

JUDICIAL COUNCIL OF VIRGINIA

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



2003

2003

Judicial Council of Virginia

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



General Information for Individuals With Disabilities

The Court System has adopted a policy of non-discrimination in both employment and 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 system staff. Individuals (not employed by the court system) with disabilities who believe they have been discriminated against in either employment or in access may file a grievance through local court system officials. Those who need printed material published by the court system in another format, those who have general questions about the court system in another format or those who have general questions about the court system's non-discrimination policies and procedures may contact the Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Third Floor, Richmond, Virginia 23219. The telephone number is 804/786-6455; communication through a telecommunications device (TDD) is also available at this number.

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January 14, 2004

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

I am pleased to forward to you the annual report of the Judicial Council of Virginia. This report is submitted annually as required by Virginia Code § 17-227 and contains many important initiatives that have been implemented by the judiciary. These new initiatives will permit the judiciary to provide better services to the citizens of this Commonwealth.

The Judicial Council is required to study the organization, rules, and methods of procedure and practice in Virginia's courts. The Judicial Council must study each court's productivity and assess the need for additional judgeships in the circuit courts. The Judicial Council also develops the judiciary's strategic plans.

In 2003, approximately four million cases were filed in the trial and appellate courts in Virginia. The judiciary's primary obligation to the citizens of this Commonwealth is to ensure the fair and efficient adjudication of their cases. In furtherance of this objective, the Judicial Council has recommended the creation of additional judgeships in the First, Fourteenth, Fifteenth, Twenty-Second, and Twenty-Ninth circuits. Documentation to support these requests is provided in the annual report.

In December 2003, the Judicial Council adopted the judiciary's 2004-2006 biennium strategic plan. This plan, which has been submitted to the Supreme Court of Virginia for its approval, is entitled *Bringing the Future to Justice: Charting the Courts for the New Dominion*. This plan contains 143 initiatives designed to enhance and improve the services provided by the courts and magistrates. A copy of the plan is included with this report.

In 2004, I will appoint a commission that will study the future of Virginia's judiciary. A former Commission on the Future of Virginia's Judicial System submitted a report to the Judicial Council in 1987. This report was instrumental in the judiciary's ability to modernize and provide essential services to the citizens of Virginia. I am confident the commission that will be appointed in 2004 will thoroughly examine the challenges that will confront Virginia's judiciary during this first decade of the twenty-first century. Additionally, I am confident that the work of this commission will enable Virginia's judiciary to continue to enjoy the trust and confidence of our citizens.

I am very pleased that the judicial branch of government enjoys the support of the General Assembly, and I have appreciated the many opportunities to discuss issues of mutual concern with members of the General Assembly. On behalf of the judiciary, thank you for your cooperation. May God bless our Commonwealth and our nation.

Sincerely,



Leroy Rountree Hassell, Sr.

Table of Contents



| | | |
|---|--|----|
| Letter from Leroy Rountree Hassell, Sr., Chief Justice, Supreme Court of Virginia | | |
| The Judicial Council of Virginia | i | |
| Committees of the Judicial Council of Virginia | ii | |
| Organizational Chart of Virginia's Judicial Branch | v | |
| Chapter 1 | Proceedings of the Judicial Council of Virginia | 1 |
| Legislative Proposals for the 2003 General Assembly Session | | |
| | New Judgeship Requests | |
| | Senior Justices and Judges | |
| | Long-term Care Insurance Benefits | |
| | Court-appointed Counsel Fees | |
| | Pro Bono Services Covered by Risk Management Plan | |
| | Civil Immunity for Investigation of Commissioners of Accounts | |
| | Property Bail Bondsmen | |
| | Board of Bar Examiners as a Special Fund Agency | |
| Chapter 2 | The Judiciary's 2004-2006 Strategic Plan | 3 |
| Chapter 3 | Virginia's Solutions Project | 27 |
| Chapter 4 | Requests for New Judgeships in the First, Fourteenth, Fifteenth, Twenty-second and Twenty-ninth | 33 |
| Chapter 5 | Guidelines for Payment of Foreign Language Interpreters | 45 |
| Chapter 6 | Standards to Govern the Performance of Guardians Ad Litem for Children | 49 |
| Chapter 7 | Update on Alternative Dispute Resolutions | 59 |
| Chapter 8 | Changes to Rules of Court | 63 |
| | Proposed Legislation | 67 |
| | Map of the Judicial Circuits and Districts of Virginia | 79 |

The Judicial Council of Virginia

| | |
|---|--|
| The Honorable Leroy Rountree Hassell, Sr. | Chief Justice, Supreme Court of Virginia |
| The Honorable Johanna L. Fitzpatrick | Chief Judge, Court of Appeals of Virginia |
| The Honorable S. Bernard Goodwyn | Judge, First Judicial Circuit |
| The Honorable Randall G. Johnson | Judge, Thirteenth Judicial Circuit |
| The Honorable Paul M. Peatross, Jr. | Judge, Sixteenth Judicial Circuit |
| The Honorable Leslie M. Alden | Judge, Nineteenth Judicial Circuit |
| The Honorable William N. Alexander II | Judge, Twenty-second Judicial Circuit |
| The Honorable Birg E. Sergent | Chief Judge, Thirtieth Judicial Circuit |
| The Honorable Alfreda Talton-Harris | Judge, Fifth Judicial District (J&DR) |
| The Honorable Suzanne K. Fulton | Judge, Thirtieth Judicial District (General) |
| The Honorable Kenneth W. Stolle | Member, Senate of Virginia |
| The Honorable Walter A. Stosch | Member, Senate of Virginia* |
| The Honorable William J. Howell | Speaker, Virginia House of Delegates* |
| The Honorable Robert F. McDonnell | Member, Virginia House of Delegates |
| The Honorable Kenneth R. Melvin | Member, Virginia House of Delegates* |
| William G. Broaddus, Esquire | Attorney-at-law, Member of the Bar of the City of Richmond |
| George W. Wooten, Esquire | Attorney-at-law, Member of the Bar of the City of Roanoke |
| Robert N. Baldwin, Esquire | Ex-officio Secretary |

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The Honorable Leroy Rountree Hassell, Sr., Chief Justice, Chair

The Honorable Johanna L. Fitzpatrick, Chief Judge

The Honorable Randall G. Johnson, Judge

Information and Public Relations Committee

The Honorable Johanna L. Fitzpatrick, Chief Judge, Chair

The Honorable Paul M. Peatross, Jr., Judge

Mr. George W. Wooten, Esquire

Ex-Officio:

The Honorable Colin R. Gibb, Judge, Chair, Information and Public Relations Committee,
Judicial Conference of Virginia

The Honorable Robert M. Armstrong, Judge, Chair, Information and Public Relation Committee,
Judicial Conference of Virginia for District Courts

Criminal Procedure Committee

The Honorable S. Bernard Goodwyn, Judge, Chair

The Honorable Birg E. Sergent, Judge

Ex-Officio:

The Honorable LeRoy J. Millette, Jr., Judge, Chair, Probation, Parole and Corrections Committee,
Judicial Conference of Virginia

The Honorable Norman DeV. Morrison, Judge, Chair, Probation, Parole and Corrections Committee,
Judicial Conference of Virginia for District Courts

Judicial Administration Committee

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The Honorable Suzanne K. Fulton, Judge

The Honorable Johanna L. Fitzpatrick, Chief Judge

Mr. William G. Broaddus, Esquire

Ex-Officio:

The Honorable Paul M. Peatross, Judge, Chair, Judicial Administration Committee, Judicial Conference
of Virginia

The Honorable Norman A. Thomas, Judge, Chair, Judicial Administration Committee, Judicial
Conference of Virginia for District Courts

Judicial Compensation, Retirement and Insurance Committee

The Honorable Suzanne K. Fulton, Judge, Chair

The Honorable William N. Alexander II, Judge

The Honorable Alfreda Talton-Harris, Judge

Ex-Officio:

The Honorable Marc Jacobson, Chief Judge, Chair, Judicial Compensation, Retirement and Insurance
Committee, Judicial Conference of Virginia

The Honorable Louis A. Sherman, Judge, Chair, Judicial, Compensation, Retirement and Insurance
Committee, Judicial Conference of Virginia for District Courts

Judicial Conduct Committee

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The Honorable Birg E. Sergent, Judge

Mr. George W. Wooten, Esquire

Ex-Officio:

The Honorable J. Michael Gamble, Judge, Chair, Judicial Conduct Committee, Judicial Conference of Virginia

The Honorable Thomas L. Murphey, Judge, Chair, Judicial Conduct Committee, Judicial Conference of Virginia for District Courts

Judicial Education Committee

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The Honorable Leslie M. Alden, Judge

Ex-Officio:

The Honorable Dennis J. Smith, Judge, Chair, Judicial Education Committee, Judicial Conference of Virginia

The Honorable Morton V. Whitlow, Judge, Chair, Judicial Education Committee, Judicial Conference of Virginia for District Courts

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The Honorable S. Bernard Goodwyn, Judge

The Honorable Alfreda Talton-Harris, Judge

The Honorable William J. Howell, Speaker, Virginia House of Delegates

Ex-Officio:

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Advisory Committee on Rules of Court

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The Honorable Arthur Kelsey, Judge

The Honorable Stanley P. Klein, Judge

The Honorable Nolan B. Dawkins, Judge

The Honorable Julian H. Raney, Jr., Chief Judge

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Mr. Richard C. Manson, Esquire, Vice-Chair

The Honorable Randall G. Johnson, Judge

The Honorable Robert W. Wooldridge, Judge

The Honorable Yvonne G. Smith, Clerk

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Ms. Suzanne W. Doggett, Esquire

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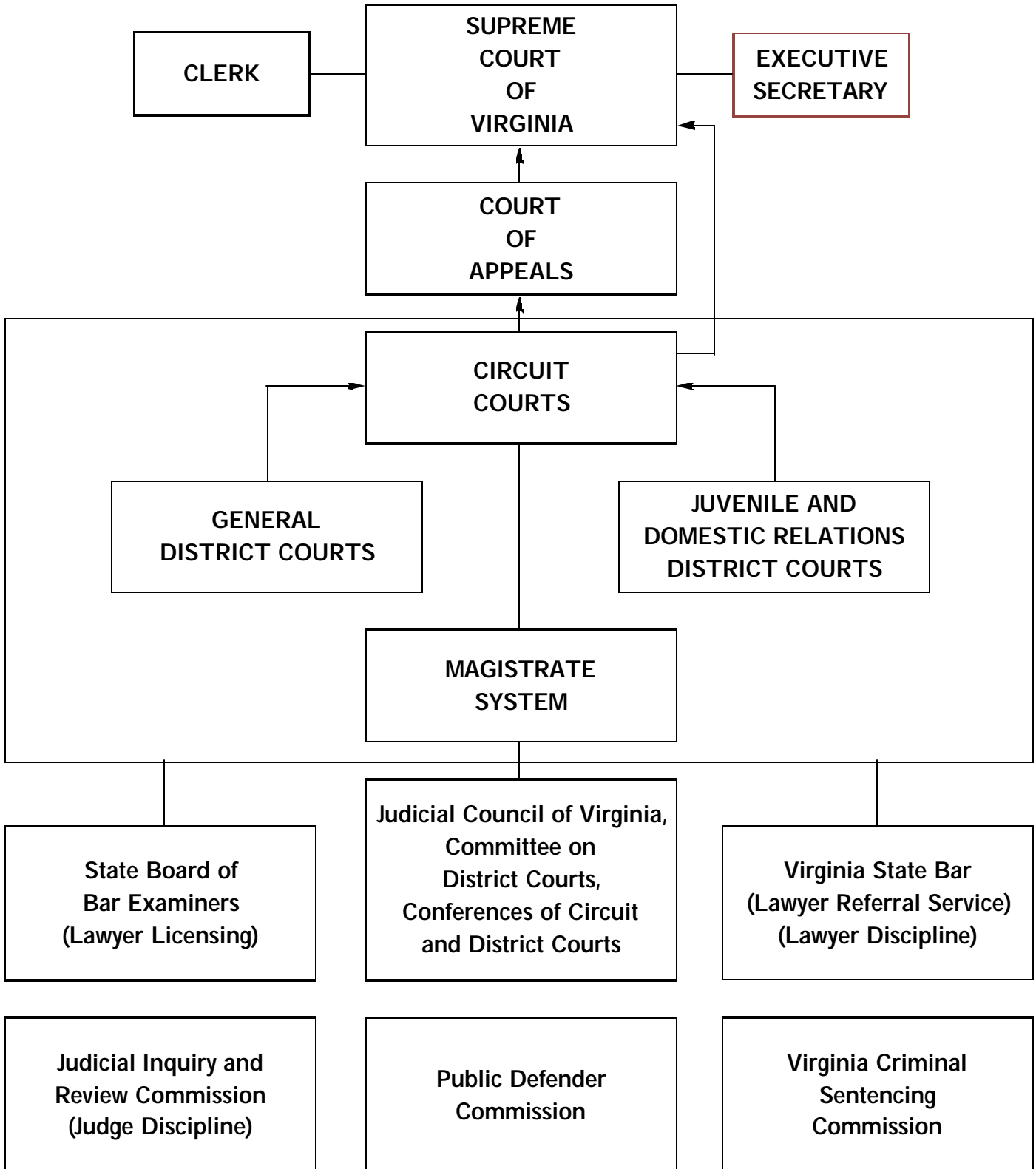
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Virginia Judicial Branch



← Route of Appeal

JUDICIAL COUNCIL OF VIRGINIA

Proceedings of the Judicial Council



2003

Chapter 1

Proceedings of the Judicial Council of Virginia

INTRODUCTION

The Judicial Council of Virginia was established by statute in 1930 and is charged with the responsibility of making a continuous study of the organization, rules and methods of procedure 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 and its individual offices and courts. Central to meeting these responsibilities is the preparation and publication of the court system's biennial comprehensive plan.

During the year 2003, the judiciary, through its strategic planning process, developed and adopted the comprehensive plan for 2004-2006, *Bringing the Future to Justice: Charting the Course in the New Dominion*. The Judicial Council presents this plan in its entirety in this report 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 2004 Session of the General Assembly and reviews various other activities of the Council throughout 2003.

LEGISLATIVE PROPOSALS FOR THE 2004 SESSION OF THE GENERAL ASSEMBLY

Request for New Judgeships in the First, Fourteenth, Fifteenth, Twenty-Second and Twenty-Ninth Judicial Circuit

During 2003, the Judicial Council considered requests from several Judicial Circuits for an additional judgeship. After a careful review of these circuits' caseload and judicial workload, as well as interviews with judges and members of the bar in the circuit, the Council recommends an additional judgeship in each of the First, Fourteenth, Fifteenth, Twenty-Second and Twenty-Ninth Judicial Circuits, effective July 1, 2004. A detailed analysis of workload in these circuits can be found in Chapter 3 of this report.

Senior justices and judges. The Judicial Council recommends amendments to §§ 17.1-302 and 17.1-401 in order to clarify that a justice of the Supreme Court or judge of the Court of Appeals may retire and later be designated a senior justice or judge. The current language could be read that such designation would have to be achieved prior to retirement.

Long-term care insurance benefits; judges. Recommended amendments to § 51.1-1135.2 provide that judges are eligible for the long-term care insurance benefits available to other state employees.

Court-appointed counsel; fees. The Judicial Council recommends legislative consideration a of 10 percent increase in the caps for fees paid to court-appointed attorneys, effective July 1, 2005. (§ 19.2-163)

Pro bono services covered by risk management plan. By amendments to § 2.2-1839, the Council recommends that attorneys who provide pro bono services to eligible persons pursuant to a program approved by the Supreme Court of Virginia or the Virginia State Bar be covered by the Commonwealth's risk management program for claims arising from their provision of legal services in such programs.

Civil immunity for investigation of commissioners of accounts. The Council recommends an amendment to § 17.1-705.1 which provides that members of the Judicial Council's Standing Committee on Commissioners of Accounts who participate in the investigation of a complaint against a commissioner of accounts or a deputy or assistant have civil immunity for acts related to such participation if done in good faith and without malicious intent.

Property bail bondsmen. Recommended amendments to § 19.2-152.1 provide that a property bail bondsman needs to obtain a certificate from only one circuit court judge in order to operate statewide, rather than from a circuit court judge in each jurisdiction in which he intends to write bonds.

Board of Bar Examiners as a Special Fund Agency. Based upon a recommendation from the Virginia Board of Bar Examiners, the Judicial Council supports the efforts to change the Appropriations Act to allow the Virginia Board of Bar Examiners to function as a non-General Fund entity.

Chapter 2

Bringing the Future to Justice: Charting the Course of the New Dominion

INTRODUCTION

In December, 2003, the Judicial Council adopted the 2004 - 2006 biennium plan for Virginia's judicial system, setting into motion 143 action items designed to enhance the quality of justice and the effectiveness of court operations. The Plan is the culmination of a comprehensive planning process that blends the anticipated impacts of emerging trends facing the world and the courts with the day-to-day and long-term needs of the courts.

Nearly 1,100 individuals contributed to the development of this plan. Each participated in one or more activities designed to elicit input from individuals throughout the Commonwealth with different perspectives on the courts. Citizens participated in a telephone survey, while court and bar leaders responded to a written survey. Members of the public, the courts community, and government agencies appeared at five Town Hall Meetings to share their opinions on where the courts need to be improved. Members of the Judicial Council and a number of other trial and appellate court judges listened to those testifying at the meetings and engaged them in dialogue.

Representatives of civic and advocacy groups, Bar Associations, government agencies, as well as judges, clerks, and magistrates collaborated during a statewide meeting to craft solutions for problems previously identified. All worked with a common goal of improving the courts' accessibility and responsiveness to those using the courts. The issues raised and potential solutions articulated from these activities are reflected throughout the *Plan*.

Many of the Plan's action items flow from the six over-arching themes that capture the most pressing needs and concerns voiced by those outside and inside the courts. Each of the following themes identifies an area that the courts must address to ensure continued public trust and confidence in the judicial system.

