

CHAPTER 1 - INTRODUCTION TO THE MAGISTRATE SYSTEM OF VIRGINIA 1-1

- I. INTRODUCTION 1-1
- II. HISTORY OF THE OFFICE OF MAGISTRATE..... 1-1
- III. THE JUDICIAL SYSTEM OF VIRGINIA..... 1-4
- IV. MAGISTRATE ELIGIBILITY AND APPOINTMENT 1-10
- V. PROCEDURES UPON APPOINTMENT..... 1-11
- VI. QUARTERS FOR MAGISTRATES..... 1-12
- VII. AUTHORITY OF MAGISTRATES 1-12
 - A. Jurisdiction..... 1-12
 - B. Statutory Authority 1-13
- VIII. OUTSIDE EMPLOYMENT 1-15
- IX. REQUESTS FOR INFORMATION FROM THE NEWS MEDIA OR OTHERS 1-15
- X. REQUESTS FOR RECORDS (OFTEN REFERRED TO AS VIRGINIA FREEDOM OF INFORMATION ACT (FOIA) REQUESTS)..... 1-16
- XI. PROCEDURE WHEN MAGISTRATE SERVED WITH LEGAL PROCESS..... 1-17

CHAPTER 2 - ADULT ARREST PROCEDURES..... 2-1

- I. INTRODUCTION 2-1
- II. FACTS ESTABLISHING PROBABLE CAUSE..... 2-1
 - A. Definition..... 2-1
 - B. General Procedure 2-2
 - C. Citizen Complaints Of Felony Offenses..... 2-3
 - D. Prisoner Complaints Of Criminal Offenses..... 2-5
- III. ARREST AUTHORITY IN VIRGINIA..... 2-6
 - A. Animal Control Officers And Humane Investigators..... 2-6
 - B. Conservation Officers Appointed Pursuant To Va. Code § 10.1-115 2-7
 - C. Conservators Of The Peace 2-7
 - D. Correctional Officers 2-10

E. Bailiffs And Deputy Bailiffs Of The State Corporation Commission..... 2-11

F. Department Of Motor Vehicles Commissioner, Assistants, Sworn
Members Of The Enforcement Division 2-11

G. Chief And Assistant Arson Investigators Of The Department Of State
Police 2-11

H. Local Fire Marshals And Their Assistants 2-11

I. Law Enforcement Officers Of Other States..... 2-11

J. State Fire Marshals And Assistants 2-11

K. Virginia Marine Patrol Officers Of The Marine Resources Commission 2-12

L. Conservation Police Officers..... 2-12

M. Commissioned, Warrant, And Petty Officers Of The United States Coast
Guard, Or Of The United States Coast Guard Reserves..... 2-13

N. Officers Of Customs As Defined By 19 U.S.C § 1709 (b)..... 2-13

O. Private Security Officers..... 2-13

P. Probation And Parole Officers..... 2-14

Q. Railroad Police Agents 2-14

R. Investigators And Special Police Officers Appointed By The Governor..... 2-15

S. State Lottery Department Director, Director Of Security, Or Investigators..... 2-15

T. Virginia State Police Officers..... 2-15

U. Police Officers 2-15

V. Auxiliary Police Officers..... 2-16

W. Private Police Officers..... 2-16

X. Toll Bridge Special Police..... 2-17

Y. Campus Police Officers 2-17

Z. Auxiliary Campus Police Officers..... 2-18

AA. Capitol Police Officers 2-18

BB. Deputy Sheriffs..... 2-18

CC. Town Sergeants 2-18

DD. Alcoholic Beverage Control Board Members, Officers, Employees 2-19

EE. Sheriffs..... 2-19

FF. Litter Control Officers..... 2-20

GG. Members Of The Enforcement Division Of The Department Of Motor
Vehicles 2-20

HH. Certain Employees Of The Department Of Charitable Gaming..... 2-20

II. Virginia Ports Authority Police 2-20

JJ. Jail Officers..... 2-20

IV. LAW ENFORCEMENT ARREST PROCEDURES..... 2-21

A. Arrest Procedures Under Title 46.2..... 2-21

B. Arrest Procedures Under Any Other Title Of The Code Of Virginia..... 2-23

C. Marine Resources Commission Officers Have Warrantless Arrest Authority
(Va. Code § 28.2-900)..... 2-28

D. Correctional Officers And Designated Non-Custodial Correctional
Employees May Detain A Person In Certain Situations..... 2-29

