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HOUSE BILL NO. 240

Offered January 13, 2010

Prefiled January 11, 2010

A *BILL to amend and reenact §§ 8.01-384.1:1, 8.01-576.8, 8.01-576.9, 8.01-581.23, 16.1-69.10, 16.1-69.14, 16.1-69.18, 16.1-69.21, 16.1-69.38, 16.1-69.39, 16.1-69.39:1, 16.1-69.40:1, 16.1-69.40:2, 16.1-69.45, 16.1-69.51, 16.1-69.54, 16.1-69.58, 16.1-89, 16.1-122.3, 16.1-265, 16.1-266.1, 17.1-315, 17.1-507, 17.1-706, 18.2-271.2, 19.2-34, 19.2-37, 19.2-38, 19.2-38.1, 19.2-39, 19.2-46.1, 19.2-46.2, 19.2-164, 19.2-353.3, 20-60.4, 20-60.5, 20-79.1, 20-124.4, 37.2-802, 46.2-388, and 63.2-1924 of the Code of Virginia and to repeal §§ 16.1-69.9:3, 16.1-69.31, and 16.1-69.33 and Article I (§§ 17.1-700 through 17.1-705.1) of Chapter 7 of Title 17.1 of the Code of Virginia, relating to repeal of statutory provisions establishing the Judicial Council and the Committee on District Courts.*

Patron—Janis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-384.1:1, 8.01-576.8, 8.01-576.9, 8.01-581.23, 16.1-69.10, 16.1-69.14, 16.1-69.18, 16.1-69.21, 16.1-69.38, 16.1-69.39, 16.1-69.39:1, 16.1-69.40:1, 16.1-69.40:2, 16.1-69.45, 16.1-69.51, 16.1-69.54, 16.1-69.58, 16.1-89, 16.1-122.3, 16.1-265, 16.1-266.1, 17.1-315, 17.1-507, 17.1-706, 18.2-271.2, 19.2-34, 19.2-37, 19.2-38, 19.2-38.1, 19.2-39, 19.2-46.1, 19.2-46.2, 19.2-164, 19.2-353.3, 20-60.4, 20-60.5, 20-79.1, 20-124.4, 37.2-802, 46.2-388, and 63.2-1924 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-384.1:1. Interpreters for non-English-speaking persons in civil cases.

A. In any trial, hearing or other proceeding before a judge in a civil case in which a non-English-speaking person is a party or witness, an interpreter for the non-English-speaking person may be appointed by the court. A qualified English-speaking person fluent in the language of the non-English-speaking person may be appointed by the judge of the court in which the case is to be heard unless the non-English-speaking person shall obtain a qualified interpreter of his own choosing who is approved by the court as being competent.

B. To the extent of available appropriations, the compensation of such interpreter shall be fixed by the court in accordance with guidelines set by the Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the expense of trial. The amount allowed by the court to the interpreter may, in the discretion of the court, be assessed against either party as a part of the cost of the case and, if collected, the same shall be paid to the Commonwealth.

C. Whenever a person communicates through an interpreter to any person under such circumstances that the communications would be privileged, and such persons could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in circuit courts and district courts.

§ 8.01-576.8. Qualifications of neutrals; referral.

A neutral who provides dispute resolution services other than mediation pursuant to this chapter shall provide the court with a written statement of qualifications, describing the neutral's background and relevant training and experience in the field. A dispute resolution program may satisfy the requirements of this section on behalf of its neutrals by providing the court with a written statement of the background, training, experience, and certification, as appropriate, of any neutral who participates in its program. A neutral who desires to provide mediation and receive referrals from the court shall be certified pursuant to guidelines promulgated by the Judicial Council Supreme Court of Virginia. The court shall maintain a list of mediators certified pursuant to guidelines promulgated by the Judicial Council Supreme Court and may maintain a list of neutrals and dispute resolution programs which have met the requirements of this section. The list may be divided among the areas of specialization or expertise of the neutrals.

At the conclusion of the orientation session, or no later than ten days thereafter, parties electing to continue with the dispute resolution proceeding may: (i) continue with the neutral who conducted the orientation session, (ii) select any neutral or dispute resolution program from the list maintained by the court to conduct such proceedings, or (iii) pursue any other alternative for voluntarily resolving the dispute to which the parties agree. If the parties choose to proceed with the dispute resolution proceeding but are unable to agree on a neutral or dispute resolution program during that period, the court shall refer the case to a neutral or dispute resolution program who accepts such referrals, on the list maintained by the court on the basis of a fair and equitable rotation, taking into account the subject

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59 matter of the dispute and the expertise of the neutral, as appropriate. If one or more of the parties is
60 indigent or no agreement as to payment is reached between the parties and a neutral, the court shall set
61 a reasonable fee for the service of any neutral who accepts such referral pursuant to this paragraph.

62 § 8.01-576.9. Standards and duties of neutrals; confidentiality; liability.

63 A neutral selected to conduct a dispute resolution proceeding under this chapter may encourage and
64 assist the parties in reaching a resolution of their dispute, but may not compel or coerce the parties into
65 entering into a settlement agreement. A neutral has an obligation to remain impartial and free from
66 conflict of interests in each case, and to decline to participate further in a case should such partiality or
67 conflict arise. Unless expressly authorized by the disclosing party, the neutral may not disclose to either
68 party information relating to the subject matter of the dispute resolution proceeding provided to him in
69 confidence by the other. In reporting on the outcome of the dispute resolution proceeding to the
70 referring court, the neutral shall indicate whether an agreement was reached, the terms of the agreement
71 if authorized by the parties, the fact that no agreement was reached, or the fact that the orientation
72 session or mediation did not occur. The neutral shall not disclose information exchanged or observations
73 regarding the conduct and demeanor of the parties and their counsel during the dispute resolution
74 proceeding, unless the parties otherwise agree.

75 However, where the dispute involves the support of minor children of the parties, the parties shall
76 disclose to each other and to the neutral the information to be used in completing the child support
77 guidelines worksheet required by § 20-108.2. The guidelines computations and any reasons for deviation
78 shall be incorporated in any written agreement between the parties.

79 With respect to liability, when mediation is provided by a mediator who is certified pursuant to
80 guidelines promulgated by the ~~Judicial Council~~ *Supreme Court* of Virginia, then the mediator, mediation
81 program for which the certified mediator is providing services, and a mediator co-mediating with a
82 certified mediator shall be immune from civil liability for, or resulting from, any act or omission done
83 or made while engaged in efforts to assist or conduct a mediation, unless the act or omission was made
84 or done in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the
85 rights, safety or property of another. This language is not intended to abrogate any other immunity that
86 may be applicable to a mediator.

87 § 8.01-581.23. Civil immunity.

88 When a mediation is provided by a mediator who is certified pursuant to guidelines promulgated by
89 the ~~Judicial Council~~ *Supreme Court* of Virginia, or who is trained and serves as a mediator through the
90 statewide mediation program established pursuant to § 2.2-1001(2), then that mediator, mediation
91 programs for which that mediator is providing services, and a mediator co-mediating with that mediator
92 shall be immune from civil liability for, or resulting from, any act or omission done or made while
93 engaged in efforts to assist or conduct a mediation, unless the act or omission was made or done in bad
94 faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or
95 property of another. This language is not intended to abrogate any other immunity that may be
96 applicable to a mediator.

97 § 16.1-69.10. Number of judges.

