

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted a Supplement to its Two Hundred and Eighth Report to the Court of Appeals, recommending adoption, on an emergency basis, of amendments to new Rule 11-406, which will take effect on January 1, 2022.

The Committee's Supplement to the Two Hundred and Eighth Report and the proposed Rule changes are set forth below.

Interested persons are asked to consider the Committee's Supplement and proposed Rule changes and to forward on or before December 17, 2021 any written comments they may wish to make to rules@mdcourts.gov or:

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**THE COURT OF APPEALS OF MARYLAND
STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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December 7, 2021

The Honorable Joseph M. Getty,
Chief Judge

The Honorable Robert N. McDonald

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Brynja M. Booth

The Honorable Jonathan Biran

The Honorable Steven B. Gould,
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this Supplement to its Two Hundred and Eighth Report, which was approved by the Court on November 9, 2021 and will take effect January 1, 2022. That Report contained a substantial revision of the Rules governing proceedings in the Juvenile Courts.

Current Rule 11-111 a 1, which deals with magistrates, authorizes them to order detention or shelter care "subject to immediate review by a judge if requested by any party." In the revision, the provision for immediate review of a shelter care order was placed in Rule 11-204, which deals with CINA cases, but was omitted from Rule 11-406, which deals with shelter care and detention in delinquency cases. The omission was inadvertent and needs to be corrected in time to take effect on January 1. This Supplement contains an amendment to Rule 11-406 to provide that correction, which the Committee requests be considered on an emergency basis.

Respectfully Submitted,

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Alan M. Wilner, Chair

AMW:sdm

cc: Suzanne C. Johnson, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-406 by adding new section (f) providing for review of a magistrate's continued detention, community detention, or shelter care determination and by adding a cross reference following section (f), as follows:

Rule 11-406. DETENTION; COMMUNITY DETENTION; SHELTER CARE

(a) Placement in Detention, Community Detention, or Shelter Care

(1) Who May Authorize

Only the court or an intake officer may authorize detention, community detention, or shelter care for a child alleged to be a delinquent child.

(2) Limitation on Place of Detention

A child alleged to be a delinquent child may not be detained in a jail or other facility for the detention of adults.

Cross reference: See Code, Courts Article, §3-8A-15 (a) and (h).

(b) Emergency Placement Prior to Hearing

(1) Emergency Detention

A child taken into custody may be placed in emergency detention prior to a hearing under the conditions set forth in Code, Courts Article, §3-8A-15 (b).

(2) Emergency Shelter Care

A child taken into custody may be placed in emergency shelter care prior to a hearing under the conditions set forth in Code, Courts Article, §3-8A-15 (c).

(3) Emergency Community Detention

A child may be placed in emergency community detention prior to a hearing under the conditions set forth in Code, Courts Article, §3-8A-15 (b) or (c).

(c) Continued Detention, Community Detention, or Shelter Care

(1) Who May Authorize

Only a judge or a magistrate may order continued detention, community detention, or shelter care.

(2) Basis, Conditions, and Limitations

Continued detention, community detention, and shelter care may be ordered subject to the conditions and limitations set forth in Code, Courts Article, §3-8A-15 (d) through (g).

(3) Requirement of Petition

Unless a child placed in emergency detention, community detention, or shelter care has been released, an intake officer, on or before the next day after the placement, shall file a

petition to authorize continued detention, community detention, or shelter care.

(4) Contents of Petition

A petition to authorize continued detention, community detention, or shelter care shall include:

(A) The allegations supporting the relief sought;

(B) For continued detention based on allegations that the juvenile has committed a delinquent act, sufficient details of the alleged offense for the court to make a determination as to whether there is probable cause to believe that the juvenile committed the act, which shall include the allegations and reasons for the emergency detention; and

(C) For continued shelter care, a statement that:

(i) Continuation of the child in the child's home is contrary to the welfare of the child and removal of the child from the child's home is reasonable under the circumstances due to an alleged emergency situation and in order to provide for the safety of the child; or

(ii) Reasonable but unsuccessful efforts have been made to prevent or eliminate the need for removal from the child's home and, as appropriate, reasonable efforts are being made to return the child to the child's home.

Cross reference: See Code, Courts Article, §3-8A-15 (f) concerning the grounds for continued detention or community

detention and Code, Courts Article, §3-8A-15 (g) concerning the grounds for continued shelter care.

(d) Notice

The petitioner shall give reasonable notice, oral or written, of the time, place, and purpose of the hearing to the child and to the child's parent, guardian, or custodian, if that person can be found.

(e) Grounds for Continued Detention, Community Detention, or Shelter Care

(1) Detention or Community Detention

(A) Generally

Detention or community detention may not be continued unless, in an order entered at or after a hearing, the court finds that (i) there was probable cause for the detention or community detention and (ii) there are reasonable grounds to find either (a) that continued detention or community detention is required to protect the child or others or (b) that the child is likely to leave the jurisdiction of the court.

(B) Release on Conditions

If the time requirements of Code, Courts Article, §3-8A-15 (d) (6) (i) are not met, the court shall release the child from detention or community detention on such terms and conditions as the court deems appropriate for the protection of the child and the safety of the community.

(2) Shelter Care

Shelter care may not be continued unless, in an order entered at or after a hearing, the court makes the findings set forth in Code, Courts Article, §3-8A-15 (g).

(f) Review of Magistrate's Continued Detention, Community Detention, or Shelter Care Determination

(1) Request

If a hearing under this Rule was conducted by a magistrate, a party may request immediate review of an order orally at the hearing or in writing.

(2) Review by Judge

Not later than the next day following a request for immediate review, a judge of the court shall review the file, any exhibits, and the magistrate's findings and order and shall afford the parties an opportunity for a hearing on the record or de novo review.

Cross reference: See Code, Courts Article, §3-8A-04 and §3-807 (d).

Source: This Rule is derived in part from former Rule 11-112 (2021) and is in part new.