



VPLC

VIRGINIA POVERTY LAW CENTER

2017

# LEGISLATIVE AGENDA

ECONOMIC JUSTICE • FAMILY ADVOCACY • HEALTHY COMMUNITIES

*Advocating for low-income Virginians since 1978*



**Virginia Poverty Law Center**

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**Executive Director Letter**

“Poverty, like economic and social injustice more broadly, is not an inevitable or intractable force. It is something we can end through the decisions we make at the public policy level.”<sup>1</sup>

Dear Justice Advocate,

The Virginia Poverty Law Center is committed to help policymakers make the right decisions for the poor in Virginia and for us all.

During the upcoming 2017 legislative session, VPLC will work to preserve and enhance opportunities for low-income Virginians to obtain health care, public assistance as well as safe and decent affordable housing. We will also work to assist those that are harmed by predatory consumer practices, financial exploitation and domestic and sexual violence. There is much work to be done and the following pages details our legislative agenda for the upcoming session. In addition to what is listed in this booklet, as in years past, VPLC will support any legislation that strengthens legal protections for low-income people and oppose any legislation that threatens to further harm this population.

We are grateful for your continuing support. Together we form a united voice for a population whose voice is often times overlooked. We hope you'll read through our upcoming agenda and please feel free to reach out if you have any questions or wish to know how you could personally advocate on behalf of a particular issue. Once the session concludes, we will be sure to let you know the outcomes of the various legislation.

Thank you for your belief that ALL CITIZENS, regardless of economic status, should have equal access to justice.

Sincerely,

Jay Speer  
Executive Director

<sup>1</sup> The High Cost of Poverty-For the Poor and for Us All:  
<https://theshriverbrief.org/the-high-cost-of-poverty-for-the-poor-and-for-us-all-4boafde5a88f#8nhovjlyd>

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## CENTER FOR **ECONOMIC JUSTICE**

**Consumer Law** — *Promoting a Fair Marketplace*

**Housing Law** — *Rental Housing and Protecting the Rights of Renters*

The Center for Economic Justice focuses on housing, foreclosure, consumer, barriers to employment, and access to utilities issues. Our team members provide advocacy, training and technical assistance to local legal aid advocates as well as other community partners.

We focus on our low-income clients' interests at the Virginia General Assembly, in court in limited circumstances, before executive agencies and in collaboration with other state and local stakeholders. We operate a predatory loan hotline and provide advice and assistance to callers trapped in payday, car title and internet loans.

Our Affordable Energy Project is focused on advocating for policies that make energy affordable for our clients.

## Promoting a Fair Marketplace

Over the past several years, the Virginia General Assembly passed legislation exempting payday and car title lenders from our 12% usury cap and allowing them to charge over 200% interest.

In exchange for their exemption from the usury cap, these companies are now regulated by the state and are subject to certain restrictions. Unfortunately many former payday lenders are ignoring the law and avoiding regulation by making open-end loans. This creates an unfair marketplace for both consumer and the lenders that continue to follow the law. Recent surveys found that 93% of voters agree that it is important to regulate financial services and products to make sure they are fair for consumers.

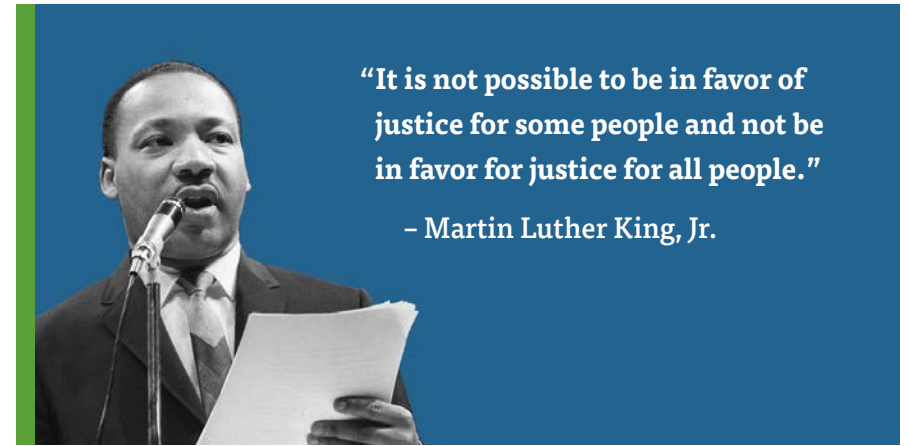
**To promote a fair marketplace, the General Assembly should clarify the law regarding internet, payday, car title, and open-end credit lending so that all lenders must follow the same laws and regulations.**