E. Law Enforcement Procedures In Cases Of Assault And Battery Against
A Family Or Household Member/Violation Of Protective Orders 2-29

F. Execution Of Process By A Law Enforcement Officer..... 2-32

G. Witness Subpoenas 2-33

H. Unexecuted Warrants..... 2-34

I. Parking Violation Or Town Trash Ordinance Procedures (Va. Code
§§ 46.2-1220, 19.2-76.2 And 19.2-76.3) 2-34

J. Photo-Monitoring Of Traffic Light Signal Violations..... 2-35

K. Hot Pursuit Within Virginia..... 2-36

L. Uniform Requirement..... 2-37

M. Hot Pursuit Across State Lines 2-37

N. Driver Arrested, Car Not Impounded 2-37

O. Law Enforcement’s Authority To Obtain Address Of A Defendant
From The Records Of A Public Agency..... 2-37

P. Failure To Surrender To Serve Sentence..... 2-38

V. ARREST PROCEDURES APPLICABLE TO MAGISTRATES..... 2-39

A. Certain Hearings Conducted By Means Of Two-Way Electronic And
Audio Communication..... 2-39

B. Statute Of Limitations..... 2-40

C. Venue..... 2-40

D. Arrest Of A Person On An Existing Warrant Or Capias 2-41

E. Accused To Be Forthwith Brought Before Magistrate/Judicial Officer
(Arrest On Existing Warrant/Capias) 2-42

F. Procedure For Warrantless Arrest 2-42

G. Officer To Provide Arrested Person’s Criminal History (Va. Code
§ 19.2-80.2)..... 2-44

H. Complaint Of A Criminal Offense To A Magistrate..... 2-44

I. Magistrates Never Take Possession Of Evidence 2-48

J. When To Issue Summons Or Warrant Of Arrest..... 2-48

K. Process Issued Must Be In Duplicate/Copy To Person Charged..... 2-50

L. Summons Of Corporation Or Legal Entity (Misdemeanor Or Felony)..... 2-50

VI. WARRANTS OR ARRESTS FOR EXTRADITION 2-53

A. Introduction..... 2-53

B. Procedures For Issuance Of Warrants Prior to Arrest 2-54

C. Procedures for Arrests Without A Warrant. 2-57

VII. VIRGINIA ARREST WARRANTS ISSUED UNDER VIRGINIA MILITARY
LAW..... 2-59

VIII. WARRANTS OF ARREST FOR ILLEGAL ALIENS 2-60

IX. DANGEROUS DOG PROCEDURES (VA. CODE § 3.2-6540)..... 2-61

X. VICIOUS DOG PROCEDURES (VA. CODE § 3.2-6540.1) 2-67

XI. DEPREDATION BY DOG WARRANT PROCEDURES (VA. CODE § 3.2-6552) 2-70

XII. DESERTION AND NONSUPPORT 2-72

XIII. CONFIDENTIALITY OF CRIME VICTIM INFORMATION 2-73

XIV. PROCEDURES FOR CASES INVOLVING NON-ENGLISH SPEAKING, LIMITED ENGLISH PROFICIENT, DEAF, OR HARD OF HEARING INDIVIDUALS 2-75

 A. Foreign Language Interpreter Services 2-75

 B. Interpreters For The Deaf And Hard Of Hearing 2-76

XV. DIPLOMATIC IMMUNITY 2-77

CHAPTER 3 - JUVENILE AND DOMESTIC RELATIONS PROCEDURES 3-1

I. INTRODUCTION 3-1

II. PHILOSOPHY OF THE JUVENILE JUSTICE SYSTEM 3-1

III. JURISDICTION OF THE JUVENILE COURT 3-2

 A. Age Jurisdiction 3-2

 B. Venue (Territorial Jurisdiction) 3-3

 C. Subject Matter Jurisdiction 3-3

IV. ARREST WARRANT AND BAIL PROCEDURES FOR JUVENILES 3-8

 A. Arrest Warrant Procedures 3-8

 B. Issuance Of The Warrant 3-11

 C. Procedures Once The Magistrate Has Issued A Warrant For A Juvenile 3-13

 D. Procedures For Juvenile Custody Once Law Enforcement Has Taken A Juvenile Into Custody Pursuant To A Warrant Issued By A Magistrate Or A Detention Order Issued By A Judge, Intake Officer, Or Clerk 3-15

