Common Pleas of Philadelphia,

**The E-Filing System is expected to provide numerous benefits and cost savings to the courts, attorneys, state agencies, and businesses that file in Virginia courts.**

**The Committee recommended that the initial version of the system address electronic filing of civil cases in circuit court and that the initial pilot site for the system be the Norfolk Circuit Court.**

Pennsylvania; and the Colorado State Courts. A summary of these best practices and processes was incorporated into a situation analysis and provided to the Committee.

In August of 2008, the Committee determined that the overall goal of the project should be to provide a system for electronic filing of all case types for all filers in all Virginia courts, and that a phased implementation approach would be the appropriate course of action. The Committee recommended that the initial version of the system address electronic filing of civil cases in circuit court and that the initial pilot site for the system be the Norfolk Circuit Court.

Four subcommittees were formed from the membership of the Committee. Between August of 2008 and May of 2009, the subcommittees met and formulated recommendations, which were presented to the Electronic Filing Committee on May 28, 2009. In addition, the project manager presented a mock-up of the Electronic Filing System developed by the Department of Judicial Information Technology and based on the recommendations of the four Subcommittees at the same meeting. The key recommendations of the Subcommittees include the following:

- Each attorney admitted to practice in the Commonwealth and in good standing with the Virginia State Bar should be allowed to register on the E-filing system.
- Attorneys should be able to register once and then be able to file in any E-File enabled court in the state.
- The E-Filing System should accommodate but not require electronic signatures in most cases.
- Extended filing hours for electronic filings should be allowed until 11:59:59 p.m. on any day that the court is open.
- Parties in a case should be notified electronically when the status of an E-Filed case changes.
- Registered users should be able to search for cases by date, by plaintiff name, by defendant name or by case number.
- Filings submitted after normal court hours should be reviewed by the clerk's staff the following business day and retain the filing date and time of submission.
- Online payment of filing fees should be allowed.

The Electronic Filing Committee approved the recommendations of the four subcommittees and the design of the E-Filing System as portrayed by the mock-up. The Committee also set the direction for the next phase of the E-Filing project, which included the following recommendations:

- The initial version of the E-Filing System should be developed and reviewed by local Bar Associations and circuit court clerks in order to thoroughly communicate the adopted plan and approach and to solicit additional design feedback from those groups.
- The first version of the system, incorporating the feedback received, should then be completed and installed in Norfolk Circuit Court in 2010.
- A review of state statutes should be conducted to identify existing barriers to the implementation of electronic filing.
- The project team will begin to research criminal filings and civil filings in General District and Juvenile and Domestic Relations District Courts in 2009 to prepare for future versions of the Electronic Filing System beyond 2010.

In addition to the four established Subcommittees, the Electronic Filing Committee formed a new Statute Identification Subcommittee to conduct the statute review and recommend statute changes. The Electronic Filing Committee reviewed the statute change recommendations and approved them on October 15, 2009. The Judicial Council unanimously approved the statute change recommendations of the Electronic Filing Committee on October 27, 2009. These statute recommendations are included in the "Proposed Legislation" section of this report.

The E-Filing project team is scheduled to complete the initial version of the E-Filing System in the spring of 2010, after which it will be reviewed by stakeholder groups. After incorporating any feedback received in the review, the system is expected to be piloted in Norfolk in the fall of 2010. After the Norfolk pilot is complete, the E-Filing System will be made available to circuit courts across the state.

**The initial version of the E-Filing System should be developed and reviewed by local Bar Associations and circuit court clerks in order to thoroughly communicate the adopted plan and approach and to solicit additional design feedback from those groups.**



## Chapter 4

# Pandemic Flu Preparedness Commission

In his May 2008 State of the Judiciary Address, Chief Justice Leroy Rountree Hassell, Sr., noted that Virginia’s courts lack “policies and protocols that are necessary to ensure the safe and effective operation of our courts in the event of pandemic influenza or other contagious diseases. However, we must, and we will, be prepared to respond in the event of such catastrophic emergency.”

In early 2009, the Chief Justice formed the Pandemic Flu Preparedness Commission. The 48 Commission members include judges, clerks of court, magistrates, attorneys, sheriffs, representatives from executive branch agencies including the Department of Health, and other stakeholders.

The Commission members gathered on March 17, 2009, for an informational meeting at which they received presentations from state and federal courts about their respective approaches to pandemic influenza planning. Robert P. Mauskopf, Director of Emergency Operations, Planning and Logistics with the Virginia Department of Health, briefed the Commission members on the necessity for such planning and on the planning efforts of Virginia’s executive branch agencies. After the initial informational session, the Commission members met in small groups to discuss how a pandemic would affect each member in his or her interaction with Virginia’s courts.

On April 30, 2009, the Commission met again, this time to organize itself. At that meeting the Chief Justice charged the Commission with the following objective:

To ensure, in the event of a pandemic, that the Judicial Branch is able to fulfill its mission to provide an independent, accessible, responsive forum for the just resolution of disputes in order to preserve the rule of law and to protect all rights and liberties guaranteed by the United States and Virginia constitutions.

**[Before the work of the Commission it was ] noted that Virginia’s courts lack[ed] “policies and protocols that are necessary to ensure the safe and effective operation of our courts in the event of pandemic influenza or other contagious diseases.**



**[T]he Commission will recommend legislation and rule changes to promote the Commission's stated priorities, create templates that local courts can use to create local pandemic flu plans, and draft a bench book that will serve as a legal reference resource for judges in the event of a pandemic.**

The Commission's priorities are to prepare a plan that will enable Virginia's courts to maintain essential functions during a pandemic and recover promptly afterward, to protect the health of Judicial Branch employees and those who utilize the services of the courts, and to promote consistency across the Commonwealth in the Judicial Branch's response to a flu pandemic. Toward these goals, the Commission will recommend legislation and rule changes to promote the Commission's stated priorities, create templates that local courts can use to create local pandemic flu plans, and draft a bench book that will serve as a legal reference resource for judges in the event of a pandemic.

The Honorable Westbrook J. Parker serves as chair of the Commission. Each Commission member is assigned to one of five committees tasked with addressing different aspects of the Commission's charge. The committees are: Communication and Education, chaired by the Honorable Joi Jeter Taylor; Operations and Case Management, chaired by the Honorable Janine L. Saxe; Facilities, Security, and Placement, chaired by the Honorable Lucretia A. Carrico; Staffing, Human Resources, and Employment Law, chaired by the Honorable Marcus D. Williams; and Legal/Bench Book, chaired by the Honorable Thomas D. Horne.

The various committee chairs constitute the Executive Committee of the Commission. Each committee has an assigned staff member employed by the Supreme Court of Virginia. The Office of the Executive Secretary of the Supreme Court provides resources and staff support for overall coordination of the project.

Coincidentally, the H1N1 influenza virus outbreak began in Mexico days before the April 30 meeting, and the Commission's timeline was shortened from two years to one, with legislative recommendations to be made in October 2009 to allow for introduction during the 2010 Session of Virginia's General Assembly.

Between May and October 2009, the various committees met a total of seventeen times. Committee activities included studying and discussing plans developed by other states, information about pandemic planning generally, and statutory provisions that might be relevant in determining Judicial Branch policies. The committees developed or adapted worksheets that might be helpful to courts in creating their individual plans. Individual committees proposed a pandemic flu emergency leave policy for the Judicial Branch, as well as two legislative changes to facilitate the judiciary's response in the event of a flu pandemic.



The legislative recommendations were presented to and approved by the Judicial Council of Virginia on October 27, 2009. These recommendations are described briefly in Chapter 1 of this Report, and the relevant statutory texts are included at the end of this Report in the “Proposed Legislation” section.

By the October 13 meeting date, each of the committees had recommended content for the bench book. The bench book, which will include not only legal reference materials but also a planning template and relevant worksheets, will be crafted during the fall and winter of 2009. It is slated for review by all Commission members before the next scheduled meeting of the full Commission on February 19, 2010.

