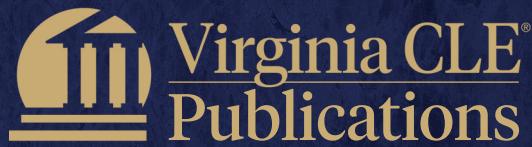


2026 EDITION

Virginia Criminal Practice Forms



Continuing Legal Education by the Virginia Law Foundation

VIRGINIA LAWYERS PRACTICE FORMS BOOK

VIRGINIA CRIMINAL PRACTICE
FORMS

Fourth Edition

 Virginia CLE[®]
Publications



Virginia Criminal Practice Forms

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CHAPTER 9

PRELIMINARY HEARINGS

9.1 Motion for Closure of Preliminary Hearing

VIRGINIA:

IN THE COURT FOR THE [CITY] [COUNTY] OF

COMMONWEALTH OF VIRGINIA

v. CASE NO.

[Defendant's name],
Defendant.

MOTION FOR CLOSURE OF PRELIMINARY HEARING

The Defendant, [Defendant's name], by counsel, pursuant to the Sixth and Fourteenth Amendments to the United States Constitution, Article I, Section 8 of the Virginia Constitution, and section 19.2-266 of the Virginia Code, for [his] [her] Motion for Closure of Preliminary Hearing, states as follows:

|Set forth supporting facts, for example:

1. [Defendant's name] is charged in [jurisdiction] with [number and nature of offenses].
2. Since [Defendant's name]'s arrest, [his] [her] case has received substantial attention in the media.
3. Immediately after [Defendant's name]'s arrest, the media reported that [Defendant's name] "confessed" to the crimes and that [he] [she] did so after having been advised of [his] [her] rights.
4. Defense counsel anticipates that the Defendant's statements to the police will be offered for the court's consideration at the preliminary hearing.

5. There is a substantial probability that there will be further publicity regarding a so-called “confession.”

6. [Defendant’s name]’s statements to the police and other evidence will likely be the subject of suppression motions both in this court and in subsequent circuit court proceedings.

7. Publicity regarding “confessions” poses a special risk of unfairness. Inculpatory information may come out at the preliminary hearing that could eventually be deemed inadmissible at trial.

8. Potential jurors should not be exposed to information before its admissibility is finally determined.

9. Other motions in this case have been heard in open court. The proceedings have been reported in the media. The Defendant’s motion is limited to a specific hearing and is narrowly tailored to protect [his] [her] right to a fair trial.

10. Under the Sixth Amendment to the United States Constitution and Article I, Section 8 of the Virginia Constitution, [Defendant’s name] has a right to a fair trial by an impartial jury. Given the likelihood of additional pretrial publicity regarding [his] [her] statements to the police, the right can be protected only by closing the preliminary hearing.]

WHEREFORE [Defendant’s name] moves the court to make a finding on the record that closure of the preliminary hearing is essential to preserve [his] [her] right to a fair trial, that the closure is narrowly tailored to serve that interest, and that alternatives will not protect [his] [her] fair-trial right, and to enter an order consistent with these findings.

Respectfully submitted,

[Defendant’s name]
By Counsel

COUNSEL:

[Name of Attorney]
Virginia State Bar No. _____
[Name of Firm]

[Address]

[City, State, and Zip Code]

[Telephone Number]

[Fax Number]

[Email Address]

CERTIFICATE

I hereby certify that a true and accurate copy of the foregoing was [hand delivered] [sent by first-class mail postage prepaid] to [name and address of Commonwealth's Attorney]; [name and address of television station]; [name and address of newspaper publisher]; [name and address of attorney]; and [name and address of radio station news director] on _____, 20____.

[Attorney's name]

CHAPTER 10

CONTINUANCES

0

10.1 *Motion for Continuance*

VIRGINIA:

IN THE _____ COURT FOR THE [CITY] [COUNTY] OF _____
COMMONWEALTH OF VIRGINIA
v. CASE NO. _____
[Defendant's name],
Defendant.

MOTION FOR CONTINUANCE

[Defendant's name], by counsel, respectfully moves the court to grant [him] [her] a continuance and reschedule [his] [her] case from [Present trial date] to be reset at the [Date of next] docket call.

The basis for this continuance is that the undersigned will be [participating as lead counsel in the trial of an aggravated murder case on [Present trial date] in the Circuit Court for [Jurisdiction]].

Respectfully submitted,

[Defendant's name]
By Counsel

COUNSEL:

[Name of Attorney]
Virginia State Bar No. _____
[Name of Firm]
[Address]
[City, State, and Zip Code]
[Telephone Number]

[Fax Number]
[Email Address]

CERTIFICATE

I hereby certify that a true and accurate copy of the foregoing was [hand delivered] [sent by first-class mail postage prepaid] to [name and address of Commonwealth's Attorney] on _____, 20___.