 E. Bail, Detention And Shelter Care Procedures 3-16

V. IMPLIED CONSENT AND MOTOR VEHICLE IMPOUNDMENT PROCEDURES IN JUVENILE CASES 3-25

 A. Implied Consent 3-25

 B. Impoundment Of A Motor Vehicle 3-26

VI. PROCEDURES FOR DOMESTIC VIOLENCE CASES 3-26

A. Definitions 3-26

B. Jurisdiction..... 3-29

C. Venue..... 3-30

D. Procedural Options For Family Or Household Member Abuse Cases..... 3-31

E. Family Abuse Emergency Protective Orders (Va. Code §§ 18.2-57.2 and 16.1-253.4)..... 3-41

VII. EMERGENCY PROTECTIVE ORDERS – ACTS OF VIOLENCE, FORCE OR THREAT (§ 19.2-152.8) 3-55

 A. Subsection A 3-55

 B. Subsection B 3-56

 C. Subsection C 3-58

 D. Subsection D 3-60

 E. Subsection E 3-61

 F. Subsection F..... 3-63

 G. Subsection G 3-63

 H. Subsection H 3-64

 I. Subsection I 3-64

 J. Subsection J 3-64

VIII. VIRGINIA CODE § 19.2-387.1 3-65

IX. VIRGINIA CODE § 18.2-308.1:4 3-65

X. ENFORCEMENT OF ORDERS ISSUED BY THE DISTRICT COURTS, CIRCUIT COURTS, OR MAGISTRATES 3-66

 A. Contempt Proceedings..... 3-66

 B. Violation of Protective Orders..... 3-67

 C. Violations of Va. Code § 18.2-49.1 3-73

XI. PROCEDURES AND POLICY REQUIREMENTS FOR LAW ENFORCEMENT 3-78

XII. REFERENCE GUIDE FOR PROCESSES IN FAMILY VIOLENCE CASES..... 3-79

CHAPTER 4 - BAIL PROCEDURES 4-1

 I. INTRODUCTION 4-1

 II. THE BAIL HEARING REQUIREMENT 4-2

 III. BAIL DETERMINATION FACTORS (VIRGINIA CODE § 19.2-121) 4-5

 IV. GRANTING BAIL (VIRGINIA CODE § 19.2-120) 4-9

 A. General Principles Of Bail..... 4-9

B. The Fourteen Category Risk Presumption List 4-11

C. The Illegal Alien Felony Presumption Against Bail..... 4-25

D. Review Of Virginia Criminal History Information By A Licensed Bail Bondsman 4-25

E. Risk Presumption For Illegal Aliens (§ 19.2-120.1)..... 4-29

V. SPECIAL CONSIDERATIONS IN FAMILY VIOLENCE CASES 4-39

VI. SETTING TERMS OF BAIL OR CONDITIONS OF RELEASE (§ 19.2-123)..... 4-40

VII. COURT ORDERED TERMS OF BAIL 4-46

A. Bail Terms Set By Court On A Capias To Be Honored By Magistrate (Virginia Code § 19.2-130.1)..... 4-46

B. Orders Issued Pursuant To Va. Code § 19.2-130.1 4-46

C. Setting Terms “In Accordance” With The Court Order 4-47

D. Magistrate Findings For More Restrictive Terms 4-48

E. Considerations For Magistrates On Orders For Bail Terms 4-49

VIII. BOND AS A CONDITION OF BAIL 4-50

A. Recognizance 4-50

B. Unsecured Bond..... 4-51

C. Secure Bond..... 4-51

IX. PROVING SOLVENCY THROUGH REAL OR PERSONAL PROPERTY 4-52

X. SURETIES AND BONDSMEN 4-56

A. Summary Of Bondsman Documentation Requirements..... 4-63

XI. COMMITMENT TO JAIL 4-64

XII. BAIL PROCEDURES IN EXTRADITION 4-67

A. When Bail Not Permissible In Extradition Cases..... 4-67

B. When Bail Is Permissible In Extradition Cases 4-68

XIII. VIOLATIONS OF CONDITIONS OF RELEASE, PRETRIAL SERVICES CONDITIONS, AND LOCAL COMMUNITY-BASED PROBATION PROGRAM CONDITIONS 4-70

