

CHAPTER 6 - SUITS/ACTION TYPES (A-B)

I. ADMINISTRATIVE APPEAL (EMPLOYEE GRIEVANCE)

Pursuant to [Va. Code § 2.2-3006](#)

Request that the Circuit Court review decision of state agency pertaining to a grievance proceeding. **NOTE:** [Virginia Code § 2.2-3006](#) provides that either party may petition the circuit court having jurisdiction in the locality in which the grievance arose for an order requiring implementation of the final decision or recommendation of a hearing officer.

1. Document Type

Form provided by [Department of Employee Relations](#)

2. Filing Type

AAPL (not GRV)

3. Procedures

**Step 1** Within 30 days of a final decision for an administrative review of a grievance hearing, a party may appeal on the grounds that the determination is contradictory to law.

Clerk receives notice of appeal, filed by either party. The agency shall transmit a copy of the grievance record to the clerk of court.

**Step 2** The court, on motion of a party, shall issue a writ of certiorari requiring transmission of the record on or before a certain date. *See* "Writ Of Certiorari."

**Step 3** Clerk sets case for hearing within thirty days of receipt of record (without jury). **EXCEPTION:** Appeal of decision of School board shall be heard with ten days. [Va. Code § 22.1-314](#).

**Step 5** Court renders decision no later than fifteen days from hearing date.

**Step 6** The court shall award reasonable attorneys' fees and costs to the employee if the employee substantially prevails on the merits of a case brought under subsection B or D of [Va. Code § 2.2-3006](#).

4. Fees/Taxes/Other Monies Assessed

None. The circuit court hearing shall be at no cost to the Commonwealth or the grievant.

5. Form(s)

No forms provided by clerk's office.

6. Reference(s)

[Va. Code § 2.2-3006](#)

**II. ADMINISTRATIVE APPEAL (VIRGINIA RETIRMENT SYSTEM MEMBER GRIEVANCE)**

Pursuant to [Va. Code § 51.1-124.13](#)

No person shall be entitled to any of retirement benefits if (i) he is convicted of a felony and (ii) the person's employer determines that the felony arose from misconduct occurring on or after July 1, 2011, in any position in which the person was a member covered for retirement purposes. Prior to making this determination, the person has an opportunity to be heard. The employer's determination may be appealed. [Va. Code § 51.1-124.13](#)

1. Document Type

Notice of Appeal

2. Filing Type

AAPL

3. Procedures

**Step 1** A member may file a notice of appeal within five workdays of receipt of the employer's determination.

**Step 2** Within five workdays thereafter, the employer shall transmit to the clerk of court in the jurisdiction where the employer is located, a copy of the record.

**Step 3** Clerk sets case for hearing within thirty days of receipt of record (without jury).

**Step 5** Court renders decision no later than fifteen days from hearing date.

**Step 6** The circuit court hearing shall be final and shall not be appealable.

4. Fees/Taxes/Other Monies Assessed

None. The circuit court hearing shall be at no cost to the Commonwealth or the member.

5. Form(s)

No forms provided by clerk's office.

6. Reference(s)

[Va. Code § 51.1-124.13](#)

### III. ADMINISTRATIVE IMPOUNDMENT OF MOTOR VEHICLES

Upon arrest for DUI, refusal to take breath test, driving suspended or driving after having been declared a habitual offender, the arresting officer impounds or immobilizes the vehicle being operated by the defendant. The period of impoundment is thirty days. If the defendant believes that the vehicle was impounded unfairly, or if someone else is the owner of the vehicle and did not authorize the unlawful use of the vehicle by the defendant, he may appeal (petition for a review) to the District Court. The District Court will give this appeal priority on its docket.

The Circuit Court does not exercise original jurisdiction over this type of case. Refer to *Nicely v. Comm.*, 23 Va. App 327 (1996) - annotations under [Va. Code § 46.2-391.2](#). The Circuit Court can, however, hear an appeal of the matter from the District Court.

### IV. ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE

Upon arrest for DUI or refusal to take breath test, the arresting officer takes possession of the defendant's driver's license, and delivers it to the magistrate who then forwards it to the clerk of the District Court. The defendant's license and privilege to drive are suspended for a period of seven days. If the defendant believes that the license was taken unfairly, he may ask for a review to the District Court. The District Court will give this review priority on its docket.

The Circuit Court does not exercise jurisdiction over this type of case. Refer to *Nicely v. Comm.*, 23 Va. App 327 (1996) – annotations under [Va. Code § 46.2-391.2](#). See also *Wilson v. Comm.*, 23 Va. App 443 (1996).

### V. ADOPTION

A statutory proceeding by which a person takes the child of another or an adult into his family and makes him, for all legal purposes, his own child. The formalities, effect and validity of an adoption in the Commonwealth of Virginia are governed by [Va. Code §§](#)

[63.2-1200](#) through 63.2-1248 of the Code of Virginia. Preliminary steps in some types of adoptions are also guided by [Va. Code § 16.1-283](#). **NOTE:** Adoption processing was not affected by the statutory changes and amendments to the rules of court as a result of Senate Bill 1118, the legislation effective 1/1/06 that merged law and chancery.

**NOTE:** The first separate index for adoption cases was allowed in 1952, but no separate order book was required. In 1968, the present version of [Va. Code § 63.2-1245](#) appeared, requiring the judge to enter an order establishing the Adoption Order book, file and index. Until authorized as provided, the only index required in adoption cases is the usual index in connection with equity (chancery) cases. Reference Attorney General opinion to Bowles, dated 7/08/64 (1964-65 page 3); The statute did not require retroactive action to redo an index for adoption cases, or remove old cases from their usual repository. Because of this, many clerks left the old pre-1968 adoptions on the chancery index and have not moved the files from the chancery repository. Review of concluded cases is per [Va. Code § 17.1-208](#) and [Va. Code § 2.2-3704](#).

1. Document Type

Petition

2. Filing Type

ADOP - Domestic  
FORA - Foreign

3. Procedures

**Step 1** The adopting parties file a petition requesting adoption and, if requested, a change of name. The clerk receipts for filing fee, opens a new case file and docket the case. **NOTE:** Pursuant to [Va. Code § 63.2-1201](#), the petition for adoption, except those filed pursuant to subdivisions 5 and 6 of [Va. Code § 63.2-1210](#), shall include an additional \$50 filing fee that shall be used to fund the Virginia Birth Father Registry established pursuant to [Va. Code § 63.2-1249](#).

**Comments:** Venue - Adoptions are filed in the county or city in which the Petitioners reside or in the county or city in which the child-placing agency is located.

The Petitioners must sign the Petition with counsel, if any, and if the Petition seeks adoption without referral for investigation, it must be signed under Oath.

If adoption is requested for two or more children who have the same birth parent or parents, the Petitioners may proceed under one Petition for all the children. [Va. Code § 63.2-1237](#).

No petition for adoption shall be granted unless written consent is filed with the petition, unless otherwise provided for in [Va. Code § 63.2-1202](#).

**Step 1  
(cont'd)**

A birth father's consent to adoption is not necessary if the birth father is convicted in another state, the United States, or any foreign jurisdiction of (i) rape, (ii) carnal knowledge of a child between 13 and 15 years of age, or (iii) adultery or fornication with his mother, daughter or granddaughter, and the child was conceived as a result of such violation.

In an adoption proceeding where the consent of a birth parent is required, but the petition for adoption alleges that the birth parent is withholding consent to the adoption, the court shall provide written notice to the birth parent of his right to be represented by counsel prior to any hearing or decision on the petition. Upon request, the court shall appoint counsel for any such birth parent if such parent has been determined to be indigent by the court pursuant to [Va. Code § 19.2-159](#). See CC-1424, ADOPTION NOTICE/REQUEST FOR APPOINTMENT OF LAWYER

**Step 2** Upon entry of the order of reference, the clerk shall forward a copy of the order of reference, the petition, and all exhibits thereto to the [Commissioner of Social Services](#), and the child-placing agency retained to provide investigative, reporting, and supervisory services. If no Virginia agency was retained to provide such services, the order of reference, petition, and all exhibits shall be forwarded to the local director of social services of the locality where the petitioners reside or resided at the time of filing the petition or had legal residence at the time the petition was filed.

**Comments:** All materials required to be mailed to:  
Department of Social Services  
Adoption Reports Unit, 11th Floor  
801 E. Main Street  
Richmond, VA 23219

**Step 3** Clerk files all reports of investigations. Clerk is NOT to receipt money for investigation. Attorney, if ordered to pay, sends payment directly to DSS.

**Step 4** Upon entry of the Final Order of Adoption or other final disposition of the matter, the clerk transmits an attested copy of such order, along with all reports made in connection with the case, and the Commissioner shall preserve such reports and all other collateral reports, information and recommendations in a separate file. [Va. Code § 63.2-1246](#).

**Comments:** If Petition, reports and exhibits are still in the file, they should be sent in with Final Order of Adoption.

**Step 5** Clerk maintains an exclusive Adoption Order Book, filing and indexing system for adoption cases, any information about which is made available only in accordance with [Va. Code § 63.2-1245](#). Disclosure of adoption information is controlled by [Va. Code § 63.2-1246](#). . . The adult adopted person will first apply to the Commissioner of Social Services if the consent of the birth parents is not obtainable due to their death or mental incapacity. If the Commissioner denies the application, the adult adopted person may apply to the circuit court for an order to disclose that information.

**Step 6** To obtain a revised Birth Certificate: Clerk tenders a VS6 - Application for a Certification of a Birth Record together with the proper fee, prepared by the Petitioners, together with the VS21 - Report of Adoption, required to be submitted by the clerk to the State [Division of Vital Statistics](#) by the 10th of each month ([Va. Code § 32.1-262](#)) to assist the Petitioners in getting a revised Birth Certificate for the adopted child. Mail to:

Division of Vital Records  
ATTN: Special Services Department  
P.O. Box 1000  
Richmond, VA 23218-1000

**ADULT ADOPTION NOTE:** Dependent upon local practice, the final order of adoption may be spread upon the land records (fees may apply) and transmitted to the agencies mentioned in [Va. Code § 8.01-217](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by the clerk's office.

6. Reference(s)

[Va. Code § 63.2-1200](#) through 63.2-1248

Attorney General Opinion to Black dated 1/18/90 (1990, page 235); Writ tax not applicable to nonadversarial proceedings in circuit court; determination of adversarial vs. nonadversarial law and chancery proceedings.

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(29)</a>
Virginia Birth Father Registry(except Foreign Adoptions)	<a href="#">Va. Code § 63.2-1201</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 (13)(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>*Not assessed if the amount of the civil action is \$500 or less</i>	

## VI. ADOPTION-FOREIGN

Adoptive parents who are residents of the Commonwealth may petition the circuit court in the city or county where they reside for a report of adoption when the adoptive parents are seeking a Virginia certificate of birth for a child adopted in a foreign country that has post-adoption reporting requirements and with whom the United States has diplomatic relations. The adoptive parents must provide the circuit court with the immediate relative immigrant visa (IR-3), a report of adoption on a form furnished by the [State Registrar of Vital Records](#), completed post-adoption reports, and a signed affidavit stating that any outstanding post-adoption requirements shall be met as required by the foreign country.

### 1. Document Type

Petition

### 2. Filing Type

FORA

### 3. Procedures

**Step 1** Petition and affidavit as required pursuant to [Va. Code § 63.2-1220 \(B\)](#) is filed with the Clerk.

**Comments:** VENUE - in Circuit Court of the county or city where the person resides.

**Step 2** Clerk receipts for taxes/fees, opens file and docket new case and issues requested process.

**Comments:** While the clerk would assess fees as any other CIVIL matter, it is suggested that you set this case up in the Adoption area of CMS to maintain the confidential nature of this case.

**Step 3** The Court fixes the time and place for hearing the petition.

**Step 4** If the circuit court finds that all requirements of this subsection have been met, the circuit court may issue the report of adoption to the State Registrar for issuance of a Virginia certificate of birth in accordance with [Va. Code § 32.1-262](#).

**Step 5** On or before the 10th day of each month, the clerk of such court shall forward to the State Registrar all records of decrees of adoption entered in the preceding calendar month, together with such related reports as the State Registrar may require. [Va. Code § 32.1-262 \(B\)](#). Clerk should retain copy of form in file.

**Comments:** VS21 form from Vital Records will be updated to include this provision. Court would send this report along with copy of Court's order to:  
Division of Vital Records  
P.O. Box 1000  
Richmond, VA 23218

When the State Registrar receives a report of adoption from a court in this Commonwealth for a person born in a foreign country, a birth certificate shall be registered for such person in accordance with the provisions of [Va. Code § 32.1-261](#), and a copy of the report of adoption shall be transmitted to the appropriate federal agency. [Va. Code § 32.1-262 \(D\)](#).

