

New River Criminal Justice Training Academy
Civil Procedure Legal Updates Effective 7-1-2010.

§ [6.1-118.1](#). Recovery of costs in civil actions for bad checks.

A. In any civil action by a holder to recover the sum payable of a check drawn by the defendant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds, or in any civil action following an arrest under § [18.2-181](#) or § [18.2-182](#), the court, upon a determination that the plaintiff has prevailed, shall add the following amounts, as costs, to the amount due to the plaintiff for the check: (i) the sum of ~~ten dollars~~ \$30 to defray the cost of processing the returned check; and (ii) the base wage of one employee for time actually spent acting as a witness for the Commonwealth; provided, however, that the total amount of allowable costs granted under the provisions of this section shall not exceed the sum of \$250 excluding restitution for the amount of the check.

B. Such award of costs shall be contingent upon a finding (i) that the plaintiff complied with the provisions in § [18.2-183](#) relating to notice and (ii) that the defendant failed to deliver payment or evidence of bank error to the plaintiff within five days after receipt of such notice.

§ 8.01-6.3. Actions or suits against fiduciaries; style of the case; amendment of pleading.

A. In any action or suit required to be prosecuted or defended by or in the name of a fiduciary, including a personal representative, trustee, conservator, or guardian, the style of the case in regard to the fiduciary shall be substantially in the following form: "(Name of fiduciary), (type of fiduciary relationship), (Name of the subject of the fiduciary relationship)."

B. Any pleading filed that does not conform to the requirements of subsection A but otherwise identifies the proper parties shall be amended on the motion of any party or by the court on its own motion. Such amendment relates back to the date of the original pleading.

(2010, c. [437](#).)

§ 8.01-66. Recovery of damages for loss of use of vehicle.

A. Whenever any person is entitled to recover for damage to or destruction of a motor vehicle, he shall, in addition to any other damages to which he may be legally entitled, be entitled to recover the reasonable cost which was actually incurred in hiring a comparable

substitute vehicle for the period of time during which such person is deprived of the use of his motor vehicle. However, such rental period shall not exceed a reasonable period of time for such repairs to be made or if the original vehicle is a total loss, a reasonable time to purchase a new vehicle. Nothing herein contained shall relieve the claimant of the duty to mitigate damages.

B. Whenever any insurance company licensed in this Commonwealth to write insurance as defined in § [38.2-124](#) or any self-insured company refuses or fails to provide a comparable temporary substitute vehicle to any person entitled to recover the actual cost of hiring a substitute vehicle as set forth in subsection A, and if the trial judge of a court of proper jurisdiction subsequently finds that such refusal or failure was not made in good faith, such company shall be liable to that person in the amount of \$500 or double the amount of the rental cost he is entitled to recover under subsection A, whichever amount is greater. If the trial court finds that an action brought against an insurance company or any self-insured company under subsection B is frivolous, or not to have been brought in good faith, the court may in its discretion require the plaintiff to pay the reasonable attorney's fees, not to exceed \$350, incurred by the defendant in defending the action. This section shall in no way preclude any party from seeking such additional common law remedies as might otherwise be available.

(Code 1950, § 8-646.9; 1975, c. 478; 1977, c. 617; 1979, c. 499; 1986, c. 296; 1987, c. 116; 1989, c. 348; 2010, c. [343](#).)

§ 8.01-66.2. Lien against person whose negligence causes injury.

Whenever any person sustains personal injuries caused by the alleged negligence of another and receives treatment in any hospital, public or private, or nursing home, or receives medical attention or treatment from any physician, or receives nursing service or care from any registered nurse, or receives physical therapy treatment from any registered physical therapist in this Commonwealth, or receives medicine from a pharmacy, or receives any ambulance service, such hospital, nursing home, physician, nurse, physical therapist, pharmacy or ambulance service shall each have a lien for the amount of a just and reasonable charge for the service rendered, but not exceeding \$2,500 in the case of a hospital or nursing home, \$750 for each physician, nurse, physical therapist, or pharmacy, and \$200 for each ambulance service on the claim of such injured person or of his personal representative against the person, firm or corporation whose negligence is alleged to have caused such injuries.

(Code 1950, § 32-138; 1979, c. 722; 1981, c. 313; 1988, cc. 505, 544; 1995, cc. [470](#), [550](#), [669](#); 2003, cc. [455](#), [525](#); 2010, c. [343](#).)

§ 8.01-187. Commissioners or condemnation jurors to determine compensation for property taken or damaged.

Whenever it is determined in a declaratory judgment proceeding that a person's property has been taken or damaged within the meaning of Article I, Section 11 of the Constitution

of Virginia and compensation has not been paid or any action taken to determine the compensation within 60 days following the entry of such judgment order or decree, the court which entered the order or decree may, upon motion of such person after reasonable notice to the adverse party, enter a further order appointing commissioners or condemnation jurors to determine the compensation. The appointment of commissioners or condemnation jurors and all proceedings thereafter shall be governed by the procedure prescribed for the condemning authority.