A. Violations Of Conditions Of Release 4-70

B. Violations Of Pretrial Services Conditions..... 4-71

C. Violations Of Local Community-Based Probation Program Conditions 4-73

XIV. RECOGNIZANCE TO KEEP THE PEACE 4-75

A. The “Peace Bond” Process 4-75
B. Magistrate Procedures 4-75

XV. PERSONS CHARGED WITH NON-JAILABLE OFFENSES 4-76

XVI. APPEAL BONDS 4-77

XVII. BAIL PROCEDURES IN CONNECTION WITH SUPPORT CASES 4-79

XVIII. SURETY’S CAPIAS AND BAILPIECE RELEASE 4-83

XIX. WITNESS RECOGNIZANCE 4-85

XX. ARREST UNDER MILITARY LAW 4-85

A. Arrest Under Virginia Military Law 4-85
B. Absent Without Leave From The Federal Armed Forces 4-86

XXI. ARREST UPON WARRANT OF PROBATION OR PAROLE OFFICER 4-86

XXII. BAIL PROCEDURES FOR ILLEGAL ALIENS 4-86

A. Introduction 4-86
B. Accompanying Virginia Charges 4-86
C. No Accompanying Virginia Charges 4-87

XXIII. MISCELLANEOUS STATUTES ON BAIL 4-88

CHAPTER 5 - SEARCH WARRANT PROCEDURES 5-1

I. INTRODUCTION 5-1

A. Criminal Searches 5-1

II. VIRGINIA STATUTES ON SEARCH WARRANTS 5-2

III. THE AFFIDAVIT FOR SEARCH WARRANT FORM (DC-338) 5-16

A. A Description Of The Place, Thing, Or Person To Be Searched 5-18
B. The Things Or Persons That Are The Subject Of The Search 5-18
C. The Material Facts Constituting The Probable Cause 5-27

IV. THE SEARCH WARRANT FORM (DC-339) 5-49

A. Preparation Of Warrant 5-49
B. Execution And Return Of The Search Warrant 5-51
C. The Offense In Relation To Such Search 5-51

