



# 2010 Legislative Agenda

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*Initiatives the Virginia Poverty Law Center will be working on during the upcoming General Assembly Session*

## **Health Law**

There are huge revenue shortfalls expected in Virginia's state budget for the current fiscal year as well as the next biennium. VPLC will work to avoid/minimize cuts to Medicaid and other health programs for low income people and the uninsured. It will also support possible revenue enhancements to avoid cuts to human services programs. Working with the new Healthcare For All Virginians (HAV) Coalition, VPLC will continue to promote needed improvements in Medicaid and FAMIS. Legislation is expected that will help expand coverage and streamline application procedures for children, improve legal immigrants' access health programs, and assist low income people obtain/keep private health insurance. Finally, if National Health Reform becomes law, we will work on implementation issues.

## **Predatory Lending**

VPLC and several other groups will be focused on closing the open-end credit loophole that has allowed car title and payday lenders to plague Virginia with 300% loans.

## **Military Consumer Rights**

VPLC will work with the Virginia Trial Lawyers Association and military civil legal aid groups to give members of the military in Virginia a method to enforce their rights under the federal Service Members Civil Relief Act.

## **Foreclosure Relief**

VPLC will work with Housing Opportunities Made Equal and other groups to alter the foreclosure process in Virginia in order to help homeowners modify their mortgages and stay in their homes.

## **Temporary Assistance to Needy Families (TANF)**

VPLC will support any bill that provides larger access to TANF benefits for Virginia's most needy families and will oppose any bill that would negatively impact individuals on TANF.

## **Unemployment**

VPLC will support any bills that make positive changes to the unemployment compensation program and oppose any bills that will make it harder for low-wage workers to access unemployment benefits.

## **Elder Law**

With a coalition of partners, VPLC will support bills which improve guardianship, power of attorney and advance medical directive protections for those with diminished capacity, bills which seek to protect seniors from financial exploitation, and bills which improve long term care, and VPLC will oppose bills which negatively impact residents of long term care facilities or seniors living in their homes. VPLC will oppose detrimental budget cuts which impact the elderly, especially

in Medicaid coverage and long term care.

## **Domestic Violence Law**

VPLC and a coalition of partners will work to add strangulation to the Code of Virginia. Strangulation is a serious crime with which many domestic violence victims are all too familiar. There is, however, no specific mention of it in the Code of Virginia. An abuser may have almost killed a victim by strangulation, but the crime is charged as a misdemeanor instead of as a felony. Victims often suffer for months afterward from injuries to their throats, hoarse voices, bruises behind ears, blood-red eyes (due to blood being forced into the whites of their eyes), etc.

VPLC will also work to add possession to §18.2-308.1:4. Currently there is a major difference between federal and Virginia law as regards protective order firearms prohibitions. Under Virginia law, a person who is subject to a protective order (the respondent, the abusive party) is prohibited from purchasing or transporting a firearm. Under federal law, however, a person subject to a protective order may not purchase, transport or possess a firearm or ammunition. For years, bills have been introduced to try to make Virginia's laws regarding protective order firearms prohibitions comport with federal law. This bill was not

introduced during the 2009 General Assembly. It is unlikely that the 2010 General Assembly will pass a bill to reconcile Virginia's laws with federal firearms prohibitions laws, but VPLC believes it is an important issue to keep raising.

### **Housing Law**

There have been cases where a tenant about to be evicted for non-payment of rent has a commitment from a local government eviction prevention group, a non-profit group like Catholic Charities, or other entity to pay the past due rent, but the organization was unable to raise the money, deposit it into a checking account, then pay it before the due date. We have been told that the money has been too late by as little as a few hours. VPLC would like to propose adding language to the Virginia Residential Landlord and Tenant Act and to the old Landlord and Tenant Law that would allow a court to accept a tender from a local government, church, or other organizations before or at the return date for a Summons for Unlawful Detainer.

Currently, if the tenant fails to pay the rent before that time, the landlord may be granted immediate possession of the rented property. This measure would allow the tenant to show up with documentation that one of the groups mentioned will pay, allowing the court to grant immediate possession to the landlord if the rent is not paid within 10 days after the return date.

### **Family Law**

#### **Clarifying Notice Requirements in Divorce Cases**

In various parts of the Commonwealth, judges require plaintiffs in divorce cases to formally serve the

defendant with notices even after he has failed to answer or otherwise make an appearance. This requirement places an undue burden on the plaintiffs and can cause unnecessary delay or even dismissal of the case where the plaintiff is *pro se* and unfamiliar with standard notices and service rules.

Virginia Code §8.01-320 clearly states that when the defendant fails to file a responsive pleading, the case can proceed without service of any additional pleadings on the defendant. While this section should control in divorce cases, Virginia Code §20-99 may be causing confusion by stating that service of notice must be done in accordance with Virginia Code §8.01-296, which describes the various manners in which formal process can be served.

This confusion could be eliminated by a simple amendment to Virginia Code §20-99 that expressly states that a defendant who does not answer or otherwise make an appearance is not entitled to notice of depositions, hearings, motions or any other proceedings.

#### **Extending Independent Living Services can Improve Outcomes for Youth in Care**

VPLC proposes extending the time during which youth can "opt back in" to services from 60 days to 6 months; allowing ALL youth in Virginia to remain in care until age 21; and requiring that any who leave before 21 receive written notice of their right to have services restored. These changes should yield significant results. Studies show that youth receiving foster care services after 18 have much better educational outcomes. They are two to three times more likely to be enrolled in college as those who left

care at 18. Those who received no services after 18 were twice as likely to have their utilities cut off and six times as likely to be evicted.

#### **Protecting Exempt Funds When Notice of Lien Used on Bank Accounts**

The Virginia Poverty Law Center proposes protecting the existing rights of debtors by amending the Virginia Code to require that a creditor using a notice of lien give written notice to the debtor of his right to claim certain funds as exempt and provide the debtor with the right to a hearing on his exemption claim within seven days of filing the claim. The proposed amendments would require the creditor to file with the court a certification that he had served both the notice of lien and notice of exemptions and hearing on the debtor.

#### **Amending Creditors Bill Statute**

VPLC proposes taking a balanced approach to amending Virginia Code § 8.01-462 modeled on the property tax exemption established for low-income homeowners by Virginia Code § 58.1-3211. Under VPLC's proposal, judgment creditors would be prohibited from using a Creditor's Bill to force a sale of a home if the homeowner's household annual income was less than \$50,000, or if the homeowner had household income qualifying him for federal housing assistance. The practical impact of this change will be to give homeowners owing judgments (often for unpaid medical debt accrued because of inadequate or nonexistent health insurance) peace of mind. Creditors will continue to be able to wait and collect these judgments once the real estate is sold, as they do in most cases today.