

RULES OF SUPREME COURT OF VIRGINIA
PART ONE
RULES APPLICABLE TO ALL PROCEEDINGS

Rule 1:24. Requirements for Court Payment Agreements for the Collection of Fines and Costs.

The purposes of the statutory court collection process are (i) to facilitate the payment of fines, court costs, penalties, restitution and other financial responsibilities assessed against defendants convicted of a criminal offense or traffic infraction, (ii) to collect the monies due to the Commonwealth and localities as a result of these convictions, and (iii) to assure payment of court-ordered restitution to victims of crime. To achieve these purposes, this Rule is intended to ensure that all courts approve deferred and installment payment agreements consistent with §§ [19.2-354](#), [19.2-354.1](#), and the provisions of this Rule and to further the legal values of predictability, fairness, and similarity in the collection of fines, court costs, penalties, and restitution throughout the courts of the Commonwealth.

(a) *Definitions.* —

- (1) “Fines and costs” shall mean all the fines, court costs, forfeitures, and penalties assessed in all cases by a single court against a defendant for the commission of crimes or traffic infractions. “Fines and costs” shall also include restitution unless the court orders a separate payment schedule for restitution.
- (2) An “installment payment agreement” is an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.
- (3) A “deferred payment agreement” is an agreement in which the defendant agrees to pay the full amount of the fines and costs at the end of the agreement’s stated term and no installment payments are required.
- (4) A “modified deferred payment agreement” is a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

(b) *Access to payment alternatives.* — Any defendant who is unable to pay in full fines and costs for a particular offense within 30 days of conviction, or other disposition authorized by law, must be offered by the convicting court the opportunity to enter into a deferred payment agreement, a modified deferred payment agreement or an installment payment agreement to pay those fines and costs. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely because (i) the defendant previously defaulted under the terms of a payment agreement, (ii) the fines and costs have been referred for collection pursuant to § [19.2-349](#), (iii) a defendant has not established a

payment history, (iv) of the category of offense for which the defendant was convicted or found not innocent, or (v) of the total amount of all fines and costs.

(c) *Notice of payment alternatives.* — The court shall give the defendant written notice of deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work.

(d) *Conditions of a payment agreement.* — All the fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement ~~shall~~must include only those outstanding fines and costs for which the limitations period set forth in § [19.2-341](#) has not run.

In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court ~~shall~~must take into account the defendant's financial resources and obligations, including any fines and costs the defendant owes in other courts. In assessing the defendant's ability to pay, the court ~~shall~~must use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The court may require the defendant to ~~present a compliance summary prepared by the Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs~~ determine his financial resources and obligations.

The length of a payment agreement and the amount of the payments shall not be based solely on the amount of fines and costs and shall be reasonable in light of the defendant's financial resources and obligations.

If a down payment is required to enter into a payment agreement, it shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, if the fines and costs owed are \$500 or less, the required down payment may not exceed 10 percent of such amount owed or, if the fines and costs owed are more than \$500, the required down payment may not exceed 5 percent of such amount owed or \$50, whichever is greater. A defendant may choose to make a larger down payment.

Where available, the court may provide community service work as an option to defray fines and costs, especially when the defendant is indigent or otherwise unable to make meaningful payments. Any portion of the community service completed should be credited to the defendant's obligations. Community service shall not be credited against any amount owed as restitution, the interest which has accrued on restitution, and any collection fee required.

At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing, on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

(e) *Timeliness of payments.* — Any payment which is received within 10 days of the date due shall be considered timely made.

(f) *Combined payment agreements.* — The court may offer a payment agreement combining an appropriate initial period during which no payment of fines and costs is required, followed by a period of installment payments. Such a combined payment plan may be appropriate when the defendant is incarcerated, but should not be limited only to these circumstances.

(g) *Re-entry into a payment agreement after default.* — A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances.

A court shall require a down payment to enter into a subsequent payment agreement, provided that (i) if the fines and costs owed are \$500 or less, the required down payment shall not exceed 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, the required down payment shall not exceed 5 percent of such amount or \$50, whichever is greater.

Promulgated by Order dated November 1, 2016; effective February 1, 2017.

Last amended by Order dated January 12, 2021; effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART ONE
RULES APPLICABLE TO ALL PROCEEDINGS

Rule 1:25. Specialty Dockets.

