

## VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 12th day of January, 2021.*

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective immediately.

Amend Rule 1:24(d) as follows:

### **Rule 1:24. Requirements for Court Payment Agreements for the Collection of Fines and Costs.**

\* \* \*

(d) Conditions of a payment agreement. — All the fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement must include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court must take into account the defendant's financial resources and obligations, including any fines and costs the defendant owes in other courts. In assessing the defendant's ability to pay, the court must use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations.

\* \* \*

Amend Rule 1:25 as follows:

### **Rule 1:25. Specialty Dockets.**

(a) *Definition of and Criteria for Specialty Dockets.* —

\* \* \*

(b) *Types of Specialty Dockets.* — The Supreme Court of Virginia currently recognizes only the following three types of specialty dockets: (i) drug treatment court dockets as provided for in the Drug Treatment Court Act, § 18.2-254.1, (ii) veterans dockets, and (iii) behavioral health dockets as provided for in the Behavioral Health Docket Act, § 18.2-254.3. Drug treatment court dockets offer judicial monitoring of

intensive treatment and strict supervision in drug and drug-related cases. The dispositions in the family drug treatment court dockets established in juvenile and domestic relations district courts may include family and household members as defined in Virginia Code § 16.1-228. Veterans dockets offer eligible defendants who are veterans of the armed services with substance dependency or mental illness a specialized criminal specialty docket that is coordinated with specialized services for veterans. Behavioral health dockets offer defendants with diagnosed behavioral or mental health disorders judicially supervised, community-based treatment plans, which a team of court staff and mental health professionals design and implement.

\* \* \*

(e) *Oversight Structure.* — By order, the Chief Justice of the Supreme Court may establish a Specialty Docket Advisory Committee and appoint its members. The Chief Justice may also establish separate committees for each of the approved types of specialty dockets. The members of the Veterans Docket Advisory Committee, the Behavioral Health Docket Advisory Committee, and the committee for any other type of specialty docket recognized in the future by the Supreme Court will be chosen by the Chief Justice. The State Drug Treatment Court Advisory Committee established pursuant to Virginia Code § 18.2-254.1 constitutes the Drug Treatment Court Docket Advisory Committee.

\* \* \*

Amend Part One Appendix of Forms, Form 3-A, Paragraph XI as follows:

**3-A. Alternate Uniform Pretrial Scheduling Order For Use in Eminent Domain Proceedings (Rule 1:18B).**

**XI. Deposition Transcripts to be Used at Trial**

Counsel of record must confer and attempt to identify and resolve all issues regarding the use of depositions at trial. It is the obligation of the proponent of any deposition of any non-party witness who will not appear at trial to advise opposing counsel of record of counsel's intent to use all or a portion of the deposition at trial at the earliest reasonable opportunity. Other than trial depositions taken after completion of discovery under

Paragraph II, designations of portions of non-party depositions, other than for rebuttal or impeachment, must be exchanged no later than 30 days before trial, except for good cause shown or by agreement of counsel. It becomes the obligation of the non-designating parties of any such designated deposition to file any objection or counter-designation within seven days after the proponent's designation. Further, it becomes the obligation of the non-designating parties to bring any objections or other unresolved issues to the court for hearing no later than 5 days before the day of trial.

Amend Rule 2:504 as follows:

**Rule 2:504. Spousal Testimony and Marital Communications Privileges (Rule 2:504(a) derived from Code § 8.01-398; and Rule 2:504(b) derived from Code § 19.2-271.2)**

*(a) Privileged Marital Communications in Civil Cases.*

1. Persons married to each other are competent witnesses to testify for or against each other in all civil actions.

\* \* \*

*(b) Spousal Testimony in Criminal Cases.*

1. In criminal cases persons married to each other are allowed and, subject to the Rules of Evidence governing other witnesses, may be compelled to testify in behalf of each other, but neither may be compelled to be called as a witness against the other, except (i) in the case of a prosecution for an offense committed by one against the other, against a minor child of either, or against the property of either; (ii) in any case where either is charged with forgery of the name of the other or uttering or attempting to utter a writing bearing the allegedly forged signature of the other; or (iii) in any proceeding relating to a violation of the laws pertaining to criminal sexual assault (§§ 18.2-61 through 18.2-67.10), crimes against nature (§ 18.2-361) involving a minor as a victim and provided the defendant and the victim are not married to each other, incest (§ 18.2-366), or abuse of children (§§ 18.2-370 through 18.2-371). The failure of either spouse to testify, however, creates no presumption against the accused, nor be the subject of any comment before the court or jury by any attorney.