(Code 1950, § 8-581.1; 1968, c. 782; 1971, Ex. Sess., c. 1; 1977, c. 617; 2007, cc. [450](#), [720](#); 2010, c. [835](#).)

§ 8.01-195.10. Purpose; action by the General Assembly required; definitions.

A. The purpose of this article is to provide directions and guidelines for the compensation of persons who have been wrongfully incarcerated in the Commonwealth. Compensation for wrongful incarceration is governed by Article IV, Section 14 of the Constitution of Virginia, which prohibits the General Assembly from granting relief in cases in which the courts or other tribunals may have jurisdiction and any individual seeking payment of state funds for wrongful incarceration shall be deemed to have waived all other claims. The payment and receipt of any compensation for wrongful incarceration shall be contingent upon the General Assembly appropriating funds for that purpose. This article shall not provide an entitlement to compensation for persons wrongfully incarcerated or require the General Assembly to appropriate funds for the payment of such compensation. No estate of or personal representative for a decedent shall be entitled to seek a claim for compensation for wrongful incarceration.

B. As used in this article:

"Incarceration" or "incarcerated" means confinement in a local or regional correctional facility, juvenile correctional center, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act (§ [53.1-261](#) et seq.).

"Wrongful incarceration" or "wrongfully incarcerated" means incarceration for a felony conviction for which (i) the conviction has been vacated pursuant to Chapter 19.2 (§ [19.2-327.2](#) et seq.) or 19.3 (§ [19.2-327.10](#) et seq.) of Title 19.2, or the person incarcerated has been granted an absolute pardon for the commission of a crime that he did not commit, (ii) the person incarcerated must have entered a final plea of not guilty, or regardless of the plea, any person sentenced to death, or convicted of a Class 1 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life, and (iii) the person incarcerated did not by any act or omission on his part intentionally contribute to his conviction for the felony for which he was incarcerated.

(2004, cc. [818](#), [840](#); 2010, cc. [496](#), [557](#).)

§ 8.01-195.11. Compensation for wrongful incarceration.

A. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony may be awarded compensation in an amount equal to 90 percent of the inflation adjusted Virginia per capita personal income as reported by the Bureau of Economic Analysis of the United States Department of Commerce for each year, or portion thereof, of incarceration up to 20 years.

B. Any compensation computed pursuant to subsection A and approved by the General Assembly shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum equal to 20 percent of the compensation award with the remaining 80 percent of the principal of the compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated company, including any A+ rated company from which the State Lottery Department may purchase an annuity, to provide equal monthly payments to such person for a period certain of 25 years commencing no later than one year after the effective date of the appropriation. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages by the person awarded compensation. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of the person awarded compensation. All payments or costs of annuities under this section shall be made by check issued by the State Treasurer on warrant of the Comptroller.

C. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to subsection B. In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career and technical training within the Virginia community college system contingent upon successful completion of the training. Reimbursement for tuition shall be provided by the community college at which the career or technical training was completed.

(2004, cc. [818](#), [840](#); 2010, c. [557](#).)

§ 8.01-195.12. Conditions for continued compensation.

A. Any person awarded compensation under this article who is subsequently convicted of a felony shall, immediately upon such conviction, not be eligible to receive any unpaid amounts from any compensation awarded and his beneficiaries shall not be eligible to receive any payments under an annuity purchased pursuant to subsection B of § [8.01-195.11](#). Any unpaid amounts remaining under any annuity shall become the property of the Commonwealth and shall be deposited into the general fund of the state treasury.

A1. Any person awarded compensation under this article who is subsequently incarcerated upon the revocation of parole or probation resulting from the commission of an act that constitutes a crime shall, during the period of such incarceration, forfeit any

payments under an annuity purchased pursuant to subsection B of § [8.01-195.11](#). Any forfeited amounts under any annuity shall become the property of the Commonwealth and shall be deposited into the general fund of the state treasury.

B. As a condition of receiving any compensation under this article, a person shall execute a release and waiver forever releasing (i) the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision thereof, (ii) any legal counsel appointed pursuant to § [19.2-159](#), and (iii) all other parties of interest, from any present or future claims the person receiving compensation may have against such enumerated parties and arising out of the factual situation in connection with the conviction for which compensation is being sought under this article. In addition, the person receiving compensation shall not have been awarded a finally adjudicated judgment in a court of law against or received any funds pursuant to a settlement agreement with any person or entity described in this subsection for compensation or damages arising out of the factual situation in connection with the conviction.

(2004, cc. [818](#), [840](#); 2010, c. [557](#).)

§ 8.01-316. Service by publication; when available.

A. Except in condemnation actions, an order of publication may be entered against a defendant in the following manner:

1. An affidavit by a party seeking service stating one or more of the following grounds:

a. That the party to be served is (i) a foreign corporation, (ii) a foreign unincorporated association, order, or a foreign unincorporated common carrier, or (iii) a nonresident individual, other than a nonresident individual fiduciary who has appointed a statutory agent under § [26-59](#); or

b. That diligence has been used without effect to ascertain the location of the party to be served; or

c. That the last known residence of the party to be served was in the county or city in which service is sought and that a return has been filed by the sheriff that the process has been in his hands for twenty-one days and that he has been unable to make service; or

2. In any action, when a pleading (i) states that there are or may be persons, whose names are unknown, interested in the subject to be divided or disposed of; (ii) briefly describes the nature of such interest; and (iii) makes such persons defendants by the general description of "parties unknown"; or

3. In any action, when (i) the number of defendants upon whom process has been served exceeds ten and (ii) it appears by a pleading, or exhibit filed, that such defendants represent like interests with the parties not served with process.

