

# The Juvenile and Domestic Relations District Court

## I. General Information

The juvenile and domestic relations district court handles cases involving:

- Juveniles accused of delinquent acts, traffic infractions or status offenses
- Children in need of services or supervision
- Children who have been subjected to abuse or neglect, or abandoned
- Children whose custody, visitation, support or parentage is a subject of controversy
- Children in regards to whom relief of custody or termination of parental rights is sought
- Children in foster care and who are subjects of entrustment agreements
- Minors seeking emancipation or work permits
- Family or household members who have been subjected to or accused of abuse
- Adults accused of child abuse or neglect, or of offenses against a family or household member
- Spouses seeking support after separation
- Enforcement of support orders
- Court-ordered rehabilitation services
- Court consent for certain medical treatments

In Virginia, the terms listed below are defined as follows:

**Juvenile:** Any child under the age of eighteen.

**Delinquent:** A juvenile who has committed an act that would be a crime if committed by an adult.

**Child in Need of Services:** A juvenile whose behavior, conduct or condition presents or results in a serious threat to the juvenile's well-being and physical safety of another person.

**Child in Need of Supervision** meets one of these criteria:

1. A juvenile subject to mandatory school attendance, is habitually absent without valid excuse.
2. A juvenile who remains away from his family or guardian.
3. A juvenile who escapes or remains away from a residential care facility ordered by the court.

**Child Abuse and Neglect:**

1. A caregiver who creates or inflicts a physical or mental injury upon a child.
2. A caregiver who creates the child to be at risk of physical or mental injury.
3. A caregiver who refuses to provide for juvenile's health and well-being.

Juvenile and domestic relations district courts differ from other courts in their duty to protect the confidentiality and privacy of juveniles and their families who have legal matters before the court. In addition to protecting the public and holding delinquent juveniles accountable, the court considers services needed to provide for rehabilitation. As a district court, this court does not conduct jury trials. Also, like all other courts in the Commonwealth, protection of victim rights and constitutional safeguards remain the same.

## **Court Clerk**

Each juvenile and domestic relations district court has a clerk's office that processes all case papers, keeps court records and provides information to the people involved in a case (to the extent permitted by law). Anyone wishing to make a witness appear at a court hearing may request the issuance of a subpoena (a document used to require a person to come to the court hearing) at the court clerk's office. While court personnel are not permitted to offer legal assistance, they can provide general procedural information. Because of confidentiality laws, the clerk's office can often only provide very limited information about a case and only to those people involved with the case.

## **Court Service Unit**

Associated with the juvenile and domestic relations district court is a court service unit, sometimes called the Juvenile Probation department, which serves the court and facilitates the supervision, rehabilitation and treatment as needed by those who come before the court. The court service unit's essential functions include:

- **Intake.** Reviews all complaints and determines whether there are enough facts to involve the court. If so, the intake officer may either proceed informally to make practical adjustments without filing a petition or may authorize the filing of a petition to bring the matter before the judge, and may effect the placement in secure detention of those juveniles whose present offense requires such security prior to a detention hearing by a juvenile and domestic relations district court judge. Intake does not handle those criminal charges against adults which are started by obtaining a warrant from a magistrate.
- **Investigation.** Conducts all background studies required by the judge and regulations promulgated by the Virginia Board of Juvenile Justice, such as examination of a juvenile's familial, social and educational history. Such studies may be used by the court as a factor in determining the disposition appropriate to the subject and by the probation staff in the formulation of a services and supervision plan.
- **Probation.** Supervises delinquent juveniles and children in need of services released into home probation and supervises adults released on probation in support and other cases involving the defendant's relation with family members and individuals to whom he has a support duty.
- **Parole.** Supervises and provides community based case management services to juveniles in direct state care and those recently released from state institutional care.

- **Residential Care.** Supervises juveniles being held in detention, shelter care and post dispositional probation facilities. In most localities, the staff of these facilities are employees of the localities served by the court and work cooperatively with the staff of the respective court service unit.