We are grateful for the participation and support of the following Commission members:

**Commission Chair:**

The Honorable Westbrook J. Parker, Chief Judge  
 Southampton Circuit Court  
 Courtland, Virginia

**Commission Members:**

Honorable Rossie D. Alston, Jr., Judge  
 Court of Appeals of Virginia

David W. Carter, Esquire  
 Samuel I. White, P.C.

Honorable Rufus A. Banks, Jr., Judge  
 First Judicial District  
 Chesapeake J&DR District Court

Honorable Joel C. Cunningham, Judge  
 Tenth Judicial District  
 Halifax General District Court

Mr. Shawn Barnes, Chief Magistrate  
 Twelfth Judicial District

Steve M. Draper, Sheriff  
 City of Martinsville

Honorable Randall M. Blow, Judge  
 Second Judicial District  
 Virginia Beach J&DR District Court

Honorable Walter S. Felton, Jr., Judge  
 Court of Appeals of Virginia

Elizabeth E. Blue, Esquire  
 Richmond, Virginia

Mr. L.O. Natt Gantt, II,  
 Associate Professor and Associate Dean  
 for Student Affairs  
 Regent University School of Law

Honorable Thomas E. Bowers,  
 Commonwealth's Attorney  
 City of Salem

Mr. Randy Gilbert, Pastor  
 Faith Landmarks Ministries

Mr. James F. Burgess,  
 Staff Safety and Security Manager  
 Virginia Department of Corrections

Honorable Marilyn C. Goss, Judge  
 Thirteenth Judicial District  
 Richmond J&DR District Court

Honorable Lucretia A. Carrico, Judge  
 Eleventh Judicial District  
 Petersburg General District Court

Steven D. Gravely, Esquire  
 Troutman Sanders

Peter D. Greenspun, Esquire  
Greenspun, Shapiro, Davis & Leary, P.C.

Honorable Karen A. Henenberg, Judge  
Seventh Judicial Circuit  
Arlington General District Court

Helivi Holland, Deputy City Attorney  
City of Suffolk

Mr. Edward H. Holmes,  
Field Operations Manager  
Virginia Department of Juvenile Justice

Honorable Thomas D. Horne, Judge  
Twentieth Judicial Circuit  
Loudoun Circuit Court

Guy W. Horsley, Esquire  
Office of the Attorney General

Janet James, Esquire  
Virginia Department for the Aging

Honorable Elizabeth Kellas, Judge  
Twenty-sixth Judicial District  
Frederick/Winchester J&DR District Court

Honorable Larry B. Kirksey, Judge  
Twenty-eighth Judicial Circuit  
Bristol Circuit Court

Dr. Mark J. Levine, Deputy Commissioner  
Emergency Preparedness and  
Response Programs  
Virginia Department of Health

Honorable Stephanie Maddox,  
Commonwealth's Attorney  
County of Amherst

Honorable Everett A. Martin, Jr., Judge  
Fourth Judicial Circuit  
Norfolk Circuit Court

Mr. Andre Mayfield, Clerk  
Virginia Beach General District Court

Honorable Tammy S. McElyea, Judge  
Thirtieth Judicial Circuit  
Lee Circuit Court

Henry W. McLaughlin, III, Esquire  
Central Virginia Legal Aid Society, Inc.

Dr. Joseph P. McMenamin, Esquire  
McGuire Woods

Honorable Patricia S. Moore, Clerk  
Twenty-eighth Judicial Circuit  
Washington Circuit Court

Honorable Stacey W. Moreau, Judge  
Twenty-second Judicial District  
Pittsylvania J&DR District Court

Rebecca Norris, Esquire  
Virginia Indigent Defense Commission

Mr. William I. Oakes, Jr.,  
Magistrate Regional Supervisor  
Region 3  
Office of the Executive Secretary

Honorable Westbrook J. Parker, Judge  
Fifth Judicial Circuit  
Southampton Circuit Court

Honorable Joi Jeter Taylor, Judge  
Thirteenth Judicial District  
Richmond General District Court

Honorable David F. Pugh, Judge  
Seventh Judicial Circuit  
Newport News Circuit Court

Honorable Malfourd W. Bo Trumbo, Judge  
Twenty-fifth Judicial Circuit  
Alleghany Circuit Court

Honorable Janine M. Saxe, Judge  
Nineteenth Judicial District  
Fairfax J&DR District Court

Honorable Susan L. Whitlock, Judge  
Sixteenth Judicial District  
Louisa J&DR District Court

Honorable Beverly W. Snukals, Judge  
Thirteenth Judicial Circuit  
Richmond Circuit Court

Ms. Dawn C. Williams, Clerk  
Campbell J&DR District Court

Lt. Col. Eugene A. Stockton, Director  
Bureau of Field Operations  
Virginia State Police

Honorable Marcus D. Williams, Judge  
Nineteenth Judicial Circuit  
Fairfax Circuit Court

Sheriff C.T. Woody, Jr., Sheriff  
City of Richmond

## Chapter 5

# Collaborative Efforts to Improve Virginia's Response to Domestic Violence

The Office of the Executive Secretary (OES) of the Supreme Court of Virginia took part in several domestic violence projects and initiatives in 2009 in its efforts to improve the administration of justice in domestic violence matters. Efforts have included collaboration with multiple state agencies in developing a multi-disciplinary statewide domestic violence conference; improving the accuracy and detail of domestic violence data in the courts; enhancing the usability and accessibility of I-CAN!, Virginia's online forms completion program; and supporting localities' efforts to better their coordinated community response to domestic violence. The Chief Justice's Advisory Committee on Domestic Violence Issues in Virginia's Courts has played an important role in many of these improvement efforts.

### COLLABORATING IN THE DEVELOPMENT OF A STATEWIDE DOMESTIC VIOLENCE CONFERENCE

The OES, along with the Virginia State Police, the Office of the Attorney General, the Department of Criminal Justice Services, the Office of the Chief Medical Examiner, and the Virginia Sexual and Domestic Violence Action Alliance, collaborated in the development of the multi-disciplinary statewide conference, "Policy, Practice, Partnership: Building Safer Communities Through a Coordinated Response to Domestic Violence." Developed with funding from the GEAP grant (Grant to Encourage Arrest Policies and Enforcement of Protection Orders), this two-and-a-half-day conference took place in Richmond from September 30 to October 2, 2009, and brought together over 250 key domestic violence stakeholders from across the state. The Honorable Aundria Foster, Newport News Circuit Court Chief Judge and Chair of the Chief Justice's Advisory Committee on Domestic Violence Issues in Virginia's Courts, addressed the entire conference on October 1st on the importance of judicial leadership and domestic violence.

Each collaborating partner was responsible for the development of five workshops within the five discipline-specific 'tracks' of the conference (court, prosecutor, law enforcement, fatality review, and advo-

**The OES... collaborated in the development of the multi-disciplinary statewide conference, "Policy, Practice, Partnership: Building Safer Communities Through a Coordinated Response to Domestic Violence."**

**S**taff met with several key stakeholders to determine what types of domestic violence data are currently collected and what types of data are needed....

cate). Members of the Advisory Committee on Domestic Violence Issues in Virginia’s Courts (see the membership list below), especially its Education and Training Sub-Committee, played a major role in the development of the five ‘court track’ sessions. Education and Training Sub-Committee members included Chief Judge Avelina Jacob of the Loudoun Juvenile and Domestic Relations District Court, Chief Magistrate Joyce Crews of the 44th Judicial Circuit, and Assistant Attorney General Vivian Brown of the Norfolk Office of the Attorney General. The ‘court’ track sessions offered included, “The Judicial Role in Community Efforts to Improve Domestic Violence Response,” “Promising Practices for the Court’s Response to Domestic Violence,” “The Impact of Cultural Issues on Courts,” “The Effective Use and Monitoring of Batterer Intervention Programs,” and “Increasing Access to Protective Orders for Domestic Violence Victims: I-CAN! and Other Innovations.”

