

March 19, 2020

The Honorable Ralph S. Northam, Governor of Virginia  
Patrick Henry Building  
1111 East Broad Street  
Richmond, Virginia 23219

Dear Governor Northam:

First, we thank you and your administration for taking the COVID-19 crisis seriously. Your skills as a doctor afford you a unique perspective that can be driven by the best knowledge and recommendations from the medical community as to how the Commonwealth responds to the health challenges the virus presents. But the COVID-19 crisis is not just about physical health; it also exposes and exacerbates how many Virginians experience that response through our governmental, economic, and social systems.

As Executive Director and Policy Coordinator of the Legal Aid Justice Center, we write to you on behalf of our clients and client communities: the thousands of low-income Virginians and communities of color who—not just during a crisis like COVID-19, but every day—live within the gaps in our governmental, economic, and societal systems of support. As you and your administration work to contain the health threat and ensure those who develop the virus are able to recover and those who have not yet become ill can best protect themselves, we urge you to pay specific attention to these communities, who historically and through both legal and social action have so often experienced barriers to basic rights, opportunities, and support granted without question to those in positions of privilege and power.

We do applaud the many recent efforts, not only from your administration, but also from certain local governments and private entities to mitigate and problem-solve the effects of this crisis. Our own local community members, activists, small business owners, houses of faith, service organizations, and others have also come together quickly and effectively to establish critical systems of mutual support. We all must rely on one another while keeping ourselves protected so that we may stay healthy and as able as possible to continue these actions for what may be quite a long time. But foremost, we must be able to rely on our federal, state and local governments to provide the leadership and structural actions necessary to protect vulnerable and marginalized people and communities.

On behalf of the Legal Aid Justice Center, we are urging you to prioritize the strategies and actions listed below. We recognize that implementing many of these protections will take collaboration with the federal government, local governments, and private entities. They may require informal negotiations when specific governmental powers are not available. They may also require actions such as emergency regulations, executive orders, and perhaps even a special legislative session to accomplish. They may be challenging, but they are unquestionably necessary.

We will continue to work beside the communities we serve to ensure an equitable and just Virginia during and after this crisis, and we are asking your administration to align your actions with that goal. [We have also published a community call-to-action on our website](#), a living document which many community and policy organizations and service providers have endorsed, and we continue to add more partners each day. We welcome any questions or feedback from you that might aid us all in our response.

Sincerely,



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While we recognize that some of these recommendations are already underway to varying degrees, many have also been framed as time-limited. **In an uncertain and evolving crisis, your administration must assure these protections and supports remain in place for as long as Virginians need them.** We include them still in this list, alongside other recommendations, as critical ongoing actions. To the extent that these recommendations require actions or participation from federal and local governments, constitutional officers, and private entities, we call upon the Northam administration to convene meetings and work to negotiate their enactment.

### **Housing and Homelessness:**

1. No one should have to risk their health just because they are being sued by a debt collector or by their landlord. LAJC strongly advocates that ALL eviction proceedings be halted, not just new filings or cases related to nonpayment of rent due to COVID-19. Doing otherwise needlessly puts families' health and safety at risk during this health crisis. While the Virginia Supreme Court has halted many court actions and issued guidance that "eviction proceedings will be suspended for the duration" of the public health emergency order, the Commonwealth must ensure that all courts are ceasing any and all proceedings related to evictions. The Northam administration should also seek a moratorium on service of eviction writs from the Virginia sheriffs for as long as necessary.
2. Virginia must continue to push private landlords and public housing authorities across the state to cease eviction filings during the crisis and to create plans to forgive unpaid rent or help tenants make up for unpaid rent when the emergency is over. Furthermore, housing providers should be encouraged and supported in freezing or reducing rent amounts.
3. Virginia must provide additional assistance toward homelessness prevention, including: increasing the number of beds in homeless shelters; bringing public health assistance to shelters; and cease the clearing out of any encampments and destruction of property. State and local governments should work to provide places where individuals experiencing homelessness can self-isolate in case of sickness, and should commit additional money toward emergency housing funds and homelessness prevention.
4. Virginia should continue its moratorium on utility shut-offs and assure that individuals and families currently experiencing shut-offs are reconnected without fees or other onerous conditions for as long as the situation requires. The Commonwealth should continue to negotiate with internet providers to assure adequate and accessible connections for all Virginians throughout the state, seeking any available funding or partnership opportunities to provide this access, especially for students and those who are isolated in facilities.

