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# Virginia Judicial Workload Assessment Report

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## **Judicial Needs Assessment Committee**

### **Circuit Court:**

The Honorable William N. Alexander II, Judge  
Twenty-second Judicial Circuit

The Honorable Pamela S. Baskerville, Judge  
Eleventh Judicial Circuit

The Honorable J. Martin Bass, Judge  
Fifteenth Judicial Circuit

The Honorable Thomas D. Horne, Judge  
Twentieth Judicial Circuit

The Honorable Wilford Taylor, Jr., Judge  
Eighth Judicial Circuit

The Honorable Faye W. Mitchell, Clerk  
First Judicial Circuit

### **General District Court:**

The Honorable R. Edwin Burnette, Jr., Judge  
Twenty-fourth Judicial District

The Honorable Mary B. Malveaux, Judge  
Fourteenth Judicial District

The Honorable, Jacqueline F. Ward Talevi, Judge  
Twenty-third Judicial District

The Honorable Joseph S. Tate, Judge  
Twenty-eighth Judicial District

The Honorable, J. William Watson, Jr., Judge  
Tenth Judicial District

Ms. Connie S. Comer, Clerk  
Twenty-ninth Judicial District

### **Juvenile and Domestic Relations District Court**

The Honorable Michele J. Atkins, Judge  
Fourth Judicial District

The Honorable H. Lee Chitwood, Judge  
Twenty-seventh Judicial District

The Honorable Anita D. Filson, Judge  
Twenty-fifth Judicial District

The Honorable Janine M. Saxe, Judge  
Nineteenth Judicial District

The Honorable Frank W. Somerville, Judge  
Sixteenth Judicial District

Ms. Ann B. Lloyd, Clerk  
Twenty-sixth Judicial District

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## EXECUTIVE SUMMARY

This report describes, in detail, the National Center for State Courts' (NCSC) study of judicial workload and judicial boundary realignment in the Commonwealth of Virginia, conducted between May 2012 and October 2013. The project began with a directive from the General Assembly to the Supreme Court of Virginia to "develop and implement a weighted caseload system to precisely measure and compare judicial caseloads throughout the Commonwealth on the circuit court, general district court, and juvenile and domestic relations district court levels," and recommend a plan for the realignment of the circuit and district boundaries.<sup>1</sup> The primary goals of the study were to:

- Develop a valid measure of judicial workload in all circuit and district courts, taking into account variations in complexity among different case types, as well as differences in the non-case-related responsibilities of judges in single-jurisdiction and multi-jurisdiction circuits and districts;
- Evaluate the current allocation of judicial resources;
- Establish a transparent and empirically driven formula for the Supreme Court and the General Assembly to use in determining the appropriate level of judicial resources in each circuit and district; and
- Examine judicial boundary realignment.

### Project Design

The evaluation of judicial workload and judicial boundary realignment was structured around several complementary activities. The NCSC worked to:

- Establish case type categories and compile accurate filing counts for each case type category.
- Establish a baseline of current practice. NCSC staff conducted a five-week statewide time study to measure the amount of time judges currently spend on various case type categories and activities throughout the day (including case-related and non-case-related activities). A total of 375 full-time judges, or 97 percent of all Virginia trial court judges, participated in the time study. Forty-one retired judges also participated. The high participation rate ensured sufficient data to develop an accurate and reliable portrait of current practice.
- Gain an in-depth understanding of the issues judges face in the effective handling of their cases. NCSC staff visited circuit, general district, and juvenile and domestic relations district courts in 11 judicial circuits and districts covering 44 jurisdictions. Additionally, a Web-based survey was administered to all circuit, general district, and juvenile and domestic relations district court judges statewide. The survey asked judges to identify particular tasks, if any, where additional time would allow them to more effectively handle their cases.

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<sup>1</sup> Va. Acts of Assembly Ch. 601 (2012)

- Provide a qualitative review of current practice. Three separate quality adjustment sessions were held with Delphi groups of seasoned judges, one for each court type. The judges in each group were asked to bring their expertise to bear on assessing the quality of current case processing and, when deemed necessary, make recommendations for potential adjustments to the preliminary time study results.
- Provide insight into the usage of judicial resources in multi-jurisdiction circuits and districts. All chief judges in multi-jurisdiction circuits and districts completed a court schedule survey.

Project staff met regularly throughout the project with an advisory committee of judges and clerks (known as the Judicial Needs Assessment Committee) to seek input concerning the project. Following the Delphi sessions, the Committee reviewed a final set of quality-adjusted case weights and proposals for judicial boundary realignment.

The basic methodology used by the NCSC is the calculation of the average amount of work time judges devote to different types of cases. Because cases vary according to complexity, the average times, called “case weights,” also vary. When the case weights are applied to filings in individual jurisdictions, the workload in minutes or hours can be calculated. The total judicial need is estimated by dividing workload by the amount of time per year that a judge has available to do case-related work (the judge-year value).

## **Project Results**

### ***Judicial Workload***

Application of the weighted caseload model shows that the current judicial workload for circuit court, general district court, and juvenile and domestic relations district court exceeds the capacity of the existing complement of judges.

Additional judges are needed to enable Virginia's trial court judiciary to manage and resolve court business effectively and without delay.

- Circuit court has an implied need of 171 FTE judges. The weighted caseload model shows a need to fill nearly all current vacancies as well as creating an additional 13 judgeships to add to the current total of 158 authorized judgeships.
- General district court has a need for 124 FTE judges. As of July 1, 2013 there were 118 sitting judges (with nine vacancies), indicating a need to fill at least six of the vacant positions.
- Juvenile and domestic relations district court shows a need for 134 FTE judicial positions. This is an increase of 17 judgeships from the current total of 117 authorized judicial positions.

NCSC strongly recommends that the General Assembly begin to fill judicial vacancies, and in some instances create new authorized judicial positions.

### ***Judicial Boundary Realignment***

The weighted caseload model also provides the Commonwealth of Virginia with a means to more precisely measure and compare judicial workload across circuits and districts and examine existing judicial boundaries. The boundary realignment analysis was guided by the following principles: an efficient use of judicial resources; an equitable allocation of judicial resources among circuits and districts; uniform judicial boundaries for judicial circuits and districts; contiguity; respect for communities of interest; and preserving the basic shape of existing judicial circuits and districts.

A reassessment of the judicial boundaries led to the conclusions that the Commonwealth of Virginia retain the current court structure and existing jurisdictional boundaries. The study found that:

- No scheme of judicial boundary realignment can reduce the total judicial workload in the Commonwealth's trial courts or result in an appreciable change in the total number of judges required to handle that workload at a statewide level;
- Changing judicial boundaries, in and of itself, will not reduce the number of judges needed. The need for judges as well as the equitable allocation of judicial positions should be based on the weighted caseload model;
- While it is possible to find a few instances where combining two or more jurisdictions at the circuit level will suggest a greater "efficiency", this new configuration of circuits generally does not translate to a greater efficiency at the district court level and may even result in an increase in judicial need at the general district or juvenile and domestic relations district court level; and
- Leaving current circuit/district boundaries intact preserves existing communities of interest and minimizes the impact on established local funding, service, and partnership arrangements.

The NCSC found no concrete benefits to be gained from realigning circuit and district boundaries or moving to a regional model, and therefore, recommends that the Commonwealth of Virginia retain the current court structure and existing jurisdictional boundaries.

## **Recommendations**

The National Center for State Courts offers these recommendations as a way to ensure the effective use of the workload model for analyzing judicial workload in Virginia's courts to produce maximum benefit for the courts and citizens of the Commonwealth of Virginia, and to preserve the integrity and utility of the workload model into the future.

### ***Recommendation 1***

The General Assembly should consider filling judicial vacancies, and in some cases creating new judicial positions, in circuits and districts where the weighted caseload model shows a need for additional judicial resources.

Any plan for the realignment of judicial boundaries or the redistribution of judicial resources in Virginia's trial courts should therefore be informed by an analysis of judicial workload using the weighted caseload model described in this report.

### ***Recommendation 2***

The manner in which retired and substitute judges are used should be reevaluated, with an eye towards implementing a more formalized statewide system for assigning retired or senior status judges. Qualitative data from the sufficiency of time survey and site visits suggest that the regular usage of substitute judges may compromise the efficiency and quality of case processing.

### ***Recommendation 3***

Over time, the integrity of a weighted caseload model may be affected by multiple influences, such as changes in legislation, case law, legal practice, and technology. A systematic review of the model should be conducted on a periodic basis.

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*“Judicial redistricting studies require extensive data collection and the analysis of actual judicial workload. The preferred method of judicial workload analysis is the weighted caseload study.”*

*- Judicial Boundary Realignment Study Report, p. 1*

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## I. INTRODUCTION

In 2012, the General Assembly directed the Supreme Court of Virginia to “develop and implement a weighted caseload system to precisely measure and compare judicial caseloads throughout the Commonwealth on the circuit court, general district court, and juvenile and domestic relations district court levels” and to make a recommendation for the realignment of circuit and district boundaries based upon this system.<sup>2</sup> In fulfillment of this mandate, the Office of the Executive Secretary of the Supreme Court of Virginia contracted with the National Center for State Courts (hereafter NCSC) to develop a weighted caseload system and address the issue of boundary realignment.

This report describes the methodology and results of the Virginia Judicial Workload Assessment and investigation into boundary realignment, conducted between May, 2012 and October, 2013. The project’s primary goals were to:

- Develop a valid measure of judicial workload in all circuit and district courts in the Commonwealth of Virginia, taking into account variations in complexity among different case types, as well as differences in the non-case-related responsibilities of judges in single-jurisdiction and multi-jurisdiction circuits and districts;
- Evaluate the current allocation of judicial resources;

- Establish a transparent and empirically driven formula for the Supreme Court and the General Assembly to use in determining the appropriate level of judicial resources in each circuit and district; and
- Examine judicial boundary realignment.

The need for financial and resource accountability in government is a strong stimulus to develop a systematic method to assess the need for judges. The state-of-the-art technique for assessing judicial need is a weighted caseload study because raw, unadjusted filings offer only minimal guidance regarding the amount of judicial work generated by those case filings. While case counts have a role in determining the demands placed on state judicial systems, they are silent about resources needed to process the vast array of cases effectively. Simply stated, weighted caseload is used to translate court caseload into workload.

State court caseloads vary in complexity, and different types of cases require different amounts of judicial time and attention. A key advantage of weighted caseload over other methods to assess need for resources is that it analyzes the mix of case filings rather than the total number of filings. Merely summing the total number of cases filed is not a good indicator of the amount of time it will take to dispose of that caseload. In the absence of explicit case weights, all cases, whether

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<sup>2</sup> Va. Acts of Assembly Ch. 601 (2012)

uncontested divorces, felonies, complex civil matters, or traffic offenses are counted equally, or in other words, given a weight of one. Focusing on case counts without assessing the differences in judicial work means that 1,000 traffic cases are equivalent to 1,000 felony cases. Yet, it is universally acknowledged that some types of cases (e.g., more complex civil matters such as medical malpractice and asbestos litigation) are just more burdensome than other cases. Because unweighted cases are not directly tied to workload, they offer only minimal guidance for estimating the need for judges. Therefore, a measure of the amount of judicial work to be done is a precondition to determining the need for judicial resources. For this reason, the NCSC believes that a comprehensive program of judicial workload assessment is the best method for measuring case complexity and determining the need for judicial officers. The weighted caseload formula was developed using a highly participatory multi-method data collection strategy. Key features of this strategy include:

- A statewide time study providing a detailed empirical profile of the amount of time Virginia judges currently spend handling cases of various types—including both on-bench and off-bench work—as well as other essential judicial functions such as travel and administrative work;
- Qualitative input gathered from judges across the state through an on-line survey and a series of 33 site visits (met with each court type in 11 circuits/districts);
- A quality adjustment process designed to ensure that the weighted caseload formula allows sufficient time for efficient and effective case resolution; and
- An advisory Committee of judges and court clerks to offer input and advice.

The final workload formula yields a clear and objective assessment of judicial workload and the number of judges required to handle that workload on a statewide basis and in each circuit and district, allowing policymakers to make informed decisions regarding matters such as the allocation of judicial resources and redrawing judicial circuit and district boundaries.

*NCSC Independence and Competence.* The NCSC is particularly well suited to conduct the Virginia Judicial Workload Assessment because of its experience, expertise and knowledge of the justice system. Founded in 1971, the NCSC is an independent, nonprofit court improvement organization. All of NCSC's services — research, information services, education, consulting — are designed to help courts plan, make decisions, and implement improvements that save time and money, while ensuring judicial administration that supports fair and impartial decision-making. For more than two decades, a key focus of NCSC expertise has been on the development and use of systematic methods for assessing the need for judges. The NCSC is the leader in weighted caseload for courts and their justice system partners, with studies conducted at every level of government, for almost every type of justice system position. In all, the NCSC has conducted more than 50 workload and staffing assessments in the last 10 years. These studies have been performed in a variety of contexts—statewide and local efforts, general and limited jurisdiction courts—and have involved judges, quasi-judicial officers, probation officers, attorneys, and administrative and clerical staff.



## II. JUDICIAL NEEDS ASSESSMENT COMMITTEE

To provide input and guidance throughout the project, the NCSC requested that the Chief Justice of the Virginia Supreme Court form the Judicial Needs Assessment Committee (JNAC or Committee). The Committee consisted of 15 judges and three court clerks representing circuit, general district, and juvenile and domestic relations district courts across the Commonwealth. The full Committee met four times over the course of the project, in addition to multiple sub-committee meetings held to identify case types. Committee responsibilities included:

- Advising the project team on the definitions of case types and case-related and non-case-related events to be used during the time study;
- Reviewing and endorsing the results of the time study and the quality adjustment process; and
- Reviewing and commenting on alternative boundary realignment approaches and models.

### A. Case Type Categories

Because the weighted caseload model assumes that more complex case types require more judicial time to resolve, defining the case type categories is a critical first step in the workload assessment. The goal is to identify a manageable number of case type categories that are recognized as legally and logically distinct, associated with different amounts of judicial work, and covering the full range of case types adjudicated in Virginia's trial courts. For purposes of this study, 16 case types were defined for circuit court, eight for general district court, and nine for juvenile and domestic relations district court.<sup>3</sup> Exhibit 1 lists the case type categories; Appendix A provides a detailed definition for each category.

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<sup>3</sup> Eleven case type categories were originally selected for juvenile and domestic relations district court, including separate categories for protective orders involving juvenile and adult respondents, as well as a category for involuntary commitments. Because the numbers of cases in the juvenile protective order and involuntary commitment categories were too small to support the development of a valid case weight, the juvenile protective order and adult protective order categories were combined, and involuntary commitments were added to the juvenile miscellaneous category.

## Exhibit 1: Case Type Categories

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### Circuit Court

Capital Murder  
Felonies (non-capital) and Related Matters  
Misdemeanor  
Other Criminally Related Matters  
Administrative Law  
Contested Divorce  
Uncontested Divorce  
Other Domestic and Family - Level 1 (more complex)  
Other Domestic and Family - Level 2 (less complex)  
General Civil - Level 1 (more complex)  
General Civil - Level 2 (intermediate complexity)  
General Civil - Level 3 (less complex)  
Probates/Wills and Trusts - Level 1 (more complex)  
Probates/Wills and Trusts - Level 2 (less complex)  
Protective Order  
Miscellaneous (civil)

### General District Court

Garnishments and Interrogatories  
General Civil  
Landlord/Tenant  
Involuntary Commitment  
Protective Order  
Felony  
Misdemeanor  
Traffic Infraction/Civil Violation

### Juvenile & Domestic Relations District Court

Child Dependency  
Child in Need of Services/Supervision  
Custody and Visitation  
Juvenile Miscellaneous  
Delinquency  
Traffic  
Adult Criminal  
Protective Order  
Support

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## B. Case-Related and Non-Case-Related Events

To cover the full range of judicial work, separate definitions of both case-related and non-case-related events were developed for each court type. Case-related events include all on-bench and off-bench activities directly associated with

the resolution of individual cases, from filing through post-disposition activity. Exhibit 2 describes the case-related event categories for each court type; Appendix B gives examples of specific activities that fall into each category.

## Exhibit 2: Case-Related Events

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### ***Circuit Court***

Pre-Trial	Includes all on-bench and off-bench activity related to proceedings that occur prior to the trial or other dispositional proceeding. Includes all off-bench research and preparation related to pre-trial activities.
Non-Trial/ Uncontested Disposition	Includes all on-bench and off-bench activity related to any non-trial proceeding that disposes of the entire case. Includes all off-bench research and preparation related to non-trial dispositions.
Bench Trial/Contested Disposition	Includes all on-bench and off-bench activity related to a trial in which the judge is the finder of fact. Includes all off-bench research and preparation related to bench trials, and sentencing following a bench trial.
Jury Trial	Includes all on-bench and off-bench activity related to a trial in which a jury is the finder of fact. Includes all off-bench research and preparation related to jury trials, and sentencing following a jury trial.
Post-Judgment/Post-Disposition	Includes all on-bench and off-bench activity that occurs after the entry of judgment.

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### ***General District Court***

Pre-Trial	Includes all on-bench and off-bench activity related to proceedings that occur prior to the trial or other dispositional proceeding. Includes all off-bench research and preparation related to pre-trial activities.
Non-Trial/Uncontested Disposition	Includes all on-bench and off-bench activity related to any non-trial proceeding that disposes of the entire case. Includes all off-bench research and preparation related to non-trial dispositions.
Trial/Contested Disposition	Includes all on-bench and off-bench activity related to a trial. Includes all off-bench research and preparation related to trials, and sentencing after conviction at trial.
Post-Judgment/Post-Disposition	Includes all on-bench and off-bench activity that occurs after the entry of judgment.

