

Opportunities for Electronic Interface with the Virginia Judicial System

This document is intended as a resource summarizing many of the provisions in the Virginia Code and the Rules of the Supreme Court of Virginia authorizing or providing guidance on the transaction of court business by electronic means. The contents of the table are presented in a summary manner only, and reference must be made to any identified Code section or Court Rule for a full understanding of its meaning and application. The table and its contents are not intended as legal advice and may not be a comprehensive resource of all authority related to conducting court business by electronic means. Use of electronic means by each court remains in the discretion of the Chief or Presiding Judge.

Citation	Issue	Notes
I. CODE OF VIRGINIA		
Filing Cases Electronically		
<u>§ 8.01-271.01</u> <u>Title 17.1, Chapter 2, Article 4.1</u>	Electronic Filing	Electronic filing of civil and criminal matters is available in several circuit courts. ¹ Not all circuit courts have adopted electronic filing. See http://www.courts.state.va.us/online/vjefs/home.html to identify which circuit courts have instituted electronic filing, and other information.
Title 32.1, Chapter 2, Article 3.02 <u>§ 32.1-48.013:1.</u>	Electronic filings at court’s discretion as protection from exposure to a communicable disease	“Notwithstanding Rule 1:17 of the Supreme Court of Virginia, a court in its discretion may permit the electronic or facsimile filing of a petition, notice, brief, notice of appeal, or other legal document when such filing is necessary to expedite the proceedings or to protect the public, court officials, or others participating in the proceedings from exposure to a communicable disease.”
Filing Documents Electronically		
<u>§17.1-258.6</u>	Filing electronic documents in lieu of hard copies or originals	“A. In connection with <i>civil or criminal proceedings in circuit court</i> , any statutory requirement for an original, original paper, paper, record, document, facsimile, memorandum, exhibit, certification, or transcript shall be satisfied if such is in an electronic form approved for filing under the Rules of Supreme Court of Virginia. However, this section shall not apply to documents the form of which is specified in any statute governing the creation and execution of wills, codicils, testamentary trusts, premarital agreements, and negotiable instruments.” (italics added)
<u>§ 37.2-913</u>	Civil Commitment of Sexually Violent Predators – emergency custody	“A.Petitions and orders for emergency custody of conditionally released respondents pursuant to this section may be filed, issued, served, or executed by electronic means, with or without the use of two-way electronic video and audio communication, and returned in the same

¹ The Supreme Court of Virginia and the Court of Appeals accept electronic filing, and a pilot project in the J&DR district courts allows the Division of Child Support Enforcement within the Virginia Department of Social Services to file electronically.

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		manner with the same force, effect, and authority as an original document. All signatures thereon shall be treated as original signatures....”
§ 16.1-345.1	Psychiatric Treatment of Minors Act	“A. Petitions and orders..... may be filed, issued, served, or executed by electronic means, with or without the use of two-way electronic video and audio communication, and returned in the same manner.....All signatures thereon shall be treated as original signatures...”
§ 37.2-804.1	Emergency Custody, and Voluntary and Involuntary Civil Admissions	
§ 37.2-1109	Judicial Authorization of Treatment	
Hearing Cases Electronically		
§ 32.1-48.010	Appeal order of quarantine	“F.The court shall conduct the hearing on an appeal of an order [of quarantine or isolation] in a manner that will protect the health and safety of court personnel, counsels, witnesses, and the general public and in accordance with rules of the Supreme Court of Virginia pursuant to subsection C of § 17.1-503.”
§ 32.1-48.013	Appeal order of isolation	
Parties or Witnesses Appearing Electronically		
§ 16.1-93.1	General District Courts	“Notwithstanding any other provision of law, in any proceeding [under this chapter] in which a party or witness is incarcerated or <i>when otherwise authorized by the court</i> , the court may, in its discretion, conduct any hearing using a telephonic communication system or an electronic audio and video communication system to provide for the appearance of any parties and witnesses. Any electronic audio and video communication system used to conduct such a hearing shall meet the standards set forth in subsection B of § 19.2-3.1” (<i>italics added</i>).
§ 16.1-276.3	J&DR District Courts	
§ 17.1-513.2	Circuit Courts	
§ 16.1-250	J&DR Immediate Custody – Detention	Appearances of a child or juvenile [and, under § 16.1-250, the attorney, and parent, guardian, legal custodian or other person standing in <i>loco parentis</i>] before a judge or intake officer may occur either (i) by personal appearance before the intake officer or (ii) by the use of two-way electronic video and audio communication. All communications and proceedings shall be conducted in the same manner and the judge or intake officer shall have the same powers as if the appearance were in person. Any documents already filed may be transmitted by facsimile and the facsimile and any signatures thereon shall serve, for all purposes, as an original document.
§ 16.1-255	J&DR Immediate Custody – Limitation on Detention Orders	
§ 16.1-260	J&DR Intake – Petition	
§ 16.1-285.2	J&DR Disposition – Serious offender	
§ 16.1-342	Involuntary Commitment - clinical evaluation	Employees or designees of community services boards (if physical attendance is not practicable) [§16.1-344], and evaluators [§16.1-342] can appear at hearings through a two-way electronic video and audio or telephonic communication system as authorized in § 16.1-345.1. The comprehensive evaluation of the minor under § 16.1-342 may be
§ 16.1-344	Involuntary Commitment – hearing	