D. The Object, Thing Or Person Searched For Constitutes Evidence Of
The Commission Of Such Offense 5-52

E. Distribution Of The Affidavit And Copies 5-52

V. THE AFFIDAVIT FOR SEARCH WARRANT FOR TRACKING DEVICE
FORM (DC-340) 5-53

A. Introduction 5-53

B. Proper Form 5-54

C. Magistrate’s Geographic Authority 5-54

D. Authority To Act As Affiant 5-54

E. Required Findings 5-55

F. Filing The DC-340, AFFIDAVIT FOR SEARCH WARRANT FOR TRACKING
DEVICE 5-55

VI. THE SEARCH WARRANT FOR TRACKING DEVICE FORM (DC-341) 5-56

A. Description Of Object 5-56

B. Designation Of The Circuit Court For Return Of The Executed Warrant 5-56

C. Period Of Authorization 5-57

D. Magistrate May Not Grant Extension 5-57

E. Description Of The Offense 5-57

VII. THE AFFIDAVIT FOR SEARCH WARRANT FOR REAL-TIME
LOCATION DATA FORM (DC-308). 5-58

A. Introduction 5-58

B. Proper Form 5-58

C. Required Findings 5-58

D. Filing the DC-308, AFFIDAVIT FOR SEARCH WARRANT FOR REAL-TIME
LOCATION DATA 5-58

VIII. THE SEARCH WARRANT FOR REAL-TIME LOCATION DATA FORM
(DC-309). 5-58

A. Identity of the Provider of Electronic Communication Service or Remote
Computing Service 5-58

B. Designation of the Circuit Court for Return of the Executed Warrant 5-59

C. Identity of the Records Sought 5-59

D. Period of Authorization 5-59

E. No Magisterial Authority to Grant Extension 5-59

F. Offense in Relation to Search 5-59

G. Foreign Corporation 5-59

IX. ADMINISTRATIVE SEARCHES 5-60

A. Introduction 5-60

B. Probable Cause 5-60
C. Fire Inspection Warrants (Local Fire Official) 5-61
D. Fire Investigation Warrants (Fire Marshal And State Police Arson Investigators) 5-63
E. Release Of Hazardous Material Or Waste Or Regulated Substance Investigation Warrants (Fire Marshal)..... 5-65
F. Pesticide Control Administrative Search Warrants 5-67
G. Dam Inspections 5-71
H. Building Code Violations (Va. Code § 36-105) 5-72
I. Animal Cruelty Search Warrant 5-72
J. Administrative Search or Inspection Warrants Issued Only By Courts 5-74
K. Administrative Subpoenas 5-77

CHAPTER 6 - EMERGENCY CUSTODY AND TEMPORARY DETENTION ORDERS..... 6-1

I. INTRODUCTION 6-1
 A. Authority; Distinction Between Adults And Juveniles 6-1
 B. Applicable Statutes 6-1
 C. Orders And Petitions Concerning Magistrates 6-3
II. ECO: IN GENERAL..... 6-3
 A. Statutory Authority; Forms..... 6-3
 B. Purpose 6-4
 C. ECO In Context: Potential Outcomes..... 6-4
 D. Unique Authority Of Magistrate..... 6-5
 E. Jurisdiction; Venue 6-5
III. ECO PROCEDURES..... 6-6
 A. Case Initiation..... 6-6
 B. Requirement To Issue 6-8
 C. Findings Required..... 6-8
 D. Who Performs The Evaluation 6-8
 E. Location Of Mental Evaluation 6-9
 F. Associated Medical Services 6-10
 G. Selecting A Law Enforcement Agency To Execute ECO 6-10
 H. Alternative Transportation Provider (ATP)..... 6-11
 I. Time Limits; Extension Authority..... 6-14
 J. Successive ECOs Not Authorized 6-14
 K. Emergency Custody Initiated By Law Enforcement Without ECO 6-15
 L. Order Not To Be Issued In Cases Of Consent..... 6-17
IV. TDO: IN GENERAL 6-17