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### ***Juvenile & Domestic Relations District Court***

Pre-Disposition	Includes all on-bench and off-bench activity that occurs prior to a proceeding that results in the entry of an appealable order.
Disposition	Includes all on-bench and off-bench activity related to a proceeding that results in the entry of an appealable order.
Post-Disposition	Includes all on-bench and off-bench activity that occurs after the entry of an appealable order.

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Some essential judicial activities and responsibilities, such as court administration, travel among various courts within a circuit or district, and committee meetings, are not directly related to a particular case before the court. These activities are defined as “non-case-

related” events. To simplify data collection, sick leave, vacation time, and lunch and breaks were also included as non-case-related events. Exhibit 3 lists the non-case-related event categories; Appendix C provides specific examples of activities that fall into each category.

**Exhibit 3: Non-Case-Related Events**

<b>Circuit Court/General District Court</b>	<b>Juvenile &amp; Domestic Relations District Court</b>
Non-Case-Related Administration	Non-Case-Related Administration
General Legal Research	General Legal Research
Judicial Education and Training	Judicial Education and Training
Committee Meetings, Other Meetings, and Related Work	Committee Meetings, Other Meetings, and Related Work
Community Activities and Public Outreach	Juvenile Driver's License Ceremonies
Work-Related Travel	Community Activities and Public Outreach
Vacation, Sick Leave, and Holidays	Work-Related Travel
Lunch and Breaks	Vacation, Sick Leave, and Holidays
NCSC Time Study	Lunch and Breaks
	NCSC Time Study

### III. TIME STUDY

To establish a baseline measure of current practice, project staff conducted a statewide time study in which trial court judges recorded the amount of time they spent on cases of each case type category as well as on non-case-related work. Separately, counts of filings by case type category and jurisdiction were assembled. NCSC staff used the time study results and caseload data to calculate the average number of minutes currently spent resolving cases within each case type category (preliminary case weights). Informed by the time study data, the amount of time judges in various types of courts actually spent on case-related work during a typical work year was specified. Finally, NCSC staff used data from the time study and a weekly reporting form<sup>4</sup> to analyze how courts are currently using retired and substitute judges to compensate for unfilled vacancies and handle excess workloads.

#### A. Time Study

From October 15, 2012 through November 16, 2012, all circuit and district court judges in the Commonwealth of Virginia were asked to track all of their working time by case type category and case-related event (for case-related work), or by non-case-related event (for non-case-related work), using a Web-based form.<sup>5</sup> Retired judges who were not filling in for an absent judge—in other words, those used to increase the court’s overall capacity to handle cases rather than to cover for a sitting judge’s short-term absence—also participated. A total of 375 full-time judges, or 97 percent of all Virginia trial court

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<sup>4</sup> Each chief judge was asked to provide the name of the retired or substitute judge sitting, the jurisdiction receiving assistance, and the date, the reason and the estimated time that the retired judge sat. This information, together with the time study data reported by active and retired judges, helped to ensure that the time spent by all judges was captured.

<sup>5</sup> The time study was originally scheduled to end on November 11, 2012 but was extended to compensate for court closures resulting from Hurricane Sandy.

judges, participated in the time study. Forty-one retired judges also participated. This high participation rate ensured sufficient data to develop an accurate and reliable portrait of current practice.

#### B. Caseload Data

To translate the time study data, which represent the aggregate amount of time judges spend processing all cases of each type, into the preliminary case weights, which represent the average amount of judicial time expended on a single case of each type, it was necessary to determine how many individual cases of each type are filed on an annual basis. The Office of the Executive Secretary (OES) provided filing data for 2010, 2011, and 2012, broken down by case type category and jurisdiction.<sup>6</sup> To iron out year-to-year fluctuations in filings data, the caseload data for all three years were used to calculate the average of an annual count of filings within each case type category. Using a three-year annual average rather than the caseload data for one particular year serves to reduce the influence of short-term jumps or drops in particular filing categories, while ensuring long-term trends in the number of filings are incorporated into the model.<sup>7</sup> Exhibit 4 displays the statewide filings by case type and year, along with the annual averages.

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<sup>6</sup> All district courts and 117 of 120 circuit courts use the statewide case management systems developed and maintained by OES. The three circuit court courts that do not use the statewide circuit case management system, Alexandria, Fairfax and Virginia Beach, provided their courts’ caseload data to OES separately so that it could be included in the data provided to the NCSC.

<sup>7</sup> As the result of legislation expanding the class of persons eligible to file for a protective order, protective order filings in general district court increased dramatically between 2011 and 2012. For this case type, 2012 filings were used in place of an average.

**Exhibit 4: Statewide Case Filings, 2010 – 2012\***

	2010	2011	2012	3-year average**
<b>Circuit Court</b>				
Capital Murder	87	84	68	78
Felony (Non-Capital) and Related Matters	123,209	126,227	127,247	125,564
Misdemeanor	43,985	45,080	46,432	45,166
Other Criminally Related Matters	14,112	15,529	15,774	15,140
Administrative Law	633	608	627	623
Contested Divorce	11,224	11,566	11,098	11,298
Uncontested Divorce	25,338	26,013	25,540	25,625
Other Domestic and Family - Level 1 (more complex)	4,789	4,504	5,130	4,806
Other Domestic and Family - Level 2 (less complex)	4,317	4,373	4,590	4,427
General Civil - Level 1 (more complex)	2,268	1,870	1,864	2,001
General Civil - Level 2 (intermediate complexity)	29,114	24,842	18,276	24,079
General Civil - Level 3 (less complex)	12,006	11,603	10,325	11,315
Probates/Wills and Trusts - Level 1 (more complex)	342	631	496	488
Probates/Wills and Trusts - Level 2 (less complex)	2,560	2,445	2,412	2,474
Protective Order	1,118	1,276	1,615	1,333
Miscellaneous (Civil)	52,854	63,825	78,095	64,923
<b>Total Circuit Court</b>	<b>327,956</b>	<b>340,476</b>	<b>349,589</b>	<b>339,340</b>
				3-year average
<b>General District Court</b>				
Garnishments and Interrogatories	207,956	206,862	207,351	207,391
General Civil	416,279	412,793	385,253	404,780
Landlord/Tenant	182,348	178,917	176,351	179,207
Involuntary Commitment	909	1,100	1,264	1,089
Protective Order	612	1,812	10,632	N/A
Felony	99,521	99,929	102,633	100,686
Misdemeanor	652,705	652,117	625,796	643,546
Traffic Infraction***/Civil Violation	874,290	861,674	812,705	849,556
<b>Total General District Court</b>	<b>2,434,620</b>	<b>2,415,204</b>	<b>2,321,985</b>	<b>2,390,606</b>
				3-year average
<b>Juvenile &amp; Domestic Relations District Court</b>				
Child Dependency	19,283	18,367	18,422	18,695
Child in Need of Services/Supervision	1,305	1,355	2,447	1,703
Custody and Visitation	136,504	143,715	143,787	141,331
Juvenile Miscellaneous	10,370	9,952	9,010	9,773
Delinquency	61,014	56,196	55,391	57,532
Traffic	24,190	22,136	20,571	22,294
Adult Criminal	112,986	110,008	110,340	111,110
Protective Order	19,111	19,031	17,956	18,690
Support	103,725	107,248	111,854	107,604
<b>Total Juvenile &amp; Domestic Relations District Court</b>	<b>488,488</b>	<b>488,008</b>	<b>489,778</b>	<b>488,732</b>

\* The filing data for 2010 covers the period September 1, 2009 to August 31, 2010; the filing data for 2011 covers the period September 1, 2010 to August 31, 2011; and the filing data for 2012 covers the period September 1, 2011 to August 31, 2012.

\*\*For each individual jurisdiction by court type, the filings for each of the three years were added and used to calculate a 3-year average by case type, rounded to the nearest whole number. The individual jurisdiction 3-year averages were then summed to come up with an overall 3-year average by case type for the circuit court, general district court, and juvenile and domestic relations court.

\*\*\* Filing numbers do not include prepaid traffic infractions

## C. Preliminary Case Weights

The time study and caseload data were used together to calculate preliminary case weights. A preliminary case weight represents the average amount of time a judge currently spends to process each case of a particular type, from filing through all post-disposition activity. The use of separate case weights for different case types accounts for the fact that cases of varying levels of complexity require different amounts of time to resolve effectively. For example, the case weight for felonies should be larger than the case weight for misdemeanors because the typical felony case is more serious and complex in the number of possible witnesses, hearings, and motions, and therefore requires more judicial time than the typical misdemeanor.

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### **What is a preliminary case weight?**

The average amount of time a judge *currently* spends to handle each case of a particular type, from filing through all post-disposition activity.

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The NCSC recommended, and the Committee endorsed the decision, that the workload assessment should result in a single set of case weights for each type of court to estimate judicial need. That is, there is a separate set of statewide case weights for the circuit courts, the general district courts, and the juvenile and domestic relations district courts. The decision to adopt a single set of case weights for each type of court is consistent with the approach used in most other states employing weighted caseload. The use of a single set of case weights for each court type will help to ensure consistent practice and resource equity across the Commonwealth.

To calculate the preliminary case weight for each case type category, all judge time associated with the case type during the time study was summed and weighted to the equivalent of one full year's worth of time, then divided by the corresponding annual filings. For example, the time study data reveal that Virginia circuit court judges currently spend a total of nearly 1.6 million minutes per year processing General Civil – Level 2 cases.<sup>8</sup> Dividing the total time by the annual average circuit court General Civil – Level 2 filings (24,079) yields a preliminary case weight of 68 minutes. This indicates that, on average, circuit court judges in Virginia devote 68 minutes of time to each General Civil – Level 2 case throughout the life of the case. Exhibit 5 shows the calculation of the preliminary case weights for all case type categories. The Committee reviewed and endorsed the preliminary case weights recommended by the NCSC as an accurate representation of the time Virginia's judges currently devote to adjudicating cases.

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<sup>8</sup> See Appendix A for the definition of what is included in this case type category.

## Exhibit 5: Preliminary Case Weights

	Time Study (minutes)	÷	Filings (average)	=	Case Weight (minutes)
<b>Circuit Court</b>					
Capital Murder	58,534	÷	78	=	750
Felony (Non-Capital) and Related Matters	4,988,262	÷	125,564	=	40
Misdemeanor	548,381	÷	45,166	=	12
Other Criminally Related Matters	203,183	÷	15,140	=	13
Administrative Law	64,638	÷	623	=	104
Contested Divorce	1,313,037	÷	11,298	=	116
Uncontested Divorce	279,759	÷	25,625	=	11
Other Domestic and Family - Level 1 (more complex)	586,405	÷	4,806	=	122
Other Domestic and Family - Level 2 (less complex)	376,430	÷	4,427	=	85
General Civil - Level 1 (more complex)	894,285	÷	2,001	=	447
General Civil - Level 2 (intermediate complexity)	1,631,055	÷	24,079	=	68
General Civil - Level 3 (less complex)	315,869	÷	11,315	=	28
Probates/Wills and Trusts - Level 1 (more complex)	68,513	÷	488	=	140
Probates/Wills and Trusts - Level 2 (less complex)	65,070	÷	2,474	=	26
Protective Order	37,689	÷	1,333	=	28
Miscellaneous (Civil)	341,674	÷	64,923	=	5
<b>General District Court</b>					
Garnishments and Interrogatories	140,604	÷	207,391	=	1
General Civil	1,366,417	÷	404,780	=	3
Landlord/Tenant	408,411	÷	179,207	=	2
Involuntary Commitment	6,783	÷	1,089	=	6
Protective Order	155,306	÷	10,632*	=	15
Felony	1,302,639	÷	100,686	=	13
Misdemeanor	3,211,365	÷	643,546	=	5
Traffic Infraction/Civil Violation	1,673,513	÷	849,556	=	2
<b>Juvenile and Domestic Relations District Court</b>					
Child Dependency	645,609	÷	18,695	=	35
Child in Need of Services/Supervision	213,897	÷	1,703	=	126
Custody and Visitation	2,754,812	÷	141,331	=	19
Juvenile Miscellaneous	88,657	÷	9,773	=	9
Delinquency	1,155,876	÷	57,532	=	20
Traffic	205,245	÷	22,294	=	9
Adult Criminal	1,610,280	÷	111,110	=	14
Protective Order	486,053	÷	18,690	=	26
Support	1,459,040	÷	107,604	=	14

\*Filings for 2012 only



## D. Day and Year Values

In every judicial weighted caseload system, three factors contribute to the calculation of judicial need: caseload data (filings), case weights, and the judge year value. The year value is the amount of time each full-time judge has available for case-related work on an annual basis. The relationship among the filings, case weights, and year value is expressed as follows:

$$\frac{\text{Filings x Case Weights (minutes)}}{\text{Judge Year Value (minutes)}} = \text{Judge Need (FTE)}$$

Multiplying the filings by the corresponding case weights calculates the total annual judicial workload in minutes. Dividing the workload by the judge year value yields the total number of full-time equivalent (FTE) judges needed to handle the workload.

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### What is a judge year value?

The amount of time a judge has available for case-related work on an annual basis.

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To develop the judge year value, it is necessary to determine the number of days judges have available for case-related work in each year (judge year), as well as how to divide the work day between case-related and non-case-related time (judge day). Computing a judge year is accomplished by determining how many days must be subtracted from a calendar year to account for weekends, holidays, judicial conferences, vacation days, and sick time. After considering these factors, a judge year of 216 days was calculated for Virginia.<sup>9</sup>

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<sup>9</sup> A judge year of 216 days is consistent with the adopted values in other states. Two-hundred-fifteen days is the median judge year from twenty-two different judicial workload studies conducted by the NCSC. Michigan and Alabama have adopted a judge year of 215 days and Tennessee and North Carolina have adopted a judge year of 217 days.

The weighted caseload model is based on a court being open 8.5 hours per day, typically from 8:30am to 5:00pm. The next step is to determine how to divide the workday into case-related and non-case-related blocks. Case-related time refers to the time each day a judge has available to hear cases, while non-case-related time refers to the time spent on other necessary judicial activities such as administration, travel, and legal research, and time for lunch and breaks. While the judicial workday in each type of court assumes a common baseline of 8.5 hours per day, there are differences in the breakdown between case-related and non-case related time. Non-case-related time is defined as time spent on judicial functions not directly related to case processing, yet essential to the efficiency and effectiveness of court operations. Although judicial time available to process cases will vary daily, the typical day will include the number of hours in the workday less the average time spent daily on such tasks as:

- Docket management
- Administrative time, correspondence, phone calls
- Travel time
- Legal research
- Judicial meetings

In Virginia, differences in the judge-day value arise primarily to compensate for distinct non-case-related activities such as variations in travel and administrative responsibilities among the three court types and between single-jurisdiction and multi-jurisdiction courts. Subtracting non-case-related time, including lunch and breaks, from the 8.5 hour workday produces the case-related Judge Day Value.

The Judge Day Value adopted for each court type in Virginia drew on these policy considerations informed by empirical data from the time study.<sup>10</sup>

To translate each day value into a year value, the judge day value was converted from hours to minutes, then multiplied by the judge year of 216 days. Exhibit 6 shows the final day and year values. Each year value represents the total

number of minutes one judge has available in one year for case-related work. For example, the year value of 75,168 minutes for circuit court judges in single-jurisdiction courts indicates that each judge has 75,168 minutes, or 5.8 hours per day for 216 days per year, to devote to case-related work. Virginia's judicial year values for case-related work are similar to those being used in most other states.

### Exhibit 6: Judge Day and Year Values

	Circuit Court		General District Court		JDR District Court	
	Single Jurisdiction	Multi Jurisdiction	Single Jurisdiction	Multi Jurisdiction	Single Jurisdiction	Multi Jurisdiction
Total working hours per day	8.5	8.5	8.5	8.5	8.5	8.5
Non-case related time (including lunch and breaks)	- 2.7	3.0	3.0	3.3	3.0	3.3
Judge Day Value (hours)	= 5.8	5.5	5.5	5.2	5.5	5.2
Minutes per hour	x 60	60	60	60	60	60
Total Days	x 216	216	216	216	216	216
Judge Year Value (minutes)	= 75,168	71,280	71,280	67,392	71,280	67,392

<sup>10</sup> For example, during the time study, Circuit Court judges in multi-jurisdiction courts spent just under 30 minutes per day on work-related travel. Work-related travel reduces the amount of time judges have available to hear cases. All other non-case-related activities were commensurate; leaving 5.8 hours for case-related work in single-jurisdiction circuits and 5.5 hours in multi-jurisdiction circuits.

## E. Usage of Retired and Substitute Judges

Virginia’s trial courts use retired and substitute judges for two distinct purposes: (1) to fill in for sitting judges who are temporarily on leave or have conflicts, and (2) to hear additional cases beyond the capacity of the court’s regularly sitting judges. Many courts regularly rely upon retired and substitute judges for this second purpose, often as a result of unfilled judicial vacancies or an increase in workload.