We will support legislation to close the open-end credit loophole being used by former payday lenders to evade the Virginia Payday Loan Act. We will also support legislation to ensure that internet loans are regulated the same under Virginia law as brick and mortar loans are, to stop the rampant abuse and illegal practices. This would provide relief and clarity for Virginia consumers with internet-based loans. Uniformity in regulation creates stability and an even marketplace for borrowers to decide what is best for them without fear of being misled.

**9 in 10**

Over nine in ten voters agree on the importance of regulating financial services and products to make sure they are fair to consumers.<sup>1</sup>

<sup>1</sup> Americans for Financial Reform and the Center for Responsible Lending – Findings from a National Survey of 1,000 Likely 2016 Voters: [http://ourfinancialsecurity.org/wp-content/uploads/2015/07/presentation.AFR\\_subset.070815.pdf](http://ourfinancialsecurity.org/wp-content/uploads/2015/07/presentation.AFR_subset.070815.pdf)



**“It is not possible to be in favor of justice for some people and not be in favor for justice for all people.”**

– Martin Luther King, Jr.

### Internet Lending

**Make it clear that the Consumer Finance Act applies to internet loans.**  
Why should we let out-of-state companies evade our laws?

### Unregulated Open-end Line of Credit Loans

All loans should be regulated, especially loans which are in many instances administered as unregulated payday loans.

**They should have to follow the same restrictions found on payday and car title loans, such as:**

- No harassment of borrowers by employees of the lenders: several phone calls per day, calling your employer, calling your friends and relatives, threatening jail, etc.
- No quickly suing anyone who gets behind to intimidate them – you have to wait 60 days.
- Only one loan at a time. We hear from lots of people with multiple loans, because they used new loans to cover the first loan. A new version of the cycle of debt.

## Improving the Rights of Renters

About two-thirds of Virginians own their homes. But for many people in our state, especially those of lower income, home ownership is impractical or unaffordable.

Most of the remaining individuals and families rely on the rental market to meet their housing needs. Unfortunately, many households are unable to obtain safe and affordable rental housing in the areas and neighborhoods of their choice because of problems with tenant-background checks. Modern tenant background checks are often fully automated, being carried out by computers that which search for credit information, criminal records, and other information which matches (or nearly matches) a rental applicant's name and date of birth. These systems often mismatch criminal records, eviction lawsuits, or other negative belonging to someone else with the actual rental applicant—causing qualified applicants to be turned down for housing, and causing some landlords to turn away perfectly good tenants.

The Fair Credit Reporting Act provides procedures tenants can use to obtain, review, dispute, and correct their background reports. But rental applicants are often unable to utilize these procedures because they aren't informed of what company performed the background check, or that they have a right to receive a copy, or how to obtain it.

**The General Assembly should address this problem by requiring a written adverse action notice that states the name, address, and telephone number of the background check provider whenever an applicant is turned down for rental housing.**

Another problem renters sometimes face is being displaced from their homes by foreclosure when a landlord fails to pay the mortgage. Until 2014, federal law ensured such tenants at least 90 days' notice before having to move out after a foreclosure.

**As that federal statute has now expired, however, Virginia should restore this protection by enacting a state notice requirement.**



### CENTER FOR FAMILY ADVOCACY

**Child Welfare** — *Foster Care Improving Outcomes for Youth Leaving Foster Care and Improving Access to Justice for both Children and Birth Parents in Court Cases*

**Domestic & Sexual Violence Law** — *Strengthening Protections for Victims of Sexual and Domestic Violence*

**Elder Law** — *Providing a Strong Voice for Vulnerable Adults*

The Center for Family Advocacy focuses on substantive areas of the law that affect low-income families, especially elder law, family law, child welfare and domestic and sexual violence (including serving the needs of immigrant domestic and sexual violence victims).