[Attorney's name]

IN SAMPLE

10.2 *Continuance Order*

VIRGINIA:

IN THE _____ COURT FOR THE [CITY] [COUNTY] OF _____
COMMONWEALTH OF VIRGINIA
v. CASE NO. _____
[Defendant's name],
Defendant.

ORDER

On motion of the Defendant, [Defendant's name], the above case is
ORDERED continued from _____, 20____ to be reset at the
_____, ____ docket call.

ENTER: _____
Judge
Date: _____

I ASK FOR THIS:

COUNSEL:

[Name of Attorney]
Virginia State Bar No. _____
[Name of Firm]
[Address]
[City, State, and Zip Code]
[Telephone Number]
[Fax Number]
[Email Address]

SEEN:

[Name of Commonwealth's Attorney]

Virginia State Bar No. _____

[Name of Firm]

[Address]

[City, State, and Zip Code]

[Telephone Number]

[Fax Number]

[Email Address]

CHAPTER 11

SUBPOENAS, NOTICES, AND OTHER PROCESS

11.1 *Notice of Motion*

VIRGINIA:

IN THE _____ COURT FOR THE [CITY] [COUNTY] OF _____
COMMONWEALTH OF VIRGINIA

v. CASE NO. _____

[Defendant's name],
Defendant.

NOTICE

Please be advised that the Defendant, [Defendant's name], intends to object to _____ on the grounds and for reasons stated in the attached motion, and that the court shall hear the Defendant's motion on _____, 20 _____ at _____ [a.m.] [p.m.], or as soon thereafter as counsel may be heard in the Circuit Court for the [City] [County] of _____.

Respectfully submitted,

[Defendant's name]
By Counsel

COUNSEL:

[Name of Attorney]
Virginia State Bar No. _____
[Name of Firm]
[Address]
[City, State, and Zip Code]
[Telephone Number]

[Fax Number]

[Email Address]

CERTIFICATE

I hereby certify that a true and accurate copy of the foregoing was [hand delivered] [sent by first-class mail postage prepaid] to [name and address of Commonwealth's Attorney] on _____, 20___.

[Attorney's name]

IN SAMPLE

11.2 Petition for Certificate for Out-Of-State Witness

VIRGINIA:

IN THE _____ COURT FOR THE [CITY] [COUNTY] OF _____
COMMONWEALTH OF VIRGINIA
v. CASE NO. _____
[Defendant's name],
Defendant.

**PETITION FOR A CERTIFICATE TO SECURE THE
ATTENDANCE OF AN OUT-OF-STATE WITNESS**

Comes now, Defendant, [Defendant's name], by counsel, and moves this court to certify the materiality of a certain witness who may be found in [Responding state], pursuant to the provisions of the Uniform Act to Secure the Attendance of Witnesses from Without the State in Criminal Proceedings, sections 19.2-272 through 19.2-282 of the Virginia Code and codified in [Responding state] as [Responding state's code section(s)]. In support of this motion, the Defendant states as follows:

1. Defendant is charged with [Numbers of counts and charges] in violation of [Code sections for charges].
2. A bench trial is scheduled before this Court on [Date of trial] at [Time of trial] [a.m.] [p.m.] Defense counsel has identified [Name of witness] as a witness in this matter. Counsel has a good faith basis to believe that the testimony of [Name of witness] is material to the defense of this case.
3. The witness, [Name of Witness], may be found at [Witness address].
4. The responding state, [Name of state], has enacted the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings as [Responding state code section].
5. The laws of the Commonwealth of Virginia exempt said witness from arrest or service of process, civil or criminal, while the witness is in the Commonwealth of Virginia pursuant to summons pertaining hereto in connection

with matters that arose before said witness's entrance into the Commonwealth under summons.

6. The witness's appearance will be required for no more than [Number of] days.

7. The witness's appearance in Virginia will not work a hardship upon [him] [her].

8. Virginia law allows for the reimbursement of the witness for additional reasonable expenses incurred during [his] [her] attendance in response to the requested subpoena.

WHEREFORE, the Defendant moves this court for the issuance of a certificate under seal of this court directed to [Name of Clerk], Clerk of [Responding Court] of the State of [Responding state] certifying [Witness name], presently residing in [Responding state], is a material witness to these proceedings and that [his] [her] attendance is required before this court on [date and time of trial].

Respectfully submitted,

[Defendant's name]
By Counsel

COUNSEL:

[Name of Attorney]
Virginia State Bar No. _____
[Name of Firm]
[Address]
[City, State, and Zip Code]
[Telephone Number]
[Fax Number]
[Email Address]