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		conducted by a two-way electronic video and audio communication system if an in-person evaluation is not practicable.
§ 16.1-345.1	Psychiatric Treatment of Minors Act	“B. [The court] may conduct proceedings pursuant to this chapter using any two-way electronic video and audio communication system to provide for the appearance of any parties and witnesses.....When a witness whose testimony would be helpful to the conduct of the proceeding is not able to be physically present, his testimony may be received using a telephonic communication system.”
§ 37.2-804.1	Emergency Custody, and Voluntary and Involuntary Civil Admissions	
§ 37.2-1109	Judicial Authorization of Treatment	
§ 19.2-3.1	Criminal Procedure - personal appearances	“A. Where an appearance is required or permitted before a magistrate, intake officer or, prior to trial, before a judge, the appearance may be by (i) personal appearance before the magistrate, intake officer or judge or (ii) use of two-way electronic video and audio communication.....”
§ 19.2-82	Criminal procedure – arrest	A person arrested without a warrant may be “brought” before a magistrate either in person or via two-way electronic video and audio communication. In the latter case, documents may be transmitted in accordance with § 19.2-3.1.
§ 19.2-169.6	Inpatient psychiatric hospital admission from local correctional facility	An employee or designee of the local community services board or behavioral health authority, or an examiner providing evidence in a hearing on the question of whether to hospitalize an inmate of a local correctional facility for psychiatric treatment may appear and answer questions via a two-way electronic video and audio or telephone communication system.
§ 19.2-187	Admission into evidence of certain certificates of analysis	“D. Any testimony offered by either party in a preliminary hearing or sentencing hearing, or offered by the accused in any hearing other than a trial, from a person who performed an analysis or examination that resulted in a certificate of analysis may be presented by two-way video conferencing.....”
§ 20-88.59	Domestic relations – family support act	Courts may allow parties or witnesses residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated court or other location in that other state.
§ 20-146.10	Domestic relations - UCCJEA	
Title 37.2; Chapter 8; Articles 4, 5, & 6	Emergency Custody, and Voluntary and Involuntary Civil Admissions	Proceedings may be conducted, examinations undertaken, and decisions on alternative transportation arrangements made using any two-way electronic video and audio communication system to provide for the appearance of any parties and witnesses.
Other Electronic Interfaces		
§ 16.1-253.4	Emergency Protective Orders	Emergency protective orders in cases of abuse by a family member (§ 16.1-253.4) or by someone other than a member of the family or household (§ 19.2-152.8) may be issued <i>ex parte</i> and in spoken form by a judge in response to a spoken or electronic request from a law