The intake officer can further explain the procedures of the Juvenile and Domestic Relations District Court at intake.

## Other Agencies

Welfare and social service agencies are in frequent contact with the court in certain types of cases. They perform the initial investigation in abuse and neglect cases. Juveniles may be committed to such agencies when they are removed from home. Other agencies provide such services as may be ordered by the judge.

## Lawyers

The right to be represented by a lawyer in this court extends to:

- Juveniles involved in delinquency cases
- Juveniles alleged to be in need of services
- Juveniles alleged to be in need of supervision
- Abused and neglected juveniles
- A juvenile who is the subject of an entrustment agreement, a request for relief of custody, or a parentage controversy
- Adults before the court on criminal charges
- Adults faced with loss of their parental rights or charged with child abuse or neglect
- All other persons whom the court decides require a lawyer's services

The court appoints a *guardian ad litem* (a lawyer who represents the juvenile's best interests) to represent all juveniles alleged to be abandoned, neglected, abused or dependent who are the subject of either an entrustment agreement (in which the parents give up their parental rights and transfer care and custody of the juvenile to an agency), or a court proceeding to terminate residual parental rights (for all rights and responsibilities to the juvenile), or juveniles whose parents desire to be relieved of care and custody of the juvenile.

Adults and juveniles may waive attorney representation. Juveniles and their parents must knowingly waive representation in writing. *The judge must agree that this waiver is consistent with the interests of the child.* If the juvenile is charged with an offense that is a felony, then the juvenile must consult with an attorney and both must sign a waiver to be filed with court records of the case. The court must find that this waiver is made free and voluntary.

Those who want to hire a lawyer and have not had time to do so must file a motion asking the court for a continuance before their court date. This must be done before the judge hears evidence in the case.

Court personnel are not lawyers and are not permitted or allowed to offer legal advice. Legal questions should be addressed to competent attorneys only.

## **Petition, Summons, Subpoena and Warrant**

A petition is a legal document containing the written statement that brings the case involving a juvenile into court. The petition contains facts concerning the case and requests a hearing to determine the truth of these facts and to take whatever action is appropriate and permitted by law.

A summons is a legal document requiring a person to appear in court at the date and time stated on the summons. The petition is delivered with the summons to those people who are required to be in court as parties in the case. No petition is required when a juvenile is arrested and released on a summons written by an arresting officer.

A subpoena is a legal document delivered to witnesses who are required to be in court, telling them when and where they are required to appear.

A warrant is a legal document accusing a person of committing crimes, requiring that the person be arrested, be brought before a magistrate for a pretrial release (bail) hearing, and be required to appear in court to answer the accusations.

## **When Called to Court**

All persons required to appear before the juvenile and domestic relations district court should arrive at the time and place stated on the petition, summons, bail form or subpoena. It is important that everyone involved in a case be ready when the case is called into the courtroom. Though the wait may seem long, everyone must remain until the case is called; to do otherwise is a criminal offense. The court does not have child care services; therefore, the only children who should be brought to court are those children involved in the case or whose presence has been requested or required by the court, an attorney or a probation officer.

## **Privacy and Confidentiality**

Court hearings are open to the public for adults and juveniles who have petitions or warrants alleging that the juvenile was at least 14 years old at the time of the offense and that the offense would be a felony if committed by an adult. However, the judge may specifically close the hearing for good cause shown and by a written court order.

Juveniles less than 14 years of age have confidential court records and closed hearings for misdemeanors. If juveniles less than 14 years of age are charged with traffic offenses, they may have an open trial if they request. Unless a juvenile is over 14 and found guilty of a felony offense, the juvenile court records are not open to the public.