To understand how courts are currently using retired and substitute judges to expand their capacity to handle cases, chief judges reported on their courts’ usage of retired and substitute judges during the time study for any purpose. For each retired or substitute judge who worked during the time study, the chief judge reported

the court in which the retired or substitute judge worked, the number of hours worked, and the purpose for which the retired or substitute judge worked (judicial absence, conflict of interest, unfilled vacancy, or excess workload). Project staff then used these data in conjunction with the time study data submitted by retired judges to estimate the number of retired and substitute judges working in each court due to unfilled vacancies and excess workload, in terms of full-time equivalent judges. Exhibit 7 shows the total number of full-time equivalent retired and substitute judges working during the time study for these purposes for each court type; Appendix D breaks down these totals by circuit and district.

### Exhibit 7: Retired and Substitute Judges Handling Additional Work

	Retired and Substitute Judges (FTE)
Circuit Court	7.3
General District Court	5.4
Juvenile & Domestic Relations District Court	3.2

Note: Does not include retired and substitute judges filling in for a regularly sitting judge who is out on leave or due to conflict.

## IV. QUALITY ADJUSTMENTS

The preliminary case weights generated during the time study measure the amount of time judges *currently* spend handling various types of cases, but do not necessarily indicate whether this is the amount of time judges *should* spend. To examine the extent to which current resource constraints impact judicial case processing practices, project staff made *site visits* to conduct interviews with judges in a variety of circuit and district courts, and administered a Web-based *Sufficiency of Time Survey* to all judges statewide. Informed by the survey and interview results as well as their own experience, three panels of judges reviewed and in a few instances recommended adjustments to the preliminary case weights to incorporate sufficient time for efficient and effective case processing.

### A. Site Visits and Sufficiency of Time Survey

#### 1. Site Visits

To gain an in-depth understanding of the issues judges face in the effective handling of their cases, NCSC staff visited circuit, general district, and juvenile and domestic relations district courts in 11 judicial circuits and districts covering 44 jurisdictions. Participating sites included both urban and rural courts from all geographic regions of the state.<sup>11</sup> During the site visits, a total of 79 judges and 18 court staff participated in structured group and individual interviews. The interviews allowed project staff to document procedures and practices believed to increase efficiency and quality, as well as resource constraints that might inhibit effectiveness.

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<sup>11</sup> Site visits were made to the following judicial circuits and districts: 2, 10, 13, 15, 17, 18, 19, 21, 23, 26, and 29.

#### 2. Sufficiency of Time Survey

To provide a statewide perspective on areas of concern in relation to current practice, all circuit, general district, and juvenile and domestic relations district court judges statewide were asked to complete a Web-based survey. For each case-related event (e.g., Pre-Trial, Disposition), judges were asked to identify particular tasks, if any, where additional time would allow them to more effectively handle their cases. Of course, judges had the option to select nothing if they felt no additional time was needed.<sup>12</sup> The survey also included questions regarding non-case-related duties, as well as space for judges to comment freely on their workload.

A total of 102 circuit court judges, 80 general district court judges, and 76 juvenile and domestic relations district court judges completed the survey. In circuit court, judges report a need for additional time to work on civil cases other than domestic relations, address *pendente lite* matters and hold trials in divorce cases, and address post-disposition matters in a variety of case types. General district court judges express a desire for additional time to conduct bond hearings, research legal issues raised during criminal and civil trials, and address probation violations. Juvenile and

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<sup>12</sup> For simplicity, some case-related event categories were combined for purposes of the sufficiency of time survey. The maximum number of selections varied by court type based upon the total number of activities in each event category. Circuit court judges were asked to select up to five activities in each of three categories (Pre-Trial Activities, Trial/Disposition Activities, Post-Judgment/Post-Disposition Activities). General district court judges were asked to select up to three activities in each of three categories (Pre-Trial Activities, Trial/Disposition Activities, Post-Judgment/Post-Disposition Activities). Juvenile and domestic relations district court judges were asked to select up to six activities in each of three categories (Pre-Disposition Activities, Disposition Activities, Post-Disposition Activities).

domestic relations district court judges identify a need for additional time to review case files and reports, ensure that parties' questions and concerns are addressed, review DC-40 and DC-44 forms in more detail<sup>13</sup>, and conduct disposition hearings in custody and visitation cases. Judges in both types of district courts assert a need to spend additional time addressing the needs of self-represented litigants, and judges of all court types desire additional time to prepare written findings and orders.

### ***3. Themes from the Site Visits and Sufficiency of Time Survey***

Taken together, the site visit interviews and the qualitative comments on the sufficiency of time survey reveal several key insights about the resource constraints faced by judges across the state, as well as the impact of these constraints on the efficient and effective handling of cases.

- **Unfilled judicial vacancies create serious challenges.** Many judges and court staff members cite current or anticipated judicial vacancies as the single greatest challenge facing their courts. Unfilled vacancies reduce a court's capacity to handle cases and increase the workload of the remaining judges, potentially resulting in delays, backlogs, and reduced judicial attention to individual cases. Some courts partially compensate for vacancies through the long-term use of retired or substitute judges, although these judges are often assigned to hear only a limited range of proceedings.

*“Unfilled vacancies increase the time it takes to bring a case to trial, negatively impacting the public.”*

*“We are keeping up with the caseload for now, but when one of our judges retires, we fear a reduction in our court's efficiency and effectiveness. We are concerned about the impact on litigants and attorneys.”*

*“The widespread use of substitute judges increases the frequency of errors and appeals.”*

- **Direct interaction with litigants is essential.** Across all three court types, judges stress the importance of fully explaining orders and rulings and addressing the needs of self-represented litigants. Judges assert that taking the time to ensure that the parties fully understand the conditions and requirements of probation, pretrial release, protective orders, and foster care plans can improve compliance, enhancing public safety and child well-being. District court judges also express a need for more time to explain to self-represented litigants their rights and responsibilities, as well as the consequences of waiving the right to an attorney. These types of direct interaction between judges and litigants can ultimately improve both efficiency and case outcomes, as well as enhance perceptions of procedural justice.

*“I would like more time to explain rulings to the litigants and counsel and, in particular, answer their questions. I feel this would shorten litigation.”*

*“I think the litigants go away more satisfied about the trial process if they hear the judge's reasoning which underlies the ruling.”*

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<sup>13</sup> The DC-40 (List of Allowances) and the DC-44 (List of Allowances - Interpreter) are district court forms used by vendors (e.g., court-appointed counsel, guardians ad litem, interpreters) to submit a claim for their fees or services. Upon submission by the vendor, the form must be reviewed and signed by the judge thereby authorizing payment.

*“With self-represented litigants, additional time would allow me to better explain burden of proof and their responsibilities as plaintiffs prior to coming to trial. In some criminal cases, an explanation of what must be proven by the Commonwealth to obtain a conviction could influence how the defendant decides to plead and could even help to avoid trials.”*

*“Potential positive results as to behavior changes in kids involved in CHINS and dependency cases are lost if there is not enough time to talk with them and make it clear why it is important to comply with court expectations.”*

- **Where they are provided, law clerks enhance the efficiency and quality of circuit court case processing.** In some jurisdictions, local funding provides law clerks to assist circuit court judges. Law clerks can prepare case summaries, take notes during hearings, and perform in-depth legal research, enabling judges to make more timely decisions. Law clerks can also conduct immediate research on legal issues that arise during the course of a hearing or trial, enabling the case to proceed without delay. Law clerks can also assist in drafting opinions and orders, review orders and case files, answer questions from attorneys and pro se litigants, and review applications for concealed weapons permits, saving judges’ time and increasing the court’s efficiency.

*“In our circuit, we have no law clerks. Clerks would be helpful to help draft opinions and free up time for judges to rule on cases.”*

*“Law clerks would enable us to do more in-depth opinion writing.”*

- **Technology is key to efficiency.** Judges who sit in multiple courthouses frequently note that the remote availability of case files allows them to prepare in advance for upcoming hearings, and to take advantage of

courtroom downtime to work on other cases. Conversely, in multi-jurisdiction courts where documents are not available electronically, judges have little opportunity to review case files before taking the bench. More generally, judges in both single-jurisdiction and multi-jurisdiction courts remark on the gains in both efficiency and quality associated with computerized scheduling and paperless files.

*“I travel so much and never seem to be where the files are for upcoming matters that I need to study. In the jurisdiction where all documents are electronically stored, I review all documents on line, and my judicial assistant e-mails me the dockets and necessary reports well in advance of my physical presence in that court.”*

*“Electronic means for scheduling of civil motions saves labor and errors.”*

*“Paperless files have made everything we do better.”*

*“I use the computer intensively to organize, to maintain my calendar, to communicate with staff on and off the bench, to write letters and opinions, to review files and the daily dockets, to maintain a bank of research and opinions, and for any other time-saving purpose I discover.”*

- **Courts across the state are continually striving for improvement.** Despite some challenges, many judges point out that their courts regularly reevaluate their docketing and case processing practices to identify opportunities for improvement. Judges also cite collegiality on the bench and highly dedicated court clerks as factors critical to their courts’ success in managing heavy dockets.

*“The judges are not afraid to be innovative when scheduling dockets or handling dispositions of cases. As to docket management, we are frequently reevaluating the scheduling of cases in an effort to provide timely access to the court and to minimize inconvenience to the public.”*

*“Working with various stakeholders, we developed a set of Best Practices [for a particular case type] that now serves as a model for courts around the state. These Best Practices ensure due process and improve efficiency in the administration of justice. Our court holds monthly meetings with the clerk and external agencies involved with the court. We constantly modify procedures to become more efficient and deliver services better.”*

*“Our court’s greatest strength is its clerk’s office. Our Clerk of Court is highly intelligent, innovative, and detail-oriented. Her staff, despite a remarkably high workload and inadequate compensation, performs at a high level, which allows the judges to manage our overcrowded dockets as effectively as possible.”*

*“Our greatest strength is the ability of all of our judges to work well together and distribute the work equitably.”*

## **B. Delphi Groups**

To provide a qualitative review of the preliminary case weights, project staff facilitated a series of three separate quality adjustment sessions with Delphi groups of seasoned judges, one for each court type. Delphi group members were selected from a representative variety of single-jurisdiction and multi-jurisdiction courts across the state. During each Delphi session, NCSC staff provided group members with a brief overview of the process used to develop the preliminary case weights, followed by a review of the sufficiency of time survey and site visit results.

Using a variant on the Delphi method—a structured, iterative process for decision-making by a panel of experts—judges engaged in a systematic review of the preliminary case weights. Group members drew on current practice (as measured by the time study), judicial perspective (as measured by the sufficiency of time survey and the site visits), and their personal experience on the bench to make recommendations regarding the content of the final case weights. Each group was asked to:

1. Review each preliminary case weight by case type and event and identify specific case types and activities where additional time would allow a judge to more effectively handle the case, as well as areas where efficiency might be gained;
2. Within particular case types, recommend adjustments to the time allotted to specific case-related functions;
3. Provide an explicit rationale to support any proposed increase or reduction in judicial time; and
4. Review and revise the recommended adjustments until a consensus was reached that all adjustments were necessary and reasonable.

This process ensures that the statewide perspective gained from the site visits and sufficiency of time survey, along with the input of all Delphi group members, is incorporated into the final workload model.

## **C. Incorporating Quality Adjustments Into the Case Weights**

The Delphi groups evaluated the case weights by focusing on distinct case-related events within each case type category. For each adjustment, the group was asked to specify both the amount of time to be added or subtracted and the percentage of cases in which this adjustment was required (frequency of adjustment). For example, the juvenile and domestic relations

district court Delphi group recommended adding 10 minutes to the pre-disposition activity event in 25% of child dependency cases. This adjustment was recommended in order to allow judges additional time to review CASA reports, home studies, and psychological reports, enabling them to assess recommended services, ask better questions of the parties and witnesses in court, make better decisions, and ultimately provide better service to children and families.

Before being incorporated into the appropriate case weight, each adjustment was multiplied by the corresponding frequency. For example, the 10-minute adjustment for pre-disposition activity in child dependency cases was multiplied by 25% to yield a net case weight adjustment of 2.5 minutes per case.<sup>14</sup>

As another example, members of the circuit court Delphi group saw the need for spending additional time on pretrial matters for a small percentage of General Civil, Level 1 (more complex) cases. By increasing the time by 40 minutes in 10% of the cases, the group sought to provide judges with extra time in the most complex cases to review the case file in advance of the court date and respond to pretrial motions (e.g., motions in limine, pleas in bar, demurrers). Likewise, the group added time to a small proportion of trials to provide judges with additional time to write a reasoned opinion or fashion an oral ruling in more complicated cases. Exhibit 8 details the calculation of the adjusted case weight for General Civil - Level 1 (more complex) cases.

**Exhibit 8: Delphi Adjustments to General Civil—Level 2 Case Weight**

<b>Event/Rationale</b>	<b>Quality Adjustment (minutes)</b>	<b>x</b>	<b>Frequency of Adjustment</b>	<b>=</b>	<b>Net Adjustment (minutes)</b>
<i>Pre-Trial Activity</i>					
Prepare for trial and respond to motions	40	x	10.0%	=	4.00
<i>Non-Trial/Uncontested Disposition</i>					
No adjustment	--	x	--	=	--
<i>Trial/Contested Disposition</i>					
Consider cases taken under advisement and write reasoned opinion or fashion oral ruling	600	x	.5%	=	3.00
<i>Post-Judgment/Post-Disposition Activity</i>					
No adjustment	--	x	--	=	--
Total Adjustment (minutes)					7
Preliminary Case Weight (minutes)					447
Quality-Adjusted Case Weight (minutes)					454

<sup>14</sup> For events that do not occur in every case (e.g., trial/contested disposition), each adjustment was multiplied by both the frequency of adjustment and the percentage of cases in which the event occurs (frequency of event). After all recommended adjustments were added to each case weight, the case weights were rounded to the nearest minute.



Following the Delphi sessions, JNAC reviewed and endorsed the Delphi groups' recommendations. Exhibit 9 shows the preliminary and quality-adjusted case weights for all case type categories. Appendix E contains a detailed list of the Delphi adjustments, along with the rationale for each adjustment. Many of the recommended increases in time are offset by corresponding reductions to the time allocated to other activities. For example, the general district court Delphi group recommended adding time to

the felony and misdemeanor case weights to explain sentence conditions more fully. Because defendants' improved understanding of the conditions of probation is expected to result in fewer probation violations, the group recommended a reduction in the case weight to account for the decrease in violation hearings. On a statewide basis, the Delphi adjustments result in a combined increase in judicial workload of 1.7 percent.

## Exhibit 9: Preliminary and Quality-Adjusted Case Weights

<i>Circuit Court</i>	Filings	<u>Case Weights (minutes)</u>		Delphi
		Time Study	Delphi	FTE Change
Capital Murder	78	750	750	
Felony (non-capital) and Related Matters	125,564	40	40	~
Misdemeanor	45,166	12	12	
Other Criminally Related Matters	15,140	13	13	
Administrative Law	623	104	104	
Contested Divorce	11,298	116	124	1.2
Uncontested Divorce	25,625	11	11	
Other Domestic and Family-Level 1	4,806	122	122	
Other Domestic and Family-Level 2	4,427	85	85	
General Civil- Level 1	2,001	447	454	.2
General Civil-Level 2	24,079	68	68	
General Civil-Level 3	11,315	28	28	
Probate/Wills and Trusts-Level 1	488	140	140	
Probate/Wills and Trusts-Level 2	2,474	26	26	
Protective Order	1,333	28	28	
Miscellaneous (civil)	64,923	5	5	
<b>Total</b>	<b>339,340</b>			<b>1.4</b>

<i>General District Court</i>	Filings	<u>Case Weights (minutes)*</u>		Delphi
		Time Study	Delphi	FTE Change
Garnishments and Interrogatories	207,391	.7	.8	.3
General Civil	404,780	3.4	3.4	~
Landlord/Tenant	179,207	2.3	2.4	.3
Involuntary Commitment	1,089	6.0	6.0	
Protective Order	10,632	15.0	15.0	~
Felony	100,686	13.0	13.0	~
Misdemeanor	643,546	5.0	5.0	~
Traffic Infraction/Civil Violation	849,556	2.0	2.0	~
<b>Total</b>	<b>2,396,887</b>			<b>.6</b>

<i>Juvenile &amp; Domestic Relations District Court</i>	Filings	<u>Case Weights (minutes)</u>		Delphi
		Time Study	Delphi	FTE Change
Child Dependency	18,695	35	39	1.1
Child in Need of Services/Supervision	1,703	126	126	
Custody and Visitation	141,331	19	20	2.0
Juvenile Miscellaneous	9,773	9	9	
Delinquency	57,532	20	20	
Traffic	22,294	9	9	
Adult Criminal	111,110	14	15	1.6
Protective Order	18,690	26	27	.3
Support	107,604	14	14	~
<b>Total</b>	<b>488,732</b>			<b>5.0</b>

~ Adjustments made by the Delphi group did not result in a change to the case weight

\* Case weights of 5 minutes and under are rounded to the nearest tenth of one minute

## V. CALCULATION OF TOTAL JUDICIAL NEED

At the conclusion of the quality adjustment process, the total number of judges needed in each circuit and district was calculated using the quality-adjusted case weights. First, each circuit/district total workload in minutes was calculated by multiplying the annual filings for each case type category by the corresponding case weight, then summing the result for all case type categories. The circuit/district total workload was then divided by the appropriate judge year value to yield the total number of judges needed to handle the court's workload.

Finally, an additional .1 FTE was added to each circuit/district judicial need to compensate for the additional non-case-related duties of the chief judge.<sup>15</sup> This chief judge adjustment is common in statewide judicial workload studies and acknowledges the importance of the administrative responsibilities of the chief judge to the smooth running of each circuit and district. Exhibit 10 provides an example of the calculation of judicial need for the 1<sup>st</sup> Judicial District, general district court.