**Step 6** The Clerk records order in the Adoption Order Book.

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating documents not provided by clerk's office.



## 6. Reference(s)

[Va. Code § 32.1-262](#)

[Va. Code § 63.2-1220](#)

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>* Not assessed if the amount of the civil action is \$500 or less</i>	

## VII. ADOPTION-POST ADOPTION CONTACT AND COMMUNICATION AGREEMENTS

[Virginia Code § 16.1-283.1](#) authorizes a post-adoption contact and communication agreement between the adoptive parent(s) and birth parent(s). Such agreement may be approved by the circuit court pursuant to [Va. Code § 63.2-1220.3](#). This agreement is not a requirement as a precondition to the entry of any order in the adoption. Unless otherwise stated in the final order of adoption, the circuit court of the jurisdiction in which the final order of adoption was entered shall retain jurisdiction to modify or enforce the terms of a post-adoption contact and communication agreement. A birth parent or parents or adoptive parent or parents who have executed a post-adoption contact and communication agreement as described in this section may file a petition with the circuit court of the jurisdiction in which the final order of adoption was entered to modify the agreement or to compel a birth or adoptive parent to comply with the post-adoption contact and communication agreement. [Va. Code § 63.2-1220.4](#).

## 1. Document Type

Petition

## 2. Filing Type

REIN

## 3. Procedures

**Step 1** The birth parent(s) or adoptive parent(s) file either a petition requesting modification of the agreement, or a petition to compel a birth or adoptive parent to comply with the agreement.  
 Recommendation: Open base case number with -01 suffix.

**Comments:** [Virginia Code 63.2-1220.4](#) requires that notice and opportunity to be heard must be given before the agreement can be modified.

**Step 2** The court may appoint a guardian ad litem to represent the child's best interest before modifying the agreement.

4. Fees/Taxes/Other Monies

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by the clerk's office.

6. Reference(s)

[Va. Code §§ 16.1-278.3, 16.1-283.1](#)  
[Va. Code §§ 63.2-1220.3, 63.2-1220.4](#)

<b>FEES</b>	
<b>TYPE CHARGES</b>	<b>CODE REFERENCE</b>
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>*Not assessed if the amount of the civil action is \$500 or less</i>	

**VIII. ANIMAL VIOLATIONS**

Several sections of the Code of Virginia relate to the control and care of animals. Although these violations are civil in nature, it is recommended that they be entered into the Criminal Division. Please *See* the Circuit Court Clerk's Manual - Criminal, for details.

**IX. ANNEXATION**

Generally, annexation of land involves some form of legal proceeding authorized by statute, which seeks to take the land of a county and bring it under control of a town or city.

Under [Va. Code § 15.2-3201](#), annexation proceedings commenced under [Va. Code § 15.2-2907](#) or by court action are prohibited for a period of time beginning January 1, 1987 and terminating July 1, 1997. However, the same section allows certain proceedings for annexation to continue: (1) annexation notices filed prior to 1/1/87, (2) proceedings to implement an annexation agreement, and (3) proceedings filed under [Va. Code §§ 15.2-2907](#) and [15.2-3203](#) by the owners/voters of real estate who wish their property to be annexed into a town or a city.

This section will address only those annexation proceedings that are currently allowed by law; Voluntary Settlements among Local Governments - [Va. Code § 15.2-3400](#), and Petition by Voters/Landowners of Adjacent Territory for Annexation into a Town or City - [Va. Code § 15.2-3203](#).

**1. Document Type**

Petition

**2. Filing Type**

ANEX

**3. Procedures****a. Voluntary Settlements among Local Governments**

**Step 1** A petition is filed with clerk of the circuit court who docket the case. **NOTE:** No filing fees pursuant to [Va. Code § 17.1-266](#) if filed by the locality.

**Comments:** Prior to filing, the local governments shall first have:

- Applied to the Commission on Local Government for review of its proposed agreement;
- Advertised its intention to approve such agreement in a local newspaper;
- Held at least one public hearing on the proposed agreement;
- &
- Filed a true copy of the proposed agreement with the clerk of the circuit court of each affected jurisdiction.

**Step 2** Notice of the petition is provided to the Supreme Court of Virginia - Office of the Executive Secretary, which selects a three-judge panel to review the petition. [Va. Code § 15.2-3000](#).

**Step 3** The Court reviews the petition and proposed agreement, and may either accept or reject it. Voluntary agreements that provide for municipal annexation shall take effect, in the absence of a stipulated date, on the first day of the month following court validation of the voluntary agreement.

**Step 4** The clerk microfilms or scans and indexes all orders of the court.

b. Petition by Voters/Landowners of Adjacent Territory For Annexation Into A Town Or City

**Step 1** A petition is filed with clerk of the circuit court, who receipts for filing fees, docket the case and issues process.

**Step 1 (cont'd)** **Comments:** This follows the conclusion of required proceedings before the Commission on Local Government per [Va. Code § 15.2-2907](#). A copy of the petition is served on the city or town council.

**Step 2** Clerk mails or delivers a copy of the petition to a local newspaper as provided in [Va. Code § 15.2-3204](#).

**Comments:** The cost of the publication shall be paid by the petitioner or applicant. [Va. Code § 8.01-316 \(B\)](#).

**Step 3** Clerk files the newspaper's certificate of publication.

**Step 4** Notice of the petition is provided to the Supreme Court of Virginia - Office of the Executive Secretary, which appoints a special court to hear case. [Va. Code § 15.2-3202](#).

**Step 5** Court holds a hearing in compliance with [Va. Code § 15.2-3209](#).

**Step 6** If the Court enters an order granting the petition, a copy is certified to the [Secretary of the Commonwealth](#). [Va. Code § 15.2-3209](#).

**Step 7** Clerk of the court in which final order is entered certifies copies to the county clerk and to the clerk of such city, per [Va. Code § 15.2-3223](#).

**Step 8** The Commissioner of the Revenue of such county shall make from the land books and certify to the Commissioner of the city a list of all real estate within the annexed territory, per [Va. Code § 15.2-3224](#).

**Step 9** Clerk microfilms or scans and indexes all orders of the court.

4. Fees/Taxes/Other Monies Assessed

None. **NOTE:** Refer to annotation under [Va. Code § 58.1-1729](#), citing *Pelouze v. City of Richmond*, and *See* also Opinion of the Attorney General (1938-39, page 181); Opinion (1951-52, page 163); and Opinion to Stoner, dated 12/9/43 (1943-44, page 204); exempts political entities from paying writ tax. Effective 7/1/07, pursuant to [Va. Code § 17.1-266](#), localities are exempt from paying fees for services rendered by a clerk when the locality is a party to a case. *See* Opinion to Smith, dated 2/14/1997 (1997, page 44) that states although this exemption is for “services rendered in Commonwealth cases (emphasis added),” the exemption from clerk’s fee upon recordation applies as well.

5. Form(s)

Initiating forms are not provided by clerk’s office.

6. Reference(s):

Va. Code Title 15.2  
[Va. Code § 17.1-266](#)

## X. APPEALS

### A. Blood Borne Pathogens Appeal

If an employee of a public safety agency, which may include victims and witnesses of crimes as defined in [Va. Code § 32.1-45.2](#), is involved in a possible “exposure prone” incident involving another person and the exposure is to blood-borne pathogens, the person allegedly carrying the blood-borne pathogens may be requested to submit for testing for hepatitis B or C virus and human immunodeficiency virus. Prior to performing any test for the human immunodeficiency virus, the medical care provider shall inform the patient that he has the right to decline the test. If the alleged carrier refuses to consent to testing, or if the individual who is the basis of the exposure is deceased and consent for testing has been refused by the decedent’s next of kin, a petition may be filed in general district court to order testing and disclosure of its results.

A party may appeal an order of the general district court to the circuit court of the same jurisdiction within ten days from the date of the order. Any such appeal shall be *de novo*, in camera, and shall be heard as soon as possible by the circuit court. The circuit court shall be advised by the Commissioner or his designee. The record shall be sealed. The order of the circuit court shall be final and nonappealable. [Va. Code § 32.1-45.2](#)

1. Document Type

DC-475, CIVIL APPEAL NOTICE

2. Filing Type

GABP

3. Procedures

- Step 1** Clerk receives DC-475, CIVIL APPEAL NOTICE and copies of all paperwork, including the DC-405, PETITION TO TEST FOR BLOOD-BORNE PATHOGENS from the district court.
- Step 2** There are no fees, appeal bond, writ tax or costs associated with this appeal.
- Step 3** The appeal shall be heard as soon as possible, and is heard *de novo*, in camera. [Va. Code § 32.1-45.2](#)
- Step 4** The circuit court shall be advised by the Commissioner (of the Health Department) or his designee.
- Step 5** The record shall be sealed. The results of the tests shall be confidential.
- Step 6** The Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

None

5. Form(s)  
DC-405, PETITION TO TEST FOR BLOOD-BORNE PATHOGENS  
DC-475, NOTICE OF APPEAL – CIVIL

6. Reference(s)

[Va. Code § 32.1-36.1](#)

[Va. Code § 32.1-37.2](#)

[Va. Code § 32.1-45.2](#)

## B. Civil Contempt from District Court

1. Document Type

Petition to Show Cause

2. Filing Type

CCON

3. Procedures

**Step 1** Clerk acknowledges receipt of case papers.

**Comments:** Appeal from a finding of civil contempt in a district court may be brought only in connection with the appeal from a final judgment or order in the main proceedings.

**Step 2** Clerk collects and receipts for applicable fees. **NOTE:** For J&DR Civil Contempt (finding in support case) charges, the civil appeal bond is not required to perfect the appeal.

**Step 3** Clerk assigns case number. *See* “Case Initiation” chapter in this manual.

**Step 4** Clerk prepares case file. *See* “Case Initiation” chapter in this manual.

**Step 5** Court proceeds and handles matter of contempt as part of the main cause of action being appealed.

**Comments:** Civil Contempt is not considered a separate action. Attorney General Opinion to Foreman dated 8/21/85 (1985-86, page 292).

Circuit courts can engage in discretionary counsel appointments for Civil Show Cause-Failure to Pay Support cases that are appealed from the J&DR courts. Pursuant to § 19.2-163 the amount allowed by the court to the attorney appointed to defend him shall be taxed against the defendant and if collected, the same shall be paid to the Commonwealth, or the county, city or town, as the case may be, and accounted for as a civil receivable. **NOTE:** Attorneys appointed to represent indigent respondents in Civil Contempt for Failure to Pay Child Support cases will be compensated, capped at \$158.00. The Order of Appointment must reflect the respondent is indigent, and must accompany the DC-40, LIST OF ALLOWANCES.

4. Fees/Taxes/Other Monies Assessed

a. General District Appeal

[Circuit Court Civil Filing Fee Calculation](#)

b. J&DR Appeal

- Support Cases: Do not generate “trial” fee
- ALL Other J&DR Case Types: Do generate “trial” fee. Including custody/visitation under [Va. Code § 16.1-69.48:2](#)

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by Clerk’s Office.

6. Reference(s)

[Va. Code § 16.1-69.48:1](#)

[Va. Code § 16.1-69.48:2](#)

[Va. Code § 16.1-106](#)

[Va. Code § 16.1-107](#)

[Va. Code § 16.1-296](#)

Attorney General Opinion to Foreman, dated August 21, 1985 (1985-86, page 292); *writ taxes imposed on appeal from juvenile and domestic relations district court only if district court fees assessable.*



Attorney General Opinion to Garrett, dated April 20, 1983 (1982-83, page 313); § 16.1-296 requires circuit court to assess writ tax, costs and fees on matters appealed to it from juvenile and domestic relations court only if trial fee could have been charged in juvenile and domestic relations court.

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
* Not assessed if the amount of the civil action is \$500 or less	

### C. Civil Proceedings from J&DR

An appeal for any non-criminal matter from the J&DR court. Most appeals are matters of support and custody. From any order entered or judgment rendered in the J&DR court in a civil case in which the amount in controversy is more than \$50, exclusive of interest, attorney fees contracted in instrument and cost, there will be an appeal of right, if taken within ten days after judgment or order (thirty days for UIFSA/URESA cases), to the circuit court.

[Virginia Code §§ 16.1-278.15](#) and [20-103](#) require that the court shall order parties with a minor child or children whose custody or visitation is contested to attend educational seminars on the effects of separation or divorce. Such programs are to be completed, where possible, prior to participating in mediation or alternative dispute resolution, and the court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Parties include natural or adoptive parents, or any person with a legitimate interest as defined in [Va. Code § 20-124.1](#). The fee for such programs shall be based on ability to pay, but shall in no case exceed \$50.

