



NVAN 2023 Priorities – Background

Legislative Priorities

Expand public access and transparency by allowing electronic (all-virtual) meetings for advisory boards and commissions, with no restrictions on the number of meetings per year.

- The [Virginia Freedom of Information Act](#) generally does not allow electronic meetings of public bodies, which include local advisory boards or commissions, such as the Commissions on Aging. The Act, as amended by HB 444 in 2022, allows for only 25% of the meetings held per year to be all-virtual, and allows only limited exceptions for electronic participation of individuals at a meeting for which there is an in-person quorum. Virginia Code §2.2-3708.2.
- Electronic meetings and remote participation in meetings have been a success. Attendance has increased by both members and the public, especially those participants wishing to testify at a public meeting. For example, local governments are seeing “[huge gains in civic participation](#).” Jurisdictions have seen increased attendance and public participation in governmental advisory group meetings resulting from the electronic meeting format.
- While Virginia Code has allowed for remote participation by members of the public, there are financial and logistical constraints in integrating this with in-person meetings. Hybrid meetings where a physical quorum is required strain the technological ability of the providers and limit the number of spaces where the meetings can be held. Meeting on an electronic platform reduces these constraints, making remote access to the public easier and more affordable. In addition, recent advances in virtual formats (e.g. Zoom) allow meetings to comply with FOIA requirements. Virtual meetings can be recorded and accompanied with published minutes for public access.
- Cost and distance are factors. Advisory boards are unremunerated and there is no provision for mileage reimbursement. Economic hardship may result for state residents in geographically large locations. For both residents interested in membership and others who have not previously participated, in-person public meetings that require a quorum of members could limit the participation of residents and reduce the accessibility due to the increased transportation costs and travel time.

- Electronic meetings enhance the effectiveness of open government laws by promoting transparency in government and enabling increased opportunities for membership. More older adults, people with disabilities, parents with childcare responsibilities, and others who may find traveling to meetings difficult or whose schedules may not allow attendance at-person meetings are left out.
- Advisory boards and commissions are not regulatory or policy-making bodies. They may make recommendations, but have no authority to make decisions concerning public policies or funds.

Now is the time to bring Virginia into the 21st century.

Increase from five days to 14 days the mandatory waiting period, after a landlord serves the tenant notice in writing of nonpayment of rent, before the landlord may begin the judicial eviction process.

- In Virginia, a landlord may issue a five (5) day notice after the date the rent is due (or after any agreed upon grace period in the lease), to warn a tenant that they have defaulted on their rent payment. If the tenant fails to pay the money owed within those five days following the notice, the landlord may initiate the judicial process leading to eviction, [Code of Virginia §55.1-1245](#). Also see [Eviction Notices for Nonpayment of Rent in Virginia](#).
- In addition to causing the loss of an individual’s home, evictions disrupt communities and lead to residential instability. Evictions create barriers to securing future housing, perpetuate poverty and homelessness, and precipitate negative health and mental health consequences. ([Prevalence and Impact of Evictions | HUD USER](#))
- Homelessness is increasing among older adults. For older adults, the stress of evictions and homelessness can exacerbate health conditions, resulting in strokes, heart attacks, and death. ([Homelessness, Older Adults, Poverty, Health \(asaging.org\)](#))
- Nationally, 40 percent of older Americans rely solely on Social Security as their source of income. ([National Institute on Retirement Security \(nirsonline.org\)](#)). Social Security payments may be issued on the second, third or fourth Wednesday of each month. ([Schedule of Social Security Payments | SSA](#)). Funds may be scarce when rent is due.
- Older adults, especially those on fixed incomes, may experience higher rates of rent burden (spending more than 30% of their income on rent/housing costs). Nationally, 54 percent of older adult renters are rent-burdened. ([Older Adults Increasingly Face Housing Affordability Challenges | Joint Center for Housing Studies \(harvard.edu\)](#))
- During the COVID-19 pandemic, Virginia amended the Virginia Residential Landlord Tenant Act (“VRLTA”) to require a landlord who owns four or less dwelling units to give the tenant

a 14-day notice instead of a 5-day notice for nonpayment of rent. ([Evictions - VPLC Housing Advocacy](#)). This provision expired on June 30, 2021.