### Exhibit 10: Calculation of Judicial Need, 1<sup>st</sup> Judicial District, General District Court

Case Type	Filings (2010 - 2012 average)		Quality-Adjusted Case Weight (minutes)		Workload (minutes)
Garnishments and Interrogatories	7,918	x	.8	=	6,334
General Civil	20,652	x	3.4	=	70,217
Landlord/Tenant	6,526	x	2.4	=	15,662
Involuntary Commitment	1	x	6	=	6
Protective Order	400	x	15	=	6,000
Felony	3,162	x	13	=	41,106
Misdemeanor	16,484	x	5	=	82,420
Traffic Infraction/Civil Violation	20,595	x	2	=	41,190
Total Workload (minutes)					262,936
Judge Year Value (minutes)					÷ 71,280
Implied Judge Need (FTE)					3.7
Chief Judge Adjustment (FTE)					+ 0.1
Total Implied Judge Need (FTE)					3.8

<sup>15</sup> The amount of the chief judge adjustment was based upon data from the time study.

Exhibits 11, 12, and 13 compare the implied judge need based upon the quality-adjusted case weights with the number of authorized judges for circuit court, general district court, and juvenile and domestic relations district court. For example, in Exhibit 12, the implied judge need in the 1st Judicial District is 3.8 FTE after the chief judge adjustment is made. The 1st Judicial District has four sitting/authorized judges and no vacancies, indicating that the court has sufficient judicial resources to handle its workload.

As can be seen in Exhibits 11, 12 and 13, weighted caseload calculations normally result in estimates of judicial need that contain fractional judgeships (e.g., 6.4 judges in the 7th Judicial Circuit). In some instances when implied need exceeds the number of sitting judges (e.g., an implied need of 3.2 judicial FTEs in a circuit with 3 sitting judges), the current complement of judges in a given circuit or district can organize to handle the additional workload, perhaps with the periodic assistance of a retired or substitute judge. However, at some point, the additional workload crosses a threshold that means the circuit/district needs another full-time judicial position to effectively resolve the cases entering the court. The main issue is to identify the threshold. In other words, develop a method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district.

The NCSC recommends using the Equal Proportions Method (EPM) as a reasonable way to guide the rounding decision, apportion judicial resources, and determine a target for the number of authorized judicial positions needed for each court type in Virginia. Since 1930, the U.S. Congress has apportioned seats in the House of Representatives using this method.<sup>16</sup> The column labeled Implied Need with EPM

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<sup>16</sup> In addition, the formula has been recommended by a committee of respected mathematicians appointed by the National Academy of Sciences.

Rounding (FTE) in Exhibits 11, 12 and 13 shows the results of the rounding process. The number of judicial FTE positions in this column shows the NCSC recommendation for the number of judgeships by circuit and district necessary to reasonably handle current workload.<sup>17</sup> The EPM Rounding total is then compared to the current number of authorized judicial positions and the difference calculated. In addition, Appendix F shows the number of judicial vacancies as of July 1, 2013.

- Overall, as shown in Exhibit 11, circuit court has an implied need of 169.5 FTE judges, with the EPM rounded number of 171 FTE judges. Therefore, the weighted caseload results show a need to fill nearly all current vacancies as well as adding an additional 13 judges to the current total of 158 authorized judgeships.
- On a statewide basis, general district court shows a need for 124.9 FTE judges; the EPM rounded number is 124 FTE judges (Exhibit 12). In comparison, as of July 1, 2013 there are 127 authorized judgeships, including 9 vacancies, for a total of 118 sitting judges. This indicates a need to fill at least 6 of the vacant positions.
- Juvenile and domestic relations district court shows a statewide need for 133.1 FTE judges, with the EPM rounding total of 134 judicial positions. The weighted caseload model shows a need for an increase of 17 judgeships from the current total of 117 authorized judicial positions (Exhibit 13).

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<sup>17</sup> Another important characteristic of the Equal Proportions Method is that it provides a way to prioritize the circuits/districts with greatest judicial need.

**Exhibit 11: Circuit Court -- Summary of Judicial Need and Availability**

Circuit	Implied Need (FTE)	Implied Need w/ chief (FTE)	Implied Need with EPM Rounding (FTE)	Total Authorized Judges	Judicial Need*
1	4.5	4.6	5	5	
2	8.6	8.7	9	10	- 1
3	4.2	4.3	4	5	- 1
4	8.2	8.3	8	9	- 1
5	3.1	3.2	3	3	
6	2.6	2.7	3	2	1
7	6.3	6.4	6	5	1
8	2.7	2.8	3	4	- 1
9	3.9	4.0	4	4	
10	4.1	4.2	4	3	1
11	2.7	2.8	3	3	
12	5.8	5.9	6	5	1
13	7.5	7.6	8	8	
14	4.8	4.9	5	5	
15	11.0	11.1	11	9**	2
16	5.4	5.5	6	5	1
17	2.7	2.8	3	4	- 1
18	4.1	4.2	4	3	1
19	14.5	14.6	15	15	
20	4.6	4.7	5	4	1
21	2.4	2.5	2	3	- 1
22	4.7	4.8	5	4	1
23	5.4	5.5	5	6	- 1
24	5.0	5.1	5	5	
25	5.1	5.2	5	4	1
26	7.5	7.6	8	5	3
27	6.9	7.0	7	5	2
28	3.5	3.6	4	3	1
29	5.2	5.3	5	4	1
30	3.7	3.8	4	3	1
31	5.7	5.8	6	5	1
	166.4	169.5	171	158	13

\*A positive number indicates additional judicial need beyond the number of current authorized judges

\*\*Effective July 1, 2013, the number of authorized circuit court judgeships in the Fifteenth Judicial Circuit was increased by one bringing the total authorized judgeships to nine.

**Exhibit 12: General District Court -- Summary of Judicial Need and Availability**

District	Implied Need (FTE)	Implied Need w/ chief (FTE)	Implied Need with EPM Rounding (FTE)	Total Authorized Judges	Judicial Need*
1	3.7	3.8	4	4	
2	7.1	7.2	7	7	
2A	1.0	1.1	1	1	
3	1.9	2.0	2	3	- 1
4	5.6	5.7	6	6	
5	2.3	2.4	2	3	- 1
6	4.4	4.5	4	4	
7	3.7	3.8	4	4	
8	2.9	3.0	3	3	
9	3.0	3.1	3	3	
10	2.5	2.6	3	3	
11	2.9	3.0	3	2	1
12	5.3	5.4	5	4	1
13	6.3	6.4	6	8	- 2
14	5.0	5.1	5	4	1
15	7.8	7.9	8	6	2
16	4.1	4.2	4	4	
17	2.6	2.7	3	4	- 1
18	1.3	1.4	2	2	
19	10.5	10.6	11	11	
20	3.4	3.5	4	4	
21	1.1	1.2	1	2	- 1
22	2.2	2.3	2	2	
23	4.3	4.4	4	5	- 1
24	3.3	3.4	3	4	- 1
25	3.4	3.5	3	5	- 2
26	5.2	5.3	5	4	1
27	4.7	4.8	5	5	
28	2.1	2.2	2	2	
29	1.6	1.7	2	2**	
30	1.3	1.4	2	2	
31	5.2	5.3	5	4	1
	121.7	124.9	124	127	- 3

\*A positive number indicates additional judicial need beyond the number of current authorized judges

\*\*Although there are three general district court judges authorized by the Code of Virginia for the Twenty-ninth Judicial District, the General Assembly has, on a long term basis, only authorized filling two of these judgeships.

**Exhibit 13: Juvenile and Domestic Relations District Court -- Summary of Judicial Need and Availability**

District	Implied Need (FTE)	Implied Need w/ chief (FTE)	Implied Need with EPM Rounding (FTE)	Total Authorized Judges	Judicial Need*
1	3.4	3.5	4	3	1
2	6.5	6.6	7	7	
2A	.8	.9	1	1	
3	2.7	2.8	3	3	
4	5.1	5.2	5	5	
5	2.2	2.3	2	2	
6	2.4	2.5	2	2	
7	3.7	3.8	4	4	
8	2.9	3.0	3	3	
9	3.6	3.7	4	3	1
10	3.5	3.6	4	3	1
11	2.6	2.7	3	2	1
12	5.9	6.0	6	5	1
13	4.3	4.4	4	5	- 1
14	5.3	5.4	5	5	
15	9.8	9.9	10	7	3
16	5.9	6.0	6	4	2
17	1.6	1.7	2	2	
18	1.7	1.8	2	2	
19	6.5	6.6	7	8	- 1
20	3.3	3.4	3	3	
21	2.2	2.3	2	2	
22	3.9	4.0	4	3	1
23	4.7	4.8	5	4	1
24	5.8	5.9	6	5	1
25	4.7	4.8	5	4	1
26	6.6	6.7	7	5	2
27	5.3	5.4	5	4	1
28	2.6	2.7	3	2	1
29	3.0	3.1	3	2	1
30	2.1	2.2	2	2	
31	5.3	5.4	5	5	
	129.9	133.1	134	117	17

\*A positive number indicates additional judicial need beyond the number of current authorized judges

For multi-jurisdiction districts and circuits, implied need was also calculated at the county and city level. Exhibits 14, 15, and 16 show judge need at the county/city level for circuit court, general district court, and juvenile and domestic relations district court. For example, in Exhibit 15, the 20th Judicial District shows an implied judge need for the general district court of 3.4 FTE, with a need of .8 FTE in Fauquier, 2.5 FTE in Loudon, and .1 FTE in

Rappahannock. When adding the chief judge adjustment, the total need for the 20<sup>th</sup> Judicial District is 3.5 FTE. The Implied Need with EPM Rounding shows that the workload in this judicial district exceeds the established fractional judge threshold and justifies a need for four authorized judges. This is consistent with the four authorized general district court judgeships in the 20th Judicial District.



**Exhibit 14: Circuit Court - County and City Level Analysis of Judicial Need (FTE)**

County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)	County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)
Chesapeake	4.5			Amelia	.2		
Circuit 1 Total	4.5	4.6	5.0	Dinwiddie	.6		
Accomack	.6			Nottoway	.3		
Northampton	.3			Petersburg	1.3		
Virginia Beach	7.7			Powhatan	.3		
Circuit 2 Total	8.6	8.7	9.0	Circuit 11 Total	2.7	2.8	3.0
Portsmouth	4.2			Chesterfield	5.1		
Circuit 3 Total	4.2	4.3	4.0	Colonial Heights	.7		
Norfolk	8.2			Circuit 12 Total	5.8	5.9	6.0
Circuit 4 Total	8.2	8.3	8.0	Richmond	7.5		
Isle of Wight	.5			Circuit 13 Total	7.5	7.6	8.0
Southampton	.8			Henrico	4.8		
Suffolk	1.8			Circuit 14 Total	4.8	4.9	5.0
Circuit 5 Total	3.1	3.2	3.0	Caroline	.8		
Brunswick	.4			Essex	.2		
Greensville	.4			Fredericksburg	1.5		
Hopewell	.7			Hanover	1.8		
Prince George	.7			King George	.6		
Surry	.1			Lancaster	.2		
Sussex	.3			Northumberland	.2		
Circuit 6 Total	2.6	2.7	3.0	Richmond County	.1		
Newport News	6.3			Spotsylvania	2.2		
Circuit 7 Total	6.3	6.4	6.0	Stafford	3.0		
Hampton	2.7			Westmoreland	.4		
Circuit 8 Total	2.7	2.8	3.0	Circuit 15 Total	11.0	11.1	11.0
Charles City	.1			Albemarle	1.4		
Gloucester	.7			Charlottesville	.8		
King & Queen	.1			Culpeper	.8		
King William	.2			Fluvanna	.5		
Mathews	.1			Goochland	.3		
Middlesex	.2			Greene	.3		
New Kent	.3			Louisa	.6		
Williamsburg	1.2			Madison	.2		
York	1.0			Orange	.5		
Circuit 9 Total	3.9	4.0	4.0	Circuit 16 Total	5.4	5.5	6.0
Appomattox	.3			Arlington	2.7		
Buckingham	.3			Circuit 17 Total	2.7	2.8	3.0
Charlotte	.2			Alexandria	4.1		
Cumberland	.2			Circuit 18 Total	4.1	4.2	4.0
Halifax	1.0			Fairfax	14.5		
Lunenburg	.3			Circuit 19 Total	14.5	14.6	15.0
Mecklenburg	1.1						
Prince Edward	.7						
Circuit 10 Total	4.1	4.2	4.0				

**Exhibit 14: Circuit Court (continued)**

County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)	County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)
Fauquier	1.2			Bland	.1		
Loudoun	3.3			Carroll	.9		
Rappahannock	.1			Floyd	.4		
<b>Circuit 20 Total</b>	<b>4.6</b>	<b>4.7</b>	<b>5.0</b>	Giles	.6		
Henry	1.2			Grayson	.5		
Martinsville	.7			Montgomery	1.7		
Patrick	.5			Pulaski	1.3		
<b>Circuit 21 Total</b>	<b>2.4</b>	<b>2.5</b>	<b>2.0</b>	Radford	.4		
Danville	2.0			Wythe	1.0		
Franklin County	1.4			<b>Circuit 27 Total</b>	<b>6.9</b>	<b>7.0</b>	<b>7.0</b>
Pittsylvania	1.3			Bristol	.9		
<b>Circuit 22 Total</b>	<b>4.7</b>	<b>4.8</b>	<b>5.0</b>	Smyth	1.0		
Roanoke	3.1			Washington	1.6		
Roanoke County	1.6			<b>Circuit 28 Total</b>	<b>3.5</b>	<b>3.6</b>	<b>4.0</b>
Salem	.7			Buchanan	1.1		
<b>Circuit 23 Total</b>	<b>5.4</b>	<b>5.5</b>	<b>5.0</b>	Dickenson	.5		
Amherst	.5			Russell	1.3		
Bedford	1.1			Tazewell	2.3		
Campbell	1.0			<b>Circuit 29 Total</b>	<b>5.2</b>	<b>5.3</b>	<b>5.0</b>
Lynchburg	2.1			Lee	.8		
Nelson	.3			Scott	1.0		
<b>Circuit 24 Total</b>	<b>5.0</b>	<b>5.1</b>	<b>5.0</b>	Wise	1.9		
Alleghany	.7			<b>Circuit 30 Total</b>	<b>3.7</b>	<b>3.8</b>	<b>4.0</b>
Augusta	1.3			Prince William	5.7		
Bath	.1			<b>Circuit 31 Total</b>	<b>5.7</b>	<b>5.8</b>	<b>6.0</b>
Botetourt	.8			<b>Statewide Total</b>	<b>166.4</b>	<b>169.5</b>	<b>171.0</b>
Buena Vista	.2						
Craig	.1						
Highland	.0						
Rockbridge	.6						
Staunton	.7						
Waynesboro	.6						
<b>Circuit 25 Total</b>	<b>5.1</b>	<b>5.2</b>	<b>5.0</b>				
Clarke	.3						
Frederick	1.7						
Page	.5						
Rockingham	2.2						
Shenandoah	.7						
Warren	1.0						
Winchester	1.1						
<b>Circuit 26 Total</b>	<b>7.5</b>	<b>7.6</b>	<b>8.0</b>				

**Exhibit 15: General District Court - County and City Level Analysis of Judicial Need (FTE)**

County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)	County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)
Chesapeake	3.7			Appomattox	.2		
District 1 Total	3.7	3.8	4.0	Buckingham	.2		
Virginia Beach	7.1			Charlotte	.2		
District 2 Total	7.1	7.2	7.0	Cumberland	.1		
Accomack	.6			Halifax	.5		
Northampton	.4			Lunenburg	.1		
District 2A Total	1.0	1.1	1.0	Mecklenburg	.8		
Portsmouth	1.9			Prince Edward	.4		
District 3 Total	1.9	2.0	2.0	District 10 Total	2.5	2.6	3.0
Norfolk	5.6			Amelia	.2		
District 4 Total	5.6	5.7	6.0	Dinwiddie	.9		
Franklin City	.2			Nottoway	.3		
Isle of Wight	.4			Petersburg	1.2		
Southampton	.4			Powhatan	.3		
Suffolk	1.3			District 11 Total	2.9	3.0	3.0
District 5 Total	2.3	2.4	2.0	Chesterfield	4.6		
Brunswick	.6			Colonial Heights	.7		
Emporia	.6			District 12 Total	5.3	5.4	5.0
Greensville	.9			Richmond	6.3		
Hopewell	.9			District 13 Total	6.3	6.4	6.0
Prince George	.6			Henrico	5.0		
Surry	.1			District 14 Total	5.0	5.1	5.0
Sussex	.7			Caroline	.6		
District 6 Total	4.4	4.5	4.0	Essex	.3		
Newport News	3.7			Fredericksburg	1.3		
District 7 Total	3.7	3.8	4.0	Hanover	1.6		
Hampton	2.9			King George	.2		
District 8 Total	2.9	3.0	3.0	Lancaster	.2		
Charles City	.1			Northumberland	.1		
Gloucester	.5			Richmond County	.1		
King & Queen	.1			Spotsylvania	1.6		
King William	.2			Stafford	1.6		
Mathews	.1			Westmoreland	.2		
Middlesex	.1			District 15 Total	7.8	7.9	8.0
New Kent	.4			Albemarle	1.4		
Williamsburg	.8			Charlottesville	.8		
York	.7			Culpeper	.6		
District 9 Total	3.0	3.1	3.0	Fluvanna	.1		
				Goochland	.2		
				Greene	.2		
				Louisa	.4		
				Madison	.1		
				Orange	.3		
				District 16 Total	4.1	4.2	4.0