98 The number of general district court judges and juvenile and domestic relations district court judges,
99 excluding substitute judges, shall be determined as follows:

100 (a) Judges in office on January 1, 1973, shall be permitted to complete their terms pursuant to
101 § 16.1-69.9;

102 (b) [Repealed.]

103 (c) On and after January 1, 1974, the number of judges authorized in each district shall be
104 determined by the General Assembly based on the requirement that all judges whose terms commence
105 on and after July 1, 1980, serve on a full-time basis; and

106 (d) On and after July 1, 1980, the number of judges authorized in each district by the General
107 Assembly shall be based on the requirement that no district judge whose term commences on or after
108 July 1, 1980, shall be elected to serve in more than one district or to serve both a general district court
109 and juvenile and domestic relations district court in any district; provided, however, that a judge may
110 serve more than one general district court or more than one juvenile and domestic relations district court
111 in one district. The Committee on District Courts shall make a study and report to the General
112 Assembly on or before December 1 of each year on the number of judges needed and the districts for
113 which they should be authorized. If the Committee recommends the creation of an additional judgeship
114 in any district, it shall publish notice of such recommendation in a publication of general circulation
115 among attorneys licensed to practice in the Commonwealth.

116 § 16.1-69.14. Substitute judges.

117 The number of substitute judges shall be determined as follows:

118 (a) Substitute judges in office on June 30, 1975, shall be permitted to complete their terms;

119 (b) Subject to the expiration of such terms, the Committee on District Courts shall determine the
120 number of substitute judges for each district which shall be necessary for the effective administration of

justice. In determining the total number of substitute judges authorized for each district, the Committee shall consider, among other factors, the number of full-time and part-time judges serving the district.

§ 16.1-69.18. Bonds of judges, clerks, and others handling funds.

Before entering upon the performance of his duties every judge, substitute judge, clerk, deputy clerk or other officer or employee of a district court shall enter into bond before the clerk of a circuit court to which appeals from his court lie, except as hereinafter provided. The bond shall be in a penalty and with corporate surety approved by the judge of such appellate court. No such bond shall be in a penalty of less than \$3,000, nor more than \$75,000, and all such bonds shall be conditioned for the faithful performance of the duties of the principal. The bonds shall be made payable to the Commonwealth and shall be filed with the clerk of such appellate court. Provided, however, that instead of specific bonds being given as stipulated herein, the ~~Committee on District Courts~~ *Supreme Court* may in ~~their~~ *its* discretion procure faithful performance of duty blanket bonds for any or all of the districts enumerated in § 16.1-69.6 covering the judges, substitute judges, clerks and other personnel of the several district courts included in such districts and within the penalty limits contained in this section, unless in the discretion of the ~~Committee~~ *Supreme Court*, bonds with a larger maximum penalty should be obtained. Provided further, that in those instances where specific bonds for judges, clerks, deputy clerks or other officers or employees of a district court are in effect, the ~~Committee on District Courts~~ *Supreme Court* may, whenever ~~they deem it~~ *deemed* advisable, terminate such specific bonds upon obtaining a blanket bond covering such court personnel with appropriate refund or credit being made for the unearned premiums on the specific bonds being terminated. A copy of any such blanket bond so procured shall be filed with the Division of Risk Management within the Department of Treasury and with the clerk of the respective circuit courts to which appeals from the decisions of the several district courts may lie. The premiums for such bonds shall be paid by the Commonwealth.

§ 16.1-69.21. When substitute to serve; his powers and duties.

In the event of the inability of the judge to perform the duties of his office or any of them by reason of sickness, absence, vacation, interest in the proceeding or parties before the court, or otherwise, such judge or a person acting on his behalf shall promptly notify the appropriate chief district judge of such inability. If the chief district judge determines that the provisions of § 16.1-69.35 have been complied with or cannot reasonably be done within the time permitted and that no other full-time or retired judge is reasonably available to serve, the chief district judge may direct a substitute judge to serve as a judge of the court, which substitute may serve concurrently with one or more of the judges of the court or alone. In designating a substitute judge to serve, the chief district judge shall, whenever possible, select a substitute judge who does not regularly practice law in the court requiring the substitute. Where reasonably available, the chief district judge may designate a substitute judge from another district within the Commonwealth. ~~The committee on district courts may adopt policies and procedures governing the utilization of substitute judges. In such event, those policies and procedures will, where applicable, control.~~ While acting as judge a substitute judge shall perform the same duties, exercise the same power and authority, and be subject to the same obligations as prescribed herein for the judge. While serving as judge of the court the judge or the substitute judge may perform all acts with respect to the proceedings, judgments and acts of any other judge in connection with any action or proceeding then pending or theretofore disposed of in the court except as otherwise provided in this chapter in the same manner and with the same force and effect as if they were his own.

§ 16.1-69.38. Authorization for substitute judges and personnel.

The ~~Committee on District Courts~~ *established in § 16.1-69.33 Supreme Court* shall, subject to the provision of § 16.1-69.37, establish guidelines and determine the necessity for the employment of substitute judges, clerks, deputy clerks and all other personnel of the district courts and authorize the employment of such personnel by the courts. For purposes of this chapter, the term "personnel," as related to the courts, shall not include probation officers and other social service officers of a juvenile and domestic relations district court. The Executive Secretary of the Supreme Court shall obtain pertinent personnel policies of local units of government as to personnel of courts not of record who become employees of district courts pursuant to this chapter, and he shall assist the ~~Committee~~ *Court* in the performance of its duties. The ~~Committee~~ *Court* may receive the advice and recommendations of the Executive Secretary with respect to authorization of personnel for the district courts, job classifications, salary scales, vacation and sick leave and related personnel matters.

The ~~Committee~~ *Court* may authorize the appointment of any personnel to serve one or more district courts within any district and in addition may authorize the clerk and deputy clerks of the circuit court of a political subdivision to serve as clerk and deputy clerks of one or more district courts within the political subdivision.

§ 16.1-69.39. Appointment of personnel.

All personnel shall be appointed by, serve at the pleasure of, and be subject to removal by the chief judge of the district court in which they serve. In the event of any personnel authorized to serve in both

182 a general district court and juvenile and domestic relations district court within any district,
183 appointments and removals shall be made by the chief judges of such courts and in the event of a tie
184 vote on any such matter the chief judges of the district shall certify such fact to the ~~Committee on~~
185 ~~District Courts~~ *Chief Justice* who shall decide the matter. The provisions of this section shall not be
186 applicable in the event of authorization for any deputy circuit court clerk or deputy clerk to serve any
187 district court. Personnel subject to the provisions of this article shall not be subject to the Virginia
188 Personnel Act (§ 2.2-2900 et seq.).

189 § 16.1-69.39:1. Legal service to district court employees and magistrates.

190 All legal services for personnel of the district courts or magistrates in civil matters, including civil
191 litigation, arising out of the performance of their duties, shall be provided by the office of the Attorney
192 General. If, in the opinion of the Attorney General, it is impractical or uneconomical for such service to
193 be rendered by his office, the ~~Committee on District Courts~~ *Supreme Court* may employ special counsel
194 for such purpose, whose compensation shall be fixed by the ~~Committee~~ *Court*. The compensation for
195 such special counsel shall be paid out of the funds appropriated for the administration of the district
196 courts.

197 § 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;
198 prepayment of local ordinances.

199 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
200 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the
201 traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be
202 accepted. Such designated infractions shall include violations of §§ 46.2-878.2 and 46.2-1242 or any
203 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
204 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without
205 court appearance whether or not he was involved in an accident. The prepayable fine amount for a
206 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed
207 limits, as authorized in § 46.2-878.3.