MAGISTRATE MANUAL

TABLE OF CONTENTS

PAGE x

A. Statutory Authority; Forms..... 6-17

B. Purpose 6-18

C. TDO In Context 6-18

D. Unique Authority Of Magistrate..... 6-19

E. Jurisdiction; Venue 6-19

V. TDO PROCEDURES 6-20

 A. Case Initiation 6-20

 B. Findings Required..... 6-22

 C. Evaluation Before Hearing 6-22

 D. Requirement To Issue TDO..... 6-24

 E. Action If CSB Evaluator Recommends No TDO..... 6-24

 F. Designation Of Mental Health Facility..... 6-24

 G. Associated Medical Services 6-25

 H. Selection Of Law Enforcement Agency 6-26

 I. Alternative Transportation Provider (ATP)..... 6-29

 J. Time Limits 6-31

 K. Successive TDOs Not Authorized 6-32

 L. Designation Of Alternative Detention Facility 6-32

VI. FINDINGS FOR ECO AND TDO 6-35

 A. Standard Of Proof For Findings 6-35

 B. Criteria For ECO And TDO 6-35

 C. Criteria Enumerated: Adults 6-35

 D. Criteria Enumerated: Minors 6-36

 E. Criteria Discussed..... 6-36

 F. Magistrate’s Duty To Get Facts, Not Conclusions..... 6-40

 G. Evidence 6-41

VII. MINORS: VOLUNTARY COMMITMENT, SPECIAL NOTE..... 6-44

 A. Introduction: Relationship To Involuntary Commitment 6-44

 B. Commitment Procedures Not Involving Magistrates 6-44

 C. Relationship To Magistrate’s Authority To Issue ECO Or TDO 6-45

VIII. POST-TDO DUTIES OF MAGISTRATE 6-45

 A. Statutory Authority; Forms..... 6-45

 B. Purpose 6-46

 C. Context..... 6-46

 D. Mandatory Examination: Refusal Or Failure To Attend 6-47

 E. MOT Noncompliance: ECO Or TDO..... 6-50

IX. INMATES 6-51

A. Introduction..... 6-51

B. Inmate Of Local Correctional Facility..... 6-51

C. Inmate Of State Correctional Facility..... 6-53

X. ACQUITTEES, CONDITIONALLY RELEASED..... 6-54

A. Introduction..... 6-54

B. Statutory Authority; Forms..... 6-54

C. Relationship To Other ECO And TDO Authority: Independent Authority 6-54

D. Emergency Custody Order (ECO) For Conditionally Released Acquittee 6-55

E. Temporary Detention Order (TDO) For Conditionally Released Acquittee 6-61

XI. SEXUALLY VIOLENT PREDATORS, CONDITIONALLY RELEASED..... 6-65

A. Statutory Authority; Forms..... 6-65

B. Definitions 6-66

C. Authority Of Magistrate 6-66

D. Relationship To Other ECO Authority 6-67

E. Issuance Authorized, Not Required..... 6-67

F. Returnable Court..... 6-67

G. Case Initiation..... 6-67

H. Findings 6-68

I. Standard Of Proof..... 6-69

J. Evaluator..... 6-69

K. Location Of Evaluation..... 6-69

L. Custody 6-70

M. Associated Medical Services 6-71

N. Execution By Law Enforcement Agency 6-71

O. Notification Requirements..... 6-72

P. Time Limits 6-72

Q. Emergency Custody Initiated By Law Enforcement..... 6-73

XII. MEDICAL ECO AND TDO IN GENERAL..... 6-73

A. Magistrate Authority..... 6-73

B. Other Emergency Care Authorities For Health Care Providers 6-73

C. Physician’s Common Law Authority 6-73

D. Advance Directive 6-74

E. Other Person Legally Authorized To Consent..... 6-75

F. Durable Do Not Resuscitate Order 6-78

XIII. MEDICAL ECO: MEDICAL EMERGENCY CUSTODY ORDER..... 6-79

A. Statutory Authority; Forms..... 6-79

B. Purpose 6-79

C. Medical ECO In Context 6-79

D. Unique Authority Of Magistrate..... 6-80

E. Case Initiation 6-80

F. ECO Authorized, Not Required 6-81

G. Findings Required 6-81

H. Evidence For Findings 6-82

I. Standard Of Proof 6-83

J. Evaluator 6-83

K. Location Of Medical Evaluation 6-83

L. Execution By Law Enforcement Agency 6-84