1. Widening the Courthouse Doors: Meeting the Diverse Need for Access to Justice
2. Children and Families in the Courts
3. Technology as a Way of Life

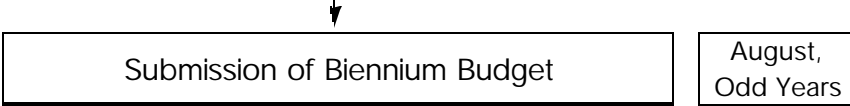
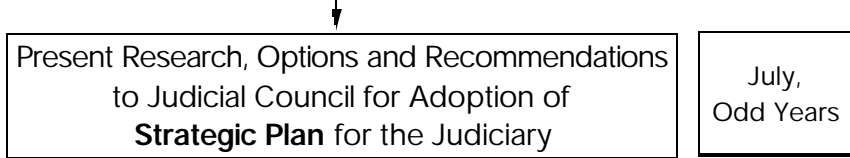
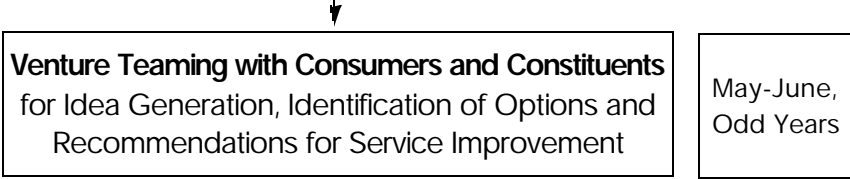
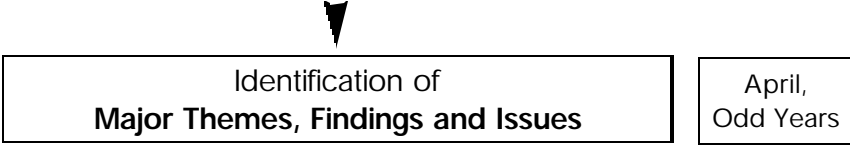
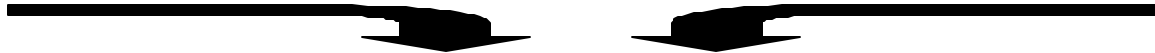
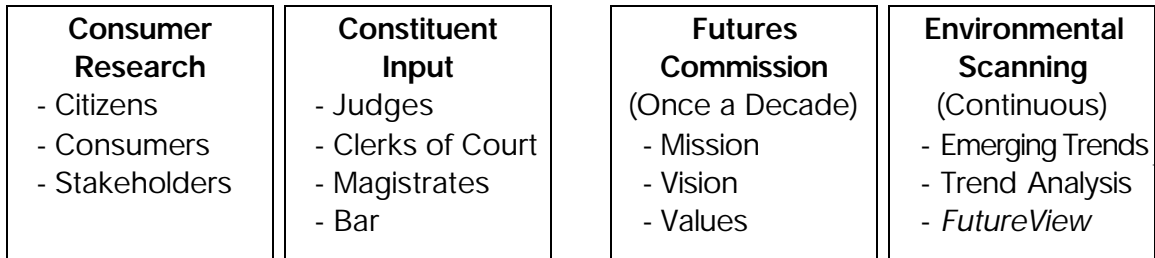
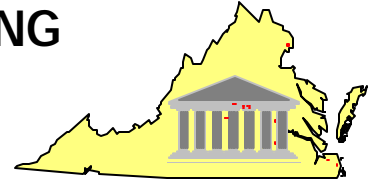
The Plan is the culmination of a comprehensive planning process that blends the anticipated impacts of emerging trends facing the world and the courts with the day-to-day and long-term needs of the courts.

4. Courts and Communities: Exploring Roles, Responsibilities and New Paths to Justice
5. Courts as a Core Function of Government: Maintaining Independence and Accountability
6. Reclaiming a Secure Virginia: The Courts Post 9/11

Thus, assuring that the most vulnerable in our society are afforded meaningful access to the courts, despite language, financial, or physical limitations is a major focus of this Plan. So, too, is improving the courts' ability to address complex, emotionally charged, and vitally important cases involving children and families. The courts' continuing ability to function in an increasingly technological world, one where the use of technology is being perceived as the single most potent force transforming the justice system landscape, provides yet another focal point in the Plan. As offenses relating to substance abuse, family breakdown, and mental illness continue to flow into the courts in substantial numbers, the appropriate role and responsibilities of the courts in these matters is being challenged. The Plan establishes a framework for exploring these issues. Underlying all these concerns is recognition of the critical importance of maintaining the courts as a core function of our democratic form of government. Other action items reflect the importance of providing for security and continuity of court services and personnel in times of natural and man-made disaster.

Bringing the Future to Justice: The Judiciary's Strategic Plan for 2004 - 2006, conveys the Judicial Council's collective sense of the preferred course for the court system in meeting these challenges. Progress in implementing the goals established in the Plan will be reflected in Council's periodic status reports, evidencing the judiciary's accountability to all Virginians for achieving these goals.

THE JUDICIARY'S STRATEGIC PLANNING AND MANAGEMENT SYSTEM



The Judiciary's 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.

Vision 1

All persons will have effective access to justice, including the opportunity to resolve disputes without undue hardship, cost, inconvenience or delay.

Vision 2

The court system will maintain human dignity and the rule of law, by ensuring equal application of the judicial process to all controversies.

Vision 3

The judicial system will be managed actively to provide an array of dispute resolution alternatives that respond to the changing needs of society.

Vision 4

Virginia's judicial system will be structured and will function in a manner that best facilitates the expeditious, economical and fair resolution of disputes.

Vision 5

The courts of Virginia will be administered in accordance with sound management practices which foster the efficient use of public resources and enhance the effective delivery of court services.

Vision 6

The court system will be adequately staffed by judges and court personnel of the highest professional qualifications, chosen for their positions on the basis of merit and whose performance will be enhanced by continuing education and performance evaluations. Lawyers, who constitute an essential element in the legal system, will receive a quality professional and continuing education befitting the higher professional and ethical standards to which they will be held, and the need to become increasingly service-oriented in their relationships with clients.

Vision 7

Technology will increase the access, convenience and ease of use of the courts for all citizens, and will enhance the quality of justice by increasing the courts' ability to determine facts and reach a fair decision.

Vision 8

The public's perception of the Virginia judicial system will be one of confidence in and respect for the courts and for legal authority.

Vision 9

The impact of changing socio-economic and legal forces will be systematically monitored and the laws of Virginia will provide both the substantive and procedural means for responding to these changes.

Vision 10

The judicial system will fulfill its role within our constitutional system by maintaining its distinctiveness and independence as a separate branch of government.

Vision 1

All persons will have effective access to justice, including the opportunity to resolve disputes without undue hardship, cost, inconvenience or delay.

Objective 1.1

To utilize technology to improve citizens' access to court information and records consistent with legitimate expectations for privacy.

Task 1.1.1

Redesign and expand the court system's Internet website in order to provide additional features, links, and search capabilities so that citizens may become better informed about court procedures and the availability of resources for legal representation.

Task 1.1.2

Conduct legal research pursuant to HJR631 (2003) on the protection of information contained in the records, documents and cases filed in the courts of the Commonwealth and report the results to the General Assembly.

Task 1.1.3

Establish a broad-based Advisory Committee to review the Conference of Chief Justices and Conference of State Court Administrators' Guidelines for Policy Development by State Courts: Public Access to Court Records and develop a comprehensive set of Rules governing public access to court records in Virginia.

Task 1.1.4

Complete implementation of Internet access to appropriate trial court data to enable citizens to access specific case data from each circuit and general district court.

Task 1.1.5

Implement Internet access to the circuit court records indexing system in accordance with the standards set forth in HB 2426, adopted by the 2003 General Assembly.

Objective 1.2

To expand use of the Internet for conducting business with the courts.

Task 1.2.1

Complete implementation of the electronic pre-payment system for fines and costs in all remaining general district and combined district courts.

Task 1.2.2

Expand on-line submission by the courts of administrative forms to provide greater convenience to the courts and the OES and to integrate these data submissions directly into existing databases.

Vision 1
All persons will have effective access to justice, including the opportunity to resolve disputes without undue hardship, cost, inconvenience or delay.

Task 1.2.3

Implement electronic case-filing in the circuit courts, including integration with the Courts Automated Information System, a docket management system and e-commerce.

Task 1.2.4

Design and initiate development of an appellate case electronic filing system.

Task 1.2.5

Continue to add public use forms to the judicial system's Internet site in order to allow completion of these forms on-line.

Task 1.2.6

Develop the capability for citizens to file public use judicial system forms on-line.

Objective 1.3

To enable the courts to more effectively respond to the growing number of non-English speakers in Virginia's courts.

Task 1.3.1

Expand the voluntary certification process for foreign language interpreters serving Virginia courts to include languages in addition to Spanish.

Task 1.3.2

Seek funding to create a foreign interpreter coordinator position to administer the training and certification programs for foreign language interpreters serving the courts.

Task 1.3.3

Establish a Court Interpreter Advisory Committee to make recommendations to the Judicial Council regarding the quality and evaluation of interpreter services.

Task 1.3.4

Work with Virginia colleges and universities to explore the feasibility of developing low-cost advanced skills workshops for foreign language interpreters serving the courts.

Task 1.3.5

Create an on-going educational curriculum for judges and court personnel to assure the proper and effective use of foreign language interpreters, including the use of telephone interpreting services.

Objective 1.4

To eliminate economic barriers to legal representation.

Task 1.4.1

Design and implement a statewide program to provide pro bono legal services to litigants involved in child custody and visitation disputes who cannot afford representation.

Task 1.4.2

Support efforts of the Legal Services Corporation of Virginia to enhance funding of legal aid offices as the primary means of expanding access to legal representation.

Task 1.4.3

Work with the Virginia State Bar's Access to Legal Services Committee in its study of discrete task representation to determine additional potential avenues for access to low cost legal services.

Task 1.4.4

Provide assistance to the Family Law Coalition's study of the current limitations on fee arrangements for attorneys in domestic relations cases and consider their proposals to reduce or contain the costs of legal representation in these cases.

Objective 1.5

To improve the court system's response to the challenges and needs presented by self-represented litigants.

Task 1.5.1

Develop and propose the adoption a Rule of Court concerning the scope of assistance that may be provided by court personnel to self-represented litigants.

Task 1.5.2

Develop principles, guidelines, protocols, and training curricula for all clerks' office personnel and magistrates to clarify the types of information and assistance that may be provided to self-represented litigants.

Task 1.5.3

Develop and implement an educational curriculum for judges on methods of effectively managing cases involving self-represented litigants.

Task 1.5.4

Seek funding to 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.

Task 1.5.5

Institutionalize a process within the circuit and district court forms committees which will ensure that all forms are developed in "plain language" in order to ensure comprehension by litigants.

Task 1.5.6

Collaborate with the Legal Services Corporation of Virginia and state and local bar associations to develop and pilot the use of the web-based Interactive Community Assistance Network (I-CAN!) for general district courts.

Task 1.5.7

Expand the judicial system's capacity to develop, maintain and update information resources for self-represented litigants and establish a plan for uniform distribution of such information in all courts and magistrates offices.

Task 1.5.8

Seek funding to establish pilot court services centers as an additional means of providing assistance to self-represented litigants.

Objective 1.6

To facilitate the courts' resolution of disputes in a timely and efficient manner.

Task 1.6.1

Implement time-segmented dockets statewide in the district courts in order to assure that no litigants must wait more than one hour for their cases to be called and to enhance the dignity of all court proceedings.

Task 1.6.2

Implement an automated case scheduling capability to support segmented docketing procedures in circuit courts.

Task 1.6.3

Develop performance indicators for the processing of cases in each case type and provide judges and clerks of court relevant statistical reports and other performance data necessary for accurate monitoring of caseflow management.

Task 1.6.4

Develop automated, standardized order forms so that district court judges may complete and print copies of their decisions and orders for parties in the courtroom.

Task 1.6.5

Develop and implement the capability to print dockets on demand in the general district and juvenile and domestic relations district courts to provide for more efficient management in the courtroom.

Task 1.6.6

Develop a capability within the Courts Automated Information System to enable judges to be informed of all pending cases involving members of the same family or household.

Objective 1.7

To improve the quality of the court system's handling of juvenile and family law matters.

Task 1.7.1

Seek legislation and funding to implement a family court to deal with all family related issues.

Task 1.7.2

Prepare informational resources in electronic formats and multiple languages to assist parents in understanding the court process applicable to the filing and resolution of custody, visitation and support petitions.

Task 1.7.3

Investigate the advisability of establishing courthouse facilitator positions to assist self-represented litigants in filing custody, visitation and support cases.

Task 1.7.4

Design, develop and implement a new capability within the Case Management System to track key events in a case in order to alert both clerks and judges of required activities or events based on the type of case.

Task 1.7.5

Undertake, in conjunction with the Department of Child Support Enforcement representatives, trial court judges, attorneys and citizens, a project to strengthen case management of child support cases by improving: 1) the quality of materials and support available to self-represented litigants in child support and other cases, 2) case and calendar management in the J&DR courts for child support and non-child support cases, and 3) the accuracy and timely communication of judicial paternity orders and other child support-related business among partner agencies (e.g., the courts, the Departments of Vital Records and Child Support Enforcement).

Objective 1.8

To improve court practice in child abuse, neglect and foster care cases in order to expeditiously restore children to safe and permanent homes and measure the success of these efforts.

Task 1.8.1

Complete the delivery of local interdisciplinary training on child dependency litigation in every judicial district of the Commonwealth.

Task 1.8.2

Expand and support the Best Practice Courts program for juvenile and domestic relations district courts to promote the uniform application of law and best practices in child dependency cases.

Task 1.8.3

Provide training for lawyers and juvenile and domestic relations district court and circuit judges on the Standards Governing the Performance of Guardians Ad Litem for Children.

Task 1.8.4

Assess the handling of child dependency cases in the circuit courts to determine the extent and impact of the delay on permanency for children.

Task 1.8.5

Identify and eliminate barriers to the timely adoption of children in foster care due to court procedures or practices.

Task 1.8.6

Develop, in cooperation with the Virginia Departments of Social Services and of Mental Health, Mental Retardation and Substance Abuse Services improved protocols and enhanced resources for local courts when serving substance-addicted parents in child dependency cases.

Task 1.8.7

Evaluate the effectiveness of family treatment drug courts in reuniting the dependent children with substance-addicted parents.

Task 1.8.8

Implement a management information system to track child abuse, neglect and foster care cases, including a related-case cross-referencing capability.

Task 1.8.9

Develop an interface with the On-Line Automated Services Information System (OASIS) administered by the Virginia Department of Social Services.

Task 1.8.10

Develop active case monitoring reports to improve the courts' ability to comply with statutory time frames and best practices in case processing for the juvenile and domestic relations courts.

Objective 1.9

Enhance the security of courthouses both for the general public and all personnel who work within them.

Task 1.9.1

Establish a committee to study the security needs within courthouses and to issue minimum security standards for all courthouses.

Task 1.9.2

Develop and offer training and technical assistance to chief judges and clerks in the trial courts to assist them in establishing protocols for emergency preparedness.

Task 1.9.3

Seek legislation to amend Virginia Code Section 17.1-300 to ensure that procedures are in place for the Supreme Court of Virginia to convene en banc and for a quorum to be constituted in the event of a catastrophic incident.

Task 1.9.4

Obtain and implement an uninterrupted power supply (UPS) for the judicial systems' statewide central computer system to prevent disruptions in court operations.

Task 1.9.5

Establish a "Hot Site" for disaster recovery of the judicial systems' statewide central computer system to ensure business continuity of court system computer operations.

Task 1.9.6

Develop and deliver a training program for judges on the potential impact and implications of federal and state anti-terrorism legislation.

Vision 2

The court system will maintain human dignity and the rule of law, by ensuring equal application of the judicial process to all controversies.

Objective 2.1

To ensure that courts merit the respect of society in the handling of criminal cases.

Task 2.1.1

Implement the automated entry of protective orders via the electronic interface between the Courts Automated Information System and the Virginia State Police.

Task 2.1.2

Determine ways to expedite hearings on protective order violations.

Task 2.1.3

Establish scheduling procedures that facilitate optimal participation by Commonwealth's Attorney in domestic violence cases.

Task 2.1.4

Seek funding to program and pilot the protective order component of the automated Interactive Community Assistance Network (I-CAN!) system.

Task 2.1.5

Develop and distribute an interactive CD-ROM training module for magistrates on the effective handling of family abuse cases, with emphasis both on the legal requirements and respectful treatment of all parties involved.

Vision 2
The court system will maintain human dignity and the rule of law, by ensuring equal application of the judicial process to all controversies.

Objective 2.2**To improve the quality of indigent defense representation in Virginia.****Task 2.2.1**

Support efforts to increase the compensation paid to court-appointed counsel in criminal cases.

Task 2.2.2

Support the development and implementation of statewide training and qualification standards for court-appointed counsel.

Task 2.2.3

Develop guidelines and provide training for judges in the assessment of applications for experts and investigators for indigent defense to help ensure fairness in the adjudication of serious criminal cases.

Objective 2.3**To assist the trial courts, as well as state and local criminal justice agencies, in the development, implementation and evaluation of problem-solving courts.****Task 2.3.1**

Conduct a comprehensive evaluation of drug treatment court programs in Virginia and their impact on recidivism rates.

Task 2.3.2

Assess the results of court-connected DUI programs operating in Virginia and elsewhere to make recommendations to the Judicial Council and the Committee on District Courts on the advisability of establishing similar specialized dockets in Virginia.

Task 2.3.3

Evaluate the concepts of therapeutic justice and problem-solving courts to determine ways in which the integration of those concepts may improve the processing and disposition of criminal cases.

Objective 2.4**To strengthen the jury system by improving the selection process and the jury's method of operation.****Task 2.4.1**

Evaluate the need for and cost effectiveness of a jury management system for circuit courts with small numbers of jury trials.

Task 2.4.2

Update existing jury orientation materials to include guidance for the jury deliberation process.

Task 2.4.3

Provide technical assistance to circuit courts in the implementation of the Judicial Council's Jury Management Standards.

Task 2.4.4

Develop and pilot the use of "plain language" jury instructions.

Vision 3

The judicial system will be managed actively to provide an array of dispute resolution alternatives that respond to the changing needs of society.

Objective 3.1

To establish a comprehensive range of dispute resolution services in Virginia's circuits and districts.

Task 3.1.1

Develop and implement a judicial settlement conference pilot program.

Task 3.1.2

Provide continuing legal education programs for the Bar and judiciary, and on-site technical assistance to individual courts for the development and integration of ADR options into the litigation process and court procedures.

Task 3.1.3

Develop legislation to expand restorative justice programs to enable judges to refer minor criminal offenses and to establish guidelines for the operation of such programs.

Task 3.1.4

Evaluate the need for revisions to existing Guidelines for the Certification of Court Referred Mediators to enhance the competency of mediators and the quality of services provided.

Task 3.1.5

Develop a model truancy mediation curriculum to train mediators throughout the state in support of the expanded use of truancy mediations by schools and judges.

Task 3.1.6

Determine the means to provide greater access to mediation services for the Commonwealth's non-English speakers.

Task 3.1.7

Work with all Virginia law schools to expand ADR course offerings, develop mediation clinics and advise law students of their ethical obligation to consider ADR in all cases.

Vision 3
The judicial system will be managed actively to provide an array of dispute resolution alternatives that respond to the changing needs of society.

Objective 3.2

To provide greater access to a broader range of dispute resolution options in family matters.

Task 3.2.1

Conduct a study of recidivism rates of custody/visitation cases mediated versus those adjudicated in the JDR courts.

Task 3.2.2

Evaluate the effectiveness and accessibility of mediation in custody/visitation cases for low-income families.

Vision 4

Virginia's judicial system will be structured and will function in a manner that best facilitates the expeditious, economical and fair resolution of disputes.

Objective 4.1

To structure the judicial system in a manner that best enables the prompt, fair and cost-effective resolution of disputes.

Task 4.1.1

Evaluate the use of specialized dockets as a means for more effectively handling complex business and technology litigation.

Objective 4.2

To simplify legal procedures to enhance judicial effectiveness and efficiency.

Task 4.2.1

Continue to seek adoption of legislation to provide that probable cause established at a preliminary hearing is sufficient to initiate a trial in the circuit court without indictment by a grand jury.

