

General District Courts

To Understand Your Visit to Court You Should Know:

It is the courts wish that you know your rights and duties. We want every person who comes here to receive fair treatment in accordance with the ideals of American justice.

By law, the court must apply rules of procedure and evidence to each case it hears. These procedures are applied uniformly, without regard to personal considerations. The judge is sworn to enforce without favor the laws of the Commonwealth and community, which are made by the people for the protection of all.

The general district court does not conduct jury trials. All cases in this court are heard by a judge. Jury trials are held only in circuit court, as provided by the Constitution of Virginia.

The Code of Virginia defines criminal offenses and sets penalties. For many offenses the penalty prescribed is a fine. Fines collected for violations of city, town, or county ordinances are paid into the treasury of the city, town, or county whose ordinance has been violated. All fines collected for violation of state law are paid into the state treasury and credited to the Literary Fund. The amount of court costs is set by the General Assembly, and the court cannot suspend or waive costs.

Why Are You in Court?

You are appearing in court for one of the following reasons:

- You are a plaintiff because you filed a civil suit
- You are a complainant because you have caused criminal charges to be brought against someone
- You are a defendant because someone is suing you, or you have been charged with a traffic violation or a criminal offense
- You are a witness who has been called to testify.

Your Rights in Court

You have the right to retain and be represented by your own lawyer in all matters before the court. However, you may waive representation by counsel and represent yourself.

If you are charged with a crime for which the penalty includes the possibility of a jail sentence, and you state that you are indigent and cannot afford a lawyer, the judge will examine your financial status.

Based on results of the examination, and your financial statement under oath that you cannot afford an attorney, the judge may assign an attorney to represent you. The cost of such attorney will be incorporated into your court costs if you are found guilty. If

you are the complainant in a criminal proceeding, the Commonwealth's Attorney, who represents the Commonwealth, will normally prosecute the case. You have the right to have the clerk's office subpoena witnesses to appear on your behalf in court. You may ask for a continuance if you have good cause to have your case put off until a later date, although the judge does not have to grant your request.

Types of General District Court Cases

Civil Cases. The general district court decides civil suits involving amounts of money up to \$25,000. However, unlawful detainer (eviction) suits that include a request for rent for commercial or agricultural property can be heard by the general district court even if the amount of rent requested is more than \$25,000. A suit is begun by filing a civil warrant or complaint with the clerk of the court and paying a filing fee.

Criminal Cases. The general district court decides cases in which a person is charged with a misdemeanor. A misdemeanor is any charge which carries a penalty of no more than one year in jail or a fine of up to \$2,500 or both.

The general district court holds preliminary hearings in felony cases. A felony is any charge which may be punishable by more than one year in jail. Preliminary hearings in felony cases are held to determine whether there is probable cause to believe the defendant committed the offense in order to justify holding the defendant for a grand jury hearing. The grand jury determines whether the accused will be indicted and held for trial by the circuit court.

Each defendant in a criminal case is presumed innocent until proven guilty beyond a reasonable doubt. Upon consideration of the 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.

Traffic Cases. The general district court hears cases in which a person is charged with a traffic offense. Most traffic offenses are traffic infractions, which are generally punishable by a fine of not more than \$250. Cases involving awards to individuals for damages in connection with traffic violations are civil in nature and would be categorized as such. If you are convicted of certain traffic violations, the Virginia Division of Motor Vehicles (DMV) will assess points against your driver's license. This is an administrative action by DMV and is in addition to any sentence imposed by the judge.

Procedure in Criminal and Traffic Cases

If you are a defendant: When your name is called, come forward with your lawyer, if you have one, and witnesses and stand before the bench. The charge will be read. If you do not understand the charge, ask the judge to repeat or explain. If you are asking for a continuance (postponement), do so now, and give your reason. You answer the charge by saying "guilty" or "not guilty" or "nolo contendere" (no contest). When you plead "guilty," you admit that you broke the law as you were charged, and are agreeing to accept any penalty set by law and imposed.