#### **SOLICITING STAKEHOLDER INPUT TO IMPROVE DOMESTIC VIOLENCE COURT DATA**

In order to improve the collection and analysis of domestic violence court data, the OES Judicial Planning staff determined that improving domestic violence court data would be a top priority. Staff met with several key stakeholders to determine what types of domestic violence data are currently collected and what types of data are needed in order to better assess the extent and nature of domestic violence cases flowing through Virginia’s courts.

In 2009, Judicial Planning staff conducted several internal “domestic violence data” meetings and facilitated meetings with the Virginia State Police, the Department of Criminal Justice Services, the Office of the Attorney General, Office of the Chief Medical Examiner, and the Virginia Domestic and Sexual Violence Action Alliance. The three primary data themes identified from these stakeholder meetings were: 1) distinguishing the three types of protective orders (Emergency, Preliminary, and Final Protective Orders) in the courts’ Case Management System (CMS) to gather more accurate protective order data, 2) improving the capacity of CMS to collect more specific case dispositional data, and 3) improving the capacity of CMS to transmit protective order relationship data directly into the Virginia Criminal Information Network (VCIN).

As a result of these meetings, a comprehensive data requirements

document will be developed in early 2010 for the Judicial Information Technology Department, which will enable OES to move forward on improvements to the courts' Case Management System as it relates to capturing better domestic violence data. Better court data on the domestic violence cases will provide a more comprehensive picture of the extent and nature of domestic violence cases that flow through the courts and will assist the many stakeholders in their domestic violence planning and evaluation efforts both locally and statewide.

#### **INCORPORATING RECOMMENDATIONS TO IMPROVE I-CAN! ACCESS AND USABILITY**

In 2009, OES increased its efforts to make I-CAN!, Virginia's online forms completion program for family abuse protective orders, more accessible and user-friendly for individuals across the Commonwealth. The I-CAN! module was reviewed by several internal and external stakeholders in order to gather their feedback and suggestions for improvement. In addition to an internal OES group, two multi-disciplinary groups—the I-CAN! Accessibility Board and the Chief Justice's Advisory Committee on Domestic Violence Issues in Virginia's Courts—reviewed the I-CAN! online forms completion program. In these reviews, several factors were considered, including consistency, format, ease-of-use, functionality, and accessibility.

To make the needed changes to improve I-CAN!, OES applied for and was awarded a \$44,000 V-STOP Recovery Act grant through the Virginia Department of Criminal Justice Services. The server for Virginia's I-CAN! software is now housed at the Supreme Court of Virginia instead of California thanks to 2007 GEAP grant funds from the Virginia State Police. With the assistance of a V-STOP grant for 2010-2011, OES hopes to move forward with its plans to add a stalking module to I-CAN! A multi-disciplinary state-level workgroup will be set up to develop the delivery protocol for this module.

In addition to improving the accessibility and functionality of I-CAN!, OES continues to work with local courts in the development of court-specific filing information for petitioners of family abuse protective orders. Fourteen courts in Virginia now have such filing information posted on the I-CAN! pages of the Virginia Judicial System's website. Filing information includes a wide range of information helpful to petitioners including hearing times, court practices and procedures, documents to bring to court, dress codes, assistance with lan-

**[O]ES continues to work with local courts in the development of court-specific filing information for petitioners of family abuse protective orders.**

**Through the use of a comprehensive community assessment tool... each of the thirteen communities identified domestic violence priorities and challenges in their communities.**

guage or physical challenges, and local resources.

Finally, a number of I-CAN! presentations and training sessions were provided in several Virginia localities, and informational materials such as I-CAN! brochures, business cards, and “Frequently Asked Questions” were developed to encourage and facilitate the use and understanding of the I-CAN! system throughout the Commonwealth. I-CAN! continues to be available in both English and Spanish and can be accessed through the Supreme Court of Virginia’s website at [www.courts.state.va.us](http://www.courts.state.va.us); select “Online Services,” then “Assistance with Family Abuse Protective Orders.”

### **2009 ACTIVITIES OF THE VIRGINIA GEAP PARTNERSHIP**

The Office of the Executive Secretary has received federal funding for several years through the GEAP grant. The OES and the five other state GEAP recipients (four state agencies and a statewide nonprofit organization) worked together as the “Virginia GEAP Partnership.” In 2009, the final year of the grant, the OES participated in several collaborative activities including the statewide multidisciplinary conference described above and training for thirteen Virginia localities.

Local training efforts focused on assisting the key stakeholders in GEAP localities to form or re-energize their Coordinated Community Response teams. Through the use of a comprehensive community assessment tool developed by the GEAP Partnership, each of the thirteen communities identified domestic violence priorities and challenges in their communities. In subsequent key stakeholder meetings, the GEAP partners returned to assist these communities in their domestic violence strategic planning efforts. It was noted in all of the GEAP localities that court/judicial involvement in coordinated community response teams was a critical component to their success.

Governor Tim Kaine recognized the benefits of such collaborative partnerships, seeing them as critical to enhancing a systemic approach to addressing domestic violence in the Commonwealth. As a result, Governor Kaine signed Executive Order 93 (2009), which establishes the Virginia Sexual and Domestic Violence Workgroup. This workgroup will continue the work of the Virginia GEAP partnership to promote ongoing collaboration between relevant state and private sector partners across the Commonwealth.



## ADVISORY COMMITTEE ON DOMESTIC VIOLENCE ISSUES IN VIRGINIA'S COURTS

The Chief Justice's Advisory Committee on Domestic Violence Issues in Virginia's Courts has played an important role in the Judicial System's response to domestic violence. Their recommendations on issues such as the content and delivery of domestic violence-related training, improvement in domestic violence court data, increased access to protective orders through a more user-friendly I-CAN! system, as well as their feedback on the activities of the Virginia GEAP Partnership have proven critical to the domestic violence planning and improvement efforts of the Judicial System.

### CURRENT MEMBERS

The Honorable Leroy Rountree Hassell, Sr., Chief Justice  
Supreme Court of Virginia

The Honorable Aundria D. Foster, Judge (Committee Chair)  
Newport News Circuit Court

The Honorable Randolph A. Beales, Judge  
Court of Appeals of Virginia

Vivian F. Brown, Esquire, Assistant Attorney General  
Norfolk Office of the Attorney General

The Honorable Lucretia A. Carrico, Chief Judge  
Petersburg General District Court

The Honorable H. Lee Chitwood, Chief Judge  
Pulaski J&DR District Court

The Honorable Avelina S. Jacob, Chief Judge  
Loudoun J&DR District Court

Shavaughn N. Banks, Esquire, Assistant Commonwealth's Attorney,  
Suffolk

**The Chief Justice's Advisory Committee on Domestic Violence Issues in Virginia's Courts has... proven critical to the domestic violence planning and improvement efforts of the Judicial System.**

Joyce W. Crews, Chief Magistrate  
City of Danville

Linda D. Curtis, Esquire, Commonwealth's Attorney  
Hampton (Commonwealth's Attorney's Services Council Designee)

Regina J. Elbert, Esquire  
McGuire Woods, LLP

Karl R. Hade, Executive Secretary  
Supreme Court of Virginia

Edward H. Holmes, Field Operations Manager  
Department of Juvenile Justice

Lelia B. Hopper, Esquire, Director, Court Improvement Program  
Office of the Executive Secretary

Saundra M. Jack, Esquire,  
Office of the Chief Staff Attorney,  
Supreme Court of Virginia

Ruth Micklem, Co-Director  
Virginia Sexual and Domestic Violence Action Alliance

Nancy G. Parr, Esquire, Commonwealth's Attorney  
Chesapeake (Virginia State Bar designee)

Becky Sirles President  
Virginia Network for Victims and Witnesses of Crimes

Dawn C. Williams, Clerk  
Campbell J&DR District Court

## Chapter 6

# Foreign Language Services in Virginia's Courts

### INTRODUCTION

Over the past twenty years, courts in Virginia have come to recognize that there is an increasing need for qualified foreign language interpreters in order to allow meaningful access to court services. Mere fluency in a foreign language does not make an individual competent to serve as a court interpreter. Ideally, interpreter candidates will receive special training and testing that leads to certification as a qualified court foreign language interpreter. Nationwide, state courts have tended to face two different challenges with respect to interpreters, often varying by locality:

- Some courts do not have enough qualified interpreters and are engaged in ongoing efforts to recruit, train, and test interpreters in various languages and
- Other courts may have qualified interpreters but lack sufficient work to guarantee them a living.