M. Time Limits; Extension Authority 6-84

N. Successive ECOs Not Authorized 6-85

O. Emergency Custody Initiated By Law Enforcement 6-86

XIV. MEDICAL TDO: MEDICAL TEMPORARY DETENTION ORDER 6-86

A. Statutory Authority; Form 6-86

B. Purpose 6-86

C. Medical TDO In Context 6-86

D. Contingent Authority Of Magistrate To Issue Medical TDO 6-87

E. Case Initiation 6-87

F. TDO Authorized, Not Required 6-87

G. Findings Required 6-88

H. Evidence 6-89

I. Standard Of Proof 6-90

J. Actions Ordered 6-90

K. Location Of Medical Care 6-90

L. Service Of Order 6-90

M. Execution By Law Enforcement Agency 6-90

N. Time Limits' Extension Authority 6-91

O. Successive TDOs Not Authorized 6-91

P. Appeal Of A Medical TDO 6-92

XV. MEDICAL TDO: INMATE OF STATE CORRECTIONAL FACILITY 6-92

A. Authority; Forms 6-92

B. Purpose 6-93

C. Contingent Authority Of Magistrate To Issue Medical TDO 6-93

D. Case Initiation 6-93

E. Issuance Of TDO Required 6-93

F. Findings Required 6-94

G. Evidence 6-95

H. Standard Of Proof 6-95

I. Actions Ordered 6-95

J. Time Limits; Extension Authority 6-95

K. Successive TDOs Not Authorized 6-96

XVI. CRIMES RELATED TO ECO AND TDO 6-97

A. Escape 6-97

B. Other Statutes Relating To Hospitals 6-98

CHAPTER 7 - CIVIL PROCEDURES..... 7-1

I. OVERVIEW 7-1

A. Who May Sue 7-1

B. Who May Be Sued..... 7-2

II. JURISDICTION..... 7-2

III. VENUE 7-2

A. Preferred Venue (Va. Code § 8.01-261)..... 7-3

B. Permissible Venue (Va. Code § 8.01-262)..... 7-3

IV. CIVIL CASE PROCESS 7-4

V. SUITS IN DEBT 7-6

A. Case Initiation..... 7-6

B. Service Of Process..... 7-7

C. Pre-Trial Procedures 7-8

VI. SUITS IN DETINUE..... 7-9

A. Detinue..... 7-10

B. Detinue Seizure..... 7-11

VII. UNLAWFUL DETAINER 7-19

A. Jurisdiction..... 7-19

B. Case Initiation..... 7-20

C. Service Of Process..... 7-22

VIII. ATTACHMENTS 7-22

A. Jurisdiction..... 7-23

B. Venue..... 7-23

IX. ATTACHMENT PURSUANT TO CHAPTER 20, TITLE 8.01 7-24

A. Jurisdiction..... 7-24

B. Case Initiation And Reasonable Cause Review..... 7-24

C. Plaintiff’s Bond..... 7-31

D. Attachment Summons..... 7-33

E. Service Of Process..... 7-33

X. OVERWEIGHT ATTACHMENT (VA. CODE § 46.2-1134)..... 7-34

- A. Jurisdiction..... 7-34
- B. Case Initiation And Reasonable Cause Review..... 7-34
- C. Defendant’s Bond 7-35

XI. ATTACHMENTS FOR UNPAID FEES AND PENALTIES..... 7-36

- A. Jurisdiction..... 7-36
- B. Case Initiation And Reasonable Cause Review..... 7-36
- C. Defendant’s Bond 7-37

XII. DISTRESS FOR RENT 7-38

- A. Jurisdiction..... 7-39
- B. Case Initiation And Reasonable Cause Review..... 7-39
- C. Plaintiff’s Bond..... 7-44
- D. Distress Warrant 7-45
- E. Appeal..... 7-46
- F. Service Of Process..... 7-46

XIII. TENANT’S ASSERTION AND COMPLAINT 7-46

- A. Jurisdiction..... 7-46
- B. Procedure 7-47

XIV. TENANT’S PETITION FOR RELIEF FROM UNLAWFUL EXCLUSION 7-47

- A. Jurisdiction..... 7-47
- B. Procedure..... 7-48

XV. VIRGINIA INDOOR CLEAN AIR ACT 7-48

- A. Case Initiation..... 7-49
- B. Service Of Process..... 7-50

XVI. CHECKLISTS 7-50

- A. Suits In Debt 7-50
- B. Suits In Detinue 7-50
- C. Detinue Seizure..... 7-51
- D. Detinue Seizure Order 7-52
- E. Summons For Unlawful Detainer..... 7-53
- F. Pre-Trial Attachments (Levy or Seizure) 7-53
- G. Attachment Summons..... 7-54
- H. Overweight Attachments 7-55
- I. Attachments For Unpaid Fees And Penalties 7-56
- J. Distress Petition And Distress Warrant 7-56