[Virginia Code § 20-103\(B\)](#) gives the court authority to issue a Protective Order “upon a showing by a party of reasonable apprehension of physical harm...” the CC-1409, PROTECTIVE ORDER – IN PENDING CASES OF DIVORCE, CUSTODY, SUPPORT OR VISITATION should be used for such purposes.

**NOTE:** See Form DC-605, ORDER OF REFERRAL TO PARENT EDUCATION SEMINAR. Also See Supreme Court of Virginia web site for Parent Education Providers at:

<http://www.courts.state.va.us/courtadmin/aoc/djs/programs/parented/home.html>

The Juvenile and Domestic Relations District Court has exclusive jurisdiction over parentage proceedings, except that the Circuit Court shall have concurrent jurisdiction when the parentage of a child is at issue in any matter before the Circuit court. Form DC-624, PARENTAGE TEST ORDER may be used, or the attorney may draft his or her own order. Parentage test orders and any test results are confidential. Once paternity is determined, DC 644, ORDER DETERMINING PARENTAGE should be completed and sent to the Office of Vital Records. If the child was born outside of the Commonwealth of Virginia, a copy should also be sent to the Office of Vital Records for that location. Refer to the list of [United States' Vital Records Office](#) for the contact information of the appropriate agency.

**SPECIAL NOTE:** Abuse and Neglect; Foster Care; Cases involving Termination of Parental Rights. In processing these cases, it is important to remember that whatever the eventual disposition in circuit court, there will be further proceedings related to the matter in juvenile and domestic relations district court. For example, if parental rights are terminated by the circuit court, there may be an appeal to the Court of Appeals, and the matter will also continue as a foster care case in juvenile and domestic relations district court with proceedings to seek a permanent placement of the child. During the appeal of foster care cases to circuit court (and beyond), the juvenile and domestic relations district court retains the jurisdiction to continue to hear petitions regarding the review of foster care plans and placement. [Va. Code § 16.1-242.1](#). Also note these cases should remain confidential and therefore should be set up in the JUVENILE APPEAL section of CCMS.

These types of cases are poignant examples of the rationale behind the requirement that the circuit court send a copy of its final judgment to the juvenile and domestic relations district court from which the matter was appealed. [Va. Code § 16.1-297](#).

1. Document Type

Petition or Notice of Appeal

2. Filing Type

VARIOUS – See [Circuit Court Clerk's Fee Schedule](#)

3. Procedures

CCMS Division “Juvenile Appeal” is augmented to include separate data screens for Juvenile Civil cases. Refer to the Circuit Court Case Management System User’s Guide and the “Juvenile Appeal Division” for help to distinguish case types, CCMS Classification, confidentiality, etc.

**Step 1** Clerk receives cases after the ten-day or thirty-day appeal (UIFSA/URESAs) period has elapsed. [Va. Code § 16.1-296](#). **NOTE:** Court should hear case, when practical, within forty-five days of notice of appeal. [Va. Code §§ 16.1-269.6](#) and [16.1-296](#). See CMS report CJ39, Juvenile Appeal hearing time limits.

**Comments:** Termination of Parental Rights appeals should be forwarded from the JDR court to the circuit court within three working days of the filing of the Notice of Appeal. **NOTE:** For Termination of Parental Rights Appeals, the circuit court must hold a hearing on the merits of the case within ninety days of the perfecting of the appeal. [Va. Code § 16.1-296 \(D\)](#).

**Step 2** Clerk receives DC-581, NOTICE OF APPEAL-JUVENILE CIVIL APPEALS, DC-475, CIVIL APPEAL NOTICE or DC-602, NOTICE OF APPEAL – SUPPORT PROCEEDINGS, and DC-575, CONFIDENTIAL MATERIALS - JUVENILE CASE APPEAL/TRANSFER TRANSMITTAL and DC-25, CIRCUIT COURT CASE TRANSMITTAL AND FEES REMITTANCE or a notice in writing detailing appeal & original case papers.

**Comments:** Clerk may receive DC-606, [AFFIDAVIT IN SUPPORT OF APPLICATION FOR PROCEEDING IN CUSTODY OR VISITATION CASE WITHOUT PAYMENT OF FILING FEES](#) or CC-1414, [PETITION FOR PROCEEDING IN CIVIL CASE WITHOUT PAYMENT OF FEES OR COSTS](#) for Custody/Visitation type cases.

**Step 3** Clerk receipts for fees received, including service fees for custody and visitation cases. **NOTE:** In any matter in which a filing fee either was or could have been assessed pursuant to [Va. Code § 16.1-69.48:5](#), no appeal shall be allowed unless and until the party applying for appeal shall, within ten days from the entry of the final judgment or order, either (i) pay or (ii) file with the clerk of the court from which the appeal is taken a petition to have the court to which the appeal is taken determine that the writ tax and costs need not be paid on account of poverty.

**Comments:** The J&DR clerk shall collect any applicable fees, **including service of the notice of appeal**, from the appellant prior to transmitting the case to the circuit court clerk. Service of process in the circuit court may include service on the appellee by the sheriff or private process server or certified or registered mail, and service on the attorney for the appellee by regular mail. ([Va. Code § 16.1-69.48:5](#))

Notwithstanding any other provision of law, the writ tax of the court to which the appeal is taken and other applicable costs shall be assessed only once for all custody and visitation petitions simultaneously appealed by a single appellant.

The J&DR court shall promptly transmit to the Circuit Clerk the original pleadings, together with all exhibits and other papers filed in the trial of the case and upon receipt of the foregoing by the clerk of the circuit court the case shall then be docketed.

**Step 4** Clerks sets up file and assigns case a CIVIL case number for all support (civil support, criminal support, arrearage) cases, criminal and civil contempt, UIFSA/URESAs, family abuse, and a JUVENILE case number for all other juvenile appeals (traffic, delinquency, CHINS, custody/visitation, paternity, termination of parental rights, abuse & neglect, judicial authorization-abortion) and indexes case.

**Comments:** A separate docket and order book or file for cases on appeal from the J&DR court must be maintained by the circuit court. Exceptions:

- Support cases pursuant to [Va. Code §§ 16.1-241 \(A\)\(3\), 16.1-241 \(F\) & 16.1-241 \(L\)](#) and [20-61](#).
- Criminal offenses committed by adults commenced on a warrant or summons as described in Title 19.2.
- Civil commitments of adults pursuant to Title 37.2
- These cases will be entered on appropriate docket and order book, [Va. Code § 16.1-302](#).

**NOTE:** In any child or spousal support case appealed to the circuit court, the case files shall be open for inspection only as provided by [Va. Code § 16.1-305.01](#).

**Step 5** Clerk receives Civil Appeal Bond, if required, with sufficient surety approved by the judge or clerk of the J&DR court. Custody/Visitation Cases only.

**Comments:** Civil Appeal Bond is required in order to perfect an appeal on the following:

- Suspension of support payments
- Judgment for Arrearages

Bond must be posted with district court within thirty days of final order or judgment. [Va. Code § 16.1-296](#). J&DR may order bond in appeal of support cases involving criminal convictions for non-support. An

appearance bond, with or without surety, may also be ordered. **NOTE:** No appeal bond required if appellant is agency of the Commonwealth (i.e., DCSE) or is an incarcerated individual.

When a bond or other security is required by law to be posted or given in connection with an appeal or removal from a district court, and there is either (i) a defect in such bond or other security as a result of an error of the district court, or (ii) the district court erroneously failed to require the bond or other security, and the defect or failure is discovered prior to sending the case to the circuit court, the district court shall order that the appellant or applicant for removal cure such defect or failure within a period not longer than the initial period of time for posting the bond or giving the security. If the error or failure is discovered after the case has been sent to the circuit court, the circuit court shall return the case to the district court for the district court to order the appellant or applicant for removal to cure the defect or post the required bond or give the required security within a period of time not longer than the initial period of time for posting the bond or giving the security for removal. Failure to comply with such order shall result in the disallowance of the appeal or denial of the application for removal. [Va. Code § 16.1-109](#).

**NOTE:** The appellant in a civil contempt/support case is allowed to appeal either the finding of contempt or establishment of a support arrearage or both, at the appellant's choice.

**Step 6** Clerk acknowledges receipt of case papers; issues receipt for fee paid (Custody/Visitation cases only) and bond monies received, if any.

**Comments:** Bond will be receipted using Account Code 503. In lieu of giving bond with surety, any party appealing from the judgment or order of the district court may deposit with the judge or clerk of that court such sum of money as the judge or clerk may determine to be sufficient. The money so deposited shall be transmitted in cash, by check of the court, surety bond, or bank

check, or by draft from the escrow account of the appealing party's attorney to the clerk of the court to which the appeal is taken, who shall likewise issue his official receipt therefore [Va. Code § 16.1-108](#).

**Step 7** [Virginia Code § 16.1-112](#) only requires notification of the appeal to the appellee by certified mail or his attorney by regular mail.

**Comment:** Best practice would be to notify all other parties or counsel of record of the appeal and of the next appearance date by whatever delivery method the clerk or court deems appropriate.

See form CC-1340, NOTICE OF HEARING ON AN APPEAL FROM A DISTRICT COURT.

- Step 8** Clerk issues summons/subpoena as requested.
- Step 9** If the Court dismisses or allows a nonsuit of the appeal, the Clerk will microfilm and index the Court's order, and remove the case from the docket. **NOTE:** For withdrawal procedures, please See section below, "Withdraw Appeal From District Court."
- Step 10** In cases where support is ordered paid to the State Treasurer through the [Division of Child Support Enforcement](#) (DCSE), clerk will send a certified copy of the decree to DCSE.

DCSE  
801 E. Main Street  
Richmond, VA 23219-2901  
Fax #804-692-1438

In cases where child support is ordered, the guidelines worksheet relied upon by the court or DSS shall be placed in the court's file or the DSS file, and a copy shall be provided to the parties. In some cases support orders will contain information that necessitates the completion of a DC-645, INCOME WITHHOLDING FOR SUPPORT ORDER.

This Federal version is the only version that will be accepted by employers and the Division of Child Support Enforcement beginning December 31, 2011.

DJS recommends that the court stamp the original document and make 4 copies:

- Copy for file, pending service (can be destroyed upon return of original)
- Copy for Employer
- Copy for Employee
- Copy for Division of Child Support Enforcement
- Service should be as follows:
  - Original – Employer
  - Copy for Employer, with the Copy for Employee attached (employer will provide employee's copy to employee)
  - Copy for DCSE – may be mailed or hand delivered.

**NOTE:** The DC-646, COMPLIANCE PROVISIONS-INCOME WITHHOLDING FOR SUPPORT should also be sent to the Employer.

**Step 11** Clerk transmits final order of circuit court to the J&DR court within twenty-one days of entry of its order. [Va. Code § 16.1-297](#).

4. Fees/Taxes/Other Monies Assessed

Payment of writ tax and costs are not required, exception Custody/Visitation cases.

[Circuit Court Civil Filing Fee Calculation](#)

**SPECIAL NOTE:** There are no appellate fees, including service/certified mail fees, on the motions to amend for custody and visitation cases since there are no filing fees in the J&DR Court on those cases.

5. Form(s)

DC-460, [CIVIL APPEAL BOND](#)

DC-581, NOTICE OF APPEAL - JUVENILE CIVIL APPEALS

DC-602, NOTICE OF APPEAL – SUPPORT PROCEEDINGS

DC-605, ORDER OF REFERRAL TO PARENT EDUCATION SEMINAR

DC-606, [AFFIDAVIT IN SUPPORT OF APPLICATION FOR PROCEEDING IN CUSTODY OR VISITATION CASE WITHOUT PAYMENT OF FILING FEES](#)

DC-645, INCOME WITHHOLDING ORDER

DC-646, COMPLIANCE PROVISIONS – INCOME WITHHOLDING ORDER

CC-1412, NOTICE OF HEARING ON A CIVIL APPEAL BOND FROM A DISTRICT COURT

CC-1414, [PETITION FOR PROCEEDING IN CIVIL CASE WITHOUT PAYMENT OF FEES OR COSTS](#)

6. Reference(s)

[Va. Code §§ 16.1-69.48:5, 16.1-106, 16.1-107, 16.1-296](#) and [16.1-297](#)

Title 37.2 (Involuntary Mental Commitment)

Attorney General Opinion to Foreman, dated August 21, 1985 (1985-86, page 292); *writ taxes imposed on appeal from juvenile and domestic relations district court only if district court fees assessable.*

Attorney General Opinion to Garrett, dated April 20, 1983 (1982-83, page 313); *§ 16.1-296 requires circuit court to assess writ tax, costs and fees on matters appealed to it from juvenile and domestic relations court only if trial fee could have been charged in juvenile and domestic relations court.*

FEES	
TYPE CHARGES	CODE REFERENCE
<b>CUSTODY/VISITATION**</b>	
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
Certified Mail	<a href="#">Va. Code § 16.1-107</a>
Registered Mail	<a href="#">Va. Code § 16.1-107</a>
Sheriff Fee	<a href="#">Va. Code § 17.1-272</a>
* <i>Not assessed if the amount of the civil action is \$500 or less</i>	
** <i>Only one set of fees shall be required for all custody and visitation petitions simultaneously initiated by a single petitioner.</i>	

#### D. Decision from Board of Zoning Appeals

An appeal to circuit court by any person, officer, department, board or bureau of the county or municipality, aggrieved by a decision of the Board of Zoning Appeals. Reader may wish to refer to [Va. Code § 15.2-2308](#) regarding establishment of a Board of Zoning Appeals.