208 Such infractions shall not include:

209 (a) Indictable offenses;

210 (b) [Repealed.]

211 (c) Operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or
212 habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor or
213 a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his custody
214 or control;

215 (d) Reckless driving;

216 (e) Leaving the scene of an accident;

217 (f) Driving while under suspension or revocation of driver's license;

218 (g) Driving without being licensed to drive.

219 (h) [Repealed.]

220 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
221 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a
222 waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense
223 charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand
224 trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court,
225 and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles
226 or the appropriate offices of the State where he received his license to drive.

227 C. The Supreme Court, ~~upon the recommendation of the Committee on District Courts~~, shall
228 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties
229 to be imposed, designating each infraction specifically. The schedule, which may from time to time be
230 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
231 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
232 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
233 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
234 with the provisions of this Code or any rules or regulations promulgated thereunder.

235 D. Fines imposed under local traffic infraction ordinances which do not parallel provisions of state
236 law and fulfill the criteria set out in subsection A of this section may be prepayable in the manner set
237 forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts.
238 The judges of each circuit may establish a schedule of the fines, within the limits prescribed by local
239 ordinances, to be imposed for prepayment of local ordinances designating each offense specifically.
240 Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by
241 the clerk of the local circuit court. The schedule, which from time to time may be amended,
242 supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall
243 not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at

the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

§ 16.1-69.40:2. Nontraffic offenses for which prepayment authorized; schedules, fines; prepayment of local ordinances.

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the nontraffic offenses for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such offenses shall not include:

1. Indictable offenses;
2. Class 1 or Class 2 misdemeanors;
3. Offenses which involve moral turpitude;
4. Any offenses involving injury to persons;
5. Any offense punishable by incarceration or by a fine of more than \$500.

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and plea of guilty and pay the fine established for the offense charged, with costs. He shall, prior to the plea, waiver and payment, be informed of his right to stand trial and that his signature to a plea of guilty will have the same force and effect as a judgment of court.

C. The Supreme Court, ~~upon the recommendation of the Committee on District Courts,~~ shall establish a schedule, within the limits prescribed by law, of the amounts of fines to be imposed upon prepayment of nontraffic offenses authorized as prepayable under subsection A of this section, designating each offense specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The Rule of the Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

D. Local ordinances fulfilling the criteria set out in subsection A of this section may be prepayable in a like manner if such ordinances appear in a schedule entered by order of the local circuit courts. The judges of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within ten days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

§ 16.1-69.45. Salaries of clerks and personnel.

~~The Committee on District Courts~~ *Supreme Court* shall fix the salaries for the clerks and personnel of the district courts. No supplements may be paid to full-time district court judges or substitute judges. The Commonwealth shall assume the cost of any supplement being paid to a district court employee on January 1, 1980.

§ 16.1-69.51. Books, supplies, etc.; how furnished; Committee to determine form of records.

The Commonwealth shall provide dockets and other books, stationery and supplies necessary for the efficient operation of all district courts. Notwithstanding any other provision of law, ~~the Committee on District Courts, after consultation with the~~ Executive Secretary of the Supreme Court, may determine the form and character of the records of the district courts and magistrates. All dockets shall be uniform, and the form thereof shall also be subject to approval by the Auditor of Public Accounts.

§ 16.1-69.54. General provisions.

Each district court shall retain and store its court records as provided in this article. ~~The Committee on District Courts, after consultation with the~~ Executive Secretary of the Supreme Court of Virginia, shall determine the methods of processing, retention, reproduction and disposal of records and information in district courts, including records required to be retained in district courts by statute.

Whenever a court record has been reproduced for the purpose of record retention under this article, such original may be disposed of upon completion of the Commonwealth's audit of the court records unless approval is given by the Auditor of Public Accounts for earlier disposition. In the event of such reproduction, the reproduction of the court record shall be retained in accordance with the retention periods specified in this section. The reproduction shall have the same force and effect as the original court record and shall be given the same faith and credit to which the original itself would have been

305 entitled in any judicial or administrative proceeding.

306 § 16.1-69.58. Processing, retention and reproduction of court records; retention and destruction of
307 records in which final disposition was entered before January 1, 1985.

308 The ~~Committee on District Courts~~, after consultation with the Executive Secretary of the Supreme
309 Court, shall determine the methods for processing, retention and reproduction of court records and all
310 other records required by statute to be retained in the district courts and for records retained in the
311 office of the magistrate.

312 The provisions for retention and destruction of records contained in §§ 16.1-117, 16.1-118 and
313 16.1-118.1 shall apply to court records in district court cases in which a final disposition was entered
314 before January 1, 1985.

315 § 16.1-89. Subpoena duces tecum; attorney-issued subpoena duces tecum.

316 A judge or clerk of a district court may issue a subpoena duces tecum pursuant to the terms of Rule
317 4:9 of the Rules of the Supreme Court of Virginia except that such subpoena may be directed to a party
318 to the case as well as to a person who is not a party.

319 Subpoenas duces tecum for medical records issued by an attorney shall be subject to the provisions
320 of §§ 8.01-413 and 32.1-127.1:03 except that no separate fee for issuance shall be imposed.

321 A subpoena duces tecum may also be issued by an attorney-at-law who is an active member of the
322 Virginia State Bar at the time of issuance, as an officer of the court. Any such subpoena duces tecum
323 shall be on a form approved by the ~~Committee on District Courts~~ *Supreme Court*, signed by the attorney
324 as if a pleading and shall include the attorney's address. A copy, together with the attorney's certificate
325 of service pursuant to Rule 1:12, shall be mailed or delivered to the clerk's office of the court in which
326 the case is pending on the day of issuance by the attorney. The law governing subpoenas duces tecum
327 issued by a clerk shall apply mutatis mutandis, except that attorneys may not issue subpoenas duces
328 tecum in those cases in which they may not issue a summons as provided in § 8.01-407. A sheriff shall
329 not be required to serve an attorney-issued subpoena that is not issued at least five business days prior
330 to the date production of evidence is desired. When an attorney-at-law transmits one or more subpoenas
331 duces tecum to a sheriff to be served in his jurisdiction, the provisions in § 8.01-407 regarding such
332 transmittals shall apply.

333 If the time for compliance with a subpoena duces tecum issued by an attorney is less than 14 days
334 after service of the subpoena, the person to whom it is directed may serve upon the party issuing the
335 subpoena a written objection setting forth any grounds upon which such production, inspection or testing
336 should not be had. If objection is made, the party on whose behalf the subpoena was issued and served
337 shall not be entitled to the requested production, inspection or testing, except pursuant to an order of the
338 court, but may, upon notice to the person to whom the subpoena was directed, move for an order to
339 compel production, inspection or testing. Upon such timely motion, the court may quash, modify or
340 sustain the subpoena.

341 § 16.1-122.3. Actions; how commenced; notice; continuances; pleadings.

342 A. Actions in the small claims court shall be commenced by the filing of a small claims civil
343 warrant by a plaintiff.

344 B. At the time of filing a small claims civil warrant, the plaintiff shall pay to the clerk a required
345 fee, which will be taxed as costs in the case. The plaintiff may be afforded the opportunity to receive
346 preprinted information promulgated by the ~~Committee on District Courts~~ *Supreme Court* explaining the
347 small claims court, including but not limited to information on case preparation, courtroom procedures,
348 methods of collection, removal rights and appeals. The plaintiff shall select a time for the hearing which
349 shall be held at least five days after service of the warrant. Such time shall be subject to concurrence by
350 the clerk's office. The chief judge may limit the number of cases any one person may set for trial on
351 any one date.