## **II. Juvenile Delinquency and CHINS Cases; Adult Criminal Cases**

### **Detention or Shelter Care**

A juvenile may be taken into custody if one of the following applies:

1. A judge, clerk at judge's direction or intake officer issues a detention order requiring the juvenile to be taken into custody.
2. A juvenile is alleged to be a CHINS and there is clear and substantial danger to the child's life or health and this is necessary for the child's appearance before the court.
3. A juvenile commits a crime that is witnessed by a police officer or would be a felony if committed by an adult (a crime punishable by more than 12 months in jail).
4. A juvenile commits a misdemeanor offense involving shoplifting, assault and battery, or carrying a weapon on school property.
5. A juvenile has absconded from lawful incarceration or a court ordered residential home, facility, or placement by a child welfare agency.
6. A juvenile is believed to be in need of inpatient mental health treatment.

If not immediately released by an intake officer or magistrate, the juvenile is held in custody (detention) until being brought before the judge for a detention hearing. The juvenile's detention hearing should be held the next day the court sits within the city or county but no longer than 72 hours after being taken into custody. Prior notice of the detention hearing must be given to the juvenile's parent or guardian, and to the juvenile if over 12 years of age. A detention hearing is not a trial, but merely a hearing to determine whether the detention of the juvenile should be continued.

The juvenile has the right to be represented by a lawyer at the detention hearing, the right to remain silent regarding the charge in the petition and the right to be informed of the contents of the petition. An attorney will be appointed to the juvenile before the detention hearing if the juvenile's parent or guardian has not hired one.

The judge decides whether to hold the juvenile in secure detention or release the juvenile to a parent, guardian or persons having custody of the juvenile, or to shelter care. Shelter care is defined as the temporary care of children in a physically unrestricted environment.

The judge may set bail and/or certain rules to be followed while the juvenile released awaiting trial. The judge may order the juvenile be held in detention if the judge believes that there is probable cause the juvenile committed the act and:

1. The juvenile is charged with violation of probation or parole.
2. The juvenile is charged with a felony or class 1 misdemeanor and: (a) is a threat to self or others or the property of others or (b) has threatened not to come to court or has failed to appear to court within the past 12 months.

While the juvenile is in a detention home or shelter placement, parents or guardians wishing to visit may do so only during permitted visiting hours. Parents or guardians should find out in advance of a visit: the hours of visitation, the documentation needed, dress code, the number of visitors allowed at one time and any restrictions concerning who is allowed to visit.

## **Certification or Transfer to Circuit Court for Trial as an Adult**

A case involving a juvenile 14 years or older accused of a felony may be certified or transferred to circuit court where the juvenile would be tried as an adult. A hearing to determine whether to transfer the case cannot occur unless the juvenile's parents or their attorney are notified of the transfer hearing.

### **Certification to Circuit Court**

A juvenile 14 years or older at the time of the alleged felony offense(s) may be transferred to the circuit court and tried as an adult. Some felony charges require that a judge make the decision whether to hear the case in juvenile or circuit court. The Commonwealth must provide notice requesting transfer of the juvenile's felony cases to circuit court. This written notice must be sent to the attorney for the juvenile or to the juvenile and one parent or legal guardian. A judge will hold a hearing to consider whether probable cause exists regarding the offense(s) charged and whether transfer of the case to circuit court is appropriate. Some factors the judge may consider when determining whether the case should be heard in circuit court or in juvenile court are: the juvenile's previous court contacts, competency, school record information and the child's age and emotional maturity.

### **Transfer to Circuit Court**

If a juvenile was 14 years or older and charged with a violent felony, then the Commonwealth may certify the charge to circuit court for trial. Written notice to the juvenile's attorney or to the juvenile and one parent or legal guardian, must be provided. In these cases, the judge solely determines probable cause as to whether or not the charged juvenile committed the crime. These charges are: felonious injury by mob, abduction, malicious wounding, malicious wounding of a law enforcement officer, felonious poisoning, adulteration of products, robbery, carjacking, rape, forcible sodomy, or object sexual penetration. ***OR A list of these violent juvenile felony charges is listed in Virginia Code section 16.1-269.1C.*** If the judge finds that probable cause exists that the juvenile committed the crime(s) charged then the juvenile's case will be tried in circuit court.