(a) *Definition of and Criteria for Specialty Dockets.* —

- (1) When used in this Rule, the term “specialty dockets” refers to specialized court dockets within the existing structure of Virginia's circuit and district court system offering judicial monitoring of intensive treatment, supervision, and remediation integral to case disposition.
- (2) Types of court proceedings appropriate for grouping in a “specialty docket” are those which (i) require more than simply the adjudication of discrete legal issues, (ii) present a common dynamic underlying the legally cognizable behavior, (iii) require the coordination of services and treatment to address that underlying dynamic, and (iv) focus primarily on the remediation of the defendant in these dockets. The treatment, the services, and the disposition options are those which are otherwise available under law.
- (3) Dockets which group cases together based simply on the area of the law at issue, e.g., a docket of unlawful detainer cases or child support cases, are not considered “specialty dockets.”

(b) *Types of Specialty Dockets.* — The Supreme Court of Virginia currently recognizes only the following three types of specialty dockets: (i) drug treatment court dockets as provided for in the Drug Treatment Court Act, § 18.2-254.1, (ii) veterans dockets, and (iii) behavioral/~~mental~~ health dockets as provided for in the Behavioral Health Docket Act, § 18.2-254.3. Drug treatment court dockets offer judicial monitoring of intensive treatment and strict supervision in drug and drug-related cases. The dispositions in the family drug treatment court dockets established in juvenile and domestic relations district courts may include family and household members as defined in Virginia Code § 16.1-228. Veterans dockets offer eligible defendants who are veterans of the armed services with substance dependency or mental illness a specialized criminal specialty docket that

is coordinated with specialized services for veterans. Behavioral/mental health dockets offer defendants with diagnosed behavioral or mental health disorders judicially supervised, community-based treatment plans, which a team of court staff and mental health professionals design and implement.

- (c) *Authorization Process.* — A circuit or district court which intends to establish one or more types of these recognized specialty dockets must petition the Supreme Court of Virginia for authorization before beginning operation of a specialty docket or, in the instance of an existing specialty docket, continuing its operation. A petitioning court must demonstrate sufficient local support for the establishment of this specialty docket, as well as adequate planning for its establishment and continuation.
- (d) *Expansion of Types of Specialty Dockets.* — A circuit or district court seeking to establish a type of specialty docket not yet recognized under this rule must first demonstrate to the Supreme Court that a new specialty docket of the proposed type meets the criteria set forth in subsection (a) of this Rule. If this additional type of specialty docket receives recognition from the Supreme Court of Virginia, any local specialty docket of this type must then be authorized as established in subsection (c) of this Rule.
- (e) *Oversight Structure.* — By order, the Chief Justice of the Supreme Court may establish a Specialty Docket Advisory Committee and appoint its members. The Chief Justice may also establish separate committees for each of the approved types of specialty dockets. The members of the Veterans Docket Advisory Committee, the Behavioral/Mental Health Docket Advisory Committee, and the committee for any other type of specialty docket recognized in the future by the Supreme Court ~~shall~~will be chosen by the Chief Justice. The State Drug Treatment Court Advisory Committee established pursuant to Virginia Code § 18.2-254.1 ~~shall constitute~~ constitutes the Drug Treatment Court Docket Advisory Committee.
- (f) *Operating Standards.* — The Specialty Docket Advisory Committee, in consultation with the committees created pursuant to subsection (e), shall establish the training and operating standards for local specialty dockets.
- (g) *Financing Specialty Dockets.* — Any funds necessary for the operation of a specialty docket shall be the responsibility of the locality and the local court, but may be provided via state appropriations and federal grants.

(h) *Evaluation.* — Any local court establishing a specialty docket shall provide to the Specialty Docket Advisory Committee the information necessary for the continuing evaluation of the effectiveness and efficiency of all local specialty dockets.

Promulgated by Order date January 12, 2021; effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART ONE
RULES APPLICABLE TO ALL PROCEEDINGS
APPENDIX

3-A. Alternate Uniform Pretrial Scheduling Order For Use in Eminent Domain Proceedings (Rule 1:18B).

I. Trial

The trial date is scheduled for _____, commencing at _____ a.m., before _____ a freeholder jury, _____ panel of commissioners or _____ bench trial (select applicable option). The estimated length of trial is _____ days. If the case is set before a panel of commissioners, each party shall submit nominations of at least six (6) qualified persons on or before _____ so that at least nine (9) commissioners and two (2) alternates can be summoned for trial. Counsel for petitioner shall prepare and submit a sketch order for the court's use in appointing and summoning commissioners for trial.