352 C. Upon the filing of the small claims civil warrant in small claims court, the court shall cause
353 notice of process to be served upon the defendant. Notice of process shall consist of a copy of the
354 warrant and shall be served by the method used in general district court. If applicable, the defendant
355 shall be served with a copy of the preprinted information identified in subsection B of this section
356 attached to the copy of the civil warrant.

357 D. All forms required by this article shall be prescribed by the Supreme Court of Virginia.

358 E. The trial shall be conducted on the first return date. However, by consent of all parties or upon
359 order of the court, the time for trial may be changed from the time set for the first return. A
360 continuance shall be granted to either the plaintiff or defendant only upon good cause shown.

361 F. There shall be no pleadings in small claims court actions other than the warrant and answer,
362 grounds of defense and counterclaims not to exceed \$5,000.

363 § 16.1-265. Subpoena; attorney-issued subpoena.

364 Upon application of a party and pursuant to the rules of the Supreme Court of Virginia for the
365 issuance of subpoenas, the clerk of the court shall issue, and the court on its own motion may issue,
366 subpoenas requiring attendance and testimony of witnesses and production of records, documents or

other tangible objects at any hearing.

Subpoenas duces tecum for medical records shall be subject to the provisions of §§ 8.01-413 and 32.1-127.1:03 except that no separate fee shall be imposed. A subpoena may also be issued in a civil proceeding by an attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. Any such subpoena shall be on a form approved by the ~~Committee on District Courts~~ *Supreme Court*, signed by the attorney as if a pleading and shall include the attorney's address. A copy, together with the attorney's certificate of service pursuant to Rule 1:12, shall be mailed or delivered to the clerk's office of the court in which the case is pending on the day of issuance by the attorney. The law governing subpoenas issued by a clerk shall apply mutatis mutandis, except that attorneys may not issue subpoenas in those cases in which they may not issue a summons as provided in § 8.01-407. When an attorney-at-law transmits one or more subpoenas or subpoenas duces tecum to a sheriff to be served in his jurisdiction, the provisions in § 8.01-407 regarding such transmittals shall apply. A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business days prior to the date production of evidence is required.

If the time for compliance with a subpoena issued by an attorney is less than 14 days after service of the subpoena, the person to whom it is directed may serve upon the party issuing the subpoena a written objection setting forth any grounds therefor. If objection is made, the party on whose behalf the subpoena was issued and served shall not be entitled to compliance, except pursuant to an order of the court, but may, upon notice to the person to whom the subpoena was directed, move for an order to compel compliance. Upon such timely motion, the court may quash, modify or sustain the subpoena.

§ 16.1-266.1. Standards for attorneys appointed as guardians ad litem; list of qualified attorneys.

~~A. On or before January 1, 1995, the Judicial Council of Virginia~~ *The Supreme Court*, in conjunction with the Virginia State Bar and the Virginia Bar Association, shall adopt standards for attorneys appointed as guardians ad litem pursuant to § 16.1-266. The standards shall, in so far as practicable, take into consideration the following criteria: (i) license or permission to practice law in Virginia, (ii) current training in the roles, responsibilities and duties of guardian ad litem representation, (iii) familiarity with the court system and general background in juvenile law, and (iv) demonstrated proficiency in this area of the law.

B. The ~~Judicial Council~~ *Executive Secretary* shall maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as guardians ad litem based upon the standards and shall make the names available to the courts. If no attorney who is on the list is reasonably available, a judge in his discretion, may appoint any discreet and competent attorney who is admitted to practice law in Virginia.

§ 17.1-315. Duties of Executive Secretary.

The Executive Secretary to the Supreme Court shall have the following duties:

~~1. He shall be the Secretary of the Judicial Council;~~

~~21. He shall be the Secretary of the Judicial Conference;~~

~~32. He shall assist the Chief Justice and the Supreme Court in the administration of the judicial branch of the government to the end that litigation may be expedited and the administration of justice improved in the courts of the Commonwealth; and~~

~~43. He shall have such other duties as may be required of him by the Chief Justice or by the Supreme Court in the performance of the administrative functions of that Court.~~

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

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

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

First - 5

Second - 10

Third - 5

Fourth - 9

Fifth - 3

Sixth - 2

Seventh - 5

Eighth - 4

Ninth - 4

Tenth - 3

Eleventh - 3

Twelfth - 5

Thirteenth - 8

Fourteenth - 5

Fifteenth - 8

428 Sixteenth - 5
429 Seventeenth - 4
430 Eighteenth - 3
431 Nineteenth - 15
432 Twentieth - 4
433 Twenty-first - 3
434 Twenty-second - 4
435 Twenty-third - 6
436 Twenty-fourth - 5
437 Twenty-fifth - 4
438 Twenty-sixth - 5
439 Twenty-seventh - 5
440 Twenty-eighth - 3
441 Twenty-ninth - 4
442 Thirtieth - 3
443 Thirty-first - 5

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

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

456 § 17.1-706. Establishment and membership.

457 There is hereby established the Judicial Conference of Virginia, which shall have as its active
458 members the Chief Justice and justices of the Supreme Court of Virginia, the chief judge and judges of
459 the Court of Appeals, all other judges of the circuit courts of the Commonwealth and all retired justices
460 and judges of such courts. The honorary membership shall consist of the Attorney General of Virginia,
461 the Chairmen of the Courts of Justice Committees of the Senate and House of Delegates or their
462 designees who shall be members of the Courts of Justice committees, the president and secretary of the
463 Virginia State Bar, the president and secretary of the Virginia Bar Association, the president and
464 secretary of the Virginia Trial Lawyers Association, the president and secretary of the Virginia
465 Association of Defense Attorneys, the president and secretary of the Old Dominion Bar Association, the
466 president and secretary of the Virginia Association of Commonwealth's Attorneys, the president and
467 secretary of the Virginia Women Attorneys Association, the deans of the law schools of the College of
468 William and Mary, University of Richmond, University of Virginia, Washington and Lee University,
469 George Mason University, and Regent University, and the two attorneys appointed by the Chief Justice
470 of the Supreme Court as members of the Judicial Council. The honorary members shall not have voting
471 privileges.

472 § 18.2-271.2. Commission on VASAP; purpose; membership; terms; meetings; staffing; compensation
473 and expenses; chairman's executive summary.

474 A. There is hereby established in the legislative branch of state government the Commission on the
475 Virginia Alcohol Safety Action Program (VASAP). The Commission shall administer and supervise the
476 state system of local alcohol and safety action programs, develop and maintain operation and
477 performance standards for local alcohol and safety action programs, and allocate funding to such
478 programs. The Commission shall have a total membership of 15 members that shall consist of six
479 legislative members and nine nonlegislative citizen members. Members shall be appointed as follows:
480 four current or former members of the House Committee for Courts of Justice, to be appointed by the
481 Speaker of the House of Delegates; two members of the Senate Committee for Courts of Justice, to be
482 appointed by the Senate Committee on Rules; three sitting or retired judges, one each from the circuit,
483 general district and juvenile and domestic relations district courts, who regularly hear or heard cases
484 involving driving under the influence and are familiar with their local alcohol safety action programs, to
485 be appointed by the ~~Chairman of the Committee on District Courts~~ *Chief Justice of the Supreme Court*;
486 two directors of local alcohol safety action programs, to be appointed by the legislative members of the
487 Commission; one representative from the law-enforcement profession, to be appointed by the Speaker of
488 the House and one nonlegislative citizen at large, to be appointed by the Senate Committee on Rules;
489 one representative from the Virginia Department of Motor Vehicles whose duties are substantially

related to matters to be addressed by the Commission to be appointed by the Commissioner of the Department of Motor Vehicles, and one representative from the Department of Behavioral Health and Developmental Services whose duties also substantially involve such matters, to be appointed by the Commissioner of Behavioral Health and Developmental Services. Legislative members shall serve terms coincident with their terms of office. In accordance with the staggered terms previously established, nonlegislative citizen members shall serve two-year terms. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment.

