

Virginia Courts In Brief

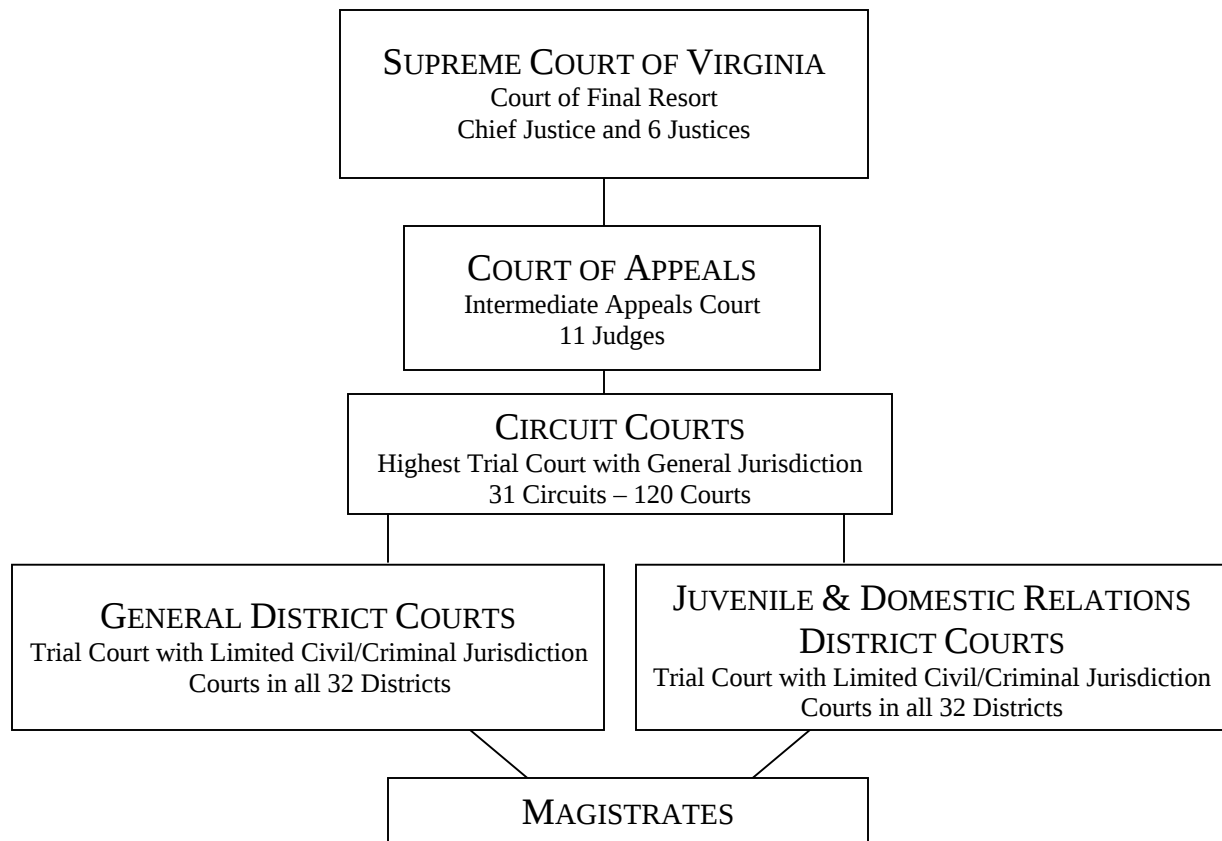
Virginia has the oldest judicial system in America. The judiciary is an indispensable and integral part of our democratic form of government. As John Marshall, a distinguished Virginian, stated: "The Judicial Department comes home in its effects to every [person's] fireside: it passes on his property, his reputation, his life, his all." Virginia's judiciary will continue to work hard to preserve the rights and freedoms that we as Virginians and Americans cherish, value, and enjoy. I hope that this brochure will improve your knowledge of Virginia's judiciary.

Leroy Rountree Hassell, Sr.
Chief Justice

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 to provide the citizens of the Commonwealth prompt, efficient service.



Magistrates

In many instances, a citizen's first contact with the judicial system of the Commonwealth comes through the office of the **Magistrate**. A principal function of the magistrate is to provide an independent, unbiased review of complaints brought to the office by police officers, sheriffs, deputies, and citizens. Magistrate duties include issuing various types of processes such as arrest warrants, summonses, bonds, search warrants, subpoenas, emergency mental and medical custody orders, temporary mental and medical detention orders, emergency protective orders and other civil processes. One of the chief duties of the magistrate is conducting bond hearings to set bail in instances in which an individual is charged with a criminal offense. A magistrate may also accept prepayments for traffic infractions and minor misdemeanors.

