

EXECUTIVE SECRETARY  
KARL R. HADE

ASSISTANT EXECUTIVE SECRETARY &  
LEGAL COUNSEL  
EDWARD M. MACON

COURT IMPROVEMENT PROGRAM  
SANDRA L. KARISON, DIRECTOR

EDUCATIONAL SERVICES  
CAROLINE E. KIRKPATRICK, DIRECTOR

FISCAL SERVICES  
BARRY M. WENZIG, DIRECTOR

HUMAN RESOURCES  
RENÉE FLEMING MILLS, DIRECTOR

## SUPREME COURT OF VIRGINIA



OFFICE OF THE EXECUTIVE SECRETARY  
100 NORTH NINTH STREET  
RICHMOND, VIRGINIA 23219-2334  
(804) 786-6455

JUDICIAL INFORMATION TECHNOLOGY  
MICHAEL J. RIGGS, SR., DIRECTOR

JUDICIAL SERVICES  
PAUL F. DELOSH, DIRECTOR

LEGAL RESEARCH  
STEVEN L. DALLE MURA, DIRECTOR

LEGISLATIVE & PUBLIC RELATIONS  
ALISA W. PADDEN, DIRECTOR

MAGISTRATE SERVICES  
JONATHAN E. GREEN, DIRECTOR

January 9, 2023

Members of the General Assembly of Virginia  
Pocahontas Building  
900 East Main Street  
Richmond, VA 23219

Justices of the Supreme Court of Virginia  
Supreme Court of Virginia  
100 North Ninth Street  
Richmond, VA 23219-1315

Re: 2022 Report of the Judicial Council of Virginia

Dear Members of the General Assembly and Justices of the Supreme Court of Virginia:

As Secretary of the Judicial Council of Virginia, I am pleased to submit the 2022 Report of the Judicial Council, as required by Code § 17.1-705.

If you have any questions, please do not hesitate to contact me.

With best wishes, I am

Very truly yours,

A handwritten signature in black ink that reads "KRH".

Karl R. Hade

KRH:jrp


cc: Division of Legislative Automated System

2022


# Judicial Council of Virginia



**General Assembly  
and  
Supreme Court of Virginia**



**The Judicial Council of Virginia**  
**2022 Report to the General Assembly and Supreme Court of Virginia**  
**Supreme Court of Virginia, Office of the Executive Secretary**  
**Richmond, Virginia**  
**Published January 2023**



# Table of Contents

The Judicial Council of Virginia ..... ii

Organizational Chart of Virginia’s Judicial System .....iii

I. Proceedings of the Judicial Council of Virginia ..... 1

    Update on Study of the Security of Judicial Officers

    Revision of Standards to Govern the Appointment of Guardians Ad Litem for Children

    The Honorable Harry L. Carrico Outstanding Career Service Award

    Legislative Proposals for the 2023 Session of the General Assembly

II. Recommended Changes to Rules of Court ..... 10

    Background

    Rule Changes Recommended by the Judicial Council and Adopted by the Supreme Court of Virginia in 2022