II. Discovery

The parties shall complete discovery, including depositions, by 30 days before trial; however, depositions taken in lieu of live testimony at trial will be permitted until 15 days before trial. "Complete" means that all interrogatories, requests for production, requests for admissions and other discovery must be served sufficiently in advance of trial to allow a timely response at least 30 days before trial. Depositions may be taken after the specified time period by agreement of counsel of record or for good cause shown, provided however, that the taking of a deposition after the deadline established herein shall not provide a basis for continuance of the trial date or the scheduling of motions inconsistent with the normal procedures of the court. The parties have a duty to seasonably supplement and amend discovery responses pursuant to Rule 4:1(e) of the Rules of Supreme Court of Virginia. Seasonably means as soon as practical. No provision of this Order supersedes the Rules of Supreme Court of Virginia governing discovery. Any discovery motion filed shall contain a certification that counsel has made a good faith effort to resolve the matters set forth in the motion with opposing counsel.

III. Designation of Experts

If requested in discovery, petitioner's experts shall be identified on or before 120 days before trial. If requested in discovery, defendant's and all other opposing experts shall be identified on or before 90 days before trial. If requested in discovery, experts or opinions responsive to new matters raised in the opposing parties' identification of experts shall be designated no later than 60 days before trial. If requested, all information discoverable under Rule 4:1(b)(4)(A)(i) of the Rules of Supreme Court of Virginia shall be provided. An expert will not ordinarily be permitted to express any nondisclosed opinions at trial. The foregoing deadlines shall not relieve a party of the obligation to respond to discovery requests within the time periods set forth in the Rules of Supreme Court of Virginia, including, in particular, the duty to supplement or amend prior responses pursuant to Rule 4:1(e).

IV. Dispositive Motions

All dispositive motions shall be presented to the court for hearing as far in advance of the trial date as practical. All counsel of record are encouraged to bring on for hearing all demurrers, special pleas, motions for summary judgment or other dispositive motions not more than 60 days after being filed.

V. Exhibit and Witness List

Counsel of record shall exchange 15 days before trial a list specifically identifying each exhibit to be introduced at trial, copies of any exhibits not previously supplied in discovery, and a list of witnesses proposed to be introduced at trial. The lists of exhibits and witnesses shall be filed with the Clerk of the Court simultaneously therewith but the exhibits shall not then be filed. Any exhibit or witness not so identified and filed will not be received in evidence, except in rebuttal or for impeachment or unless the admission of such exhibit or testimony of the witness would cause no surprise or prejudice to the opposing party and the failure to list the exhibit or witness was through inadvertence. Any objections to exhibits or witnesses shall state the legal reasons therefor except on relevancy grounds, and shall be filed with the Clerk of the Court and a copy delivered to opposing counsel at least five days before trial or the objections will be deemed waived absent leave of court for good cause shown.

VI. Pretrial Conferences

Pursuant to Rule 4:13 of the Rules of Supreme Court of Virginia, when requested by any party or upon its own motion, the court may order a pretrial conference wherein motions in limine, settlement discussions or other pretrial motions which may aid in the disposition of this action can be heard.

VII. Motions in Limine

Absent leave of court, any motion in limine which requires argument exceeding five minutes shall be duly noticed and heard before the day of trial.

VIII. Witness Subpoenas

Early filing of a request for witness subpoenas is encouraged so that such subpoenas may be served at least 10 days before trial.

IX. Continuances

Continuances will only be granted by the court for good cause shown.

X. Instructions

Counsel of record shall, two business days before trial, exchange proposed instructions. Any instructions from VMJI may be identified by instruction number. Counsel for petitioner shall prepare and have available at the commencement of trial the originals of all agreed upon instructions. Each party may also submit originals and copies of all contested instructions with appropriate citations. This requirement shall not preclude the offering of additional instructions at the trial.