Our team members provide advocacy, training and technical assistance (to local legal aid advocates as well as other community partners) and limited legal advice about rights with respect to nursing home and assisted living law/rights, Medicaid eligibility and planning, guardianship and alternatives to guardianship/substitute decision-making (such as powers of attorney, advance medical directives, living wills), financial exploitation and scams, elder abuse and neglect, Social Security, divorce, custody, visitation, child and spousal support, protective orders and immigration issues geared to certain domestic and/or sexual violence victims.

We focus on our low-income clients' interests at the Virginia General Assembly, in court (in limited circumstances when a legal aid-eligible client is not able to obtain legal representation), before executive agencies and in collaboration with other state and local stakeholders.

## Child Welfare: Foster Care Improving Outcomes for Youth Leaving Foster Care and Improving Access to Justice for both Children and Birth Parents in Court Cases



VPLC will be working closely with Voices for Virginia's Children, Great Expectations (a program providing assistance for former foster youth in our community colleges), JustChildren, and other organizations that advocate for the welfare of Virginia's children, to track legislation and support (or oppose) those bills that would impact children and families.

**We anticipate supporting bills that would expand eligibility for SNAP benefits and Great Expectations, as well as working to see that youth in foster care are fully supported, especially as they transition to adulthood.**

VPLC will also be tracking legislation that would ensure that lawyers and guardians *ad litem* appointed to represent children and parents in dependency court hearings are well-qualified and comply with required standards.

## Domestic & Sexual Violence Law Strengthening Protections for Victims of Sexual and Domestic Violence

### 1. Fine-Tuning Penalty Against Illegal Use of Electronic Tracking Device

In 2013, the Virginia General Assembly passed a law geared to preventing a person from using an electronic tracking device to illegally stalk another. Code of Virginia § 18.2-60.5 states:

*"A. Any person who installs or places an electronic tracking device through intentionally deceptive means and without consent of the operator of the vehicle, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent of the operator of the vehicle, and uses such device to track the location of any person is guilty of a Class 3 misdemeanor."*

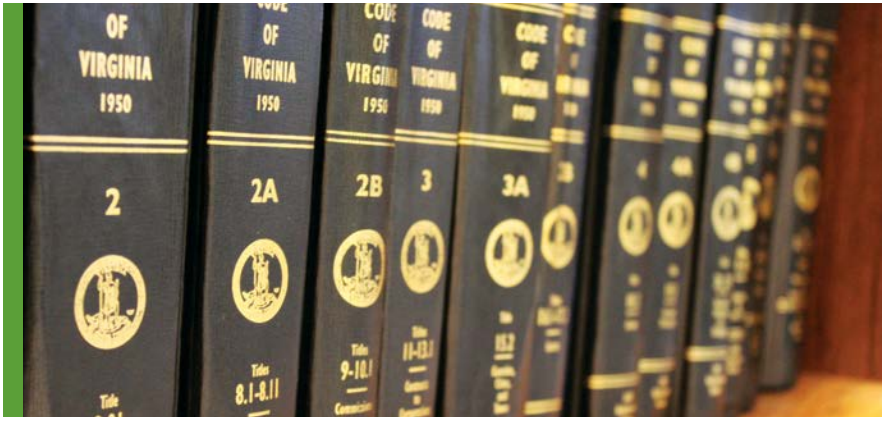
The law allows for exceptions for law-enforcement officers, the parent or legal guardian of a minor or any person authorized by the parent or legal guardian as a caretaker of the minor at any time when the minor is under the person's sole care, a legally authorized representative of an incapacitated adult, private investigators in certain circumstances, bail bondsmen, and the owners of fleet vehicles.

**VPLC proposes adding "of the operator of the vehicle" after "without consent" to address a recent case in which a judge refused to find husband guilty of § 18.2-60.5 due to its current language.**

**31%**

The percentage of homicides in Virginia related to family and intimate partners.