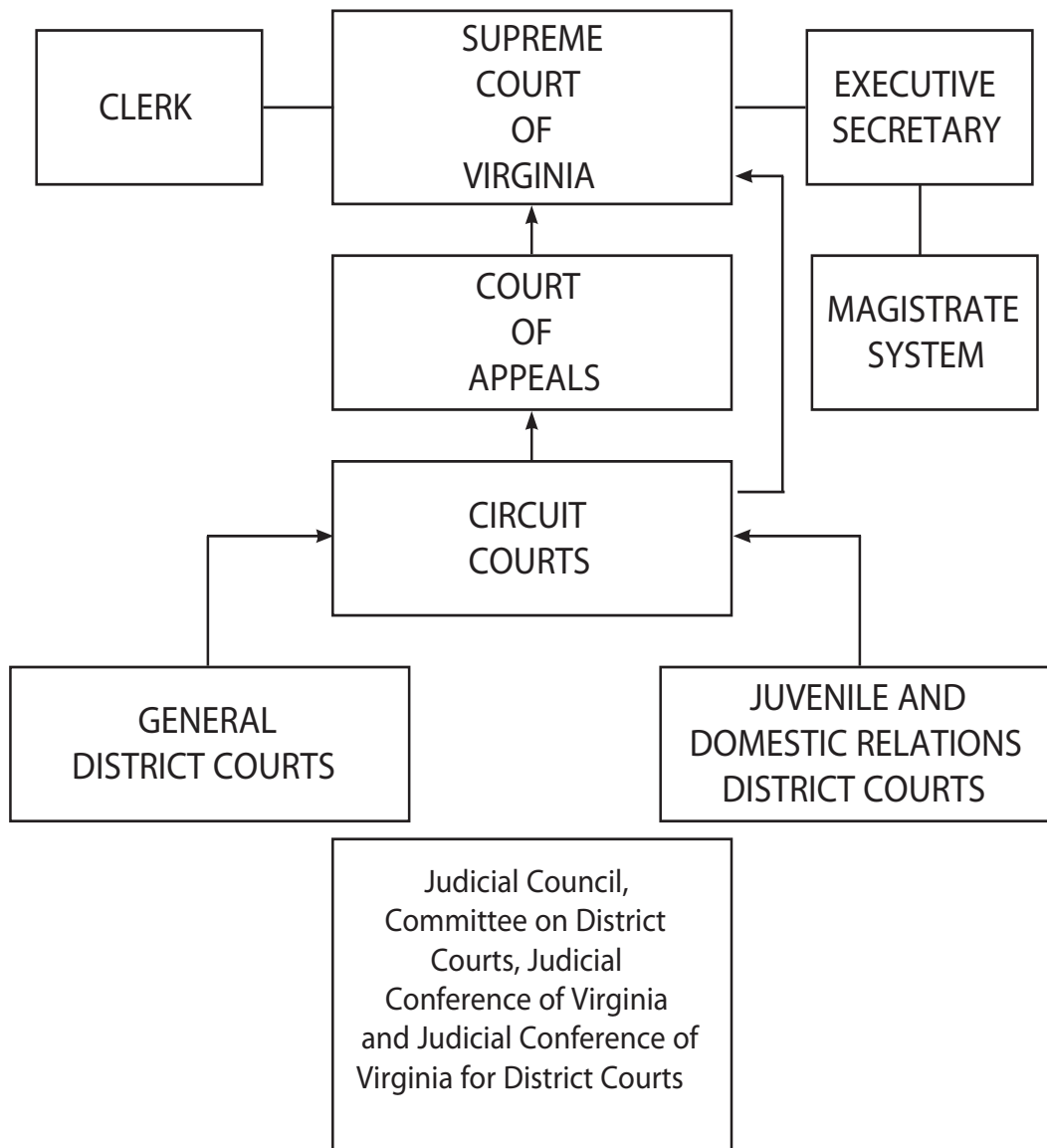
# THE JUDICIAL COUNCIL OF VIRGINIA

Membership as of December 31, 2022

The Honorable S. Bernard Goodwyn	Chief Justice, Supreme Court of Virginia
The Honorable Marla Graff Decker	Chief Judge, Court of Appeals of Virginia
The Honorable Jerrauld C. Jones	Judge, Fourth Judicial Circuit
The Honorable Douglas L. Fleming, Jr.	Judge, Twentieth Judicial Circuit
The Honorable Cheryl V. Higgins	Judge, Sixteenth Judicial Circuit
The Honorable Stacey Moreau	Judge, Twenty-Second Judicial Circuit
The Honorable Deanis Simmons	Judge, Twenty-Eighth Judicial Circuit
The Honorable Jacqueline S. McClenney	Judge, Thirteenth Judicial Circuit
The Honorable Jay E. Dugger	Judge, Eighth Judicial District
The Honorable George Barton Chucker	Judge, Fourteenth Judicial District
The Honorable John S. Edwards	Co-Chair, Senate Judiciary, Senate of Virginia
The Honorable R. Creigh Deeds	Co-Chair, Senate Judiciary, Senate of Virginia
The Honorable James A. Leftwich, Jr.	Member, House Courts of Justice, House of Delegates
Monica Taylor Monday, Esquire	Attorney-at-Law, Member of the Bar of the City of Roanoke
Michael N. Herring, Esquire	Attorney-at-Law, Member of the Bar of the City of Richmond
Karl R. Hade*	Executive Secretary

\*Ex-officio

## VIRGINIA JUDICIAL SYSTEM



Route of Appeal →

## I. PROCEEDINGS OF THE JUDICIAL COUNCIL OF VIRGINIA

### INTRODUCTION

The Judicial Council of Virginia was established by statute in 1930. Council is charged with making a continuous study of the organization and the rules and methods of procedure and practice of the judicial system of the Commonwealth of Virginia, including examining the work accomplished and results produced by the judicial system. See Va. Code § 17.1-703.