**Exhibit 15: General District Court (continued)**

County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)	County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)
Arlington	2.6			Clarke	.2		
District 17 Total	2.6	2.7	3.0	Frederick	.7		
Alexandria	1.3			Page	.3		
District 18 Total	1.3	1.4	2.0	Rockingham	2.0		
Fairfax	10.5			Shenandoah	.6		
District 19 Total	10.5	10.6	11.0	Warren	.6		
Fauquier	.8			Winchester	.8		
Loudoun	2.5			District 26 Total	5.2	5.3	5.0
Rappahannock	.1			Bland	.2		
District 20 Total	3.4	3.5	4.0	Carroll	.5		
Henry	.6			Floyd	.1		
Martinsville	.3			Galax	.2		
Patrick	.2			Giles	.3		
District 21 Total	1.1	1.2	1.0	Grayson	.2		
Danville	1.1			Montgomery	1.3		
Franklin County	.6			Pulaski	.7		
Pittsylvania	.5			Radford	.3		
District 22 Total	2.2	2.3	2.0	Wythe	.9		
Roanoke	2.8			District 27 Total	4.7	4.8	5.0
Roanoke County	1.1			Bristol	.5		
Salem	.4			Smyth	.7		
District 23 Total	4.3	4.4	4.0	Washington	.9		
Amherst	.5			District 28 Total	2.1	2.2	2.0
Bedford	.7			Buchanan	.3		
Campbell	.5			Dickenson	.2		
Lynchburg	1.4			Russell	.4		
Nelson	.2			Tazewell	.7		
District 24 Total	3.3	3.4	3.0	District 29 Total	1.6	1.7	2.0
Alleghany	.4			Lee	.3		
Augusta	.8			Scott	.3		
Bath	.1			Wise	.7		
Botetourt	.5			District 30 Total	1.3	1.4	2.0
Buena Vista	.1			Prince William	5.2		
Craig	.1			District 31 Total	5.2	5.3	5.0
Highland	.0			<b>Statewide Total</b>	<b>121.7</b>	<b>124.9</b>	<b>124.0</b>
Rockbridge	.6						
Staunton	.4						
Waynesboro	.4						
District 25 Total	3.4	3.5	3.0				

**Exhibit 16: Juvenile and Domestic Relations District Court - County and City Level Analysis of Judicial Need (FTE)**

County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)	County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)
Chesapeake	3.4			Appomattox	.4		
District 1 Total	3.4	3.5	4.0	Buckingham	.3		
Virginia Beach	6.5			Charlotte	.3		
District 2 Total	6.5	6.6	7.0	Cumberland	.2		
Accomack	.6			Halifax	.8		
Northampton	.2			Lunenburg	.3		
District 2A Total	.8	.9	1.0	Mecklenburg	.8		
Portsmouth	2.7			Prince Edward	.4		
District 3 Total	2.7	2.8	3.0	District 10 Total	3.5	3.6	4.0
Norfolk	5.1			Amelia	.3		
District 4 Total	5.1	5.2	5.0	Dinwiddie	.6		
Franklin City	.2			Nottoway	.3		
Isle of Wight	.5			Petersburg	1.0		
Southampton	.2			Powhatan	.4		
Suffolk	1.3			District 11 Total	2.6	2.7	3.0
District 5 Total	2.2	2.3	2.0	Chesterfield	5.4		
Brunswick	.3			Colonial Heights	.5		
Emporia	.2			District 12 Total	5.9	6.0	6.0
Greensville	.2			Richmond	4.3		
Hopewell	.8			District 13 Total	4.3	4.4	4.0
Prince George	.6			Henrico	5.3		
Surry	.1			District 14 Total	5.3	5.4	5.0
Sussex	.2			Caroline	.8		
District 6 Total	2.4	2.5	2.0	Essex	.3		
Newport News	3.7			Fredericksburg	.7		
District 7 Total	3.7	3.8	4.0	Hanover	1.5		
Hampton	2.9			King George	.5		
District 8 Total	2.9	3.0	3.0	Lancaster	.2		
Charles City	.1			Northumberland	.2		
Gloucester	.7			Richmond County	.1		
King & Queen	.1			Spotsylvania	2.5		
King William	.2			Stafford	2.7		
Mathews	.2			Westmoreland	.3		
Middlesex	.2			District 15 Total	9.8	9.9	10.0
New Kent	.3			Albemarle	1.0		
Williamsburg	.9			Charlottesville	.9		
York	.9			Culpeper	1.3		
District 9 Total	3.6	3.7	4.0	Fluvanna	.3		
				Goochland	.3		
				Greene	.3		
				Louisa	.8		
				Madison	.3		
				Orange	.7		
				District 16 Total	5.9	6.0	6.0

**Exhibit 16: Juvenile and Domestic Relations District Court (continued)**

County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)	County	Implied Need	Implied Need w/ Chief Judge Adjustment	Implied Need w/ EPM Rounding (FTE)
Arlington	1.6			Clarke	.2		
District 17 Total	1.6	1.7	2.0	Frederick	1.3		
Alexandria	1.7			Page	.6		
District 18 Total	1.7	1.8	2.0	Rockingham	2.0		
Fairfax	6.5			Shenandoah	.8		
District 19 Total	6.5	6.6	7.0	Warren	1.0		
Fauquier	.9			Winchester	.7		
Loudoun	2.3			District 26 Total	6.6	6.7	7.0
Rappahannock	.1			Bland	.1		
District 20 Total	3.3	3.4	3.0	Carroll	.6		
Henry	1.4			Floyd	.3		
Martinsville	.5			Galax	.2		
Patrick	.3			Giles	.5		
District 21 Total	2.2	2.3	2.0	Grayson	.2		
Danville	1.3			Montgomery	1.3		
Franklin County	1.4			Pulaski	1.1		
Pittsylvania	1.2			Radford	.3		
District 22 Total	3.9	4.0	4.0	Wythe	.7		
Roanoke	2.8			District 27 Total	5.3	5.4	5.0
Roanoke County	1.4			Bristol	.6		
Salem	.5			Smyth	.9		
District 23 Total	4.7	4.8	5.0	Washington	1.1		
Amherst	.8			District 28 Total	2.6	2.7	3.0
Bedford	1.7			Buchanan	.6		
Campbell	1.1			Dickenson	.5		
Lynchburg	1.9			Russell	.9		
Nelson	.3			Tazewell	1.0		
District 24 Total	5.8	5.9	6.0	District 29 Total	3.0	3.1	3.0
Alleghany	.6			Lee	.5		
Augusta	1.3			Scott	.4		
Bath	.1			Wise	1.2		
Botetourt	.5			District 30 Total	2.1	2.2	2.0
Buena Vista	.2			Prince William	5.3		
Craig	.1			District 31 Total	5.3	5.4	5.0
Highland	.0			<b>Total</b>	<b>129.9</b>	<b>133.1</b>	<b>134.0</b>
Rockbridge	.5						
Staunton	.7						
Waynesboro	.7						
District 25 Total	4.7	4.8	5.0				

To provide additional insight into the usage of judicial resources in multi-jurisdiction circuits and districts, all chief judges in multi-jurisdiction circuits and districts were asked to complete a court schedule survey. These chief judges were asked to indicate in which jurisdiction each judge in the circuit or district is scheduled to hear cases during a typical five-week rotation period (25 working days).<sup>18</sup> The survey also gathered information on the regular use of retired and substitute judges to cover judicial vacancies. All multi-jurisdiction circuit and district courts responded to the survey.

The scheduling information can be used to untangle the intricate scheduling practices that exist in multi-jurisdiction circuits and districts.

For example, Exhibit 17 displays the scheduling calendar for the two authorized general district court judges of the 22nd Judicial District.

Judge 1 is assigned full-time to Danville General District Court. Judge 2 spends each Wednesday, Thursday and the first and third Friday sitting in the Franklin County General District Court, and each Monday, Tuesday and the second, fourth, and fifth Friday sitting in the Pittsylvania County General District Court.

Exhibit 18 shows an additional scheduling calendar for two judges covering five courts in the 11th Judicial District.

**Exhibit 17: 22th Judicial District, General District Court Schedule**

	Danville	Franklin County	Pittsylvania
Judge 1			
week	M T W R F	M T W R F	M T W R F
1	x x x x x		
2	x x x x x		
3	x x x x x		
4	x x x x x		
5	x x x x x		
Judge 2			
week	M T W R F	M T W R F	M T W R F
1		x x x	x x
2		x x	x
3		x x x	x x
4		x x	x
5		x x	x

<sup>18</sup> The survey took into account the fact that some judges spend time in one court in the morning and a different court in the afternoon. For example in the 6th Judicial District, General District Court, a judge sits in Emporia every Monday morning and in Greenville in the afternoon.

**Exhibit 18: 11th Judicial District, General District Court Schedule**

		Amelia	Dinwiddie	Nottaway	Petersburg	Powhatan
Judge 1						
<u>week</u>		M T W R F	M T W R F	M T W R F	M T W R F	M T W R F
1					x x x x x	
2					x x x x x	
3					x x x x x	
4					x x x x x	
5					x x x x x	
Judge 2						
<u>week</u>		M T W R F	M T W R F	M T W R F	M T W R F	M T W R F
1		x	x			
2		x				
3		x				
4		x				
5		x				

Comparing resource need with judicial staffing at the jurisdictional level helps to identify potential access to justice issues in jurisdictions where the demand for judicial services may outweigh the supply of judges. This type of analysis can also serve as a management tool to assist chief judges in making calendaring assignments in multi-jurisdiction courts. For example, the 11th Judicial District has an implied judge need of 3.0 FTE judges (see

Exhibit 15), or a need for one additional judgeship. Currently, a judge sits in Dinwiddie County on Mondays and Thursdays. This is equivalent to having a .4 FTE judge (10 days on the bench divided by 25 total days) during a typical scheduling block. The workload model suggests a need for .9 FTE judges at the Dinwiddie County General District Court, or approximately 12 extra judge days in a 25 day scheduling block).



## VI. BOUNDARY REALIGNMENT

In 2012, the Virginia General Assembly directed the Supreme Court to "develop and implement a weighted caseload system to precisely measure and compare judicial caseloads throughout the Commonwealth on the circuit court, general district court, and juvenile and domestic relations district court levels."<sup>19</sup> The four primary tasks were to develop:

1. a comprehensive workload model;
2. an objective means of determining the need for judicial positions;
3. an assessment of the optimum distribution of judicial positions throughout the Commonwealth; and
4. a recommended plan for the realignment of the circuit and district boundaries.

The previous sections of this report describe results that relate to the first three tasks. This section focuses on the issue of judicial boundary realignment.

### A. Background

Virginia's 31 judicial circuits and 32 judicial districts were established in 1973 and have remained largely unchanged since that time.<sup>20</sup>

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<sup>19</sup> Va. Acts of Assembly Ch. 601 (2012)

<sup>20</sup> As stated in footnote 1 of the Judicial Boundary Realignment Study Report(2011, p. 3): "In 1977, the Thirty-First Judicial Circuit was created by the General Assembly, consisting of Prince William County and the Cities of Manassas and Manassas Park. The 1977 General Assembly also changed the designation of the Counties of Accomack and Northampton from the Thirty-First Judicial District to Judicial District 2A. The Thirty-First Judicial District was assigned to Prince William County and the Cities of Manassas and Manassas Park. Other boundaries enacted in 1973 for the circuits and districts have remained, with the exception of four localities that were moved to adjacent circuits/districts in the 1980s. Additionally, there

The 2011 General Assembly session saw the introduction of two bills to reduce the number of judicial circuits and districts to 19 each.<sup>21</sup>

Additionally, both bills sought a reduction in the number of authorized judgeships. At the end of the legislative session, the Chair of the Senate Courts of Justice Committee wrote the Chief Justice of the Supreme Court of Virginia to request review of the two bills as well as recommendations on changing the judicial boundary lines, including the number of judges designated to serve in each judicial circuit and district. In response, the Judicial Boundary Realignment Study Committee (Study Committee) was formed. Over the course of approximately eight months, the Study Committee met multiple times; gathered caseload data; sought a wide range of judicial, practitioner and public input; and reviewed multiple models for possible judicial boundary realignment. A detailed report (hereafter JBRS report) was produced by the Office of the Executive Secretary describing the work of the Study Committee and the challenges that arose in evaluating current judicial boundaries.<sup>22</sup> Of primary concern was the recognition that a meaningful effort to ensure efficient allocation and use of judicial resources requires "analysis of actual judicial workload," with the "preferred method of judicial workload analysis [being a] weighted caseload study." (p. 1, JBRS report).

The weighted caseload model described in this report now provides the Commonwealth of Virginia with means to more precisely measure and compare judicial workload across circuits and districts. This system can also serve as the

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have been changes made in the classifications of the cities of the Commonwealth that comprise the circuits and districts."

<sup>21</sup> H.B. 1990, S.B. 1240

<sup>22</sup> 2011 *Judicial Boundary Realignment Study Report*. Supreme Court of Virginia. Office of Executive Secretary.

foundation for a meaningful re-examination of existing judicial boundaries.

## B. Guiding Principles

Judicial boundary realignment should be a process that is guided by clear and credible principles. Virginia's current judicial boundaries have remained essentially unchanged over the course of four decades, and numerous policies, practices, and community partnerships have been established around them, making transparency and credibility especially important. NCSC's approach to the question of judicial boundary realignment draws on results from (1) the weighted caseload study, (2) findings from the 2011 JBRS report, and (3) traditional criteria used by Virginia's General Assembly during its decennial legislative redistricting process.<sup>23</sup> In performing its analysis, NCSC was guided by the following principles:

- *Efficient use of judicial resources.* The judicial case weights developed during this study are designed to provide judges with enough time to efficiently resolve cases coming before the court. The "efficient" solution often connotes, in everyday language, the fastest or cheapest approach. This is not the formal definition of efficiency nor the one we employ. Another way to think of efficiency is as the level of "jurisdictional effectiveness." This definition focuses attention on the goal of efficiency: to use resources in their most productive fashion to produce most of what a jurisdiction values. The NCSC believes that few will argue against the statement that timeliness and individual attention to cases are worthwhile values for courts to pursue.

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<sup>23</sup> Traditional redistricting criteria used by Virginia's General Assembly are taken from *Drawing the Line 2011: Redistricting in Virginia* (Division of Legislative Services, 2010. Richmond, Virginia, p. 23-24). Traditional criteria used include: population equality, contiguity, preserving communities of interest, preserving the basic shape of existing districts, political fairness, and voter convenience and effective administration of elections.

The case weights are intended to give judges adequate time to efficiently achieve the multiple values of an effective court system.

- *Equitable allocation of judicial resources among circuits and districts.* The weighted caseload model provides an objective, common yardstick for determining statewide judicial need as well as assessing the extent to which judicial resources are deployed in an equitable fashion. The boundary model will be used to determine an accurate estimate of judicial need and equitable allocation of judicial positions by jurisdiction.
- *Uniform judicial boundaries for judicial circuits and districts.* A single set of judicial boundaries makes the judicial circuit and district maps more coherent, simplifies appeals, and facilitates the process of implementation.
- *Contiguity.* A circuit/district will consist of contiguous territory; that is, be physically connected without burdening a judge's ability to travel among jurisdictions within the circuit or district. Practically speaking, it is a circuit/district in which one can travel without crossing its border or being impeded by geographic or topographic barriers such as mountains or major waterways.
- *Respect for communities of interest.* Circuit/district lines should not divide communities that have common needs and interests. Important and relevant communities of interest have emerged in Virginia within existing judicial circuits and districts over the past 40 years. The NCSC analysis related to this principle came to similar conclusions as those cited in the *Judicial Boundary Realignment Study*. For example:
  - Citizens and members of the legal community within many established circuits/districts have developed close

cultural ties and well-understood and accepted modes of interaction.

- Longstanding jurisdictional partnerships have developed that if altered through boundary realignment may have sizeable budget and resource implications. Important examples noted in the JBRS report refer to juvenile and domestic relations district courts "where some affected entities (e.g., Court Services Unit (CSU), Court Appointed Special Advocates) are tied to current judicial districts." Establishing new districts may mean reconfiguring CSU branch offices and local budgets. Likewise, new boundaries may mean that other local funding agreements (e.g., shared personnel and technology) within existing circuits and districts will be eliminated or require substantial negotiation. Also, computer systems and databases maintained by the Office of the Executive Secretary that are tied to existing judicial boundaries would need to be adapted for redrawn circuits and districts.
- Specific to judges, redrawn boundaries may result in judges presiding in circuits/districts in which they do not live and interacting with communities with which they are unfamiliar. Knowledge of local resources, services, and sentencing alternatives, for example, can result in better sentencing decisions.

For these reasons, historic alignments of communities should be preserved to the greatest extent possible.

- *Preserving the basic shape of existing judicial circuits and districts.* NCSC takes a conservative position in assessing judicial boundary realignment. Consistent with traditional legislative redistricting criteria used by the Virginia General Assembly, the preference is to retain traditional judicial

boundaries unless consideration of multiple factors makes a compelling case for change. Unless there is strong evidence supporting a need for boundary realignment, NCSC suggests preserving existing boundaries, thereby emphasizing the principles of stability and consistency in jurisdictional design and structure and the provision of judicial services. Moreover, the existing local character and focus is seen as a distinct benefit by judges interviewed during the site visits. Judges tend to believe that current boundaries provide effective public accountability at the local level and keep the provision of justice close to citizens.

