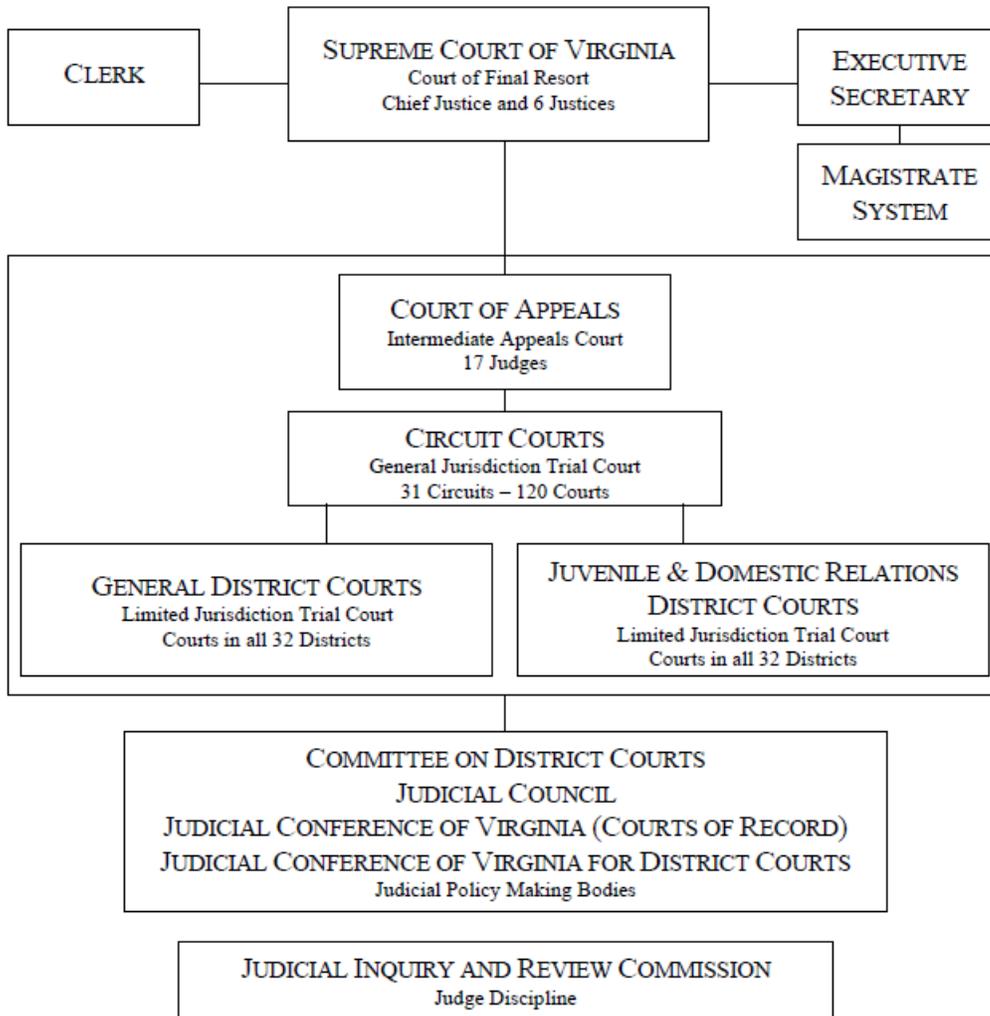


Virginia Courts in Brief

Virginia's Judicial System

The mission of Virginia's Judicial System is to assure that disputes are resolved justly, promptly, and economically. The components necessary to discharge this function are a court system unified in its structure and administration; competent, honest judges and court personnel; and uniform rules of practice and procedure. This pamphlet is offered to promote a better understanding of the operation of the Virginia court system and the manner in which its mission is accomplished.