With funding from the General Assembly, the Virginia Judicial Branch has made great strides in recent years to meet these challenges.

### MEETING THE NEED FOR INTERPRETERS IN VIRGINIA'S COURTS

For over 25 years, the Office of the Executive Secretary (OES) has processed payments for interpreter services in criminal and civil cases according to statutory requirements. In civil cases, the court has the discretion to assess the interpreter costs against either party. Such interpreter services are critical to maintaining access to the courts and ensuring due process. The OES tracks various aspects of these payments such as the contract interpreter's name, the court(s) in which he or she served, the language for which the interpreter was needed, the number of service events for which the interpreter was paid (i.e., the number of individuals—not cases—for whom the interpreter's services were needed for a given court appearance/payment event), and the amount of compensation OES paid.

The demand for interpreter services has grown considerably in recent years. During fiscal year (FY) 2002, the OES paid \$2,718,962 for 36,625 interpreter service events. In FY 2008, the OES paid con-

**[I]nterpreter services are critical to maintaining access to the courts and ensuring due process.**

**B**eginning in FY 2008... the OES began using full-time staff interpreters in selected trial courts in an effort to improve interpreter availability, ensure the quality of services, and contain costs.

tract interpreters \$4,109,219 for 62,126 service events. These 2008 figures included 4,849 service events in which the interpreter “appeared” via telephone. Beginning in FY 2008 with funding allocated by the General Assembly, the OES began using full-time staff interpreters in selected trial courts in an effort to improve interpreter availability, ensure the quality of services, and contain costs. The nine staff interpreters who were hired over the course of FY 2008 handled an additional 15,936 service events. Five more staff interpreters were hired during FY 2009, and, with the nine others, they completed a total of 29,689 service events during FY 2009 (see Table 1 below). Significantly, payments to contract interpreters decreased in FY 2009 to \$3,460,895, even though the service events for which payments were made increased slightly to 62,842.

Table 1  
Full-time Spanish Interpreters in Virginia’s Courts

| Court Location              | Number of Interpreter Staff | FY 2009 Service Events |
|-----------------------------|-----------------------------|------------------------|
| Alexandria                  | 1                           | 1,326                  |
| Arlington                   | 2                           | 1,767                  |
| Chesterfield                | 1                           | 3,647                  |
| Fairfax                     | 5                           | 14,825                 |
| Harrisonburg and Winchester | 1                           | 798*                   |
| Loudoun                     | 2                           | 1,649                  |
| Prince William              | 2                           | 5,677                  |
| <b>TOTAL</b>                | <b>14</b>                   | <b>29,689</b>          |

\*Represents services in Harrisonburg only.

Spanish is the language for which there has been the greatest demand for interpreters, and the OES has maintained an interpreter certification program in that language for several years as part of its effort to improve the quality of court interpretation services around the state. The OES has recently expanded this voluntary certification program to Korean and Vietnamese, the two languages for which interpreter services are most in demand after Spanish. The OES tracks contractor service events in a total of 14 languages (see Table 2), with the remainder being classified as “Other” or Telephone service. The current staff interpreters provide services in Spanish in eight localities

Table 2  
FY 2009 Contract Service Events by Language

| Language                 | Number of Localities | Appellate Courts/OES | Circuit Courts | General District Courts | J&DR District Courts | Combined District Courts | Total  |
|--------------------------|----------------------|----------------------|----------------|-------------------------|----------------------|--------------------------|--------|
| Arabic                   | 18                   |                      | 26             | 116                     | 193                  | 8                        | 343    |
| Chinese                  | 32                   |                      | 38             | 184                     | 84                   | 7                        | 313    |
| French/<br>French Creole | 17                   |                      | 15             | 43                      | 42                   | 1                        | 101    |
| German                   | 0                    |                      | 0              | 0                       | 0                    | 0                        | 0      |
| Greek                    | 4                    |                      | 0              | 6                       | 1                    | 0                        | 7      |
| Italian                  | 2                    |                      | 0              | 2                       | 2                    | 0                        | 4      |
| Japanese                 | 5                    |                      | 3              | 3                       | 6                    | 0                        | 12     |
| Korean                   | 26                   |                      | 91             | 920                     | 232                  | 2                        | 1,245  |
| Polish                   | 4                    |                      | 1              | 3                       | 2                    | 0                        | 6      |
| Portuguese               | 11                   |                      | 2              | 10                      | 26                   | 0                        | 38     |
| Russian                  | 20                   |                      | 39             | 59                      | 55                   | 0                        | 153    |
| Spanish                  | 114                  |                      | 5,145          | 37,082                  | 7,510                | 2,532                    | 52,269 |
| Tagalog                  | 7                    |                      | 7              | 9                       | 12                   | 1                        | 29     |
| Vietnamese               | 27                   |                      | 119            | 603                     | 293                  | 151                      | 1,166  |
| Other                    | 32                   |                      | 232            | 525                     | 651                  | 15                       | 1,423  |
| Telephone                | 107                  | 14                   | 243            | 4,520                   | 476                  | 480                      | 5,733  |
| <b>TOTAL</b>             |                      | 14                   | 5,961          | 44,085                  | 9,585                | 3,197                    | 62,842 |

(see Table 1).

The duration and cost of a contract interpreter service event depend upon the number and complexity of proceedings in which a non-English-speaking party or witness is involved on a given day. For example, a single criminal defendant may face multiple counts, each of which is treated as a separate case by the court system and for which there may be multiple proceedings over a period of weeks or months. Regardless of the number of counts, there is only one service event per day in court for that defendant, whether it is for five minutes or five hours. If proceedings are brief, a contractor can interpret for multiple service events during any given day when she is in court. The cases in which interpreters are being used are trending longer and more complex; consequently, average contractor expenses per service event are increasing. Contract interpreters are paid by the hour for a guaranteed minimum of two hours. The rate of compensation for certified interpreters is \$60 per hour while that for non-certified interpreters is \$40 per hour. For languages in which OES does not offer certification, the court has the discretion to offer either rate according to the qualifications that the interpreter presents. For especially rare

**During 2009, the FLS has focused predominantly on improving the level of interpreting services provided to those with Limited English Proficiency (LEP) in Virginia's courts.**

languages for which qualified interpreters are hard to locate, the court has the discretion to offer even higher compensation rates.<sup>1</sup>

#### THE FOREIGN LANGUAGE SERVICES DIVISION

In August of 2007, the responsibilities for managing and providing Spanish-language interpreting services, including Spanish interpreter certification, were delegated to a new Foreign Language Services Division (FLS) within the OES Department of Judicial Services (DJS). The development of a staff of full-time Spanish interpreters for the jurisdictions where demand has been greatest and the expansion of interpreter certification to Korean and Vietnamese, as recounted above, are among the achievements of FLS.

During 2009, the FLS has focused predominantly on improving the level of interpreting services provided to those with Limited English Proficiency (LEP) in Virginia's courts. Specifically, the staff interpreter program has expanded to include the Winchester/Frederick General District and Juvenile and Domestic Relations District Courts and the Prince William Circuit Court. Additionally, services for the Fairfax General District and Juvenile and Domestic Relations District Courts are now consolidated into one program. Most significantly, however, FLS has made great strides in expanding services while maintaining efficiency so as to provide meaningful access to LEP individuals in all languages statewide but at a reduced net cost. As described above, these efforts enabled an increase in contract interpreter services during FY2009 while actually decreasing costs.