Under subdivisions 1 and 2 of this subsection, the order of publication may be entered by the clerk of the court. Under this subdivision such order may be entered only by the court.

However, any orders not properly entered, but processed by a clerk prior to July 1, 2010, shall be deemed to have been properly entered.

Every affidavit for an order of publication shall state the last known post office address of the party against whom publication is asked, or if such address is unknown, the affidavit shall state that fact.

B. The cost of such publication shall be paid initially by the party seeking service; however, such costs ultimately may be recoverable pursuant to § [17.1-601](#).

(Code 1950, § 8-71; 1952, c. 522; 1977, c. 617; 1982, c. 384; 1983, c. 467; 1996, c. [352](#); 1999, c. [353](#); 2010, c. [827](#).)

§ 8.01-353. Notice to jurors; making copy of jury panel available to counsel; objection to notice.

A. The sheriff shall notify the jurors on the list, or such number of them as the judge may direct to appear in court on such day as the court may direct. Such notice shall be given a juror as provided by § [8.01-298](#). Verbal direction given by the judge, or at his direction, to a juror who has been given notice as hereinbefore provided that he appear at a later specified date, shall be a sufficient notice. Any notice given as provided herein shall have the effect of an order of court. No particular time in advance of the required appearance date shall be necessary for verbal notice hereunder, but the court may, in its discretion, excuse from service a juror who claims lack of sufficient notice. Upon request, the clerk or sheriff or other officer responsible for notifying jurors to appear in court for the trial of a case shall make available to all counsel of record in that case, a copy of the jury panel to be used for the trial of the case at least three full business days before the trial. Such copy of the jury panel shall show the name, age, address, occupation and employer of each person on the panel. Any error in the information shown on such copy of the jury panel shall not be grounds for a mistrial or assignable as error on appeal, and the parties in the case shall be responsible for verifying the accuracy of such information.

B. No judgment shall be arrested or reversed for the failure of the record to show that there was service upon a juror of notice to appear in court unless made a ground of exception in the trial before the jury is sworn.

(Code 1950, § 8-208.16; 1973, c. 439; 1974, c. 243; 1976, c. 261; 1977, c. 617; 1980, c. 452; 1981, c. 150; 1988, c. 350; 2010, c. [799](#).)

§ 8.01-353.1. Jurors to provide identification.

At the time of assembly for the purpose of juror selection, the clerk of court shall ensure that the identity of each member of the jury venire is verified as provided in this section. Prior to being selected from the jury venire, a potential juror shall verify his identity by presenting to the clerk of court upon request any of the following forms of identification: his Commonwealth of Virginia voter registration card; his social security card; his valid Virginia driver's license or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid

employee identification card containing a photograph of the juror and issued by an employer of the juror in the ordinary course of the employer's business. If the juror is unable to present one of these forms of identification, he shall sign a statement affirming, under penalty of perjury, that he is the named juror.

(2010, c. [765](#).)

§ 8.01-389. Judicial records as evidence; full faith and credit; recitals in deeds, deeds of trust, and mortgages; "records" defined.

A. The records of any judicial proceeding and any other official records of any court of this Commonwealth shall be received as prima facie evidence provided that such records are authenticated and certified by the clerk of the court where preserved to be a true record. For the purposes of this section, judicial proceeding shall include the review of a petition and issuance of a temporary detention order under § [16.1-340.1](#) or [37.2-809](#).

A1. The records of any judicial proceeding and any other official record of any court of another state or country, or of the United States, shall be received as prima facie evidence provided that such records are authenticated by the clerk of the court where preserved to be a true record.

B. Every court of this Commonwealth shall give such records of courts not of this Commonwealth the full faith and credit given to them in the courts of the jurisdiction from whence they come.

B1. In any instance in which a court not of this Commonwealth shall have entered an order of injunction limiting or preventing access by any person to the courts of this Commonwealth without that person having had notice and an opportunity for a hearing prior to the entry of such foreign order, that foreign order is not required to be given full faith and credit in any Virginia court. The Virginia court may, in its discretion, hold a hearing to determine the adequacy of notice and opportunity for hearing in the foreign court.

C. Specifically, recitals of any fact in a deed or deed of trust of record conveying any interest in real property shall be prima facie evidence of that fact.

D. "Records" as used in this article, shall be deemed to include any memorandum, report, paper, data compilation, or other record in any form, or any combination thereof.

(Code 1950, §§ 8-271, 8-275, 8-276, 8-276.1; 1977, c. 617; 1980, c. 453; 1995, c. [594](#); 1996, c. [417](#); 2008, c. [786](#); 2010, cc. [778](#), [825](#).)