XI. Deposition Transcripts to be Used at Trial

Counsel of record ~~shall~~must confer and attempt to identify and resolve all issues regarding the use of depositions at trial. It is the obligation of the proponent of any deposition of any non-party witness who will not appear at trial to advise opposing counsel of record of counsel's intent to use all or a portion of the deposition at trial at the earliest reasonable opportunity. Other than trial depositions taken after completion of discovery under Paragraph II, designations of portions of non-party depositions, other than for rebuttal or impeachment, ~~shall~~must be exchanged no later than ~~15~~30 days before trial, except for good cause shown or by agreement of counsel. It becomes the obligation of the ~~opponent~~non-designating parties of any such designated deposition to ~~bring file~~bring file any objection or counter-designation within seven days after the proponent's designation. Further, it becomes the obligation of the non-designating parties to bring any objections or other unresolved issues to the court for hearing ~~before the day of trial, and to counter-designate any additional portions of designated depositions at least~~no later than 5 days before ~~such hearing~~the day of trial.

XII. Transportation Arrangements

Counsel for petitioner shall be responsible for contacting the Sheriff's Department in advance of trial to assure that arrangements are in place to transport the commissioners/jury to and from the subject property.

XIII. Waiver or Modification of Terms of Order

Upon motion, the time limits and prohibitions contained in this order may be waived or modified by leave of court for good cause shown.

Adopted by Order dated January 12, 2021; effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART TWO
VIRGINIA RULES OF EVIDENCE

ARTICLE V. PRIVILEGES

Rule 2:504 SPOUSAL TESTIMONY AND MARITAL COMMUNICATIONS PRIVILEGES (Rule 2:504(a) derived from Code § [8.01-398](#); and Rule 2:504(b) derived from Code § [19.2-271.2](#))

(a) *Privileged Marital Communications in Civil Cases.*

1. ~~Husband and wife shall be~~ Persons married to each other are competent witnesses to testify for or against each other in all civil actions.

2. In any civil proceeding, a person has a privilege to refuse to disclose, and to prevent anyone else from disclosing, any confidential communication between such person and his or her spouse during their marriage, regardless of whether such person is married to that spouse at the time he or she objects to disclosure. This privilege may not be asserted in any proceeding in which the spouses are adverse parties, or in which either spouse is charged with a crime or tort against the person or property of the other or against the minor child of either spouse. For the purposes of this Rule, "confidential communication" means a communication made privately by a person to his or her spouse that is not intended for disclosure to any other person.

(b) *Spousal Testimony ~~of Husband and Wife~~ in Criminal Cases.*

1. In criminal cases ~~husband and wife shall be~~ persons married to each other are allowed, and, subject to the Rules of Evidence governing other witnesses, may be compelled to testify in behalf of each other, but neither ~~shall~~ may be compelled to be called as a witness against the other, except (i) in the case of a prosecution for an offense committed by one against the other, against a minor child of either, or against the property of either; (ii) in any case where either is charged with forgery of the name of the other or uttering or attempting to utter a writing bearing the allegedly forged signature of the other; or (iii) in any proceeding relating to a violation of the laws pertaining to criminal sexual assault (§§ [18.2-61](#) through [18.2-67.10](#)), crimes against nature (§ [18.2-361](#)) involving a minor as a victim and provided the defendant and the victim are not married to each other, incest (§ [18.2-366](#)), or abuse of children (§§ [18.2-370](#) through [18.2-371](#)). The failure of either ~~husband or wife~~ spouse to testify, however, ~~shall create~~ creates no presumption against the accused, nor be the subject of any comment before the court or jury by any attorney.

2. Except in the prosecution for a criminal offense as set forth in subsections (b)(1)(i), (ii) and (iii) above, in any criminal proceeding, a person has a privilege to refuse to disclose, and to prevent anyone else from disclosing, any confidential communication between such person and his or her spouse during their marriage, regardless of whether the person is married to that spouse at the time the person objects to disclosure. For the purposes of this Rule, "confidential

communication" means a communication made privately by a person to his or her spouse that is not intended for disclosure to any other person.

Adopted and promulgated by Order dated June 1, 2012; effective July 1, 2012.

Amended by Order dated January 12, 2021; effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART TWO
VIRGINIA RULES OF EVIDENCE

ARTICLE V. PRIVILEGES

Rule 2:508 PROTECTED INFORMATION; NEWSPERSONS ENGAGED IN JOURNALISM. (Derived from Code § [19.2-271.5](#))

A. As used in this Rule, unless the context requires a different meaning:

"Journalism" means the gathering, preparing, collecting, photographing, recording, writing, editing, reporting, or publishing of news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public.