In order to develop a larger and more widespread pool of interpreters, FLS has begun offering the interpreter certification program in different venues around the state. Simultaneously, FLS has revised its curriculum and testing procedures and expanded training opportunities for interpreters in all languages. The goal of these improvements is to ensure that courts have the ability to appoint qualified interpreters in all locations and for languages other than Spanish. Through the FLS training program on Title VI of the Civil Rights Act, courts have also been given the resources and clear guidance on pro-

<sup>1</sup> *Serving Non-English Speakers in the Virginia Court System: Guidelines for Policy and Best Practice* (Richmond: Supreme Court of Virginia/OES, 2003) pp. 89-90; <http://www.courts.state.va.us/courtadmin/aoc/djs/programs/interpreters/guidelines.pdf>

viding meaningful access to those with LEP. Additionally, FLS is developing contact lists for less common languages and has begun fine-tuning existing databases to more efficiently track and communicate with certification candidates, contract interpreters, and staff interpreters.

Also in 2009, FLS spearheaded negotiations that lead to the award of a new telephonic interpretation services contract and has worked to train courts in the use of this service.<sup>2</sup> The service not only costs less, but it also offers additional functionality to courts. Now, in addition to straight telephonic interpretation, sight translations (vocal interpretation from documents) can be secured on a 24-hour basis. Through novel application of telecommunications advances and existing equipment, sound quality for interpretations during videoconferences has been improved as well. This technology is also applicable to the provision of interpreters for the deaf which results in significant cost-savings by reducing or eliminating travel and lodging costs and service time.

FLS staff interpreter work has not been limited to courtroom interpretation. In addition, the staff have helped to develop a glossary of state-specific legal terminology, supported training efforts on the proper use of interpreters and cultural awareness, and mentored certification candidates. FLS staff interpreters have drafted job descriptions and evaluations for themselves and for contract interpreters as well. Management and training of contract interpreters has improved the working environment for vendors, insofar as there is real-time feedback, faster turnaround on payments, vocabulary support for state-specific terms, and clear expectations on the method of service provision across courts. Continuing education has been offered to contractors as well as staff. Staff Spanish language interpreters have charted and tracked the historic need for interpreters and can now better predict future demand for their services. In this way, anticipating needs has become more systematic.

In July 2009, the Loudoun FLS staff began contracting interpreters for languages other than Spanish (LOTS) as a pilot program, putting FLS on track to be a one-stop-shopping model statewide. The Loudoun pilot has been growing steadily as the courts' familiarity with

**[T]he staff have ...develop[ed] a glossary of state-specific legal terminology, supported training efforts on the proper use of interpreters and cultural awareness, and mentored certification candidates.**

<sup>2</sup>As of November 1, 2009, CTS Language Link is the sole provider for telephonic interpretation services to the Virginia Court System.

**Only by ensuring that all prospective court users have meaningful access can Virginia's Judicial System fulfill its mission of providing justice to all.**

the new service mode has increased. As of November, the program had provided services in Arabic, Bengali, Cantonese, Farsi, French, Gujarati, Hindi, Japanese, Korean, Mandarin, Mina, Portuguese, Punjabi, Russian, Telugu, Tigrinya, Urdu and Vietnamese to Loudoun County Circuit, General District and Juvenile and Domestic Relations District Courts.

#### CONCLUSION

Recent initiatives in Virginia are meeting the increasing challenges of providing interpreter services within the state's courts. The quantity, quality, and variety of services provided are increasing even as new management practices help to control costs. As Virginia's ethnic diversity increases, the continuation of such efforts will be essential to providing meaningful access to the state's courts. Only by ensuring that all prospective court users have meaningful access can Virginia's Judicial System fulfill its mission of providing justice to all.



## Chapter 7

# Changes to Rules of Court

### BACKGROUND

The Constitution of Virginia authorizes the Supreme Court of Virginia to promulgate rules governing the practice and procedures to be used in the courts of the Commonwealth.

In 1974, the Judicial Council of Virginia established an Advisory Committee on Rules of Court to provide members of the Virginia Bar a means of more easily proposing Rule changes to the Council for recommendation to the Supreme Court. The duties of this committee include: (a) evaluating suggestions for modification of the Rules made by the Bench and Bar and presenting proposed changes to the Judicial Council for its consideration; (b) keeping the Rules up to date in light of procedural changes in other jurisdictions; (c) suggesting desirable changes to clarify ambiguities and eliminate inconsistencies in the Rules; and (d) recommending changes in the Rules to keep them in conformity with the Code of Virginia in order to eliminate possible conflict.

The Judicial Council itself is called upon to continually study and make recommendations to the Supreme Court regarding Rules of Court. Rules recommended by the Council and subsequently adopted by the Supreme Court are published in Volume 11 of the Code of Virginia. All adopted Rule changes are also posted on Virginia's Judicial System website at [www.courts.state.va.us/courts/scv/amend.html](http://www.courts.state.va.us/courts/scv/amend.html).

**The Judicial Council itself is called upon to continually study and make recommendations to the Supreme Court regarding Rules of Court.**

**RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL AND ADOPTED BY THE SUPREME COURT OF VIRGINIA IN 2008 WHICH BECAME EFFECTIVE IN 2009**

- Rule 4:1 General Provisions Governing Discovery
- Rule 4:4 Stipulations Regarding Discovery
- Rule 4:8 Interrogatories to Parties
- Rule 4:9 Production by Parties of Documents, Electronically Stored Information, and Things; Entry on Land for Inspection and Other Purposes; Production at Trial
- Rule 4:9A Production from Non-Parties of Documents, Electronically Stored Information, and Things and Entry on Land for Inspection and Other Purposes; Production at Trial
- Rule 4:13 Pretrial Procedure; Formulating Issues
- Rule 5:9 Notice of Appeal
- Rule 5A:6 Notice of Appeal

**RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL IN 2008 AND ADOPTED BY THE SUPREME COURT OF VIRGINIA IN 2009**

- Rule 3:25 Claims for Attorney's Fees (effective May 1, 2009)

**RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL AND ADOPTED BY THE SUPREME COURT OF VIRGINIA IN 2009**

- Rule 1:15 Local Rules of Court
- Rule 1:20 Scheduling Civil Cases for Trial
- Rule 7A:15 General Information Relating to Each Court

**RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL TO THE SUPREME COURT OF VIRGINIA (pending as of December 14, 2009)**

- Rule 1:18 Pretrial Scheduling Order
- Part Two-A Appeals Pursuant to the Administrative Process Act
- Rule 4:1 General Provisions Governing Discovery
- Part Five Rules of the Supreme Court (complete restatement)
- Rule 5:17(c) Petition for Appeal
- Part Five-A Rules of the Court of Appeals (complete restatement)



Judicial Council of

*Virginia*

Proposed Legislation

2009



## THE RETIREMENT AGE FOR JUDGES

A BILL to amend and reenact § 51.1-305 of the Code of Virginia, relating to mandatory judicial retirement.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.1-305 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.1-305. Service retirement generally.**

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B. Early retirement. - Any member in service who has either (i) attained his fifty-fifth birthday with five or more years of creditable service or (ii) in the case of a member of any of the previous systems immediately prior to July 1, 1970, complied with the requirements for retirement set forth under the provisions of such previous system as in effect immediately prior to July 1, 1970, may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B1. Mandatory retirement. - Any member who attains ~~70~~ 73 years of age shall be retired 20 days after the convening of the next regular session of the General Assembly. ~~However, if the mandatory retirement provisions of this subdivision would require a member of the State Corporation Commission to be retired before the end of his elected term and such retirement would occur during a session of the General Assembly in which the General Assembly is required, pursuant to § 12.1-6, to elect another member or members of the State Corporation Commission to serve either a regular term or a portion of a regular term, such member who otherwise would be subject to the mandatory retirement provisions of this subdivision shall be retired upon the first to occur of (i) the expiration of the term to which he was elected or (ii) 20 days after the commencing of the regular session of the General Assembly that immediately follows the date such member attains 72 years of age. The provisions of this subsection shall apply only to those members who are elected or appointed to an original or subsequent term commencing after July 1, 1993 following his seventy-third birthday.~~

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A or B of this section, if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his appointing authority certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than 90 days prior to the filing of the notice of retirement.