The present system consists of four levels of courts: the Supreme Court, the Court of Appeals, the circuit courts, and the district courts. In addition, magistrates serve as judicial officers with authority to issue various types of processes. The courts are organized into 31 judicial circuits and 32 similar judicial districts. More than 2,600 people, including judges, clerks, and magistrates, work within the judicial branch of government with the goal of providing the citizens of the Commonwealth prompt, efficient service.



Magistrates

In many instances, a citizen's first contact with Virginia's Judicial System is with a magistrate. A principal function of a magistrate is to provide an independent, unbiased review of complaints of criminal conduct brought by law enforcement or the general public. Magistrate duties include issuing various types of processes such as arrest warrants, summonses, search warrants, emergency protective orders, emergency custody orders, and certain civil warrants. Magistrates also conduct bail hearings in instances in which an individual is arrested to determine under what conditions the arrestee should be released from custody prior to trial. Magistrates provide services on an around-the-clock basis, conducting hearings in person or through the use of videoconferencing systems.

The Office of the Executive Secretary of the Supreme Court of Virginia provides administrative supervision of and training to magistrates. The magistrate system for the Commonwealth is divided into eight regions, and each magistrate is authorized to exercise his or her powers throughout the magisterial region to which he or she is appointed. Each region has between three and five judicial districts. Each region has a magistrate regional supervisor who assists the Director of Magistrate Services in administering the statewide system. There are magistrate offices located throughout Virginia, including at least one in each of Virginia's 32 judicial districts. Chief magistrates assist in the training and supervision of magistrates within each district.

District Courts

Virginia's unified district court system consists of the general district and the juvenile and domestic relations district courts. Within the 32 districts of the state, there are general district courts and juvenile and domestic relations district courts in every city and county.

The **General District Court** hears all criminal cases involving misdemeanors under state law and offenses that are violations of ordinances and laws of the county or city where the court is located. A misdemeanor is any charge that carries a penalty of up to one year in jail or a fine of up to \$2,500, or both.

The Code of Virginia defines criminal offenses and sets penalties. For many offenses, the penalty described is a fine. Fines collected for violations are paid into the treasury of the city, town, or county whose ordinance has been violated, or into the state treasury for a violation of state law. The district courts do not conduct jury trials. All cases are heard by a judge. Each defendant in a criminal case is presumed innocent until proven guilty beyond a reasonable doubt. Upon consideration of evidence, the judge decides the question of guilt or innocence and on a finding of guilt determines which penalty, if any, is proper and lawful.

The general district court decides civil cases in which the amount in question does not exceed \$25,000, except for personal injury and wrongful death cases in which the amount in question does not exceed \$50,000. Civil cases vary from suits for damages sustained in automobile accidents to suits by creditors to receive payment on past due debts. In Virginia, claims for \$4,500 or less can be initiated only in general district courts. A separate small claims division has jurisdiction over civil actions when the amount claimed does not exceed \$5,000.

The general district court also hears cases in which a person is charged with a traffic infraction. If convicted of certain traffic violations, the Virginia Department of Motor Vehicles will assess points against the person's driver's license. This is in addition to any fine imposed by the judge.

The general district court holds preliminary hearings in felony cases, which are cases involving offenses that may be punishable by imprisonment of more than one year. At a preliminary hearing, the court determines whether there is sufficient evidence to justify holding the defendant for a grand jury hearing. The grand jury determines whether the accused will be indicted and held for trial in the circuit court.