§ [8.01-401.2:1](#). Podiatrist as an expert witness.

A podiatrist shall not be permitted to testify as an expert witness against a doctor of medicine or osteopathic medicine in connection with a medical malpractice civil court proceeding or a medical malpractice review panel in any case where the doctor or osteopath is a defendant in such proceeding.

(2010, cc. [715](#), [725](#).)

§ 8.01-407. How summons for witness issued, and to whom directed; prior permission of court to summon certain officials and judges; attendance before commissioner of other state; attorney-issued summons.

A. A summons may be issued, directed as prescribed in § [8.01-292](#), commanding the officer to summon any person to attend on the day and at the place that such attendance is desired, to give evidence before a court, grand jury, arbitrators, magistrate, notary, or any commissioner or other person appointed by a court or acting under its process or authority in a judicial or quasi-judicial capacity. The summons may be issued by the clerk of the court if the attendance is desired at a court or in a proceeding pending in a court. The clerk shall not impose any time restrictions limiting the right to properly request a summons up to and including the date of the proceeding:

If attendance is desired before a commissioner in chancery or other commissioner of a court, the summons may be issued by the clerk of the court in which the matter is pending, or by such commissioner in chancery or other commissioner;

If attendance is desired before a notary or other officer taking a deposition, the summons may be issued by such notary or other officer at the instance of the attorney desiring the attendance of the person sought;

If attendance is sought before a grand jury, the summons may be issued by the attorney for the Commonwealth, or the clerk of the court, at the instance of the attorney for the Commonwealth.

Except as otherwise provided in this subsection, if attendance is desired in a civil proceeding pending in a court or at a deposition in connection with such proceeding, including medical malpractice review panels, and a claim before the Workers' Compensation Commission, a summons may be issued by an attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. An attorney-issued summons shall be on a form approved by the Supreme Court, signed by the attorney and shall include the attorney's address. The summons and any transmittal sheet shall be deemed to be a pleading to which the provisions of § [8.01-271.1](#) shall apply. A copy of the summons and, if served by a sheriff, all service of process fees, shall be mailed or delivered to the clerk's office of the court in which the case is pending or the Workers' Compensation Commission, as applicable, on the day of issuance by the attorney. The law governing summonses issued by a clerk shall apply mutatis mutandis. When an attorney-at-law transmits one or more attorney-issued subpoenas to a sheriff to be served in his jurisdiction, such subpoenas shall be accompanied by a transmittal sheet. The transmittal sheet, which may be in the form of a letter, shall contain for each subpoena: (i) the person to be served, (ii) the name of the city or county in which the subpoena is to be served, in parentheses, (iii) the style of the case in which the subpoena was issued, (iv) the court in which the case is pending, and (v) the amount of fees tendered or paid to each clerk in whose court the case is pending together with a photocopy of the payment instrument or clerk's receipt. If copies of the same transmittal sheet are used to send subpoenas to more than one sheriff for service of process, then

subpoenas shall be grouped by the jurisdiction in which they are to be served. For each person to be served, an original subpoena and copy thereof shall be included. If the attorney desires a return copy of the transmittal sheet as proof of receipt, he shall also enclose an additional copy of the transmittal sheet together with an envelope addressed to the attorney with sufficient first class postage affixed. Upon receipt of such transmittal, the transmittal sheet shall be date-stamped and, if the extra copy and above-described envelope are provided, the copy shall also be date-stamped and returned to the attorney-at-law in the above-described envelope.

However, when such transmittal does not comply with the provisions of this section, the sheriff may promptly return such transmittal if accompanied by a short description of such noncompliance. An attorney may not issue a summons in any of the following civil proceedings: (i) habeas corpus under Article 3 (§ [8.01-654](#) et seq.) of Chapter 25 of this title, (ii) delinquency or abuse and neglect proceedings under Article 3 (§ [16.1-241](#) et seq.) of Chapter 11 of Title 16.1, (iii) civil forfeiture proceedings, (iv) habitual offender proceedings under Article 9 (§ [46.2-351](#) et seq.) of Chapter 3 of Title 46.2, (v) administrative license suspension pursuant to § [46.2-391.2](#), and (vi) petition for writs of mandamus or prohibition in connection with criminal proceedings. A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business days prior to the date that attendance is desired.

In other cases, if attendance is desired, the summons may be issued by the clerk of the circuit court of the county or city in which the attendance is desired.

A summons shall express on whose behalf, and in what case or about what matter, the witness is to attend. Failure to respond to any such summons shall be punishable by the court in which the proceeding is pending as for contempt. When any subpoena is served less than five calendar days before appearance is required, the court may, after considering all of the circumstances, refuse to enforce the subpoena for lack of adequate notice. If any subpoena is served less than five calendar days before appearance is required upon any judicial officer generally incompetent to testify pursuant to § [19.2-271](#), such subpoena shall be without legal force or effect unless the subpoena has been issued by a judge.

