

**2011 VIRGINIA STATE BAR FAMILY
LAW SECTION JUDICIAL VACANCY
SURVEY RESULTS**

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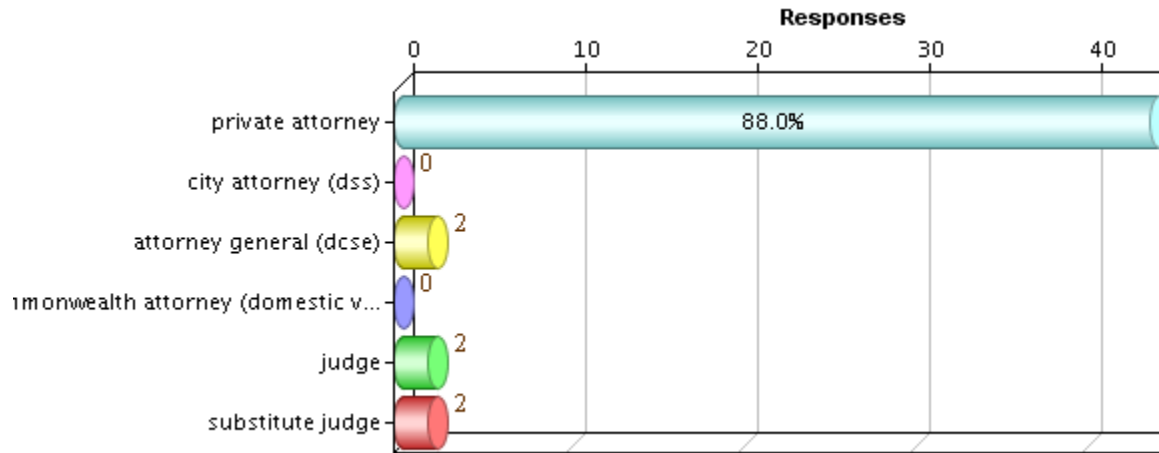
Please identify the cit(ies) or count(ies) in which the court(s) are located?

- Hanover
- Henrico, Richmond, Chesterfield
- King George
- Hanover J & D, Amelia (etc.) Circuit
- Suffolk
- Lunenburg, Mecklenburg, Halifax, Pittsylvania, Danville, Martinsville, Franklin.
- Fairfax, Loudoun, Prince William, Alexandria
- Chesterfield, Richmond, Henrico, Hanover, Amelia, Goochland
- Norfolk
- Virginia Beach
- Alexandria, Fairfax, Arlington, Prince William, Loudoun, Stafford, Spotsylva
- Henrico
- 24th Circuit
- Richmond, Henrico, Chesterfield
- Fluvanna Circuit Court; Campbell Circuit Court; Campbell J&D Court;
- Virginia Beach/Norfolk/Chesapeake
- Lynchburg, counties of Bedford, Campbell, Amherst, & Appomattox.
- York County
- stafford,spotsylvania, fredericksburg, king george
- Fauquier County
- Virginia Beach

- Hampton Roads
- virginia beach
- Stafford, Spotsylvania, King George, Caroline & City of Fredericksburg
- Fairfax, Arlington, Alexandria, Loudoun, Prince William
- York Co.
- 15th District
- metro richmond
- Southwest Va.
- Augusta, Staunton, Waynesboro
- Va. Beach, Norfolk, Suffolk, Chesapeake, Portsmouth
- prince Edward, cumberland, appomattox, chesterfield, henrico
- Richmond, Henrico, Hanover, Chesterfield
- Virginia Beach, Chesapeake, Suffolk
- Stafford, Fredericksburg, Spotsylvania
- Pulaski, Montgomery
- Fauquier
- Powhatan
- Chesterfield, Hanover, Henrico, Powhatan, Richmond, Cumberland
- Fairfax, Loudoun
- Chesterfield, Henrico
- Henrico, Richmond, Chesterfield
- Danville, Pittsylvania County, Halifax County and Henry County
- 15th Judicial Circuit
- richmond metro area
- Fairfax
- Roanoke City, Roanoke County, City of Salem, Pulaski County, Botetourt County,
- Fairfax
- fairfax, loudoun
- Fairfax

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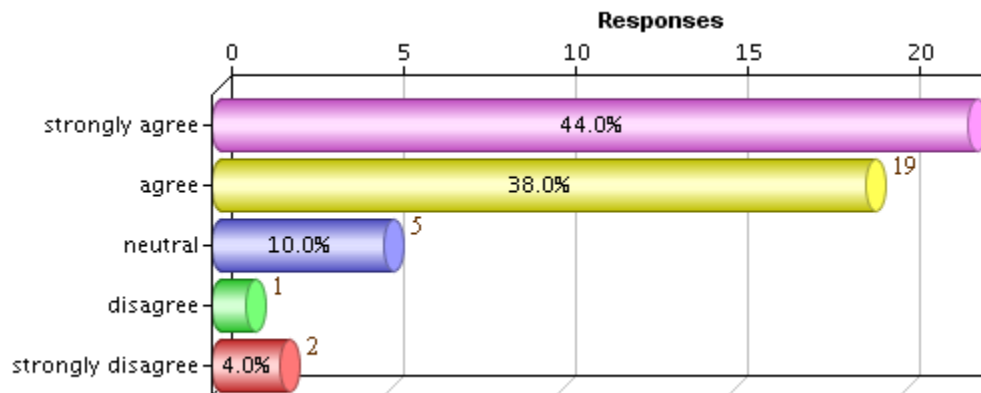
What is your relationship to the court?



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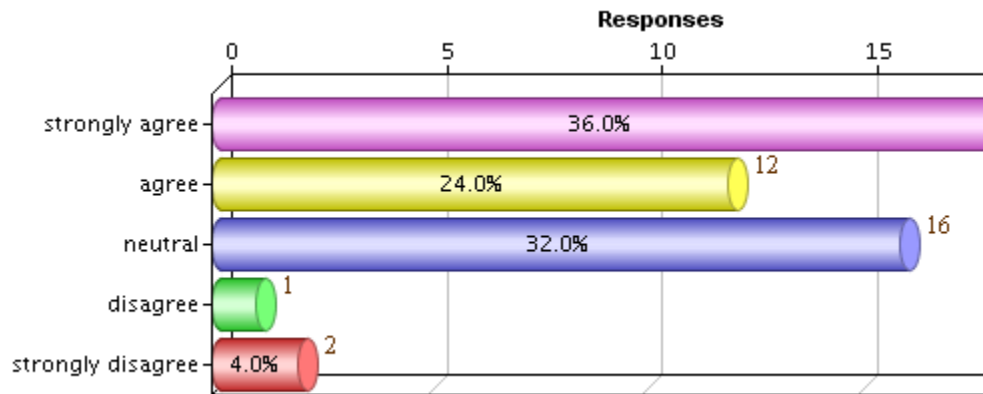
Please choose the best response to the following statements relating to the judicial vacancies.