### **Public Benefits:**

1. The Commonwealth should ensure that all its own employees—including contract employees—have adequate access to paid sick leave for coronavirus-related issues for themselves and in order to care for family members. To assure that all workers statewide (including undocumented workers) have access to this critical benefit, the administration should hold a special legislative session to consider emergency legislation to mandate sufficient paid sick leave across the Commonwealth.
2. Local Department of Social Services offices should streamline and expedite benefits applications and cease benefits terminations and reductions. Furthermore, benefits offices should waive any in-person appearance requirements to get or keep benefits, and postpone any hearings or hold them telephonically during the crisis.
3. Likewise, the Social Security Administration should suspend overpayment or over-resource determinations and repayments during the pandemic. The SSA should also suspend any in-person hearing or appearance requirements.

4. We applaud the state's decision to waive the one-week waiting period to receive unemployment benefits, to increase eligibility for unemployment insurance to those under quarantine and without paid sick leave. However, though the governor has instructed the Virginia Employment Commission to give special consideration to workers regarding deadlines, re-employment appointments, and work search, we believe this does not go far enough. The VEC should extend deadlines and waive the requirements to seek work or participate in re-employment appointments for all benefits recipients, as well as waiving all in-person meeting requirements. Furthermore, the state should increase eligibility for benefits to all those unable to work and with no paid sick leave, regardless of whether they have been formally quarantined by medical or public health officials.
5. The Virginia Department of Health and the Virginia Department of Social Services should loosen or eliminate restrictions on brands or types of food that can be purchased with SNAP or WIC benefits.

### **Health Care Institutions:**

1. Health care institutions, both public and private, should suspend all debt collection efforts and collection of copays. The state should direct public institutions to do so.
2. The state should direct public or nonprofit institutions to increase the qualifying limits for charity care to cover more patients.
3. Uninsured patients seeking care for COVID 19-related health issues should not be billed.

### **Education & Youth:**

1. The Virginia Department of Education (VDOE) and local school divisions must make robust plans for food stability for more than half a million school-age children to have access to breakfast and lunch during this extended period of school closure. School divisions must make meals as accessible as possible for all student families, including: making multiple meals available at once; making meal pickup available at several locations across the school division, regardless of the student's home school; waiving any age requirements or requirements for the student to be present at the time of meal pickup; and considering neighborhood-based meal delivery for families without access to transportation. VDOE should seek any federal waivers or funding necessary to ensure all meals programs are as flexible and accessible as possible.
2. Local school divisions must maintain their legal obligation to protect students from harassment, bias, and discrimination on the basis of race, ethnicity, or national origin. This includes, in some circumstances, an affirmative obligation to investigate incidents of discrimination and prevent them from reoccurring.
3. Students with disabilities may be particularly vulnerable during this time. In partnership with the Virginia Department of Education, school divisions must ensure that they maintain their obligation to provide a free and appropriate public education to qualified students with disabilities in compliance with the Individuals with Disabilities Education Act and federal guidance.
4. In collaboration with local school divisions and relevant state agencies, the Virginia Department of Education should identify any non-instructional critical services provided to students and provide sufficient alternative planning for meeting those needs, including but not limited to, in-school mental health and counseling services and access to technology.
5. Local school divisions should assure that any students under disciplinary suspensions, in alternative education settings, or serving other school consequences have access to all educational, technological, and meal services that all other students are afforded.

### **Taxes and Public Debt:**

1. Local and state authorities should suspend all collection activities related to taxes and other debts held by public entities.
2. Municipalities must immediately cease issuing personal property tax liens and forgive any liens that have already been issued without any action by the taxpayer. It is unconscionable to take 100% of a person's paycheck under any circumstances, but it is morally reprehensible to do it under these conditions.

### **Immigration:**

1. The Commonwealth of Virginia must—immediately and on an emergency basis—conduct an inspection of the Farmville and Caroline County immigration detention centers to determine whether they have put in place adequate infection control measures, and also to determine whether medical treatment is available should large numbers of detainees become ill. ICE has not suspended its enforcement activities and is continuing to arrest and detain immigrants from all parts of the Commonwealth. ICE detention centers in Farmville and Caroline County operate pursuant to licenses from the Commonwealth.
2. The Commonwealth should use its licensing authority to ensure that the below recommendations for jails and prisons are also being enforced in the ICE detention centers.
3. Virginia must ensure that any local and state financial support programs be accessible to all who reside here, including those without documentation.
4. All state and local government communications on the coronavirus emergency must be presented in multiple languages. Moreover, outreach on any relief programs must be conducted in multiple languages and must be culturally sensitive and should include communication advising the community that emergency medical or other forms of relief will not be counted against them under the new “public charge” rule.

