

## Frequently asked questions regarding expanded jurisdiction at the Court of Appeals of Virginia

### What is the jurisdiction of the Court of Appeals of Virginia?

As a result of Senate Bill 1261, beginning January 1, 2022, the Court of Appeals of Virginia will become the intermediate appellate court for all criminal and civil appeals from Circuit Courts throughout the Commonwealth. Importantly, these cases will become appeals of right (except for criminal appeals brought by the Commonwealth). The Court of Appeals also hears appeals of final decisions of the Virginia Workers' Compensation Commission.

The Court of Appeals also has original jurisdiction to issue writs of mandamus, prohibition, and habeas corpus in any case over which the Court would have appellate jurisdiction, and writs of actual innocence based on nonbiological evidence. The Court of Appeals also has jurisdiction to hear interlocutory appeals and petitions for review of injunctions through a discretionary petition process.

### Where can I find the Rules of Court?

The Rules of Court can be found here: <https://www.vacourts.gov/courts/scv/rulesofcourt.pdf>

Part Five A addresses the Court of Appeals.

### My petition for appeal was granted by order issued in 2021 and that order indicates that I need to file an appendix and an appeal bond. Do I still have to file those items?

You will not have to file an appeal bond. See Code § 8.01-676.1.

You **will not** have to file an appendix if the trial court record in your case is **electronic**.

You **will** have to file an appendix if the trial court record in your case is **paper**.

### I have a criminal appeal currently pending in the Court of Appeals. What happens to that appeal in 2022?

Status of Case	Court of Appeals Action
Trial court record not yet received by the Court of Appeals	You will receive correspondence from the Court notifying you that once the record is received you will be required to file an opening brief
Trial court record has been received by the Court of Appeals but my petition for appeal has not yet been filed	You will receive an order from the Court detailing the new briefing schedule in your case
Petition for appeal has been filed with the Court of Appeals but the Court has not yet issued a ruling	You will receive an order from the Court instructing you to file an opening brief and detailing the new briefing schedule in your case.

Please also see Rule 5A:19(b) regarding filing times for appeals as a matter of right.

### I'm going to file a notice of appeal with a Circuit Court on behalf of the defendant in a criminal case. Who should I include in the certificate of service on the notice of appeal?

Please see Rule 5A:6(d)(3).

The notice of appeal must be served on the Commonwealth's Attorney that prosecuted the case along with the Office of the Attorney General of Virginia at [noticesofappeal@oag.state.va.us](mailto:noticesofappeal@oag.state.va.us) or mailed to Notices of Appeal, Office of the Attorney General of Virginia, 202 North Ninth Street, Richmond, Virginia 23219.

### Am I still required to file an appeal bond with the Circuit Court?

Please see Code § 8.01-676.1

Senate Bill 1261 eliminated the appeal bond requirement for criminal cases.

### I'm filing an opening brief. Is an appendix still required?

Please see Rule 5A:25.

If the trial court record was transmitted to the Court of Appeals in electronic format, an appendix is not required, and all references should be to the trial court record.

If the trial court record was transmitted to the Court of Appeals in paper format, an appendix must be filed along with the opening brief.

The notice this Court issues acknowledging receipt of the trial court record will indicate whether that record was transmitted to the Court of Appeals in electronic or paper format.

### How do I gain access to a digital trial court record?

The notice this Court issues acknowledging receipt of the trial court record will indicate whether that record was transmitted to the Court of Appeals in electronic or paper format. If electronic, the notice will also contain a link to the trial court record. You will be able to download the contents of the trial court record via that link.

Further, records of the Court of Appeals of Virginia can be requested by email at [cavrecordrequests@vacourts.gov](mailto:cavrecordrequests@vacourts.gov).

### My appeal was denied prior to January 1, 2022. Can I restart the appeal process under the new Rules?

The new appellate rules are not retroactive. If your matter was denied or decided on the merits, then, if not time barred, you should consider filing a petition for rehearing or appealing to the Supreme Court of Virginia.

Additionally, under certain circumstances, you may be entitled to a delayed appeal pursuant to Code § 19.2-321.1. If you are awarded a delayed appeal, your new criminal appeal will be an appeal of right.