I have experienced unusual delays in setting matters for trial



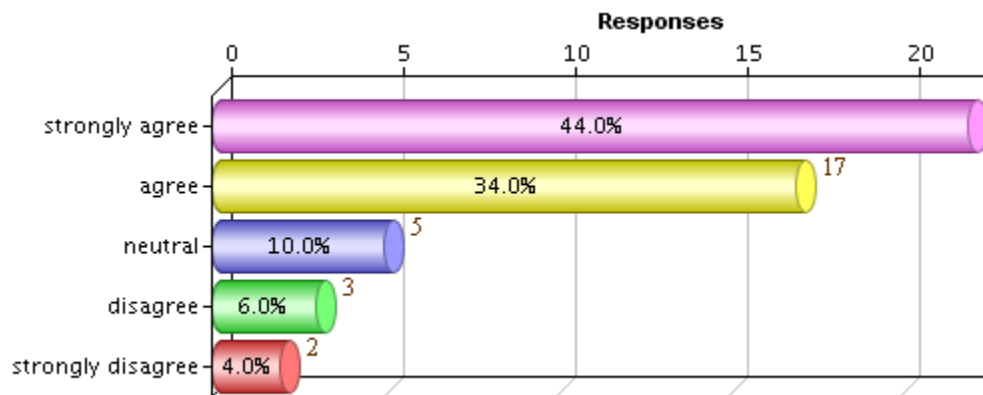
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I have experienced excessive delays in setting pre-trial matters for hearings



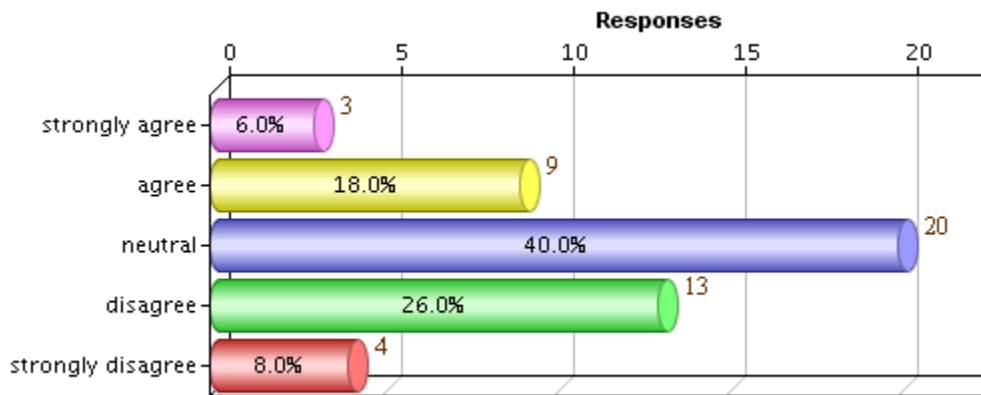
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I have experienced excessive delays with continuance dates



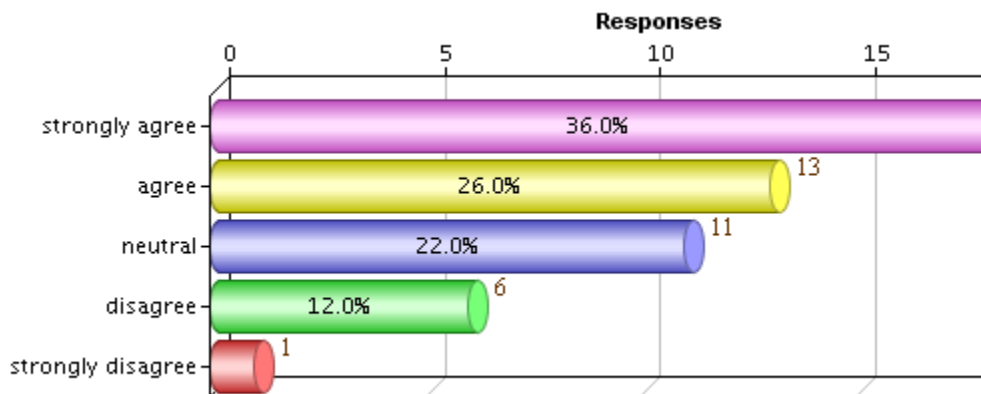
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I have experienced delays in the issuance of subpoenas and other pre-trial processes.



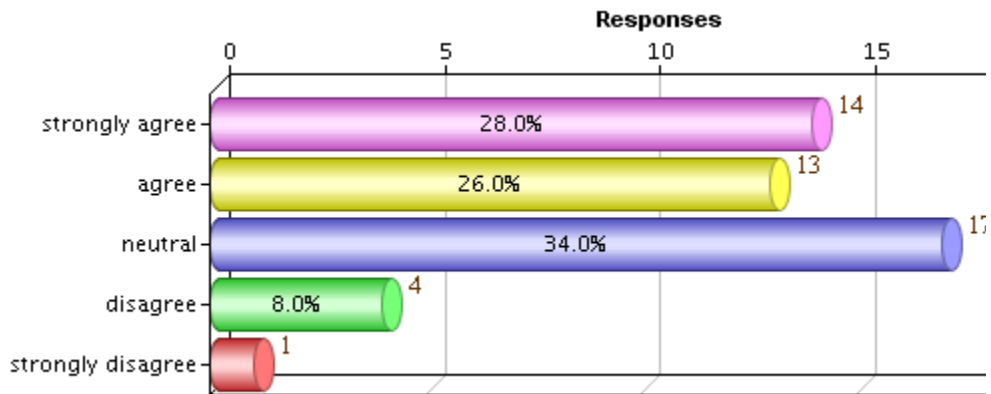
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There has been a lack of judicial continuity for judicial review of cases at the trial level. For example, one substitute judge hears the adjudication of a case while another judge addresses the case's disposition.



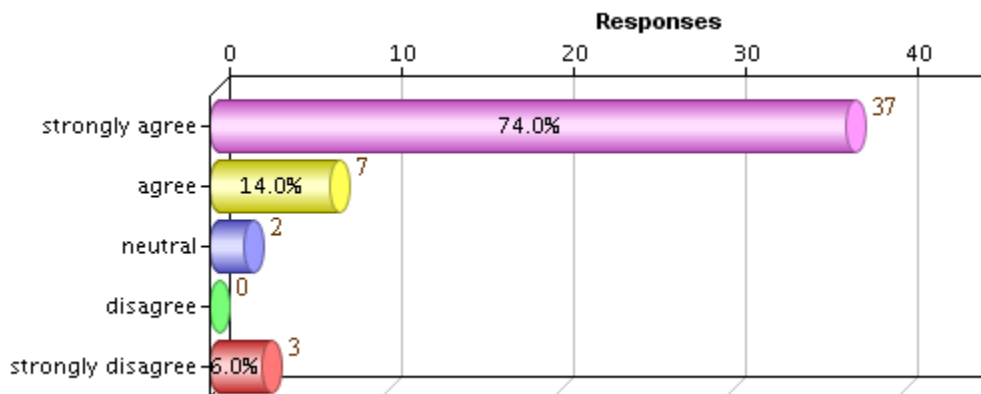
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The lack of judicial continuity over the cases, has negatively impacted the outcomes of these decisions.



Total Number of Form Results: 50

The legislature needs to take immediate action to fill the judicial vacancies



Total Number of Form Results: 50

Please describe how the judicial vacancies have impacted your ability to conduct business with these courts?

1. in addition to delays in getting on the docket, the courts can only allot a very little time for cases to be heard, especially divorce cases
2. This is nothing but miserable. As a GAL in Hanover JDR, I never know how to prepare my case or for whom. I feel the same way regarding retained matters. The whole thing makes life really hard and makes it extremely hard to advise clients as to what to expect from the court. I expect and respect rules in my profession. However, we, as members of the bar, have a great need to know what the rules are and what expectations are; currently there are no rules and there is no consistency. As to Amelia Circuit Court, I have been trying to have a Judge Pro Tem appointed for about a year. The Court loses the paperwork, etc. My lady is missing a leg and I cannot achieve a support or other hearing for her. This is a Pro Bono case and I feel that I will be sued for trying to help someone that is truly indigent!!!!!!! This is a colossal mess!!!
3. Unhappy client's due to waiting to be heard. Inability to effectively issue subpoenas and other filings. Requires additional phone calls on weekly basis in attempts to get paperwork out.
4. I am lucky because the JDR courts where I practice have not lost a judge due to retirement. However, there are two courts where the judges will retire in 2011 and I am not looking forward to the problems to come.
5. We have no such vacancies in Norfolk.
6. No affect
7. It is difficult to get a hearing dates when needed and trial dates are set so far out, people who need relief are being denied relief as they do not have timely access to the courts.
8. I believe some attorney's and clients are exploiting the fact that there is considerable delays in getting cases heard and Judges are not wanting to address emergency hearings and the attorneys and clients are taking actions (like moving away with the children or making financial decisions)are able to develop facts in their favor because of the delay in the matter being heard.
9. Lack of Judges (and reliance upon Senior Status Judges) has seriously impacted the ability for me to timely represent my

clients' interest. Justice delayed is justice denied.