### **Jails, Prisons, & Juvenile Detention:**

1. All state prisons, local or regional jails, and juvenile correctional facilities must have a written coronavirus plan that is publicly available. Plans should include information related to how the facilities expect to address any outbreaks, including providing incarcerated persons with medical services, personal hygiene products, and access to phone calls and email free of charge.
2. Virginia Department of Corrections (DOC) and jail officials should examine all release processes and mechanisms under their control and begin employing them liberally and expeditiously. DOC should consider actions such as expediting the collection and dissemination of information necessary for consideration for parole, geriatric or compassionate release; expediting time computations for anyone within 6 months of their release date; granting immediate furloughs to anyone approved for parole release who is within 30 days of the parole release date.
3. Jail authorities should also be expediting time computations for those serving sentences and alerting the courts, Commonwealth's attorneys, and defense attorneys to anyone in custody who is “high-risk” for complications related to the novel coronavirus. DOC probation & parole officers should stop filing violation paperwork or requesting incarceration for people under state supervision facing only technical violations, including for unpaid fines, fees, or costs related to their sentences.

4. For people who are serving sentences: the Northam administration should shorten and streamline decision-making regarding geriatric and/or compassionate release applications pending with the Governor's office.
5. The Virginia Department of Juvenile Justice (DJJ) should take similar steps to examine all release processes and mechanisms under their control and begin employing them liberally and expeditiously. DJJ should consider actions such as eliminating any forms of detention or incarceration for youth unless a determination is made of a substantial and immediately safety risk to others. DJJ should direct all Court Services Units to suspend probation violations for all but substantial and immediate safety risks. DJJ should ensure incarcerated youth continue to have access to education, access to counsel, and access to family contacts.
6. Solitary confinement, administrative segregation and other punitive measures must not be used as a method of quarantine, and anyone who needs urgent medical care should be sent to a hospital without delay.
7. People in custody cannot be cut-off from access to their attorneys—they must be allowed continued access to facilitate meaningful participation in their legal cases. Family access should be maintained as much as possible; people in custody must be allowed calls and emails without cost.

#### **Sheriffs, Police Departments, Local Probation, and Commonwealth's Attorneys:**

1. Officers/deputies should prioritize the use of summonses; arrests should only be a last resort. Moreover, law enforcement should not criminalize people and communities in order to ensure compliance with any local or state orders limiting or restricting movement during the crisis.
2. Local probation officers should stop requesting incarceration for people facing technical violations, including for unpaid fines, fees, or costs related to their sentences. Probation check-ins should be limited to phone or text.
3. Commonwealth's Attorneys should be requesting/consenting to release under the least restrictive conditions possible at all pretrial hearings where the accused is not an unreasonable risk to public safety based on clear and convincing evidence. Prosecutors should also be requesting/consenting to delayed reporting dates for anyone sentenced to an active jail sentences of six months or less.

#### **Courts:**

1. Judges and Magistrates should prioritize releasing people who appear before them and allow as much freedom of movement of those released as possible. This means release under the least restrictive conditions possible, including releasing most people on recognizance and those who are released to pretrial services should be allowed to move freely in the community, meaning tools like GPS and Home Electronic Monitoring should be free and allow people the widest latitude in travel without fear of violating conditions.
2. Courts should liberally use continuances and should excuse appearances where possible and should postpone hearings on summonses or those out on pretrial release for at least 90 days. Any missed appearances during the crisis should not result in bench warrants.
3. Judges should delay reporting dates for anyone sentenced to an active jail sentence of six months or less.
4. Judges should authorize suspending the collection of fines, fees, and costs related to court cases. Courts should also forgo issuing show cause orders for people facing alleged technical violations of court orders, including for unpaid costs, fines and fees.

### **Migrant Workers:**

1. The Virginia Employment Commission (VEC) and Virginia Department of Health (VDH) should continue required permitting and inspections for active migrant worker camps and camps where workers are expected to arrive.
2. VDH and its local inspection districts should provide both employers and employees of active migrant labor camps with appropriate guidance (in materials specific to the language of the worker) from the CDC regarding the coronavirus.
3. Private and public employers throughout the state of Virginia, including but not limited to, employers of migrant workers on H-2 visas, should not terminate employees for (a) reporting illness related to the coronavirus on behalf of them themselves or their fellow employees; or (b) missing work related to the coronavirus.

### *Employers of migrant workers should:*

1. Train supervisors, crew leaders, and employees in their languages, on the symptoms of coronavirus and proper procedures for reporting and receiving treatment;
2. Follow CDC guidance in providing immediate transport to a health department or, when appropriate, a hospital or doctor's office, when a worker reports coronavirus symptoms;
3. For employers that provide housing, the employer should have a plan for housing anyone showing symptoms in separate units, and the workers should not continue working and should be paid anyway;
4. Conduct special cleaning measures in accordance with CDC recommendations, and;
5. Request and ensure medical services for the worker with appropriate language access provided by the hospital or doctor (i.e. the interpretation/translation of the medical visit is not conducted by the employer or their agents).