

Interdiction Fact Sheet

The Case: The Legal Aid Justice Center (LAJC) and Skadden, Arps, Slate, Meagher & Flom LLP have filed a class action lawsuit in federal court challenging the constitutionality of Virginia's "habitual drunkard" statute (also known as the Interdiction Statute) to the extent it criminalizes the possession or consumption of alcohol by homeless alcoholics.

Our Clients: Our clients are homeless and suffer from alcoholism. Commonwealth's Attorneys in certain jurisdictions appear to be selectively enforcing the interdiction law against homeless individuals to "clean up" the streets. As a result, our clients are repeatedly arrested and jailed. While incarcerated, our clients are not guaranteed treatment for their alcoholism.

In addition to struggling with homelessness and alcohol addiction, many of our clients deal with mental and physical illnesses. Incarceration interrupts their treatment. Our clients have lost jobs, personal relationships, and the possibility of finding stable housing as a result of being labeled "habitual drunkards" and incarcerated for mere possession or consumption of alcohol.

The Law: Va. Code § 4.1-333 creates a civil proceeding in which a prosecutor can ask the circuit court judge in any given Virginia locality to "interdict" any person the court declares to be a "habitual drunkard." Despite the quasi-criminal nature of this proceeding, the defendant has no right to a court-appointed lawyer or other protections constitutionally guaranteed to criminal defendants.

Once interdicted as a habitual drunkard, it is a crime for the interdicted person to possess or consume alcohol—or even to attempt to possess or consume alcohol. Violations carry a jail sentence of up to one year under Va. Code § 4.1-322 or Va. Code § 4.1-305.

Only one other state, Utah, has a similar law that criminalizes possession of alcohol by a habitual drunkard.

Virginia has had a habitual drunkard law dating back to the 1873 edition of the code. The 1873 statute focused more on treatment than punishment, establishing an "institution for the care and reclamation of inebriates" (Va. Code Chapter 83).

Statewide Enforcement: According to data reported to the Virginia Department of Alcoholic Beverage Control and as of fall 2015, 60 cities and counties have interdicted more than 1,220 "habitual drunkards" in the last nine years. During this time, Roanoke interdicted approximately 140 individuals, and Richmond interdicted at least nine individuals. As of August 2015, there were 4,743 convictions of interdicted persons pursuant to Va. Code § 4.1-322 in the Commonwealth.

Unconstitutional: Virginia's habitual drunkard law is unconstitutional because it punishes homeless alcoholics for their alcoholism, a disease. It also violates their right to due process by criminalizing an otherwise lawful activity, possessing or consuming alcohol, without required constitutional protections. Finally, the habitual drunkard law is unconstitutionally vague because it fails to define "habitual drunkard" and encourages arbitrary police enforcement.

Interdicted Individuals by Municipality

The following list represents the number of individuals interdicted by jurisdiction from 2010–2015 as reported to the Virginia Department of Alcoholic Beverage Control. There are likely more interdicted individuals than were reported during our request.

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|-----|--------------------------|-----|-------------------------|
| 1. | Virginia Beach: 616 | 42. | Albemarle: 1 |
| 2. | Roanoke: 140 | 43. | Buena Vista City: 1 |
| 3. | Winchester City: 26 | 44. | Carrol County: 1 |
| 4. | Dickenson: 23 | 45. | Fauquier County: 1 |
| 5. | Henrico: 19 | 46. | Hanover: 1 |
| 6. | Chesapeake City: 15 | 47. | Isle of Wight County: 1 |
| 7. | Fredericksburg City: 12 | 48. | Louisa County: 1 |
| 8. | Loudoun County: 11 | 49. | Madison County: 1 |
| 9. | Giles County: 10 | 50. | Mecklenburg: 1 |
| 10. | Montgomery County: 10 | 51. | New Kent County: 1 |
| 11. | Newport News: 9 | 52. | Norton City: 1 |
| 12. | Richmond City: 9 | 53. | Nottoway County: 1 |
| 13. | Culpepper County 8 | 54. | Petersburg: 1 |
| 14. | Halifax: 7 | 55. | Richmond County: 1 |
| 15. | Nelson County: 7 | 56. | Rockingham: 1 |
| 16. | Wythe County: 7 | 57. | Russell County: 1 |
| 17. | Greensville County: 6 | 58. | Scott County: 1 |
| 18. | Northumberland County: 6 | | |
| 19. | Orange County: 6 | | |
| 20. | Henry County: 5 | | |
| 21. | Hopewell: 5 | | |
| 22. | Buchanon: 4 | | |
| 23. | Fairfax: 4 | | |
| 24. | King William County: 4 | | |
| 25. | Middlesex County: 4 | | |
| 26. | Portsmouth: 4 | | |
| 27. | Staunton: 4 | | |
| 28. | Amherst: 3 | | |
| 29. | Bristol: 3 | | |
| 30. | Brunswick County: 3 | | |
| 31. | Dinwiddie: 3 | | |
| 32. | Emporia: 3 | | |
| 33. | Gloucester: 3 | | |
| 34. | Radford County: 3 | | |
| 35. | Salem: 3 | | |
| 36. | Wise County: 3 | | |
| 37. | Chesterfield: 2 | | |
| 38. | Clarke: 2 | | |
| 39. | Frederick County: 2 | | |
| 40. | Norfolk City: 2 | | |
| 41. | Suffolk City: 2 | | |