E. Notification of retirement. - In addition to the notice to the Board required by this section, the same notice shall be given by the member to his appointing authority. If a member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification to the Board on his behalf.

## ELECTRONIC FILING IN VIRGINIA'S COURTS

A BILL to amend and reenact §§ 16.1-243, 17.1-124, 17.1-224, 17.1-258.3, and 17.1-258.4, of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 8.01-270.1 and 17.1-258.6, relating to electronic filing in circuit courts.

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-243, 17.1-124, 17.1-224, 17.1-258.3, and 17.1-258.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 8.01-270.1 and 17.1-258.6 as follows:**

#### § 8.01-270.1. Electronic filings in civil actions in circuit court.

Electronic filings in civil actions and proceedings in the circuit court shall be governed by Article 4.1 (§ 17.1-258.2 et. seq.) of Chapter 2 of Title 17.1 and applicable Rules of the Supreme Court of Virginia.

#### § 16.1-243. Venue.

##### A. Original venue:

1. Cases involving children, other than support or where protective order issued: Proceedings with respect to children under this law, except support proceedings as provided in subdivision 2 of this subsection or family abuse proceedings as provided in subdivision 3 of this subsection, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county, (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships, (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233 and 63.2-1237, be commenced (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside; and

d. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse shall be commenced where (i) either party has his or her principal residence (ii) the abuse occurred or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family or household member of the petitioner.

B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur only after adjudication in delinquency proceedings.

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.



5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. Records imaged from the original documents shall be considered original documents for purposes of the transfer of venue. The transferor court may, in its discretion, retain ~~such~~ copies as it deems appropriate.

§ 17.1-124. Order books.

Except as otherwise provided herein, each circuit court clerk shall keep order books recording all proceedings, orders and judgments of the court in all matters, all decrees, and decretal orders of such court and all matters pertaining to trusts, the appointment and qualification of trustees, committees, administrators, executors, conservators and guardians shall be recorded, except when the same are appointed by the clerk of court, in which event the order appointing such administrators or executors, shall be made and entered in the clerk's order book. In any circuit court, the clerk may, with the approval of the chief judge of the court, by order entered of record, divide the order book into two sections, to be known as the civil order book and the criminal order book. All proceedings, orders and judgments of the court in all matters at civil law shall be recorded in the civil order book, and all proceedings, orders and judgments of the court in all matters at criminal law shall be recorded in the criminal order book. In any proceeding brought for the condemnation of property, all proceedings, orders, judgments and decrees of the court shall be recorded in the civil order book of the court. The recordation prior to January 1, 1974, of all proceedings, orders, judgments and decrees in such cases, whether entered in the common-law order book or the chancery order book of any court, is hereby declared a valid and proper recordation of the same. Orders in cases appealed from the juvenile and domestic relations district courts shall be maintained as provided in this section and, to the extent inconsistent with this section, § 16.1-302.

The clerk shall ensure that these order books have been microfilmed ~~or~~, converted to, or created in an electronic format. Such microfilm and microphotographic processes and equipment shall meet state microfilm standards, and such electronic format shall follow state electronic records guidelines, pursuant to § 42.1-82. The clerk shall further provide the master reel of any such microfilm for storage in the Library of Virginia and shall provide for the secured, off-site back up of any electronic copies of such records.

§ 17.1-224. Copy of illegible instrument used for making permanent photostat record.

In offices of clerks of courts of record in which instruments are recorded by any photographic or electronic imaging process, the clerk may, in the event any such instrument is in such condition that a perfect and legible record cannot be produced by such process, make and certify a copy of such instrument, for which he shall be entitled to such fees as are prescribed by law for making and certifying copies of instruments, and use such copy for making permanent records of his office by such photographic or electronic imaging process. Such original instrument shall be preserved in the clerk's office, in the same manner as is prescribed by law for preserving wills.

§ 17.1-258.3. Electronic filing in civil or criminal proceedings.



~~A clerk of circuit court may establish a system for electronic filing in civil or criminal actions that proceedings may be established and shall be governed by Rule 1:17 of the Rules of the Supreme Court of Virginia. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to file documents electronically, specifying the electronic Electronic filing procedures to be followed, including, but not limited to, shall include security procedures, as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), for transmitting signed or notarized documents.~~

§ 17.1-258.4. Signature; when effective as original; notarization; seal.

A. If the electronically filed document contains an electronic signature pursuant to the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), any statutory requirement for original signature shall be deemed to be satisfied.

B. Any statutory requirement for a document to be notarized shall be deemed satisfied by the appropriately executed electronic signature of such notary pursuant to the Virginia Notary Act (§ 47.1-1 et seq.).

C. When a seal or stamp is required to be affixed by any court or clerk on a document, the attachment of an official electronic seal or official electronic stamp to the electronic document is sufficient. “Official electronic seal” and “official electronic stamp” mean an electronic image of a seal or stamp, respectively, of the court or clerk, which is produced by software applications authorized by the clerk that are protected by system credentials to which only the clerk or persons authorized by the clerk have access.

§17.1-258.6. Acceptability of electronic medium.

A. In connection with civil proceedings in circuit court, any statutory requirement for an original, original paper, paper, record, document, facsimile, memorandum, exhibit, certification or transcript shall be satisfied if such is in an electronic form approved for filing under the Rules of the Supreme Court. However, this section shall not apply to documents the form of which is specified in any statute governing the creation and execution of wills, codicils, testamentary trusts, premarital agreements and negotiable instruments.

B. Notwithstanding any other provision of law, any statutory authorization for the use of copies or reproductions in civil proceedings in circuit court shall be satisfied by use of such copies or reproductions in hard copy or electronic form approved for filing under the Rules of the Supreme Court.

## EMERGENCY PREPAREDNESS AND RESPONSE

A BILL to amend the Code of Virginia by adding a section numbered 16.1-69.11:1, relating to district courts; acting chief judge.

**Be it enacted by the General Assembly of Virginia:**

1. That the Code of Virginia is amended by adding a section numbered 16.1-69.11:1 as follows:

§ 16.1-69.11:1. Acting chief judge.

If the chief judge of a district court is unable to perform the duties required by law, the chief judge shall notify the other judges of such district court, or if the chief judge is unable to notify the other judges, the judge longest in continuous service who is available shall provide such notice, and the judge longest in continuous service who is available shall be the acting chief judge, and perform such duties during the chief judge's absence. If two or more judges of such district court have served for the same period, the judge most senior in years shall be the acting chief judge. Upon assuming such duties, the acting chief judge shall immediately notify the Executive Secretary of the Supreme Court and the other judges of such district court.

When the chief judge is able to resume the duties of chief judge, the chief judge shall immediately notify the Executive Secretary and the other judges of such district court, and thereupon shall resume such duties.

A BILL to amend and reenact § 17.1-114 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 17.1 an article numbered 3, consisting of sections numbered 17.1-330 and 17.1-331, relating to declaration of judicial emergency.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-114 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 17.1 an article numbered 3, consisting of sections numbered 17.1-330 and 17.1-331, as follows:**

§ 17.1-114. When and how changed.