The Office of the Executive Secretary of the Supreme Court of Virginia provides administrative supervision and training to magistrates. Virginia is divided into eight magisterial regions, and each region is comprised of between three and five judicial districts. A chief magistrate supervises the magistrates serving within each judicial district. Each region has a regional magistrate supervisor who provides direct supervision to the chief magistrates. The eight regional supervisors assist a Magistrate System Coordinator in administering the statewide system. There are magistrate advisors who provide legal and procedural advice to the magistrates.

Each magistrate is authorized to exercise his or her powers throughout the magisterial region for which he or she is appointed. Magistrates provide services on an around-the-clock basis, conducting hearings in person and through videoconferencing systems.

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 misdemeanor under state law and offenses that are violations of ordinances, laws, and by-laws of the county or city where it is located. . A misdemeanor is any charge which 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 \$15,000. 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 less than \$4,500 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, that is, any offense which 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:

- juvenile delinquency and status offenses
- juveniles accused of traffic violations
- children in need of services or supervision
- children subjected to abuse or neglect
- children who are abandoned or without parental guardianship
- foster care and entrustment agreements
- children for whom relief of custody or termination of parental rights is requested
- adults accused of child abuse or neglect, or of offenses against family or household members
- adults involved in disputes concerning the custody, visitation or support of a child
- spousal support
- minors seeking emancipation or work permits
- court-ordered rehabilitation services
- court consent for certain medical treatments

In Virginia, a juvenile is any person under the age of 18. A juvenile is adjudicated “delinquent” when a court finds that the juvenile has committed an act, which would be a crime if committed by an adult. A “status offender” is a juvenile who has committed a certain action, which, 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 juveniles.

Juvenile and domestic relations district courts differ from other courts in their duty to protect the confidentiality and privacy of juveniles and their families who have legal matters before the court. In addition to protecting the public and holding delinquent juveniles 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 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:

- concurrent jurisdiction with general district courts of monetary claims over \$4,500 but not exceeding \$15,000.
- exclusive original jurisdiction of monetary claims exceeding \$15,000
- 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, 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 which tends to promote criminal activity in the community or which indicates malfeasance of 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 provides appellate review of final decisions of the circuit courts in domestic relations matters, appeals from decisions of an administrative agency, traffic infractions and criminal cases, except where a sentence of death has been imposed. It also hears appeals of final decisions of the Virginia Workers' Compensation Commission. While appeals of criminal, traffic, concealed weapons permit, and certain preliminary rulings in felony cases are presented by a petition for appeal, all other appeals to the Court of Appeals are a matter of right. Other civil decisions of the circuit court are appealed

directly to the Supreme Court of Virginia by petition for appeal. The Court of Appeals also has original jurisdiction to issue writs of mandamus, prohibition, and habeas corpus in any case over which the court would have appellate jurisdiction, and writs of actual innocence (based on non-biological evidence).

The decisions of the Court of Appeals are final in traffic infraction and misdemeanor cases where no incarceration is imposed, in domestic relations matters, and in cases originating before administrative agencies or the Virginia Workers' Compensation Commission. Except in those cases where the decision of the Court of Appeals is 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 eleven 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 the State Corporation Commission, certain disciplinary actions against an attorney, and review of the death penalty.

The Court's original jurisdiction is limited to cases of habeas corpus (ordering one holding custody to produce the detained person before the Court for the purpose of determining whether such custody is proper), mandamus (ordering the holder of an office to perform his duty), prohibition (ordering a public official to stop an action), 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 Counsel, the Court Improvement Program, Educational Services, Fiscal Services, the Historical Commission, Human Resources, Judicial Information Technology, Judicial Planning, Judicial Services, Legal Research and Legislative and Public Relations.

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 **clerks' 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**, a faculty member of a Virginia law school, 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 Virginia law school faculty members 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, 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 ethics, 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 and certifying the need to fill district court vacancies, and authorizing the number of clerks, magistrates and personnel in each district, establishing guidelines and policies for court system personnel, and fixing salary classification schedules for district court personnel and magistrates.

Membership of this committee 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 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 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 circuit is elected for a two-year term by a vote of the judges serving in the circuit.

The personnel support for the circuit courts is under the direction of the clerk of the circuit court who is a constitutional officer and chief administrator of the circuit court, 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.

A totally independent judicial personnel system has been established for those 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 insures equal treatment of employees doing similar work throughout the state.

Court personnel are not employed as attorneys and are not permitted to offer legal advice. However, they can provide general procedural information and try to assist the public in any way possible.

The eleven 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 eleven judges for a term of four years.

The Supreme Court of Virginia is composed 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 all 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 being 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.

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 with disabilities (not employed by the court system) who believe they have been discriminated against in access may file a complaint with local court system officials. Those who need printed material published by the court system in another format or 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.