The crimes of murder or aggravated malicious wounding are automatically certified to the circuit court if the juvenile is 14 years or older at the time of the offense and the court has found probable cause that the juvenile has committed the offense(s) charged. No Commonwealth request is needed.

Statements made by the juvenile during the transfer hearing may not be used as evidence of the offense at a later court hearing but may be used if the juvenile testifies during trial.

Both the Commonwealth and juvenile may appeal a transfer decision within 10 days of the transfer hearing. Any juvenile convicted in circuit court will be treated as an adult in all future criminal cases.

## **Traffic Cases**

Cases involving juveniles accused of traffic violations are heard by the juvenile and domestic relations district court. Certain violations called prepayable traffic infractions may be prepaid at the clerk's or magistrate's office *if* prepayment is permitted by the chief judge of that court *and* if the juvenile wishes to plead guilty and not contest the charge. The traffic summons should be examined to see if the arresting officer has marked that trial may be waived (given up) to permit prepayment. If prepayment is permitted, the clerk's or magistrate's office should be called to find out the fine and costs and to find out where to mail or deliver the signed Waiver of Trial form (found on front of summons) with the fine and costs. The telephone number for the clerk's office appears on the summons or in the telephone directory under the listing for the city or county government.

## **Preliminary Hearing for Adults**

Adults charged with committing felonies against children or family or household members are brought into juvenile and domestic relations district court, after arrest, for a preliminary hearing. This hearing is held to determine if there is probable (reasonable) cause to believe that the accused adult committed the felony. If probable cause is found, the case is transferred to circuit court; otherwise the case is dismissed.

## **Adjudicatory Hearing (Trial)**

The actual trial in juvenile delinquency cases is called the adjudicatory hearing. It is at the adjudicatory hearing that the judge determines whether the facts as stated in the petition or warrant are true. The judge may temporarily postpone a case to allow all parties time to obtain a lawyer or for any other reason needed to have a fair trial. A juvenile accused of a crime has the following rights at the adjudicatory hearing:

- The right to be represented by a lawyer to the extent provided by law
- The right to have witnesses to appear on their behalf
- The right to subpoena (to require to come to court) witnesses to appear
- The right to confront and cross-examine (question) witnesses testifying against them (accusers)
- The right against self-incrimination (to answer questions or make statements tending to show guilt and have them used against him or her).

During the adjudicatory hearing in delinquency cases, all charges must be proven beyond a reasonable doubt before guilt is established. If the judge finds the juvenile to be guilty, the case is usually continued to another day for the judge to make a disposition decision (sentencing). The disposition decision is not always made immediately because the judge may require information about all aspects of the juvenile's background, including prior offenses and personal history, before determining what corrective measures to take with the juvenile. Dispositions in traffic cases, however, are usually made immediately at the end of the adjudicatory hearing.

Adult criminal cases in the juvenile and domestic relations district court are tried with the same standards and procedures as are applied in misdemeanor (all criminal offenses except

felonies) cases in general district court, where most other adult misdemeanors are tried. Adult criminal cases generally involve offenses committed against juveniles or family or household members.

There is no jury trial in this court. A case must be transferred or appealed to circuit court to obtain a jury trial.

## **Disposition**

The court may order many dispositions for delinquency convictions. If the juvenile is placed on probation under the supervision of the probation officer, the juvenile and the juvenile's parents or legal guardian must cooperate with the probation officer and rules of probation. The family and guardians of the juvenile may be ordered by the court to participate in various programs or services. Parents or guardians violating this court order may be subject to fines and/or jail. Juveniles violating the terms of probation may also be subject to a new charge and new punishments.