In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, the decision of the Board of Zoning Appeals shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the Board of Zoning Appeals that the Board of Zoning Appeals erred in its decision. Any party may introduce evidence in the proceedings in the court.

In the case of an appeal by a person of any decision of the Board of Zoning Appeals that denied or granted an application for a variance, or application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the Board of Zoning Appeals applied erroneous principles of law, or where the discretion of the Board of Zoning Appeals is involved, the decision of the Board of Zoning Appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance.

##### 1. Document Type



Petition

2. Filing Type

ZONE

3. Procedures

**Step 1** Petition is presented to the circuit court by the aggrieved party within thirty days after the filing of the decision of the Board of Zoning Appeals in the Board's office. The style of the petition is "In Re: (date) Decision of the Board of Zoning Appeals of (locality name)".

**Step 2** Upon receipt of the petition, the court shall allow a Writ of Certiorari to review the decision of the Board. The writ prescribes the time within which a return must be made and served upon the aggrieved party's attorney, which shall not be less than ten days and may be extended by the court.

**Step 3** Upon receipt of the papers in the action, the clerk receipts money collected, opens file and docket case. The Board will provide original or certified copies of any part of the record of the proceeding to the court as required by the writ that is filed in the case.

**Step 4** Clerk issues all notices as directed.

**Step 5** Hearing is held. The court holds a hearing, taking additional evidence if it deems necessary and may reverse or affirm, wholly or partly, or may modify the decision brought up for review. The writ does not stay proceedings upon the Board's decision appealed from and the court may grant a restraining order suspending execution of the Board's decision pending the outcome of the court's review.

**Step 6** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

- a. By Individual

[Circuit Court Civil Filing Fee Calculation](#)

- b. By Locality

None, effective 7/1/07, pursuant to [Va. Code § 17.1-266](#), localities are exempt from paying fees for services rendered by a clerk when the locality is a party to a case.

- 5. Form(s)

Initiating forms are not provided by clerk's office.

- 6. Reference(s)

[Va. Code § 15.2-2314](#)

[Va. Code § 17.1-266](#)

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275A (26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>* Not assessed if the amount of the civil action is \$500 or less</i>	

**E. Decision from Zoning Administrator Decisions**

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of § [15.2-2299](#) may petition the governing body for review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the governing body within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved. A decision by the governing body on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

An aggrieved party may petition the circuit court for review of the decision of the governing body on an appeal taken pursuant to this section. The provisions of subsection F of § [15.2-2285](#) shall apply to such petitions to the circuit court, mutatis mutandis.

1. Document Type

Petition

2. Filing Type

PET

3. Procedures

- Step 1** Petition is presented to the circuit court by the aggrieved party.
- Step 2** Upon receipt of the papers in the action, the clerk receipts money collected, opens file and docket case.
- Step 3** Clerk issues all notices as directed.
- Step 4** Hearing is held, taking additional evidence if it deems necessary and may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- Step 5** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

a. By Individual

[Circuit Court Civil Filing Fee Calculation](#)

b. By Locality

None, effective 7/1/07, pursuant to [Va. Code § 17.1-266](#), localities are exempt from paying fees for services rendered by a clerk when the locality is a party to a case.

## 5. Form(s)

Initiating forms are not provided by clerk's office.

## 6. Reference(s)

[Va. Code § 15.2-2301](#)

[Va. Code § 17.1-266](#)

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275A (26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
* Not assessed if the amount of the civil action is \$500 or less	

**F. Decision of ABC Board**

An appeal to circuit court by any person who, following the provisions of the Administrative Process Act ([Va. Code § 2.2-4000](#) et seq.), appeals from any adverse decision by the [ABC Board](#) regarding:

- Refusal to grant any ABC license ([Va. Code § 4.1-224](#));
- Suspension or revocation of any ABC license, or imposition of civil penalty against a brewery licensee ([Va. Code § 4.1-227 \(A\)](#)); or
- Suspension or revocation of any ABC permit ([Va. Code § 4.1-229](#))

Other appeals under the Administrative Process Act may include: 1) Department of Medical Assistance; or 2) Abuse or neglect suspicions or findings. [Va. Code § 63.2-1526](#).

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding [Va. Code § 8.01-676.1](#), the final judgment or

order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case. [Va. Code § 4.1-227](#).

1. Document Type

Petition

2. Filing Type

ABC

3. Procedures

**Step 1** The aggrieved party files a petition for judicial review.

**Step 2** Clerk receipts for money collected, opens file and docket case.

**Step 3** Clerk issues all notices, etc. as directed.

**Step 4** A hearing is held. The Court reviews the record. The Court may not require appearance of adverse parties unless it finds error of law in the record.

**Step 5** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law, and prepares and transmits any appeal to the Court of Appeals.

**Comments:** [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by clerk's office.

6. Reference(s)

[Va. Code § 2.2-4000](#) et seq.

[Va. Code §§ 4.1-224, 4.1-227 \(A\), 4.1-229](#)

Va. Supreme Court Rules Part Two A

Va. Supreme Court Rules Part Three A

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>* Not assessed if amount of civil action is \$500 or less</i>	

#### G. Decision of Board of Real Estate Review, (Board of Assessors) and Equalization Board

The attorney for the county, city or town or any taxpayer aggrieved by any order of a real estate review and equalization board may apply for relief to the circuit court of the county/city for the correction and revision of such order, in the same manner and within the same time as is provided by law for the correction of erroneous assessments of real estate by any person who is aggrieved thereby.

The limitations period for the filing of the application is (i) within three years from the last day of the tax year for which such assessment is made, (ii) within one year from the date of the assessment, or (iii) within one year from the date of the Tax Commissioner's final determination under [Va. Code §§ 58.1-3703.1 \(A\)\(5\)](#) or [58.1-3983.1](#) or (iv) within one year from the date of the final determination under [Va. Code § 58.1-3981](#), whichever is later.

The application, in the form of a court suit, shall be before the court when it is filed in the clerk's office. The proceedings shall be conducted as a legal cause of action before the court, sitting without a jury. Part Three of the Rules of the Supreme Court of Virginia are applicable to this action (*See* Supreme Court Rule 3:1).

**NOTE:** The taxpayer may apply directly to the Circuit Court without first appealing to the Board of Assessors or the Board of Equalization. [Va. Code § 58.1-3983](#).

##### 1. Document Type

Application/Complaint

##### 2. Filing Type

COM

## 3. Procedures

**Step 1** Applicant files application/complaint with the clerk of circuit court.

**Step 2** Clerk follows procedures set out in “Legal Cause Of Action - Complaint” this chapter.

**Step 3** Although not specifically required by statute, a copy of the application/complaint should be mailed to the county or city attorney, or the Attorney for the Commonwealth. Statute does require that the county or city attorney, or if none, the Commonwealth, defend the application. If there is a separate real estate assessor, clerk may send copy to that official.

**Step 4** Clerk indexes and microfilms/scans all orders entered by the Court.

**Comments:** Whenever a correction of real estate assessment is ordered by the court, the clerk shall certify to the Commissioner of the Revenue and Treasurer the changes made by the court. *See also* [Va. Code § 58.1-3982](#) (Appeal by locality and [Va. Code § 58.1-3984 \(B\)](#) (Application by Commissioner of the Revenue.)

## 4. Fees/Taxes/Other Monies Assessed

## a. By Individual

[Circuit Court Civil Filing Fee Calculation](#)

## b. By Locality

None. Effective 7/1/07, pursuant to [Va. Code § 17.1-266](#), localities are exempt from paying fees for services rendered by a clerk when the locality is a party to a case.

## 5. Form(s)

Initiating forms are not provided by clerk's office.

## 6. Reference(s)

[Va. Code §§ 58.1-3382, 58.1-3959, 58.1-3980, 58.1-3984](#) through 58.1-3989  
Va. Supreme Court Rules Part Three

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
* Not assessed if amount of civil action is \$500 or less	

## H. Decision of Compensation Board or Governing Body

Any constitutional officer whose budget is affected by a decision of the [Compensation Board](#) or governing body may appeal any decision made by such entity. Appeals are filed with the circuit court for a *de novo* hearing. Burden of proving necessity of additional funding will be borne by appealing officer.

### 1. Document Type

Petition for Appeal

### 2. Filing Type

ACOM

### 3. Procedures

**Step 1** Constitutional officer receives letter on or before May 1st of each year of certified budget from Compensation Board detailing the fixed salaries and expenses for the fiscal year. [Va. Code § 15.2-1636.8](#). Constitutional officer has forty-five days to note an appeal. [Va. Code § 15.2-1636.9](#).

**Step 2** PROCEDURE DECISION: Does the constitutional officer want to proceed with appealing the decision of the Compensation Board or local governing body? If yes: GO TO STEP 3; If no: END PROCEDURE

**Step 3** Constitutional officer prepares appeal, following statutory procedure ([Va. Code § 15.2-1636.9](#)) for notice of appeal with certification.



**Comments:** Appeal shall be noted in the circuit court of the county or city wherein the officer making the appeal resides. Appeal notice should be specific and provide statutorily required information including:

- Step 3 (cont'd)**
- Details regarding portion(s) of budget being contested;
  - Additional services for locality not provided by law; and
  - Cost of such services
- Step 4** Constitutional officer notifies Chief Justice of the Supreme Court, Compensation Board, the county or city affected and Attorney General notifying each of the appeal.
- Step 5** Clerk assigns a case number and docket the case. **NOTE:** No fee is collected.
- Step 6** Compensation Board notifies constitutional officer and other local officials of administrative hearing. **NOTE:** Date of hearing is set by the Compensation Board.
- Step 7** **PROCEDURE DECISION:** Is a compromise reached and agreed upon during the administrative hearing? If yes: GO TO STEP 8; If no: GO TO STEP 10
- Step 8** Compensation Board sends proposed settlement/compromise to constitutional officer.
- Step 9** Constitutional officer notifies Compensation Board of acceptance and withdraws appeal or notifies Compensation Board of non-acceptance.
- Step 10** Compensation Board notifies the Chief Justice of the Supreme Court that all administrative remedies have been exhausted by the appellant and that the Chief Justice should appoint the three-judge panel to hear the appeal.
- Step 11** Chief Justice appoints three judges from a panel of fifteen active or retired judges selected by the Supreme Court.

**Comments:**

- Appeal will be heard within forty-five days from the date such notice is filed by the Board with the Chief Justice.
- 3-judge panel hearing appeal will consider to what extent, if any, the local governing body should participate in providing additional funding requested by clerk.

- No judge may be appointed to hear an appeal involving a jurisdiction in his current or former circuit.
- Term of such judges is determined by the Supreme Court.

**Step 12** Clerk sends notice to all parties at least fifteen days prior to the hearing indicating the time and place of such hearing.

**Step 12 (cont'd)** **Comments:** Officer noting appeal, Compensation Board, the county or city affected and the Attorney General will be given at least fifteen days prior notice of the time and place of hearing.

**Step 13** Hearing is held

**Step 14** Decision is made by the panel. Decision of the three-judge panel is final and there is no right of the constitutional officer to a further appeal.

**Step 15** Final order is entered. Clerk:

- Records and indexes orders in the Civil Order Book unless otherwise provided by law
- Sends certified copies of order to all parties
- Removes case from docket

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

None

5. Form(s)

N/A

6. Reference(s)

[Va. Code §§ 15.2-1636.9, 15.2-1636.10, 15.2-1636.18](#)  
[Va. Code § 17.1-287](#)

### I. Decision of Support Enforcement Set Off Debt Collections

A petition filed by an aggrieved party seeking judicial review in a circuit court of a decision of the Child Support Enforcement Programs with respect to determinations under the Set-off Debt Collections Act. An appeal may be taken by filing a written

notice of appeal with the clerk of the court having proper jurisdiction to review the decision of the hearing officer. The clerk shall send reasonable notice of such appeal, which shall include the date and time of the hearing, to the appellee or to the Department when, at the request of another state's child support agency, it is acting on behalf of a nonresident obligee. A nonresident obligee for whom the Department is acting is not required to appear at the hearing. Evidence relative to the support obligation may be taken from a nonresident obligee by deposition and presented by the Department at the hearing. Such appeal shall be taken within ten days of receipt of the hearing officer's decision.

