

THE CIRCUIT COURT

The Circuit Court is the trial court of general jurisdiction in Virginia; this means that the court has authority to try a full range of cases both civil and criminal. Civil cases involve disputes essentially private in nature between two or more parties; criminal cases are controversies between the State and persons accused of a crime. Only in a circuit court is a jury provided for the trial of these disputes and controversies.

The Virginia circuit court system is composed of thirty-one judicial circuits with one hundred twenty-two separate circuit courts in the various counties and cities of the State. The Supreme Court of Virginia establishes the rules of practice and procedure for the circuit courts, and the Executive Secretary of the Supreme Court serves as the administrator of the circuit court system.

Judges and Clerks

A circuit court judge is elected for an eight-year term by a majority vote of both houses of the General Assembly. If the General Assembly is not in session when a vacancy occurs, the Governor temporarily appoints (interim appointment) a judge to serve until the General Assembly meets again and can elect a judge for a full term. There are at least two judges serving each circuit and as many as fourteen serving in larger circuits. The Chief Judge of the circuit is elected by vote of the judges serving the circuit. Circuit court judges are required to reside in the circuit they serve and must have been admitted to the Virginia Bar at least five years prior to election or appointment.

The clerk of the circuit court is a constitutional official and is elected to an eight-year term by the voters of the locality. The clerk handles administrative matters for the court and also has authority to probate wills, grant administration of estates, and appoint guardians. The clerk is the custodian of the court records and the clerk's office is where deeds are recorded and marriage licenses issued.

Jurisdiction

In civil cases, the circuit court has concurrent jurisdiction with the general district court over claims from \$3,000 to \$15,000 and exclusive original jurisdiction over almost all claims exceeding \$15,000. These claims are called action in laws. The circuit court also has jurisdiction over all equity matter; these include divorce cases, disputes concerning wills and estates, and controversies involving property.

In criminal cases, the circuit court has jurisdiction over the trial of all felonies (offenses that may be punished by commitment to the State penitentiary) and of those misdemeanors (offenses carrying a penalty of not more than twelve months in jail) originally charged in circuit court. The circuit court also has jurisdiction over juveniles aged fifteen and older who are charged with felonies and whose cases have been certified by the judge of a juvenile and domestic relations district court for trial in a circuit court.

The circuit court has appellate jurisdiction over all appeals from general district court in civil and criminal cases and from juvenile

and domestic relations district court in matters originating in that court. Appeals from these district courts are heard de novo, that is, the cases are tried from the beginning as though there had been no prior trial.

The circuit court's appellate jurisdiction also extends to appeals from certain administrative agencies.

Grand Juries

The circuit court has the authority to impanel regular and special grand juries. A regular grand jury is composed of five to seven citizens of the city or county where the circuit court is located; it is convened at each term of the court for two purposes: (1) to consider indictments prepared by the Commonwealth's Attorney (the grand jury determines whether there is probable cause to believe that the person accused has committed the crime charged in the indictment and should stand trial), and (2) to investigate and report concerning any condition which involves or tends to promote criminal activity, either in the community or by any governmental authority, agency, or official. The grand jury hears only the Commonwealth's side of the case and does not determine the guilt or innocence of the accused.

Members of the grand jury must be citizens of Virginia at least eighteen years of age and shall have been residents of the State for one year and of the county or city in which they are to serve for at least six months. Between sixty and one hundred twenty citizens "of honesty, intelligence and good demeanor" are selected annually by the circuit court judge to serve as grand jurors during the year.

A special grand jury is composed of seven to eleven citizens and is summoned by the circuit court to investigate and report any condition which involves or tends to promote criminal activity, either in the community or by any governmental authority, agency, or official thereof. A special grand jury may be impanelled by the circuit court (1) at any time upon the court's own motion, or (2) upon the recommendation of a minority of the members of a regular grand jury. A special grand jury must be empaneled upon the recommendation of a majority of the members of a regular grand jury. The qualifications for members of a special grand jury are the same as for a regular grand jury.

Counsel

All litigants (parties) in circuit court cases have the right to be represented by lawyers. This right may be waived, however, by the litigant. Those who wish to hire their own counsel, but who do not know any attorneys, may obtain the names and phone numbers of local lawyers from the Virginia State Bar Referral Service by calling 800-552-7977, toll free or 804-775-0808. In all felony cases and in any misdemeanor case involving the possibility of a jail sentence, an indigent (poor) defendant may have a lawyer appointed by the court. In such a case, the court must first determine that the defendant cannot afford a lawyer. The State pays the court-appointed lawyer, but if the defendant is found guilty, the amount of the counsel fee is charged to

the defendant as part of the court costs and entered as a judgment against him.