10. time delays and lack of judicial continuity has made predicting outcomes difficult. the use of substitute judges has rendered in marginal results giving rise to appeals or motions to rehear in hopes of getting more seasoned judicial review.
11. The judges who sit there as substitutes are very nice, but they are there so sporadically that the procedures are chaotic, not uniform, etc. It is very difficult to work through the inexperienced judicial assistant there and the attorneys are not necessarily treated with respect. It has been a mess for the last few years and is getting no better.
12. There is a lack of consistency with judicial rulings because of the increase in substitute judges. It is difficult to prepare for hearings because of not knowing who the judge will be..there may be different "rules" or "procedures" in the area where the substitute judge is from. There are delays in getting resolution in a case because different judges hear the ongoing cases and we have to relitigate the same issues over and over.
13. Being only in my second year of practice (and having had a judicial vacancy for the majority of my practice time), I have grown accustomed to the scheduling difficulties.
14. the Virginia Beach Circuit Court has reduced their duty docket to begin allowing their judges to travel to the Eastern Shore to cover Judge Tyler's docket once he retires this month. It is getting harder to schedule a duty judge hearing as a result.
15. The Courts are most citizen's exposure to local government. Currently it is hard to explain to client why the judges will not schedule at 4 p.m. hearing and why their trial date is set 6 - 9 months (or more) out.
16. clients are extremely frustrated with the length of time they have to wait before having resolution of their legal issues.
17. It often can take 7 to 10 months to get a custody dispute resolved, and often the first available trial date for a Divorce proceeding can be between 8 and 12 months from Term day, resulting in Divorce proceedings that should be resolved in a total of 12-18 months taking 2+ years. Courts have had to change their policies such that unavailability of a client's chosen counsel is immaterial for purposes of anything but final trial.
18. Scheduling hearings and trials is much more difficult and long delays are normal. Often substitute judges are unfamiliar with the case, haven't reviewed the file. Many sub-judges will not take divorce cases. Impossible to predict outcomes and

advise clients. Some sub-judges are unfamiliar to the attys.

19. Generally we are looking at 4-5 months to set a Motion to Compel Hearing to obtain missing discovery responses (which in effect delays the underlying litigation trial nearly an additional year. For domestic cases - such as divorces or significant custody and visitation - we are adding 6 months to resolution in J&DR Ct and as much as a year in Circuit Ct. This effectively denies parties access to a judicial resolution because most family issues simply cannot wait that long for resolution. In landlord-tenant unlawful detainer actions in rural areas with limited court dates the effective result is the tenant may have an extra 2-3 months in the residence without paying before they can be evicted.
20. IN many instances, we have been unable to get a relatively quick hearing on emergency support and custody issues. Some parties have had to wait three months or so just to get before a judge on initial pendente lite support, custody and visitation.
21. Especially in Chesterfield, the delay in setting trials is frustrating. To have an hour hearing set at least 5 months away can negatively impact the well-being of a child.
22. I strongly agree with all the statements above. It is tough when you can't get a judge for 2 or 3 months or more to hear a pendente lite matter in a divorce case. It is even tougher for ED cases that require 4 or more hours of court time to schedule.
23. I have a divorce which has been continued four (4) times (successive counsel, etc.)and is now set for early April. Because the Virginia Beach Circuit Court will be helping out in Suffolk, Isle of Wight and Southampton. As a result, there is serious question as to whether I can get a day-to-day trial for this most complex divorce which has six (6) experts on each side. Request has been made to have it assigned to a judge and upon this occurrence, this may change. Getting any meaningful time in Suffolk is difficult. The above is a direct result of freezing appointments.
24. The biggest impact has been the time constraints the Juvenile Court places on hearings and trials, even in complex cases where cases are limited to no longer than 3 hours. Since there is no removal to the Circuit Court, clients waste time and money litigating in the Juvenile Court before being able to an appeal to the Circuit Court.
25. Generally more difficult to find a judge for scheduling or

immediate need, when one circuit court judge vacancy not filled. One J&D vacancy is handled by a group of substitute judges and neither lawyers, nor litigants, should experience that lack of experience or believe that the outcome of their case has been decided by someone that's not a full-time judge.

26. Judicial availability is practically non-existent. Judges are refusing to even give trial dates when they are needed. Hearing dates are hard to coordinate because the available judges are coming from Petersburg. They have full dockets there.
27. It affects everything from the advice you give clients to your ability to set your calendar. Once you finally have a court date, it's not unusual to spend over an hour just waiting to appear before the judge because so many cases are stacked at the same time on the docket. Clients become frustrated with the whole exercise, because once they finally see a judge, they feel rushed through their hearing and know that if the other party violates the order, it will take months to get any enforcement.
28. While there is a slow down in many of the courts in NOVA the problem seems particularly noticeable in Loudoun county where despite very hard work by all court personnel the wheels of justice are moving slower and slower.
29. There are simply not enough days to devote to family law matters; we are always shuffled to the back of the bus. The judges are exhausted trying to keep up with their dockets. Many are working weekends and evenings.
30. For example, attorneys in my office have experienced a wait for an emergency hearing in J&D court on the emergency docket (parental kidnapping) has ranged from over two weeks to four months. This is not acceptable.
31. The biggest problem is the delay in trial dates and receiving the summons back in a reasonable time. However, I have also had to wait 6 months for a scheduling conference in Juvenile & Domestic District Relations Court. This is unreasonable.

Total Number of Form Results: 50

Please provide situations that you have experienced as a result of the judicial vacancies.

1. I had an 8 hour Equitable Distribution and Fault divorce set by

the judge who heard most pre-trial motions. About 2 days before trial we were told by the sub-judge that we would only get 4 hours to try our case...for a 20+ year marriage with two parcels of real estate, pentions, spousal support, etc. Both lawyers left the court shaking their heads.

2. See above about pro bono case. Relief requested one day causes judicial censure. A month later in the same case, failure to request the same relief cited previously, causes judicial censure for failing to request such relief on behalf of the child. It is impossible to tell people how to behave. Each Judge sees facts differently. It is impossible to know the preferred method for preparing and presenting my case. Judges that were not re-appointed for good reason, often appear. A substitute Judge ruled that Head Start was not a good idea for a poor child that lived in a trailer park with family that is basically uneducated. It is impossible to please musical judges - no one can please everyone!!!
3. Mediation has occuerred and no court dates set to enter orders. Phone calls with clers and no paperwork found but later learn it is sitting on a shelf to be filed.
4. None
5. I am substituting almost full time to prevent significant delays in the 24th Judicial Circuit. Substitute judge pay needs to be significantly increased. Per diem of \$200 per day is lower than the pay for one court appointed case. There needs to be a differtial pay scale between district courts and circuit courts for substitute judges.
6. I have a case in the city of Richmond being heard by two different judges. This has resulted in numerous hearings, and has resulted in results that have negatively impacted the case because each judge has a vastly different perspective and each judges only hears parts of the case. I have never had an experience like this before.
7. I have a case in a county and it took 3 months to set a hearing to address an issue where one party was withholding the children from the other; I was only able to get a 2 hour hearing then and the Judge complained during the entire hearing about the time and then the Judge stated the 2 hour hearing was not enough time; so then it was an 7 week wait for a 4 hour hearing and the Judge said that was not enough time and then set it off over two months for a full day. At that point one party had monopolized the children in their favor. This is probably the