Task 4.2.2

Circulate for consideration by the bench and bar a proposal to create a single form of action for claims at law and in equity.

Task 4.2.3

Amend necessary court forms and Rules of Court to clarify procedures for accepting guilty pleas for misdemeanors in district courts.

Vision 4
Virginia's judicial system will be structured and will function in a manner that best facilitates the expeditious, economical and fair resolution of disputes.

Vision 5

The courts of Virginia will be administered in accordance with sound management practices that foster the efficient use of public resources and enhance the effective delivery of court services.

Objective 5.1

To enhance the administration of the courts by clarifying and reinforcing lines of authority and responsibility.

Task 5.1.1

Conduct a study on the effect of eliminating or limiting the use of Commissioners in Chancery on court caseloads.

Task 5.1.2

Support legislation to remove from the judicial branch responsibility for certifying bail bondsmen.

Task 5.1.3

Conduct a study on involuntary mental commitment procedures in order to 1) clarify the roles of general district court judges and special justices, 2) review issues involving transportation for patients and the locations of hearings, and 3) assure that the process is handled in an efficient and humane manner.

Objective 5.2

To obtain full state funding of the court system.

Task 5.2.1

Secure state funding to provide law clerks and secretaries for circuit court judges.

Task 5.2.2

Secure on-going funding to modernize and maintain the judicial system's technology infrastructure and service delivery systems.

Objective 5.3

To improve the accuracy, quality and integrity of caseload data submitted by the trial courts.

Task 5.3.1

Establish an effort to revise and update procedures for uniform data collection from the trial courts and recommend ways to improve the integrity of the process.

Task 5.3.2

Expand the court system's data analysis capability to better support decision-making regarding court management, resource allocation, the impact of legislative proposals and improved accountability within the court system.

Vision 5
The courts of Virginia will be administered in accordance with sound management practices which foster the efficient use of public resources and enhance the effective delivery of court services.

Vision 6

The court system will be adequately staffed by judges and court personnel of the highest professional qualifications, chosen for their positions on the basis of merit and whose performance will be enhanced by continuing education and performance evaluations. Lawyers, who constitute an essential element in the legal system, will receive a quality professional and continuing education befitting the higher professional and ethical standards to which they will be held, and the need to become increasingly service-oriented in their relationships with clients.

Vision 6

The court system will be adequately staffed by judges and court personnel of the highest professional qualifications, chosen for their positions on the basis of merit and whose performance will be enhanced by continuing education and performance evaluations. Lawyers, who constitute an essential element in the legal system, will receive a quality professional and continuing education befitting the higher professional and ethical standards to which they will be held, and the need to become increasingly service-oriented in their relationships with clients.

Objective 6.1

To ensure that the judicial system attracts and retains the most qualified persons for service on the bench.

Task 6.1.1

Secure increases in salaries for judges and justices in order to maintain compensation levels that are attractive enough to encourage qualified individuals to choose a judicial career.

Task 6.1.2

Conduct a pilot judicial performance evaluation program and report the results to the Supreme Court of Virginia and the General Assembly.

Task 6.1.3

Establish and implement a mechanism for indexing judicial salaries so that judicial compensation may be assessed regularly and removed from the political process.

Objective 6.2

To provide education delivery options which will ensure expanded and career-long training opportunities for all persons in the judicial system's workforce.

Task 6.2.1

Provide training opportunities for judges, clerks and magistrates in the use of on-line learning resources and courses.

Task 6.2.2

Complete installation of a distance learning infrastructure system so that judges and court personnel can be trained at regional hubs or local sites throughout the state.

Task 6.2.3

Integrate the long-term training curriculum for Virginia's judicial system with the distance education plan.

Task 6.2.4

Develop and implement educational programs to be delivered via satellite technology.

Task 6.2.5

Develop a specialized Judicial Institute on the trial and management of capital cases to be delivered on an annual basis.

Task 6.2.6

Develop an on-line resource center to serve as a portal for judges and court system personnel to access a myriad of web-based education and training programs.

Task 6.2.7

Develop, in conjunction with Virginia law schools, a series of judicial education programs to be delivered via distance learning technology.

Objective 6.3

To develop advanced and specialized training opportunities for all judges, clerks and magistrates.

Task 6.3.1

Increase the options for providing technical assistance services to the courts to include on-site support for strategic planning efforts, caseflow management projects and building collaborative relations within and between the trial courts and the magistrate offices.

Task 6.3.2

Expand the delivery of training programs for substitute judges, with particular emphasis on substitute judges serving in the juvenile and domestic relations district courts.

Task 6.3.3

Develop and deliver specialized management training programs for chief judges.

Objective 6.4

To ensure that the judicial system provides a compensation, reward and benefit system and a working environment to attract and retain a highly-qualified, diverse and skilled workforce.

Task 6.4.1

Address the personnel shortages that exist in the district court and magistrate systems by seeking funding for additional positions and salary increases that will enable the judicial system to successfully attract and retain highly qualified clerks and magistrates.

Task 6.4.2

Assess, on a continuing basis, the competitiveness of salaries and benefits of court system employees with those provided for equivalent positions in the executive branch and private sector, and advance appropriate recommendations to eliminate any identified disparities.

Task 6.4.3

Establish an Equal Opportunity Employment Committee for the judicial system to develop and implement specific actions such as creating internships, conducting recruitment visits, and expanding placement sources in order to increase the diversity of the judicial system's workforce.

Task 6.4.4

Explore means used in the private sector and in state and local executive branch agencies to enhance communications with judicial branch personnel and to recognize outstanding achievement and public service provided by judges and court system personnel.

Objective 6.5

To provide ready access to magistrate services and increase the proficiency, expertise, and oversight of magistrates throughout the state.

Task 6.5.1

Increase access to magistrates throughout the state by eliminating on-call services and creating: (1) hub offices in designated localities to provide full-time in-person services and 24-hour video conferencing capabilities to each locality within a district; and (2) offices in other localities to provide in-person services on a specified schedule.

Task 6.5.2

Improve the court system's ability to recruit and retain qualified persons to serve as magistrates by making all positions full-time, replacing on-call availability with specified work schedules, and increasing compensation through use of a shift differential.

Task 6.5.3

Improve the quality of decision-making and service delivery provided by all magistrates through the development and implementation of a nine-week comprehensive training and certification program.

Task 6.5.4

Strengthen the management and accountability of each magistrate's office by expanding the management component of the annual continuing legal education curriculum for chief magistrates.

Vision 7

Technology will increase the access, convenience and ease of use of the courts for all citizens and will enhance the quality of justice by increasing the courts' ability to determine facts and reach a fair decision.

Objective 7.1

To maximize the use of technology within the judicial system to enhance the quality of justice rendered by courts.

Task 7.1.1

Complete migration to a modern relational database and fourth generation computer programming languages in order to expand the capabilities of the Courts Automated Information System.

Task 7.1.2

Assess the feasibility and implications of courtroom evidence presentation technologies and provide technical assistance to the courts on their use.

Task 7.1.3

Modernize and web-enable the automated catalogues in the Virginia Law Library.

Task 7.1.4

Seek funding to upgrade and maintain the judicial system's telecommunications network to support existing and projected communications needs.

Task 7.1.5

Seek funding to pilot the use of imaging and documents management systems in all levels of courts to improve the handling of and legitimate access to court documents.

Objective 7.2

To expand collaborative relationships between the courts, state and local governments, and the private sector to facilitate greater ease in the electronic exchange of information and in the conduct of judicial proceedings.

Task 7.2.1

Implement a Technology Advisory Committee composed of public and private sector information technology specialists to advise and assist the Office of the Executive Secretary in implementing new and innovative technology applications for the courts.

Task 7.2.2

Complete Phase I of the Charge Standardization Project and implement the utilization of Virginia Crime Codes with standard charge descriptions.

Vision 7
Technology will increase the access, convenience and ease of use of the courts for all citizens and will enhance the quality of justice by increasing the courts' ability to determine facts and reach a fair decision.

Task 7.2.3

Develop and implement in selected magistrate's offices and pilot courts an Offense Tracking Number (OTN) and an OTN database.

Task 7.2.4

Redesign the Automated Magistrate Information System (AMS) to serve as a primary gateway to exchange data in standardized formats with criminal justice agencies.

Task 7.2.5

Seek funding for Phase II of the Charge Standardization Project to permit integrated data exchange with additional criminal justice agencies throughout the state.

Task 7.2.6

Provide magistrates direct connectivity to the Virginia Criminal Information Network administered by the State Police, where requested.

Task 7.2.7

Implement the automated interface between the Central Criminal Records Exchange and juvenile division of the juvenile and domestic relations courts.

Task 7.2.8

Establish the capability to send magistrate system and court case management system data electronically to Public Defender Office to reduce duplicate data entry and report changes in hearing dates.

Objective 7.3

To provide comprehensive training and support to judicial system personnel in the use of technology and automated systems.

Task 7.3.1

Establish an on-going, broad-based technology training program for judges and court system personnel to provide a continuum of initial and refresher training based on assessed needs.

Objective 7.4

To facilitate the use of technology and automated systems by judges and judicial system personnel.

Task 7.4.1

Expand the use of video conferencing to facilitate activities of the Supreme Court of Virginia, including panel hearings, oral arguments, and intra-court communications.

Task 7.4.2

Seek funding to expand the use of videoconferencing in trial courts and magistrates' offices to expedite proceedings.

Vision 8

The public's perception of the Virginia judicial system will be one of confidence in and respect for the courts and for legal authority.

Objective 8.1

To improve service quality by increasing the courts' awareness of and responsiveness to the needs of the citizens they serve.

Task 8.1.1

Create a public information and outreach office to carry out a variety of activities including 1) handling media relations on behalf of the courts; 2) expanding public information and education materials for posting on the court system's website; and 3) developing templates for speeches and presentation materials that clarify the role and responsibilities of the judicial branch of government for use by judges, clerks and chief magistrates.

Task 8.1.2

Establish a Court/Community Outreach Committee for the purpose of identifying barriers, real or perceived, that exist between the court system and the public it serves.

Task 8.1.3

Develop and offer training to judges and court personnel to increase their understanding of cultural differences and their significance in the context of the legal system and the courts.

Task 8.1.4

Develop the use of videotapes in court waiting areas as a means of better informing litigants on court procedures and processes.

Task 8.1.5

Participate with the legislative and executive branches in commemorating the 50th anniversary of the Brown vs. Board of Education decision by the Supreme Court of the United States.

Objective 8.2

To ensure that participants in the judicial process are not discriminated against because of race, gender, age, disability or socioeconomic status.

Task 8.2.1

Participate in the study directed by House Joint Resolution 142 (2002) by developing a model court order that addresses the mental illness treatment needs of offenders and cross-train judges and magistrates on treatment services and security for these offenders.

Task 8.2.2

Conduct periodic reassessments of the effectiveness of individual courts' of the Americans with Disabilities Act (ADA) and where necessary work with the

Vision 8
The public's perception of the Virginia judicial system will be one of confidence in and respect for the courts and for legal authority.

courts to develop plans for corrective action.

Task 8.2.3

Develop and incorporate an ADA audit into technical assistance visits to courts and magistrates offices.

Task 8.2.4

Develop a brochure containing information on the types of accommodations available in the courts for individuals with disabilities and how to request them.

Vision 9

The impact of changing socioeconomic and legal forces will be systematically monitored and the laws of Virginia will provide both the substantive and procedural means for responding to these changes.

Objective 9.1

To expand the strategic planning capabilities of the judicial system.

Task 9.1.1

Establish and conduct a Commission on the Future of Virginia's Judicial System to study the anticipated demands on the court system and to set forth a plan to meet these requirements.

Task 9.1.2

Incorporate town hall meetings and statewide Solutions Conferences into the development of the judiciary's strategic plans as a means for obtaining citizen input.

Task 9.1.3

Assist local courts in developing and conducting strategic planning efforts to enhance their delivery of services to the public.

Vision 10

The judicial system will fulfill its role within our constitutional system by maintaining its distinctiveness and independence as a separate branch of government.

Objective 10.1

To promote the independence and accountability of the judicial branch.

Task 10.1.1

Develop and conduct, in cooperation with legislative members of the Judicial Council and the Committee on District Courts, an orientation program for newly-elected legislators to review the distinctive role of the judicial branch, the dimensions of judicial independence and accountability, and the parameters for legislator-judge communications.

Vision 9

The impact of changing socioeconomic and legal forces will be systematically monitored and the laws of Virginia will provide both the substantive and procedural means for responding to these changes.

Vision 10

The judicial system will fulfill its role within our constitutional system by maintaining its distinctiveness and independence as a separate branch of government.

Task 10.1.2

Expand the judiciary's website as a method of providing additional information to judges, clerks and magistrates about issues arising during legislative sessions that affect the judicial branch and court operations.

Task 10.1.3

Facilitate legislative access to information about the process, policies, and priorities of the judicial branch by developing and implementing additional communication strategies, such as legislative "ride along" programs and a legislator's guide to the courts.

Objective 10.2

To effectuate better understanding and communications among the three branches of state government.

Task 10.2.1

Create opportunities for regular meetings among representatives of all three branches of government to promote improved communication on such issues as court funding, salary needs within the judicial branch, and structural reform of the courts.



Chapter 3

Virginia's Solutions Project

INTRODUCTION

In early 2003, the Judicial Council of Virginia obtained grant funding from the State Justice Institute for the Virginia Solutions Project. The purpose of this project was to elicit citizen perspectives on the specific issues and problems they confront in gaining access to the courts and utilizing the justice system to resolve disputes.

This statewide initiative had three components: a telephone survey, five regional town hall meetings and a one-day statewide conference. Together, these activities substantially increased citizen input in identifying crucial problems and innovative solutions for court system improvements.

As an additional benefit, each phase of the Solutions Project served as a means for enhancing public trust and confidence in the courts. For many of the people involved, the project provided their first opportunity to offer opinions and suggestions about court operations to judicial leaders. Both Bar representatives and citizens expressed their desires for the court system to continue to offer such forums.

The Virginia Solutions Project also is part of the State Justice Institute's nationwide Solutions Project. The goal nationally is to compile a list of critical issues facing state courts, and to share proposed or implemented solutions to those issues. In this way, each state can benefit from the work of the others on any issues their court systems may have in common.

Telephone Survey

In order to discern public perceptions of Virginia's court system in general, as well as on recent and potential future initiatives, the first phase of the Solutions Project involved a statewide telephone survey. One of the advantages of this method of public opinion research is that the results of a survey administered to a randomly selected sample of a

sufficient size can be generalized to represent the responses that would have been obtained by surveying the entire population. The 550 adult Virginia residents from all areas of the state who completed the 47-item survey comprise such a group. Thus, the results of this survey can fairly be said to represent the views of Virginians in general.

Overall, respondents rated the courts well, although there were several areas where the results indicated improvement is needed.

Selected Results

Areas Where Courts Were Rated Positively

- 76.4% rated their overall impression of Virginia's court system as "Very Positive" or "Positive";
- 70% thought courts "Always" or "Usually" use fair procedures in handling cases;
- 68% thought courts treat all people alike, regardless of their race; and
- 62% thought people "Always" or "Usually" receive fair outcomes when they deal with Virginia's courts.

Areas Needing Improvement

- 40% thought the entire process to complete a case did not occur in a reasonable amount of time;
- 42% thought the waiting time in the courtroom before a case is heard is not reasonable;
- 47% thought judges' decisions were not free from political influence;
- 56% thought the poor generally receive worse treatment than wealthy people in the court system; and
- 73% thought people without attorneys generally receive worse treatment than people who have an attorney receive.

Support for Change

- 65.5% thought courts should exercise more leadership in addressing societal problems, such as drug abuse;
- 77% thought community agencies, rather than the courts, should be responsible for addressing societal problems, such as drug abuse;
- 84% thought courts should develop better ways to assist people who do not have a lawyer; and
- 88% thought courts should provide mediators to help people work out a solution acceptable to both sides.

More than half (53%) of the respondents had some experience with the courts in the past five years, as a defendant, a plaintiff, a juror, a witness or in some other capacity. Based on their experiences with the

courts, these individuals rated the courts particularly high with respect to process and outcome in their cases.

- 80.9% said the court process was "Very Fair" or "Fair" in their case; and
- 75.7% said they were "Very satisfied" or "Satisfied" with the outcome in their case

Town Hall Meetings

For a two-week period in May, 2003, members of the Judicial Council, along with a number of other trial and appellate court judges, gathered in five locations throughout the state. In Abingdon, Fairfax, Norfolk, Richmond and Roanoke, they heard from a diverse group of citizens, attorneys, law enforcement officers and state and local government representatives on needed improvements within the court system.

Notices of the meetings were posted in courthouses and on the court system's homepage, and were sent to state and local bar associations, media outlets, government agencies and organizations with a known interest in court and government operations. In all, more than 170 individuals attended the Town Hall Meetings, with about half of them speaking.

Following the meetings, the transcripts of the testimony of all witnesses were reviewed and analyzed for cross-cutting themes. A summary of the perceived problem areas most often heard at the town hall meetings was prepared for use during the statewide Solutions Conference. (See below.)

Issues/Areas for Improvement Identified During the Town Hall Meetings

1. Barriers to citizens' access to the courts
 - High cost of attorneys
 - Inability to speak English
 - Lack of understanding of court process and procedures
 - Lack of accommodations for special needs populations (elderly, deaf, physically disabled)
2. Need for improving docket management
3. Maintaining the independence of the judiciary
4. Need for additional resources for court operations
- 5.. Sentencing issues
6. Need for reform in criminal procedures
7. Need for reform in the handling of contested custody cases
8. Calls for greater use of alternative dispute resolution models for both civil and non-violent criminal cases
9. Diversity issues facing the courts with respect to the public they serve their workforce

10. Indigent defense reform
11. Need for merit selection of judges and increased judicial salaries
12. Better service for self-represented litigants
13. Need to upgrade court facilities and magistrates' offices
14. Demands for additional technology solutions for courts
15. Assuring that all court participants are treated with dignity and respect

Statewide Conference

In August, 2003, more than 100 Virginians convened in Richmond for an intensive one-day conference. Representatives of civic organizations, advocacy groups, bar organizations and government agencies joined judges, clerks and magistrates to begin developing ways to improve the delivery of services in Virginia's courts. Participants worked at tables in groups that represented cross-sections of conference participants were represented.

Following an opening address by Chief Justice Leroy Rountree Hassell, Sr., participants learned, through a series of presentations, about a wide range of issues identified by Virginians as needing improvement in the courts. These issues arose from the findings from the public opinion telephone survey and the Town Hall Meetings, as well as the court system's most recent environmental scan. A series of exercises throughout the day provided forums for the working groups to discuss, prioritize and craft potential solutions for these issues.

Each group worked on an assigned issue, and had the option of working on up to two additional issues. For each of these issues, they were asked what they thought the operation of the courts would look like if the problem were eliminated. Having described that "ideal" state, they then determined what obstacles needed to be overcome, who should be involved, and what specific steps should be taken to achieve the ideal. By the end of the day, an initial plan for action had been outlined for each of the issues, with some being more fully developed than others. Among those receiving the most attention were barriers to accessing the courts, judicial independence, docket management, and providing assistance to pro se litigants.