The criteria guiding judicial boundary realignment are multifaceted, a blend of quantitative and qualitative factors, and only partially complementary. As a consequence, the weight given to each principle will influence the ultimate recommendation on boundary realignment.

## **C. Boundary Realignment and Judicial Resource Savings**

### ***1. Primary Finding***

A key issue is whether boundary realignment can be used to better organize judicial resources in such a way as to reduce overall judicial need (and consequent expenditures), while ensuring and maintaining reasonable access to justice for Virginia's citizens. Given the disruption to established practices and partnerships inherent in the realignment of judicial boundaries, as well as the cost of implementing the new boundaries, it is essential that any plan for judicial boundary realignment produce a clear benefit to the courts and citizens of the Commonwealth. The results of the weighted caseload analysis are clear. **No scheme of judicial boundary realignment can reduce the total judicial workload in the Commonwealth's trial courts or result in an appreciable change in the total number of judges required to handle that workload at a statewide level.**

The weighted caseload model is key to implementing the General Assembly's directive of determining the "optimum allocation of judicial positions throughout the Commonwealth." Case weights can be used to determine the number of judges needed in each judicial circuit and district. When compared with the number of actual or authorized judicial positions in each circuit and district, the weighted caseload model shows the extent to which judicial resources are both sufficient to do the work and equitably allocated throughout the state. The application of the model shows that, on a statewide level, Virginia's circuit and district courts require additional judicial officers beyond the current number of filled positions (see Exhibits 11, 12, and 13).

This finding has direct implications for addressing the related task of providing "a recommended plan for the realignment of the circuit and district boundaries." First, on a statewide level, current judicial workload for circuit court, general district court and juvenile and domestic relations district court exceeds the capacity of the existing complement of judges. Reconfiguring judicial boundaries will not change the total number of cases filed in the Commonwealth's trial courts, and will therefore have no impact on aggregate trial court workload or the total number of judges needed to handle that workload at a statewide level. In other words, judicial need in Virginia cannot be appreciably reduced through boundary realignment. Additional judgeships are needed to enable Virginia's trial court judiciary to manage and resolve court business effectively and without delay, and to provide equal access to justice throughout the Commonwealth. Regardless of whether judicial boundaries are ultimately realigned, NCSC strongly recommends that the General Assembly begin to fill judicial vacancies, and in some instances create new authorized judicial positions, in line with the results presented in Exhibits 11, 12, and 13.

## ***2. Alternative Approaches Explored***

*Different Circuit and District Configurations.* It may be suggested that efficiencies can be gained by consolidating circuits and districts with fractional need, or where excess capacity in one circuit or district would cancel out a need for additional judges in another circuit or district. For example, if one circuit with three allocated judicial positions had a need for 3.6 FTE judges to handle its workload, and an adjacent circuit had three judges but a need for only 2.4 FTE judges, combining the circuits would create a single circuit with a need of 6.0 FTE judges and six allocated judicial positions. If the circuits were not combined, it would be necessary to allocate an additional full-time judge to the first circuit in order for the court to keep up with its workload.

Examining the weighted caseload output across all three court levels, however, reveals that redrawing existing judicial boundaries carries little potential for such savings in practice. For instance, Exhibits 19, 20 and 21 show examples of where adjacent circuits could potentially be combined so that excess judicial workload in one circuit could be offset by additional capacity in the other. Yet, there is little evidence of corresponding savings to be found by combining these courts at the district court level. Judicial need at one court level (e.g., circuit court) does not necessarily move in tandem with judicial need at another level (e.g., juvenile and domestic relations court). That is, while it is possible to find a few instances where combining two or more jurisdictions at the circuit level will suggest a more "efficient" (i.e., reduced) level of judicial need, this new configuration of localities is then likely to lead to no change or even an increase in judicial need at the general district or juvenile and domestic court level. The three examples with the greatest potential to reduce judicial resource need by combining adjacent circuits are displayed in Exhibits 19, 20, and 21 and discussed below.

Exhibits 19, 20, and 21 are organized as follows:

1. The number of required judicial FTEs (implied need) in the combined circuits/districts is calculated by adding together the implied need in each circuit/district [Column A]
2. The number of required judicial FTE in the current circuits/districts is calculated by using the implied need EPM rounded number [Column B]
3. The number of current authorized judicial positions in each circuit/district is shown in Column C.

The values in each column can be compared to each other and across the three court types.

As illustrated in Exhibit 19, the 7th Judicial Circuit shows a need for 6 judicial FTE (5 authorized positions), while the adjacent 8th Judicial Circuit shows a need for 3 judicial FTE

(4 authorized positions). Combining the two circuits would provide the 9 judges necessary to handle the judicial workload (Column A). If two separate circuits are maintained (as well as the 4 authorized positions in the 8th Judicial Circuit), the model shows the need for 6 judges in the 7th Judicial Circuit leading to a total of 10 judicial positions--an increase of 1 FTE over the combined circuit option. However, using some process to reduce the number of authorized positions over time if workload remains constant in the 8th Judicial Circuit (e.g., eliminate an authorized position following a judicial retirement) would accomplish the same outcome as achieved by combining the two circuits.

Looking across Exhibit 19 shows that judicial need in the 7th and 8th Judicial Districts for both the general district courts and juvenile and domestic relations courts matches the number of currently authorized positions. Combining the 7th and 8th Judicial Districts would have no impact on resource need as implied need matches authorized positions for each court type.

**Exhibit 19: Examining Alternative Circuit and District Configurations, Example 1**

Circuit/ District	County	Circuit Court			General District Court			Juvenile and Domestic Relations District Court		
		[A] Implied Need w/ Combined Circuit	[B] Current Circuit Implied Need w/ EPM Rounding	[C] Total Authorized Judges	[A] Implied Need w/ Combined District	[B] Current District Implied Need w/ EPM Rounding	[C] Total Authorized Judges	[A] Implied Need w/ Combined District	[B] Current District Implied Need w/ EPM Rounding	[C] Total Authorized Judges
7	Newport News	6.3	6.0	5.0	3.7	4.0	4.0	3.7	4.0	4.0
8	Hampton	2.7	3.0	4.0	2.9	3.0	3.0	2.9	3.0	3.0
Combined Total*		9.1	9.0	9.0	6.7	7.0	7.0	6.7	7.0	7.0

\*Combined total for Column A includes a .1 chief judge adjustment for the combined circuit court, combined general district court, or combined juvenile and domestic relations district court. No chief judge adjustment is included at the individual court level.

A second example examines judicial workload in a potential combination of the 12th, 13th and 14th Judicial Circuits (Exhibit 20). In this situation, the implied need from summing across the three circuits is 18.2 (or 18) judicial FTE (Column A). The EPM Rounded total obtained by adding the need in each circuit separately is 19 judicial FTE (Column B). A potential saving of 1 judicial FTE is possible through the combination.

However, when the analysis moves to the general district court level, the implied need obtained by combining the 12th, 13th and 14th Judicial Districts results in a total of 16.7 (or 17) judicial FTE. The sum calculated separately across the three general district courts is 16 FTE. In this case, keeping the districts separate results in a savings of 1 judicial FTE.<sup>24</sup>

**Exhibit 20: Examining Alternative Circuit and District Configurations, Example 2**

		Circuit Court			General District Court			Juvenile and Domestic Relations District Court		
		[A]	[B]	[C]	[A]	[B]	[C]	[A]	[B]	[C]
Circuit/ District	County	Implied Need w/ Combined Circuit	Current Circuit Implied Need w/ EPM Rounding	Total Authorized Judges	Implied Need w/ Combined District	Current District Implied Need w/ EPM Rounding	Total Authorized Judges	Implied Need w/ Combined District	Current District Implied Need w/ EPM Rounding	Total Authorized Judges
12	Chesterfield	5.8	6.0	5.0	5.3	5.0	4.0	5.9	6.0	5.0
13	Richmond	7.5	8.0	8.0	6.3	6.0	8.0	4.3	4.0	5.0
14	Henrico	4.8	5.0	5.0	5.0	5.0	4.0	5.3	5.0	5.0
Combined Total*		18.2	19.0	18.0	16.7	16.0	16.0	15.6	15.0	15.0

\*Combined total for Column A includes a .1 chief judge adjustment for the combined circuit court, combined general district court, or combined juvenile and domestic relations district court. No chief judge adjustment is included at the individual court level.

<sup>24</sup> There are currently 8 authorized general district judicial positions in the 13th Judicial District and an implied need of 6.4. There is currently a vacancy that could be maintained to better equalize judicial workload and the number of sitting judges.

The third example, shown in Exhibit 21, examines the possibility of combining the 17th and 18th Judicial Circuits. In this case, the implied need of 6.9 (or 7) judicial FTE achieved through a combined circuit (Column A) matches the EPM Rounded total of keeping the circuits separate (Column B). The source of potential savings from combining the two circuits comes from noting that there are 4 authorized judicial position in the 17th Judicial Circuit and a need for 4 judicial FTE in the 18th Judicial Circuit--a total of 8 judicial positions. However, there is currently a judicial vacancy in the 17th that could be maintained thereby eliminating the gain from combining the two circuits.<sup>25</sup>

Turning to the general district courts in the 17th and 18th Judicial Districts, the weighted caseload model shows a combined judicial need across the two general district courts of 4 FTE, while the EPM Rounded total reached if the two general district courts remain separate is 5 FTE. A potential savings of 1 judicial FTE is possible through combining the two districts.<sup>26</sup>

In the juvenile and domestic relations district court, there is a combined need for 3.4 (or 3) judicial FTE. If kept separate, the EPM Rounded total is 4 FTE. At current workload levels, there is the potential to save 1 judicial FTE by combining the two districts. However, a relatively small increase in workload (e.g., increasing the implied need from 3.4 to 3.6) would serve to increase the rounded need to 4 judicial FTE, erasing the potential savings.

**Exhibit 21: Examining Alternative Circuit and District Configurations, Example 3**

		Circuit Court			General District Court			Juvenile and Domestic Relations District Court		
		[A]	[B]	[C]	[A]	[B]	[C]	[A]	[B]	[C]
Circuit/ District	County	Implied Need w/ Combined Circuit	Current Circuit Implied Need w/ EPM Rounding	Total Authorized Judges	Implied Need w/ Combined District	Current District Implied Need w/ EPM Rounding	Total Authorized Judges	Implied Need w/ Combined District	Current District Implied Need w/ EPM Rounding	Total Authorized Judges
17	Arlington	2.7	3.0	4.0	2.6	3.0	4.0	1.6	2.0	2.0
18	Alexandria	4.1	4.0	3.0	1.3	2.0	2.0	1.7	2.0	2.0
Combined Total*		6.9	7.0	7.0	4.0	5.0	6.0	3.4	4.0	4.0

\*Combined total for Column A includes a .1 chief judge adjustment for the combined circuit court, combined general district court, or combined juvenile and domestic relations district court. No chief judge adjustment is included at the individual court level.

<sup>25</sup> Judicial vacancies in each circuit and district as of July 1, 2013 are displayed in Appendix F.

<sup>26</sup> Although the 17th Judicial District has a total of 4 general district court judges authorized, there is currently one vacancy.

As these three examples illustrate, the potential to reduce judicial need through the combination of adjacent circuits/districts is minimal. There are two main reasons for this. First, most circuits/districts show a positive need for additional judicial resources. Second, the difference between the implied judicial need produced by the weighted caseload model and current authorized judgeships in each circuit/district tends to be small; in the vast majority of cases the difference is 1 judicial FTE. This means that the combination of adjacent circuits/districts will have only minimal impact on assessed judge need. In fact, the opportunity for savings gets even smaller when the discussion moves to the option of shifting individual counties between circuits/districts. The large number of individual counties and cities in Virginia leads to the result that any evidence of excess capacity tends to be a very small portion of a judicial FTE (e.g., .1 judicial FTE in Nelson County). As a consequence, there are minimal opportunities to realign adjacent circuits/districts (or counties and cities) in a way that meaningfully cancels out additional need in one jurisdiction with excess capacity from another.

*Regional Overlay.* Although redrawing the boundaries of Virginia’s judicial circuits and districts is unlikely to reduce judicial need, a plan that facilitates resource-sharing across wider geographic areas may improve efficiency and enhance access to justice at the local level. One such possibility is a regional overlay that would maintain the integrity of the existing judicial circuits and districts while allowing more flexibility in the assignment of judges across district and circuit lines within a region. The NCSC explored several alternative versions of a regional model, where the proposed regional boundaries reflect attention to measured judicial workload and the guiding principles outlined above.<sup>27</sup>

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<sup>27</sup> The NCSC explored three separate circuit/district regional configurations—5, 10, and 13 judicial regions--and presented results of each to the JNAC. For reference, each alternative is shown in Appendices G – I.

Proponents of the regional approach suggest that this strategy will facilitate:

- Sharing of judicial resources between jurisdictions to accommodate changing needs of the circuits/districts and more effectively deal with varying workload pressure;
- Eliminating the need for cross-designation of judges within the new circuits/districts or regions;
- Enhancing the ability of new circuits/districts to adapt to future change in workload.

Several states have adopted the regional model and created administrative judicial regions.<sup>28</sup>

On the other hand, opponents of the regional approach point to several practical considerations that challenge the viability of such a plan in Virginia. The first concern is that a regional model will introduce another layer of bureaucracy. A regional approach may require a "regional chief judge" position; although it is also possible that regional management issues can be resolved by periodic meetings of the chief judges of the circuit, general district, and juvenile and domestic relations district courts within each region. More likely, because a primary rationale for the regional model is improved administration, a regional approach will require creation of a regional court administrator position for each region. While certainly increasing justice system costs, there are potential benefits. A fundamental concern

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<sup>28</sup> For example, Texas is divided into nine administrative judicial regions. Each region has a presiding judge that is appointed by the Governor to serve a four-year term. The duties of the presiding judge include implementing regional rules of administration, advising local judges on judicial management, recommending changes to the Supreme Court for the improvement of judicial administration, and acting for local administrative judges in their absence. The presiding judges also have the authority to assign visiting judges to hold court when necessary to dispose of accumulated business in the region.



voiced during the site visits and on the sufficiency of time survey was that judges in many parts of the Commonwealth lack support in carrying out non-judicial court administrative functions. A regional court administrator could assist with the monitoring of judicial workload across the region, the scheduling of judicial officers in response to workload and absences, caseload management efforts, and the effective use of technology. A deeper examination of the trade-off between costs and benefits of the regional administrator position is beyond the scope of this study.

Second, the goal of contiguity means that any regional model will need to incorporate and accommodate Virginia's rural and urban environments. A workable regional overlay will consist of contiguous territory that is physically connected without burdening a judge's ability to travel among jurisdictions within the region. Practically speaking, it will be challenging to design a regional model where judges can travel without exposure to greater traffic congestion in more urban settings or being impeded by geographic or topographic barriers such as mountains or major waterways in the more rural parts of the state. Even without such congestion or physical barriers, larger regions likely mean greater travel time for at least some judges.

Finally, new legislation would be required to authorize judges to sit in any court within a region and to eliminate the need for cross-designation of judges.<sup>29</sup>

A regional approach gives greater weight to the *potential* of greater flexibility and efficiency in judicial administration and management, while asking judges to accept the possibility of occasionally working outside their respective courts and the consequent increase in travel time. Based on the information obtained through the workload assessment, the NCSC cannot recommend this alternative.

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<sup>29</sup> Other relevant statutory changes that would be necessary to support a regional approach are included in Appendix E of the 2011 Judicial Boundary Realignment Study report.

## **D. Recommended Approach to Boundary Realignment**

Given the lack of concrete benefits to be gained from realigning circuit and district boundaries or moving to a regional model, the National Center for State Courts recommends that the Commonwealth of Virginia retain the current court structure and existing jurisdictional boundaries. The results of the weighted caseload analysis clearly demonstrate that judicial boundary realignment cannot reduce the total judicial workload in the Commonwealth's trial courts. Moreover, additional analysis by the NCSC shows that boundary realignment will not result in an appreciable change in the total number of judges required to handle judicial workload at a statewide level. Leaving current circuit/district boundaries intact preserves existing communities of interest and minimizes the impact on established local funding, service, and partnership arrangements.

The one caveat is that the NCSC recommends Virginia consider adopting a single set of judicial boundaries for all judicial circuits and districts. The substantive results of this recommendation would be to combine Judicial Districts 2 and 2A into a single 2nd Judicial District.

In summary, any change to existing circuit/district boundaries does not save money for the Commonwealth. Changing judicial boundaries, in and of itself, will not reduce the number of judges needed. The need for judges as well as the equitable allocation of judicial positions should be based on the weighted caseload model.

## VII. RECOMMENDATIONS

The weighted caseload model developed by the National Center for State Courts provides an empirically grounded basis for analyzing judicial workload in each of Virginia's trial courts. Based upon the data gathered during the workload assessment, the National Center for State Courts offers the following recommendations to the Office of the Executive Secretary. These recommendations are intended to ensure the effective use of the workload model to produce maximum benefit for the courts and citizens of the Commonwealth of Virginia, and to preserve the integrity and utility of the workload model into the future.