"News organization" means any (i) newspaper or magazine issued at regular intervals and having a general circulation; (ii) recognized press association or wire service; (iii) licensed radio or television station that engages in journalism; or (iv) business that, by means of photographic or electronic media, engages in journalism and employs an editor overseeing the journalism function that follows commonly accepted journalistic practice as evidenced by (a) membership in a state-based journalism organization, including the Virginia Press Association and the Virginia Association of Broadcasters; (b) membership in a national journalism organization, including the National Press Club, the Society of Professional Journalists, and the Online News Association; (c) membership in a statewide or national wire news service, including the Capital News Service, The Associated Press, and Reuters; or (d) its continuous operation since 1994 or earlier.

"Newsperson" means any person who, for a substantial portion of his livelihood or for substantial financial gain, engages in journalism for a news organization. "Newsperson" includes any person supervising or assisting another person in engaging in journalism for a news organization.

"Protected information" means information identifying a source who provided information to a newsperson under a promise or agreement of confidentiality made by a news organization or newsperson while such news organization or newsperson was engaging in journalism.

B. Except as provided in subpart C, no newsperson may be compelled by the Commonwealth or a locality in any criminal proceeding to testify about, disclose, or produce protected

information. Any protected information obtained in violation of this subsection is inadmissible for any purpose in an administrative or criminal proceeding.

C. A court may compel a newsperson to testify about, disclose, or produce protected information only if the court finds, after notice and an opportunity to be heard by such newsperson, that:

1. The protected information is necessary to the proof of an issue material to an administrative or criminal proceeding;
2. The protected information is not obtainable from any alternative source;
3. The Commonwealth or locality exhausted all reasonable methods for obtaining the protected information from all relevant alternative sources, if applicable; and
4. There is an overriding public interest in the disclosure of the protected information, including preventing the imminent threat of bodily harm to or death of a person or ending actual bodily harm being inflicted upon a person.

D. The publication by a news organization or the dissemination by a newsperson of protected information obtained while engaging in journalism does not constitute a waiver of the protection from compelled testimony, disclosure, and production provided by subpart B.

Adopted and promulgated by Order dated January 12, 2021; effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART THREE A
CRIMINAL PRACTICE AND PROCEDURE

Rule 3A:14. Trial Jurors.

(a) *Examination.* After the prospective jurors are sworn on the voir dire, the court ~~shall~~must question them individually or collectively to determine whether anyone:

(1) Is related by blood, adoption, or marriage to the accused or to a person against whom the alleged offense was committed;

(2) Is an officer, director, agent or employee of the accused;

(3) Has any interest in the trial or the outcome of the case;

(4) Has acquired any information about the alleged offense or the accused from the news media or other sources and, if so, whether such information would affect his impartiality in the case;

(5) Has expressed or formed any opinion as to the guilt or innocence of the accused;

(6) Has a bias or prejudice against the Commonwealth or the accused; or

(7) Has any reason to believe the juror might not give a fair and impartial trial to the Commonwealth and the accused based solely on the law and the evidence.

Thereafter, consistent with the provisions of Code § 19.2-262.01, the court, and counsel as of right, may examine on oath any prospective juror and ask any questions relevant to the qualifications as an impartial juror. A party objecting to a juror may introduce competent evidence in support of the objection.

(b) *Challenge for Cause.* The court, on its own motion or following a challenge for cause, may excuse a prospective juror if it appears the juror is not qualified, and another shall be drawn or called and placed in the juror's stead for the trial of that case.

Last amended by Order dated January 12, 2021; effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART SEVEN B
GENERAL DISTRICT COURTS – CIVIL

Rule 7B:12. Appeal by One Party; ~~Separate Notices~~Perfection of Appeal by Other Parties.

A. As provided in Code § 16.1-106(B), in civil cases, the filing of a timely notice of appeal by one party from a judgment relating to a claim, counterclaim, cross-claim or third party claim, or another appealable order of the general district court, ~~does not constitute an~~ is deemed a timely notice of appeal by any other party ~~with respect to the matter appealed—or with respect to any other claim, counterclaim, cross-claim, third party claim, judgment or other order of the general district court~~ on a final order or judgment entered in the same or related action arising from the same conduct, transaction, or occurrence.

B. ~~A separate and timely notice of appeal must be filed by any party in order to appeal any rulings as to other claims, counterclaims, cross-claims, third party claims, judgments, or other appealable orders that have not been appealed by the opponent~~ All parties are required to timely perfect their own respective appeals by giving a bond and paying the writ tax and costs, if any, in accordance with Code § 16.1-107.

Amended by Order dated January 12, 2021; effective immediately.