B. The Commission shall meet at least four times each year at such places as it may from time to time designate. A majority of the members shall constitute a quorum. The Commission shall elect a chairman and vice-chairman from among its membership.

The Commission shall be empowered to establish and ensure the maintenance of minimum standards and criteria for program operations and performance, accounting, auditing, public information and administrative procedures for the various local alcohol safety action programs and shall be responsible for overseeing the administration of the statewide VASAP system. Such programs shall be certified by the Commission in accordance with procedures set forth in the Commission on VASAP Certification Manual. The Commission shall also oversee program plans, operations and performance and a system for allocating funds to cover deficits that may occur in the budgets of local programs.

C. The Commission shall appoint and employ and, at its pleasure, remove an executive director and such other persons as it may deem necessary, and determine their duties and fix their salaries or compensation.

D. The Commission shall appoint a Virginia Alcohol Safety Action Program Advisory Board to make recommendations to the Commission regarding its duties and administrative functions. The membership of such Board shall be appointed in the discretion of the Commission and include personnel from (i) local safety action programs, (ii) the State Board of Behavioral Health and Developmental Services, community services boards, or behavioral health authorities and (iii) other community mental health services organizations. An assistant attorney general who provides counsel in matters relating to driving under the influence shall also be appointed to the Board.

E. Legislative members of the Commission shall receive compensation as provided in § 30-19.12. Funding for the costs of compensation of legislative members shall be provided by the Commission. All members shall be reimbursed for all reasonable and necessary expenses as provided in §§ 2.2-2813 and 2.2-2825 to be paid out of that portion of moneys paid in VASAP defendant entry fees which is forwarded to the Virginia Alcohol Safety Action Program.

F. The chairman of the Commission shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 19.2-34. Number of magistrates.

There shall be appointed as many magistrates as are necessary for the effective administration of justice. The positions of all employees of the magistrate system shall be authorized by the ~~Committee on District Courts~~ established pursuant to ~~§ 16.1-69.33~~ *Executive Secretary*.

§ 19.2-37. Magistrates; eligibility for appointment; restrictions on activities.

A. Any person who is a United States citizen and resident of the Commonwealth may be appointed to the office of magistrate under this title subject to the limitations of Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 and of this section.

B. Every person appointed as a magistrate on and after July 1, 2008, shall be required to have a bachelor's degree from an accredited institution of higher education. A person initially appointed as a magistrate prior to July 1, 2008, who continues in office without a break in service is not required to have a bachelor's degree from an accredited institution of higher education.

C. A person shall not be eligible for appointment as a magistrate under the provisions of this title: (a) if such person is a law-enforcement officer; (b) if such person or his spouse is a clerk, deputy or assistant clerk, or employee of any such clerk of a district or circuit court, provided that the ~~Committee on District Courts~~ *Executive Secretary* may authorize a magistrate to assist in the district court clerk's office on a part-time basis; (c) if the parent, child, spouse, or sibling of such person is a district or circuit court judge in the magisterial region where he will serve; or (d) if such person is the chief executive officer, or a member of the board of supervisors, town or city council, or other governing body for any political subdivision of the Commonwealth.

D. No magistrate shall issue any warrant or process in complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law or sister-in-law, nephew, niece, uncle, aunt, first cousin, guardian or ward.

551 E. A magistrate may not engage in any other activity for financial gain during the hours that he is
552 serving on duty as a magistrate. A magistrate may not be employed outside his duty hours without the
553 prior written approval of the Executive Secretary.

554 F. No person appointed as a magistrate on or after July 1, 2008, may engage in the practice of law.

555 G. A magistrate who is designated as a marriage celebrant under § 20-25 may not accept a fee, a
556 gratuity, or any other thing of value for exercise of authority as a marriage celebrant.

557 § 19.2-38. Probationary period; compensation and benefits; vacancies; revocation of appointment.

558 Persons appointed as magistrates under the provisions of this chapter shall serve at the pleasure of
559 the Executive Secretary. Upon appointment by the Executive Secretary, every magistrate shall serve
560 initially for a nine-month probationary period during which the magistrate must complete ~~the~~ a
561 minimum training program ~~as established by the Committee on District Courts~~ and satisfactorily
562 complete a certification examination. Any magistrate who fails to successfully pass the certification
563 examination shall not serve beyond the nine-month probationary period. The probationary period
564 described in this section shall not apply to any magistrate serving on July 1, 2008, who has successfully
565 completed the minimum training program and passed the certification examination, provided there is no
566 break in service after July 1, 2008. Magistrates shall be entitled to compensation and other benefits only
567 from the time they take office.

568 § 19.2-38.1. Training standards; training prerequisite to reappointment; waiver.

569 ~~The Committee on District Courts~~ *Supreme Court* shall establish minimum training and certification
570 standards for magistrates in accordance with such rules and regulations as may be established by the
571 ~~Committee~~ *Court*. Every magistrate shall comply with these standards and shall complete the minimum
572 training standards as a prerequisite for continuing to serve as magistrate beyond the nine-month
573 probationary period as established by § 19.2-38. The ~~Committee on District Courts~~ upon request may
574 waive any portion of the minimum training standards for an individual magistrate.

575 § 19.2-39. Bond.

576 Every magistrate appointed under the provisions of this chapter shall enter into bond in the sum of
577 \$5,000, made payable to the Commonwealth, before a clerk of a circuit court, for the faithful
578 performance of his duties. The premium for such bond shall be paid by the Commonwealth. Provided,
579 however, that in lieu of specific bonds, the ~~Committee on District Courts~~ *Supreme Court* may in its
580 discretion procure faithful performance of duty blanket bonds for all magistrates and for the penalty
581 contained in this section, unless in the discretion of the Committee, bonds with a larger penalty should
582 be obtained. Such blanket bonds shall be made payable to the Commonwealth and shall cover all funds
583 handled by a magistrate whether such funds belong to the Commonwealth or any political subdivision
584 thereof. Provided further, that in those instances where specific bonds for magistrates are in effect, the
585 ~~Committee on District Courts~~ *Supreme Court* may, whenever it deems it advisable, terminate such
586 specific bonds upon obtaining a blanket bond covering such magistrates with appropriate refunds or
587 credit being made for the unearned premiums on the specific bonds terminated. A copy of any such
588 blanket bond so procured shall be filed with the State Comptroller and with the clerk of the respective
589 circuit courts. The premiums for such blanket bonds shall be paid by the Commonwealth.

590 § 19.2-46.1. Salaries to be fixed by the Executive Secretary; limitations; mileage allowance.

591 Salaries of magistrates and any other personnel in the office of the magistrate shall be fixed by the
592 Executive Secretary of the Supreme Court. Such salaries shall be fixed by the Executive Secretary at
593 least annually at such time as he deems proper and as soon as practicable thereafter certified to the
594 Comptroller.