Continued on next page →



## 2. Give Juvenile & Domestic Relations District (JDR) Court Judges Express Authority to Conduct In Camera Interviews of Minors

Currently, only Circuit Court judges have express authority under the Code of Virginia to conduct in camera interviews of children:

*“§ 20-124.2:1. In any proceeding in a court of record to determine custody or visitation, when the court conducts an in camera interview of a minor child whose custody or visitation is at issue without the presence of the parties or their counsel, a record of the interview shall be prepared, unless the parties otherwise agree. The record of the interview shall be made a part of the record in the case unless a decision is made by the court that doing so would endanger the safety of the child. The cost of creating the record shall be taxed as costs to the parties to the proceeding.*”

**VPLC proposes giving this express authority to Juvenile & Domestic Relations District (JDR) Court Judges, as well.**

## 3. Motion to Extend PO Form Needed

In 2010, the Virginia General Assembly passed a law allowing for protective orders (POs) to be extended under certain circumstances. The Office of the Executive Secretary of the Supreme Court of Virginia (OES) is the administrative office of all Virginia courts. Only “Motion to Amend” forms have been available, to date, for this purpose. Local practitioners would like the OES to issue a new form called “Motion to Extend” form because some judges are requiring Petitioners seeking an extension of a PO to prove a change in circumstances (which is often the requirement when requesting that an order be amended). No change in circumstances is required to obtain an extension of a PO.

## Providing a Strong Voice for Vulnerable Adults

The Long-Term Care Ombudsman Program serves as an important voice for vulnerable nursing home and assisted living residents who are denied needed care or basic rights to dignity and autonomy. Yet the program is severely underfunded, with staffing levels far short of the funding standard adopted years ago by the General Assembly.

Early intervention by an ombudsman on behalf of long-term care residents can prevent unnecessary complications and needless suffering and can actually save money by preventing hospitalizations. Although several years ago the General Assembly adopted a funding standard for local ombudsmen of one ombudsman for every 2,000 assisted living and nursing home beds, it has never funded the program at that level. Virginia now falls woefully short of this minimum staffing ratio, with some parts of the state having coverage as low as one ombudsman for every 5,000 beds.

**VPLC, with other advocacy groups, will advocate for increased funding for the Virginia Long-Term Care Ombudsman Program.**

With other groups in the Virginia Elder Rights Coalition, VPLC will work to increase funding for the Long-Term Care Ombudsman Program so that staffing shortages at both the state and local levels can be alleviated. In addition to serving residents of long-term care facilities, Virginia’s ombudsman program also is charged with serving those over 60 who receive community-based care — an added responsibility that has never been adequately funded. Increased funding for the Program will enhance the protection of rights and safety of older adults in Virginia and will further enhance the Program’s capacity to advocate for much needed systemic change in long-term care.





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**Are you committed to these ideas  
and willing to join us in the fight for justice?**

**Join us for the journey and share our  
messages and calls to action with your  
family and friends.**

*We are your go-to source for information on poverty-  
related issues at the 2017 Virginia General Assembly.*

*We'll keep you informed and up-to-date on what is  
happening at the capitol, how people participate in our  
citizen democracy, and how you can make a difference.*

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### Stay Involved



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### CENTER FOR HEALTHY COMMUNITIES

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**Public Benefits Law** — *Reducing Hunger in the  
Commonwealth of Virginia and Providing More Assistance  
to Very Low Income Families with Children.*

**Health Law** — *Protect and Improve Access to Healthcare  
and Health Insurance for Low Income Virginians.*

The Center for Healthy Communities focuses on health care access, public benefits and food security issues. Attorneys in this center have expertise in Medicaid, Medicare, FAMIS, TANF, unemployment compensation and SNAP (food stamps). Low-income Virginians depend on many of these programs and services to meet their basic and essential needs.

The Center also includes several successful statewide projects such as Enroll Virginia, Healthcare for All Virginians, and Virginia Hunger Solutions. Enroll Virginia supports federally-certified Navigators who provide outreach, education and enrollment assistance to individuals seeking health insurance from the federal marketplace and/or state health programs.

Healthcare for All Virginians is a coalition of 100+ organizations supporting closure of Virginia's Medicaid coverage gap. Virginia Hunger Solutions advocates for improvements in school meal services and the state's food stamp program.



## Protect and Improve Access to Healthcare and Health Insurance for Low Income Virginians

For many years, VPLC has worked to protect and improve public health insurance programs for low income Virginians.