- The ending of these pandemic eviction protections has significantly increased eviction cases, causing stress on the courts, law enforcement and the use of shelters and social services. According to Legal Services Corporation [eviction data](#), in Virginia, eviction filings in June 2022 (before the end of the state pandemic relief provisions) were 7,656. In July 2022, the first month after the expiration of these protections, filings jumped to 10,839.

Virginia Eviction Filings		
April 2020	870	State moratorium in effect (until 9/20)
August 2021	4550	+3680 (CDC moratorium ended)
May 2022	5965	+1515
June 2022	7656	+1700
July 2022	10839	+3183

- In 2020, the median annual income of Virginia residents was \$49,613. About 33% of these residents were renters. The median monthly rent was \$1,257. Approximately 44% of renters are considered rent-burdened. ([LSC Trends in Eviction Filings](#))
- In Washington D.C., renters are offered a 30-day grace period and nationally, Housing Choice Voucher recipients are provided 10 days.
- Increasing the time for renters to resolve non-payment issues is critically important today, with record-setting inflation that leads to spikes in rent prices, as well as increasing the cost of living (transportation, gas, food). Older renters will experience difficulties finding and securing housing options within their budgets.

Require guardians and conservators (family members and professionals) to complete initial and ongoing training as a condition of their service; and direct DARS, with input from the Virginia Judicial System, to develop such training.

- Guardianship is a legal process in which a court-appointed individual or entity makes decisions and supervises the affairs of an adult whom the court has found to be incapacitated. In conservatorship, a court-appointed person or entity manages financial affairs of an incapacitated adult.
- The guardian/conservator is responsible for the health, well-being, and/or money and property of someone else. Guardians and conservators are fiduciaries, have a high duty of trust and confidentiality, and must regularly report to court.

- In 2021, the Virginia Joint Legislative Audit and Review Commission (JLARC) completed a comprehensive report on the state’s guardianship and conservatorship system. ([JLARC Report](#))
- The JLARC report found that approximately 12,000 adults in Virginia are under guardianship.¹ Just over 1,000 of these are under the state’s Public Guardianship Program, and the rest are under the authority of private guardians. A majority of private guardians are family members, but some are professionals such as attorneys.
- Public guardians receive ongoing training. Private guardians in Virginia are not required to undergo any training, and no statewide training is available. JLARC emphasized that training would help private guardians to better understand their responsibilities and duties.
- Virginia does not require or offer any training for conservators. According to JLARC, 43% of local commissioners of accounts—who oversee conservators—said conservators they supervise do not receive adequate training and guidance, and many do not have adequate experience and knowledge to fulfill their fiduciary responsibilities.
- A growing number of states are providing and/or requiring guardian/ conservator training. For example, see [Florida Guardian Training](#) ; and [Maryland Guardian Training](#).
- The JLARC report urges an amendment to the Virginia *Code* §64.2 to require any individual named as a private guardian and/or conservator – as well as staff who perform duties on their behalf – to undergo training within four months of appointment.
- The JLARC Report suggests that training for guardians be developed by the Department for Aging and Rehabilitative Services (DARS), with assistance from the Supreme Court Office of the Executive Secretary, as well as Virginia WINGS (Working Interdisciplinary Network of Guardianship Stakeholders). It suggests that local Departments of Social Services have responsibility for verifying compliance. Training could be online and without cost.
- The JLARC report recommends that the Supreme Court Office of the Executive Secretary coordinate with commissioners of accounts and the Judicial Council to develop online training for conservators.