- worst case I have experienced but there is difficulty in getting enough time for hearings at a
8. Case set to be heard in July, 2010, but delayed until December, 2010 for Pre-Trial Hearing (with trial to be set approximately three months after that).
 9. I had a substitute judge give custody of a young child to a father who had tested positive for marijuana on the day of trial. I know of no other judge in my district that would have done that. I had a judge deny a child's petition because "it was done differently in his district".
 10. The biggest issue I've encountered is having to remind a new judge of the facts of the case every time I come before him or her. While a good attorney should always do this, it requires more time to be spent on the facts instead of the application of the rule to the facts.
 11. Delay in getting motions heard, trial dates set and the refusal to consider emergency hearings as their docket does not allow them to be set.
 12. Their simply not being a Judge there for a docket, thus the Court drafted a substitute Judge because he had a case on the docket. A single Judge handling 2 courtroom's worth of docket (multiple occasions), Because of the absence of a judge to adjudicate the issue, an ex parte preliminary protective order that was valid for 19 days.
 13. Several forced continuances due to "no judge available on that day". This has occurred when the hearing has been scheduled for weeks. Other sitting judges in the circuit are using Commissioners in Chancery because of time constraints on them. The dockets of the other 8 jurisdictions in the circuit are also burdened.
 14. Judicial vacancies and increased caseload have resulted in shorter hearings and trials. In response, I've noticed a new trend in Stafford whereby the court has taken the position that spousal support is pendente lite and therefore the factors under 20-107.1 are inapplicable. Any evidence relating to the factors will not be heard. In Stafford, spousal support is routinely calculated according to the guideline without regard to 20-107.1
 15. Lack of continuity in J&D, not knowing who's going to be on the bench any given day.
 16. A docket call was wall to wall people with criminal cases mixed with contested domestic cases and civil cases. The judge

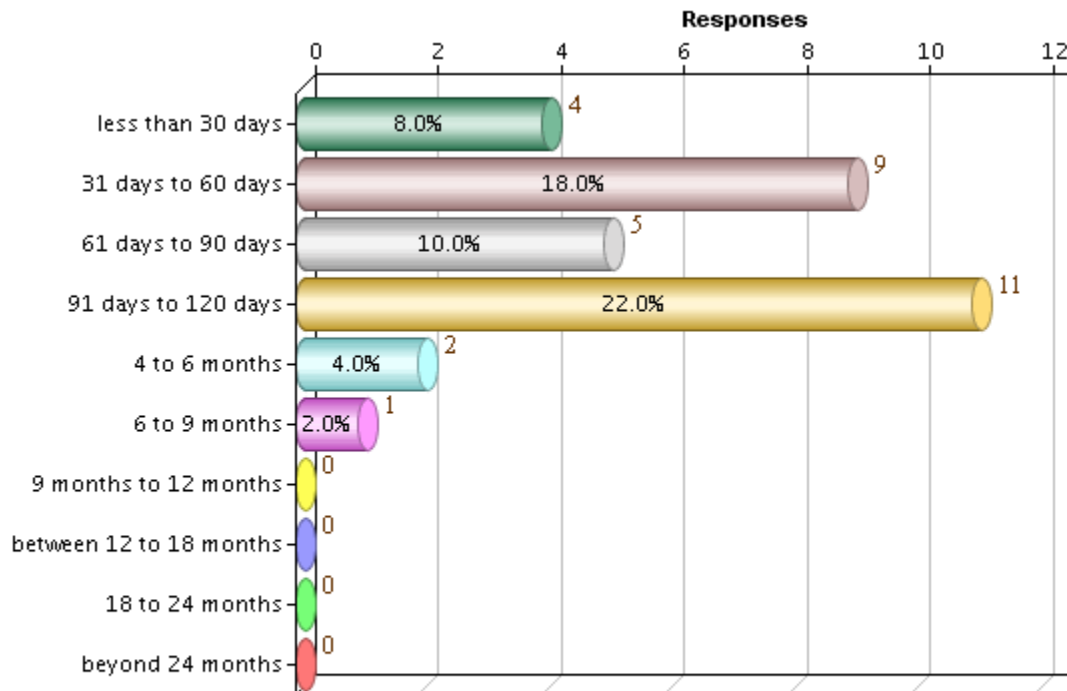
that heard the first part of the case was replaced on the next date with a Judge that was unfamiliar with the case and even the type of case. Almost all of the cases had to be continued or nothing would have gotten done.

17. Parties in volatile domestic situations become even more frustrated by the perceived lack of concern in the courts, and the situation deteriorates over time rather than improving. People who separate and can't be civil with one another can't just work out what to do with their children for the next nine months while they wait for a court date. If they could do that, they wouldn't need litigation. Meanwhile, the child suffers. An example: I was denied an expedited trial for a client whose wife took the children and moved out of state, nearer her own family. The waiting period gave the mother the advantage of being able to argue six months later that the children were "established" and "stable" in their new home, and to remove them from the extended family would be detrimental. To create a situation where a bad actor gets to rely on the status quo caused by the system essentially punishes a parent who goes through the proper channels, files a petition promptly, and then waits for trial, rather than taking matters into his or her own hands.
18. Pending matters are slipping further out in time. This is particularly harmful in child custody cases. These cases are always stressful for all involved and to see their duration delayed has a very adverse impact.
19. Quite frequently one has no idea which judge will hear your case with the result that it is difficult to prepare and it costs clients unnecessary fees. Ore tenus hearings are rare in divorce cases now. The judges are exhausted.

Total Number of Form Results: 50

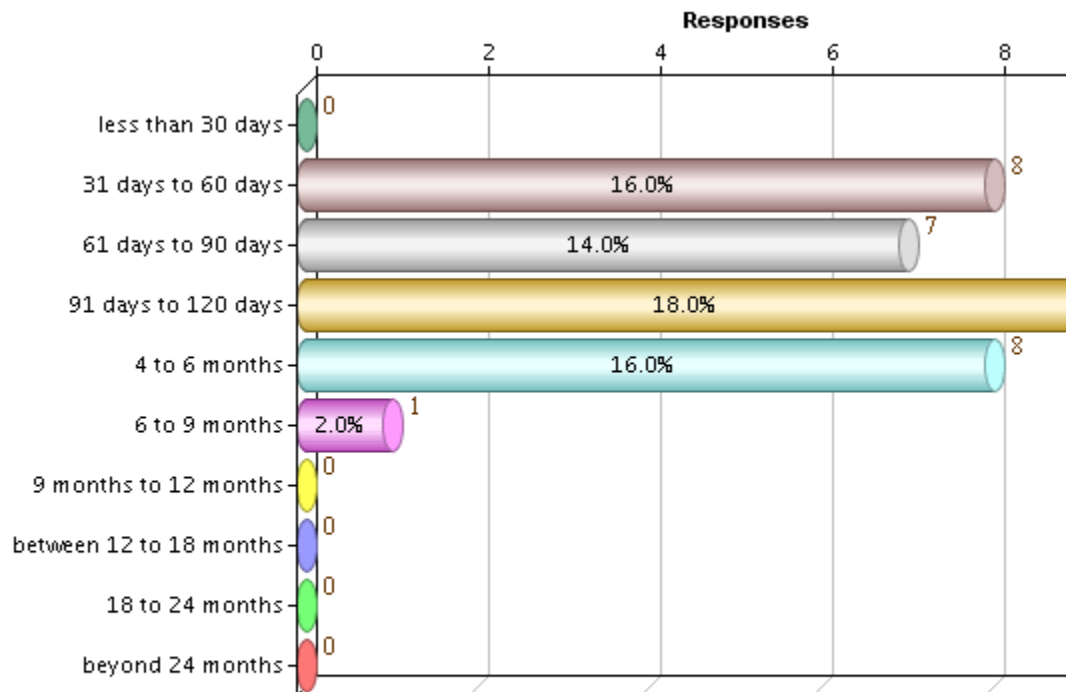
Due to the judicial vacancies, what has been the longest period of time that you have waited to set a hearing, set at Docket Call, for the following hearings:

One Hour Trial



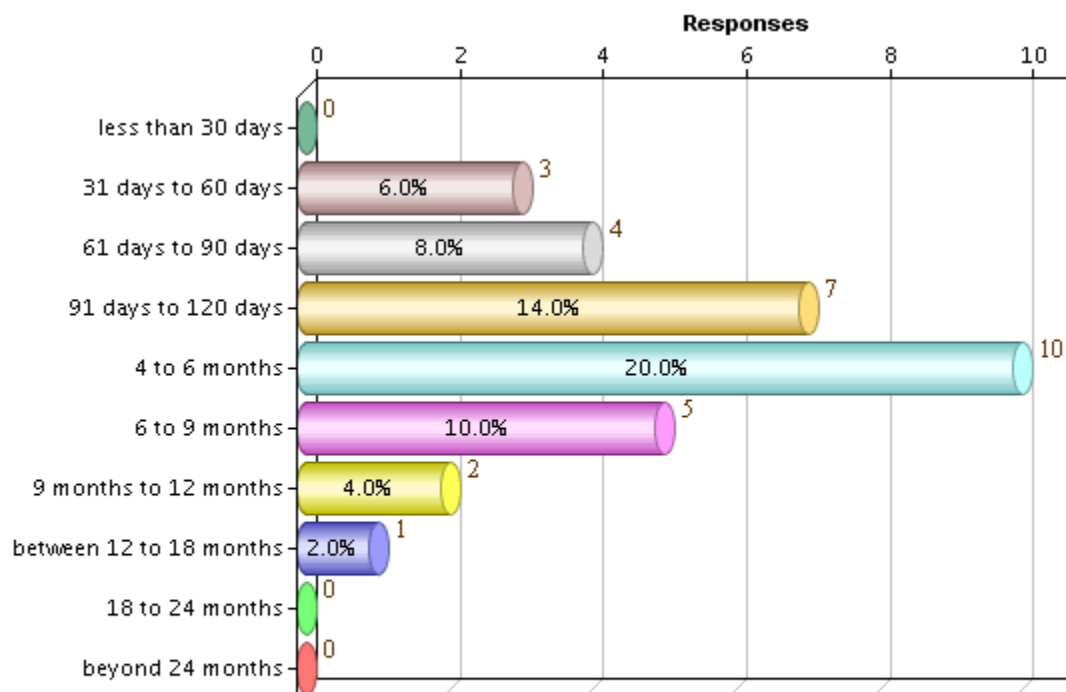
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Two Hour Trial



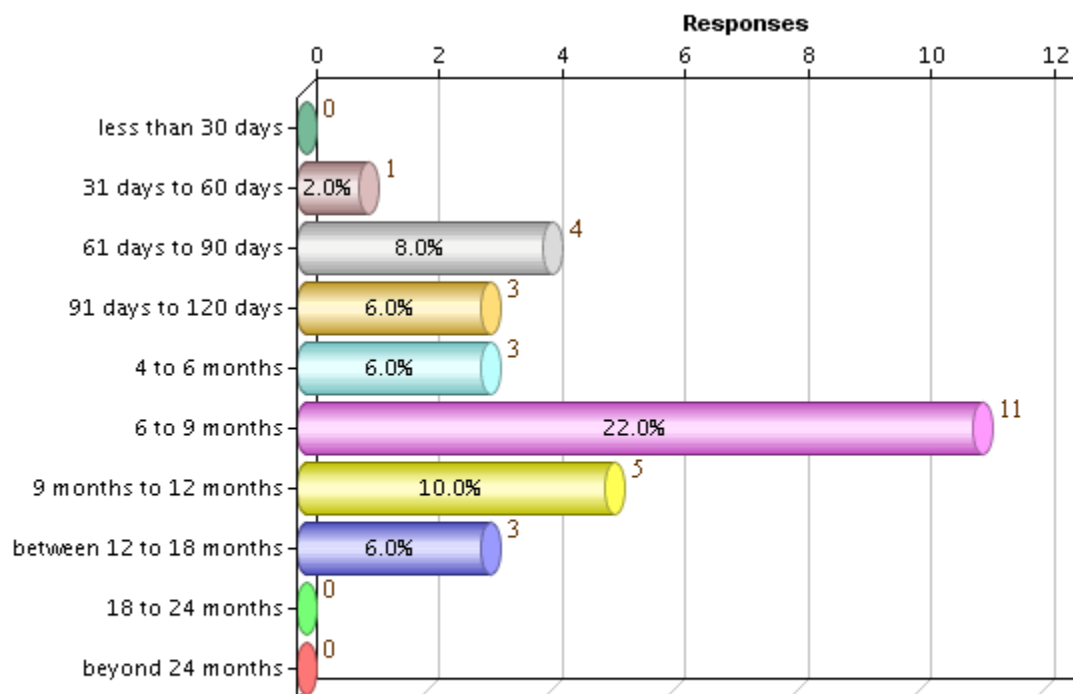
Total Number of Form Results: 50

1/2 Day Trial



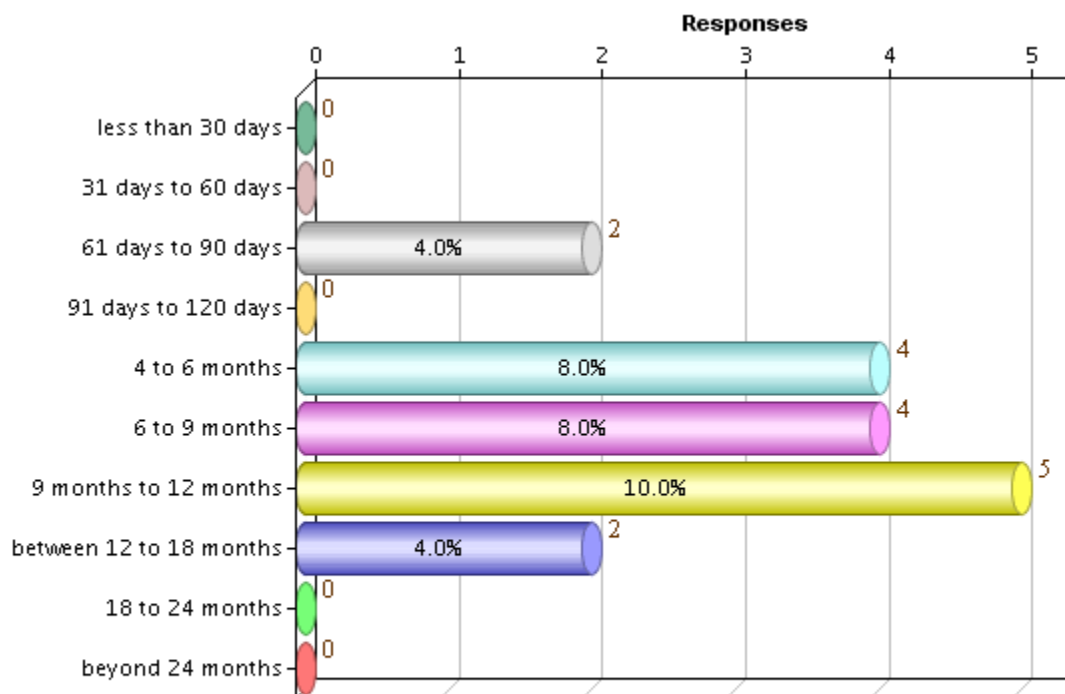
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One Day Trial