The **Juvenile and Domestic Relations District Court** in Virginia handles cases involving:

- children accused of delinquent acts, traffic violations or status offenses
- children in need of services or supervision
- children who have been subjected to abuse or neglect, or abandoned
- children whose custody, visitation, support, or parentage is before the court
- children in foster care and former foster youth in the Fostering Futures Program
- children for whom relief of custody or termination of parental rights is sought
- children seeking emancipation or work permits
- children whose eligibility for federal or state benefits requires certain findings by the court
- family or household members who have been subjected to or accused of abuse
- adults accused of child abuse or neglect, or of offenses against a family or household member
- spouses seeking support after separation
- enforcement of support orders
- court-ordered rehabilitation services
- court consent for certain medical and mental health treatments
- court-ordered blood testing of minors

In Virginia, a child is any person under the age of 18. A child is adjudicated “delinquent” when a court finds that the child has committed an act that would be a crime if committed by an adult. A “status offender” is a child who has committed a certain action that, if committed by an adult, would not be considered a criminal offense - such as a curfew violation. A “child in need of supervision” is one who habitually and unjustifiably is absent from school or runs away from home. A “child in need of services” needs treatment, rehabilitation or services to keep the child or his family safe, and the intervention of the court is required. “Child abuse and neglect” cases involve the improper care or injurious treatment of children.

Juvenile and domestic relations district courts differ from other courts in their duty to protect the confidentiality and privacy of children and their families who have legal matters before the court. In addition to protecting the public and holding delinquent children accountable, the court considers services needed to provide for rehabilitation. As a district court, this court does not conduct jury trials.

As with the general district courts, all parties subject to a juvenile and domestic relations district court order or judgment may appeal the decision to the circuit court. Appeals must be noted in writing with the clerk within 10 days of the court's decision. Cases appealed to the circuit court are reheard *de novo* (as completely new cases).

Circuit Courts

The only trial court of general jurisdiction in Virginia is the circuit court. The **Circuit Court** has jurisdiction over the following:

Civil Actions:

- shared jurisdiction with general district courts of monetary claims of more than \$4,500 but not exceeding \$25,000 and claims not exceeding \$50,000 in personal injury and wrongful death cases
- exclusive original jurisdiction of most monetary claims exceeding \$25,000
- attachments
- validity of a county or municipal ordinance or corporate bylaw
- divorce proceedings
- wills, trusts and estate matters
- property disputes
- adoption proceedings

Criminal Cases:

- all felonies, which are offenses that may be punished by imprisonment of more than one year
- misdemeanor offenses that were appealed from district court or originated from a grand jury indictment
- transfer or certification of felony offenses committed by juveniles

Appeals:

- appeals from the general district court or juvenile and domestic relations district court (heard *de novo*)
- appeals from administrative agencies

The circuit court also handles any case for which jurisdiction is not specified in the Code of Virginia.

At the beginning of each term of the circuit court a grand jury is convened. These juries consider bills of indictment to determine whether there is sufficient probable cause to believe that a person accused of having committed a serious crime did commit such crime and should stand trial. The grand jury does not hear both sides of the case and does not determine the guilt or innocence of the accused.

A special grand jury may be convened to investigate any condition that tends to promote criminal activity in the community or indicates malfeasance by governmental agencies or officials. This grand jury has subpoena powers and may summon persons, documents, or records needed in its investigation.

Court of Appeals

The Court of Appeals of Virginia has authority to hear appeals as a matter of right from:

- any final judgment, order, or decree of a circuit court in a civil matter;
- any final order of conviction/sentence in a traffic or a criminal matter;
- any final decision of the Virginia Workers' Compensation Commission;

- any final decision of a circuit court on appeal from a decision of an administrative agency or a grievance hearing decision;
- any final decision of a circuit court on an application for a concealed weapon permit;
- any final order of a circuit court involving involuntary medical or mental health treatment of prisoners; and
- any final order for declaratory or injunctive relief addressing whether a person's free exercise of religion has been burdened by the Commonwealth or local government.

The Court of Appeals has authority to consider petitions for appeal from:

- certain preliminary rulings in felony cases when requested by the Commonwealth;
- certain interlocutory orders; and
- any order of consolidation or joinder in a case brought under the Multiple Claimant Litigation Act.