### PROCEEDINGS OF THE JUDICIAL COUNCIL

#### Update on Study of the Security of Judicial Officers

In 2021, the Judicial Council supported a proposal by the Executive Committee of the Judicial Conference of Virginia to study issues relating to the security of judicial officers over the course of 2022. Any legislative proposals that resulted from the study might then be considered for the 2023 General Assembly Session.

Chief Justice Goodwyn appointed a study group chaired by Justice Cleo Powell that was comprised of judges at all court levels, magistrates, and staff in the Office of the Executive Secretary. The study group proposed, and the Judicial Council approved three legislative proposals that are included below among those for the 2023 Session of the General Assembly. In addition, Council approved a request that the study group continue to meet and study additional security needs of judicial officers including suitable physical facilities for judges and magistrates, best practices for magistrate facilities, and office/home security audits.

#### *Revision of Standards to Govern the Appointment of Guardians Ad Litem for Children*

The Standards to Govern the Appointment of Guardians Ad Litem for Children (Appointment Standards) establish certain time periods within which requirements to qualify and maintain qualification as a guardian ad litem (GAL) for children must be met. During 2022, Council approved changes to the requirements to become qualified and to maintain qualification as a GAL. Based upon experiences during the recent pandemic, Council approved authorizing the Office of the Executive Secretary (OES) to grant extensions to the time period within which an attorney must complete the requirements to become qualified as a GAL to attorneys who complete their continuing legal education requirement during a period of declared judicial emergency upon a reasonable request. Similarly, Council approved a proposal authorizing OES, upon reasonable request, to extend the period for a qualified GAL who experienced an inability to meet the requirement of six hours of continuing legal education (CLE) every two years to maintain qualification. During the pandemic, the cessation of in-person training events and connectivity issues for online trainings—particularly for attorneys practicing in rural areas—hampered compliance with educational requirements.

## **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, Chief Justice of Virginia from 1981 to 2003. 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 latest recipient of this award, selected in 2021 for presentation in 2022, was the Honorable Donald W. Lemons, now a senior justice of the Supreme Court of Virginia. Justice Lemons began his career as a probation officer. His interactions with lawyers and judges later inspired him to attend law school. Justice Lemons went on to work in private practice as a trial attorney handling civil, criminal, and domestic matters before joining the bench.

Senior Justice Lemons has served at every level of the court system in Virginia. He served as a substitute judge in General District Court and in Juvenile and Domestic Relations Court. In 1995, he was elected by the General Assembly to be a judge in the Circuit Court of the City of Richmond where he established one of the Commonwealth's first drug treatment court dockets. He was then elected by the General Assembly to serve as a judge on the Court of Appeals of Virginia. In 2000, he was elected by the General Assembly as a justice of the Supreme Court of Virginia and again in 2012. Senior Justice Lemons was twice elected Chief Justice by the Justices of the Supreme Court of Virginia and retired on February 1, 2022.

Justice Lemons has been a professor of law at the law schools of Washington & Lee University, the University of Richmond, and the University of Virginia. In 2016, he received the William R. Rakes Leadership in Education Award from the Virginia State Bar. In 2019, he was the recipient of the Lewis F. Powell Award for Professionalism and Ethics presented by the American Inns of Court. Justice Lemons has written and spoken extensively and has served in numerous civic and legal leadership roles including as an honorary member of the Middle Temple Inn of Court in London and as president of the American Inns of Court.