\* \* \*

Add Rule 2:508 as follows:

**Rule 2:508. Protected Information; Newspersons Engaged in Journalism. [Derived from Code § 19.2-271.5]**

A. As used in this Rule, unless the context requires a different meaning:

"Journalism" means the gathering, preparing, collecting, photographing, recording, writing, editing, reporting, or publishing of news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public.

"News organization" means any (i) newspaper or magazine issued at regular intervals and having a general circulation; (ii) recognized press association or wire service; (iii) licensed radio or television station that engages in journalism; or (iv) business that, by means of photographic or electronic media, engages in journalism and employs an editor overseeing the journalism function that follows commonly accepted journalistic practice as evidenced by (a) membership in a state-based journalism organization, including the Virginia Press Association and the Virginia Association of Broadcasters; (b) membership in a national journalism organization, including the National Press Club, the Society of Professional Journalists, and the Online News Association; (c) membership in a statewide or national wire news service, including the Capital News Service, The Associated Press, and Reuters; or (d) its continuous operation since 1994 or earlier.

"Newsperson" means any person who, for a substantial portion of his livelihood or for substantial financial gain, engages in journalism for a news organization. "Newsperson" includes any person supervising or assisting another person in engaging in journalism for a news organization.

"Protected information" means information identifying a source who provided information to a newsperson under a promise or agreement of confidentiality made by a news organization or newsperson while such news organization or newsperson was engaging in journalism.

B. Except as provided in subpart C, no newsperson may be compelled by the Commonwealth or a locality in any criminal proceeding to testify about, disclose, or produce protected information. Any protected information obtained in violation of this subsection is inadmissible

for any purpose in an administrative or criminal proceeding.

C. A court may compel a newsperson to testify about, disclose, or produce protected information only if the court finds, after notice and an opportunity to be heard by such newsperson, that:

1. The protected information is necessary to the proof of an issue material to an administrative or criminal proceeding;
2. The protected information is not obtainable from any alternative source;
3. The Commonwealth or locality exhausted all reasonable methods for obtaining the protected information from all relevant alternative sources, if applicable; and
4. There is an overriding public interest in the disclosure of the protected information, including preventing the imminent threat of bodily harm to or death of a person or ending actual bodily harm being inflicted upon a person.

D. The publication by a news organization or the dissemination by a newsperson of protected information obtained while engaging in journalism does not constitute a waiver of the protection from compelled testimony, disclosure, and production provided by subpart B.

Amend Rule 3A:14 as follows:

**Rule 3A:14. Trial Jurors.**

(a) *Examination.* — After the prospective jurors are sworn on the voir dire, the court must question them individually or collectively to determine whether anyone:

(1) Is related by blood, adoption, or marriage to the accused or to a person against whom the alleged offense was committed;

\*                    \*                    \*

(7) Has any reason to believe the juror might not give a fair and impartial trial to the Commonwealth and the accused based solely on the law and the evidence.

Thereafter, consistent with the provisions of Code § 19.2-262.01, the court, and counsel as of right, may examine on oath any prospective juror and ask any questions relevant to the qualifications as an impartial juror. A party objecting to a juror may introduce competent evidence in support of the objection.

Amend Rule 7B:12 as follows:

**Rule 7B:12. Appeal by One Party; Perfection of Appeal by Other Parties.**

(a) As provided in Code § 16.1-106(B), in civil cases, the filing of a timely notice of appeal by one party from a judgment relating to a claim, counterclaim, cross-claim or third-party claim, or another appealable order of the general district court, is deemed a timely notice of appeal by any other party on a final order or judgment entered in the same or a related action arising from the same conduct, transaction, or occurrence.

(b) All parties are required to timely perfect their own respective appeals by giving a bond and paying the writ tax and costs, if any, in accordance with Code § 16.1-107.

A Copy,

Teste:



Clerk