Next Steps

Insights gained from the Virginia Solutions Project are already being put to use. As noted in Chapter 2 of this Report, many of the issues and recommended actions that emanated from the Solutions Project are included in the judiciary's 2004 - 2006 Strategic Plan. Furthermore, because the town hall meetings and statewide conference proved to be valuable sources of thoughtful, considered public input, similar gatherings will be incorporated into the judiciary's strategic planning process as funding permits.

Chief Justice Hassell is expected to convene a second Commission on the Future of Virginia's Judicial System in the spring of 2004. Many of the longer-term issues surfacing through the Solutions Project will be referred to the Commission for more comprehensive discussions.

Finally, the Council will be filing a final report with the State Justice Institute. The report, which will be shared with other states, will enumerate the critical issues facing Virginia's courts as identified during the project and outline the solutions proposed.



Chapter 4

Requests for New Judgeships

INTRODUCTION

During 2003, the Judicial Council approved requests for additional judgeships from the First, Fourteenth, Fifteenth, Twenty-second and Twenty-ninth Judicial Circuits. After a thorough review of caseload information and an analysis of workload in the circuits, as well as interviews with Judges, Commonwealth's Attorneys, members of the Bar and others with knowledge of the workings of these courts, the Council recommends creation of new judgeships to serve in each of these five Circuits, effective July 1, 2004. A review of the caseloads in these five circuits follows.

THE FIRST JUDICIAL CIRCUIT

The First Judicial Circuit serves the city of Chesapeake. The estimated 2002 population of the area was 205,100, an increase of 35.0% from the 1990 population of 151,982. The First Circuit has four authorized judgeships. Serving currently are Frederick Hillary Creekmore, Sr., V. Thomas Forehand, Jr., Samuel Bernard Goodwyn, and Bruce H. Kushner. The First Circuit is requesting an additional judgeship.



Review of 2002 Caseload

Caseload data for 2002 show that 8,644 cases were commenced in the First Circuit during the year, an increase of 4.3% or 355 cases from 2001 levels. This growth was due to a rise of 12.8% in civil cases and an increase of 0.7% in criminal cases.

The total number of cases concluded rose 2.0% during the year, from 8,289 in 2001 to 8,454 in 2002. The number of juries impaneled fell 16.9% from 71 in 2001 to 59 last year. The circuit judges averaged 24 jury trial days each during the year while the number of criminal defendants declined by 49 (or 1.7%) from 2,957 to 2,908.

The four judges in the First Circuit averaged 2,161 commenced

| The First Judicial Circuit 2002 AT A GLANCE | |
|--|--------------|
| Population | 205,100 |
| Cases Commenced | |
| Law | 1,404 |
| Equity | 1,385 |
| Felony | 3,635 |
| Misdemeanor | 2,220 |
| Total | 8,644 |
| Cases Concluded | |
| Law | 1,394 |
| Equity | 1,195 |
| Felony | 3,625 |
| Misdemeanor | 2,240 |
| Total | 8,454 |
| Judges | 4.0 |
| Commenced Cases/Judge | |
| First | 2,161 |
| State | 1,836 |
| Urban | 1,773 |
| Concluded Cases/Judge | |
| First | 2,114 |
| State | 1,789 |
| Urban | 1,695 |
| 2003 FORECAST* | |
| Commenced Cases/Judge | |
| With 4 Judges | 2,219 |
| With 5 Judges | 1,775 |
| State (2002) | 1,836 |
| State (2003)* | 1,873 |
| Urban (2002) | 1,773 |
| Concluded Cases/Judge | |
| With 4 Judges | 2,183 |
| With 5 Judges | 1,746 |
| State (2002) | 1,789 |
| State (2003)* | 1,824 |
| Urban (2002) | 1,695 |
| *Estimate based on historical data. | |

cases each in 2002, ranking sixth among the 31 circuits. The First averaged 2,114 concluded cases per judge, sixth highest in the state in 2002. The number of commenced cases per judge was 325 above the state average of 1,836 and 388 above the urban average of 1,773. The number of concluded cases per judge (2,114) was 324 above the state average (1,789) and 419 above the urban average (1,695).

At the end of 2002, pending cases in the First totaled 5,780, an increase of 3.6% over 2001 levels. The number of pending cases per judge stood at 1,445, 19th in the state among the circuits.

Civil Cases

The number of commenced civil cases increased 12.8% in 2002 to total 2,789. Of these cases, 3.6% were general district appeals, 46.8% other law, 29.5% divorce, 13.9% other equity and 6.3% appeals from the J&DR district courts. Statewide, the distribution was 3.2% general district appeals, 41.2% other law, 32.0% divorce, 13.9% other equity and 5.8% J&DR appeals.

Of the 2,589 civil cases concluded in 2002, 26.7% were concluded prior to trial by settlement or voluntary dismissal. Bench trials accounted for 29.3% of concluded civil cases while 1.9% were concluded by a jury trial. Statewide, 29.7% of civil cases settled prior to trial in 2002, 19.5% were concluded by bench trial and 1.1% ended by a trial by jury.

Approximately 71.3% of civil cases concluded reached termination with 12 months of filing. Statewide, 70.9% of civil cases ended within that time frame. About 86.2% reached conclusion within two years while 1.3% actually took five years or longer. The Judicial Council's voluntary case processing time guidelines establish a goal of concluding 90% of civil cases within one year and 100% within two years.

The four judges in the First Circuit averaged 697 civil cases each in 2002, ranking 14th among the 31 circuits. The state average for the year totaled 727 civil cases per judge, and the average for judges in urban circuits was 771 civil cases per judge.

Criminal Cases

The number of criminal cases filed in the First Circuit increased 0.7% in 2002 from 5,817 cases to 5,855. Of these cases, 62.1% were felonies compared to the statewide average of 67.8%.

Of the 5,865 criminal cases concluded, 28.9% were disposed of by a judge trial while 0.6% reached conclusion by a trial by jury. Statewide, 33.6% of criminal cases were concluded by a judge trial and 1.5% by a jury trial.

Approximately 75.8% of felony cases concluded in the First Circuit in 2002 reached termination within 120 days of initiation while 90.4% were disposed of within 180 days. Statewide, 50.1% of criminal cases were concluded within 120 days and 69.1% within 180 days.

Among misdemeanor cases, the First disposed of 78.7% within 60 days and 88.5% within 90 days compared to state averages of 53.0% and 70.5%, for the same 60 and 90 day time frames. For criminal cases, the Judicial Council's guidelines call for 90% of all felonies to be concluded within 120 days of arrest, 98% within 180 days, and 100% within one year. For misdemeanor cases, the goal is to conclude 90% within 60 days and 100% within 90 days from the date of arrest.

The judges of the First Circuit averaged 1,464 criminal cases each in 2002, fourth among the 31 circuits. This was 355 above the average for judges statewide (1,109) and 462 above the average for judges in urban circuits (1,002 criminal cases each).

Forecast for 2003

Based on historical data, the number of cases commenced in the First Circuit is forecast to increase 2.7%, from 8,644 cases in 2002 to 8,877 in 2003. The number of cases concluded is expected to rise 3.3%, from 8,454 to 8,730.

At the forecast caseload levels for 2003, the four judges in the First Circuit would each average 2,219 commenced cases and 2,183 concluded cases. This number of commenced cases per judge would be 346 cases above the projected state average for 2003 of 1,873 cases per judge. The number of concluded cases per judge would be 358 cases above the projected state average of 1,824 cases per judge.

If the additional judgeship is granted, the number of commenced cases per judge for the five judges would fall to 1,775, 98 cases below the projected state average of 1,873 cases per judge and 2 more than the 2002 average for urban circuits of 1,773. The number of concluded cases per judge would total 1,746, 78 less than the forecast average for judges statewide (1,824) and 51 more than the 2002 average for urban circuits (1,695 cases per judge).

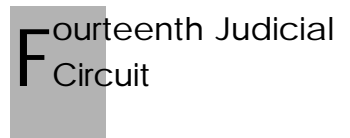
FOURTEENTH JUDICIAL CIRCUIT

The Fourteenth Judicial Circuit serves the locality of Henrico. The estimated 2002 population of the area was 271,700, an increase of 24.7% from the 1990 population of 217,878.

The Fourteenth Circuit has four authorized judgeships. Serving currently are Catherine C. Hammond, Lee A. Harris, Jr., Gary A. Hicks, and George F. Tidey. The Fourteenth Circuit is requesting an additional judgeship.

Review of 2002 Caseload

Caseload data for 2002 show that 9,558 cases were commenced in the Fourteenth Circuit during the year, an increase of 7.1% or 635 cases from 2001 levels. This growth was due to a decline of 0.1% in civil cases and an increase of 10.4% in criminal cases.



The total number of cases concluded rose 4.2% during the year, from 9,076 in 2001 to 9,455 in 2002. The number of juries impaneled fell 6.9% from 72 in 2001 to 67 last year. The circuit judges averaged 21 jury trial days each during the year while the number of criminal defendants increased by 293 (or 9.6%) from 3,037 to 3,330.

The four judges in the Fourteenth Circuit averaged 2,390 commenced cases each in 2002, ranking fourth among the 31 circuits. The Fourteenth averaged 2,364 concluded cases per judge, second highest in the state in 2002. The number of commenced cases per judge was 554 above the state average of 1,836 and 617 above the urban average of 1,773. The number of concluded cases per judge (2,364) was 575 above the state average (1,789) and 669 above the urban average (1,695).

At the end of 2002, pending cases in the Fourteenth totaled 5,596, an increase of 3.7% over 2001 levels. The number of pending cases per judge stood at 1,399, 20th in the state among the circuits.

Civil Cases

The number of commenced civil cases decreased 0.1% in 2002 to total 2,764. Of these cases, 3.7% were general district appeals, 36.0% other law, 34.6% divorce, 18.8% other equity and 6.9% appeals from the J&DR district courts. Statewide, the distribution was 3.2% general district appeals, 41.2% other law, 32.0% divorce, 18.8% other equity and 5.8% J&DR appeals.

Of the 2,698 civil cases concluded in 2002, 26.5% were concluded prior to trial by settlement or voluntary dismissal. Bench trials accounted for 13.6% of concluded civil cases while 1.6% were concluded by a jury trial. Statewide, 29.7% of civil cases settled prior to trial in 2002, 19.5% were concluded by bench trial and 1.1% ended by a trial by jury.

Approximately 69.2% of civil cases concluded reached termination with 12 months of filing. Statewide, 70.9% of civil cases ended within that time frame. About 85.3% reached conclusion within two years while 1.1% actually took five years or longer. The Judicial Council's voluntary case processing time guidelines establish a goal of concluding 90% of civil cases within one year and 100% within two years.

The four judges in the Fourteenth Circuit averaged 691 civil cases each in 2002, ranking 16th among the 31 circuits. The state average for the year totaled 727 civil cases per judge, and the average for judges in urban circuits was 771 civil cases per judge.

Criminal Cases

The number of criminal cases filed in the Fourteenth Circuit increased 10.4% in 2002 from 6,155 cases to 6,794. Of these cases, 70.3% were felonies compared to the statewide average of 67.8%.

Of the 6,757 criminal cases concluded, 42.3% were disposed of

| The Fourteenth Judicial Circuit 2002 AT A GLANCE | |
|---|--------------|
| Population | 271,700 |
| Cases Commenced | |
| Law | 1,098 |
| Equity | 1,666 |
| Felony | 4,776 |
| Misdemeanor | 2,018 |
| Total | 9,558 |
| Cases Concluded | |
| Law | 1,171 |
| Equity | 1,527 |
| Felony | 4,879 |
| Misdemeanor | 1,878 |
| Total | 9,455 |
| Judges | 4.0 |
| Commenced Cases/Judge | |
| Fourteenth | 2,390 |
| State | 1,836 |
| Urban | 1,773 |
| Concluded Cases/Judge | |
| Fourteenth | 2,364 |
| State | 1,789 |
| Urban | 1,695 |
| 2003 FORECAST* | |
| Commenced Cases/Judge | |
| With 4 Judges | 2,453 |
| With 3 Judges | 3,271 |
| State (2002) | 1,836 |
| State (2003)* | 1,873 |
| Urban (2002) | 1,773 |
| Concluded Cases/Judge | |
| With 4 Judges | 2,429 |
| With 3 Judges | 3,239 |
| State (2002) | 1,789 |
| State (2003)* | 1,824 |
| Urban (2002) | 1,695 |

*Estimate based on historical data.

by a judge trial while 1.5% reached conclusion by a trial by jury. Statewide, 33.6% of criminal cases were concluded by a judge trial and 1.5% by a jury trial.

Approximately 52.1% of felony cases concluded in the Fourteenth Circuit in 2002 reached termination within 120 days of initiation while 80.5% were disposed of within 180 days. Statewide, 50.1% of criminal cases were concluded within 120 days and 69.1% within 180 days. Among misdemeanor cases, the Fourteenth disposed of 44.2% within 60 days and 72.7% within 90 days compared to state averages of 53.0% and 70.5%, for the same 60 and 90 day time frames. For criminal cases, the Judicial Council's guidelines call for 90% of all felonies to be concluded within 120 days of arrest, 98% within 180 days, and 100% within one year. For misdemeanor cases, the goal is to conclude 90% within 60 days and 100% within 90 days from the date of arrest.

The judges of the Fourteenth Circuit averaged 1,699 criminal cases each in 2002, third among the 31 circuits. This was 590 above the average for judges statewide (1,109) and 697 above the average for judges in urban circuits (1,002 criminal cases each).

Forecast for 2003

Based on historical data, the number of cases commenced in the Fourteenth Circuit is forecast to increase 2.7%, from 9,558 cases in 2002 to 9,813 in 2003. The number of cases concluded is expected to rise 2.8%, from 9,455 to 9,718.

At the forecast caseload levels for 2003, the four judges in the Fourteenth Circuit would each average 2,453 commenced cases and 2,429 concluded cases. This number of commenced cases per judge would be 580 cases above the projected state average for 2003 of 1,873 cases per judge. The number of concluded cases per judge would be 605 cases above the projected state average of 1,824 cases per judge.

If the additional judgeship is granted, the number of commenced cases per judge for the five judges would climb to 1,963, 90 cases above the projected state average of 1,873 cases per judge and 190 more than the 2002 average for urban circuits of 1,773. The number of concluded cases per judge would total 1,944, 120 more than the forecast average for judges statewide (1,824) and 249 more than the 2002 average for urban circuits (1,695 cases per judge).

FIFTEENTH JUDICIAL CIRCUIT

The Fifteenth Judicial Circuit serves the localities of Caroline, Essex, Fredericksburg, Hanover, King George, Lancaster, Northumberland, Richmond, Spotsylvania, Stafford, and Westmoreland. The estimated 2002 population of the area was 417,200, an increase of 45.1% from the 1990 population of 287,597.

Fifteenth Judicial
Circuit

The Fifteenth Circuit has seven authorized judgeships. Serving currently are John Richard Alderman, James W. Haley, Jr., William H. Ledbetter, Jr., Horace A. Revercomb III, John Whittier Scott, Jr., Ann Hunter Simpson, and Harry T. Taliaferro III. The Fifteenth Circuit is requesting an additional judgeship..

| The Fifteenth Judicial Circuit 2002 AT A GLANCE | |
|--|---------------|
| Population | 417,200 |
| Cases Commenced | |
| Law | 2,125 |
| Equity | 3,542 |
| Felony | 6,083 |
| Misdemeanor | 3,745 |
| Total | 15,495 |
| Cases Concluded | |
| Law | 2,130 |
| Equity | 3,157 |
| Felony | 5,907 |
| Misdemeanor | 3,446 |
| Total | 14,640 |
| Judges | 7.0 |
| Commenced Cases/Judge | |
| Fifteenth | 2,214 |
| State | 1,836 |
| Rural | 1,922 |
| Concluded Cases/Judge | |
| Fifteenth | 2,091 |
| State | 1,789 |
| Rural | 1,916 |
| 2003 FORECAST* | |
| Commenced Cases/Judge | |
| With 7 Judges | 2,307 |
| With 8 Judges | 2,019 |
| State (2002) | 1,836 |
| State (2003)* | 1,873 |
| Rural (2002) | 1,922 |
| Concluded Cases/Judge | |
| With 7 Judges | 2,187 |
| With 8 Judges | 1,913 |
| State (2002) | 1,789 |
| State (2003)* | 1,824 |
| Rural (2002) | 1,916 |
| *Estimate based on historical data. | |

Review of 2002 Caseload

Caseload data for 2002 show that 15,495 cases were commenced in the Fifteenth Circuit during the year, an increase of 9.5% or 1,349 cases from 2001 levels. This growth was due to a rise of 2.7% in civil cases and an increase of 13.9% in criminal cases.

The total number of cases concluded rose 8.2% during the year, from 13,527 in 2001 to 14,640 in 2002. The number of juries impaneled fell 16.7% from 144 in 2001 to 120 last year. The circuit judges averaged 24 jury trial days each during the year while the number of criminal defendants increased by 506 (or 11.6%) from 4,380 to 4,886.

The seven judges in the Fifteenth Circuit averaged 2,214 commenced cases each in 2002, ranking fifth among the 31 circuits. The Fifteenth averaged 2,091 concluded cases per judge, seventh highest in the state in 2002. The number of commenced cases per judge was 378 above the state average of 1,836 and 292 above the rural average of 1,922. The number of concluded cases per judge (2,091) was 302 above the state average (1,789) and 175 above the rural average (1,916).

At the end of 2002, pending cases in the Fifteenth totaled 14,179, an increase of 8.3% over 2001 levels. The number of pending cases per judge stood at 2,026, sixth in the state among the circuits.

Civil Cases

The number of commenced civil cases increased 2.7% in 2002 to total 5,667. Of these cases, 3.3% were general district appeals, 34.2% other law, 36.5% divorce, 16.6% other equity and 9.3% appeals from the J&DR district courts. Statewide, the distribution was 3.2% general district appeals, 41.2% other law, 32.0% divorce, 16.6% other equity and 5.8% J&DR appeals.

Of the 5,287 civil cases concluded in 2002, 29.8% were concluded prior to trial by settlement or voluntary dismissal. Bench trials accounted for 7.5% of concluded civil cases while 0.7% were concluded by a jury trial. Statewide, 29.7% of civil cases settled prior to trial in 2002, 19.5% were concluded by bench trial and 1.1% ended by a trial by jury.

Approximately 69.9% of civil cases concluded reached termination with 12 months of filing. Statewide, 70.9% of civil cases ended within that time frame. About 82.2% reached conclusion within two years while 6.1% actually took five years or longer. The Judicial Council's voluntary case processing time guidelines establish a goal of concluding

90% of civil cases within one year and 100% within two years.

The seven judges in the Fifteenth Circuit averaged 810 civil cases each in 2002, ranking sixth among the 31 circuits. The state average for the year totaled 727 civil cases per judge, and the average for judges in rural circuits was 668 civil cases per judge.

Criminal Cases

The number of criminal cases filed in the Fifteenth Circuit increased 13.9% in 2002 from 8,627 cases to 9,828. Of these cases, 61.9% were felonies compared to the statewide average of 67.8%.