### *Recommendation 1*

The weighted caseload model clearly demonstrates that the number of judges currently sitting at each of Virginia's three trial court types is inadequate to handle the total workload of the courts. The General Assembly should consider filling judicial vacancies, and in some cases creating new judicial positions, in circuits and districts where the weighted caseload model shows a need for additional judicial resources. Specifically, the model shows that:

- Circuit court has an implied need of 169.5 FTE judges, with the EPM rounded number of 171 FTE judges (Exhibit 11). Therefore, the weighted caseload results show a need to fill nearly all current vacancies as well as adding an additional 13 judges to the current total of 158 authorized judgeships.
- General district court has an implied need for 124.9 FTE judges; the EPM rounded number is 124 FTE judges (Exhibit 12). In comparison, as of July 1, 2013 there are 127 authorized judgeships, including 9 vacancies, for a total of 118 sitting judges. This indicates a need to fill at least 6 of the vacant positions.

- Juvenile and domestic relations district court has an implied need for 133.1 FTE judges, with the EPM rounding total of 134 judicial positions (Exhibit 13). The weighted caseload model shows a need for an increase of 17 judgeships from the current total of 117 authorized judicial positions.

The weighted caseload system provides the most accurate method for calculating the number of judges required to handle a court's actual workload. Any plan for the realignment of judicial boundaries or the redistribution of judicial resources in Virginia's trial courts should therefore be informed by an analysis of judicial workload using the weighted caseload model described in this report.

### *Recommendation 2*

The workload assessment demonstrates that courts are currently relying on retired and substitute judges not only to cover short-term judicial absences and handle conflict cases, but also as a long-term workaround for the problem of unfilled judicial vacancies. Qualitative data from the sufficiency of time survey and site visits suggest that the regular usage of substitute judges may compromise the efficiency and quality of case processing. Accordingly, the NCSC believes it would be advantageous to re-evaluate the manner in which retired and substitute judges are used, with an eye towards implementing a more formalized statewide system for assigning retired or senior status judges.

### *Recommendation 3*

Over time, the integrity of a weighted caseload model may be affected by multiple influences, such as changes in legislation, case law, legal practice, and technology. Regular updates are necessary to ensure that a weighted caseload model remains an accurate representation of judicial workload. A systematic review of the model should be conducted on a periodic basis.

## APPENDICES

## Appendix A: Case Type Definitions

### CIRCUIT COURT CASE TYPE CATEGORIES

#### 1. Capital Murder

#### 2. Felony (Non-Capital) and Related Matters

In addition to non-capital felonies, this category includes the following related matters:

- Probation violations
- Revocation actions
- Civil commitment of sexually violent predators
- NGRI reviews
- Writs of habeas corpus
- Felony violations of protective orders

#### 3. Misdemeanor

Includes all misdemeanor offenses, including:

- Misdemeanor appeals from district court
- Misdemeanor violations of protective orders
- Misdemeanor animal violations
- Misdemeanor zoning violations

#### 4. Other Criminally Related Matters

Includes the following matters:

- Traffic infractions
- Animal violations (civil)
- Bond appeals
- Contempt

#### 5. Administrative Law

Includes the following matters:

- Appeals from local governments, boards, agencies and commissions
- Writs of certiorari, mandamus, prohibition and quo warranto

#### 6. Contested Divorce

Includes divorce cases where *any* one or more of the following matters was *at any time disputed or contested*: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution, or debt allocation. Includes all matters arising out of a contested divorce, such as:

- Pendente lite hearings
- Custody and visitation
- Support
- Equitable distribution
- Reinstatements

#### 7. Uncontested Divorce

Includes divorce cases where the case has been filed on no-fault grounds pursuant to Va. Code § 20-91(9) *and there are no issues in controversy* concerning spousal support and maintenance, child custody and/or visitation, child support, property distribution, or debt allocation.

#### 8. Other Domestic and Family - Level 1 (More Complex)

Includes annulments and the following juvenile civil appeals:

- Abuse and neglect
- Custody and visitation
- Juvenile support
- Paternity
- Permanency planning
- Termination of parental rights

## **9. Other Domestic and Family - Level 2 (Less Complex)**

Includes the following matters:

- Adoption
- Adult protection
- Child abuse and neglect - unfounded (§ 63.2-1514 D)
- Civil contempt
- Transfer of finalized divorce
- Appointment of guardian/committee/fiduciary
- Separate maintenance

Includes the following juvenile civil appeals:

- Emancipation
- Involuntary commitment
- Judicial bypass (abortion)
- Status petitions
- Relief of custody
- Civil and criminal support
- Show cause

## **10. General Civil - Level 1 (More Complex)**

Includes the following matters:

- Annexation
- Asbestos litigation
- Establishment of boundaries
- Medical malpractice
- Product liability
- Wrongful death

## **11. General Civil - Level 2 (Intermediate Complexity)**

Includes the following matters:

- Condemnation
- Contract actions
- Correction of erroneous state/local taxes
- Declaratory judgments
- General tort liability
- Injunctions
- Intentional torts

- Mechanic's liens
- Motor vehicle cases
- Partition suits
- Specific performance
- Termination of mineral rights
- Actions to quiet title

## **12. General Civil - Level 3 (Less Complex)**

Includes the following matters:

- Attachments
- Confessed judgments
- Compromise settlements
- Delinquent taxes
- Suits in detinue
- Ejectments
- Enforcement of vendor's liens
- Actions to encumber/sell real estate
- Escheatments
- Freedom of Information Act cases
- Complaints to enforce judgment liens
- Landlord/tenant cases (including unlawful detainers)
- Civil appeals from General District Court

## **13. Probate/Wills and Trusts - Level 1 (More Complex)**

Includes the following matters:

- Aid and guidance
- Construing wills

## **14. Probate/Wills and Trusts - Level 2 (Less Complex)**

Includes the following matters:

- Appointment of guardian/standby guardian/conservator
- Actions to impress/declare a trust
- Reformation of trusts

## **15. Protective Order**

## **16. Miscellaneous (Civil)**

Includes the following matters:

- Appointment of church trustee
- Appointment of conservator of the peace
- Appointment of marriage celebrant
- Approval of right to be eligible to vote
- Bond forfeitures
- Concealed handgun permits
- Declarations of death
- Expungements
- Forfeiture of U.S. currency
- Garnishments
- Adult involuntary commitments
- Interdictions
- Judicial review of DMV  
revocation/suspension
- Name changes
- Referendum elections
- Reinstatement/restoration of driving  
privileges
- Petition by sex offender to enter school  
property

## Case Type Definitions (Appendix A continued)

### GENERAL DISTRICT COURT CASE TYPE CATEGORIES

#### 1. Garnishments and Interrogatories

#### 2. General Civil

Includes the following matters:

- Warrants in debt
- Motions for judgment
- Mechanic's liens
- Distress actions
- Suits in detinue
- Petitions to restore right to bear arms
- Jail fee license suspensions

#### 3. Landlord/Tenant

Includes the following matters:

- Tenant's assertions
- Unlawful detainers

#### 4. Involuntary Commitment

#### 5. Protective Order

#### 6. Felony

Includes the following matters:

- Felonies
- Felony violations of protective orders

Also includes related matters such as:

- Bond forfeitures
- Show causes
- Capiases

#### 7. Misdemeanor

Includes the following matters:

- Misdemeanors
- Misdemeanor violations of protective orders
- Misdemeanor animal violations
- Misdemeanor zoning violations

Also includes related matters such as:

- Bond forfeitures
- Show causes
- Capiases
- Petitions for restricted operator's licenses for failure to pay fines and costs

#### 8. Traffic Infraction/Civil Violation

Includes the following matters:

- Traffic infractions
- Motor carrier violations
- Overweight citations
- Seatbelt violations
- Civil violations of local ordinances (e.g., animal and tobacco violations)

## Case Type Definitions (Appendix A continued)

### JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT CASE TYPE CATEGORIES

#### 1. Child Dependency

Includes the following matters:

- Abuse and neglect
- Child at risk for abuse/neglect
- Request for child protective order
- Prenatal substance abuse
- Initial foster care review
- Foster care review
- Entrustment agreement
- Permanency planning
- Relief of custody
- Termination of parental rights

#### 2. Child in Need of Services/Supervision

Includes the following matters:

- Child in need of services
- Child in need of supervision (truancy/runaway)
- CHINS show cause

#### 3. Custody and Visitation

Includes the following matters:

- Custody/visitation
- Paternity
- Consent to adopt
- Registration of foreign order for custody
- Custody/visitation show cause

#### 4. Juvenile Miscellaneous

Includes the following matters:

- Emancipation
- Judicial bypass (abortion)
- Status offense (e.g., possession of tobacco, curfew violation)
- Tobacco offense (Clean Air Act)
- Work permits
- Permission to treat a juvenile
- Involuntary commitments

#### 5. Delinquency

Includes the following matters:

- Delinquency felony
- Delinquency misdemeanor (including reckless driving and DUI)
- Capias in a delinquency case
- Show cause in a delinquency case
- Juvenile delinquency violation of protective order

#### 6. Traffic

Includes the following matters:

- Juvenile traffic infractions
- RDL issued to juvenile
- RDL issued to adult for failure to pay fines and costs

#### 7. Adult Criminal

Includes the following matters:

- Adult felonies
- Adult misdemeanors
- Adult criminal violations of protective orders

Includes the following matters related to adult criminal cases:

- Bond hearings
- Bond forfeitures
- Capiases
- Probation violations
- Show causes

#### 8. Protective Order

Includes protective orders where the respondent is a juvenile or an adult in any family abuse or Title 19.2 protective order case.



## 9. Support

Includes the following matters:

- Civil support
- Criminal support
- Juvenile support/juvenile respondent
- Registration of foreign order for support
- Capias (support)
- Restricted driver's license (support only)
- Support show cause

## 10. DC-40/DC-44 Forms<sup>30</sup>

Includes all time spent reviewing and signing DC-40 and DC-44 reimbursement voucher forms, regardless of the underlying case type.

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<sup>30</sup> Although not a separate case type, to simplify data collection, juvenile and domestic relations district court judges recorded time spent reviewing DC-40 and DC-44 forms and authorizing claims for payment (e.g., from court-appointed counsel and guardians *ad litem*) separately from other case-related time. This time was then distributed proportionally among the relevant case type categories.

## **Appendix B: Case-Related Activities**

### **CIRCUIT COURT CASE-RELATED EVENTS**

#### **1. Pre-Trial**

Includes all on-bench and off-bench activity related to proceedings that occur prior to the trial or other dispositional proceeding. Includes all off-bench research and preparation related to pre-trial activities. Some examples of pre-trial activities include:

- Arraignment/initial appearance
- Non-dispositive pre-trial motion (e.g., motion to suppress, motion in limine)
- Scheduling conference
- Pre-trial conference
- Pendente lite hearing
- Preparation of findings and orders related to pre-trial matters

#### **2. Non-Trial/Uncontested Disposition**

Includes all on-bench and off-bench activity related to any non-trial proceeding that disposes of the entire case. Includes all off-bench research and preparation related to non-trial dispositions. Some examples of non-trial dispositions include:

- Entry of guilty plea and sentencing
- Motion to dismiss that disposes of all issues
- Motion for summary judgment that disposes of all issues
- Ore tenus hearing in an uncontested divorce case
- Preparation of findings and orders related to non-trial dispositions

#### **3. Bench Trial/Contested Disposition**

Includes all on-bench and off-bench activity related to a trial in which the judge is the finder

of fact. Includes all off-bench research and preparation related to bench trials, and sentencing following a bench trial. Some examples of bench trial activity include:

- Bench trial
- Sentencing after conviction at bench trial
- Preparation of findings and orders related to bench trials

#### **4. Jury Trial**

Includes all on-bench and off-bench activity related to a trial in which a jury is the finder of fact. Includes all off-bench research and preparation related to jury trials, and sentencing following a jury trial. Some examples of jury trial activity include:

- Jury selection
- Jury trial
- Sentencing after conviction at jury trial
- Preparation of orders related to jury trials

#### **5. Post-Judgment/Post-Disposition**

Includes all on-bench and off-bench activity that occurs after the entry of judgment. Some examples of post-judgment/post-disposition activity include:

- Post-trial motion (e.g., motion for rehearing, motion for new trial)
- Show cause or capias on post-disposition matter
- Preparation of findings and orders related to post-judgment/post-disposition matters
- Reviewing and signing DC-40 and DC-44 reimbursement voucher forms

## Case-Related Activities (Appendix B continued)

### GENERAL DISTRICT COURT CASE-RELATED EVENTS

#### 1. Pre-Trial

Includes all on-bench and off-bench activity related to proceedings that occur prior to the trial or other dispositional proceeding. Includes all off-bench research and preparation related to pre-trial activities. Some examples of pre-trial activities include:

- Arraignment/initial appearance
- Bond hearing
- Appointment of counsel
- Non-dispositive pre-trial motion (e.g., motion to suppress, motion in limine)
- Scheduling conference
- Pre-trial conference
- Preparation of findings and orders related to pre-trial matters

#### 2. Non-Trial/Uncontested Disposition

Includes all on-bench and off-bench activity related to any non-trial proceeding that disposes of the entire case. Includes all off-bench research and preparation related to non-trial dispositions. Some examples of non-trial dispositions include:

- Entry of guilty plea and sentencing
- Motion to dismiss that disposes of all issues
- Motion for summary judgment that disposes of all issues
- Preparation of findings and orders related to non-trial dispositions

#### 3. Trial/Contested Disposition

Includes all on-bench and off-bench activity related to a trial. Includes all off-bench research and preparation related to trials, and sentencing after conviction at trial. Some examples of trial activity include:

- Trial
- Sentencing after conviction at trial
- Preparation of findings and orders related to trials

#### 4. Post-Judgment/Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment. Some examples of post-judgment/post-disposition activity include:

- Post-trial motion (e.g., motion for rehearing, motion for new trial)
- Probation violation
- Show cause or capias on post-disposition matter
- Preparation of findings and orders related to post-judgment/post-disposition matters
- Reviewing and signing DC-40 and DC-44 reimbursement voucher forms

## Case-Related Activities (Appendix B continued)

### JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT CASE-RELATED EVENTS

#### 1. Pre-Disposition

Includes all on-bench and off-bench activity that occurs prior to a proceeding that results in the entry of an appealable order. Examples include:

- Arraignment
- Appointment of GAL/Counsel
- Pendente lite hearing
- Issuance of ERO/PRO
- Detention Hearing
- Motion to Suppress
- Adjudicatory hearing without disposition (e.g., abuse and neglect, CHINS, delinquency, adult guilty plea without disposition)
- Case deferral (i.e., pursuant to § 18.2-57.3)

#### 2. Disposition

Includes all on-bench and off-bench activity related to a proceeding that results in the entry of an appealable order. Examples:

- Adult sentencing
- Disposition hearing (e.g., CHINS, CHINSup, delinquency, abuse and neglect)
- 75-day hearing and approval of foster care plan
- Adjudication and disposition in same hearing

#### 3. Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of an appealable order. Examples include:

- Motion to reopen/rehear
- Reviewing and signing DC-40 and DC-44 forms

## **Appendix C: Non-Case-Related Activities**

### **CIRCUIT COURT NON-CASE-RELATED EVENTS**

#### **1. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

#### **2. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### **3. Judicial Education and Training**

Includes all educational and training activities such as:

- Judicial education
- Conferences

#### **4. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Benchbook committee meetings
- Meetings of committees of the Judicial Conference of Virginia

#### **5. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in your official capacity as a judge. This category does not include work for which you are compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in your official capacity as a judge. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

#### **6. Work-Related Travel**

Work-Related Travel includes all time spent traveling on court business to or from a location other than your primary court. For purposes of the time study, your primary court is the court where you most frequently sit. You should not record travel time spent on your commute between your home and your primary court. You should record any travel time between your home and other courts that is greater than the length of your commute between your home and your primary court.

#### **7. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

#### **8. Lunch and Breaks**

Includes all routine breaks during the working day.

#### **9. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## Non-Case-Related Activities (Appendix C continued)

### GENERAL DISTRICT COURT NON-CASE-RELATED EVENTS

#### 1. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

#### 2. General Legal Research

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### 3. Judicial Education and Training

Includes all educational and training activities such as:

- Judicial education
- Conferences

#### 4. Committee Meetings, Other Meetings, and Related Work

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Benchbook committee meetings
- Meetings of committees of the Judicial Conference of Virginia for District Courts

#### 5. Community Activities and Public Outreach

Includes all public outreach and community service that is performed in your official capacity as a judge. This category does not include work for which you are compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in your official capacity as a judge. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

#### 6. Work-Related Travel

Work-Related Travel includes all time spent traveling on court business to or from a location other than your primary court. For purposes of the time study, your primary court is the court where you most frequently sit. You should not record travel time spent on your commute between your home and your primary court. You should record any travel time between your home and other courts that is greater than the length of your commute between your home and your primary court.

#### 7. Vacation, Sick Leave, and Holidays

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

#### 8. Lunch and Breaks

Includes all routine breaks during the working day.

#### 9. NCSC Time Study

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## Non-Case-Related Activities (Appendix C continued)

### JUVENILE AND DOMESTIC RELATIONS COURT NON-CASE-RELATED EVENTS

#### 1. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

#### 2. General Legal Research

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### 3. Judicial Education and Training

Includes all educational and training activities such as:

- Judicial education
- Conferences

#### 4. Committee Meetings, Other Meetings, and Related Work

Includes all work related to and preparation for meetings of state and local committees, boards, task forces, and other initiatives, such as:

- Community criminal justice board meetings
- Benchbook committee meetings
- Work related to best practice court teams
- Work related to Fatherhood Initiatives

#### 5. Juvenile Driver's License Ceremonies

Includes time spent performing juvenile driver's license ceremonies.