¹Many guardians also serve as conservators. The number of separate conservators is not tracked. The Public Guardianship Program provides both, but most conservators are private." Consultation with JLARC, August 2022.

Budget Priorities

Enact minimum hourly nursing home staffing levels per resident per day for nurses and nurse aides, along with resident acuity measures, supported by a dedicated funding source.

- Virginia has 286 certified nursing homes with 32,000 beds. Currently there are 27,853 residents with an 85% occupancy rate. ([Kaiser Family Foundation](#))
- The pandemic ravaged Virginia nursing homes, with 3086 resident deaths since January 2020, [AARP Nursing Home Covid-19 Dashboard](#). Yet the pandemic only brought to the fore long-standing problems with inadequate staffing and insufficient infection control. According to the [AARP Dashboard](#), as of May 2022, 33.8% of Virginia nursing homes had a shortage of direct care workers.
- In 2021, the Virginia [Joint Commission on Health Care Report](#) on *Workforce Challenges in Virginia’s Nursing Homes* found that staffing shortages increase the risk of low-quality care, and disproportionately impact facilities with low-income and Black residents. According to the Report, 43% of Virginia nursing homes received a one or two-star CMS staffing rating. Following the Report, a [2022 JCHC Briefing](#) stated that 44% of Virginia facilities would not meet CMS acuity-based expectations.
- Numerous national studies over 20 years show a strong relationship between the number of direct care nursing home staff and the quality of care/quality of life of residents. See for example a [2020 study by Xu, Intrator & Bowblis](#) of 11,920 nursing homes suggesting that nurse and nurse aide shortages were more likely in nursing homes with any COVID-19 cases. Other 2020 studies (see Harrington et al; Konetzka) produced similar findings.
- Federal nursing home staffing standards [42 CFR 483.35](#) require a registered nurse eight hours per day and a licensed nurse 24 hours per day; and that facilities have “sufficient staff” to meet resident needs.
- As early as 2000, CMS recommended (but did not require) national staffing standards: “[t]he minimum standards should be at least 0.75 RN hours per resident day (hprd), 0.55 LVN/LPN hprd, and 2.8 CNA hprd, for a total of at least 4.1 nursing hprd . . . adjusted upwards based on residents’ needs.” (CMS, Abt Associates Inc, [Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes; Report to Congress](#))
- Virginia is one of only 12 states without specific nursing home staffing standards ([2022 JCHC Briefing](#)). The Virginia Department of Health regulations [12 VAC 5-371-210B](#) requires only that facilities have “qualified nurses and certified nurse aides on all shifts, seven days per week, in sufficient number” to meet the assessed needs of all residents – which is unclear, subject to varying interpretations, and has no floor to ensure safety.

- Virginia has among the highest criteria for Medicaid coverage of nursing home care, compared to other states, [12 VAC 30-60-316](#). This high bar means that Virginia residents are much frailer and in need of significantly more care.
- Implementation of any Virginia nursing home staffing standards requires funding support for nursing homes through General Funds, matched with Medicaid dollars, as well as other possible sources. Any dedicated funding must be linked directly to salaries/benefits of nurses and nurse aides. [See NVAN priority on direct care worker livable wages and paid sick leave.]
- In 2022, the National Academies report, [The National Imperative to Improve Nursing Home Quality](#), recommended that CMS “enhance the current minimum staffing requirements” along with coverage “that reflects resident census, acuity, case mix . . .” Additionally, the current Administration has proposed additional safeguards for nursing home residents, including better staffing. ([2022 White House Fact Sheet](#))
- In 2022, Virginia House bills (HB 330 by Del. Watts, based on an acuity model; and HB 646 by Del. Carr, based on minimum hourly requirements) were carried over to 2023, with a plan by the Health, Welfare and Institutions Committee to bring stakeholders together to find a solution; and in the Senate SB 406 by Sen. Barker was not voted out of the Education and Health Committee.

Enhance assisted living affordability through such measures as increasing the auxiliary grant and using Medicaid funding.