Of the 9,353 criminal cases concluded, 26.8% were disposed of by a judge trial while 2.1% reached conclusion by a trial by jury. Statewide, 33.6% of criminal cases were concluded by a judge trial and 1.5% by a jury trial.

Approximately 36.9% of felony cases concluded in the Fifteenth Circuit in 2002 reached termination within 120 days of initiation while 55.3% were disposed of within 180 days. Statewide, 50.1% of criminal cases were concluded within 120 days and 69.1% within 180 days. Among misdemeanor cases, the Fifteenth disposed of 35.6% within 60 days and 54.2% within 90 days compared to state averages of 53.0% and 70.5%, for the same 60 and 90 day time frames. For criminal cases, the Judicial Council's guidelines call for 90% of all felonies to be concluded within 120 days of arrest, 98% within 180 days, and 100% within one year. For misdemeanor cases, the goal is to conclude 90% within 60 days and 100% within 90 days from the date of arrest.

The judges of the Fifteenth Circuit averaged 1,404 criminal cases each in 2002, seventh among the 31 circuits. This was 295 above the average for judges statewide (1,109) and 151 above the average for judges in rural circuits (1,253 criminal cases each).

Forecast for 2003

Based on historical data, the number of cases commenced in the Fifteenth Circuit is forecast to increase 4.2%, from 15,495 cases in 2002 to 16,150 in 2003. The number of cases concluded is expected to rise 4.6%, from 14,640 to 15,307.

At the forecast caseload levels for 2003, the seven judges in the Fifteenth Circuit would each average 2,307 commenced cases and 2,187 concluded cases. This number of commenced cases per judge would be 434 cases above the projected state average for 2003 of 1,873 cases per judge. The number of concluded cases per judge would be 362 cases above the projected state average of 1,824 cases per judge.

If the additional judgeship is granted, the number of commenced cases per judge for the eight judges would total 2,019, 146 cases above the projected state average of 1,873 cases per judge and 97 more than the 2002 average for rural circuits of 1,922. The number of concluded

cases per judge would total 1,913, 89 more than the forecast average for judges statewide (1,824) and 3 fewer than the 2002 average for rural circuits (1,916 cases per judge).

TWENTY-SECOND JUDICIAL CIRCUIT

The Twenty-Second Judicial Circuit serves the localities of Danville, Franklin County, and Pittsylvania. The estimated 2002 population of the area was 155,200, an increase of 4.7% from the 1990 population of 148,300.

The Twenty-Second Circuit has three authorized judgeships. Serving currently are William N. Alexander II, Joseph W. Milam Jr., and Charles J. Strauss. The Twenty-Second Circuit is requesting an additional judgeship..

Review of 2002 Caseload

Caseload data for 2002 show that 8,254 cases were commenced in the Twenty-Second Circuit during the year, an increase of 4.0% or 319 cases from 2001 levels. This growth was due to a decline of 1.6% in civil cases and an increase of 6.4% in criminal cases.

The total number of cases concluded rose 10.1% during the year, from 7,893 in 2001 to 8,687 in 2002. The number of juries impaneled rose 1.2% from 81 in 2001 to 82 last year. The circuit judges averaged 35 jury trial days each during the year while the number of criminal defendants increased by 9 (or 0.5%) from 1,928 to 1,937.

The three judges in the Twenty-Second Circuit averaged 2,751 commenced cases each in 2002, ranking first among the 31 circuits. The Twenty-Second averaged 2,896 concluded cases per judge, the highest in the state in 2002. The number of commenced cases per judge was 915 above the state average of 1,836 and 829 above the rural average of 1,922. The number of concluded cases per judge (2,896) was 1,106 above the state average (1,789) and 980 above the rural average (1,916).

At the end of 2002, pending cases in the Twenty-Second totaled 4,756, a decrease of 4.1% from 2001 levels. The number of pending cases per judge stood at 1,585, 5th in the state among the circuits.

Civil Cases

The number of commenced civil cases decreased 1.6% in 2002 to total 2,346. Of these cases, 2.3% were general district appeals, 29.3% other law, 37.4% divorce, 15.2% other equity and 15.8% appeals from the J&DR district courts. Statewide, the distribution was 3.2% general district appeals, 41.2% other law, 32.0% divorce, 15.2% other equity and 5.8% J&DR appeals.

Of the 2,299 civil cases concluded in 2002, 22.9% were concluded prior to trial by settlement or voluntary dismissal. Bench trials accounted for 17.4% of concluded civil cases while 1.2% were concluded

by a jury trial. Statewide, 29.7% of civil cases settled prior to trial in 2002, 19.5% were concluded by bench trial and 1.1% ended by a trial by jury.

Approximately 80.1% of civil cases concluded reached termination with 12 months of filing. Statewide, 70.9% of civil cases ended within that time frame. About 93.1% reached conclusion within two years while 0.4% actually took five years or longer. The Judicial Council's voluntary case processing time guidelines establish a goal of concluding 90% of civil cases within one year and 100% within two years.

The three judges in the Twenty-Second Circuit averaged 782 civil cases each in 2002, ranking eighth among the 31 circuits. The state average for the year totaled 727 civil cases per judge, and the average for judges in rural circuits was 668 civil cases per judge.

Criminal Cases

The number of criminal cases filed in the Twenty-Second Circuit increased 6.4% in 2002 from 5,552 cases to 5,908. Of these cases, 67.8% were felonies compared to the statewide average of 67.8%.

Of the 6,388 criminal cases concluded, 75.4% were disposed of by a judge trial while 0.8% reached conclusion by a trial by jury. Statewide, 33.6% of criminal cases were concluded by a judge trial and 1.5% by a jury trial.

Approximately 71.2% of felony cases concluded in the Twenty-Second Circuit in 2002 reached termination within 120 days of initiation while 87.9% were disposed of within 180 days. Statewide, 50.1% of criminal cases were concluded within 120 days and 69.1% within 180 days. Among misdemeanor cases, the Twenty-Second disposed of 60.7% within 60 days and 85.0% within 90 days compared to state averages of 53.0% and 70.5%, for the same 60 and 90 day time frames. For criminal cases, the Judicial Council's guidelines call for 90% of all felonies to be concluded within 120 days of arrest, 98% within 180 days, and 100% within one year. For misdemeanor cases, the goal is to conclude 90% within 60 days and 100% within 90 days from the date of arrest.

The judges of the Twenty-Second Circuit averaged 1,969 criminal cases each in 2002, highest among the 31 circuits. This was 860 above the average for judges statewide (1,109) and 716 above the average for judges in rural circuits (1,253 criminal cases each).

Forecast for 2003

Based on historical data, the number of cases commenced in the Twenty-Second Circuit is forecast to increase 5.3%, from 8,254 cases in 2002 to 8,690 in 2003. The number of cases concluded is expected to rise 5.0%, from 8,687 to 9,118.

At the forecast caseload levels for 2003, the three judges in the Twenty-Second Circuit would each average 2,897 commenced cases and 3,039 concluded cases. This number of commenced cases per judge

| The Twenty-Second Judicial Circuit 2002 AT A GLANCE | |
|--|--------------|
| Population | 155,200 |
| Cases Commenced | |
| Law | 742 |
| Equity | 1,604 |
| Felony | 4,008 |
| Misdemeanor | 1,900 |
| Total | 8,254 |
| Cases Concluded | |
| Law | 746 |
| Equity | 1,553 |
| Felony | 4,277 |
| Misdemeanor | 2,111 |
| Total | 8,687 |
| Judges | 3.0 |
| Commenced Cases/Judge | |
| Twenty-Second | 2,751 |
| State | 1,836 |
| Rural | 1,922 |
| Concluded Cases/Judge | |
| Twenty-Second | 2,896 |
| State | 1,789 |
| Rural | 1,916 |
| 2003 FORECAST* | |
| Commenced Cases/Judge | |
| With 3 Judges | 2,897 |
| With 4 Judges | 2,173 |
| State (2002) | 1,836 |
| State (2003)* | 1,873 |
| Rural (2002) | 1,922 |
| Concluded Cases/Judge | |
| With 3 Judges | 3,039 |
| With 4 Judges | 2,280 |
| State (2002) | 1,789 |
| State (2003)* | 1,824 |
| Rural (2002) | 1,916 |
| *Estimate based on historical data. | |

would be 1,024 cases above the projected state average for 2003 of 1,873 cases per judge. The number of concluded cases per judge would be 1,215 cases above the projected state average of 1,824 cases per judge.

If the additional judgeship is granted, the number of commenced cases per judge for the four judges would total 2,173, 300 cases above the projected state average of 1,873 cases per judge and 251 more than the 2002 average for rural circuits of 1,922. The number of concluded cases per judge would total 2,280, 456 more than the forecast average for judges statewide (1,824) and 364 more than the 2002 average for rural circuits (1,916 cases per judge).

TWENTY-NINTH JUDICIAL CIRCUIT

The Twenty-Ninth Judicial Circuit serves the localities of Buchanan, Dickenson, Russell, and Tazewell. The estimated 2002 population of the area was 114,800, a decrease of 7.1% from the 1990 population of 123,580.

The Twenty-Ninth Circuit has three authorized judgeships. Serving currently are Michael Lee Moore, Henry A. Vanover, and Keary R. Williams. The Twenty-Ninth Circuit is requesting an additional judgeship.

Review of 2002 Caseload

Caseload data for 2002 show that 7,282 cases were commenced in the Twenty-Ninth Circuit during the year, an increase of 11.3% or 737 cases from 2001 levels. This growth was due to a decline of 2.7% in civil cases and an increase of 16.3% in criminal cases.

The total number of cases concluded rose 8.6% during the year, from 5,934 in 2001 to 6,445 in 2002. The number of juries impaneled rose 33.3% from 42 in 2001 to 56 last year. The circuit judges averaged 20 jury trial days each during the year while the number of criminal defendants increased by 1 (or 0.1%) from 1,079 to 1,080.

The three judges in the Twenty-Ninth Circuit averaged 2,427 commenced cases each in 2002, ranking third among the 31 circuits. The Twenty-Ninth averaged 2,148 concluded cases per judge, fifth highest in the state in 2002. The number of commenced cases per judge was 591 above the state average of 1,836 and 505 above the rural average of 1,922. The number of concluded cases per judge (2,148) was 359 above the state average (1,789) and 232 above the rural average (1,916).

At the end of 2002, pending cases in the Twenty-Ninth totaled 9,409, an increase of 13.3% over 2001 levels. The number of pending cases per judge stood at 3,136, second in the state among the circuits.

Civil Cases

The number of commenced civil cases decreased 2.7% in 2002 to total 1,681. Of these cases, 2.0% were general district appeals, 35.6%

other law, 38.4% divorce, 16.7% other equity and 7.3% appeals from the J&DR district courts. Statewide, the distribution was 3.2% general district appeals, 41.2% other law, 32.0% divorce, 16.7% other equity and 5.8% J&DR appeals.

Of the 1,371 civil cases concluded in 2002, 30.4% were concluded prior to trial by settlement or voluntary dismissal. Bench trials accounted for 10.9% of concluded civil cases while 1.3% were concluded by a jury trial. Statewide, 29.7% of civil cases settled prior to trial in 2002, 19.5% were concluded by bench trial and 1.1% ended by a trial by jury.

Approximately 70.7% of civil cases concluded reached termination with 12 months of filing. Statewide, 70.9% of civil cases ended within that time frame. About 82.6% reached conclusion within two years while 5.3% actually took five years or longer. The Judicial Council's voluntary case processing time guidelines establish a goal of concluding 90% of civil cases within one year and 100% within two years.

The three judges in the Twenty-Ninth Circuit averaged 560 civil cases each in 2002, ranking 25th among the 31 circuits. The state average for the year totaled 727 civil cases per judge, and the average for judges in rural circuits was 668 civil cases per judge.

Criminal Cases

The number of criminal cases filed in the Twenty-Ninth Circuit increased 16.3% in 2002 from 4,818 cases to 5,601. Of these cases, 82.7% were felonies compared to the statewide average of 67.8%.

Of the 5,074 criminal cases concluded, 38.1% were disposed of by a judge trial while 1.3% reached conclusion by a trial by jury. Statewide, 33.6% of criminal cases were concluded by a judge trial and 1.5% by a jury trial.

Approximately 35.4% of felony cases concluded in the Twenty-Ninth Circuit in 2002 reached termination within 120 days of initiation while 52.3% were disposed of within 180 days. Statewide, 50.1% of criminal cases were concluded within 120 days and 69.1% within 180 days. Among misdemeanor cases, the Twenty-Ninth disposed of 17.9% within 60 days and 35.9% within 90 days compared to state averages of 53.0% and 70.5%, for the same 60 and 90 day time frames. For criminal cases, the Judicial Council's guidelines call for 90% of all felonies to be concluded within 120 days of arrest, 98% within 180 days, and 100% within one year. For misdemeanor cases, the goal is to conclude 90% within 60 days and 100% within 90 days from the date of arrest.

The judges of the Twenty-Ninth Circuit averaged 1,867 criminal cases each in 2002, second among the 31 circuits. This was 758 above the average for judges statewide (1,109) and 614 above the average for judges in rural circuits (1,253 criminal cases each).

| The Twenty-Ninth Judicial Circuit 2002 AT A GLANCE | |
|---|--------------|
| Population | 114,800 |
| Cases Commenced | |
| Law | 633 |
| Equity | 1,048 |
| Felony | 4,631 |
| Misdemeanor | 970 |
| Total | 7,282 |
| Cases Concluded | |
| Law | 461 |
| Equity | 910 |
| Felony | 3,994 |
| Misdemeanor | 1,080 |
| Total | 6,445 |
| Judges | 3.0 |
| Commenced Cases/Judge | |
| Twenty-Ninth | 2,427 |
| State | 1,836 |
| Rural | 1,922 |
| Concluded Cases/Judge | |
| Twenty-Ninth | 2,148 |
| State | 1,789 |
| Rural | 1,916 |
| 2003 FORECAST* | |
| Commenced Cases/Judge | |
| With 3 Judges | 2,563 |
| With 4 Judges | 1,922 |
| State (2002) | 1,836 |
| State (2003)* | 1,873 |
| Rural (2002) | 1,922 |
| Concluded Cases/Judge | |
| With 3 Judges | 2,266 |
| With 4 Judges | 1,699 |
| State (2002) | 1,789 |
| State (2003)* | 1,824 |
| Rural (2002) | 1,916 |
| *Estimate based on historical data. | |

Forecast for 2003

Based on historical data, the number of cases commenced in the Twenty-Ninth Circuit is forecast to increase 5.6%, from 7,282 cases in 2002 to 7,688 in 2003. The number of cases concluded is expected to rise 5.5%, from 6,445 to 6,797.

At the forecast caseload levels for 2003, the three judges in the Twenty-Ninth Circuit would each average 2,563 commenced cases and 2,266 concluded cases. This number of commenced cases per judge would be 690 cases above the projected state average for 2003 of 1,873 cases per judge. The number of concluded cases per judge would be 442 cases above the projected state average of 1,824 cases per judge.

If the additional judgeship is granted, the number of commenced cases per judge for the four judges would climb to 1,922, 49 cases above the projected state average of 1,873 cases per judge and 0 less than the 2002 average for rural circuits of 1,922. The number of concluded cases per judge would total 1,699, 125 less than the forecast average for judges statewide (1,824) and 217 fewer than the 2002 average for rural circuits (1,916 cases per judge).

Chapter 5

Guidelines for Payment of Foreign Language Interpreters

INTRODUCTION

Virginia statutes regarding payment of foreign language interpreter appointments are found in § 19.2-164 (criminal cases) and § 8.01-384.1:1 (civil cases) of the Code of Virginia. As of July 1, 2003, the compensation of an interpreter appointed by the court is to be fixed by the court, in accordance with guidelines set by the Judicial Council of Virginia. Accordingly, the Council has adopted the following guidelines in order to (1) facilitate the efficient use of qualified foreign language interpreters in court proceedings; (2) assist courts in setting fair and reasonable rates of compensation; and (3) promote uniformity in interpreter payment rates and policies throughout the state.

These guidelines apply to foreign language interpreters. The guidelines for obtaining and compensating interpreters for the deaf and hard of hearing are promulgated by the Department for the Deaf and Hard of Hearing.

All courts are strongly encouraged to use certified foreign language interpreters where available.

GUIDELINES FOR REIMBURSING FOREIGN LANGUAGE INTERPRETERS SERVING VIRGINIA COURTS

Daily Payment Rate-Effective November 1, 2003

Certified Interpreters. All courts are strongly encouraged to use certified foreign language interpreters where available. Certified interpreters are those persons that have passed the voluntary certification process established by the Council for Spanish language interpreters, or, for other languages, persons who hold either federal court certification or a certification by another state court system participating in the State Courts Interpreter Certification Consortium of the National Center for State Courts.

- Certified Interpreters: Hourly Rate - \$60.00, two-hour minimum.
- Non-certified Interpreters: Hourly Rate - \$40.00, two-hour minimum.

For language interpreters other than Spanish, it is in the courts discre-

All courts should encourage non-certified Spanish language interpreters to earn certification through the federal courts or a state court system participating in the State Court Interpreter Certification Consortium of the National Center for State Courts.

tion to pay either the \$60.00/hour or \$40/hour rate, depending on the qualifications the interpreter presents to the court. In cases involving rare languages for which interpreters are difficult to locate, the court shall have the discretion to pay the higher rate or such rate as the court finds on the record to be necessary to retain a qualified foreign language interpreter.

All courts should encourage non-certified Spanish language interpreters to earn certification through the federal courts or a state court system participating in the State Court Interpreter Certification Consortium of the National Center for State Courts. The two-hour minimum is established to help courts secure interpreters and to provide some compensation for out of court waiting times.

The recommended payment rates apply both to individuals and private/commercial interpreting companies. That is, the compensation structure is the same whether the interpreter is supplied by a commercial interpreter provider service or the interpreter is contacted directly by the court.

Travel Expenses and Compensation

Mileage can be reimbursed when the interpreter travels 30 miles or more one way from his or her residence or place of business (address used for tax purposes). The rate of reimbursement is linked to the state approved mileage rate, currently at \$.325 per mile. For those interpreters traveling 30 miles or more one way, travel time compensation can be approved at one-half the hourly rate allowed for actual work time.

Cancellation Policy Suggestions for Foreign Language Interpreters

For a variety of reasons, the services of a foreign language interpreter in court sometimes become unnecessary after the interpreter has accepted the assignment. There may be plea changes (guilty pleas, acceptance by the defendant of a plea bargain) on the morning of trial, continuances granted, or the party(ies) may fail to appear. When cancellation of an interpreter's service becomes necessary, if no other interpreting services during the time period of the cancelled proceeding are needed, reimbursement of the interpreter may be guided by the following criteria.

Requirements of Counsel, the Court, and Clerk's Office

In an effort to conserve public funds to provide for such interpretation, it is recommended that counsel, the court, and clerk's office undertake all efforts possible to ensure early notification to the interpreters that assignments have been cancelled. Courts should also consider calendar or docket management techniques to "group" the scheduling of cases requiring interpreters by language to maximize the use of the interpreter's time.