The Court of Appeals also has original jurisdiction to issue writs of mandamus (ordering the holder of an office to perform his duty), prohibition (ordering a public official to stop an action), and habeas corpus (ordering one holding custody to produce the detained person before the Court for the purpose of determining whether such custody is proper) in any case over which the Court would have appellate jurisdiction, and writs of actual innocence (based on non-biological evidence).

In any case in which an appeal has been taken to the Court of Appeals, the Supreme Court may certify the case for review by the Supreme Court before it has been decided by the Court of Appeals. A certification transfers jurisdiction over the case to the Supreme Court for all purposes. These certifications occur only when the case is of such public importance that it requires a prompt decision by the Supreme Court or when the docket of the Court of Appeals is such that sound or expeditious administration of justice requires the transfer.

The decisions of the Court of Appeals are final in pre-trial Commonwealth's appeals, and appeals involving traffic infractions, misdemeanor cases where no incarceration is imposed, involuntary treatment of prisoners, and denial of a concealed handgun permit. In pre-trial Commonwealth's appeals, however, if a defendant is convicted, he or she may seek review of the pre-trial appeal ruling on direct appeal. In cases where the decision of the Court of Appeals is not final, any party aggrieved by a decision of the Court of Appeals may petition the Supreme Court for an appeal.

The Court of Appeals consists of seventeen judges. The Court sits in panels of at least three judges, and the membership of the panels is rotated. The Court sits at such locations as the chief judge designates, so as to provide convenient access to the various geographic areas of the Commonwealth.

Supreme Court

Although the Supreme Court of Virginia possesses both original and appellate jurisdiction, its primary function is to review decisions of lower courts, including the Court of Appeals, from which appeals have been allowed. Virginia does not allow an appeal to the Supreme Court as a matter of right except in cases involving decisions of the State Corporation Commission and certain disciplinary actions against an attorney.

The Court's original jurisdiction is limited to cases of habeas corpus, mandamus, prohibition, and actual innocence (based on biological testing). The Supreme Court also has original jurisdiction in matters filed by the Judicial Inquiry and Review Commission relating to judicial censure and retirement, and removal of judges.

Administration

The Chief Justice of the Supreme Court serves as the administrative head of Virginia's Judicial System. The Chief Justice is charged with overseeing the efficient and effective operation of the entire system. Assisting in this task is the Executive Secretary of the Supreme Court, who is the state court administrator.

The **Office of the Executive Secretary (OES)** provides administrative assistance to the courts of the Commonwealth and to Virginia's magistrates through its eleven departments. The departments within the OES include the Assistant Executive Secretary and Legal Counsel, the Court Improvement Program, Educational Services, Fiscal Services, Human Resources, Judicial Information Technology, Judicial Planning, Judicial Services, Legal Research, Legislative and Public Relations, and Magistrate Services.

The administrative structure of the Supreme Court of Virginia also includes the Clerk of the Court, the Reporter of the Supreme Court, the Chief Staff Attorney, and the Law Librarian.

Each court in the Commonwealth maintains a **clerk's office**, which receives, processes, and maintains records of all cases brought before that court, as well as other records and papers the court is required by law to maintain. The **Clerk of the Supreme Court of Virginia** also maintains records of attorneys qualified to practice in the Court, as well as other administrative records.

The **Reporter of the Supreme Court** is responsible for overseeing the compilation, indexing, printing, and publication of the written opinions of the Supreme Court in the *Virginia Reports*. The Court of Appeals of Virginia also employs two Reporters who oversee the compilation, indexing, printing, and publication of the written opinions of the Court of Appeals in the *Virginia Court of Appeals Reports*. One serves as the Court of Appeals Reporter for Civil Cases and the other as the Court of Appeals Reporter for Criminal Cases.

Both the Supreme Court of Virginia and the Court of Appeals of Virginia employ a **Chief Staff Attorney**. The Chief Staff Attorneys and their staff review petitions for appeal, appeals of right, and petitions in original jurisdiction cases, and prepare written summaries for the justices and judges to aid their decisional process.