## LEGISLATIVE PROPOSALS FOR THE 2023 SESSION OF THE GENERAL ASSEMBLY

### *Security of Judicial Officers*

#### **1. Include Judicial Officers in Felony Offense Provision for Use of a Person's Personal Information With the Intent to Coerce, Intimidate, or Harass**

This proposal would amend Va. Code § 18.2-186.4 to include active or retired judicial officers in the felony offense provision that applies to a person who publishes identifying information online with the intent to coerce, intimidate or harass another person. The felony provision currently only applies to law enforcement officers.

#### **§ 18.2-186.4. Use of a person's identity with the intent to coerce, intimidate, or harass; penalty.**

It shall be unlawful for any person, with the intent to coerce, intimidate, or harass another person, to publish the person's name or photograph along with identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection C of § 18.2-186.3, or identification of the person's primary residence address. Any person who violates this section is guilty of a Class 1 misdemeanor.

Any person who violates this section knowing or having reason to know that person is a law-enforcement officer, as defined in § 9.1-10, or an active or retired federal or Virginia justice, judge or magistrate is guilty of a Class 6 felony. The sentence shall include a mandatory minimum term of confinement of six months.

#### **2. Prohibition of Online Publication of Personal Information of Judicial Officers by the Commonwealth**

This proposal would amend Va. Code § 18.2-186.4:1 to prohibit the Commonwealth from publishing personal information of judicial officers on the internet. The proposed amendments would remove the requirements that a judicial officer demonstrate a specific threat or fear of a safety risk, obtain a court order prohibiting such publication, and make a demand in writing to the Commonwealth.

#### **§ 18.2-186.4:1. Internet publication of personal information of certain public officials.**

A. The Commonwealth shall not publish on the Internet the personal information of any public official if a court has, pursuant to subsection B, ordered that the official's personal information is prohibited from publication and the official has made a demand in writing to the Commonwealth, accompanied by the order of the court, that the Commonwealth not publish such information.

B. Any public official may petition a circuit court for an order prohibiting the publication on the Internet, by the Commonwealth, of the official's personal information. The petition shall set forth the specific reasons that the official seeks the order. The court shall issue such an order only if it finds that (i) there exists a threat to the official or a person who resides with him that would result from publication of the information or (ii) the official has demonstrated a reasonable fear of a risk to his safety or the safety of someone who resides with him that would result from publication of the information on the Internet.

C. If the Commonwealth publishes the public official's personal information on the Internet prior to receipt of a written demand by the official under subsection A or subsection E, it shall remove the information from publication on the Internet within 48 hours of receipt of the written demand.

D. A written demand made by any public official pursuant to this section shall be effective for four years as follows:

1. For a law-enforcement officer, if the officer remains continuously employed as a law-enforcement officer throughout the four-year period;
- ~~2. For a federal or state judge or justice, if such public official continuously serves throughout the four-year period, and~~
32. For an attorney for the Commonwealth, if such public official continuously serves throughout the four-year period.

E. The Commonwealth shall not publish on the Internet the personal information of any active or retired federal or Virginia justice, judge or magistrate.

EF. For purposes of this section:

“Commonwealth” means any agency or political subdivision of the Commonwealth of Virginia.

“Law-enforcement officer” means the same as that term is defined in § 9.1-101, 5 U.S.C. § 8331(20), excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20), and any other federal officer or agent who is credentialed with the authority to enforce federal law.

“Personal information” means home address, home telephone numbers, personal cell phone numbers, or personal email address.

“Publication” and “publishes” means intentionally communicating personal information to, or otherwise making personal information available to, and accessible by, the general public through the Internet or other online service.

“Public official” means any ~~state or federal judge or justice~~, law-enforcement officer, or attorney for the Commonwealth.

FG. No provision of this section shall apply to lists of registered voters and persons who voted, voter registration records, or lists of absentee voters prepared or provided under Title 24.2.

### **3. Allow Magistrates to Provide a Post Office Box, to be Included in Lieu of Street Address, on Voter Lists**

#### **§ 24.2-418. Application for registration.**

...

B. The form shall permit any individual, as follows, or member of his household, to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, on voter registration records made available for public inspection pursuant to § 24.2-444, or on lists of absentee voter applicants furnished pursuant to § 24.2-706 or 24.2-710. The voter shall comply with the provisions of § 24.2-424 for any change in the post office box address provided under this subsection.