Whenever in the opinion of a circuit court or the judge thereof, the courthouse or other place wherein it is required to hold its session cannot or should not for any reason be occupied by it, or if the same has been destroyed, or is being repaired, renovated, or enlarged, the court may hold its session at such places within the geographical limits of the same judicial circuit as the court may direct by an order to its clerk. The court shall continue to hold its sessions in such other place until the courthouse or its lawful place of session can be occupied, or until another has been built and fitted for the court's occupation, or until such repairs, renovations or additions have been completed, or until some other place is designated by the court. Except as provided in subsection C of § 17.1-330 or this section or as agreed to by all parties to an action, no session of a circuit court shall be held outside the geographical limits of the county or city of which it is the court.

In the interest of justice, the chief judges of the Twenty-first and the Twenty-third Judicial Circuits may, by order, designate one or more of the courtrooms of any circuit court within their respective circuits as the courtroom or courtrooms in which civil or criminal cases whose venue is laid within the circuit may be tried. In criminal cases, jurors summoned to appear at such courtroom or courtrooms shall reside in the locality in which the crime was committed, except as otherwise provided by law.

Article 3. Declaration of Judicial Emergency

§ 17.1-330. Declaration of judicial emergency.

A. A judicial emergency may be declared as provided in this section when a disaster, as defined in § 44-146.16, substantially endangers or impedes the operation of a court, the ability of persons to avail themselves of the court, or the ability of litigants or others to have access to the court or to meet schedules or time deadlines imposed by court order, rule, or statute. Notwithstanding any other provision of law, the Chief Justice of the Supreme Court or, if the Chief Justice is unavailable, the justice longest in continuous service who is available, shall have the power to declare by order a judicial emergency (i) for any court upon the request of the Governor, (ii) for the Supreme Court sua sponte, (iii) for the Court of Appeals, upon the request of the chief judge of the Court of Appeals or, if the chief judge is unavailable, the judge of the Court of Appeals longest in continuous service who is available, or (iv) for any circuit or district court upon the request of the chief judge of the affected circuit or district court or, if the chief judge is unavailable, the judge from the affected circuit or district court longest in continuous service who is available.

B. Any order declaring a judicial emergency shall specify (i) the court or courts and facilities affected by the order; (ii) the nature of the disaster necessitating the order; (iii) the time period or duration of the judicial emergency; and (iv) any other information relevant to the suspension or restoration of court operations, including but not limited to extension of deadlines. The order shall become effective for each affected court upon the date set forth in the order or, if no date is set forth in the order, upon the date the order is signed.

C. Notwithstanding any other provision of law, an order declaring a judicial emergency may designate a neighboring city or county not affected by the disaster for the temporary relocation of the affected circuit or district court. Locations designated under this section may be outside the

geographical limits of the affected court's circuit or district.

If an affected circuit or district court conducts sessions in a city or county not affected by the disaster pursuant to this section, the unaffected city or county shall be a proper venue for civil and criminal actions to the same extent as if the affected court were operating in its original city or county. An affected circuit court may, upon motion of either party, and for good cause shown, summon jurors from the jurisdiction where the affected circuit court has been temporarily relocated.

D. Notwithstanding any other provision of law, such order may suspend, toll, extend, or otherwise grant relief from deadlines, time schedules, or filing requirements imposed by otherwise applicable statutes, rules, or court orders in any court processes and proceedings, including all appellate court time limitations.

E. The duration of the order shall be for the shortest period of time necessary under the circumstances of the emergency, but in no event shall the period exceed 21 calendar days. Any such order may be extended for additional periods not to exceed 21 calendar days by a majority of the justices of the Supreme Court, and any order of extension shall include the information required by subsection B for the issuance of an initial order. In the event of a communicable disease of public health threat, as defined in § 44-146.16, a majority of the justices of the Supreme Court may extend such order for the duration of the threat.

§ 17.1-331. Notice.

Any order declaring a judicial emergency shall be recorded in the order book maintained by the clerk of the Supreme Court, and notice shall be provided to the clerk of the Court of Appeals and all judges and clerks of the courts within any affected circuit or district. Notice to the public shall be given by any means reasonably calculated to inform interested persons and may, without limitation, include publication in a newspaper of local or state-wide distribution, posting of written notices at courthouses and other public facilities, and announcements on television, radio, and the Internet.