B. No subpoena shall, without permission of the court first obtained, issue for the attendance of the Governor, Lieutenant Governor, or Attorney General of this Commonwealth, a judge of any court thereof; the President or Vice President of the United States; any member of the President's Cabinet; any ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

C. This section shall be deemed to authorize a summons to compel attendance of a citizen of the Commonwealth before commissioners or other persons appointed by authority of another state when the summons requires the attendance of such witness at a place not out of his county or city.

(Code 1950, §§ 8-296, 8-297; 1952, c. 122; 1977, c. 617; 1992, c. 506; 2000, c. [813](#); 2002, c. [463](#); 2004, c. [335](#); 2007, c. [199](#); 2010, cc. [302](#), [486](#).)

§ 8.01-416. Affidavit regarding damages to motor vehicle.

A. In a civil action in any court, whether sounding in contract or tort, to recover for damages to a motor vehicle in excess of \$2,500, evidence as to such damages may be presented by an itemized estimate or appraisal sworn to by a person who also makes oath (i) that he is a motor vehicle repairman, estimator or appraiser qualified to determine the amount of such damage or diminution in value; (ii) as to the approximate length of time that he has engaged in such work; and (iii) as to the trade name and address of his business and employer. Such estimate shall not be admitted unless by consent of the adverse party or his counsel, or unless a true copy thereof is mailed or delivered to the adverse party or his counsel not less than seven days prior to the date fixed for trial.

B. In a civil action in any court, whether sounding in contract or tort, to recover for damages to a motor vehicle of \$2,500 or less, evidence as to such damages may be presented by an itemized estimate or appraisal sworn to by a person who also makes oath (i) that he is a motor vehicle repairman, estimator or appraiser qualified to determine the amount of such damage or diminution in value; (ii) as to the approximate length of time that he has engaged in such work; and (iii) as to the trade name and address of his business and employer.

(1977, c. 617; 1980, c. 183; 1990, c. 724; 2010, c. [343](#).)

§ 8.01-417. Copies of written statements or transcriptions of verbal statements by injured person to be delivered to him; copies of subpoenaed documents to be provided to other party; disclosure of insurance policy limits.

A. Any person who takes from a person who has sustained a personal injury a signed written statement or voice recording of any statement relative to such injury shall deliver to such injured person a copy of such written statement forthwith or a verified typed transcription of such recording within 30 days from the date such statement was given or recording made, when and if the statement or recording is transcribed or in all cases when requested by the injured person or his attorney.

B. Unless otherwise ordered for good cause shown, when one party to a civil proceeding subpoenas documents, the subpoenaing party, upon receipt of the subpoenaed documents, shall, if requested in writing, provide true and full copies of the same to any other party or to the attorney for any other party, provided the other party or attorney for the other party pays the reasonable cost of copying or reproducing the subpoenaed documents. This provision does not apply where the subpoenaed documents are returnable to and maintained by the clerk of court in which the action is pending.

C. After he gives written notice that he represents an injured person, an attorney, or an individual injured in a motor vehicle accident if he is not represented by counsel, may, prior to the filing of a civil action for personal injuries sustained as a result of a motor vehicle accident, request in writing that the insurer disclose the limits of liability of any motor vehicle liability or any personal injury liability insurance policy that may be applicable to the claim. The requesting party shall provide the insurer with the date of the motor vehicle accident, the name and last known address of the alleged tortfeasor, a copy

of the accident report, if any, and the claim number, if available. The requesting party shall also submit to the insurer the injured person's medical records, medical bills, and wage-loss documentation, if applicable, pertaining to the claimed injury. If the total of all such medical bills and wage losses equals or exceeds \$12,500, the insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits of liability at the time of the accident of all such policies, regardless of whether the insurer contests the applicability of the policy to the injured person's claim. Disclosure of the policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy. Information concerning the insurance policy is not by reason of disclosure pursuant to this subsection admissible as evidence at trial.

D. After he gives written notice that he represents the personal representative of the estate of a decedent who died as a result of a motor vehicle accident, an attorney, or the personal representative of the estate of the decedent who died as a result of a motor vehicle accident if he is not represented by counsel, may, prior to the filing of a civil action for wrongful death as a result of a motor vehicle accident, request in writing that the insurer disclose the limits of liability of any motor vehicle liability insurance policy or any personal injury liability insurance policy that may be applicable to the claim. The requesting party shall provide the insurer with the date of the motor vehicle accident, the name and last known address of the alleged tortfeasor, a copy of the accident report, if any, and the claim number, if available. The requesting party shall submit to the insurer the death certificate of the decedent; the certificate of qualification of the personal representative of the decedent's estate; the names and relationships of the statutory beneficiaries of the decedent; medical bills, if any, supporting a claim for damages under subdivision 3 of § [8.01-52](#); and, if at the time the request is made a claim for damages under clause (i) of subdivision 2 of § [8.01-52](#) is anticipated, a description of the source, amount, and payment history of the claimed income loss for each beneficiary. The insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits of liability at the time of the accident of all such policies, regardless of whether the insurer contests the applicability of the policy to the personal representative's claim. Disclosure of the policy limits under this section shall not constitute an admission that the alleged death or other damage is subject to the policy. Information concerning the insurance policy is not by reason of disclosure pursuant to this subsection admissible as evidence at trial.