1. Document Type

Petition

2. Filing Type

PET

3. Procedures

**Step 1** The aggrieved party files a petition for judicial review.

**Step 2** Clerk receipts for money collected, opens file and docket the case.

**Step 3** Clerk issues all notices as directed. .

**Step 4** Hearing is held. A hearing is held on review of the record.

**Step 5** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law and prepares and transmits any appeal of the court's decision to the Court of Appeals.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by clerk's office.

## 6. Reference(s)

[Va. Code § 2.2-4000](#) et seq.

[Va. Code §§ 58.1-520, 527](#)

[Va. Code § 63.20-1943](#)

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>* Not assessed if the amount of the civil action is \$500 or less</i>	

**J. Decision of Employment Commission**

A petition filed by an aggrieved party seeking judicial review in a circuit court of a decision of the [Employment Commission](#). The appeal is filed in the circuit court of the county or city in which the aggrieved party was last employed.

From any circuit court decision involving (i) the provisions of [Va. Code § 60.2-612](#) or [Va. Code § 60.2-618](#), (ii) whether an employing unit constitutes an employer or (iii) whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit, the Court of Appeals shall have jurisdiction to review such decision regardless of the amount involved in any claim for benefits. It shall not be necessary, in any proceeding under this chapter, to enter exceptions to the rulings of the Commission or an appeal tribunal, and no bond shall be required upon an appeal to any court. Upon the final determination of such judicial proceeding, the Commission shall administer the Unemployment Compensation Fund in accordance with such determination. The Commission shall have the right to appeal a decision of a circuit court in any proceeding under this chapter. [Va. Code § 60.2-625](#).

## 1. Document Type

Petition

## 2. Filing Type

EMP

## 3. Procedures

- Step 1** The aggrieved party files a petition for judicial review. Petition must be received and filed in the clerk's office within thirty days from the date the decision is mailed.
- Step 2** Clerk receipts for money collected, opens file and docket the case.
- Step 3** Clerk issues all notices as directed. Copy of the Petition for Judicial Review is to be served upon the Commission.
- Step 4** Hearing is held. A hearing is held on review of the record. The court may not require appearance of the adverse parties unless/until the court finds error of law in the record.
- Step 5** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law and prepares and transmits any appeal of the court's decision to the Court of Appeals.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

## 4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

## 5. Form(s)

Initiating forms are not provided by clerk's office.

## 6. Reference(s)

[Va. Code § 2.2-4000](#) et seq.

[Va. Code § 28.2-219](#)

[Va. Code § 60.2-625](#)

Va. Supreme Court Rules Part Two A

Va. Supreme Court Rules Part Three A

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>

FEES	
TYPE CHARGES	CODE REFERENCE
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>* Not assessed if the amount of the civil action is \$500 or less</i>	

### K. Decision of Local Governing Body (Historic Landmarks)

An appeal is allowed from the final decision of the local governing body requesting the circuit court to review any decision by a local governing body to establish, rezone and designate certain properties or areas as places of important historic, architectural, archaeological, or cultural interest and to review any decision made by such body as provided in the [Va. Code § 15.2-2306 A\(3\)](#). This statute requires adoption of an ordinance providing for such appeal.

#### 1. Document Type

Petition

#### 2. Filing Type

PET

#### 3. Procedures

- Step 1** Petition at law is filed with the court within thirty days of the final decision of the governing body.
- Step 2** Clerk opens a civil file and docket the case.
- Step 3** Clerk sends notice of appeal to all parties of counsel of record. The filing of the petition stays the decision of the governing body pending decision of the court.
- Step 4** Hearing held and orders entered. The court may reverse or modify the decision of the governing body in whole or in part, or it may affirm the decision of the governing body.
- Step 5** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by clerk's office.

6. Reference(s)

[Va. Code § 15.2-2306](#)

[Va. Code § 17.1-266](#)

**L. Decision of Marine Resources Commission**

A petition filed by an aggrieved party seeking judicial review in a circuit court of a decision of the [Marine Resources Commission](#). Review by the court is in accordance with the Administrative Process Act.

The court's review of a petition filed in the circuit court is based solely upon the agency record and it will decide whether or not there was sufficient evidence in the agency record to support the case decision of the agency acting as the trier of fact. Unless an error of law is found, the court shall dismiss the review and affirm the agency regulation or decision. If error is found, the court may compel agency action unlawfully and arbitrarily withheld or unreasonably delayed, or suspend or set the agency's ruling aside and remand the matter back for further action. The court may provide injunctive relief while the proceedings are pending.

1. Document Type

Petition

2. Filing Type

MAR

3. Procedures

- Step 1** Petition is filed by the aggrieved party, unless otherwise agreed, in a circuit court as is specified in subdivision 1 of the [Va. Code § 8.01-261](#). ([Va. Code § 2.2-4003](#)).
- Step 2** Clerk receipts for money collected, opens file and docket the case.
- Step 3** Clerk issues all notices as directed.
- Step 4** Hearing is held. A hearing is held on review of the record. The court may not require appearance of the adverse parties unless/until the court finds error of law in the record.
- Step 5** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law and prepares and transmits any appeal of the court's decision to the Court of Appeals.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by clerk's office.

6. Reference

[Va. Code § 2.2-4000](#) et seq.

[Va. Code § 28.2-219](#)

Va. Supreme Court Rules Part Two A

Va. Supreme Court Rules Part Three A

<b>FEES</b>	
<b>TYPE CHARGES</b>	<b>CODE REFERENCE</b>
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>



FEES	
TYPE CHARGES	CODE REFERENCE
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
<i>*Not assessed if the amount of the civil action is \$500 or less</i>	

### M. Denial of Authorization for Abortion from J&DR

There is an expedited, confidential appeal of right to the circuit court by any minor for whom the Juvenile & Domestic Relations District Court has denied a petition authorizing an abortion without notice to a parent or legal guardian, or other authorized person defined in [Va. Code § 16.1-241 \(V\)](#). An order authorizing an abortion is not appealable.

The following steps are recommended when an appeal of a denial for authorization for an abortion has been filed in the circuit court:

1. Document Type

Petition or Notice of Appeal

2. Filing Type

JR

3. Procedures

**Step 1** J&DR clerk contacts circuit court clerk's office or judge's secretary when petitioner notes her appeal

**OR**

J&DR Clerk escorts the petitioner to the circuit court upon receipt of notice of appeal to obtain court date.

Clerk receives record from the J&DR Court:

- DC-502(A), [PETITION FOR JUDICIAL AUTHORIZATION OF ABORTION](#); (Exhibit 4)
- DC-502(B), Advisement of Your Right to Counsel; (Exhibit 5)
- DC-502(C), Acknowledgment of Right to Counsel and Appointment of Counsel (if J&DR court appointed an attorney or guardian ad litem); (Exhibit 6)
- DC-502(D), Order in Proceeding Seeking Judicial Authorization of Abortion; (Exhibit 7)
- DC-502(E), Notice of Appeal; (Exhibit 8)
- DC-575, Confidential Matters-Juvenile Case Appeal/Transfer Transmittal; and
- DC-25, Circuit Court Case Transmittal and Fees Remittance

**Comments:** Clerk may receive the CC-1340, NOTICE OF HEARING on Appeal from the J&DR court in the event the J&DR clerk cannot escort the petitioner to the clerk's office or the case needs to be set with the judge's secretary.

Clerk must notify Court immediately to ensure a timely hearing.

WATCH YOUR TIME! If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without notice to an authorized person.

No fees are charged pursuant to [Va. Code § 16.1-241 \(V\)](#).

As there is no appellee, notice pursuant to [Va. Code § 16.1-112](#) is not applicable.

**Step 2** Clerk determines if petitioner is represented by counsel. **NOTE:** It is presumed that any court-appointed counsel in the J&DR court will continue to represent the juvenile in the circuit court.

If DC-502(B), ADVISEMENT OF YOUR RIGHT TO COUNSEL is not received from the J&DR court, Clerk will have petitioner sign form. If Petitioner did not have counsel appointed in the J&DR court and requests one be appointed or waives their right to be represented by an attorney, clerk will have petitioner sign the DC-502(C), ACKNOWLEDGMENT OF RIGHT TO COUNSEL AND APPOINTMENT OF COUNSEL form.

**Comments:** Form may be signed by the judge in advance of any hearing and will be given to the minor at the time of filing of the petition. Court may appoint a guardian ad litem for the minor.

The Court shall appoint counsel for the petitioner at her request. Petitioner is not liable for the cost of the court-appointed counsel. [Va. Code § 16.1-241 \(V\)](#).

**Step 3** Clerk sets case for hearing. Court hears and decides the matter within five (5) days of filing of appeal.

**Comments:** Coordination between the court and clerk's office is essential to ensure the matter will be heard within time frame.

If last day falls on a Saturday, Sunday, legal holiday or day the clerk's office is authorized to be closed, the next day the clerk's

office is authorized to be open becomes last day. ([Va. Code § 1-210](#)).

- Step 4** Clerk sets up case file, assigns a CJ case number in the Juvenile Civil section of CCMS and indexes as follows:  
First Initial of last name {space} In re: 16.1-241(V) as a business  
Case will be commenced by INIT - Initial Filing.

Example:

Jane Doe is petitioner

Index: D In re: 16.1-241(V), as a business for the juvenile name, and NONE as respondent, also as a business.

Although access to the Juvenile Civil section of CCMS is limited, this practice will ensure confidentiality of the petitioner.

- Step 5** Court hears and decides the matter within five (5) days of filing of appeal. **NOTE:** Time periods subject to [Va. Code § 1-210](#)

- Step 6** Court enters order granting or denying petition. (CC-1415, ORDER IN PROCEEDING FOR JUDICIAL AUTHORIZATION OF ABORTION).

- Step 7** Clerk certifies and hand-delivers a copy of the Court's order within twenty-one (21) days of entry to the J&DR Court. [Va. Code § 16.1-297](#).

- Step 8** Clerk files order with other case papers and retains in secure area of the court. Clerk also completes List of Allowances, if applicable.

**Comments:** It is recommended that the clerk not microfilm the order or store the order in the Juvenile Order Book due to the deep level of confidentiality required. Files should be maintained in a secure area of the court such as an area where adoption records are stored. Access to these records are limited to the Petitioner, attorney of record, and the guardian ad litem.

#### 4. Fees/Taxes/Other Monies Assessed

None

### N. Denial of Voter Registration

A person denied registration shall have the right to appeal, without payment of writ tax or giving security for costs, to the circuit court of the county or city in which he offers to register by filing with the clerk of the court, within ten days after the denial, a petition in writing to have his right to register determined.

1. Document Type

Petition

2. Filing Type

AVOT

3. Procedures

**Step 1** Petitioner files with the clerk of court a petition provided by the registrar.

**Comments:** Petition must be filed within ten days of the denial of voter registration.

**Step 2** Clerk immediately brings this matter to the attention of the chief judge of the court for the scheduling of a hearing.

**Step 3** Clerk gives notice of appeal to the Commonwealth attorney for the area who defends the petition on behalf of the Commonwealth.

**Step 4** Hearing held and enters orders.

**Comments:** The matter is heard and determined upon the petition and a written answer by the registrar and other evidences introduced at the hearing.

**Step 5** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law and prepares any appeal to the Supreme Court should the petitioner appeal an order rendered against him.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by clerk's office.

## 6. Reference(s)

[Va. Code § 24.2-422](#)

**O. General District Court Appeal**

An appeal of right to circuit court lies from any order entered or judgment rendered in a court not of record in a civil case in which the matter in controversy is greater than \$50 in value, exclusive of costs, etc., or when the case involves the constitutionality or validity of a statute or of an ordinance or bylaw of a municipal corporation.

## 1. Document Type

Notice of Appeal

## 2. Filing Type

VARIOUS – See [Circuit Court Clerk's Fee Schedule](#)

## 3. Procedures

**Step 1** Clerk receives record from district court and determines that the ten-day appeal period has elapsed before accepting the case. For appeals withdrawn prior to trial, See “Withdraw Appeal from District Court” below.

**Step 2** Clerk receives DC-580, NOTICE OF APPEAL or DC-475, NOTICE OF APPEAL - CIVIL and DC-25, CIRCUIT COURT CASE TRANSMITTAL AND FEES REMITTANCE or a written NOTICE OF APPEAL setting forth the basis for the appeal, together with certified copies of the case papers.