Cancellation by the Court Without Payment to the Interpreter

No reimbursement is recommended for cancelled appearances if the interpreter was notified by telephone (notice by telephone includes answering machine, voice mail, e-mail and beeper message) by the court of the cancellation at least one day (24 hours) or more prior to the start time of the assignment. If the interpreter has traveled some distance to the assignment and did not receive the message regarding cancellation due to the required travel, it is within the court's discretion whether or not to pay the interpreter. It is good practice to require interpreters to call the court at least one day (24 hours) prior to the scheduled court date to confirm assignments. Failure to confirm an assignment may result in non-payment.

Cancellation by the Court With Payment to the Interpreter

In the event an interpreter accepts an assignment for a full day which is cancelled less than one day (24 hours) before the date the trial was to begin, it is recommended that the court approve reimbursement of the interpreter for four hours service, provided that the court was unable to secure work for the interpreter in other cases or in other courts for the cancelled time period.

Cancellation by the Interpreter

If an interpreter must cancel an assignment, he/she must give sufficient notice to the court. The court should locate the replacement interpreter to ensure that a qualified person is appointed. In case of an emergency, an interpreter may call a substitute (the person should be certified if the language is Spanish) when he/she cannot appear for the appointment. Cancellations by interpreters should be noted and addressed. If an interpreter is found to be unreliable, his/her future service may be curtailed or terminated.

Other Policy Suggestions Related to Interpreter Compensation

- Interpreters should call the court at least one day (24 hours) prior to the scheduled court date to confirm his/her assignment. Failure to confirm an assignment may result in non-payment.
- Interpreters should sign-in at a designated area when they arrive and when they return from lunch, and they should sign-out when they leave or go to lunch.
- Interpreters should be available to interpret during the entire period for which the court will be billed even after completion of their original case(s) if they are still within the billing period. Interpreters should check with an authorized person before leaving the court within a billing period.
- In addition to in-court proceedings, interpreter services may include attorney/client interviews scheduled during the day at the courthouse, counter assistance in the clerk's office, jail visits, magistrate office interviews, or requests for assistance by any office of the court.

Interpreters scheduled by a court may charge only for services provided during the period scheduled for that court.

- If the interpreting service is provided outside normal business hours, it should be pre-approved by an authorized court official.
- Interpreters scheduled by a court may charge only for services provided during the period scheduled for that court. That is, if an interpreter provided services in circuit court for a case and then served in the general district court during the same billing period, the interpreter may not charge the second court for the time which is compensated by the first court.
- When the court is paying for the interpreter's services, the court shall contact interpreters to schedule court appearances. Interpreters are not to accept requests for interpretation services from attorneys unless the attorney has made prior arrangements with the court to retain the interpreter. Once an interpreter agrees to accept an assignment, he/she must appear at the scheduled date and time.
- Interpreters should not assume they will automatically be scheduled to follow a case from the first court appearance to the last. The court will determine all interpreter appointments.
- Courts may consider issuing a Request for Proposals to more efficiently and economically obtain interpreters to provide on-going coverage in a court or courts.

Chapter 6

Standards to Govern the Performance of Guardians Ad litem for Children

INTRODUCTION

Standards to Govern the Performance of Guardians Ad Litem for Children were adopted by the Judicial Council of Virginia on June 23, 2003. The Standards were subsequently reviewed by the Supreme Court of Virginia on July 7, 2003 and became effective September 1, 2003. These Standards were developed under the leadership of the Virginia Bar Association and its Commission on the Needs of Children during the past two years. This policy addresses the performance of attorneys as guardians ad litem for children in child protection, custody and visitation, juvenile delinquency, child in need of supervision, child in need of services, status offense and other appropriate cases.

The initial effort in 2001 by the Virginia Bar Association to develop Standards of Performance focused upon attorney practice in child protection cases. These cases involve children and families before the courts where a public or private child welfare agency is involved and concern children who are the subject of any of the following petitions: child abuse or neglect; child at-risk of abuse or neglect; approval of an entrustment agreement or for relief of custody; foster care review; permanency planning and termination of parental rights. The Standards Governing the Qualification of Attorneys as Guardians Ad Litem also focused on this case type when they were first developed.

The Standards were first presented to the Council for its consideration and adoption at its October 21, 2002 meeting. At that time, the Council adopted the Standards as they applied only to child protection cases. At the request of the Council, the Virginia Bar Association continued its work and revised the Standards to include the case types referenced above, in particular custody and visitation cases, as well as to specifically address the role of the guardian ad litem in the mediation process and in appeals. Members of the judiciary from both the juvenile and domestic relations district courts and the circuit courts and members of the Bar were involved in the development and review of these Standards in both the first and second versions as presented

This policy addresses the performance of attorneys as guardians ad litem for children in child protection, custody and visitation, juvenile delinquency, child in need of supervision, child in need of services, status offense and other appropriate cases. Members of the judiciary from both the juvenile and domestic relations district courts and the circuit courts and members of the Bar were involved in the development and review of these Standards . . .

It was the intention of this work that the proposed standards be broad enough in nature to apply to most cases involving children where the court identifies the need to appoint an attorney to independently investigate, assess and advocate for the child's best interests.

to the Council.

When the Virginia Bar Association agreed to continue its work on the additional case types, the project's Advisory Board was expanded to include individuals with expertise in family law, divorce and child custody matters for the second phase of this project. It was determined that the standards should also address the role of GALs in juvenile delinquency, child in need of supervision, child in need of services, status offense cases and, in so far as possible, other appropriate cases, as determined by the court. It was the intention of this work that the proposed standards be broad enough in nature to apply to most cases involving children where the court identifies the need to appoint an attorney to independently investigate, assess and advocate for the child's best interests.

The black letter standards are printed on the reverse of the ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM - DC-514 authorized by the Committee on District Courts. Training was conducted on the Standards for guardians ad litem in the fall of 2003 by Virginia CLE in cooperation with the Office of the Executive Secretary (OES), Supreme Court of Virginia. Training to include juvenile and domestic relations district court judges and circuit court judges along with members of the bar is being developed by the Virginia Bar Association with the support of the Office of the Executive Secretary and will be delivered at the local or regional level statewide in 2004. The VBA obtained a grant from the Virginia Law Foundation to support this effort.

The standards and their accompanying commentary follow.

STANDARDS TO GOVERN THE PERFORMANCE OF GUARDIANS AD LITEM FOR CHILDREN

These standards apply to all attorneys serving as Guardians ad litem for children in child protection¹, custody and visitation, juvenile delinquency, child in need of supervision, child in need of services, status offense and other appropriate cases, as determined by the court, in juvenile and domestic relations district courts, circuit courts, the Court of Appeals and the Supreme Court of Virginia. These standards augment the policies governing the qualification of attorneys as Guardians ad litem.

Introductory Comment

Many of the competencies required to represent children are the same as those required for many other types of litigation. There are skills, abilities and actions expected of attorneys in all cases such as conducting interviews, framing and evaluating pleadings, engaging in discovery techniques, thoroughly preparing for trial, and negotiating on behalf of a client. These skills are of equal importance to other types of civil cases such as labor, tort, contract or

¹ "Child protection cases" includes cases where a public or private child welfare agency is involved and concern children who are the subject of any of the following petitions: child abuse or neglect; child at-risk for abuse or neglect; approval of an entrustment agreement or for relief of custody; foster care review; permanency planning and termination of parental rights.

family law. The need for practices such as comprehensive client interviews is present in every case. Likewise attorneys involved in any form of litigation must make choices and determine strategic options. For example, the need to interview non-parties depends on the nature of the case and the litigator's goal. Hence, qualifying phrases like "as appropriate" or "in so far as possible" are found in several standards and commentaries.

Representing children, however, is also different from other forms of litigation. The importance of the dispositional process and the potential for court proceedings to affect the very nature of a family provide the basis for these distinctions. The long-term consequences to the child client make the role of a Guardian ad litem (GAL) as crucial at the dispositional stage as at any other phase of the case. These consequences demand full attention to the formulation and articulation of well-supported arguments and appropriate recommendations, as well as critical evaluation of plans proposed by others.

The GAL acts as an attorney and not a witness, which means that he or she should not be cross-examined and, more importantly, should not testify. The GAL should rely primarily on opening statements, presentation of evidence and closing arguments to present the salient information the GAL feels the court needs to make its decisions.

The implicit set of checks and balances operative in non-juvenile cases is generally not likely to work for children. In a civil action involving adults, the successful party knows when a judgment is paid or a court order is implemented. In proceedings involving children this may not be so; the child may be too young to understand or monitor orders, or the legal proceedings may be too complex for the child to understand. Thus, these standards incorporate provisions regarding communication with the child, the implementation of orders and appeals.

Attorneys who serve as GALs are subject to the Rules of Professional Conduct promulgated by the Virginia State Bar as they would be in any other case, except when the special duties of a GAL conflict with such rules. For example, an attorney would follow the general conflict rule (1.7) to determine if there would be a possible conflict of interest if the attorney served as GAL. But unlike the Rules for Professional Conduct as they apply to confidentiality, there may be times when attorneys serving as a GAL must, in furtherance of their role as GAL, disclose information provided by the child to the court. A GAL appointed to represent siblings should be alert to potential conflicts and, when appropriate, request that the court appoint a separate GAL for each child.

The role and responsibility of the GAL is to represent, as an attorney, the child's best interests before the court. The GAL is a full and active participant in the proceedings who independently investigates, assesses and advocates for the child's best interests. Decision-making power resides with the court.

The long-term consequences to the child client make the role of a Guardian ad litem (GAL) as crucial at the dispositional stage as at any other phase of the case.

In fulfilling the duties of a Guardian ad litem (GAL), an attorney shall:

A. Meet face-to-face and interview the child.

The first duty of the GAL is to establish a relationship with the child client, as an attorney would with any client. This interview should be conducted face-to-face at a time and place that allows the GAL to observe the child and ascertain: the child's wishes, the safety and adequacy of the child's current placement, and the need for further testing, evaluation or interim judicial relief. Such interviews are best conducted on a date prior to the first court appearance and at a location other than the courthouse. It is important to meet with the child in a private setting, such as the GAL's office, the child's home, school or placement, away from the litigants so that the child can talk openly. There should be sufficient time between the interview and court appearances for the GAL to fully analyze the information gleaned, take appropriate actions and formulate meaningful arguments and recommendations.

The content and direction of the interview should take into account the child's age, maturity and potential stress created by the circumstances of the case and prior interviews, especially in cases involving allegations of sexual or other abuse. In such cases, GALs should rely upon videotapes of forensic interviews or attend interviews of the child conducted by trained experts rather than conducting their own independent investigation and interviewing the child about the facts of their alleged victimization.

As appropriate, children should be encouraged to articulate their concerns and views. In custody and visitation cases, care should be taken so that the child never feels compelled to state a preference or choose between parents or placements.

In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the GAL should exercise caution when talking to the child about the circumstances of the offense and advise the child about the limitations on confidentiality that may apply.

Young children present a challenge, but the age and verbal ability of the child do not abrogate the responsibility to meet face-to-face with the child. In meetings with young children, and with children with limited language abilities or those with disabilities, the GAL will rely much more heavily on observation. Conducting such meetings at the child's home or placement allows the GAL to observe the surroundings and the child's interactions with others, as well as to interview the child's caretaker.

If the child expresses wishes that are contrary to the GAL's assessment of the child's interests and welfare, the GAL is obligated to inform the court of these wishes. If appropriate, the GAL should request that an attorney be appointed to serve as counsel for the child. If the child is uncooperative or appears to have been influenced by a parent or custodian, the GAL should inform the court of these circumstances.

B. Conduct an independent investigation in order to ascertain the facts of the case.

The GAL shall review any and all relevant records, which may include court, social service, medical, mental health, and school records. The GAL should attach a copy of the Supreme Court of Virginia's Form DC-514, ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM, to any written request for records since it delineates the statutory authority for access to records.

The GAL shall interview the parties to the dispute and any other persons with relevant knowledge of the child and the facts that gave rise to the allegations. Such other persons would include, for example, the child's parents, current caretaker including foster parents, an assigned Court-Appointed Special Advocate (CASA) worker, social worker, child care provider, clergy, neighbors, relatives, school personnel, and health and mental health providers. When the child is young, there is a greater need to seek independent sources of information and obtain verification of salient facts. Such interviews are best conducted on a date prior to the court appearances and at a location other than the courthouse.

GALs should communicate their role and responsibilities clearly to the parents and/or other party's attorneys including the GAL's legal status in the proceeding and responsibility to participate fully to protect the child's interests and express the child's wishes. In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the GAL should contact the child's defense attorney.

There should be sufficient time between the interview and court appearances for the GAL to fully analyze the information gleaned, take appropriate actions such as issuing subpoenas, filing motions for temporary or protective relief or appointment of an independent expert to evaluate the child, and formulate a meaningful strategy.

If the home environment is at issue, the GAL should visit the child's home and any proposed alternative placement.

GALs should independently evaluate all allegations of child abuse or neglect, or of risk to the child's safety or welfare, including but not limited to physical or mental abuse, sexual abuse, lack of supervision, educational neglect, and exposure of the child to domestic violence or substance abuse, regardless of whether such abuse or neglect or risk is identified in the parties' pleadings.

C. Advise the child, in terms the child can understand, of the nature of all proceedings, the child's rights, the role and responsibilities of the GAL, the court process and the possible consequences of the legal action.

The GAL shall make every effort to ensure that the child understands, by using language appropriate to the child's age and verbal abilities, the nature of the proceedings, the consequences which may result, the possibility of

GALs should independently evaluate all allegations of child abuse or neglect, or of risk to the child's safety or welfare, including but not limited to physical or mental abuse, sexual abuse, lack of supervision, educational neglect, and exposure of the child to domestic violence or substance abuse, regardless of whether such abuse or neglect or risk is identified in the parties' pleadings.

The GAL should be involved, as appropriate, in all pre-trial conferences and negotiations including phone calls, formal or informal conferences and mediation.

future modifications, the attorney's responsibilities as a GAL, and how to contact the GAL. If the child has significant emotional problems, the GAL should consult with a mental health specialist or the child's therapist in order to determine the best manner to present this information.

In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the GAL should explain how the GAL's role and responsibilities differ from that of the child's defense attorney and advise the child about the limitations on confidentiality that may apply.

The GAL must inform the child that there may be circumstances when confidentiality will apply to communication between the child and GAL, and circumstances when it may not. The GAL may use information received from the child to further the child's best interest. For example, the GAL may learn from the child that a custodian is taking illegal drugs and may use that information to request that the court order drug testing of the custodian.

The GAL should keep the child apprised of any developments in the case and actions of the court or parties involved. The GAL shall maintain meaningful contact with the child throughout the term of the case to monitor the child's welfare and the parties' compliance with court orders.

D. Participate, as appropriate, in pre-trial conferences, mediation and negotiations.

The GAL should be involved, as appropriate, in all pre-trial conferences and negotiations including phone calls, formal or informal conferences and mediation. Additionally, the GAL should take any action necessary to attempt to resolve the case in the least adversarial manner possible; however, a GAL should clarify, when necessary, that he or she is not acting as a mediator.

The GAL's role in such meetings is to represent and advocate for the best interests of the child. A GAL who participates in mediation is bound by the confidentiality rules governing mediation as found in § 8.01-576.10 of the Code of Virginia. As a general rule, the GAL should encourage settlements. In exceptional cases where the GAL reasonably believes that a proposed settlement would be contrary to the welfare of the child, the GAL should first discuss these concerns with the parties and their counsel. If these concerns are not addressed, the GAL should bring the facts that led to the concerns about the settlement to the court's attention by filing a motion to vacate the agreement in accordance with § 8.01-576.12 of the Code of Virginia. Any proposed settlement which is deleterious to the child should be opposed despite the agreement of the other parties.

E. Ensure the child's attendance at all proceedings where the child's attendance would be appropriate and/or mandated.

In so far as possible, the GAL should assure the meaningful participation of the child in all phases of the proceedings which would include attendance at appropriate court hearings.

The GAL should consult the child, caretaker, therapist and any other

relevant individuals to determine the appropriateness of the child's attendance at a hearing. A decision to exclude the child from a hearing should be based on a particularized determination. In making this determination, the GAL should consider the age, maturity and desires of the child; the purpose of the hearing; the advice of those consulted; and the potential risk of trauma to the child evoked by such attendance.

In cases when the child has the right to attend hearings, the GAL should ensure that the child is informed of that right. As appropriate, the child should be provided sufficient information about such hearings to make an informed decision about whether to attend.

F. Appear in Court on the dates and times scheduled for hearings prepared to fully and vigorously represent the child's interests.

As in any case, the GAL is expected to act as an advocate for the client child. This demands attendance at all hearings with the intention of presenting a well formulated position based on the facts. This position should be supported by the GAL's independent investigation, and through the development of a theory and strategy for the case. The GAL should prepare, present and cross-examine witnesses, offer exhibits, and provide independent evidence as necessary. Although the child's position may overlap positions of other parties such as the parents, the GAL should be prepared to participate fully in every hearing and not merely defer to or endorse the positions of other parties. The GAL acts as an advocate and uses every attorney skill appropriate to further a result favorable to the child's best interest. The GAL should never engage in ex parte communications with the court or submit written material to the court without promptly delivering a copy to the other parties and their counsel.

As in any case, the GAL is expected to act as an advocate for the client child. This demands attendance at all hearings with the intention of presenting a well formulated position based on the facts.

G. Prepare the child to testify, when necessary and appropriate, in accord with the child's interest and welfare.

The GAL should determine whether to call the child as a witness based on consideration of the child's need or desire to testify, developmental and verbal capabilities of the child and the child's ability to withstand cross-examination. For some children testifying is therapeutic and empowering, while for others it may be very traumatic. The GAL must determine the possible benefits and repercussions of testifying and the necessity of the child's direct testimony. The GAL shall consult a mental health specialist or therapist working with the child, if there is one, to assist in evaluating whether testifying will cause trauma to the child. Consideration should also be given to the availability of other evidence or hearsay exceptions that may substitute for direct testimony.

If the child does not wish to testify or would, in the GAL's opinion, be harmed by being forced to testify, the GAL should seek an agreement of the parties not to call the child as a witness or utilize other remedies such as an order from the court to limit the scope or circumstances of the testimony.

The GAL is obligated to assure that all facts relevant to the case, available dispositional remedies and possible court orders are presented to the court.

If the child is compelled to testify, the GAL should seek to minimize the adverse consequences by seeking appropriate accommodations as allowed by law, such as testimony taken by closed circuit television in accord with § 63.2-1521 of the Code of Virginia or an "in camera" interview of the child in the judge's chambers. The GAL should prepare the child for "in camera" interviews or testimony by explaining the nature and purpose of the proceeding and the use or disclosure that may be made of the information that the child provides during the proceeding.

In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the child's defense attorney will take responsibility for preparing the child to testify when necessary.

H. Provide the court sufficient information including specific recommendations for court action based on the findings of the interviews and independent investigation.