If your plea is guilty: The judge may hear a brief statement from the officer, prosecutor or individual who brought the charge against you. Then the judge may ask you if you wish to make a statement. You may then say whatever you wish about what happened. The judge will find you guilty or not guilty and may sentence you.

If your plea is not guilty: The witnesses who bring evidence against you will be heard first. You or your attorney may cross-examine each witness. When you are accused of a criminal charge, you may present witnesses on your behalf, but you do not have to testify yourself unless you wish to do so. After your evidence is presented, witnesses against you may present testimony again in rebuttal. The judge will then give his decision.

If the judge finds you NOT guilty, dismisses the case against you, or grants a motion not to prosecute, you are free to go.

If the judge finds you guilty, you must satisfy the sentence by:

- Paying in full to the clerk of the court any fines and court costs.
- Surrendering your driver's license to the clerk if so ordered by the judge.
- Serving any time in jail imposed by the judge.
- Complying with an alternative sentence as ordered by the judge.

Failure to Appear

In criminal and certain traffic cases, if you fail to pre-pay the fine and costs (when allowed) and also fail to appear in court, a separate warrant may be issued against you on a new charge of failure to appear. You then will have to stand trial on that charge, as well as the original charge.

In Civil Cases

Very often a citizen has a valid claim which can be satisfied only by a legal proceeding, but the claim may be too small in value to justify hiring a lawyer. The majority of these claims will be for less than \$4,500. In Virginia, claims at or below this amount can be initiated only in general district court. Although these district courts can determine larger claims up to \$25,000, the important thing to remember is that they are the only courts in Virginia where suits may be filed for claims of \$4,500 or less.

Where Can a Civil Suit Be Brought?

To get the person you want to sue (the defendant) into court, you must bring suit in one of the places authorized by law. The simplest rule is that you bring suit in the city or county where the defendant lives, is regularly employed, or has a regular place of business. You may also bring suit in the city or county where your cause of action arose (where the act on which your claim is based took place). If the defendant is a non-resident of Virginia, you may bring suit wherever the defendant can be found, or owns property within the state.

If you wish to sue a corporation, you may do so in the city or county in which either its

principal office or registered agent is located. This information may be obtained from the State Corporation Commission located in Richmond, telephone 800-552-7945. A foreign corporation (one not originally incorporated in the state of Virginia) can be sued in the location where the statutory agent resides, where its registered office is situated, or, in case of withdrawal from the state, where its last statutory agent resided, where its office was situated, or where it has any estate or debts owing to it within Virginia.

How Long Do You Have to Bring Your Suit?

The time you do have is determined by law depending on the nature of your claim. You must bring your action within the period known as a statute of limitations. While you may have three years to bring a claim on a contract, you should initiate your action as soon as possible because some claims have a much shorter time frame within which you must file your suit. Your action has been legally commenced when the necessary information has been filed with the officer who is going to issue your warrant and the required fee has been paid. This commencement will become void, however, if the warrant is not subsequently served upon the defendant and properly returned to the court.

How to Start Your Suit

You may bring your suit in a district court by either a warrant or complaint. The warrant is by far the simpler procedure. You simply take the information about your case to either the clerk of the court or to a magistrate. This information consists of your name and address, the name and address of the person, business, or corporation you are suing, the amount of your claim, and the reason for your suit. The name of the person you are suing must be listed correctly. With regard to obtaining the correct name of a business or corporation, you can obtain assistance from such sources as the Better Business Bureau, the local Chamber of Commerce, and the State Corporation Commission. If you are filing on behalf of a business, without an attorney, only certain persons can sign the warrant or complaint on behalf of a business.