**NOTE:** Each party seeking to appeal must file a notice of appeal for judgments on claims pleaded in a warrant, summons, complaint, counterclaim, cross-claim, or a third-party civil warrant or complaint. A counterclaim, cross-claim or third-party claim filed in conjunction with any other civil case is not automatically appealed when the original civil case is appealed. Parties of the counterclaim, cross-claim or third-party claim must individually note an appeal if they are seeking an appeal of the lower court's decision. This further applies to appeals with multiple parties. A notice of appeal filed by one litigant does not appeal the entire case on behalf of all other litigants. When there are co-defendants, an appeal by one defendant does not convert all other defendants into appellants on every

adverse ruling of the General District Court. Each party must file a notice to appeal on their own behalf. When judgment is rendered against all parties in a civil case and all parties do not appeal, you will enter the case in CCMS specifying only the appellant(s), and not the parties that did not appeal the district court ruling.

**Comments:** In lieu of giving bond with surety, any party appealing from the judgment or order of the district court may deposit with the judge or clerk of that court such sum of money as the judge or clerk may determine to be sufficient. The money so deposited shall be transmitted in cash, by check of the court, surety bond, or bank check, or by draft from the escrow account of the appealing party's attorney to the clerk of the court to which the appeal is taken, who shall likewise issue his official receipt therefor. [Va. Code § 16.1-108](#).

**NOTE:** District Courts are instructed by the Office of the Executive Secretary to not send the case to the circuit court until appeal is perfected.

**Step 2  
(cont'd)**

No appeal shall be allowed unless and until the party applying for the same or someone for him shall give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, or in an amount sufficient to satisfy the judgment of the court in which it was rendered. Either such amount shall include the award of attorney fees, if any. Such bond shall be posted within 30 days from the date of judgment, except for an appeal from the judgment of a general district court on an unlawful detainer pursuant to [Va. Code § 8.01-129](#).

No appeal bond shall be required of a defendant with indemnity coverage through a policy of liability insurance sufficient to satisfy the judgment if the defendant's insurer provides a written irrevocable confirmation of coverage in the amount of the judgment. If defendant's insurer does not provide a written irrevocable confirmation of coverage in the amount of the judgment, then an appeal bond will be required.

When a bond or other security is required by law to be posted or given in connection with an appeal or removal from a district court, and there is either (i) a defect in such bond or other security as a result of an error of the district court, or (ii) the district court erroneously failed to require the bond or other security, and the defect or failure is discovered prior to sending the case to the circuit court, the district court shall order that the appellant or applicant for removal cure such defect or failure within a period not longer than

the initial period of time for posting the bond or giving the security. If the error or failure is discovered after the case has been sent to the circuit court, the circuit court shall return the case to the district court for the district court to order the appellant or applicant for removal to cure the defect or post the required bond or give the required security within a period of time not longer than the initial period of time for posting the bond or giving the security for removal. Failure to comply with such order shall result in the disallowance of the appeal or denial of the application for removal. [Va. Code § 16.1-109](#).

**Step 3** Clerk receipts for fees, costs (CHMF, law library, legal aid and technology trust fund), service fees, writ tax and any bond money received.

**Comments:** The appellant must pay the circuit court clerk's fee ([Va. Code § 17.1-275 A\(13\)](#)) and writ tax pursuant to [Va. Code § 16.1-107](#). Reference form DC-460, CIVIL APPEAL BOND.  
**NOTE:** Refer to [Va. Code § 16.1-107](#) when bond is not required.

**Step 4** Clerk sets up a Civil file and docket case.

**Comments:** Upon receipt of the case papers, fees and bond, if any, the case shall then be docketed. [Va. Code § 16.1-112](#).

**Step 5** Clerk notifies appellee or his attorney that an appeal has been docketed, in conformity with [Va. Code § 16.1-112](#).

**Step 6** Clerk issues summons as requested.

**Step 7** Clerk microfilms or scans and indexes all orders of the court.

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms are not provided by clerk's office.

6. Reference(s)

Va. Code Title 16.1 Chapter 6 Article 3 ([Va. Code § 16.1-106](#), et seq.)  
[Va. Code § 46.2-362](#)

Attorney General Opinion to Frinks, dated 5/17/73 (72-73, page 73); *CLERKS - Costs of Appeal to Court of Record - Clerk of court from which appeal is taken should collect sheriff's service fee if notified by clerk to which appeal is taken to do so. COSTS - Library Fee Paid to Court Not of Record Should Be Collected Again When Case Is Removed or Appealed to Court of Record.*

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
Bond	<a href="#">Va. Code § 16.1-108</a>
* Not assessed if the amount of the civil action is \$500 or less	

**P. Involuntary Commitment/Inpatient and Outpatient - [Va. Code § 37.2-821](#)**

Any person involuntarily admitted to an inpatient facility or ordered to mandatory outpatient treatment pursuant to [Va. Code §§ 37.2-814, 37.2-815, 37.2-816, 37.2-817, 37.2-818, 37.2-819](#) or certified as eligible for admission pursuant to [Va. Code § 37.2-806](#) shall have the right to appeal the order to the circuit court in the jurisdiction where he was involuntarily admitted or ordered to mandatory outpatient treatment or certified or where the facility to which he was admitted is located. Choice of venue shall rest with the party noting the appeal. The court may transfer the case upon a finding that the other forum is more convenient.

1. Document Type

Petition for Appeal

2. Filing Types \*

IC – Involuntary Commitment

GAMC – Mental Commitment Appeal- General District Court

JAMC – Mental Commitment Appeal – Juvenile & Domestic Relations Court

**NOTE:** These Filing Types are restricted from public inquiry.

3. Procedures



- Step 1** Appellant files a notice of appeal with the clerk of the court from which the appeal is taken who immediately transmits the record to the clerk of the circuit court. Choice of venue is with the party noting the appeal. The Court may transfer the case upon a finding that the other forum is more convenient.
- Comments:** The appeal is noted within ten days from the date of the commitment or certification order. An appeal does not operate to suspend any such order unless so ordered by a judge or special justice. [Virginia Code § 37.2-821](#) provides that no appeal bond or writ tax, costs and fees are to be collected, unless recovered per [Va. Code § 37.2-804](#).
- Step 2** The clerk of the circuit court provides written notice of the appeal to the petitioner in accordance with [Va. Code § 16.1-112](#), and notifies the Commonwealth's Attorney of the jurisdiction, who defends on behalf of the Commonwealth
- Comments:** An order continuing the involuntary admission shall be entered only if the criteria in [Va. Code § 37.2-817](#) are met at the time the appeal is heard. The order shall not extend the duration of involuntary admission or mandatory outpatient treatment as set forth in the order appealed from.
- Step 3** The court hears the appeal *de novo*; and the case is given priority on the docket. The circuit court may require an independent evaluation of the person pursuant to [Va. Code § 37.2-815](#), or may rely on the evaluation report from the initial commitment hearing.
- Comments:** The judge shall appoint an attorney to represent the appellant if the appellant is not represented by counsel. The appellant is entitled to a trial by jury. Seven persons from a panel of thirteen shall constitute a jury.
- Step 4** Clerk records and indexes all orders in the Civil Order Book unless otherwise provided by law.
- Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).
- Step 5** Clerk should fax, then mail any order that extends or dismisses the current commitment to State Police for both inpatient and outpatient involuntary commitments.
- Step 5** Department of State Police

(cont'd)

CCRE  
P. O. Box 27472  
Richmond, VA 23261-7472  
Fax: (804) 674-2268

4. Fees/Taxes/Other Monies Assessed

None

5. Form(s)

Initiating forms are not provided by clerk's office.

6. Reference(s)

[Va. Code § 18.2-308.1:2](#)

[Va. Code § 18.2-308.1:3](#)

[Va. Code §§ 37.2-806](#)

[Va. Code §§ 37.2-814, 37.2-815, 37.2-816, 37.2-817, 37.2-818, 37.2-819, 37.2-820, 37.2-821, 37.2-822](#)

**Q. Isolation/Quarantine Order**

The State Health Commissioner may issue orders of isolation or quarantine when he determines that a person or persons are infected with a communicable disease of public health threat, and may order a quarantine of any person or persons, or any affected area, after he finds that the quarantine is the necessary means to contain a communicable disease of public health threat. In addition, the Commissioner may extend any order of isolation or quarantine upon a finding that such an extension is necessary. Any person(s) subject to an order of isolation or quarantine, or a court-ordered confirmation or extension of any such order, may file an appeal in the circuit court for the city or county in which such person(s) reside or are located in, or the circuit court for the jurisdiction for any affected area.

Any circuit court confirming or extending such orders of isolation/quarantine are also appealable, directly to the Supreme Court of Virginia.

1. Document Type

Written Notice of Appeal

2. Filing Type

PET

## 3. Procedures

**Step 1** Clerk receives appeal of the Commissioner's order of isolation/quarantine. Such appeal shall be served upon the State Health Commissioner or his legal representative. Clerk receipts money, including service fees.

**NOTE:** Because it is anticipated that the Commissioner will have filed a petition for review and confirmation of his order/or order extending isolation/quarantine, it is recommended that any appeal of such order be made a subsequent filing of the base case number.

**Comments:** Any petition for appeal shall be in writing, shall set forth the grounds on which the order of isolation/quarantine is being challenged vis-a-vis the subject person or persons or affected area.

**Step 2** Clerk docket the appeal and sets a hearing within 48 hours of the filing. The filing of an appeal shall not stay any order of isolation/quarantine. Upon receiving multiple appeals of an order of isolation/quarantine that applies to a group of persons or an affected area, the court may consolidate the cases in a single proceeding.

**Comments:** If the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the hearing shall be held on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

The court may confirm, vacate or modify the order of isolation/quarantine.

If the court vacates the order of isolation/quarantine, such person(s) subject to the order shall be immediately released from isolation/quarantine, unless such order is appealed to the Supreme Court of Virginia. If appealed, the order of isolation/quarantine remains.

Persons appealing any order of isolation/quarantine shall have the right to be represented by an attorney in all proceedings. If the person is unable to afford an attorney, the court shall appoint counsel. Counsel so appointed shall be paid at a rate established by the Supreme Court of Virginia from the Commonwealth's criminal fund.

**Step 3** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be

maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

**Step 4** Clerk removes case from docket and places case with ended files. Appeals of any final order of any circuit court regarding the Commissioner’s petition for review and confirmation, or extension of an order of isolation/quarantine, shall be appealable directly to the Supreme Court of Virginia, and are afforded an expedited review.

**IMPORTANT NOTE:** Rule 5:43 states that the clerk shall transmit the record to the Clerk of the Supreme Court immediately upon the filing of the notice of appeal.

Appeals of any circuit court order relating to an order of isolation/quarantine shall not stay any order of isolation/quarantine.

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

Initiating forms not provided

6. Reference(s)

[Va. Code §§ 32.1-48.010](#) and [32.1-48.013](#)

<b>FEES</b>	
<b>TYPE CHARGES</b>	<b>CODE REFERENCE</b>
Clerk’s Fee	<a href="#">Va. Code § 17.1-275A(26)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275A(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
* Not assessed if amount of civil action is \$500 or less	

**R. Probate – Not an Original Action**

A procedure which allows an appeal from a grant or denial of probate. Any person interested may, within six months after the entering of such an order, appeal as a matter of right, without having to give bond, to the court whose clerk or deputy clerk has made the order. If clerk of court refuses to admit an instrument purporting to be a

decedent's will to probate for failure to satisfy the requirements of [Va. Code § 64.2-446](#), the clerk may appoint an administrator of the estate pursuant to [Va. Code § 64.2-502](#).

1. Document Type

Petition

2. Filing Type

PET \*No fee\*

3. Procedures

**Step 1** Clerk receives applications/letter/petition for appeal

**Step 2** Clerk stamps papers as filed. **NOTE:** No fee is collected.

**Step 3** Clerk enters Clerk's Order in Clerk's Order Book allowing such an appeal and docket case as a preferred cause for trial at the next term of court. Appeal is now perfected.

4. Fees/Taxes/Other Monies Assessed

None

5. Form(s)

N/A

6. Reference(s)

[Va. Code §§ 64.2-445, 64.2-446](#)

Attorney General Opinion to Barry, dated May 29, 1991 (1991, pages 319-322); Circuit court clerk may qualify administrator of estate after refusing to admit to probate will that is not self-proving if certain statutory prerequisites satisfied and administrator applies for position. Va. Code § 64.1-119. (recodified 2012 [64.2-502](#), [64.2-503](#))

**S. Refusal to Take Blood or Breath Test**

The appeal to a circuit court from a district court of a refusal to take blood or breath test is conducted as a misdemeanor appeal, per [Va. Code § 18.2-268.4](#). The clerk sets the case up on the criminal docket and assesses criminal costs.