1. Any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C. § 8331(20), but excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20);
  2. Any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia;
  3. Any party who has furnished a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him;
  4. Any party participating in the address confidentiality program pursuant to § 2.2-515.2;
  5. Any active or retired federal or Virginia justice, ~~or judge~~ or magistrate and any active or retired attorney employed by the United States Attorney General or Virginia Attorney General; and
  6. Any person who has been approved to be a foster parent pursuant to Chapter 9 (§ 63.2-900 et seq.) of Title 63.2.
- ...

***Technical Corrections to Court of Appeals Jurisdiction***

This proposal would make technical corrections to the jurisdiction of the Court of Appeals (“CAV”) that are necessitated by a recent legislative change. Senate Bill 715 from the 2022 Session of the General Assembly eliminated the CAV’s jurisdiction over petitions for review under Va. Code §§ 8.01-626 and 8.01-675.5(B), making such petitions reviewable directly by the Supreme Court. However, that bill left Code § 8.01-675.5(B) (petitions for review of immunity rulings) in Chapter 26.1 (Appeals to the Court of Appeals).

The proposal below moves the provisions for reviewing immunity rulings from 8.01-675.5(B) to 8.01-670.1—in Chapter 26 (Appeals to the Supreme Court)—where that power originally resided before the CAV’s expansion in 2021. A conforming change is made to Va. Code § 8.01-626.

This proposal leaves Code § 8.01-675.5(A) (certified-questions-of-law appeals) in Chapter 26.1, as the CAV retains jurisdiction over those appeals. This proposal also restores the reference in Code § 17.1-405(4) to the CAV’s jurisdiction over those certified-question appeals.

**§ 8.01-626. Review of injunction; petitions for review.**

When a circuit court (i) grants a preliminary or permanent injunction, (ii) refuses such an injunction, (iii) having granted such an injunction, dissolves or refuses to enlarge it, or (iv) enters an order reviewable pursuant to ~~subsection B of § 8.01-675.5~~ § 8.01-670.1, an aggrieved party may file a petition for review with the clerk of the Supreme Court within 15 days of the circuit court’s order.

The clerk shall assign the petition to a three-justice panel of the Supreme Court. The aggrieved party shall serve a copy of the petition for review on the counsel for the opposing party, which may file a response within seven days from the date of service unless the court determines a shorter time frame. The petition for review shall be accompanied by a copy of the proceedings before the circuit court, including the original papers and the circuit court’s order respecting the injunction. The Supreme Court may take such action thereon as it considers appropriate under the circumstances of the case.

Nothing in this section shall be construed to prevent the Supreme Court from resolving a petition for review by an order joined by more than three justices.

**§ 8.01-670.1. Appeal of interlocutory orders and decrees; immunity.**

A. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for review with the Supreme Court in accordance with the procedures set forth in § 8.01-626.

B. No petition under this section shall stay proceedings in the circuit court unless the circuit court or the Supreme Court orders such a stay upon a finding that (i) the petition could be dispositive of the entire civil action or (ii) there exists good cause, other than the pending petition or appeal, to stay the proceedings.

C. The failure of a party to seek interlocutory review under this section shall not preclude review of the issue on appeal from a final order. An order by the Supreme Court denying interlocutory review under this section shall not preclude review of the issue on appeal from a final order, unless the order denying such interlocutory review provides for such preclusion.

**§ 8.01-675.5. Appeal of interlocutory orders and decrees by permission.**

A. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order or decree that is not otherwise appealable, any party may file in the circuit court a motion requesting that the circuit court certify such order or decree for interlocutory appeal. The motion shall include a concise analysis of the statutes, rules, or cases believed to be determinative of the issues and request that the court certify in writing that the order or decree involves a question of law as to which (i) there is substantial ground for difference of opinion; (ii) there is no clear, controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of Appeals of Virginia; (iii) determination of the issues will be dispositive of a material aspect of the proceeding currently pending before the court; and (iv) it is in the parties' best interest to seek an interlocutory appeal. If the request for certification is opposed by any party, the parties may brief the motion in accordance with the Rules of Supreme Court of Virginia.