#### 6. Community Activities and Public Outreach

Includes all public outreach and community service that is performed in your official capacity as a judge. This category does not include work for which you are compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in your official capacity as a judge. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

#### 7. Work-Related Travel

Work-Related Travel includes all time spent traveling on court business to or from a location other than your primary court. For purposes of the time study, your primary court is the court where you most frequently sit. You should not record travel time spent on your commute between your home and your primary court. You should record any travel time between your home and other courts that is greater than the length of your commute between your home and your primary court.

#### 8. Vacation, Sick Leave, and Holidays

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

#### 9. Lunch and Breaks

Includes all routine breaks during the working day.

#### 10. NCSC Time Study

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## Appendix D: Retired and Substitute Judges Handling Additional Work

Circuit/District	Circuit Court	General District Court	Juvenile & Domestic Relations District Court
1	.4	.0	.1
2	.6	.4	.1
2A	N/A	.0	.0
3	.2	.1	.1
4	.3	.4	.0
5	.5	.0	.0
6	.1	.2	.1
7	.3	.1	.0
8	.0	.0	.1
9	.0	.0	.1
10	.1	.0	.1
11	.0	.0	.1
12	.2	.1	.2
13	.1	.2	.1
14	.1	.0	.1
15	.9	.6	.5
16	.6	.0	.2
17	.2	.5	.0
18	.0	.1	.1
19	.1	.3	.3
20	1.2	.1	.2
21	.0	.3	.0
22	.1	.1	.0
23	.0	.1	.0
24	.3	.1	.2
25	.4	.0	.0
26	.3	.0	.3
27	.2	.2	.0
28	.1	.0	.2
29	.0	.9	.0
30	.0	.0	.0
31	.0	.6	.0
Total	7.3	5.4	3.2



## Appendix E: Summary of Delphi Adjustments and Rationales

### CIRCUIT COURT

#### Felony (non-capital)

- Pre-Trial: Add 30 minutes for 5% of defendants to spend additional time deciding motions to suppress, including additional review of legal authorities to reach a more reasoned decision

#### Contested Divorce

- Trial/Contested Disposition: Add 300 minutes for 10% of trials to spend additional time writing a reasoned opinion or fashioning an oral ruling

#### General Civil, Level 1 (more complex)

- Pre-Trial: Add 40 minutes in 10% of cases to review case file in advance of court date and respond to pre-trial motions (e.g., motions in limine, pleas in bar, demurrers)
- Trial/Contested Disposition: Add 600 minutes for 10% of trials to spend additional time writing a reasoned opinion or fashioning an oral ruling

### GENERAL DISTRICT COURT

#### Garnishments and Interrogatories

- Pre-Disposition/Disposition: Add 3 minutes in 1% of cases to explain interrogatories and consequences (e.g., tax orders) to self-represented litigants, potentially reducing the number of follow-up hearings
- Pre-Disposition/Disposition: Add 2 minutes in 3% of cases to review statute and calculate formula for garnishment exemption hearings

#### General Civil

- Pre-Disposition/Disposition: Add 20 minutes in 0.1% of cases to review case file, research issues and case law, and check statutes before ruling from the bench to reduce the number of cases taken under advisement, and to deliberate and provide written opinions on some warrants in debt and motions in debt
- Pre-Disposition/Disposition: Add 1 minute in 3% of cases to review the consequences of proceeding without an attorney with self-represented litigants, and to explain rules of procedure to self-represented litigants to save time during trial

#### Landlord/Tenant

- Pre-Disposition/Disposition: Add 2 minutes in 5% of cases to review the case file and pleadings and research legal issues in Mobile Home Act cases and contested Section 8 cases

#### Protective Order

- Pre-Disposition/Disposition: Add 5 minutes in 10% of cases to explain consequences of disposition to self-represented petitioners and respondents, to explain burden of proof, and to spend additional time reviewing evidence (e.g., Facebook postings, phone calls, text messages, photos, maps)

## **Felony**

- Pre-Disposition/Disposition: Add 15 minutes for 5% of defendants to address more serious issues (e.g., drug cases, sexual assault, homicide, multi-defendant cases) at preliminary hearings
- Pre-Disposition/Disposition: Add 30 minutes for 1% of defendants for additional legal research in advance of hearings, reducing the number of cases taken under advisement, and to write letters of opinion on motions that are taken under advisement (e.g., motions to suppress)
- Pre-Disposition/Disposition: Add 2 minutes for 25% of defendants to explain conditions of sentence and allow offender to react to conditions, resulting in fewer probation violations (felony cases reduced to misdemeanors)
- Pre-Disposition/Disposition: Subtract 10 minutes for 10% of defendants for reduction in probation violations resulting from better explanation of conditions of probation (felony cases reduced to misdemeanors)

## **Misdemeanor**

- Pre-Disposition/Disposition: Add 30 minutes for 0.1% of defendants for additional legal research in advance of hearings, reducing the number of cases taken under advisement, and to write letters of opinion on motions that are taken under advisement (e.g., motions to suppress)
- Pre-Disposition/Disposition: Add 3 minutes for 25% of defendants to explain conditions of sentence (e.g., no-contact order, restitution, suspended license, ignition interlock), resulting in fewer probation violations
- Pre-Disposition/Disposition: Subtract 10 minutes for 8% of defendants for reduction in probation violations resulting from better explanation of conditions of probation

## **Traffic Infraction/Civil Violation**

- Pre-Disposition/Disposition: Add 1 minute in 1% of cases to allow defendants to tell their stories, increasing public perceptions of procedural justice

## **JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT**

### **Child Dependency**

- Pre-Disposition/Disposition: Add 10 minutes in 25% of cases for additional time to review CASA reports, home studies, and psychological reports to make more informed decisions, be prepared to ask better questions of the parties and witnesses, and assess the recommended services more closely to better serve children and families
- Disposition: Add 2 minutes in 40% of cases to check that the order meets 4E requirements, ensuring federal foster care reimbursement and saving local and state funds
- Disposition: Add 2 minutes in 10% of cases to talk with children not present during hearings to explain progress of case
- Disposition: Add 1 minute in 100% of cases to ensure that the parties understand the order and the court's expectations to improve compliance with court orders, achieve permanency earlier, and reduce the cost of foster care
- Disposition: Subtract 5 minutes in 5% of cases due to reduction in hearings from earlier achievement of permanency resulting from improved compliance
- Post-Disposition: Add 2 minutes in 5% of cases to conduct more thorough off-bench and on-bench review of attorney timesheets, improving fiscal responsibility to state and litigants

## **Custody and Visitation**

- Pre-Disposition: Add 15 minutes in 5% of cases for additional pretrial practice to promote early agreement, reducing the number of contested dispositions
- Disposition: Subtract 10 minutes in 5% of cases for reduction in contested dispositions due to increase in early agreements
- Disposition: Add 5 minutes in 5% of cases to explain burden of proof and rulings in compliance with statutory requirements, ensuring that self-represented litigants understand the process and the trial proceeds efficiently
- Post-Disposition: Add 5 minutes in 10% of cases to conduct more thorough off-bench and on-bench review of attorney timesheets, improving fiscal responsibility to state and litigants

## **Adult Criminal**

- Post-Disposition: Add 2 minutes in 5% of cases to review attorney time sheets when fee cap waiver is requested, improving fiscal responsibility to state
- Post-Disposition: Add 5 minutes in 10% of cases to follow up on services for first offender deferrals, promoting compliance and reducing domestic violence
- Post-Disposition: Subtract 5 minutes in 5% of cases due to reduction in orders to show cause and capiases issued for failure to comply with conditions of first offender deferrals

## **Protective Order**

- Disposition: Add 5 minutes in 10% of cases to spend additional time selecting appropriate services (e.g., substance abuse, anger management, mental health services) to promote family welfare

## **Support**

- Disposition: Add 2 minutes in 25% of cases to explain support orders, improving compliance and promoting child welfare
- Disposition: Subtract 5 minutes in 10% of cases for reduction in enforcement issues resulting from improved compliance with support orders

**Appendix F: Authorized Judgeships for all Court Levels, Including Vacancies**

Circuit/ District	Circuit Court Authorized Judgeships			General District Court Authorized Judgeships			Juvenile and Domestic Relations District Court Authorized Judgeships		
	Total Sitting Judges	Vacancies (7/1/13)	Total Authorized Judges	Total Sitting Judges	Vacancies (7/1/13)	Total Authorized Judges	Total Sitting Judges	Vacancies (7/1/13)	Total Authorized Judges
1	5		5	4		4	3		3
2	8	2	10	7		7	7		7
2A				1		1	1		1
3	4	1	5	3		3	3		3
4	7	2	9	5	1	6	5		5
5	2	1	3	3		3	2		2
6	2		2	4		4	2		2
7	4	1	5	4		4	4		4
8	4		4	3		3	3		3
9	4		4	3		3	3		3
10	3		3	3		3	3		3
11	3		3	2		2	2		2
12	5		5	4		4	5		5
13	7	1	8	7	1	8	5		5
14	5		5	4		4	5		5
15	9		9	4	2	6	7		7
16	5		5	4		4	4		4
17	3	1	4	3	1	4	2		2
18	3		3	2		2	2		2
19	14	1	15	10	1	11	8		8
20	3	1	4	4		4	3		3
21	3		3	1	1	2	2		2
22	4		4	2		2	3		3
23	5	1	6	5		5	4		4
24	4	1	5	4		4	5		5
25	3	1	4	4	1	5	4		4
26	5		5	4		4	5		5
27	5		5	4	1	5	4		4
28	3		3	2		2	2		2
29	4		4	2		2	2		2
30	3		3	2		2	2		2
31	5		5	4		4	5		5
	144	14	158	118	9	127	117		117

## Appendix G: Circuit Court Boundary Analysis: Implied Judge Need by Proposed Regions

### 5 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need
23	5.4	5	3.1	1	4.5	9	3.9	16	5.4
25	5.1	6	2.6	2	8.6	13	7.5	17	2.7
26	7.5	10	4.1	3	4.2	14	4.8	18	4.1
27	6.9	11	2.7	4	8.2	15	11.0	19	14.5
28	3.5	12	5.8	7	6.3			20	4.6
29	5.2	21	2.4	8	2.7			31	5.7
30	3.7	22	4.7						
		24	5.0						
<b>37.3</b>		<b>30.4</b>		<b>34.5</b>		<b>27.2</b>		<b>37.0</b>	

### 10 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need
27	6.9	21	2.4	1	4.5	2	8.6	7	6.3
28	3.5	22	4.7	5	3.1	3	4.2	8	2.7
29	5.2	24	5.0	6	2.6	4	8.2	9	3.9
30	3.7			10	4.1				
				11	2.7				
<b>19.3</b>		<b>12.1</b>		<b>17.0</b>		<b>21.0</b>		<b>12.9</b>	

  

Region 6		Region 7		Region 8		Region 9		Region 10	
Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need
12	5.8	15	11.0	20	4.6	17	2.7	23	5.4
13	7.5	16	5.4	31	5.7	18	4.1	25	5.1
14	4.8					19	14.5	26	7.5
<b>18.1</b>		<b>16.4</b>		<b>10.3</b>		<b>21.3</b>		<b>18.0</b>	

### 13 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need
27	6.9	21	2.4	6	2.6	1	4.5	4	8.2
28	3.5	22	4.7	10	4.1	3	4.2		
29	5.2	23	5.4	11	2.7	5	3.1		
30	3.7	24	5.0						
<b>19.3</b>		<b>17.5</b>		<b>9.4</b>		<b>11.8</b>		<b>8.2</b>	

  

Region 6		Region 7		Region 8		Region 9		Region 10	
Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need
2	8.6	7	6.3	12	5.8	15	11.0	17	2.7
		8	2.7	13	7.5	16	5.4	18	4.1
		9	3.9	14	4.8				
<b>8.6</b>		<b>12.9</b>		<b>18.1</b>		<b>16.4</b>		<b>6.8</b>	

  

Region 11		Region 12		Region 13	
Circuit	Implied Need	Circuit	Implied Need	Circuit	Implied Need
19	14.5	20	4.6	25	5.1
		31	5.7	26	7.5
<b>14.5</b>		<b>10.3</b>		<b>12.6</b>	

## Appendix H: General District Court Boundary Analysis: Implied Judge Need by Proposed Regions

### 5 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
23	4.3	5	2.3	1	3.7	9	3.0	16	4.1
25	3.4	6	4.4	2	7.1	13	6.3	17	2.6
26	5.2	10	2.5	2A	1.0	14	5.0	18	1.3
27	4.7	11	2.9	3	1.9	15	7.8	19	10.5
28	2.1	12	5.3	4	5.6			20	3.4
29	1.6	21	1.1	7	3.7			31	5.2
30	1.3	22	2.2	8	2.9				
		24	3.3						
<b>22.6</b>		<b>24.0</b>		<b>25.9</b>		<b>22.1</b>		<b>27.1</b>	

### 10 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
27	4.7	21	1.1	1	3.7	2	7.1	7	3.7
28	2.1	22	2.2	5	2.3	2A	1.0	8	2.9
29	1.6	24	3.3	6	4.4	3	1.9	9	3.0
30	1.3			10	2.5	4	5.6		
				11	2.9				
<b>9.7</b>		<b>6.6</b>		<b>15.8</b>		<b>15.6</b>		<b>9.6</b>	
Region 6		Region 7		Region 8		Region 9		Region 10	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
12	5.3	15	7.8	20	3.4	17	2.6	23	4.3
13	6.3	16	4.1	31	5.2	18	1.3	25	3.4
14	5.0					19	10.5	26	5.2
<b>16.6</b>		<b>11.9</b>		<b>8.6</b>		<b>14.4</b>		<b>12.9</b>	

### 13 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
27	4.7	21	1.1	6	4.4	1	3.7	4	5.6
28	2.1	22	2.2	10	2.5	3	1.9		
29	1.6	23	4.3	11	2.9	5	2.3		
30	1.3	24	3.3						
<b>9.7</b>		<b>10.9</b>		<b>9.8</b>		<b>7.9</b>		<b>5.6</b>	
Region 6		Region 7		Region 8		Region 9		Region 10	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
2	7.1	7	3.7	12	5.3	15	7.8	17	2.6
2A	1.0	8	2.9	13	6.3	16	4.1	18	1.3
		9	3.0	14	5.0				
<b>8.1</b>		<b>9.6</b>		<b>16.6</b>		<b>11.9</b>		<b>3.9</b>	
Region 11		Region 12		Region 13					
District	Implied Need	District	Implied Need	District	Implied Need				
19	10.5	20	3.4	25	3.4				
		31	5.2	26	5.2				
<b>10.5</b>		<b>8.6</b>		<b>8.6</b>					

# Appendix I: Juvenile and Domestic Relations District Court Boundary Analysis: Implied Judge Need by Proposed Regions

## 5 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
23	4.7	5	2.2	1	3.4	9	3.6	16	5.9
25	4.7	6	2.4	2	6.5	13	4.3	17	1.6
26	6.6	10	3.5	2A	.8	14	5.3	18	1.7
27	5.3	11	2.6	3	2.7	15	9.8	19	6.5
28	2.6	12	5.9	4	5.1			20	3.3
29	3.0	21	2.2	7	3.7			31	5.3
30	2.1	22	3.9	8	2.9				
		24	5.8						
<b>29.0</b>		<b>28.5</b>		<b>25.1</b>		<b>23.0</b>		<b>24.3</b>	

## 10 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
27	5.3	21	2.2	1	3.4	2	6.5	7	3.7
28	2.6	22	3.9	5	2.2	2A	.8	8	2.9
29	3.0	24	5.8	6	2.4	3	2.7	9	3.6
30	2.1			10	3.5	4	5.1		
				11	2.6				
<b>13.0</b>		<b>11.9</b>		<b>14.1</b>		<b>15.1</b>		<b>10.2</b>	
Region 6		Region 7		Region 8		Region 9		Region 10	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
12	5.9	15	9.8	20	3.3	17	1.6	23	4.7
13	4.3	16	5.9	31	5.3	18	1.7	25	4.7
14	5.3					19	6.5	26	6.6
<b>15.5</b>		<b>15.7</b>		<b>8.6</b>		<b>9.8</b>		<b>16.0</b>	

## 13 Region Model

Region 1		Region 2		Region 3		Region 4		Region 5	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
27	5.3	21	2.2	6	2.4	1	3.4	4	5.1
28	2.6	22	3.9	10	3.5	3	2.7		
29	3.0	23	4.7	11	2.6	5	2.2		
30	2.1	24	5.8						
<b>13.0</b>		<b>16.6</b>		<b>8.5</b>		<b>8.3</b>		<b>5.1</b>	
Region 6		Region 7		Region 8		Region 9		Region 10	
District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need	District	Implied Need
2	6.5	7	3.7	12	5.9	15	9.8	17	1.6
2A	.8	8	2.9	13	4.3	16	5.9	18	1.7
		9	3.6	14	5.3				
<b>7.3</b>		<b>10.2</b>		<b>15.5</b>		<b>15.7</b>		<b>3.3</b>	
Region 11		Region 12		Region 13					
District	Implied Need	District	Implied Need	District	Implied Need				
19	6.5	20	3.3	25	4.7				
		31	5.3	26	6.6				
<b>6.5</b>		<b>8.6</b>		<b>11.3</b>					