K. Tenant’s Assertion And Complaint 7-58

XVII. TABLES AND SUPPLEMENTARY INFORMATION..... 7-60

 A. Civil Fee And Payment Exemptions And Unique Case Type Issues 7-60

 B. List Of Facts 7-63

 C. Civil Processes..... 7-64

CHAPTER 8 - ACCOUNTING & PREPAYMENTS 8-1

I. INTRODUCTION 8-1

II. STATUTES GOVERNING ACCOUNTING PROCEDURES 8-1

III. MAGISTRATE CHECKING ACCOUNTS..... 8-2

 A. Chief Magistrate Procedures For One Checking Account Per District 8-2

 B. Chief Magistrate Procedures For One Checking Account Per Office..... 8-4

IV. MAGISTRATE ACCOUNTING PROCEDURES FOR CHECKING ACCOUNTS 8-6

 A. Procedures For One Checking Account Per District 8-7

 B. Procedures For One Checking Account Per Office..... 8-8

V. PREPARATION OF AUTOMATED RECEIPTS 8-10

 A. Automated Receipts For Cash Bonds 8-10

 B. Other Receipts 8-11

VI. PREPARATION OF DC-7, RECEIPT 8-13

VII. TRANSMITTAL OF FUNDS 8-15

VIII. ACCEPTANCE OF CASH BONDS FOR DEFENDANTS JAILED IN ANOTHER LOCALITY 8-15

IX. CRIMINAL HISTORY FEE PROCEDURES 8-16

X. PREPAYMENT PROCEDURES 8-17

 A. Prepayable Offenses 8-17

 B. Non-prepayable Offenses 8-24

XI. CASH CRIMINAL BONDS..... 8-25

 A. Instructions For Processing A Cash Criminal Bond..... 8-25

 B. Internal Revenue Service Form 8300 8-26

C. Preparing The Internal Revenue Service Form 8300 8-27

XII. CASH CRIMINAL APPEAL BONDS..... 8-28

 A. Within Ten (10) Days Of Conviction 8-28

 B. After Ten (10) Days Of Conviction..... 8-29

XIII. ATTACHMENTS OF VEHICLES FOR OVERWEIGHT OR FOR UNPAID FEES OR PENALTY CASES 8-30

XIV. CIVIL FEES..... 8-31

XV. ON-LINE BANKING POLICY..... 8-31

XVI. BANK STATEMENT RECONCILIATION..... 8-31

XVII. RECORDS RETENTION..... 8-35

XVIII. GUIDELINES FOR CLAIMS RESULTING FROM A SHORTAGE OF MONEY: ACTION REQUIRED..... 8-35

XIX. YEARLY FINANCIAL STATEMENT 8-36

XX. SUPERVISION AND INTERNAL CONTROLS..... 8-38

XXI. POLICIES AND PROCEDURES UPON VOLUNTARY OR INVOLUNTARY TERMINATION OF MAGISTRATES..... 8-38

APPENDIX A—FEE AND PREPAYMENT SCHEDULES A-1

 I. BONDS A-1

 II. TRAFFIC AND CRIMINAL FINES..... A-1

 III. TRAFFIC FEES AND COSTS ASSESSED A-2

 IV. CRIMINAL FEES AND COSTS A-2

 V. CRIMINAL HISTORY TO BAIL BONDSMAN A-3

 VI. CIVIL PROCESSES IN GENERAL DISTRICT COURT..... A-3

 VII. CIVIL PROCESSES IN CIRCUIT COURT A-4

 VIII. OVERWEIGHT VEHICLE ATTACHMENTS - FINE, FEES AND DAMAGES..... A-5

 IX. VEHICLE ATTACHMENTS FOR UNPAID FEES AND PENALTIES – FINE AND FEES..... A-5

X. LIQUIDATED DAMAGES SCHEDULE - VA. CODE § 46.2-1135 A-6

- A. Overweight Limit Non-Forest Or Non-Farm Vehicle A-6
- B. Over Axle Weight Non-Forest Or Non-Farm Vehicle A-6
- C. Overweight Limit Forest Or Farm Vehicle A-6
- D. Over Axle Weight Forest Or Farm Vehicle..... A-6
- E. Gross Permit Violations..... A-7
- F. Charges Assessed In All Cases In Addition To Liquated Damages:..... A-7

XI. HUNTING, FISHING, AND TRAPPING LICENSE SCHEDULE A-7

- A. Hunting License Types A-7
- B. Freshwater Fishing License Types A-10
- C. Saltwater Recreational Fishing Licenses A-12

XII. PREPAYABLE OFFENSES AND UNIFORM FINE SCHEDULE A-12

APPENDIX B—MANUAL UPDATES..... B-1