595 In determining the salary of any magistrate, the Executive Secretary shall consider the work load of
596 and territory and population served by the magistrate and such other factors he deems relevant.

597 The governing body of any county or city may add to the fixed compensation of magistrates such
598 amount as the governing body may appropriate with the total amount not to exceed 50 percent of the
599 amount paid by the Commonwealth to magistrates provided such additional compensation was in effect
600 on June 30, 2008, for such magistrates and any magistrate receiving such additional compensation
601 continues in office without a break in service. However, the total amount of additional compensation
602 may not be increased after June 30, 2008. No additional amount paid by a local governing body shall be
603 chargeable to the Executive Secretary of the Supreme Court, nor shall it remove or supersede any
604 authority, control or supervision of the Executive Secretary ~~or Committee on District Courts~~.

605 § 19.2-46.2. Full-time magistrates; certification for retirement coverage.

606 ~~The Committee on District Courts~~ *Executive Secretary* shall certify to the director of the Virginia
607 Retirement System the names of those magistrates serving on a regular full-time basis. Certification by
608 the ~~Committee~~ *Executive Secretary* shall qualify a magistrate as a state employee, for purposes of
609 §§ 51.1-124.3 and 51.1-152 of the Virginia Retirement System (§ 51.1-124.1 et seq.), effective on the
610 date given in the certificate as the date on which such magistrate first served on a regular full-time basis
611 on or after January 1, 1974.

612 § 19.2-164. Interpreters for non-English-speaking persons.

In any criminal case in which a non-English-speaking person is the accused, an interpreter for the non-English-speaking person shall be appointed. In any criminal case in which a non-English-speaking person is a victim or witness, an interpreter shall be appointed by the judge of the court in which the case is to be heard unless the court finds that the person does not require the services of a court-appointed interpreter. An English-speaking person fluent in the language of the country of the accused, a victim or a witness shall be appointed by the judge of the court in which the case is to be heard, unless such person obtains an interpreter of his own choosing who is approved by the court as being competent. The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court in accordance with guidelines set by the Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs unless (i) an interpreter has been appointed for the defendant, (ii) the defendant fails to appear, (iii) the interpreter appears in the case and no other case on that date, and (iv) the defendant is convicted of a failure to appear on that date the interpreter appeared in the case, then the court, in its discretion, may assess as costs the fee paid to the interpreter. Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in both circuit courts and district courts.

§ 19.2-353.3. Acceptance of checks and credit cards in lieu of money; additional fee.

Notwithstanding the provisions of § 19.2-353, personal checks and credit cards shall be accepted in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs collected for offenses tried in a district court, including motor vehicle violations, committed against the Commonwealth or against any county, city or town. Notwithstanding the provisions of § 19.2-353, personal checks shall be accepted in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs collected for offenses tried in a circuit court, including motor vehicle violations, committed against the Commonwealth or against any county, city or town. The clerk of any circuit court shall not be required to but may, in his discretion, accept credit card payment in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeitures, penalties, and costs collected. The ~~Committee on District Courts~~ *Executive Secretary* shall devise a procedure for approving and accepting checks and credit cards that shall be accepted by the district courts. Court personnel shall not be held to be guarantors of the payment made in such manner and shall not be personally liable for any sums uncollected. The clerk of the court, in addition to any fees, fines, restitution, forfeiture, penalties or costs, may add to such payment a sum not to exceed four percent of the amount paid as a reasonable convenience fee for the acceptance of a credit card.

If a check is returned unpaid by the financial institution on which it is drawn or notice is received from the credit card issuer that payment will not be made, for any reason, the fees, fine, restitution, forfeiture, penalty or costs shall be treated as unpaid, and the court may pursue all available remedies to obtain payment. The clerk of the court to whom the dishonored check or credit card was tendered may impose a fee of twenty dollars or ten percent of the value of the payment, whichever is greater, in addition to the fine and costs already imposed.

The clerk of court may refuse acceptance of checks or credit cards of an individual if (i) he has been convicted of a violation of Chapter 6 (§ 18.2-168 et seq.) of Title 18.2 in which a check, credit card, or credit card information was used to commit the offense, (ii) he has previously tendered to the court a check which was not ultimately honored or a credit card or credit card information which did not ultimately result in payment by the credit card issuer, (iii) authorization of payment is not given by the bank or credit card issuer, (iv) the validity of the check or credit card cannot be verified, or (v) the payee of the check is other than the court.

§ 20-60.4. Abstracts of orders, etc.; clerk shall transmit information regarding any order of support which is entered or modified to Department of Social Services.

The transmission of data between the courts and the Department of Social Services shall be accomplished by electronic data transmission or by transmission of notices, abstracts of orders and other documents. The form and content of such transmissions shall be mutually approved by the ~~Committee on District Courts~~ *Executive Secretary* and the Department of Social Services.

§ 20-60.5. Support payment provisions; how paid.

A. 1. Unless otherwise directed by the ~~Committee on District Courts~~ *Supreme Court*, in all cases in which payment of a support obligation arising under an order or decree entered prior to October 1, 1985, is made by the obligor through the office of a clerk of court, the clerk shall notify the payee and the obligor that the obligor will be directed to pay future support payments to the Department of Social Services as of the date provided in the notice.

In cases transferred from the courts to the Department of Social Services on or after October 1, 1985, the payee shall be deemed as having executed an authorization to seek or enforce a support

obligation with the Department's Division of Child Support Enforcement unless the payee specifically indicates that the Division's services are not desired.

2. Unless otherwise directed by the Department of Social Services, the notice of change in payment shall be served or sent by certified mail, return receipt requested, and shall contain (i) the name of the payee and, if different in whole or in part, the names of the persons to whom an obligation of support is owed by the obligor, (ii) the name of the obligor, (iii) the amount of the periodic support payment, the due dates of such payments and any arrearages, (iv) the beginning date for sending payments to the Department of Social Services, and (v) the date by which the payee and obligor shall notify the Department of Social Services of the election to (a) have the Department of Social Services collect and disburse support payments together with forms and instructions for applying for such services or (b) have support payment made by the obligor directly to the payee. A copy of the notice also shall be transmitted to the Department of Social Services.

3. Unless otherwise directed by the ~~Committee on District Courts~~ *Supreme Court*, if both the obligor and the payee request in writing to the Department of Social Services that all support payments be made by the obligor directly to the payee, then the Department of Social Services shall so notify the court and the court shall enter an order to such effect. In the event an election is taken pursuant to subdivision 2 (v) (a), the notice of election shall have the same force and effect as an order of the court.

4. The above provisions shall also apply to payroll deductions made pursuant to § 20-79.1, except that only the payee and the employer shall receive such notice.

5. The change in payment provision required by subsection A shall be initiated by October 1, 1985, unless a different date is mutually agreed to by the Department of Social Services and the Committee on District Courts as to individual courts.

B. Unless a different date is mutually agreed to by the Department of Social Services and the ~~Committee on District Courts~~ *Executive Secretary*, all orders or decrees for support entered on or after October 1, 1985, shall direct that payment be made only to the payee unless one of the parties objects, in which case the order or decree shall direct that payment be made to or through the Department of Social Services.

C. The Department of Social Services shall promptly pay to the payee all support payments collected by it which have been ordered by a court to be paid to or through the Department. The Department shall pay interest to the payee when such interest amount exceeds five dollars on a support payment as provided in § 63.2-1951.