In criminal proceedings, the State is represented by the Commonwealth's Attorney who prosecutes the case.

Procedure

Civil cases are classified as law actions or equity suits. To bring about a civil action in a circuit court, the person bringing the case (plaintiff) files a motion for judgment (law) or a bill of complaint (equity) with the clerk of the circuit court. The person against whom the case is brought (defendant) has twenty-one days after he is served with process (notified of suit) to respond to the motion or complaint. His reply is called a grounds of defense (law) or an answer (equity). If the defendant does not respond within the allotted time, he is in default, which means that he admits the facts alleged in the motion or complaint and that judgment may be awarded to the plaintiff.

A defendant in a civil case has certain options. He may bring a counterclaim against the plaintiff or a cross-claim against another defendant. Both of these pleadings (claims) also require a response within twenty-one days.

In a criminal case involving a felony, the person accused usually is arrested on a warrant and brought before a magistrate. The magistrate may either commit the accused to jail pending a hearing or he may release the accused on bail. A preliminary hearing is then held in district court to determine if there is probable cause to believe the accused has committed the crime charged. If probable cause is found, the case is certified (sent) to the grand jury. If the grand jury also finds probable cause and returns an indictment, the accused is held for trial in circuit court. Following indictment, the accused is arraigned, that is, the charges are read and he enters a plea of guilty, not guilty, or nolo contendere (no contest). In misdemeanor cases appealed from district court, the preliminary hearing, the grand jury indictment, and arraignment are not necessary. Also, when an accused is first charged by grand jury indictment, no preliminary hearing is required and, after arrest, the accused is arraigned.

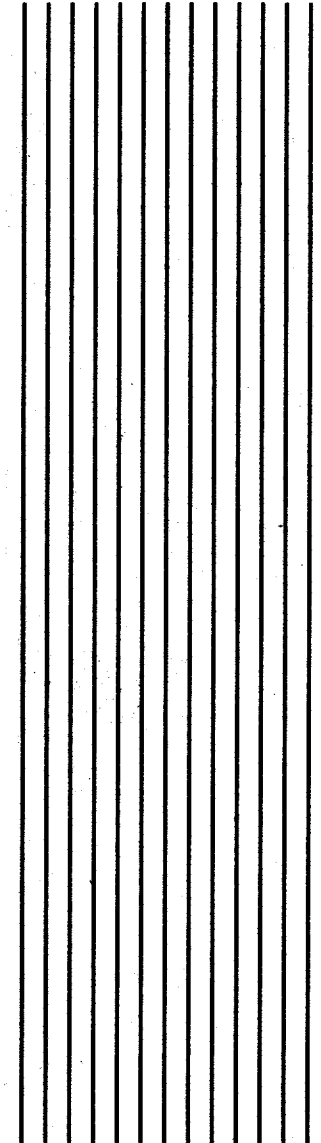
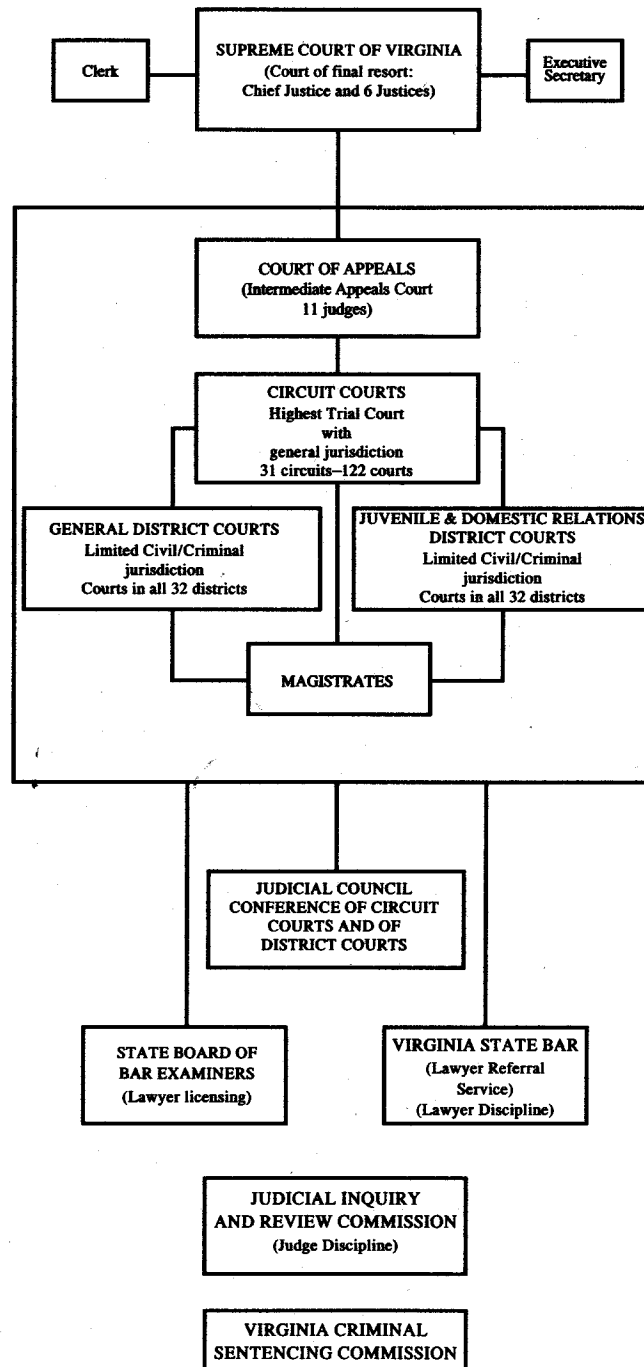
Jury vs. Non-Jury