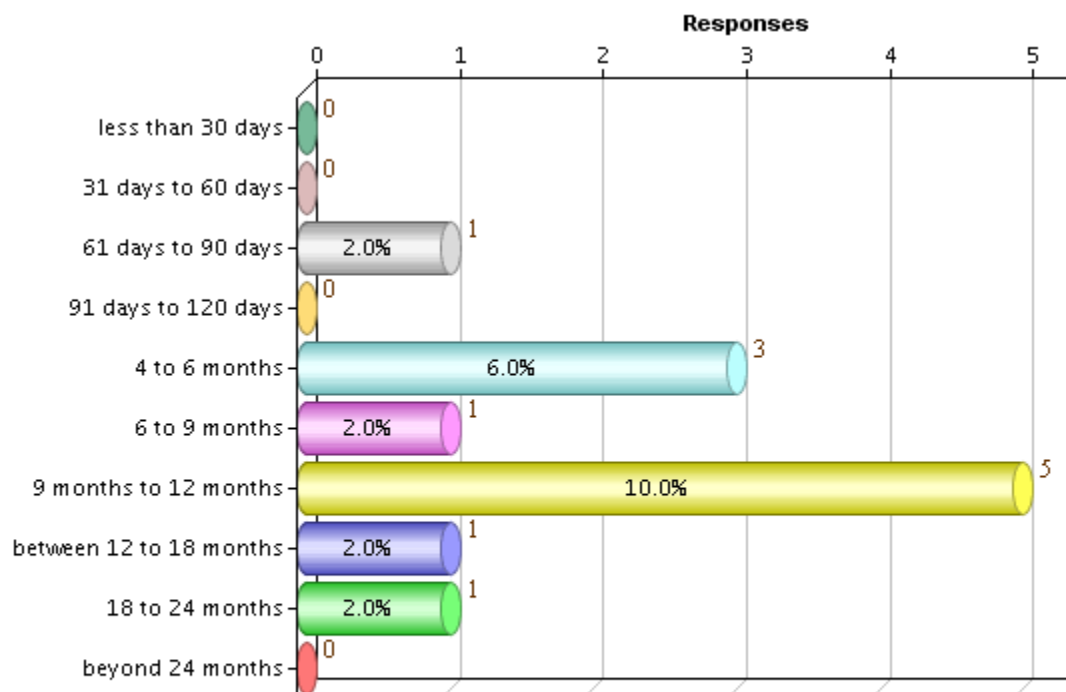
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Two Day Trial



Total Number of Form Results: 50

Multiple Day Trial



Total Number of Form Results: 50

Since the judicial vacancies have occurred, what changes have you seen in the circuit court?

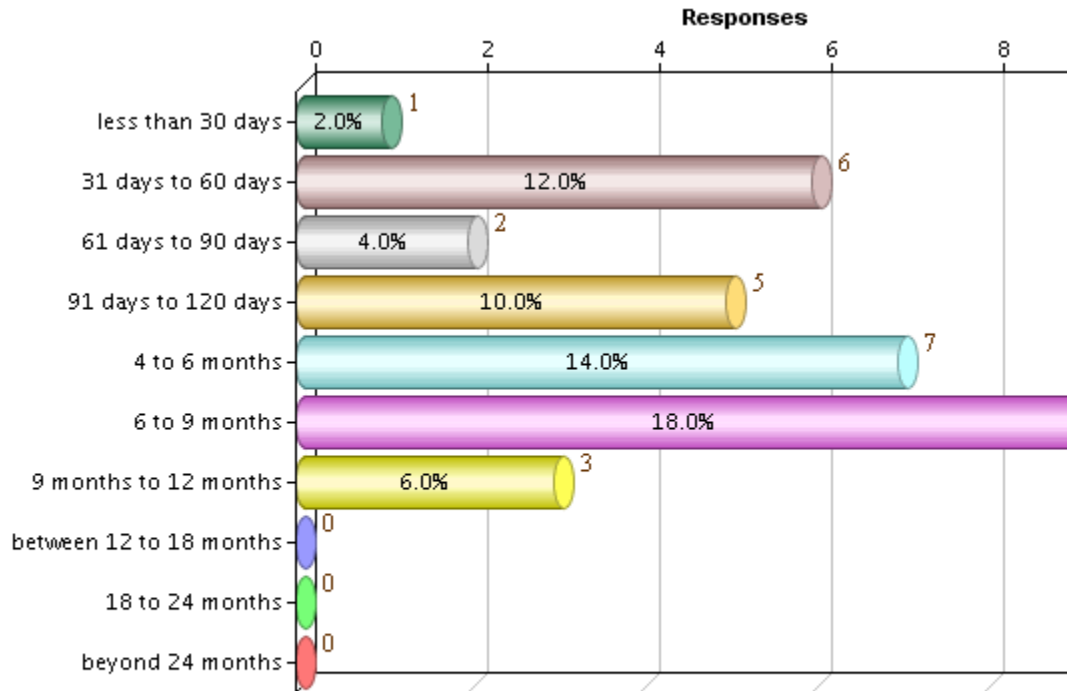
1. The Court's are limiting the amount of time that we can have for a trial in a domestic matter on the Court's docket. Nothing is construed as an emergency no matter the circumstances.
2. It is a shame as to how the system is running at this time. All

- are trying to do the best under difficult circumstances....but the system is failing the citizens, lawyers, clerks and judges.
3. I cannot get a hearing out in Amelia. My disabled client will die before anything is ever resolved.
 4. In Suffolk Circuit Court, attorneys do not want to continue cases that involve support and custody and delays in setting final hearings.
 5. All the circuit courts where I practice have sitting judges and no scheduled retirements.
 6. Lack of judicial continuity; continuances are lengthy delays
 7. None
 8. Civil docket is backing up; criminal docket is given preference.
 9. Judges are less patient and very concerned about the amount of time they will permit for a matter to be heard.
 10. unable to get emergency issues addressed; Judge's are distracted during hearings because of time constraints
 11. Less collegiality with Bench and Clerk's office (as they are shorthanded as well).
 12. We now added delays, the judges are stressed over the increase in work and difficulty in managing their dockets, the judge hearing the case is often in question up to the last minute and hearings are being bumped to accommodate criminal cases or juries.
 13. Judges are less patient, seem to be in a hurry to get things done in court. Clerk's offices are so busy, things get overlooked or not done.
 14. Not too many.
 15. In the 15th Judicial Circuit no domestic relations case is given more than one day.No exceptions, regardless of reason. This is a real shocker for attorneys from outside the area where 2 day (or more) trials or bifurcated divorces (one day custody, visitation & c/s, the other ED and S/S) are common.
 16. See above. More cases a probably settling, a good thing. More judicial settlement conferences.
 17. Sitting Judges are stressed; unable to get rulings out in a timely fashion on matters that must be studied; inconsistency in multiple part cases with different judges ruling on different parts of the case; cases taking longer to try because different judges have no familiarity with what has gone on in the case prior to the current hearing

18. Delay in getting matters set.
 19. One month delay in setting motion hearings
 20. less availability and too many cases being handled by retired judges
 21. As the sitting judge's case load increases the stress on these judges manifests itself in some of the judges being less civil, less patient, rushed, and in some cases making bad decisions because they do not have the time to give a matter due consideration. Any diminution in the quality of justice is a serious matter. Justice delayed is justice denied. Rushed justice is not justice at all.
 22. Many more layers of procedure before cases are tried. The judges are exhausted. Quality of substitutes is questionable at times.
 23. Delays for hearing dates; case files that are not updated; 8 week wait for entry of an order (uncontested).
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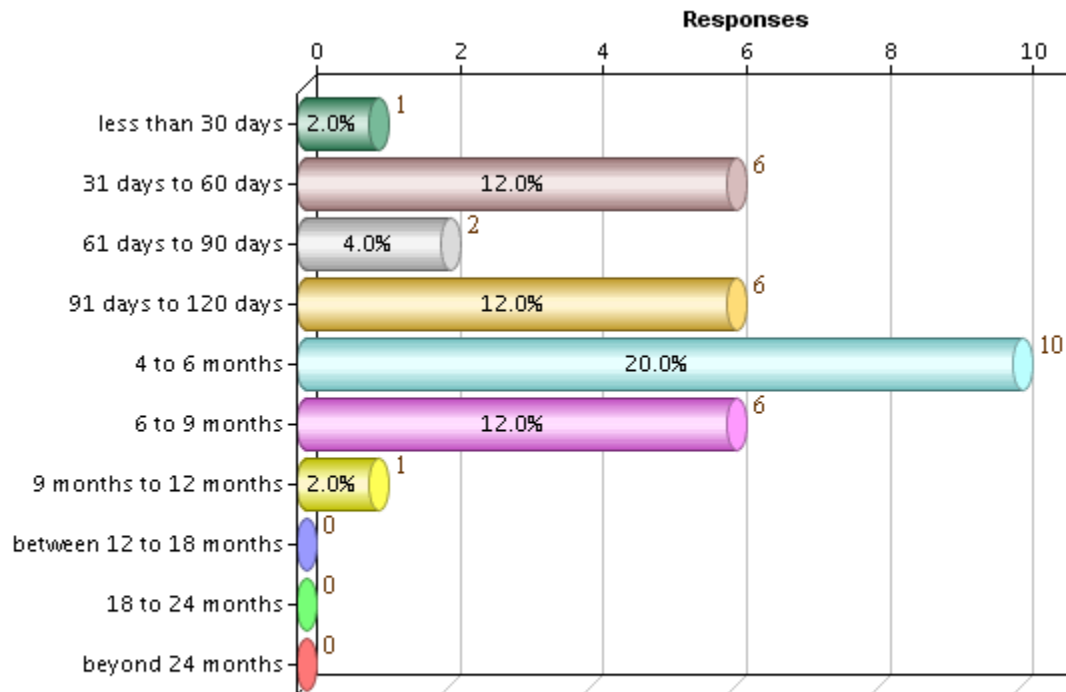
Due to the judicial vacancies in J&DR Court, how long are you having to wait between the time you file the following petitions/motions and the trial date?