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§ 19.2-152.8		enforcement officer. The orders last for an initial three days and may be renewed for another three day period. Any spoken emergency protective order shall be reduced to writing, by the law-enforcement officer requesting the order or the magistrate on a preprinted form approved and provided by the Supreme Court of Virginia.
§ 16.1-340	Psychiatric Treatment of Minors Act – Emergency Custody	A magistrate may collect information to make decisions regarding alternative transportation options via two-way electronic video and audio or telephone communication system.
§ 37.2-906	Civil Commitment of Sexually Violent Predators – Probable cause hearing	Any hearing or proceeding to determine whether probable cause exists to believe that the respondent is a sexually violent predator may be conducted using a two-way electronic video and audio communication system to provide for the appearance of parties and witnesses.
§ 63.2-1523	Social Services – Child abuse & neglect	“A. In any civil proceeding involving alleged abuse or neglect of a child pursuant to this chapter or pursuant to § 16.1-241, 16.1-251, 16.1-252, 16.1-253, 16.1-283, or 20-107.2, a recording of a statement of the alleged victim of the offense, made prior to the proceeding, may be admissible as evidence.....” if certain requirements are met and determinations made.
Recording Documents Electronically		
§ 17.1-240	Recording by microphotographic or electronic process writings otherwise required by any provision of law to be spread in a book or retained in the circuit court clerk's office	“A procedural microphotographic process, digital reproduction, or any other micrographic process that stores images of documents in reduced size or in electronic format may be used to accomplish the recording of writings otherwise required by any provision of law to be spread in a book or retained in the circuit court clerk's office, including the civil and criminal order books, the Will Book or Fiduciary Account Book, the Juvenile Order Book, the Adoption Order Book, the Trust Fund Order Book, the Deed Book, the Plat Book, the Land Book, the Bond Book, the Judgment Docket Book, the Partnership or Assumed Name Certificate Book, marriage records, and financing statements.....”
§ 55.1-662 § 55.1-663	Land Records	Electronic land records documents may satisfy the requirement that the record “be an original, be on paper or another tangible medium, or be in writing,” and an electronic signature may be satisfactory. Any eRecording System a circuit court clerk implements must be compliant with State standards.
Filing with Other Public Bodies		
Title 59.1, Chapter 42.1	Uniform Electronic Transactions Act	The Act governs transactions between parties each of which has agreed to conduct transactions by electronic means. Section 59.1-496 authorizes public bodies of the Commonwealth to (i) accept the electronic filing of any information required or permitted to be filed with such public body and (ii) prescribe the methods of executing, recording, reproducing, and certifying electronically filed information. The Act does not apply to electronic filing in courts; that is governed by other Code provisions and Court rules.

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II. RULES OF SUPREME COURT OF VIRGINIA		
Rules Relating to Filing Cases		
Rule 1:17	Electronic filing and service - The Court Rule governing electronic filing in circuit, general district, and J&DR district courts.	“(a) Scope of Electronic Filing Rules. Pursuant to § 8.01-271.01 and Article 4.1 (§§ 17.1-258.2 et seq.) of Chapter 2 of Title 17.1 of the Code of Virginia, this Rule shall be applicable in any court that has established an electronic filing system under the standards and procedures set forth in subdivision (c) of this Rule, and applies in civil cases in circuit court as provided in Rule 3:3, in criminal cases in circuit court as provided in Rule 3A:23, in general district court proceedings as provided in Rule 7A:7(c), and in juvenile and domestic relations district court proceedings as provided in Rule 8:8(f).”
Rule 3:3 (Circuit -Civil) Rule 3A:23 (Circuit-Criminal) Rule 7A:7 (Gen. District Court) Rule 8:8 (J&DR District Court)	Electronic filing of civil or criminal pleadings in circuit courts; electronic filing in general or J&DR district courts; requirements for originals	In any circuit court, general district court, or J&DR district court ² which has established an electronic filing system for civil or criminal cases pursuant to Rule 1:17, except where service and/or filing of an original paper document is expressly required by these rules, all pleadings, motions, notices and other filings shall be formatted, served and filed as specified in the requirements and procedures of Rule 1:17; provided, however, that when any document listed below is filed in the case, the filing party shall notify the clerk of court that the original document must be retained.....[see lists of documents].
Rules Relating to Documents		
Rule 1:7	Computation of Response Dates	“Whenever a party is required or permitted under these Rules, or by direction of the court, to do an act within a prescribed period of days after service of a paper upon counsel of record, (a) No days shall be added if the paper is served by:..... (2) facsimile transmission completed no later than 5:00 p.m.; or (3) electronic mail transmitted no later than 5:00 p.m. (b) One day shall be added to the prescribed time if the paper is served by:... (2) completion of the following after 5:00 p.m. but before midnight: (A).....(B) transmission by facsimile; or (C) transmission by electronic mail.”

² All J&DR district courts accept electronic filings from the Virginia Division of Child Support Enforcement (Motions for Show Cause only at this time). The public can access Motions to Amend and Motions for Show Cause, along with some other motions on the Supreme Court of Virginia website. Motions could be filed via the mail if necessary, as long as the movant attaches a copy of the previous order, which is a requirement in the J&DR district courts.