The GAL is obligated to assure that all facts relevant to the case, available dispositional remedies and possible court orders are presented to the court. The GAL's arguments to the court should address every appropriate aspect of the litigation including: analysis of any allegations of abuse, neglect or risk; analysis of factors to be considered in a determination related to custody and visitation; placement of the child; services to be made available to the child and family; dispositional alternatives for the child or parents in juvenile delinquency, child in need of supervision, child in need of services, status offense cases and custody and visitation arrangements; and any other orders the GAL deems to be in the child's interest. Recommendations for placements outside the home should take into consideration the availability and appropriateness of placement with relatives or friends, parental visitation and keeping a sibling group together.

The GAL's arguments should contain, but not be limited to, an analysis of and comment on plans presented by other parties such as the Department of Social Services, court services staff, or as a result of mediation. In certain circumstances, a summary of the GAL's findings with recommendations and the basis for those recommendations may be presented to the court. Such circumstances include the dispositional phase of a case involving both an adjudicatory and dispositional phase or, at the request of the court, in a custody/visitation case. This summary may be written or oral. If written, copies of the summary should be provided to the other parties and their counsel at least five days prior to the hearing unless otherwise directed by the court.

In foster care placement, permanency planning, foster care review proceedings, and mediated agreements, the GAL should be aware of the proposed plans, should consult with the child about the proposal, and explore any alternatives the GAL believes are more appropriate. If the GAL disagrees with such plans, the court should be advised of this disagreement supported by evidence or information gleaned from the GAL's independent investigation.

I. Communicate, coordinate and maintain a professional working relationship in so far as possible with all parties without sacrificing independence.

Whenever it is appropriate to the child's needs and consistent with the direction of the court, the GAL should attend all meetings or hearings involving legal, educational and therapeutic issues specifically related to the case. These would include meetings of the Family Assessment and Planning Team, Individualized Education Plan (IEP) meetings, school disciplinary or other educational meetings, and foster care placement and review meetings. The GAL can present the child's perspective, gather information necessary to proper representation, and potentially achieve a negotiated settlement of all or some issues of the case at such meetings.

The GAL should contact any CASA volunteer assigned to the case and coordinate all aspects of the investigation with the CASA volunteer. Such volunteers can offer significant information and assistance to the GAL.

The GAL should contact the attorneys for the other parties to the case as soon as possible and at least seventy-two hours prior to any hearing. Counsel for other parties to the case may have information not included in any of the available records and can provide their respective clients' perspectives. Appropriate communication should be maintained between the GAL and all agencies and professionals involved in the case.

J. File appropriate petitions, motions, pleadings, briefs, and appeals on behalf of the child and ensure the child is represented by a GAL in any appeal involving the case.

The GAL should make appropriate motions, including motions in limine and evidentiary objections, to advance the child's best interest in court and during other proceedings. When necessary, the GAL should file briefs in support of legal issues. The GAL should file a show cause against a party who is not following a court order or a motion under § 16.1-278 to compel an agency to provide services if it is not doing so as ordered.

If the GAL believes the court's determination is contrary to the child's interest or welfare, after considering the wishes of the child, a notice of appeal should be filed and measures taken to assure that the appeal is perfected expeditiously. The GAL should file any appropriate pleadings on behalf of the child, including responses to pleadings of other parties.

The GAL should also ensure that the child has representation in any appeal related to the case regardless of who files the appeal. During an appeal process initiated by another party, the GAL for a child may file a brief and participate fully at oral argument.

If the GAL feels he or she lacks the necessary experience or expertise to handle an appeal, the GAL should notify the court and seek to be replaced.

The GAL should make appropriate motions, including motions in limine and evidentiary objections, to advance the child's best interest in court and during other proceedings.

The GAL should review all orders to ensure they conform to the court's verbal orders and statutorily required findings and notices.

K. Advise the child, in terms the child can understand, of the court's decision and its consequences for the child and others in the child's life.

The GAL should review all orders to ensure they conform to the court's verbal orders and statutorily required findings and notices. The GAL should discuss all such orders and their consequences with the child. The child is entitled to understand what the court has done and what that means to the child. The GAL should explain whether the order may be modified or whether the actions of the parties may affect how the order is carried out. For example, an order may permit an agency to return the child to the parents if certain goals are accomplished.

The American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases, approved by the American Bar Association House of Delegates, February 5, 1996; American Bar Association Family Law Section Standards of Practice for Lawyers Representing Children in Custody Cases, Committee final draft approved April 24, 2003, and approved by the Section Council on May 2, 2003; The New York State Bar Association Committee on Children and the Law: Law Guardian Representation Standards, Volume II, Custody Cases, November 1999; Representing Children: Standards for Attorneys and Guardians Ad Litem in Custody and Visitation Proceedings, American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (NACC Revised Version), National Association of Counsel for Children, February 1996; American Academy of Matrimonial Lawyers, 1995; and Richmond Juvenile and Domestic Relations District Court Guardian Ad Litem Standards were heavily relied upon in the development of these standards.

Effective Date: September 1, 2003

Chapter 7

Update on Alternative Dispute Resolutions - Pilot Judicial Settlement Conference Program

INTRODUCTION

The Commission on the Future of Virginia's Judicial System and the judiciary's strategic plan for the FY2004-2006 biennium plan call for the creation of multi-door courthouses and the development of a variety of alternative dispute resolution (ADR) options for users of the court system. Over the last decade, a tremendous effort has been made to establish mediation as a viable alternative to litigation. Through education and the allocation of resources through contracts with private providers, mediation has become an integral part of court-annexed dispute resolution services, particularly in the general district and juvenile and domestic relations district courts.

SETTLEMENT CONFERENCE

Another dispute resolution option that should be made available to litigants is the settlement conference. The settlement conference is a longstanding dispute resolution process, which is seldomly used. National research indicates that what attorneys desire in their ADR neutral is competence, credibility, legal experience and subject matter expertise; and, in the process, they seek case evaluation and assistance in settlement. Often settlement conferences produce mutually beneficial settlements in a timely fashion. Unfortunately, courts are not always able to conduct settlement conferences because of insufficient judicial resources. In addition, some judges are not comfortable participating in a settlement conference and then trying the case if it does not settle. The Norfolk Circuit Court has however, for the past few years, brought retired circuit court judges in to conduct settlement conferences in complex cases. The Norfolk program has been very successful in settling cases that would take multiple days to try and in reducing the court's docket.

Given the lack of use of alternative dispute resolution processes in circuit court non-family cases and the expressed need of counsel for assistance in evaluating the merits of their case by knowledgeable and experienced neu-

In appropriate cases, circuit court judges can refer a case to a settlement conference under Rule 1:19 and allow the parties to select a retired judge from the list of trained judges provided by the Office of the Executive Secretary (OES) of the Supreme Court.

trials, the Judicial Council of Virginia approved the piloting of more established use of the settlement conference. Since facilitating settlement conferences often requires mediation-type skills in addition to the expertise gained as a trial judge, the retired judges who are interested in participating in this pilot project have been given 16 hours of dispute resolution training. On November 6-7, 12 retired circuit court judges were trained in mediation and settlement conference skills. U.S. Magistrate Judge Karen Klein from North Dakota and U.S. Magistrate Judge William Cassady from Alabama conducted the two-day training which was held at the Supreme Court in Richmond. Both judges provide similar training through the Federal Judicial Center to Federal magistrate and district court judges around the country. Sam Jackson, attorney, mediator and trainer from McLean and Paul Warren, attorney, mediator and trainer from Norfolk assisted as role-play observers.

In order to allow courts to take advantage of the provisions of Rule 1:19 regarding settlement conferences, a small portion of the funds available for alternative dispute resolution programs is available to employ retired judges to conduct these conferences.

While the retired judges conducting settlement conferences would be compensated in the same fashion as when recalled to active status, and technically in recalled status, they would have no trial authority with regard to a given case, but merely would assist the parties in assessing their case and possibly reaching settlement. In addition, the retired judge shall maintain confidentiality with respect to the settlement conference proceedings and shall only report to the referring court the terms of the agreement, if authorized by the parties, or the fact that no agreement was reached.

In appropriate cases, circuit court judges can refer a case to a settlement conference under Rule 1:19 and allow the parties to select a retired judge from the list of trained judges provided by the Office of the Executive Secretary (OES) of the Supreme Court. An order of referral can be used by the retired judge to certify his service and request payment at a rate of \$200 per day. There will be no charge to the parties for this service. If a court plans on using a particular judge, the Supreme Court can issue a general designation for that judge. If parties select a specific judge, they must inform the court of their selection so that a designation may be requested.

Procedures for selecting a settlement judge and for scheduling the settlement conference are as follows:

1. A judge orders a case to a Judicial Settlement Conference approximately 30-60 days before trial.
2. The order is given to all parties with a list from which the parties choose a settlement judge. Judges' travel limitations will be described on this list.
3. After the parties agree on a settlement judge, they inform the clerk's office of their selection.

4. The clerk's office contacts the settlement judge and does the following:
 - a. Verifies whether the judge will accept the case.
 - b. Determines whether a designation is issued for the judge. If not, such designation will be requested from the Supreme Court.
 - c. Provides the judge with dates and times that space is available in the courthouse to conduct the settlement conference.
 - d. Inform the parties if the judge does not accept the case.
5. If the parties cannot agree on a judge, the court appoints a settlement judge.
6. Once the settlement judge is identified, either by party selection or court appointment, the clerk's office mails the judge a confirmation letter with the parties' contact information as well as a copy of the Order of Referral to Settlement Conference.
7. The settlement judge contacts the parties regarding the date, time and location of the settlement conference. The settlement conference will usually be held in the courthouse.
8. Counsel and the settlement judge should sign the Agreement Concerning Settlement Conference form at the beginning of the conference.
9. At the conclusion of the settlement conference, the parties informs the court in writing if the case settles.
10. The settlement judge then submits a Settlement Conference Per Diem and Travel Expense Reimbursement Voucher to be paid for his services. Judges will be compensated at a rate of \$200/day in addition to travel and meal expenses.
11. The Order of Referral should be attached to the Reimbursement Voucher when it is submitted for payment.

A court may amend these procedures to suit its needs. Research and input from attorneys indicates that the best time for referral of a case to settlement conference is approximately 30-60 days before trial. Circuit court judges and clerks are encouraged to discuss the best method for referral of appropriate cases to settlement conference given the court's scheduling and docket procedures.

Council hopes that this program will open new options for the courts and litigants. The lawyers and parties should appreciate the benefit of having an experienced judge with significant expertise facilitate the settlement of their case. Furthermore, they will retain more ability to control and craft a settlement which is acceptable to them or, if not, proceed to trial. Courts should find this an excellent process for reducing docket congestion while ensuring the prospects of a quality outcome. Finally, this program should offer retired judges an additional opportunity to stay active, to use the skills developed as a judge, and to develop new skills in facilitating settlements. After a reasonable period, an evaluation of this pilot project will be conducted to determine

Circuit court judges and clerks are encouraged to discuss the best method for referral of appropriate cases to settlement conference given the court's scheduling and docket procedures.



Chapter 8

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 the 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) providing the machinery for the evaluation of 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 Advisory Committee on the Rules of Court, as well as the entire Judicial Council, is called upon continually to study and to make recommendations on 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 Rule changes are also posted on the Judiciary's website at www.courts.state.va.us.

RULE CHANGES

- Rule 1.10 Imputed Disqualification: General Rule. (effective January 1, 2004)
- Rule 1.11 Special Conflicts of Interest for Former and Current Government Officers and Employees. (effective January 1, 2004)
- Rule 1.12 Former Judge or Arbitrator. (effective January 1, 2004)

- Rule 1.13 Organization as Client. (effective January 1, 2004)
- Rule 1.14 Client With Impairment. (effective January 1, 2004)
- Rule 1.15 Safekeeping Property. (effective January 1, 2004)
- Rule 1.16 Declining Or Terminating Representation. (effective January 1, 2004)
- Rule 1.17 Sale of Law Practice. (effective January 1, 2004)
- Rule 1.2 Scope of Representation. (effective January 1, 2004)
- Rule 1.3 Diligence. (effective January 1, 2004)
- Rule 1.5 Fees. (effective January 1, 2004)
- Rule 1.6 Confidentiality of Information. (effective January 1, 2004)
- Rule 1.8 Conflict of Interest: Prohibited Transactions. (effective January 1, 2004)
- Rule 1:12 Service of Papers after the Initial Process. (effective October 15, 2003)
- Rule 1:13 Endorsements. (effective October 15, 2003)
- Rule 1:7 Computation of Time. (effective October 15, 2003)
- Rule 1A:5 Virginia Corporate Counsel & Corporate Counsel Registrants. (effective January 1, 2004)
- Rule 1A:6 Foreign Attorneys - Requested Military Legal Assistance Attorneys (effective immediately).
- Rule 2.10 Third Party Neutral. (effective January 1, 2004)
- Rule 3.5 Impartiality and Decorum of the Tribunal. (effective January 1, 2004)
- Rule 3A:12 Subpoena. (effective January 1, 2003).
- Rule 3A:17.1 Proceedings in Bifurcated Jury Trials of Non-Capital Felonies and Class 1 Misdemeanors. (effective January 1, 2003)
- Rule 3A:24 Special Rule Applicable to Post-Conviction Proceedings: Circuit Court Orders Denying Petitions for Writs (effective July 1, 2003)
- Rule 3B:2 Uniform Fine Schedule. (effective July 21, 2003)
- Rule 3C:2 Uniform Fine Schedule. (effective July 1, 2003)
- Rule 4:1 General Provisions Governing Discovery. (effective January 1, 2003).
- Rule 4:12 Failure to Make Discovery; Sanctions. (effective January 1, 2003).
- Rule 4:15 Motions Practice. (effective January 1, 2003).
- Rule 4:7 Use of Depositions in Court Proceedings. (effective October 15, 2003)
- Rule 4:9 Production of Documents and Things and Entry on Land for Inspection and Other Purposes; Production at Trial. (effective October 15, 2003)
- Rule 5.1 Responsibilities of Partners and Supervisory Lawyers. (effective January 1, 2004)
- Rule 5.3 Responsibilities Regarding Nonlawyer Assistants. (effective January 1, 2004)

- Rule 5.4 Professional Independence Of A Lawyer. (effective January 1, 2004)
- Rule 5.6 Restrictions on Right to Practice. (effective January 1, 2004)
- Rule 5:7B Petition for a Writ of Actual Innocence. (effective January 15, 2003).
- Rule 5A:3 Extension of Time. (effective January 1, 2003).
- Rule 5A:8 Record on Appeal: Transcript or Written Statement. (effective January 1, 2003).
- Rule 6.5 Nonprofit and Court-Annexed Limited Legal Services Programs. (effective January 1, 2004)
- Rule 8.1 Bar Admission and Disciplinary Matters. (effective January 1, 2004)
- Rule 8.3 Reporting Misconduct. (effective immediately)
- Rule 8.4 Misconduct. (effective immediately)



JUDICIAL COUNCIL OF VIRGINIA

Proposed Legislation



2003

REQUEST FOR NEW JUDGESHIPS IN THE FIRST, FOURTEENTH, FIFTEENTH, TWENTY-SECOND AND TWENTY-NINTH JUDICIAL CIRCUIT

A BILL to amend and reenact § 17.1-507 of the Code of Virginia, relating to number of circuit court judges.

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-507 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-507. Number of judges; residence requirement; compensation; powers; etc.

A. For the several judicial circuits there shall be judges, the number as hereinafter set forth, who shall during their service reside within their respective circuits and whose compensation and powers shall be the same as now and hereafter prescribed for circuit judges.

The number of judges of the circuits shall be as follows:

First - ~~45~~
Second - 10
Third - 4
Fourth - 9
Fifth - 3
Sixth - 2
Seventh - 5
Eighth - 4
Ninth - 4
Tenth - 3
Eleventh - 3
Twelfth - 5
Thirteenth - 8
Fourteenth - ~~45~~
Fifteenth - ~~78~~
Sixteenth - 5
Seventeenth - 4
Eighteenth - 3
Nineteenth - 15
Twentieth - 4
Twenty-first - 3
Twenty-second - ~~34~~
Twenty-third - 6
Twenty-fourth - 5
Twenty-fifth - 4
Twenty-sixth - 5
Twenty-seventh - 5
Twenty-eighth - 2
Twenty-ninth - ~~34~~
Thirtieth - 3
Thirty-first - 5

B. No additional circuit court judge shall be authorized or provided for any judicial circuit until the Judicial Council has made a study of the need for such additional circuit court judge and has reported its findings and recommendations to the Courts of Justice Committees of the House of Delegates and Senate. The boundary of any judicial circuit shall not be changed until a study has been made by the Judicial Council and a report of its findings and recommendations made to said Committees.

C. If the Judicial Council finds the need for an additional circuit court judge after a study is made pursuant to subsection B, the study shall be made available to the Compensation Board and the Courts of Justice Committees of the House of Delegates and Senate and Council shall publish notice of such finding in a publication of general circulation among attorneys licensed to practice in the Commonwealth. The Compensation Board shall make a study of the need to provide additional courtroom security and deputy court clerk staffing. This study shall be reported to the Courts of Justice Committees of the House of Delegates and the Senate, and to the Department of Planning and Budget.

SENIOR JUSTICES AND JUDGES.

A BILL to amend and reenact §§ 17.1-302 and 17.1-401 of the Code of Virginia, relating to senior justices and judges.

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-302 and 17.1-401 of the Code of Virginia are amended and reenacted as follows:

§ 17.1-302. Senior justice.

A. Any Chief Justice or justice of the Supreme Court of Virginia who is eligible for retirement, other than for disability, with the prior consent of a majority of the members of the Court, may elect to retire and be designated a senior justice. In addition, any Chief Justice or justice of the Supreme Court of Virginia who is retired and subject to recall pursuant to § 17.1-106, with the consent of a majority of the members of the court, may be known and designated as a senior justice.

B. Any Chief Justice or justice who has retired from active service, as provided in subsection A, may be designated and assigned by the Chief Justice of the Supreme Court of Virginia to perform the duties of a justice of the Court.

C. While serving in such status, a senior justice shall be deemed to be serving in a temporary capacity and, in addition to the retirement benefits received by such justice, shall receive as compensation a sum equal to one-fourth of the total compensation of an active justice of the Supreme Court of Virginia for a similar period of service. A retired justice, while performing the duties of a senior justice, shall be furnished office space, support staff, a telephone, and supplies as are furnished a justice of the Court.

D. A justice may terminate his status as a senior justice, or such status may be terminated by a majority of the members of the Court. Each justice designated a senior justice shall serve a one-year term unless the Court, by order or otherwise, extends the term for an additional year. There shall be no limit on the number of terms a senior justice may so serve.

E. Only five retired justices shall serve as senior justices at any one time.

F. Nothing in this section shall be construed to increase the number of justices of the Supreme Court provided for in Section 2 of Article VI of the Constitution of Virginia and in § 17.1-300.

§ 17.1-401. Senior judge.

A. Any chief judge or judge of the Court of Appeals who is eligible for retirement, other than for disability, with the consent of a majority of the members of the court first obtained, may elect to retire and be known and designated as a senior judge. In addition, any chief judge or judge of the Court of Appeals who is retired and subject to recall pursuant to § 17.1-106, with the consent of a majority of the members of the court, may be known and designated as a senior judge.