(Code 1950, § 8-628.2; 1954, c. 390; 1977, c. 617; 2004, c. [345](#); 2005, c. [211](#); 2008, c. [819](#); 2010, cc. [354](#), [435](#).)

§ 8.01-420.7. Attorney-client privilege and work product protection; limitations on waiver.

A. When disclosure of a communication or information covered by the attorney-client privilege or work product protection made in a proceeding or to any public body as defined in § [2.2-3701](#) operates as a waiver of the privilege or protection, the waiver extends to an undisclosed communication or information only if:

1. The waiver is intentional;

2. The disclosed and undisclosed communications or information concern the same subject matter; and

3. The disclosed and undisclosed communications or information ought in fairness be considered together.

B. Disclosure of a communication or information covered by the attorney-client privilege or work product protection made in a proceeding or to any public body as defined in § [2.2-3701](#) does not operate as a waiver of the privilege or protection if:

1. The disclosure is inadvertent;

2. The holder of the privilege or protection took reasonable steps to prevent disclosure; and

3. The holder promptly took reasonable steps to rectify the error, including, if applicable, complying with the provisions of subdivision (b) (6) (ii) of Rule 4:1 of the Rules of the Supreme Court.

C. A court may order that the privilege or protection is not waived by the disclosure connected with the litigation pending before the court, in which case the disclosure does not operate as a waiver in any other proceeding.

D. An agreement on the effect of the disclosure in a proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

E. This section shall not limit any otherwise applicable waiver of attorney-client privilege or work product protection by an inmate who files an action challenging his conviction or sentence.

(2010, c. [350](#).)

§ 8.01-449. How judgments are docketed.

A. The judgment docket required by § [8.01-446](#) may be kept in a well-bound book, or any other media permitted by § [17.1-240](#). The date and time of docketing shall be recorded with each judgment docketed. The clerk of the circuit court of any county using card files on July 1, 1975, may continue to use the card file system. The docketing may be done by copying the wording of the judgment order verbatim or by abstracting the information therefrom into a book or into fixed fields of an electronic data storage system. Where a procedural microphotographic system is used, the docketing may be done by recording and storing a retrievable image of the judgment order, judgment abstract, or other source document such as a certificate of assignment or release. Where an electronic imaging system is used, the document image shall be stored in a data format which permits recall of the image. Any judgment docketed pursuant to this subsection shall contain the information required by subsection B.

B. Where a well-bound book is used for the judgment docket there shall be stated in separate columns (i) the date and amount of the judgment, (ii) the time from which it bears interest, (iii) the costs, (iv) the full names of all the parties thereto, including the address, date of birth and the last four digits of the social security number, if known, of each party against whom judgment is rendered, (v) the alternative value of any specific property recovered by it, (vi) the date and the time of docketing it, (vii) the amount and date of any credits thereon, (viii) the court by which it was rendered and the case number, and (ix) when paid off or discharged in whole or in part, the time of payment or discharge and by whom made when there is more than one defendant. And in case of a judgment or decree by confession, the clerk shall also enter in such docket the time of day at which the same was confessed, or at which the same was received in his office to be entered of record. There shall also be shown on such book the name of the plaintiff's attorney, if any.

C. Error or omission in the entry of the address or addresses or the social security number or numbers of each party against whom judgment is rendered shall in no way affect the validity, finality or priority of the judgment docketed.

D. Beginning July 1, 2012, any judgment made available to subscribers via secure remote access pursuant to § [17.1-294](#) shall contain only the last four digits of the social security number of any party. However, the information otherwise required in the judgment docket pursuant to this section shall be provided.

E. The attorney or party who prepares or submits the judgment for recordation has the responsibility for ensuring that only the last four digits of the social security number are included in the judgment prior to the instrument's being submitted for recordation. The clerk has the authority to reject any judgment that does not comply with the provisions of this section.

(Code 1950, § 8-377; 1973, c. 544; 1977, c. 617; 1982, c. 405; 1985, c. 171; 1988, c. 420; 1996, c. [427](#); 1997, c. [579](#); 2007, cc. [548](#), [626](#); 2008, cc. [823](#), [833](#); 2010, c. [430](#).)

§ 8.01-502.1. Serving notice of lien on financial institution.

A. No judgment creditor or attorney for a judgment creditor shall have a notice of lien served on a financial institution under § [8.01-502](#) unless such judgment creditor or attorney has a reasonable basis for believing that the judgment debtor is entitled to a payment from such institution. The fact that a financial institution is doing business in a geographic area where the judgment debtor resides, works or has a place of business is not, by itself, a reasonable basis for believing that the judgment debtor is entitled to a payment from a financial institution. Any person violating this section shall be liable to a financial institution for the sum of \$100 for each notice of lien wrongfully served on such institution. In any action at law to recover an amount due hereunder, the judgment creditor or attorney for the judgment creditor causing the notice of lien to be served on the financial institution shall have the burden of showing a reasonable basis for believing that the judgment debtor was entitled to a payment from such institution.