Child Custody Petition (contested)



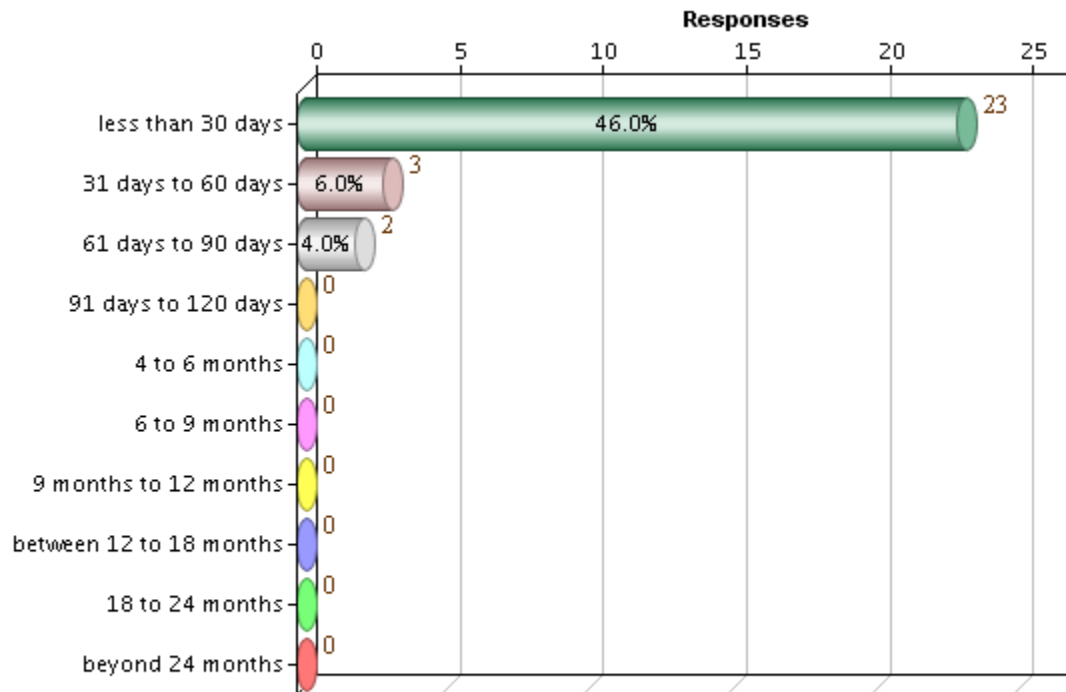
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Child/Spousal Support Petitions