In order to ensure the presence of your witnesses, you should ask the clerk of the court for a subpoena at least ten days in advance of the hearing day. If you are a defendant and fail to answer a civil warrant, or fail to appear in court, a judgment may be granted against you by default. If you are a plaintiff, you should check with the clerk of the court to determine if your appearance is necessary.

How Do I Get My Money?

If your claim is against an established business, and you obtain a judgment against it, its owner will usually honor that judgment as a matter of course. In many cases, however, the person you have obtained judgment against will not pay you.

If the person you obtain a judgment against has no assets, your judgment may be worthless, but if he does have assets, you can “execute” against him through further legal proceedings. You may request the clerk or the judge to issue a writ of fieri facias to collect

your judgment. This writ creates a “lien” (claim) on the defendant’s personal property. To satisfy your claim out of this personal property, you may then ask the sheriff to “levy” on particular items of which you notify the sheriff, or on all the property. You will be required to post a bond with the sheriff to enable him to seize and sell the property and pay to you the proceeds of the sale.

The writ of fieri facias also creates a lien on property not subject to levy, i.e., wages or other debts owed to the defendant. You can execute this lien by garnishment of wages or debts subject to the limits of Virginia law.

Another alternative open to you if you have obtained judgment and are not paid is to request that an abstract of judgment be provided to you for filing against this person in the clerk’s office of the circuit court. This creates a lien against any real property the person owns in that locality.

Appeals to the Circuit Court

If you wish to appeal your case to the circuit court, you must file a notice of appeal with the clerk of the general district court within ten days of the judgment or conviction by the general district court.

In criminal and traffic cases, regardless of the plea and sentence, you may appeal to the circuit court. You will get a jury trial unless affirmatively waived in the circuit court.

Civil cases involving amounts of more than \$20 may be appealed to the circuit court, where you may ask for a jury trial. If you do not ask for a jury trial, the appeal will be heard by a circuit court judge. See the clerk of the general district court about cost and bond requirements.

Legal Advice

If you wish to hire your own attorney or obtain legal advice but do not know an attorney, you can obtain the name and telephone number of a local attorney from the Virginia State Bar Lawyer Referral Service by calling the following toll-free number: (800) 552-7977.

Court employees will try to assist you, but they are not employed as attorneys and cannot give legal advice.

Other Trial Courts

The juvenile and domestic relations district court has jurisdiction over most matters concerning children and families, including allegations of delinquency, child maltreatment, domestic violence, and cases of custody, visitation and support. Traffic violations involving juveniles are also heard in the juvenile court. The Court Services Unit, under the Department of Juvenile Justice, provides intake and probation services for the juvenile court.

The circuit court has exclusive jurisdiction over criminal felonies and civil cases involving more than \$25,000. The circuit court shares jurisdiction with the general district court in civil cases involving between \$4,500 and \$25,000, and it hears civil, criminal, and traffic cases appealed from the district courts.

Your Rights and Duties as a Victim

If you are a victim of a crime in Virginia, you not only have certain legal rights, but you also have certain obligations as a witness against the accused.

As a witness to a crime, you must cooperate fully with the Commonwealth's Attorney's office and testify in court if requested. As a victim you may seek compensation (payment) from the accused for your property and personal injury losses. You should seek the aid of a lawyer if you want to do this.

As a victim, you may also qualify for compensation under the Virginia Crime Victims Compensation Act. To qualify for compensation under this Act, you must show that a crime was committed which resulted in injury to you, and that you in no way contributed to this crime. You must also show that you reported the crime to the police not more than 120 hours after it happened, and cooperated fully with the police in their investigation of the crime. You cannot receive compensation under this Act if you have already been reimbursed (paid) by any other source such as insurance.

To apply for compensation under the Act, or for more information, you should contact the Virginia Criminal Injuries Compensation Fund, P.O. Box 26927, Richmond, Virginia 23261, telephone (800) 552-4007, facsimile (804) 349-1719 or www.cicf.state.va.us.

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: ADACoordinator@vacourts.gov