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Rule 1:12	Service of Papers after the Initial Process	“All pleadings, motions and other papers served after the initial process in an action and not required to be served otherwise and requests for subpoenas duces tecum shall be served by transmitting by electronic mail when Rule 1:17 so provides or when consented to in writing signed by the person to be served..... Service by electronic mail under this Rule is not effective if the party making service learns that the attempted service did not reach the person to be served.”
Rule 1:26	File Format Requirements	“All digital or electronic pleadings, motions, notices, briefs, exhibits or other material made part of any court record are public records unless sealed by court order or otherwise provided by law, and must be readily accessible in either an unencrypted, non-proprietary, and open-source format or must be accompanied by computer software which decrypts any encrypted or proprietary file format.”
Rule 5:26	Briefs in the Supreme Court of Virginia	“....An electronic version, in Portable Document Format (PDF), must be filed with the clerk of this Court and served on opposing counsel, unless excused by this Court for good cause shown. An electronic version of a brief amicus curiae shall be filed with the clerk of this Court and served on counsel for all parties and on any other counsel amicus curiae. The electronic version must be filed in the manner prescribed by the VACES Guidelines and User’s Manual, using the Virginia Appellate Courts eBriefs System (VACES).....”
Rule 5A:10A	Digital record for appeals to Court of Appeals; form, exhibits, transmission, disposition, public.	“(a) A Digital Appellate Record may be created instead of a paper record, with substantially the same content as its paper counterpart. The clerk of the tribunal in which the proceeding originated shall be responsible for preparing the digital record, if the clerk chooses to transmit a digital record in place of the paper version.....”
Rule 5A:15A 5A:33 ; 5A:34	Petitions for rehearing	...the demand/petition shall be filed as a single PDF document attached to an email addressed to cavpfr@vacourts.gov.....
Rule 1:14	All Proceedings	“A court may authorize the use of electronic or photographic means for the <i>preservation of the record</i> or parts thereof” (italics added).
Rule 7A:6	Gen. District Court	
Rule 8:12	J&DR District Court	
Rule 8:8A	J&DR District Court	“Upon consultation with the Committee on District Courts, the Executive Secretary of the Supreme Court may authorize a <i>state agency</i> to file electronically any pleadings, motions, briefs and any other documents in the juvenile and domestic relations district courts, except where otherwise expressly provided by statute or the Rules of Court, or where the court orders otherwise in an individual case for good cause shown” (italics added).
Rule Relating to Hearings		
Rule 1:20	Scheduling Civil Cases for Trial	“.....(a) Counsel of record may agree to a trial date and may secure approval of the court by telephone call or other electronic communication to the designated court official.....(c) The court may, at the request of counsel of record, or may in its own discretion, direct counsel of record to

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		appear, in person or by telephone, for a conference to set a trial date and consider other matters set forth in Rule 1:19 or Rule 4:13.”
Rule 7A:4	Gen. District Court – recording proceeding	“.....The proceedings may be taken down by means of any recording device approved by the judge.”
Rule 3:24	Appeal of Orders of Quarantine or Isolation; Communicable Diseases of Public Health Threat	“The [circuit court (Rule 3:24)/general district court (Rule 7A:16)] shall hold hearings under this rule in a manner to protect the health and safety of individuals subject to any such order or [sic] quarantine or isolation, court personnel, counsel, witnesses, and the general public. To this end, the court may take measures including, but not limited to, ordering the hearing to be held by telephone or video conference or ordering those present to take appropriate precautions, including wearing personal protective equipment.”
7A:16	Isolation Proceedings, Communicable Diseases of Public Health Significance	
Rules Relating to Witnesses		
Rule 1:27	Audiovisual testimony in civil cases in circuit court	“In accordance with Code § 17.1-513.2, live (real-time) testimony by any party or witness in a civil action or proceeding in circuit court by any means of audiovisual technology that complies with Code § 19.2-3.1(B) is permitted upon order of the court in accord with the provisions of subparts (b) through (f) of this Rule.....”
Rule 4:7A	Audiovisual depositions; specific requirements	“Any depositions permitted under these Rules may be taken by audiovisual means including, but not limited to, videoconferencing and teleconferencing, as authorized by and when taken in compliance with law...”
Rules Relating to Oral Argument		
Rule 5:41	Appeal of orders relating to quarantine or isolation; Supreme Court of Virginia	“E. <i>Oral Argument</i> . The Court shall hold any oral argument in appeals under this rule in a manner so as to protect the health and safety of individuals subject to any such order or [sic] quarantine or isolation, court personnel, counsel, and the general public. To this end, the Court may take measures including, but not limited to, ordering any oral argument to be held by telephone or video conference or ordering those present to take appropriate precautions, including wearing personal protective equipment. If necessary, the Court may dispense with oral argument.”
5A:14	Brief in lieu of oral argument in the Court of Appeals	“When a brief in opposition to the petition for appeal has been filed, the appellant may, within 14 days thereafter, in lieu of oral argument, file with the clerk of this Court a reply brief not to exceed 5,300 words in length...”

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