The State of Virginia **Law Librarian** supervises a library of about 100,000 volumes.

Judicial Inquiry and Review Commission

The **Judicial Inquiry and Review Commission** investigates allegations of judicial misconduct or the serious mental or physical disability of a judge. The Commission has jurisdiction to investigate the justices of the Supreme Court and all judges of the Commonwealth, as well as members of the State Corporation

Commission, the Virginia Workers' Compensation Commission, special justices, substitute judges, judges-elect, and retired judges who have been recalled to service. The Commission may file a formal complaint with the Supreme Court against judges for violations of any canon of judicial conduct, misconduct in office, or failure to perform their judicial duties.

The Commission is comprised of seven members who are elected by the General Assembly and serve four-year terms. Membership includes one circuit court judge, one general district court judge, one juvenile and domestic relations district court judge, two lawyers, and two members of the public who are not lawyers. Commission staff receive and investigate allegations of misconduct and present the findings to the Commission.

Judicial Policy-Making Bodies

The **Judicial Council** 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. It is responsible for examining the work accomplished and results produced by the system and its individual offices and courts. The Council also studies the need for additional judges in the circuit courts. A report of the proceedings and recommendations of the Council is made to the General Assembly and to the Supreme Court on an annual basis.

The Chief Justice of the Supreme Court is presiding officer for the Council whose membership includes one Court of Appeals judge, six circuit court judges, one general district court judge, one juvenile and domestic relations district court judge, two attorneys qualified to practice in the Supreme Court of Virginia, and the Chairmen of the Committees for Courts of Justice in the Virginia Senate and House of Delegates.

The **Committee on District Courts (CDC)** was created to assist the Chief Justice in the administrative supervision of Virginia's district courts. Among the statutorily mandated responsibilities of the CDC are recommending new judgeships; certifying the need to fill district court judicial vacancies; authorizing the appointment of substitute judges; authorizing the establishment of clerks' offices and establishing when such offices are to be open for business; authorizing the appointment of court personnel in each district; fixing salary classification schedules for court personnel; and establishing guidelines and policies for court system personnel. Membership of the CDC includes the Majority Leader of the Senate, the Speaker of the House, the Chairmen of the Committees for Courts of Justice in the Senate and House of Delegates, two members of each of the Courts of Justice Committees appointed by the respective Chairman, one circuit court judge, two general district court judges, and two juvenile and domestic relations district court judges.

The **Judicial Conference of Virginia** was organized to discuss and consider means and methods of improving the administration of justice in the Commonwealth. Active members include the Chief Justice and justices of the Supreme Court, all judges of the Court of Appeals and the circuit courts, and all retired justices and judges of such courts. The Chief Justice serves as President of the Conference.

The **Judicial Conference of Virginia for District Courts** is similar to the Judicial Conference of Virginia in its mission and responsibilities. Membership includes the Chief Justice, who serves as its President, and all active judges of the general district and juvenile and domestic relations district courts.

Judges and Court Personnel

The quality of a court system is determined chiefly by the quality of its judges and court personnel. Virginia is fortunate to have a judiciary of the highest competence and integrity. The judges of Virginia's district courts are elected by a majority vote of each house of the General Assembly for terms of six years. Vacancies in district court judgeships occurring when the General Assembly is not in session are filled by the circuit court judges of the corresponding circuit. The judges so appointed must be elected during the next regular session of the General Assembly. Each judicial district has a chief general district court judge and a chief juvenile and domestic relations district court judge elected by peer vote for a two-year term. The chief judge is the administrative head of the respective court in the judicial district and is responsible for its management.

The judges of the circuit courts are also elected by a majority vote of each house of the General Assembly. They serve for eight-year terms. Interim appointments are made by the Governor subject to election by the General Assembly at the next regular session. The chief judge of the judicial circuit is elected for a two-year term by a vote of the judges serving in the circuit.