Judicial Council of

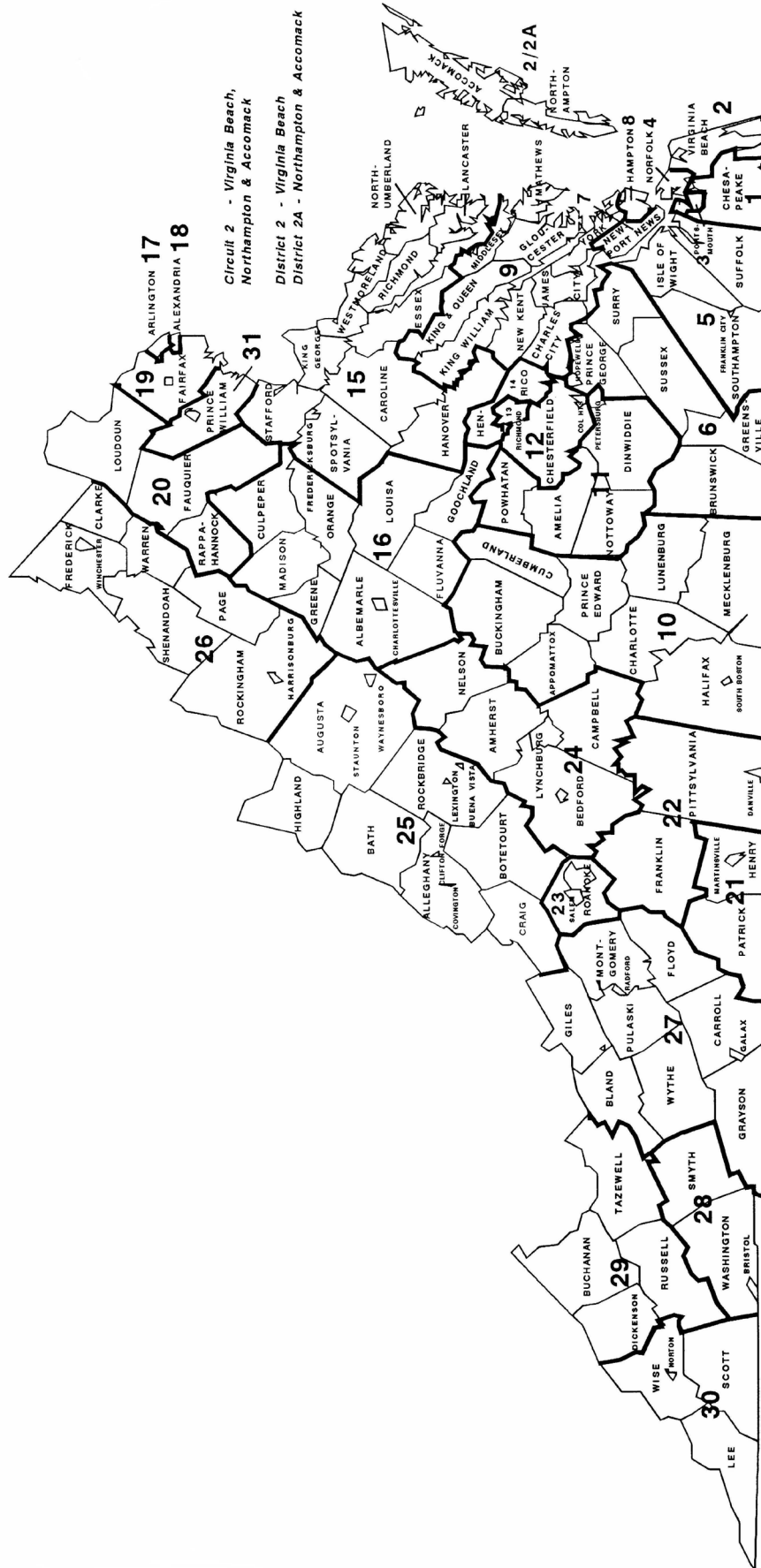
*Virginia*

Map of the Judicial Circuits  
and Districts

2009



# Judicial Circuits and Districts of Virginia





## Virginia Localities by Judicial Circuit/District

|                  |      |                |      |                 |    |
|------------------|------|----------------|------|-----------------|----|
| Accomack         | 2/2A | Giles          | 27   | Powhatan        | 11 |
| Albemarle        | 16   | Gloucester     | 9    | Prince Edward   | 10 |
| Alexandria       | 18   | Goochland      | 16   | Prince George   | 6  |
| Alleghany        | 25   | Grayson        | 27   | Prince William  | 31 |
| Amelia           | 11   | Greene         | 16   | Pulaski         | 27 |
| Amherst          | 24   | Greensville    | 6    | Radford         | 27 |
| Appomattox       | 10   | Halifax        | 10   | Rappahannock    | 20 |
| Arlington        | 17   | Hampton        | 8    | Richmond County | 15 |
| Augusta          | 25   | Hanover        | 15   | Richmond City   | 13 |
| Bath             | 25   | Harrisonburg   | 26   | Roanoke County  | 23 |
| Bedford County   | 24   | Henrico        | 14   | Roanoke City    | 23 |
| Bland            | 27   | Henry          | 21   | Rockbridge      | 25 |
| Botetourt        | 25   | Highland       | 25   | Rockingham      | 26 |
| Bristol          | 28   | Hopewell       | 6    | Russell         | 29 |
| Brunswick        | 6    | Isle of Wight  | 5    | Salem           | 23 |
| Buchanan         | 29   | James City     | 9    | Scott           | 30 |
| Buckingham       | 10   | King and Queen | 9    | Shenandoah      | 26 |
| Buena Vista      | 25   | King George    | 15   | Smyth           | 28 |
| Campbell         | 24   | King William   | 9    | Southampton     | 5  |
| Caroline         | 15   | Lancaster      | 15   | South Boston    | 10 |
| Carroll          | 27   | Lee            | 30   | Spotsylvania    | 15 |
| Charles City     | 9    | Lexington      | 25   | Stafford        | 15 |
| Charlotte        | 10   | Loudoun        | 20   | Staunton        | 25 |
| Charlottesville  | 16   | Louisa         | 16   | Suffolk         | 5  |
| Chesapeake       | 1    | Lunenburg      | 10   | Surry           | 6  |
| Chesterfield     | 12   | Lynchburg      | 24   | Sussex          | 6  |
| Clarke           | 26   | Madison        | 16   | Tazewell        | 29 |
| Colonial Heights | 12   | Manassas       | 31   | Virginia Beach  | 2  |
| Covington        | 25   | Manassas Park  | 31   | Warren          | 26 |
| Craig            | 25   | Martinsville   | 21   | Washington      | 28 |
| Culpeper         | 16   | Mathews        | 9    | Waynesboro      | 25 |
| Cumberland       | 10   | Mecklenburg    | 10   | Westmoreland    | 15 |
| Danville         | 22   | Middlesex      | 9    | Williamsburg    | 9  |
| Dickenson        | 29   | Montgomery     | 27   | Winchester      | 26 |
| Dinwiddie        | 11   | Nelson         | 24   | Wise            | 30 |
| Emporia          | 6    | New Kent       | 9    | Wythe           | 27 |
| Essex            | 15   | Newport News   | 7    | York            | 9  |
| Fairfax County   | 19   | Norfolk        | 4    |                 |    |
| Fairfax City     | 19   | Northampton    | 2/2A |                 |    |
| Falls Church     | 17   | Northumberland | 15   |                 |    |
| Fauquier         | 20   | Norton         | 30   |                 |    |
| Floyd            | 27   | Nottoway       | 11   |                 |    |
| Fluvanna         | 16   | Orange         | 16   |                 |    |
| Franklin County  | 22   | Page           | 26   |                 |    |
| Franklin City    | 5    | Patrick        | 21   |                 |    |
| Frederick        | 26   | Petersburg     | 11   |                 |    |
| Fredericksburg   | 15   | Pittsylvania   | 22   |                 |    |
| Galax            | 27   | Portsmouth     | 3    |                 |    |

| Note        |   |
|-------------|---|
| Circuit 2   | Virginia Beach<br>Accomack<br>Northampton |
| District 2  | Virginia Beach                            |
| District 2A | Accomack<br>Northampton                   |



## Virginia Judicial Circuits and Districts

|    |                  |    |                 |    |                |
|----|------------------|----|-----------------|----|----------------|
| 1  | Chesapeake       | 13 | Richmond        | 25 | Alleghany      |
| 2  | Virginia Beach   | 14 | Henrico         |    | Augusta        |
| 2A | Accomack         | 15 | Caroline        |    | Bath           |
|    | Northampton      |    | Essex           |    | Botetourt      |
| 3  | Portsmouth       |    | Fredericksburg  |    | Buena Vista    |
| 4  | Norfolk          |    | Hanover         |    | Covington      |
| 5  | Franklin City    |    | King George     |    | Craig          |
|    | Isle of Wight    |    | Lancaster       |    | Highland       |
|    | Southampton      |    | Northumberland  |    | Lexington      |
|    | Suffolk          |    | Richmond        |    | Rockbridge     |
|    |                  |    | Spotsylvania    | 26 | Staunton       |
|    |                  |    | Stafford        |    | Waynesboro     |
|    |                  |    | Westmoreland    |    |                |
| 6  | Brunswick        | 16 | Albemarle       |    | Clarke         |
|    | Emporia          |    | Charlottesville |    | Frederick      |
|    | Greensville      |    | Culpeper        |    | Page           |
|    | Hopewell         |    | Fluvanna        |    | Rockingham     |
|    | Prince George    |    | Goochland       |    | Harrisonburg   |
|    | Surry            |    | Greene          |    | Shenandoah     |
|    | Sussex           |    | Louisa          | 27 | Warren         |
| 7  | Newport News     |    | Madiso          |    | Winchester     |
|    |                  |    | Orange          |    |                |
| 8  | Hampton          | 17 | Arlington       |    | Bland          |
|    |                  |    | Falls Church    |    | Carroll        |
| 9  | Charles City     |    |                 |    | Floyd          |
|    | Gloucester       | 18 | Alexandria      |    | Galax          |
|    | James City       |    |                 |    | Giles          |
|    | King & Queen     | 19 | Fairfax County  |    | Grayson        |
|    | King William     |    | Fairfax City    |    | Montgomery     |
|    | Mathews          | 20 | Fauquier        |    | Pulaski        |
|    | Middlesex        |    | Loudoun         |    | Radford        |
|    | New Kent         |    | Rappahannock    | 28 | Wythe          |
|    | Poquoson         |    |                 |    |                |
|    | Williamsburg     | 21 | Henry           |    | Bristol        |
|    | York             |    | Martinsville    |    | Smyth          |
| 10 | Appomattox       |    | Patrick         |    | Washington     |
|    | Buckingham       |    |                 |    |                |
|    | Charlotte        | 22 | Danville        |    | 29             |
|    | Cumberland       |    | Franklin County |    | Buchanan       |
|    | Halifax          |    | Pittsylvania    | 30 | Dickenson      |
|    | Lunenburg        |    |                 |    | Russell        |
|    | Mecklenburg      | 23 | Roanoke City    |    | Tazewell       |
|    | Prince Edward    |    | Roanoke County  |    |                |
| 11 | Amelia           |    | Salem           | 31 | Manassas       |
|    | Dinwiddie        | 24 | Amherst         |    | Manassas Park  |
|    | Nottoway         |    | Bedford City    |    | Prince William |
|    | Petersburg       |    | Bedford County  |    |                |
|    | Powhatan         |    | Campbell        |    |                |
| 12 | Chesterfield     |    | Lynchburg       |    |                |
|    | Colonial Heights |    | Nelson          |    |                |