B. Any chief judge or judge who has retired from active service, as provided in subsection A, may be designated and assigned by the Chief Judge of the Court of Appeals to perform the duties of a judge of the court.

C. While serving in such status, a senior judge shall be deemed to be serving in a temporary capacity and, in addition to the retirement benefits received by such judge, shall receive as compensation a sum equal to one-fourth of the total compensation of an active judge of the Court of Appeals for a similar period of service. A retired judge, while performing the duties of a senior judge, shall be furnished office space, support staff, a telephone, and supplies as are furnished a judge of the court.

D. A judge may terminate his status as a senior judge, or such status may be terminated by a majority of the members of the court. Each judge designated a senior judge shall serve a one-year term unless the court, by order or otherwise, extends the term for an additional year. There shall be no limit on the number of terms a senior judge may so serve.

E. Only five retired judges shall serve as senior judges at any one time.

F. Nothing in this section shall be construed to increase the number of judges of the Court of Appeals provided for in § 17.1-400.

LONG-TERM CARE INSURANCE BENEFITS; JUDGES.

A BILL to amend and reenact § 51.1-1135.2 of the Code of Virginia, relating to long-term care insurance and benefits for state employees.

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-1135.2 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-1135.2. Board authorized to provide long-term care insurance and benefits.

A. For purposes of this section, "eligible employee" means the same as that term is defined in § 51.1-1100, and, in addition, the members of the Judicial Retirement System as specified in § 51.1-302.

B. The Board is authorized to develop, implement, and administer a long-term care insurance program for eligible employees. The Board may contract for and purchase such long-term care insurance or may self-insure long-term care benefits or may use such other actuarially sound funding necessary to effectuate such long-term care insurance and benefits.

C. The costs of providing long-term care benefits shall be paid by state agencies from funds as shall be appropriated by law to state agencies. State agencies shall pay to the Board from such funds contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term care insurance and benefits for eligible employees, and (ii) administer the long-term care insurance program, including providing case management and cost containment programs. Contributions shall be deposited in the Disability Insurance Trust Fund established under § 51.1-1140.

COURT-APPOINTED COUNSEL; FEES.

A BILL to amend and reenact § 19.2-163 of the Code of Virginia, relating to compensation of court-appointed counsel.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-163 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-163. Compensation of court-appointed counsel.

Counsel appointed to represent an indigent accused in a criminal case shall be compensated for his services in an amount fixed by each of the courts in which he appears according to the time and effort expended by him in the particular case, not to exceed the amounts specified in the following schedule:

1. In a district court, a sum not to exceed ~~\$120~~132 or such other amount as may be provided by law; such amount shall be allowed in any case wherein counsel conducts the defense of a single charge against the indigent through to its conclusion or a charge of violation of probation at any hearing conducted under § 19.2-306, without a requirement for accounting of time devoted thereto; thereafter, compensation for additional charges against the same accused also conducted by the same counsel shall be allowed on the basis of additional time expended as to such additional charges;

2. In a circuit court (i) to defend a felony charge that may be punishable by death an amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by confinement in the state correctional facility for a period of more than twenty years, or a charge of violation of probation for such offense, a sum not to exceed ~~\$1,235~~1,358; (iii) to defend any other felony charge, or a charge of violation of probation for such offense, a sum not to exceed ~~\$445~~489; and (iv) to defend any misdemeanor charge punishable by confinement in jail or a charge of violation of probation for such offense, a sum not to exceed ~~\$158~~173. In the event any case is required to be retried due to a mistrial for any cause or reversed on appeal, the court may allow an additional fee for each case in an amount not to exceed the amounts allowable in the initial trial. In the event counsel is appointed to defend an indigent charged with a felony that may be punishable by death, such counsel shall continue to receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a felony that may not be punishable by death, prior to final disposition of the case. In the event counsel is appointed to defend an indigent charged with any other felony, such counsel shall receive compensation as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a misdemeanor or lesser felony prior to final disposition of the case in either the district court or circuit court.

The circuit or district court shall direct the payment of such reasonable expenses incurred by such court-appointed counsel as it deems appropriate under the circumstances of the case. Counsel appointed by the court to represent an indigent charged with repeated violations of the same section of the Code of Virginia, with each of such violations arising out of the same incident, occurrence, or transaction, shall be compensated in an amount not to exceed the fee prescribed for the defense of a single charge, if such offenses are tried as part of the same judicial proceeding. The trial judge shall consider any guidelines established by the Supreme Court but shall have the sole discretion to fix the amount of compensation to be paid counsel appointed by the court to defend a felony charge that may be punishable by death.

The circuit or district court shall direct that the foregoing payments shall be paid out by the Commonwealth, if the defendant is charged with a violation of a statute, or by the county, city or town, if the defendant is charged with a violation of a county, city or town ordinance, to the attorney so appointed to defend such person as compensation for such defense.

Counsel representing a defendant charged with a Class 1 felony may submit to the court, on a monthly basis, a statement of all costs incurred and fees charged by him in the case during that month. Whenever

the total charges as are deemed reasonable by the court for which payment has not previously been made or requested exceed \$1,000, the court may direct that payment be made as otherwise provided in this section. When such directive is entered upon the order book of the court, the Commonwealth, county, city or town, as the case may be, shall provide for the payment out of its treasury of the sum of money so specified. If the defendant is convicted, the amount allowed by the court to the attorney appointed to defend him shall be taxed against the defendant as a part of the costs of prosecution and, if collected, the same shall be paid to the Commonwealth, or the county, city or town, as the case may be. An abstract of such costs shall be docketed in the judgment docket and execution lien book maintained by such court.

Any statement submitted by an attorney for payments due him for indigent representation or for representation of a child pursuant to § 16.1-266 shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment.

For the purposes of this section, the defense of a case may be considered conducted through to its conclusion and an appointed counsel entitled to compensation for his services in the event an indigent accused fails to appear in court subject to a capias for his arrest or a show cause summons for his failure to appear and remains a fugitive from justice for one year following the issuance of the capias or the summons to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

2. That the provisions of this act shall become effective on July 1, 2005.

PRO BONO SERVICES COVERED BY RISK MANAGEMENT PLAN

A BILL to amend and reenact § 2.2-1839 of the Code of Virginia, relating to participants in risk management plans.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1839 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-1839. Risk management plans administered by the Department of the Treasury's Risk Management Division for political subdivisions, constitutional officers and others.

A. The Division shall establish a risk management plan subject to the approval of the Governor, which may be purchased insurance, self-insurance or a combination of self-insurance and purchased insurance to provide protection against liability imposed by law for damages and against incidental medical payments resulting from any claim made against any county, city or town; authority, board, or commission; sanitation, soil and water, planning or other district; public service corporation owned, operated or controlled by a locality or local government authority; constitutional officer; state court-appointed attorney; any attorney for any claim arising out of the provision of pro bono legal services to an eligible person under a program approved by the Supreme Court of Virginia or the Virginia State Bar; affiliate or foundation of a state department, agency or institution; any clinic that is organized in whole or primarily for the delivery of health care services without charge; or the officers, agents or employees of any of the foregoing for acts or omissions of any nature while in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization.

For the purposes of this section, "delivery of health care services without charge" shall be deemed to include the delivery of dental, medical or other health services when a reasonable minimum fee is charged to cover administrative costs.

B. Participation in the risk management plan shall be voluntary and shall be approved by the participant's respective governing body or by the State Compensation Board in the case of constitutional officers, by the office of the Executive Secretary of the Virginia Supreme Court in the case of state court-appointed attorneys and attorneys under approved programs, and by the Division. Upon such approval, the Division shall assume sole responsibility for plan management, compliance, or removal.

C. The Division shall provide for the legal defense of participating entities and shall reserve the right to settle or defend claims presented under the plan. All prejudgment settlements shall be approved in advance by the Division.

D. The risk management plan established pursuant to this section shall provide for the establishment of a trust fund for the payment of claims covered under such plan. The funds shall be invested in the manner provided in § 2.2-1806 and interest shall be added to the fund as earned.

The trust fund shall also provide for payment of legal defense costs, actuarial costs, administrative costs, contractual costs and all other expenses related to the administration of such plan.

E. The Division shall, in its sole discretion, set the premium and administrative cost to be paid to it for providing a risk management plan established pursuant to this section. The premiums and administrative costs set by the Division shall be payable in the amounts at the time and in the manner that the Division in its sole discretion shall require. The premiums and administrative costs need not be uniform among participants, but shall be set so as to best ensure the financial stability of the plan.

CIVIL IMMUNITY FOR INVESTIGATION OF COMMISSIONERS OF ACCOUNTS.

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 7 of Title 17.1 a section numbered 17.1-705.1, relating to civil immunity for investigation of commissioners of accounts.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 7 of Title 17.1 a section numbered 17.1-705.1 as follows:

§ 17.1-705.1. Civil immunity for investigation of commissioners of accounts, etc.

All members of the Standing Committee on Commissioners of Accounts of the Judicial Council of Virginia shall be immune from civil liability for, or resulting from, any act, decision, omission, communication, finding, opinion or conclusion done or made in connection with the investigation of complaints against any commissioner of accounts, assistant commissioner of accounts or deputy commissioner of accounts, if such act, decision, omission, communication, finding, opinion or conclusion is done in good faith and without malicious intent.

PROPERTY OF BAIL BONDSMEN.

A BILL to amend and reenact § 19.2-152.1 of the Code of Virginia, relating to certification of property bail bondsmen.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-152.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-152.1. Certification of property bail bondsmen.

A. As used in this article:

"Certificate" means a certificate issued by the judge of ~~each~~ the circuit court of ~~the~~ a county or city where an individual desires to carry on the business of a property bail bondsman, which (i) approves the issuance of a license or (ii) if the county or city does not require property bail bondsmen to obtain a license, authorizes a person to carry on the business of a property bail bondsman;

"License" means a revenue license issued by a county or city pursuant to § 58.1-3724;

"Property bail bondsman" means an individual who, for compensation, enters into a bond or bonds for others, whether as a principal or surety, or otherwise pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail; and

"Surety bail bondsman" has the same meaning ascribed thereto in § 38.2-1800.

B. A county or city shall not issue a license to an applicant unless such person has been issued a certificate from the judge of the circuit court of ~~the~~ a county or city in which he desires to carry on the business of a property bail bondsman. A license shall cease to authorize its holder to act as a property bail bondsman upon the termination of the certificate that approved the issuance of the license.

C. In any county, city or town that has not enacted an ordinance requiring property bail bondsmen to obtain a license, no person shall act as a property bail bondsman unless such person has been issued a certificate. A certificate shall cease to authorize its holder to act as a property bail bondsman upon the certificate's termination.

D. Prior to October 1, 2003, a judge shall not issue a certificate unless the judge finds that the applicant is of good moral character, that his past conduct before the courts of ~~said~~ the county or city has not been unsatisfactory and that he is suitable to be so licensed. Before the issuance of such certificate the judge of the circuit court may review the record of the applicant as furnished by the Federal Bureau of Investigation.

E. Effective October 1, 2003, a judge shall not issue a certificate unless:

1. The judge finds that the applicant is of good moral character, that he has not been convicted of a felony unless the applicant is able to submit proof that his civil rights have been restored by the Governor or other appropriate authority, that his past conduct before the courts of such county or city has not been unsatisfactory, and that he is suitable to be so licensed;

2. The applicant has submitted to fingerprinting and has provided personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant;

3. The applicant has paid the cost of the fingerprinting or criminal records check or both;

4. The judge has reviewed the record of the applicant or notification that no record exists, from the Central Criminal Records Exchange;

5. The judge has reviewed the record of the applicant or notification that no record exists as furnished by the Federal Bureau of Investigation;

6. The applicant provides to the issuing court collateral of \$200,000 on his bonds and \$200,000 on the bonds of each of his agents; and

7. The applicant provides to the issuing court the statement as required pursuant to § 19.2-152.1:4.

F. Prior to the issuance of any certificate, the judge of the circuit court may confer with the judge or judges of those courts in which the applicant seeks to act as a property bail bondsman.

G. A certificate shall not be issued authorizing any person to act as a property bail bondsman or agent for any professional bondsman if such person, such person's spouse, or a member of such person's immediate family holds any office as judge, magistrate, clerk or deputy clerk of any court.

H. Any certificate issued at any time prior to October 1, 2003 shall terminate effective October 1, 2003, unless the provisions of subsection E have been fulfilled. Any property bail bondsman issued a certificate prior to July 1, 1989, who has continuously maintained his certification and who has never provided to a court collateral of \$200,000 or more, may be exempted by the judge from the \$200,000 collateral requirements specified under subdivision E 6. Those property bail bondsmen who are exempted shall satisfy all of the other requirements in this section for property bail bondsmen, and shall provide to the court the collateral amount to which they may bond.



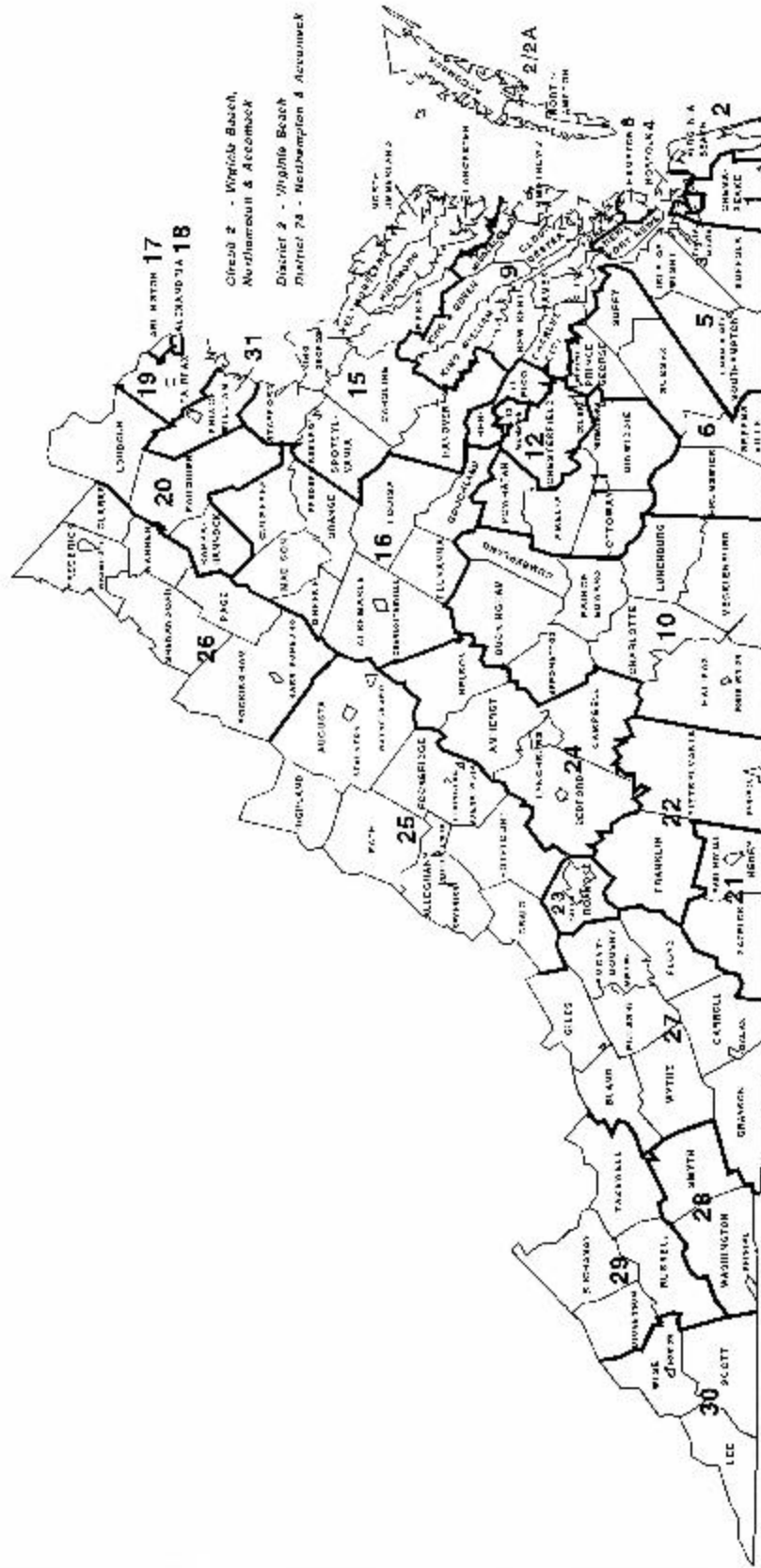
JUDICIAL COUNCIL OF VIRGINIA

Map of the Judicial Circuits and Districts



2003

Judicial Circuits and Districts of Virginia



Prepared in the Office of the Executive Secretary,
 Supreme Court of Virginia - December 2003

Virginia Localities by Judicial Circuit/District

| | | | | | |
|------------------|------|----------------|------|-----------------|----|
| Accomack | 2/2A | Galax | 27 | Portsmouth | 3 |
| Albemarle | 16 | Giles | 27 | Powhatan | 11 |
| Alexandria | 18 | Gloucester | 9 | Prince Edward | 10 |
| Alleghany | 25 | Goochland | 16 | Prince George | 6 |
| Amelia | 11 | Grayson | 27 | Prince William | 31 |
| Amherst | 24 | Greene | 16 | Pulaski | 27 |
| Appomattox | 10 | Greensville | 6 | Radford | 27 |
| Arlington | 17 | Halifax | 10 | Rappahannock | 20 |
| Augusta | 25 | Hampton | 8 | Richmond County | 15 |
| Bath | 25 | Hanover | 15 | Richmond City | 13 |
| Bedford County | 24 | Harrisonburg | 26 | Roanoke County | 23 |
| Bland | 27 | Henrico | 14 | Roanoke City | 23 |
| Botetourt | 25 | Henry | 21 | Rockbridge | 25 |
| Bristol | 28 | Highland | 25 | Rockingham | 26 |
| Brunswick | 6 | Hopewell | 6 | Russell | 29 |
| Buchanan | 29 | Isle of Wight | 5 | Salem | 23 |
| Buckingham | 10 | James City | 9 | Scott | 30 |
| Buena Vista | 25 | King and Queen | 9 | Shenandoah | 26 |
| Campbell | 24 | King George | 15 | Smyth | 28 |
| Caroline | 15 | King William | 9 | Southampton | 5 |
| Carroll | 27 | Lancaster | 15 | South Boston | 10 |
| Charles City | 9 | Lee | 30 | Spotsylvania | 15 |
| Charlotte | 10 | Lexington | 25 | Stafford | 15 |
| Charlottesville | 16 | Loudoun | 20 | Staunton | 25 |
| Chesapeake | 1 | Louisa | 16 | Suffolk | 5 |
| Chesterfield | 12 | Lunenburg | 10 | Surry | 6 |
| Clarke | 26 | Lynchburg | 24 | Sussex | 6 |
| Clifton Forge | 25 | 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 | | |

| Note | |
|-------------|---|
| Circuit 2 | Virginia Beach Accomack Northampton |
| District 2 | Virginia Beach |
| District 2A | Accomack Northampton |

Virginia Judicial Circuits and Districts

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