D. If the Department of Social Services enters into a contract with a public or private entity for the processing of support payments, then, except as provided in subsection E, and notwithstanding any other provision of this section:

1. The Department shall notify the affected court of the existence of such contract and how payments are contractually required to be made to such contractors; and

2. The affected court shall include in all support orders (i) how payments are required to be made to such contractors and (ii) that payments are to be made in such manner until different payment instructions are mailed to the person making payments by the court or by the Department.

E. An employer of 10,000 persons or more shall not be required to make payments other than by combined single payment to the Department's central office in Richmond without the express written consent of the employer, unless the order is from a support enforcement agency outside the Commonwealth.

F. Upon any obligee's application for public assistance benefits or child support services, the Department of Social Services may change the payee to the Department so that payment is sent to the Department at its address as contained in the notice of change as described in this subsection. Upon the obligee's request that support services no longer be provided, the Department may change the payee to the obligee so that payment is sent to the obligee at the address provided by the obligee as contained in the notice of change as described in this subsection. Notice of such change shall be served on the obligor by certified mail, return receipt requested, or in accordance with Chapter 8 (§ 8.01-285 et seq.) or Chapter 9 (§ 8.01-328 et seq.) of Title 8.01. The change described in the notice shall be effective as to all payments paid on or after the date that notice was served regardless of when such payments were due. Return of service shall be made to the Department of Social Services at the location described in the notice. Upon obtaining service of the notice on the obligor, the Department of Social Services shall transmit a copy of such notice together with a copy of the proof of service to the court having jurisdiction for enforcement of the order and to the custodial parent.

§ 20-79.1. Enforcement of support orders; income deduction; penalty for wrongful discharge.

A. As part of any order directing a person to pay child support, except for initial orders entered pursuant to § 20-79.2 or spousal support pursuant to this chapter or §§ 16.1-278.15 through 16.1-278.18, 20-103, 20-107.2 or § 20-109.1, or by separate order at any time thereafter, a court of competent jurisdiction may order a person's employer to deduct from the amounts due or payable to such person, the entitlement to which is based upon income as defined in § 63.2-1900, the amount of current support

due and an amount to be applied to arrearages, if any. The terms "employer" and "income" shall have the meanings prescribed in § 63.2-1900. The court shall order such income deductions (i) if so provided in a stipulation or contract signed by the party ordered to pay such support and filed with the pleadings or depositions, (ii) upon receipt of a notice of arrearages in a case in which an order has been entered pursuant to § 20-60.3, or (iii) upon a finding that the respondent is in arrears for an amount equal to one month's support obligation. The court may, in its discretion, order such payroll deduction (i) based upon the obligor's past financial responsibility, history of prior payments pursuant to any such support order, and any other matter which the court considers relevant in determining the likelihood of payment in accordance with the support order, or (ii) at the request of the obligor.

B. Any income deduction order shall be entered upon motion and concurrent proper notice sent by the clerk or counsel. The notice shall cite this section. If the notice is sent by the clerk, it shall be served in accordance with the provisions of § 8.01-296 or § 8.01-329, or sent by certified mail or by electronic means, including facsimile transmission, to the employer. An employer paying wages subject to deduction shall deliver the notice to the person ordered to pay such support.

The notice shall advise the obligor (i) of the amount proposed to be withheld, (ii) that the order of the court will apply to current and future income, (iii) of the right to contest the order, (iv) that the obligor must file a written notice of contest of such deduction with the court within ten days of the date of issuance of the notice, (v) that if the notice is contested, a hearing will be held and a decision rendered within ten days from the receipt of the notice of contest by the court, unless good cause is shown for additional time, which shall in no event exceed forty-five days from receipt of the notice by the obligor, (vi) that only disputes as to mistakes of fact as defined in § 63.2-1900 will be heard, (vii) that any order for income deduction entered will state when the deductions will start and the information that will be provided to the person's employer, and (viii) that payment of overdue support upon receipt of the notice shall not be a bar to the implementation of withholding.

Whenever the obligor and the obligee agree to income deductions in a contract or stipulation, the obligor shall be deemed to have waived notice as required in this subsection and the deduction shall be ordered only upon the stipulation or contract being approved by the court.

C. The income deduction order of the court shall by its terms direct the clerk to issue an order in accordance with § 20-79.3 to any employer and, if required, to each future employer, as necessary to implement the order. The order shall cite this section as authority for the entry of the order.

D. The rights and responsibilities of employers with respect to income deduction orders are set out in § 20-79.3.

E. The order to the employer pursuant to this section shall be effective when a certified copy thereof has been served upon or sent to the employer by electronic means, including facsimile transmission. A copy shall be provided to the employee by the employer. If the employer is a corporation, such service shall be accomplished as is provided in § 8.01-513.

F. Any order issued pursuant to this section shall be promptly terminated or modified, as appropriate, after notice and an opportunity for a hearing for the parties when (i) the whereabouts of the children entitled to support and their custodian become unknown, or (ii) the support obligation to an obligee ceases. Any such order shall be promptly modified, as appropriate, when arrearages have been paid in full.

G. The Department of Social Services may charge an obligee an appropriate fee when complying with an order entered under this section sufficient to cover the Department's cost.

H. If a court of competent jurisdiction in any state or territory of the United States or the District of Columbia has ordered a person to pay child support, a court of competent jurisdiction in this Commonwealth, upon motion, notice and opportunity for a hearing as provided in this section, shall enter an income deduction order, conforming with § 20-79.3 as provided in this section. The rights and responsibilities of the employer with respect to the order are set out in § 20-79.3. Similar orders of the courts of this Commonwealth may be enforced in a similar manner in such other state, territory or district.

I. The court or clerk shall attempt to ascertain the obligor's pay period interval prior to service of the clerk's order. If, after the order is served, the employer replies to the court that the pay period interval in the income deduction order differs from the obligor's pay period interval, the clerk shall convert the single monetary amount in the income deduction order to an equivalent single monetary amount for the obligor's pay period interval pursuant to a formula approved by the ~~Committee on District Courts~~ *Supreme Court*. The equivalent single monetary amount shall be contained in a new order issued by the clerk and served on the employer and which conforms to § 20-79.3.

J. If the Department of Social Services or the Department's designee receives payments deducted from income of the obligor pursuant to more than one judicial order or a combination of judicial and administrative orders, the Department or the Department's designee shall first allocate such payments among the obligees under such orders with priority given to payment of the order for current support.

797 Where payments are received pursuant to two or more orders for current support, the Department or the
798 Department's designee shall prorate the payments received on the basis of the amounts due under each
799 such order. Upon satisfaction of any amounts due for current support the Department or the
800 Department's designee shall prorate the remainder of the payments received on the basis of amounts due
801 under any orders for accrued arrearages.

802 § 20-124.4. Mediation.

803 In any appropriate case the court shall refer the parents or persons with a legitimate interest to a
804 dispute resolution evaluation session to be conducted by a mediator certified pursuant to guidelines
805 promulgated by the ~~Judicial Council~~ *Supreme Court* at no cost and in accordance with the procedures
806 set out in Chapter 20.2 (§ 8.01-576.4 et seq.) of Title 8.01. In assessing the appropriateness of a referral,
807 the court shall ascertain upon motion of a party whether there is a history of family abuse. If an
808 agreement is not reached on any issue through further mediation as agreed to by the parties, prior to the
809 return date set by the court pursuant to § 8.01-576.5, the court shall proceed with a hearing on any
810 unresolved issue, unless a continuance has been granted by the court. The fee of a mediator appointed in
811 any custody, support or visitation case shall be \$100 per appointment and shall be paid by the
812 Commonwealth from the funds appropriated for payment of appointments made pursuant to subsection B
813 of § 16.1-267.