Within 15 days of the entry of an order by the circuit court granting such certification, a petition for appeal may be filed with the Court of Appeals. If the Court of Appeals determines that the certification by the circuit court has sufficient merit, it may, in its discretion, permit an appeal to be taken from the interlocutory order or decree and shall notify the certifying circuit court and counsel for the parties of its decision.

The consideration of any petition and appeal by the Court of Appeals shall be in accordance with the applicable provisions of the Rules of the Supreme Court of Virginia and shall not take precedence on the docket unless the court so orders.

~~B. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for review with the Supreme Court in accordance with the procedures set forth in § 8.01-626.~~

EB. No petitions or appeals under this section shall stay proceedings in the circuit court unless the circuit court or appellate court orders such a stay upon a finding that (i) the petition or appeal could be dispositive of the entire civil action or (ii) there exists good cause, other than the pending petition or appeal, to stay the proceedings.

EC. The failure of a party to seek interlocutory review under this section shall not preclude review of the issue on appeal from a final order. An order by the Supreme Court or Court of Appeals denying interlocutory review under this section shall not preclude review of the issue on appeal from a final order, unless the order denying such interlocutory review provides for such preclusion.

**§ 17.1-405. Appellate jurisdiction — Administrative agency, Virginia Workers’ Compensation Commission, and civil matter appeals.**

Unless otherwise provided by law, any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;
2. Any final decision of the Virginia Workers’ Compensation Commission;
3. Except as provided in subsection B of § 17.1-406, any final judgment, order, or decree of a circuit court in a civil matter;
4. Any interlocutory decree or order pursuant to § 8.01-267.8 or 8.01-675.5;
5. Any interlocutory decree or order involving an equitable claim in which the decree or order (i) requires money to be paid or the possession or title of property to be changed or (ii) adjudicates the principles of a cause; or
6. Any final judgment, order, or decree of a circuit court (i) involving an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (ii) involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iii) for declaratory or injunctive relief under § 57-2.02.

***OES to be Responsible for Approval of Parent Education Seminars***

In 2000, the Virginia General Assembly, acting on recommendations of an OES advisory committee, passed a law that mandated educational seminars for parties to a petition where child custody, visitation, or support is contested. In the absence of language concerning program oversight authority, it was the assumption of advisory committee members that oversight would remain with OES, where the recommendations originated. Advisory committee members voluntarily performed these oversight tasks until 2006, when OES hired a Parent Education Coordinator to formally oversee all aspects of the

program. This arrangement continued until 2012 when a review of the statutory language resulted in the conclusion that the statute gives authority to the local courts to approve the program providers.

This proposal would give OES the authority to approve new providers, rather than simply recommending them for approval by the local courts. OES would continue to exercise oversight authority and vet and train seminar providers. This will streamline the process of overseeing and approving parent education seminars for OES.

**§ 16.1-278.15. Custody or visitation, child or spousal support generally.**

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the ~~court~~ Office of the Executive Secretary of the Supreme Court of Virginia. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court’s discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party’s ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. Upon request of either party, the court may also order that support payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700.

...

**§ 20-103. Court may make orders pending suit for divorce, custody or visitation, etc.**

A. In suits for divorce, annulment and separate maintenance, and in proceedings arising under subdivision A 3 or subsection L of § 16.1-241, the court having jurisdiction of the matter may, at any time pending a suit pursuant to this chapter, in the discretion of such court, make any order that may be proper (i) to compel a spouse to pay any sums necessary for the maintenance and support of the