B. Any judgment creditor serving a notice of lien on a financial institution shall, within five business days of such service, mail to the judgment debtor at his last known address a copy of the notice of lien along with a notice of exemptions and claim for exemption form in accordance with § [8.01-512.4](#). The judgment creditor or attorney for the judgment creditor shall file a certification with the court affirming that he has mailed the judgment debtor these notices. In the event that the judgment creditor fails to comply with the requirements of this subsection, he shall be liable to the judgment debtor for no more than \$100 in damages, unless he proves by a preponderance of the evidence that the failure was not willful.

C. A financial institution served with a valid notice of lien shall provide a written response to the judgment creditor or attorney for the judgment creditor within twenty-one days after being served with such notice of lien indicating the amount of money held by the financial institution pursuant to the notice of lien.

(1997, c. [750](#); 1999, c. [48](#); 2010, c. [673](#).)

§ 8.01-504. Penalty for service of notice of lien when no judgment exists.

Whoever causes to be served a notice of lien of a writ of fieri facias without there being a judgment against the defendant named therein, shall pay to him the sum of \$350, and whoever serves a notice of lien of a writ of fieri facias before the issuance of a writ of fieri facias, or after the return day thereof, or serves or in any way gives a notice of a lien of fieri facias by means other than by service by an officer authorized to serve civil process, shall pay to the named defendant the sum of \$350, to be recoverable as damages in an action at law, in addition to whatever damages may be alleged and proven.

(Code 1950, § 8-433; 1977, c. 617; 2010, c. [343](#).)

§ 8.01-512.4. Notice of exemptions from garnishment and lien.

No summons in garnishment shall be issued or served, nor shall any notice of lien be served on a financial institution pursuant to § [8.01-502.1](#), unless a notice of exemptions and claim for exemption form are attached. The notice shall contain the following statement:

NOTICE TO JUDGMENT DEBTOR
HOW TO CLAIM EXEMPTIONS FROM GARNISHMENT AND LIEN

The attached Summons in Garnishment or Notice of Lien has been issued on request of a creditor who holds a judgment against you. The Summons may cause

your property or wages to be held or taken to pay the judgment.

The law provides that certain property and wages cannot be taken in garnishment. Such property is said to be exempted. A summary of some of the major exemptions is set forth in the request for hearing form.

There is no exemption solely because you are having difficulty paying your debts. If you claim an exemption, you should (i) fill out the claim for exemption form and (ii) deliver or mail the form to the clerk's office of this court. You have a right to a hearing within seven business days from the date you file your claim with the court. If the creditor is asking that your wages be withheld, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Summons in Garnishment attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld you may file a claim for exemption.

On the day of the hearing you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

REQUEST FOR HEARING-GARNISHMENT/LIEN EXEMPTION CLAIM

I claim that the exemption(s) from garnishment or lien which are checked below apply in this case:

MAJOR EXEMPTIONS UNDER FEDERAL AND STATE LAW

1. Social Security benefits and Supplemental Security Income (SSI) (42 U.S.C. § 407).
2. Veterans' benefits (38 U.S.C. § 3101).
3. Federal civil service retirement benefits (5 U.S.C. § 8346).
4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
6. Black lung benefits.

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

7. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C. § 1109).

8. Unemployment compensation benefits (§ [60.2-600](#), Code of Virginia).
9. This exemption may not be applicable in child support cases (§ [60.2-608](#), Code of Virginia).
10. Portions or amounts of wages subject to garnishment (§ [34-29](#), Code of Virginia).
11. Public assistance payments (§ [63.2-506](#), Code of Virginia).
12. Homestead exemption of \$5,000, or \$10,000 if the debtor is 65 years of age or older, in cash § [34-4](#), Code of Virginia).
This exemption may not be available in certain cases, such as payment of rent or services of a laborer or mechanic (§ [34-5](#), Code of Virginia).
13. Property of disabled veterans - additional \$10,000 cash (§[34-4.1](#), Code of Virginia).
14. Workers' Compensation benefits (§ [65.2-531](#), Code of Virginia).
15. Growing crops (§ [8.01-489](#), Code of Virginia).
16. Benefits from group life insurance policies (§ [38.2-3339](#), Code of Virginia).
17. Proceeds from industrial sick benefits insurance (§ [38.2-3549](#), Code of Virginia).
18. Assignments of certain salary and wages (§ [55-165](#), Code of Virginia).
19. Benefits for victims of crime (§ [19.2-368.12](#), Code of Virginia).
20. Preneed funeral trusts (§ [54.1-2823](#), Code of Virginia).
21. Certain retirement benefits (§ [34-34](#), Code of Virginia).
22. Child support payments (§ [20-108.1](#), Code of Virginia).
23. Support for dependent minor children (§ [34-4.2](#), Code of Virginia).
To claim this exemption, the debtor shall attach to the claim for exemption form an affidavit that complies with the requirements of subsection B of § [34-4.2](#) this exemption.
24. Other (describe exemption): \$

I request a court hearing to decide the validity of my claim. Notice of the hearing should be given me at:

.....
(address)

.....
(telephone no.)