- Assisted living facilities are residences for the care of four or more adults. Assisted living is licensed by the [Virginia Department of Social Services](#) to provide a room, meals, homemaking and laundry service, assistance with activities of daily living (bathing, eating, toileting, transferring, personal hygiene, dressing), 24-hour supervision, and medication management.
- Virginia has 570 assisted living facilities. Many residents with dementia live in assisted living. Nearly all assisted living facilities have memory care units or are approved as all-memory care facilities.
- The median monthly cost of assisted living in the Washington DC Metropolitan Area is \$5,948, and \$5,250 for the state. The median cost of a semi-private room in a nursing home in the DC Metropolitan Area is \$11,467, and \$8,213 for the state ([Genworth Cost of Care Survey](#)). Medicaid pays for low-income residents of nursing homes, *but not assisted living*.

- Because Virginia nursing homes serve more impaired residents than in other states (see Medicaid level of care criteria at [12 VAC 30-60-316](#)), assisted living residents are likewise more impaired than they are in other states. The level of impairment of Virginia assisted living residents is similar to that of nursing homes in other states. Therefore, low-income Virginians who qualify for assisted living would actually qualify for Medicaid nursing home care in many other states. In Virginia these individuals are left with no facility-based care due to the exorbitant cost of assisted living.
- There is a severe shortage of assisted living units available for low and moderate-income adults in need of licensed assisted living.
- Neither Medicare nor Medicaid is available to finance assisted living in Virginia. A majority of other states use various Medicaid approaches to supplement assisted living costs. ([Paying for Senior Care, Medicaid and Assisted Living; State by State Benefits and Eligibility 2019](#))
- The Auxiliary Grant program is Virginia’s public funding source for residents of assisted living. It is available to those who need help with meals, medication management, homemaking activities. Instrumental Activities of Daily Living (IADLs); and who meet the income guidelines. It is paid to the resident who in turn pays the provider.
- The 2022 Auxiliary Grant rate is \$1609 per month. In Northern Virginia² the Auxiliary Grant rate is \$1,850 per month.
- Assisted living residents are allowed to keep \$82 per month of their income [as calculated before receiving the Auxiliary Grant] for personal needs, and the remainder of the resident’s income is paid to the provider. Currently there are 118 assisted living residences in Northern Virginia that are licensed to serve 8,659 people. Those units are available to only 470 low or moderate-income individuals.
- Later this year the [Joint Commission on Health Care](#) will be releasing its report examining the accessibility and affordability of assisted living in Virginia and recommending changes to the structure and financing of programs to address this issue. The report should include considerations of increasing the Auxiliary Grant amount and full or partial coverage of assisted living through Virginia’s Medicaid program.

Require employers to provide at least ten days of paid sick leave for all workers, including direct care workers in nursing homes, assisted living, and home care.

² The City of Alexandria, Arlington, Fairfax, Loudoun, and Prince William Counties make up Northern Virginia

Providing paid sick leave for all workers is essential to preventing contagion of illness--and saves money for businesses.

- Requiring employers to provide paid sick leave reduces the spread of infectious disease at the workplace. With over 1,000,000 deaths nationally ([CDC Covid Data Tracker](#)), and over 21,000 in Virginia ([VDH Covid-19 Data in Virginia](#)). COVID has focused increasing attention on the need for paid sick leave policies. ([Kaiser Family Foundation](#))
- The costs to businesses of NOT paying sick leave are significant. According to the [Center for Economic and Policy Research](#), “The economic costs of a serious flu outbreak are enormous.” The National Partnership for Women and Children states that, “Paid sick days reduce turnover, which leads to reduced costs incurred from advertising, interviewing and training new hires. This is particularly important in lower wage industries where turnover is highest.” ([Paid Sick Days Are Good for Business, 2020](#))
- According to the [Department of Labor](#), outside of the U.S., 22 countries require employers to provide paid sick leave. In the U.S. federal support for sick leave has been limited, and states have stepped in to fill the gap. Fourteen states and Washington DC now have paid sick leave laws. Hazard pay or bonuses are provided to direct care workers in 17 states. ([2022 PHI Essential Support](#))

Providing paid sick leave for direct care workers is essential to their welfare and to the life and health of the vulnerable populations they serve.