Our work is even more important now because there are very real and serious threats to all those programs: Medicaid, Medicare, Children’s Health Insurance (CHIP/FAMIS) the Medicaid expansion opportunity, and the Affordable Care Act. Advocacy is needed at both the federal and state levels to ensure that policymakers considering drastic changes to these programs understand the ongoing and urgent need of low income Virginians to have affordable and quality healthcare.

### Protect and Improve Health Care in Virginia

About one million Virginians are currently enrolled in Virginia’s Medicaid Program. While most of the enrollees are children, most of the costs of Medicaid are for expensive long term care services needed by elderly and disabled adults. Nursing home services and long term community-based care are rarely covered by private health insurance or Medicare.

While Virginia’s Medicaid program is large and costly, it is actually more limited and restrictive than Medicaid in other states. Nationally, Virginia is ranked 47th in per capita Medicaid spending. Virginia is also one of only 19 states that has refused the opportunity under the Affordable Care Act (ACA) to expand Medicaid coverage to adults with income under 138% of the federal poverty line (FPL) (\$16,394/yr. for an individual; \$27,820/yr. for a family of three). Instead, up to 400,000 of these very low-income adults remain uninsured, and the state has forfeited almost \$7 billion in federal funding available to serve this population.

Efforts to address Virginia’s mental health and substance use crises are undermined because so many adults lack access to basic health insurance coverage. Due to these current limitations, federal proposals to block-grant Medicaid or impose per-capita caps could be very problematic for Virginia, preventing future program improvements.



### Additional Healthcare Access Concerns

Children’s Health Insurance Program (CHIP) (called “FAMIS” in Virginia) provides coverage to about 110,000 uninsured children and pregnant women who have income up to 205% FPL. (e.g., \$41,328/year for a family of three). Unless reauthorized by Congress in 2017, this important health program will end.

There are also about 380,000 Virginians who have private health insurance through the ACA’s federal marketplace. Nearly 80% of those enrollees qualify for tax credits to help cover the costs of insurance premiums, and many families are also eligible for reductions in out-of-pocket costs, such as deductibles and co-payments. Any “replacement” of the ACA must offer affordable and quality coverage to this population.

**As the new healthcare landscape unfolds, VPLC will be engaged to prevent cuts to existing health programs and to promote necessary improvements.**

**11.2%**

In Virginia, The public the safety net lifts roughly 190,000 Virginia children above the poverty line, reducing the child poverty rate from 21.2% to 11.2%.

## Reducing Hunger in the Commonwealth of Virginia

Despite living in one of the wealthiest states in the nation, many Virginians struggle with hunger. In 2015, over 14% of Virginia households experienced food hardship, meaning these households did not have enough money to buy the food their family needed at least three times in a twelve month period.



**H**unger and food hardship produce debilitating consequences over time, including: obesity, poor academic achievement, low work productivity, dental problems, low birth weight and mental health issues.

**Strengthening the Supplemental Nutrition Assistance Program and increasing participation in the National School Breakfast Program will help give Virginians access to three meals a day.**

**26/100**

Only 26 out of every 100 families with children living in poverty receive TANF funds in VA.

## Providing More Assistance to Very Low Income Families with Children

In Southwest and Southside Virginia, the monthly TANF benefit for a four person household is \$372; in Northern Virginia, Charlottesville, and Hampton it's \$474. Both amounts are well below the federal poverty level. In fact, a family with four times as much income still falls below the federal poverty line.



**V**irginia's benefit levels under the Temporary Assistance for Needy Families (TANF) program have not been adjusted to keep pace with inflation, and as a result, benefits have been far below the federal poverty level for quite some time. Although the Virginia General Assembly passed a 2.5 percent increase in TANF benefits, which took effect in July 2016, benefits still remain well below the federal poverty level. The TANF program provides cash assistance to very low income families with children, so when the amounts remain low, children suffer.

**TANF benefit amounts should be automatically adjusted for inflation. Maintaining the real value of TANF benefits by adjusting the payment amounts for inflation will help very low-income parents provide basic necessities for their children.**



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## OUR MISSION

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*Virginia Poverty Law Center (VPLC) is committed to leading and coordinating efforts to seek justice in civil legal matters for lower income Virginians*

### **VIRGINIA POVERTY LAW CENTER**

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Advocating for low-income Virginians since 1978