The Commonwealth can appeal from a finding of not guilty in a district court because the unlawful refusal charges are administrative and civil in nature for a first offense. Commonwealth v. Rafferty, 241 Va. 319; 402 S.E. 2d 17 (1991) (decided under former Va. Code § 18.2-268).

The Court of Appeals does not have jurisdiction over an appeal from a first conviction of refusal to take blood or breath test. Thomas v. Commonwealth, 22 Va. App. 735, 473 S.E. 2d 87 (1996) and second or subsequent offenses would be classified as misdemeanors and would be appealable to the Court of Appeals. The appeal to the Supreme Court from a judgment of the circuit court is treated as a civil appeal.

## T. Withdrawal of Appeal from District Court

### [Va. Code §16.1-106.1](#)

#### 1. Document Type

Written Notice of Intent

#### 2. Filing Type

N/A, as this is a motion filed in a case already before the court.

#### 3. Procedures

**Step 1** Clerk receives written notice of intent to withdraw civil case, filed by the appealing party. Notice of intent to withdraw must be served on all parties or their counsel, in person or by first class mail.  
**NOTE:** Case must be properly filed in circuit court. Notice of intent to withdraw is served by party filing the notice.

**Step 2** Withdrawal hearing is set, no later than the date set for trial of the appeal.

**Comments:** Use Hearing Type of AW (appeal withdrawn).

**Step 3** If withdrawal hearing set prior to trial date all parties are given notice of hearing, in person or by first class mail.

**Comments:** If withdrawal hearing set on initial trial date, no new notice required. Notice of withdrawal hearing, if necessary, is served by court. Use CC-1340, NOTICE OF HEARING ON AN APPEAL FROM A DISTRICT COURT.

**Step 4** If objection to withdrawal received, such objection is to be served in person or first class mail on parties or their counsel.

**Step 4 (cont'd)** **Comments:** Objection to withdrawal is served by party filing the objection. If objection is filed and served within a reasonable period after service of notice of intent to withdraw, the court, upon a showing of good cause, may decline to permit the withdrawal of the appeal.

**Step 5** If no written objection timely filed, the appeal shall be deemed to be withdrawn.

**Comments:** The court shall order disposing of the case in accordance with the judgment or order entered in the district court.

**Step 6** If neither party appears at the withdrawal hearing, the court may deem the appeal withdrawn without a motion. If the party who appealed the district court case does not appear at the withdrawal hearing, the court may upon motion of any party, enter an order treating the appeal as withdrawn.

**Comments:** Use Concluded by Code of WPT (withdrawn prior to trial.)

**Step 7** The court shall also order the disbursement of any cash bond posted to perfect such appeal.

**Step 8** Unless the Court orders otherwise, any case arising from a JDR appeal, will be remanded back to JDR for purposes of enforcement and future modifications.

4. Fees/Taxes/Other Monies Assessed

None

**XI. APPOINTMENT**

**A. Church Trustees and Fraternal Organizations Trustees**

Order that confirms appointment of church trustees or trustees for other fraternal organizations required by law to be confirmed by the court.

1. Document Type

Petition

2. Filing Type

AOCT

3. Procedures

**Step 1** Clerk receives application or petition from attorney or applicant.

**Comments:** Application or petition should be accompanied by minutes of the meeting in which the trustees were elected. Meeting minutes should include:

- New appointments;
- New retirees; and
- Changes in organization

**Step 2** Clerk collects and receipts for fee paid.

**Comments:** Clerk collects fee pursuant to [Va. Code § 17.1-275 A\(22\)](#) and receipts using Account Code 304.

**Step 3** Clerk or filing party prepares order detailing appointment(s).

**Step 4** Copy is given to attorney or mailed to the church making appointments.

**Step 5** Clerk records and indexes orders in Civil Order Book unless otherwise provided by law.

**Comments:** Recording and/or Indexing may be done by electronic process or micrographic medium pursuant to [Va. Code § 17.1-240](#) and/or [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

*See sample Application*

6. Reference(s)

[Va. Code §§ 57-8; 57-18, 57-23](#)



Attorney General Opinion to Morton, dated March 17, 1987 (1986-87, pages 84-85); *ten-dollar fee authorized for each application filed in proceeding to appoint trustees of church.*

Attorney General Opinion to McMurrin, dated December 3, 1987 (1987-88, pages 496-97); *Proceeds from sale of property held by charitable organization may be distributed to similar charitable organization or other charitable purpose, but not to last surviving member.*

Attorney General Opinion to Black, dated January 18, 1990 (1990, page 235) Wade 76 Va. 620 (1892); *Writ tax not applicable to nonadversarial proceedings in circuit court; determination of adversarial vs. nonadversarial law and chancery proceedings.*

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(22)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 (13)(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
*Not assessed if the amount of the civil action is \$500 or less	

## B. Special Conservator of the Peace

Upon the submission of an application from (i) any sheriff or chief of police of any county, city, or town; (ii) any corporation authorized to do business in the Commonwealth; (iii) the owner, proprietor, or authorized custodian of any place within the Commonwealth; or (iv) any museum owned and managed by the Commonwealth, a circuit court judge of any county or city shall appoint special conservators of the peace who shall serve as such for such length of time as the court may designate.

Upon an application made by a corporation authorized to do business in the Commonwealth, the owner, proprietor or authorized custodian of any place within the Commonwealth or any museum owned and managed by the Commonwealth, the court shall, prior to entering the order of appointment, transmit a copy of the application to the local attorney for the Commonwealth and the local sheriff or chief of police who may submit to the court a sworn, written statement indicating whether the order of appointment should be granted. However, a judge may deny the appointment for good cause, and shall state the specific reasons for the denial in writing in the order denying the appointment.

1. Document Type

[CC – 1430, APPLICATION FOR APPOINTMENT OF SPECIAL CONSERVATOR OF THE PEACE](#)

CC – 1431, ORDER FOR APPOINTMENT OF SPECIAL CONSERVATOR OF THE PEACE

2. Filing Type

COP

3. Procedures

**Step 1** Moving party submits a CC-1430, [APPLICATION FOR APPOINTMENT OF SPECIAL CONSERVATOR OF THE PEACE](#) along with the results of a background investigation, a temporary registration letter issued by the [Department of Criminal Justice Services](#) and evidence establishing the that proposed conservator of the peace is covered by a policy of liability insurance or self-insurance prior to seeking an appointment by the circuit court. **NOTE:** All applications and orders for appointments of special conservators of the peace shall be submitted on forms developed by the Office of the Executive Secretary of the Supreme Court of Virginia in consultation with the Department of Criminal Justice Services.

**Comment:** No official or employee of a school board or county, city, or town, its departments, or its agents shall submit an application for the appointment of a special conservator of the peace without attaching a written assessment from the chief law-enforcement officer of the locality stating the need for the appointment and recommending any limitations that should be included in the order of appointment to the application submitted to the court pursuant to [Va. Code § 19.2-13](#).

**Step 2** Clerk receipts for filing fee, opens a new case file and docket the case.

**Step 3** Upon an application made by a corporation authorized to do business in the Commonwealth, the owner, proprietor or authorized custodian of any place within the Commonwealth or any museum owned and managed by the Commonwealth, the court shall, prior to entering the order of appointment, transmit a copy of the application to the local attorney for the Commonwealth and the local sheriff or chief of police who may submit to the court a sworn, written statement indicating whether the order of appointment should be granted.

**Comment:** The court will complete Page 3 of the CC-1430, [APPLICATION FOR APPOINTMENT OF SPECIAL CONSERVATOR OF THE PEACE](#), directing the Clerk to transmit a copy to appropriate local law enforcement agencies.

**Step 4** The court shall appoint special conservators of the peace who shall serve as such for such length of time as the court may designate, but not exceeding four years under any one appointment, during which time the court shall retain jurisdiction over the appointment order.

**Step 4 (cont'd)** **Comment:** A judge may deny the appointment for good cause, and shall state the specific reasons for the denial in writing in the order denying the appointment.

**Step 5** If court grants the CC-1431, ORDER FOR APPOINTMENT OF SPECIAL CONSERVATOR OF THE PEACE the clerk shall transmit copies to:

- [The Department of State Police](#),
- The clerk of the circuit court of each locality where the special conservator of the peace is authorized to serve, and
- The sheriff or chief of police of each such locality

**Step 6** If the court appointment includes any real property owned or leased by the corporation or business in other specifically named cities and counties not within the city or county wherein application has been made, the clerk shall transmit a copy of the order of appointment to:

The clerk of the circuit court for each jurisdiction where the special conservator of the peace is authorized to serve

The sheriff or chief of police of each jurisdiction where the special conservator of the peace is authorized to serve.

**Step 7** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law. Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

**Comment:** The employer of any special conservator of the peace shall notify the circuit court, the Department of Criminal Justice Services, the Department of State Police, and the chief law-enforcement officer of all localities in which the special conservator of the peace is authorized to serve within 30 days after the date such individual has left employment and all powers of the special conservator of the peace shall be void. Failure to provide such notification shall be punishable by a fine of \$250 plus an additional \$50 per day for each day such notice is not provided.

## 4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

## 5. Form(s)

CC-1430, [APPLICATION FOR APPOINTMENT OF SPECIAL CONSERVATOR OF THE PEACE](#)

CC-1431, ORDER FOR APPOINTMENT OF SPECIAL CONSERVATOR OF THE PEACE

## 6. Reference(s)

[Va. Code §§ 19.2-13, 19.2-14](#)

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(18)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 (13)(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
Fee for preparing bond	<a href="#">Va. Code § 17.1-275 A(6)</a>
State Police fee for Processing order	<a href="#">Va. Code § 19.2-13</a>
* Not assessed if the amount of the civil action is \$500 or less	

**C. Special Conservator of the Peace-Revocation**

A judge also may revoke the appointment order for good cause shown, upon the filing of a sworn petition by the attorney for the Commonwealth, sheriff, or chief of police for any locality in which the special conservator of the peace is authorized to serve or by the Department of Criminal Justice Services. Prior to revocation, a hearing shall be set and the special conservator of the peace shall be given notice and the opportunity to be heard. The judge may temporarily suspend the appointment pending the hearing for good cause shown. A hearing on the petition shall be heard by the court as soon as practicable. If the appointment order is suspended or revoked, the clerk of court shall notify the Department of Criminal Justice Services, the Department of State Police, the applicable local law-enforcement agencies in all cities and counties where the special conservator of the peace is authorized to serve, and the employer of the special conservator of the peace.

## 1. Document Type

Petition

2. Filing Type

COPR

3. Procedures

**Step 1** Petition filed by the attorney for the Commonwealth, sheriff, or chief of police for any locality in which the special conservator of the peace is authorized to serve or by the Department of Criminal Justice Services. **NOTE:** No fee pursuant to [Va. Code § 17.1-266](#).

**Step 2** Clerk opens a new case file and docket the case. **NOTE:** It is recommended that the case be entered as -01 off the original case number.

**Step 3** Hearing on the petition shall be heard by the court as soon as practicable.

**Comment:** The judge may temporarily suspend the appointment pending the hearing for good cause shown.

**Step 4** If the appointment order is suspended or revoked, the clerk shall notify the [Department of Criminal Justice Services](#) [the Department of State Police](#) The applicable local law-enforcement agencies in all cities and counties where the special conservator of the peace is authorized to serve The employer of the special conservator of the peace.

**Step 7** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law. Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

None

5. Form(s)

Initiating forms are not provided by clerk's office.

6. Reference(s)

[Va. Code §§ 19.2-13](#)

**D. Guardian/Conservator**

See "Suits/Action Types-Guardians- Guardian/Conservator Appointment" of this manual.

**E. Special Justice**

The chief judge of a judicial circuit may appoint a special justice for the purpose of performing the duties required of a judge under [Va. Code § 37.2-803](#). The special justice is sometimes referred to as the "lunacy judge." This proceeding is not an action requiring the filing and docketing of a new civil action.

1. Document Type

None

2. Filing Type

FAS = ASJ Note: changes to PET when transferring to CCMS

3. Procedures

**Step 1** The chief judge enters an order appointing the special justice.

**Step 2** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

None

5. Form(s)

None

6. Reference(s)

[Va. Code § 17.1-266](#)

[Va. Code § 37.2-803](#)

## F. Standby Guardian/Standby Conservator

See “Suits/Action Types-Guardians – Standby Guardians/Standby Conservator-Appointment” of this manual.