In criminal prosecutions, the accused is entitled to a trial by jury only on a plea of not guilty. On a plea of guilty or nolo contendere, the case is heard and determined by the judge. An accused who pleads not guilty may, with the consent of the court and the Commonwealth's Attorney, waive his right to a jury trial and have the case decided by the judge.

In civil matters, most equity cases are heard by a judge alone; jury trials are allowed in equity suits only under special circumstances. Other civil cases may be heard by the judge or, at the request of any party, by a jury.

Members of a circuit court jury are selected from a master list prepared by jury commissioners appointed by the circuit court. The master list is developed by random selection from the voter registra-

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tion list and other lists of citizens of the city or county which the circuit court serves.

The Constitution guarantees an accused the right to a jury selected from a cross-section of the community. The venire, or list of prospective jurors summoned for a particular term of court, must reflect the composition of the community as a whole and may not be discriminatory by race, color, creed, or sex. In the final selection of a jury, prospective jurors may be removed from the panel if they have expressed or formed any opinion, bias, or prejudice which might interfere with their rendering a fair and impartial verdict. Also, each side is allowed to strike three or four jurors (depending on the type of case) for no given cause.

In order to insure a fair trial, an accused may request a change of venue or change of venire. If the trial judge believes that an impartial jury panel cannot be obtained locally (usually due to extraordinary pretrial publicity), he may order such a change. In a change of venue, the entire case is transferred to another jurisdiction within the Commonwealth and tried therein. In a change of venire, the jury list is obtained from another circuit and these non-resident prospective jurors are transported from their own community into the original court for juror selection.

Fines, Costs and Fees

Fines collected in circuit court for the violation of State laws are transferred to the State Treasury where they are deposited in the Literary Fund. The Literary Fund is a permanent and perpetual school fund established and required by the Constitution of Virginia.

Fees for civil actions are payable by the person filing the claim. In criminal cases, fees and costs are collected from the defendant if he is found guilty. If the defendant is acquitted or the case is not prosecuted, fees and costs are paid either by the State or the locality. Costs may include items such as compensation for witnesses, court-appointed attorney, Criminal Injury Compensation Fund, blood-analysis, jurors, interpreters, etc. Fees for recording or filing documents are paid by the party filing the document.

Appeals

The final decision of the circuit court may be appealed to either the Supreme Court or the Court of Appeals, depending upon the type of case involved. Death penalty, lawyer disbarment, and most civil cases are appealed to the Supreme Court. Death penalty and disbarment case appeals are a matter of right, while civil appeals are commenced by filing a petition for appeal. Traffic infraction, criminal (except death penalty), and domestic relations cases are appealed to the Court of Appeals. Criminal and traffic infraction appeals are by petition for appeal, while domestic relations cases are as a matter of right.

Individuals with disabilities needing special accommodations should call 804-786-6455 for assistance

For more information, see the following World Wide Web address:
<http://www.courts.state.va.us>