## **Expungement (Destruction of Court Records)**

Court records of juveniles convicted of non-felony and non-traffic offenses shall be destroyed on January 2 of each year if the juvenile has reached the age of 19 years and 5 years have elapsed since the date of the juvenile's last hearing before the court. Traffic records will be destroyed when the juvenile is 29 years old. If the juvenile was found guilty of a delinquent act which would be a felony if committed by an adult, the records shall be retained.

## **III. Custody and Support**

### **Custody**

Controversies (disputes) over the custody or visitation of a juvenile are usually heard in the juvenile and domestic relations district court. In cases involving issues of custody or visitation between parents regarding their juvenile, the court will make an order necessary to protect the interests of the juvenile and family.

Where a parent or guardian seeks to be relieved of the custody of any juvenile or where a public or private agency seeks to be given custody of the juvenile, the court shall grant such relief only if suitable placement for the juvenile is available, should the juvenile need such placement, and if placement of the juvenile outside his/her present home will not detrimentally affect the juvenile. The court will separate a juvenile from his/her parents or guardians only when the juvenile's welfare is endangered or separation is in the interest of public safety.

### **Support**

Under Virginia law, parents or spouses who fail in their obligations to support and maintain their dependents may be required by the court or the Division of Child Support

Enforcement to provide such support. To begin a support case, the person seeking support should contact either the Division of Child Support Enforcement (by calling this toll-free number 1-800-468-8894) or the local court service unit intake officer. An explanation of the options available in seeking support either through the Division of Child Support Enforcement (which may file a petition in court or use other methods) or by personally filing a petition with the intake officer will be explained.

In juvenile and domestic relations district courts, either a civil support case or a criminal desertion/non-support case may be filed. In a civil case, any spouse or parent found by the court to owe a duty to provide support and maintenance may be ordered to make periodic payments in a manner prescribed by the court and may be required to post a performance bond. In criminal cases, any spouse or parent found by the court to have failed in his/her duty to provide support and maintenance is guilty of a misdemeanor, and is subject to a fine of up to \$500 and up to 12 months in jail. Persons failing to make support payments may lose their professional or occupational license or their driver's license. In place of or in addition to paying a fine and/or being sent to jail, a judge may order the spouse or parent to make certain periodic payments in a manner prescribed by the court. The judge may then release the negligent spouse or parent on the condition that he/she comply with all conditions of the court's order.

Any person subject to such an order who continues to fail to provide support in the manner ordered by the court may be jailed or be required to post a bond. The court may (and in some cases must) require that support payments be deducted by the employer from the earnings of the spouse or parent who fails to pay support. Persons summoned to court who fail to appear will also be charged with contempt of court and are subject to immediate arrest; the support hearing will continue in their absence.

## **IV. Appeals**

If a juvenile appeals a delinquency conviction to the circuit court, the judge, the Commonwealth or the juvenile may request a jury trial. The jury determines whether the juvenile defendant is guilty or not guilty. If the jury finds the defendant guilty, the judge will sentence the juvenile.

If you do not understand the appeal process, please ask the judge or your attorney for answers.

## **General Information for Individuals with Disabilities**

In accordance with the Americans with Disabilities Act, Virginia's Judicial System has adopted a policy of non-discrimination in access to its facilities, services, programs, and activities. Individuals with disabilities who need accommodation in order to have access to court facilities or to participate in Judicial System functions are invited to request assistance from court staff. Individuals who need printed material published by the Judicial System in another format or who have general questions about the Judicial System's non-discrimination policies and procedures may contact the ADA Coordinator, Department of Human Resources, Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Third Floor, Richmond, Virginia 23219, (804) 786-6455. Detailed information on this [policy](#) is available on Virginia's Judicial System Web site, [www.courts.state.va.us](http://www.courts.state.va.us). Individuals with disabilities who believe they have been discriminated against may file a complaint in accordance with the Judicial System's ADA Grievance Procedure, which is available from the ADA Coordinator and on Virginia's Judicial System Web site. Virginia's Judicial System does not discriminate on the basis of disability in hiring or employment practices.