2012 Legislative Review
Initiatives on which the Virginia Poverty Law Center (VPLC) worked during the General Assembly session.

Consumer Law

With an emphasis on representing consumers in the legislature and in the courts, VPLC is focused on those consumer issues that most impact lower income Virginians. These issues include predatory lending, foreclosures, fair debt collection practices and financial literacy.

Predatory Lending: There were several bills to cap interest rates on payday, car title and open-end lending but none were successful.

Foreclosure: Several bills aimed at creating a fairer Virginia foreclosure system and combating foreclosure fraud were defeated through the efforts of the Virginia Bankers Association. During the session, a large national mortgage settlement was announced and the House and Senate both incorporated $69 million from the settlement into the budget. VPLC helped call attention to the need to use these funds for distressed Virginia homeowners. The Senate budget directs some of this money to the Housing Trust Fund.

Garnishment: Several bills were introduced concerning the garnishment process. VPLC led efforts to defeat a Bill that would have substantially changed the process to harm debtors and take away due process rights. Other bills were changed in response to our concerns about treatment of debtors.

A bill supported by VPLC to stop rent-to-own stores from using criminal prosecution to collect debts passed the Senate but was defeated in the House.

Domestic and Sexual Violence Law

Victims of domestic and sexual violence are some of VPLC’s most vulnerable clients. By advocating for legislative proposals that protect victims of domestic and sexual violence and opposing those that endanger them further, VPLC has been at the forefront of improving Virginia’s domestic and sexual violence laws.

New Strangulation Law: A bill passed that defines “strangulation” and makes it a felony. As of July 1st, “any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally and unlawfully applying pressure to the neck of such person, resulting in the wounding or bodily injury of such person is guilty of strangulation, a Class 6 felony.”
**Protective Order Improvements:** VPLC worked with the Virginia Sexual and Domestic Violence Action Alliance (the Action Alliance) and the Governor’s Office to continue to improve Virginia’s protective orders, especially after the expansive changes that were made to the non-Family/Household Member or General District Court Protective Orders (POs) in 2011’s General Assembly session.

**Elder Law**

*The elder law practice area at VPLC addresses the legal needs specific to those over age 60 through training and technical assistance to legal aid staff, long term care ombudsmen and other staff providers about long term care and other elder law issues, community education, administrative and legislative advocacy and direct representation in limited areas.*

**Advance Directives:** Amends §§ 37.2-1101 and 37.2-1102 to provide that a court may authorize medical treatment for an incapacitated person when there is no available person with legal authority to make such decisions under (i) the advance directive of the incapacitated person; (ii) the regulations promulgated by the State Board of Behavioral Health and Developmental Services; or (iii) other applicable law.

**Family & Child Welfare Law**

*The family law practice area at VPLC encompasses divorce, custody and visitation as well as child and spousal support. VPLC also collaborates with leaders across the state to help develop and implement changes to Virginia’s child welfare system that will help children remain safely out of foster care or move out of care into permanent families.*

**No Fault Divorce:** In conjunction with the Family Law Legislative Coalition of the Virginia Bar Association, VPLC successfully advocated for a significant simplification of the process for obtaining a no fault divorce. Under the new law, a party who is seeking a divorce based on living separate and apart can put on evidence needed to prove the grounds of divorce by affidavits in certain circumstances. This new law will make obtaining “no fault” divorces less costly for lower and moderate income people who do not qualify for assistance through legal aid, and it will increase the number of divorces legal aid pro bono and staff attorneys can handle each year by allowing them to use affidavits instead of the far more time consuming depositions currently required by most jurisdictions.

**School Enrollment:** VPLC worked closely with Voices for Virginia’s Children and FACES of Virginia’s Families to successfully advocate for a change to the school enrollment law that will enable children living with relatives to attend the local public school for free regardless
of whether the relatives have court orders giving them custody. The new law is focused on helping keep children out of foster care and with their families.

**Health Law**

*Access to health care is critically important to low-income Virginians. Many rely on public health insurance programs such as Medicaid, Medicare and FAMIS (Virginia’s State Children’s Health Insurance Program), which involve complex laws and policies. Much of VPLC’s work on health law is public policy advocacy with the Virginia General Assembly and administrative agencies.*

**Medical Assistance Coverage for Certain Legal Immigrants:** Provides Medicaid and FAMIS Moms coverage for otherwise-eligible pregnant immigrants during their first five years of lawful residence in the U.S. The bills also require FAMIS coverage for otherwise eligible legal immigrant children during their first five years of lawful residence in the United States. (Medicaid eligible, legally residing immigrant children are already covered.) This expansion is expected to cover about 1000 pregnant women and 300 FAMIS-eligible children.

**Housing Law**

*In these hard economic times it is especially important that the rights of renters and home purchasers be protected. VPLC advocates in the Virginia General Assembly for changes to landlord tenant law that will help low-income tenants avoid homelessness and collaborates with various other stakeholders to identify systems improvements to increase affordable and accessible housing across Virginia.*

**Rights of Tenants:** VPLC successfully advocated for the following three improvements to the rights of tenants:

1. **Rent Receipts:** This new law will require landlords to provide written receipts to tenants who pay by cash or money order, if the tenant requests a receipt. We have heard that in different parts of the state landlords are actually refusing to provide written receipts, so as mild as this change seems it will address a real problem.

2. **Rent Accounting:** Under this law, tenants have the right to obtain a written accounting from their landlord showing all the charges and payments for the previous twelve months, or for the entire lease term to date if that is less than twelve months. The landlords must provide the tenant with the accounting within ten business days following the request. Having this accounting both enables a tenant to demonstrate a good payment record to a prospective new landlord or to a
lender for mortgage qualification purposes. It also provides evidence in the event
the tenant is wrongfully sued for nonpayment of rent.

3. **Prohibition on Self-Help Evictions by Landlords:** Although current Virginia Code
language expressly prohibits landlords from evicting a tenant without first
obtaining a court order by cutting off utilities or changing the locks, the Virginia
Court of Appeals held in January 2011 that a tenant could give a landlord the right to
use self-help to evict by agreeing to it in the lease. This new law expressly makes
unenforceable any lease provision that allows a landlord to evict a tenant without
first getting a court order.

**Public Benefits Law**

*Public benefits are programs that are administered by the state and federal government that
assist individuals with many of their basic needs. A few of the main public benefits programs
are: Food Assistance, Social Security, Temporary Assistance to Needy Families (TANF),
Medicaid and Unemployment Compensation. The following bills failed during the 2012
General Assembly session:*  

**Unemployment Benefits; Drug Testing:** Requires each applicant for unemployment
benefits, as a condition of eligibility, to provide the Virginia Employment Commission with
the results of a drug test that is negative for the use of a nonprescribed controlled
substance.

**Temporary Assistance to Needy Families (TANF) VIEW Program:** Requires local
departments of social services to screen each VIEW program participant to determine
whether there is probable cause to believe that the participant is engaged in the use of
illegal drugs. If probable cause exists, the Department shall require a formal substance
abuse assessment of the participant, which may include drug testing.