petitioning spouse, including (a) an order that the other spouse provide health care coverage for the petitioning spouse, unless it is shown that such coverage cannot be obtained, or (b) an order that a party pay secured or unsecured debts incurred jointly or by either party, (ii) to enable such spouse to carry on the suit, (iii) to prevent either spouse from imposing any restraint on the personal liberty of the other spouse, (iv) to provide for the custody and maintenance of the minor children of the parties, including an order that either party or both parties provide health care coverage or cash medical support, or both, for the children, (v) to provide support, calculated in accordance with § 20-108.2, for any child of the parties to whom a duty of support is owed and to pay or continue to pay support for any child over the age of 18 who meets the requirements set forth in subsection C of § 20-124.2, (vi) for the exclusive use and possession of the family residence during the pendency of the suit, (vii) to preserve the estate of either spouse, so that it be forthcoming to meet any decree which may be made in the suit, (viii) to compel either spouse to give security to abide such decree, or (ix)(a) to compel a party to maintain any existing policy owned by that party insuring the life of either party or to require a party to name as a beneficiary of the policy the other party or an appropriate person for the exclusive use and benefit of the minor children of the parties and (b) to allocate the premium cost of such life insurance between the parties, provided that all premiums are billed to the policyholder. Nothing in clause (ix) shall be construed to create an independent cause of action on the part of any beneficiary against the insurer or to require an insurer to provide information relating to such policy to any person other than the policyholder without the written consent of the policyholder. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the ~~court~~ Office of the Executive Secretary of the Supreme Court of Virginia except that the court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding.

## II. RECOMMENDED CHANGES TO RULES OF COURT

### Background

Article VI, Section 5 of the Constitution of Virginia authorizes the Supreme Court of Virginia to promulgate rules governing the practice and procedures in the courts of the Commonwealth.

In 1974, the Judicial Council of Virginia established the Advisory Committee on Rules of Practice and Procedure in Virginia Courts to provide members of the Virginia State Bar and other interested participants 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, Bar, and public, and recommending proposed changes to the Judicial Council for its consideration; (b) keeping the Rules up-to-date in light of procedural and legislative changes; and (c) suggesting desirable changes to clarify ambiguities and eliminate inconsistencies in the Rules.

Rules recommended by the Council and subsequently adopted by the Supreme Court are published in Volume 11 of the Code of Virginia. All orders of the Supreme Court amending the Rules, along with an updated version of the Rules that incorporates the amendments as they become effective, are posted on Virginia's Judicial System website at <http://www.vacourts.gov/courts/scv/rules.html>.

### **RULE CHANGES RECOMMENDED BY THE JUDICIAL COUNCIL AND ADOPTED BY THE SUPREME COURT OF VIRGINIA IN 2022**

At the May 5, 2022, meeting, Judicial Council considered and recommended to the Supreme Court these changes to the Rules of the Supreme Court of Virginia:

- cleanup amendments to change “attorney’s fees” to “attorney fees” in Rules 1:5A(d), 3:19, 3:25, 4:5, and 4:12;
- amendments to the attorney-fee provisions in Parts 5 and 5A, synchronizing Rules 5:35 and 5A:30;
- cleanup amendments to conform using lower-case letters for subsections in eight rules (Rules 1:18, 1:23, 2:505, 2:508, 3:24, 3:25, 7A:16, and 7B:12);
- amendments to Rule 4:1(b)(4)(A) to protect draft expert disclosures and certain communications with counsel;
- amendments to the notice-of-appeal form accompanying Rule 5A:6 to align it with the fillable-PDF form; and
- an amendment to Rule 5:11 to change from 55 to 60 days the time to file a written statement in lieu of a transcript, consistent with recent changes to Rule 5A:8.



These Rules were amended by Order dated June 13, 2022, effective August 12, 2022.

At the October 18, 2022, meeting, Judicial Council considered and recommended to the Supreme Court these changes to the Rules of the Supreme Court of Virginia:

- amend Rule 1:16 to prohibit the filing of condensed transcripts;
- amend Rule 1:26 to clarify that the party filing an electronic exhibit is responsible for ensuring its readability;
- adopt proposed Rule 3:14A, requiring notice to the Attorney General of a constitutional challenge to a Virginia statute or regulation and providing the Attorney General an opportunity to intervene;
- amend Rules 5:4 (Advisory Note), 5:30, and 5A:23 to revise the rules governing the filing of amicus briefs;
- amend Rules 5A:19 and 5A:20 to allow the Attorney General in *Anders* cases to file a single brief in opposition to the opening brief and any supplemental brief filed by the pro se appellant;
- amend Rules 5A:19, 5A:20, and 5A:21 to require that merits briefs in the Court of Appeals cite either the Record or the Joint Appendix; and
- amend Rule 5A:25 to dispense with the appendix requirement for pro se incarcerated appellants.

These Rules were amended by Order dated November 10, 2022, effective January 9, 2023.