The statements made in this request are true to the best of my knowledge and belief.

.....
(date)

.....
signature of judgment debtor

(1984, c. 1; 1986, c. 489; 1989, c. 684; 1994, c. [40](#); 2007, c. [872](#); 2009, cc. [332](#), [387](#), [388](#); 2010, c. [673](#).)

§ 8.01-581.17. Privileged communications of certain committees and entities.

A. For the purposes of this section:

"Centralized credentialing service" means (i) gathering information relating to applications for professional staff privileges at any public or licensed private hospital or for participation as a provider in any health maintenance organization, preferred provider organization or any similar organization and (ii) providing such information to those hospitals and organizations that utilize the service.

"Patient safety data" means reports made to patient safety organizations together with all health care data, interviews, memoranda, analyses, root cause analyses, products of quality assurance or quality improvement processes, corrective action plans or information collected or created by a health care provider as a result of an occurrence related to the provision of health care services.

"Patient safety organization" means any organization, group, or other entity that collects and analyzes patient safety data for the purpose of improving patient safety and health care outcomes and that is independent and not under the control of the entity that reports patient safety data.

B. The proceedings, minutes, records, and reports of any (i) medical staff committee, utilization review committee, or other committee, board, group, commission or other entity as specified in § [8.01-581.16](#); (ii) nonprofit entity that provides a centralized credentialing service; or (iii) quality assurance, quality of care, or peer review committee established pursuant to guidelines approved or adopted by (a) a national or state physician peer review entity, (b) a national or state physician accreditation entity, (c) a national professional association of health care providers or Virginia chapter of a national professional association of health care providers, (d) a licensee of a managed care health insurance plan (MCHIP) as defined in § [38.2-5800](#), (e) the Office of Emergency Medical Services or any regional emergency medical services council, or (f) a statewide or local association representing health care providers licensed in the Commonwealth, together with all communications, both oral and written, originating in or provided to such committees or entities, are privileged communications which may not be disclosed or obtained by legal discovery proceedings unless a circuit court, after a hearing and for good cause arising from extraordinary circumstances being shown, orders the disclosure of such proceedings, minutes, records, reports, or communications. Additionally, for the purposes of this section, accreditation and peer review records of the American College of Radiology and the Medical Society of Virginia are considered privileged communications. Oral communications regarding a specific medical incident involving patient care, made to a quality assurance, quality of care, or peer review committee established pursuant to clause (iii), shall be privileged only to the extent made more than 24 hours after the occurrence of the medical incident.

C. Nothing in this section shall be construed as providing any privilege to health care provider, emergency medical services agency, community services board, or behavioral health authority medical records kept with respect to any patient in the ordinary course of business of operating a hospital, emergency medical services agency, community services board, or behavioral health authority nor to any facts or information contained in such records nor shall this section preclude or affect discovery of or production of evidence

relating to hospitalization or treatment of any patient in the ordinary course of hospitalization of such patient.

D. Notwithstanding any other provision of this section, reports or patient safety data in possession of a patient safety organization, together with the identity of the reporter and all related correspondence, documentation, analysis, results or recommendations, shall be privileged and confidential and shall not be subject to a civil, criminal, or administrative subpoena or admitted as evidence in any civil, criminal, or administrative proceeding. Nothing in this subsection shall affect the discoverability or admissibility of facts, information or records referenced in subsection C as related to patient care from a source other than a patient safety organization.

E. Any patient safety organization shall promptly remove all patient-identifying information after receipt of a complete patient safety data report unless such organization is otherwise permitted by state or federal law to maintain such information. Patient safety organizations shall maintain the confidentiality of all patient-identifying information and shall not disseminate such information except as permitted by state or federal law.

F. Exchange of (i) patient safety data among health care providers or patient safety organizations that does not identify any patient or (ii) information privileged pursuant to subsection B between committees, boards, groups, commissions, or other entities specified in § [8.01-581.16](#) shall not constitute a waiver of any privilege established in this section.

G. Reports of patient safety data to patient safety organizations shall not abrogate obligations to make reports to health regulatory boards or other agencies as required by state or federal law.

H. No employer shall take retaliatory action against an employee who in good faith makes a report of patient safety data to a patient safety organization.

I. Reports produced solely for purposes of self-assessment of compliance with requirements or standards of the Joint Commission on Accreditation of Healthcare Organizations shall be privileged and confidential and shall not be subject to subpoena or admitted as evidence in a civil or administrative proceeding. Nothing in this subsection shall affect the discoverability or admissibility of facts, information, or records referenced in subsection C as related to patient care from a source other than such accreditation body. A health care provider's release of such reports to such accreditation body shall not constitute a waiver of any privilege provided under this section.

(Code 1950, § 8-654.10; 1976, c. 611; 1977, c. 617; 1995, c. [500](#); 1997, c. [292](#); 2001, c. [381](#); 2002, c. [675](#); 2004, c. [250](#); 2006, cc. [412](#), [678](#); 2007, c. [530](#); 2010, c. [196](#).)