- Direct care workers in nursing homes, assisted living and home care provide vital services in close proximity to frail individuals. They clean and bathe patients, give intimate personal care, serve meals, and help with eating.
- Direct care workers have very low wages (See Continuing Concern on direct care wages). Thus, they must go to work while sick in order to support themselves and their families – and many have more than one job, further spreading the risk of illness. “These are the folks who can least afford not to go to work when they are not feeling well, and they may be unfortunately the ones who spread the virus.” ([Los Angeles Times, April 2020](#))
- In 2021 the General Assembly took a good first step in requiring up to five days of paid sick leave for providers of Medicaid consumer-directed personal, respite or companion care. ([HB 2137](#))
- The General Assembly should expand this coverage to 10 days, should cover workers in Medicaid agency-directed care in addition to workers in consumer-directed care – and should cover workers in nursing homes and assisted living as well.

NVAN 2023 Continuing Concerns

Appropriate funds for the Virginia Center on Aging Geriatric Education Center Initiative

Enacted in 2006, the [Virginia Geriatric Education Center \(VGEC\) Initiative](#) supports education and training in geriatrics across the state for a wide range of medical and allied health professionals, and clinical and caregiving services. An initial General Funds appropriation of \$375,000 annually, administered by the Virginia Center on Aging (VCoA), enabled the funding of 15-20 training grants and research initiatives across Virginia ranging from \$1,000 to \$25,000. Awards have been competitive, selected by third-party reviewers, and based on locally identified needs.

Since its inception, the GTE funded 173 projects throughout the Commonwealth focusing on a broad range of issues affecting older adults, including but not limited to, dementia and utilization of the arts in memory care, advance care medical planning, caregiving, mental health, and investigations seeking best-care practices. Despite the increased need, there is a growing shortage in Virginia of trained personnel in the geriatrics and gerontological workforce. Successive funding cutbacks impacting the VGEC initiative have whittled the VCoA ability to support vital research and creative programming. Funding will enhance the development of a gerontological and geriatric workforce with skills for managing the health care of older adults.

Direct the Department of Corrections to develop a plan to identify and to meet the specialized needs of incarcerated older adults and a Geriatric Reentry Assistance for Transitions Program.

In Virginia, the cost of housing inmates was \$40,752 in FY 2021, an increase of nearly 20% from the previous year ([Virginia Department of Corrections 2021](#)). The costs associated with caring for older inmates is higher, with older populations having special needs for housing and medical care. Upon release, older inmates experience increased challenges with housing, food access, and employment that increase their need for social services and other community-based supports.

To help address the specialized needs of this population and aid successful reentry of former inmates, the Virginia Department of Corrections should develop a Geriatric Reentry Assistance for Transitions Program. A reentry team would consist of key stakeholders to provide older inmates with care coordination and support throughout the reentry experience, to help them transition to the community and remain in the least restrictive setting. According to the Department of Corrections, this effort would also reduce costs for the Commonwealth, and allow Virginia to continue to lead the nation in our low recidivism rates.

Establish the Older Adult Social Connection and Engagement Initiative to prevent social isolation among older adults through Area Agencies on Aging and Centers for Independent Living.