814 § 37.2-802. Interpreters in admission or certification proceedings.

815 A. In any proceeding pursuant to § 37.2-806 or §§ 37.2-809 through 37.2-820 in which a person who
816 is deaf is alleged to have mental retardation or mental illness, an interpreter for the person shall be
817 appointed by the district court judge or special justice before whom the proceeding is pending from a
818 list of qualified interpreters provided by the Department for the Deaf and Hard-of-Hearing. The
819 interpreter shall be compensated as provided for in § 37.2-804.

820 B. In any proceeding pursuant to § 37.2-806 or §§ 37.2-809 through 37.2-820 in which a
821 non-English-speaking person is alleged to have mental retardation or mental illness or is a witness in
822 such proceeding, an interpreter for the person shall be appointed by the district court judge or special
823 justice, or in the case of §§ 37.2-809 through 37.2-813 a magistrate, before whom the proceeding is
824 pending. Failure to appoint an interpreter when an interpreter is not reasonably available or when the
825 person's level of English fluency cannot be determined shall not be a basis to dismiss the petition or
826 void the order entered at the proceeding. The compensation for the interpreter shall be fixed by the court
827 in accordance with the guidelines set by the ~~Judicial Council~~ *Supreme Court* of Virginia and shall be
828 paid out of the state treasury.

829 § 46.2-388. Uniform summons to be used for reportable motor vehicle law violations; citations.

830 A. The Attorney General, after consultation with the ~~Committee on District Courts~~ *Executive*
831 *Secretary of the Supreme Court*, the Superintendent of State Police and the Commissioner, shall approve
832 a form for the summons to be issued in either an electronic or paper format and all revisions to the
833 form to be used by all law-enforcement officers throughout the Commonwealth in cases of motor
834 vehicle law violations reportable to the Department under the provisions of §§ 46.2-382 and 46.2-383
835 and for other offenses charged on a summons pursuant to § 19.2-74. The commencement and
836 termination date for the use of the form and each revised version of the form shall be made by the
837 Attorney General after consultation with the ~~Committee on District Courts~~ *Executive Secretary of the*
838 *Supreme Court*, the Superintendent of State Police and the Commissioner. The law-enforcement agency
839 issuing the summons shall determine whether to use an electronic or paper format.

840 The form of the summons shall include multiple copies with the original to be used for court records
841 and other copies in sufficient number to permit the use of one copy by the courts for purposes of filing
842 abstracts of records with the Department as required by § 46.2-383 and shall be a form prepared by the
843 Department within the meaning of § 46.2-386. The form of the summons shall also include appropriate
844 space for use in cases of violation of either state laws or local ordinances.

845 B. A separate citation which has been approved in the manner prescribed in subsection A shall be
846 used for violations of §§ 46.2-1122 through 46.2-1127 and 46.2-1130. The citation shall be directed to
847 the owner, operator or other person responsible for the overweight violation, and shall advise him of:

- 848 1. The nature of the violation charged against him;
- 849 2. The amount of monetary fees, penalties, and damages that may be assessed for violations;
- 850 3. The requirement that he either pay the fees, penalties, and damages in full or deliver a notice of
851 his intent to contest the charge to the Department;
- 852 4. The procedures and time limits for making the payments or contesting such charge, which shall
853 include the trial date, which shall in no event be earlier than 60 days after the violation; and
- 854 5. The consequences of a failure to timely pay or contest the charge.

855 § 63.2-1924. Withholding from income; default of administrative or judicial support order; notices
856 required; priorities; orders from other states.

857 A. As part of every administrative support order directing a noncustodial parent to pay child or child
858 and spousal support or by separate order at any time thereafter, provision shall be made for withholding

from the income of the noncustodial parent the amount of the withholding order plus an amount to be applied toward liquidation of arrearages if the noncustodial parent fails to make payments in an amount equal to the support payable for one month. The total amount withheld shall not exceed the maximum amount permitted under § 34-29.

B. Upon default of an administrative or judicial support order, the Department shall serve notice on the noncustodial parent of the delinquency in accordance with the provisions of §§ 8.01-296, 8.01-327 or § 8.01-329 or by certified mail or electronic means, including facsimile transmission, for delivery to the noncustodial parent. The obligee shall also be sent a copy of such notice. The notice shall inform the noncustodial parent (i) of the amount that will be withheld, (ii) that the withholding applies to any current or subsequent period of employment, (iii) of the right to contest but that the only basis for contesting the withholding is a mistake of fact, (iv) that a written request to contest the withholding must be made to the Department within 10 days of receipt of the notice, (v) of the actions that will be taken by the Department if a request to contest is noted, which shall include the opportunity to present his objections, which shall be limited to a mistake of fact, to the administrative hearing officer at a hearing held pursuant to § 63.2-1942, (vi) that a determination on the contest will be made no later than 45 days from the date of service of such notice, and (vii) that payment of overdue support upon receipt of the required notice shall not be a bar to the implementation of withholding. Upon service of the notice on the employer for delivery to the obligor, a copy shall be sent by first-class mail to the obligee.

C. The noncustodial parent's employer shall be issued by first-class or certified mail or by electronic means, including facsimile transmission, an administrative order for withholding of income that shall conform to § 20-79.3. The rights and responsibilities of an employer with respect to such orders are set out in § 20-79.3.

D. The Department shall have the authority in the issuance of an administrative order under § 20-79.3, based on an existing court order, to convert the terms of payment to conform with the obligor's pay period interval. The Department shall utilize the conversion formula established by the ~~Committee on District Courts~~ *Executive Secretary*.

E. If the Department or its designee receives payments deducted from income of an obligor pursuant to more than one administrative order or a combination of judicial and administrative orders, the Department shall ensure that such payments are allocated among the obligees under such orders with priority given to payment of the order for current support. Where the Department or its designee receives payments pursuant to two or more orders for current support, the payments received shall be prorated on the basis of the amounts due under each such order. Upon satisfaction of any amounts due for current support, the remainder of the payments received shall be prorated on the basis of amounts due under each such order. Upon satisfaction of any amounts due for current support, the remainder of the payments received shall be prorated on the basis of amounts due under any orders for accrued arrearages.

F. Administrative orders for withholding from income shall be promptly terminated or modified by the Department when (i) the obligation to support has been satisfied and arrearages have been paid, (ii) the whereabouts of the child or child and custodial parent become unknown, or (iii) modification is appropriate because of a change in the amount of the obligation.

G. If a court of competent jurisdiction or the agency operating pursuant to an approved state plan under Sections 452 and 454 of the Social Security Act, as amended, in any state, territory of the United States or the District of Columbia has ordered a person to pay child or child and spousal support, upon notice and hearing as provided in this section, the Department shall issue an order, conforming to § 20-79.3, to the noncustodial parent's employer in this Commonwealth to withhold from the income of the noncustodial parent pursuant to a foreign support order in the same manner as provided in this section for administrative orders originating in this Commonwealth. Similar orders of the Department may be enforced in a similar manner in such other state, territory or district.

2. That §§ 16.1-69.9:3, 16.1-69.31, and 16.1-69.33 and Article 1 (§§ 17.1-700 through 17.1-705.1) of Chapter 7 of Title 17.1 of the Code of Virginia are repealed.

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