The personnel support for each circuit court is under the direction of the clerk of the circuit court, whose office is created by the constitution of Virginia. The clerk is elected for a term of eight years by the voters of the locality. The clerk has authority for the probate of wills, grants of administration, and qualification of guardians. The clerk is the custodian of the court records, and the clerk's office is where deeds are recorded and marriage licenses are issued.

An independent judicial personnel system has been established for support personnel in the district court and magistrate systems. Selection of these employees is on a merit basis with all positions established within a system of uniform job classifications. This ensures consistent treatment of employees doing similar work throughout the state.

Court personnel are not permitted to offer legal advice. However, they can provide general procedural information and try to assist the public.

The seventeen Court of Appeals judges are elected and receive interim appointments in the same manner as the circuit court judges. They serve a term of eight years. The chief judge is elected by a vote of the seventeen judges for a term of four years.

The Supreme Court of Virginia is comprised of seven justices elected by a majority vote of each house of the General Assembly for a term of twelve years. Interim appointments are made by the Governor subject to election by the General Assembly at the next regular session. By law, the Chief Justice is chosen by the majority vote of the seven justices for a term of four years.

Continuing education for judges and court personnel is essential to maintain a high level of professional competence in the court system. Regularly scheduled educational conferences are held for judges and court personnel.

Uniform Rules and Practices

Uniformity of practice is regarded as a vital element for the development of a sound judicial system. 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. The Judicial Council receives and studies suggestions for rule changes from the bench, bar, and citizens, and makes recommendations on Rules of Court to the Supreme Court of Virginia.

The formulation of the administrative policy for the courts in Virginia, while ultimately within the authority of the Chief Justice as the administrative head of the system, is vested on a routine basis in the Judicial Council and the Committee on District Courts. These bodies deal with the daily practices of the courts and seek ways to improve their procedures. The rule-making authority and the administrative policy-making authority provide two mechanisms by which uniformity of procedures can be advanced.

VIRGINIA'S JUDICIAL SYSTEM

Notice Regarding the Americans with Disabilities Act and Requests for Accommodations by Persons with Disabilities

The Americans with Disabilities Act (ADA) of 1990 was enacted to ensure that all qualified individuals with disabilities enjoy the same opportunities that are available to persons without disabilities. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. The ADA directly affects state courts as providers of public programs and services. In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., the Supreme Court of Virginia and the courts of the Commonwealth of Virginia (collectively referred to as "Virginia's Judicial System") will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Virginia's Judicial System does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

Effective Communication: Virginia's Judicial System will generally, upon request, provide appropriate aids and services for qualified persons with disabilities so they can participate equally in Virginia's Judicial System programs, services, and activities, including qualified interpreters, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: Virginia's Judicial System will make all reasonable modification to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Virginia's courts, even where pets are generally prohibited.

Requests for Accommodation: A request for accommodation should be made to the relevant clerk if the request relates to a pending case or activity of a particular court. Otherwise, the request should be made to the ADA Coordinator at the address below. Procedures for making a request, as well as a form for doing so, are available through the ADA Coordinator and on Virginia's Judicial System website, www.vacourts.gov.

No requirement to alter programs and services: The ADA does not require Virginia's Judicial System to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

Complaints regarding accessibility: *Complaints concerning a program, service, or activity of a circuit court clerk's office should be directed to that clerk.* Other complaints will be handled pursuant to grievance procedures adopted by the Office of the Executive Secretary. The procedures are available through the ADA Coordinator, and on Virginia's Judicial System website, www.vacourts.gov.

No surcharge: Virginia's Judicial System will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

Questions about this Notice – Please submit your questions to: ADA Coordinator
Renée Fleming Mills, Ph.D.
Office of the Executive Secretary
Supreme Court of Virginia
100 N. 9th Street
Richmond, Virginia 23219
Fax: 804-786-0109
E-mail: ADAOffice@vacourts.gov