Social isolation in older adults is a [public health crisis](#) that was intensified by COVID-19. Social isolation is a significant contributor to morbidity and early mortality ([Health Affairs June 2020](#)). Social isolation and loneliness are seen as risk factors for cardiovascular and brain health. ([Journal of American Heart Association 2022](#))

Addressing social isolation in older adults requires: (1) expanding the broadband infrastructure for technological solutions; (2) sufficient in-home technological equipment for older adults, adapted to their needs if necessary, such as computers, tablets, I-pads, and cell phones; (3) training for service providers and older adults in using the technology to reduce social isolation; and (4) specific services through Agencies on Aging (for example, see the 2022 award-winning [VA Tech/New River Valley Agency on Aging](#) program) and Centers for Independent Living.

NVAN supports the establishment of an Older Adult Social Connection and Engagement Initiative to foster government/private partnerships in research; and to provide digital connectivity, access, education and training, The Initiative should be established through Area Agencies on Aging and Centers for Independent Living as a three-year competitive grant program administered by the Department for Aging and Rehabilitative Services.

Expand the Livable Home Tax Credit from \$1 million to \$1.5 million per year; create a Livable Home Grant program at \$1 million per year for lower income homeowners.

An estimated one in ten Virginians has a disability. Additionally, more than 25% of Virginians will be over age 60 by 2025. For these individuals, accessible housing is a high priority.

The Commonwealth's [Livable Home Tax Credit](#) program is designed to improve accessibility and universal visitability in Virginia homes. It provides state tax credits for the purchase of new units or the modification of existing units. Tax credits are available for up to \$5,000 for purchase of a new accessible unit and up to 50% of the modification cost of existing units, up to \$5,000. The program was opened to building contractors in 2011.

The tax credit is a significant incentive for accessible home modifications that keep older adults and people with disabilities in their own homes. The program has met or exceeded the allocated \$1 million for the last nine tax years, demonstrating a demand for increased funding. Raising the level above \$5,000 would provide a more effective incentive, as would developing a grant program – especially for homeowners whose income is too low to qualify for a tax credit.

Provide living wages, overtime pay, and training for direct care workers to build a quality, cost-effective workforce.

Direct care workers in nursing homes, assisted living and home care provide quality, hands-on care to maximize the well-being of older adults and people with disabilities and help them to live with dignity. Direct care workers are essential to enable these adults to be as independent as possible. Older Virginians and people with disabilities deserve support from a quality, stable workforce.

Yet despite the important care they provide, Virginia direct care workers make poverty-level wages and some rely on public assistance ([AARP, Nursing Home Workers Low Pay](#)). Nationally, the median hourly wage for direct care workers was \$13.56 in 2020, and the median annual income was \$20,000 ([PHI, Direct Care Workers in the United States: Key Facts 2021](#)).

To recruit and retain an effective direct care workforce, the General Assembly should ensure that all direct care workers have a living wage, overtime pay, training, health care, and full PPE both during and after the pandemic (as well as paid sick leave; see 2023 NVAN Priorities).

Require that nursing homes and assisted living facilities employ or have access to a full-time infection preventionist.

Long-term care deaths from COVID-19 have been staggering in Virginia. Nursing Home deaths since January 1, 2020 total 3086 (as of July 2022); and Virginia has the second highest nursing home death rate in the nation. ([AARP Virginia](#))

However, infection prevention and control have been persistent problems in the Commonwealth's long-term care facilities since long before COVID-19. The most frequent deficiency found in nursing home inspections is infection prevention and control. (Kourtney Hales-Richards, Director, Division of Long-Term Care, Virginia Department of Health, Office of Licensure and Certification, July 14, 2021). Also see [GAO Infection Control 2020](#).

Federal regulations require nursing homes to have an infection preventionist ([42 CFR 483.80](#)), but current practice is to assign the infection prevention responsibility to another employee, such as an RN or assistant administrator, making infection control a part-time responsibility competing with other priorities. State requirements for infection prevention and control for nursing homes and for assisted living are vague. ([VDH Infection Prevention Requirements for Assisted Living](#))

Each facility should designate a full-time professionally trained infection preventionist. ([Framework for Nursing Home Reform Post COVID-19](#), by six national advocacy groups).