## XII. APPROVAL OF THE RIGHT TO BE ELIGIBLE TO REGISTER TO VOTE

A petition filed by a convicted felon seeking court approval of the restoration of the right to be eligible to register to vote. This procedure applies only to the right to vote, not to the other civil rights which are lost upon conviction of a felony. A felon must seek restoration of those rights directly by the Governor, through a petition lodged with the [Secretary of the Commonwealth](#).

Any person, other than a person (i) convicted of a violent felony as defined in [Va. Code § 19.2-297.1](#) or in subsection C of [Va. Code § 17.1-805](#) and any crime ancillary thereto, (ii) convicted of a felony pursuant to [Va. Code §§ 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-255, 18.2-255.2](#) or [18.2-258.02](#), or (iii) convicted of a felony pursuant to [Va. Code § 24.2-1016](#), may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote. [Va. Code § 53.1-231.2](#)

### 1. Document Type

Petition

### 2. Filing Type

VOTE

### 3. Procedures

**Step 1** Petition is filed with the clerk of the circuit court.

**Comments:** Venue - Petitions are filed in the county of city in which the Petitioner resides or in the county or city in which the individual was convicted. [Va. Code § 53.1-231.2](#). Typical documents filed with the petition would include:

- Criminal history;
- Letter from Probation Officer outlining period of supervision;
- Letters of reference; and
- Proof of civic responsibility

**Step 2** The clerk receipts for filing fee (unless court approves proceeding in forma pauperis), opens a new case file and docket the case.

**Step 3** Hearing held.

**Step 4** Order entered approving or denying petition.

**Comments:** If petition is approved, the order must state that the petitioner's right to be eligible to register to vote may be restored by the date that is ninety days after the date of the court order, subject to the approval or denial of the Governor.

**Step 5** Clerk provides copy of Approval or Denial Order to the petitioner and sends (fax) a copy to the [Secretary of the Commonwealth](#).

**Step 5 (cont'd)** **NOTE:** Secretary of the Commonwealth requests that all documents filed relating to the petition be forwarded with the copy of the court's order.

**Comments:** The Secretary of the Commonwealth shall transmit the order to the Governor for approval or denial. The Secretary of the Commonwealth shall send, within ninety days of the date of the court order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right.

Appeal from the denial of restoration from circuit court would be to the Supreme Court. There is no right of appeal upon a denial from the Governor.

[Secretary of the Commonwealth](#)

P.O. Box 2454

Richmond, VA 23218

Fax: 804-371-0017

Telephone: 804-692-2531

**Step 6** Clerk records and indexes orders in the Civil Order Book unless otherwise provided by law.

**Comments:** Recording may be accomplished by microphotographic or electronic recording process per [Va. Code § 17.1-240](#). Indexing may be maintained on computer, microfilm or microfiche per [Va. Code § 17.1-249](#).

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)



## 5. Form(s)

CC-1402, [INFORMATION ABOUT PETITIONING A CIRCUIT COURT FOR APPROVAL OF THE RIGHT TO REGISTER TO VOTE](#)

CC-1403, [PETITION FOR APPROVAL OF THE RIGHT TO BE ELIGIBLE TO REGISTER TO VOTE](#)

CC-1404, ORDER REGARDING PETITION FOR APPROVAL OF THE RIGHT TO BE ELIGIBLE TO REGISTER TO VOTE

## 6. Reference(s)

[Va. Code §§ 53.1-231.1, 53.1-231.2](#)

FEES	
TYPE CHARGES	CODE REFERENCE
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(18)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 (13)(26)</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Writ Tax	<a href="#">Va. Code § 58.1-1727</a>
* Not assessed if the amount of the civil action is \$500 or less	

## XIII. ATTACHMENTS

An Attachment is a pre-judgment action to seize specific real or personal property of the debtor, to recover a debt or damages for a breach of contract or to recover damages for a wrong (violation of legal rights). The purpose of an Attachment is to bring property into legal custody prior to trial to protect the plaintiff's rights and interest in the property and to make sure that enough of the defendant's assets are available for sale by the sheriff to pay off any judgment which may be given to the plaintiff against the defendant, or to bring an out-of-state resident into the jurisdiction of the court.

The plaintiff executes a petition setting forth factual information sufficient to support the attachment. The petition should ask for an attachment against the specific personal property mentioned in the petition or the estate, indicate whether officer is to take possession of the attachment and be sworn by plaintiff or his agent.

## 1. Document Type

Petition for Attachment

## 2. Filing Type

ATT

## 3. Procedures

**Step 1** Petition for attachment filed with clerk simultaneously with plaintiff bond.

**Comments:** Petition will include:

**If Personal Property:**

- Nature of personal property
- Estimated value of the property
- Character of the estate claimed by plaintiff
- Sum plaintiff is entitled to recover

**Step 1 (cont'd) If to Recover a Debt, Damages, Breach of Contract:**

- State claim with certainty as will give defendant reasonable notice
- Minimum sum plaintiff is entitled to recover
- If claim for debt yet due and payable, the time(s) it will be due and payable.

See form DC-447, [PLAINTIFF'S BOND FOR LEVY OR SEIZURE](#).

**Step 2** Clerk collects filing fees and if cash bond posted, collects bond and receipts to 503.

Plaintiff or representative for plaintiff will give bond as follows:

- 1) Approved Surety - in the amount of at least the fair market value of the attached property;
- 2) Cash Bond - in the amount of the fair market value of the attached property or
- 3) Property Bond - in the amount of twice the value of the attached property.

If only a levy on property sought, the bond amount is 100% of the estimated fair market value of the property to be levied on

**OR**

If seizure of the property is sought, the bond amount is double the estimated fair market value of the property seized. [Va. Code § 8.01-553](#).

**Comments:** If an agent or attorney-in-fact for the surety is entering into the bond, the clerk should:

- Ask for proof of his/her authority to enter into civil bond and bonds in the amount required to be posted, and

- Ask whether his power of attorney has been recorded in the circuit court where he enters into bond. [Va. Code § 38.2-2416](#).

**NOTE:** Copy of power of attorney should be attached to original of bond.

Fact that bond was given will be certified on process OR certified by the clerk to the serving officer. See sample certificate below. If certified by the clerk, the serving officer will return the certificate with the process.

Sample Certificate of Clerk to the Sheriff:

Pursuant to [Va. Code § 8.01-537.1](#), as amended

I hereby certify that the plaintiff and surety have given bond in this case, evidenced by a copy of said bond attached to and made part of the process to be served upon the defendants in this matter.

Clerk name/address here

**Step 2 (cont'd)** **NOTE:** This Certificate should be returned with the process evidencing serving officer.

**Step 3** Summons for attachment is prepared by clerk for judge's signature, if attachment is approved.

**Step 4** Petitioner takes petition and bond to judge (or magistrate) for an ex parte hearing to determine probable cause and statutory compliance of both petitioner and bond, and to sign attachment summons (if approved).

Defendant can give bond/performance bond on any attached property. Amount of bond as follows:

- If defendant seeks to retain property, the penalty is either double the value for which attachment issued or double the value of the property retained or returned.
- If defendant seeks return of property, bond in penalty of double the amount of value for which attachment issued or double the value of the property on which the attachment was levied.

**Comments:** Ex Parte hearing is used to review all such petitions. [Va. Code § 8.01-540](#). Ex Parte means in this context that only the plaintiff and/or his attorney are present at the hearing - the defendants are not given notice of the hearing.

**Step 5** Judge signs summons.

**Comments:** Summons cannot be issued until judge makes required findings. [Va. Code § 8.01-540](#).

- Step 6** Plaintiff, to expedite matters, takes to sheriff for service on:  
**Primary Defendant**
- Copy of petition
  - Copy of bond
  - Copy of summons (original used to make return)
  - Copy of DC-407, Request FOR EXEMPTION HEARING
- Co-Defendant: same as above (except copy of summons used by sheriff for return).**
- Step 7** Case file established - if not done previously.
- Step 8** Bond placed in Bond Book and copy is placed in case file.
- Step 9** If defendant's bond is posted with sheriff, clerk places bond in Bond Book and places copy of bond in file.
- Step 10** Clerk receives sheriff's return (or summons).
- Step 11** Defendant prepares DC-407, [REQUEST FOR EXEMPTION HEARING](#) and files with clerk ([Va. Code § 8.01-546.2](#))
- Step 12** Clerk schedules hearing with judge and promptly notifies (via mailing copy of DC-407, [REQUEST FOR EXEMPTION HEARING](#) or a general notice of hearing) all litigants and sheriff of hearing date and exemption claim.
- Comments:** Hearing must be held within ten days of the of a filing DC-407, [REQUEST FOR EXEMPTION HEARING](#).
- Step 13** Hearing held and judge rules on exemptions that apply, if any.
- Step 14** Separate or contemporaneous hearing on merits held before judge.
- Step 15** Judgment entered (may direct sale of property by sheriff).
- Comments:** If prior to the sale of assets or distribution of money, a third party contests the attachment's validity or the ownership or lien interest of the property, and upon giving security for costs to the court, then inquiry into the matter is made and either party may demand a jury trial to hear the matter. [Va. Code § 8.01-573](#).
- Step 16** Clerk prepares a Writ of Possession for the return of specific property ([Va. Code § 8.01-470](#)) or a Writ of Fieri Facias for any monetary judgment or costs ([Va. Code § 8.01-466](#)).

- Step 17** Clerk docket in Judgment Lien Docket (if money judgment).
- Step 18** If applicable, judge notified of unclaimed/excess proceeds. Judge enters order as to disposition of funds (normally held under control of court - special court funds.) After twelve months if property unclaimed, clerk reports and submits funds under Unclaimed Property Act.
- Step 19** Clerk disposes of bond as follows:
- Plaintiff's bond**
- Examine court order.
  - If plaintiff prevailed and judge so ordered, release the bond or refund surety. In the event a cash bond was posted, write disbursement check.
  - If judgment is not in favor of the defendant, follow judge's order for direction on allocating bond.
- Defendant's bond** (e.g. forthcoming bond posted with sheriff)
- Examine court order.
  - If defendant prevailed and judge so ordered, release the bond or refund surety.
- Step 19 (cont'd)**
- If defendant did not prevail, the bond posted under [Va. Code § 8.01-553](#) is forfeited to plaintiff in the amount awarded by the judge in the order.
  - Refund any monies.
- Step 20** Clerk sends copy of final order to all parties.

4. Fees/Taxes/Other Monies Assessed

[Circuit Court Civil Filing Fee Calculation](#)

5. Form(s)

DC-407, [REQUEST FOR HEARING-EXEMPTION CLAIM](#)

DC-445, [ATTACHMENT PETITION](#)

DC-447, [PLAINTIFF'S BOND FOR LEVY OR SEIZURE](#)

CC-1309, [BOND TO RETAIN POSSESSION](#)

CC-1442, [ATTACHMENT SUMMONS](#)

6. Reference(s)

[Va. Code § 8.01-533](#) et seq.

[Va. Code § 17.1-272](#), [17.1-275 A\(7\)](#)

[Va. Code § 42.1-70](#)

[Va. Code § 58.1-1727](#)

Winfree v. Mann 154 Va. 683, 153 S.E. 837 (1930)  
 Attorney General Opinion to Zepkin, dated August 18, 1980 (1980-81, page 277); *A writ of attachment pursuant to § 8.01-533, et seq., is neither a formal action at law nor a bill in equity, but a statutory procedure, Winfree v. Mann, 154 Va. 683, 153 S.E. 837 (1930). Consequently, it is original process and falls within the narrow definition set down by § 1-13.23:1.*

<b>FEES</b>	
<b>TYPE CHARGES</b>	<b>CODE REFERENCE</b>
Clerk's Fee	<a href="#">Va. Code § 17.1-275 A(7)</a>
Courts Technology Fund	<a href="#">Va. Code § 17.1-275 (13)(26)</a>
Plaintiff's bond	<a href="#">Va. Code § 8.01-553</a>
CHMF	<a href="#">Va. Code § 17.1-281</a>
Law Library	<a href="#">Va. Code § 42.1-70</a>
CHCF*	<a href="#">Va. Code § 17.1-281</a>
Legal Aid	<a href="#">Va. Code § 17.1-278</a>
Technology Trust Fund	<a href="#">Va. Code § 17.1-279</a>
Sheriff Fee	<a href="#">Va. Code § 17.1-272</a>
Writ Tax-Law	<a href="#">Va. Code § 58.1-1727</a>
<i>* Not assessed if the amount of the civil action is \$500 or less</i>	

#### **XIV. AUGMENTED ESTATE**

*See Wills-Elective Share and Augmented Estate – this manual.*

#### **XV. AUTHORIZATION OF NON-MINISTERS TO PERFORM MARRIAGES**

*See Marriages – Authorization of Non-Ministers to Perform Marriages – this manual.*

#### **XVI. BOND**

*See Forfeitures Bail Bond– this manual.*