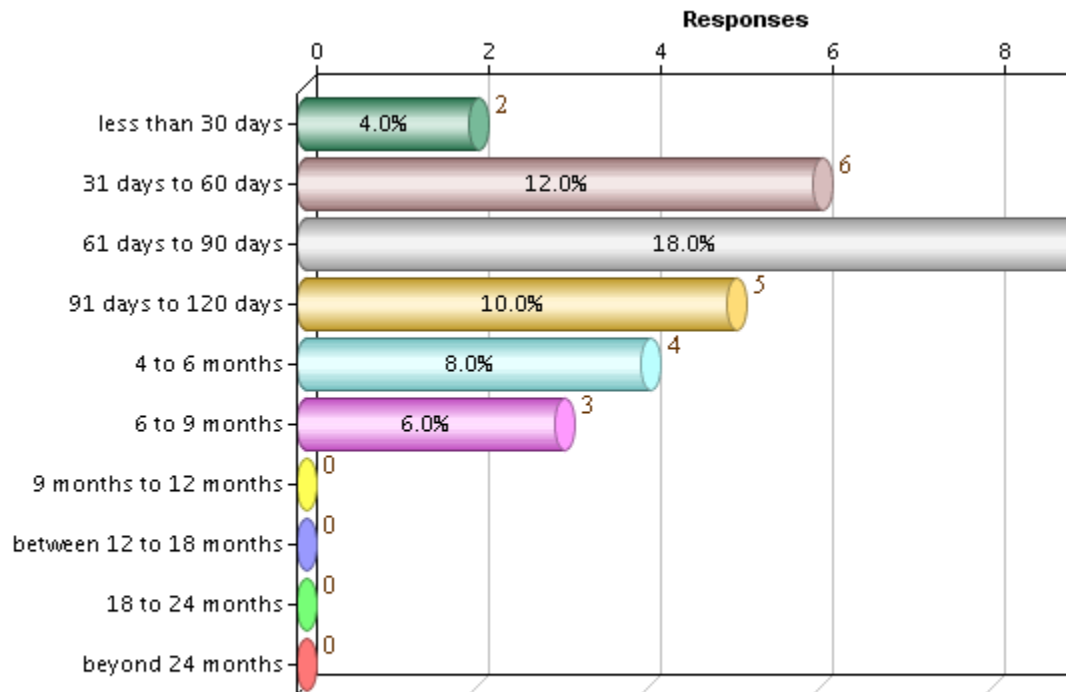
Total Number of Form Results: 50

Petition for Protective Order



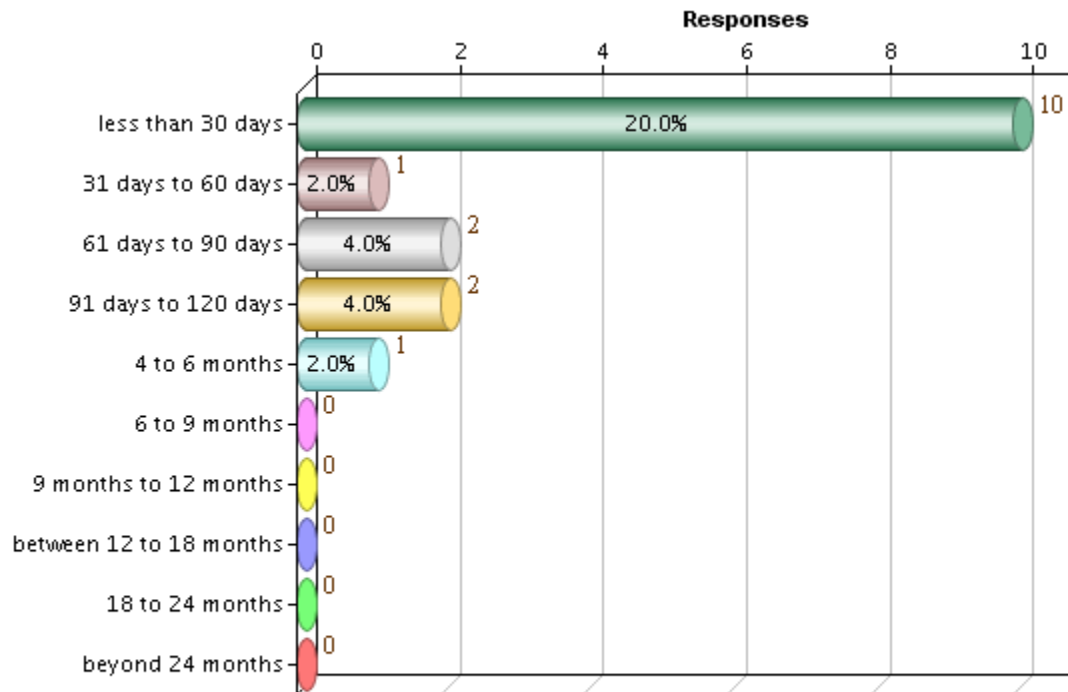
Total Number of Form Results: 50

Show Cause



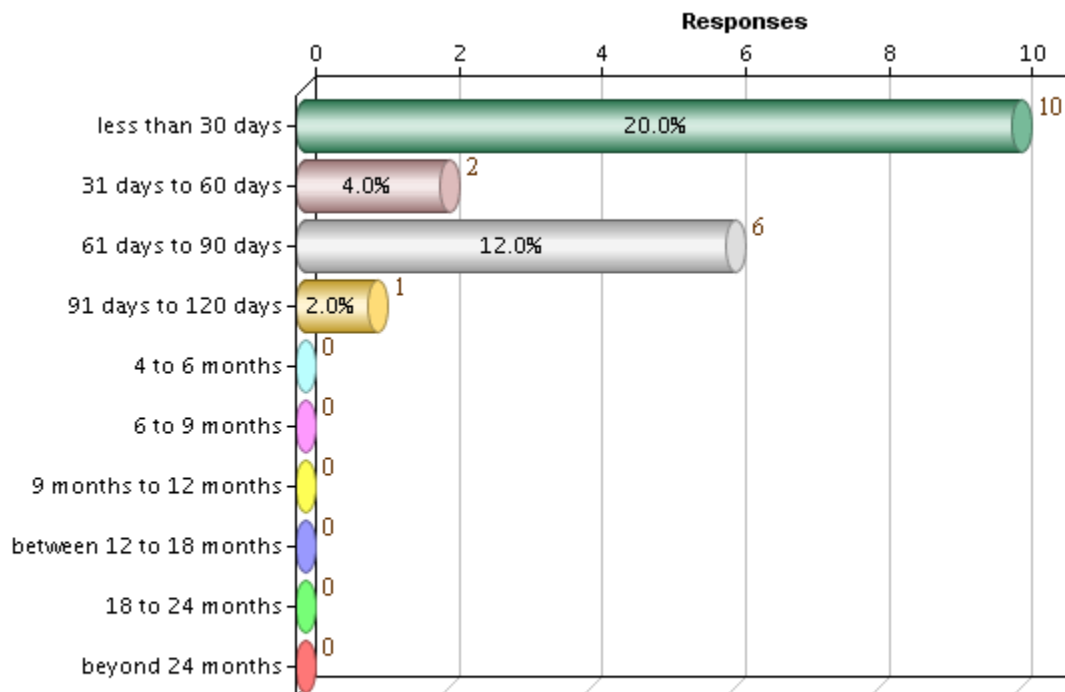
Total Number of Form Results: 50

Child Abuse/Neglect



Total Number of Form Results: 50

Domestic Violence (Assault)



Total Number of Form Results: 50

Since the judicial vacancies have occurred, what changes have you seen in the Juvenile & Domestic Relations District Court?

1. The Court's are limiting the amount of evidence that they will hear to as little as 30 minutes of testimony in a first time trial for custody and visitation even with difficult issues.
2. Haven't seen much of an impact here....due to vacancies.
3. The Hanover Court keeps its docket moving. Other places are having great difficulties as reported by my colleagues of the bar.
4. In Juvenile & Domestic- Delays in receiving support and custody changes. Cannot do subpoenas as no court date and clerk will not call to verify a case has been set. Must continuously call causing lots of time, backlogs and poor explanations to clients.
5. I will not experience this problem until 2011 when two of the judges in the jurisdictions I practice are scheduled to retire.
6. same as Circuit Court ...lack of judicial continuity, lengthy

delays

7. difficulty in having emergency issues addressed expeditiously
8. Longer time to set even Emergency Hearings (used to be days, now weeks).
9. much the same as in circuit.
10. More inconsistent rulings due to different standards applied by different judges for the same case. Courts are requiring more paperwork or procedures to be done by the attorneys, which can be difficult if the attorney is a sole practitioner. Communication between attorneys and clerk's office is more difficult.
11. none at this time
12. Same as above, only worse.
13. Unwilling to accommodate Attorney's schedule for pre-trial conferences. PreTrial Motions practice is largely impractical in multiple Jurisdictions. Regardless of the number of parties to a case, 3 hours max for anything other than a termination of parental rights or certain criminal matters in the 15th Judicial Circuit. You never know what substitute Judge will be present. Several Substitutes from outside the 15th have made rulings that have no relation to the standard practices of the Court where they are presiding on the specific day, and more and more frequently the rulings are beyond the scope of their authority. The above responses as to JDR scheduling represent an average, not the worst case, as requested for Circuit Court.
14. Lots of substitute judge coverage which means different parts of the same case are heard by different judges with no background or history which means even shorter cases take much longer to try. Clients are effectively being denied access to hearings because in family matters they cannot wait as long as the scheduling takes to get have some resolution.
15. courts are doing a fairly good job of keeping up with the emergency issues but the run-of-the-mill" hearings are being set farther and farther out.
16. J&D Cts. are another world and the time it takes remains as it has been since before the judicial vacancies.
17. Certain judges are rude and more cross with the parties and counsel alike. I've noticed a new trend in Stafford whereby the court considers spousal support as pendente lite and will not hear evidence under 20-107.1. In Stafford, spousal support is routinely calculated according to the guideline without regard to

20-107.1.

18. a merry go round of judges and substitute judges
19. Powhatan seems the same as it has been. The same Judge is there and is overworked. Often the docket takes one into the evening. The cases get heard, but most are frustrated at the wait.
20. The J&D judges often deal with pro se parties and the decisions they have to reach can be gut wrenching. To further add to the burden of this position by increased case loads is unconsonable. For a great many citizens this is their only contact with our judicial system. To see the quality of that contact dimished is sad. The J&D judges are already over-worked to add to the demands of their job is poor public policy.
21. Things are more hurried; the judges are exhausted. Lots and lots of substitute judges. Quality has declined.
22. Delays. The "emergency" docket has a wait of at least 2 weeks, and up to 4 months in some areas.
23. I can't even get a scheduling conference within a reasonable period of time.

Total Number of Form Results: 50

Please provide any additional comments.

1. This is a ridiculous measure for balancing the budget. It only serves to deny services, money, homes and children from the public that the system is designed to serve.
2. Sorry, but judicial vacancies have yet to impact my court.
3. Justice delay is Justice denied.
4. It is a core governmental responsibility to provide for the administration of justice. The General Assembly seems to forget this basic element of civics.
5. Access to the courts is one of the most important, most basic benefits our tax dollars provide. Months-long waiting periods for trial dates and truncated hearings caused by overcrowded dockets do justice for no one.
6. I have practiced law in jurisdictions where delays in the dispensing of justice is the norm. Virginia is rightfully proud of the efficiency of its legal system. To see a working system begin breaking down because of the failure to appoint needed judges is very troublesome and a violation of public trust. Judicial

responsiveness is a critical element of any good society.

7. I practice primarily in Fairfax JDR. We don't have any judicial vacancies, which has sped up the process generally, from a 4 to 6 month wait for a status hearing, down to 6 to 12 weeks. Our problem is with the Fairfax JDR clerk's office. There has been a lot of turnover, which can slow things down tremendously.

Total Number of Form Results: 50
