

**Notice of**  
**Standing Committee on Rules of Practice and Procedure**  
**June 17, 2021 Open Meeting, 9:30 a.m.**  
**Instructions for Members of the Public**

The June 17, 2021, 9:30 a.m. open meeting of the Standing Committee on Rules of Practice and Procedure will be held virtually using the platform Zoom for Government. Members of the public may attend the meeting by emailing [Rules@mdcourts.gov](mailto:Rules@mdcourts.gov) to receive a link to the meeting. Please email [Rules@mdcourts.gov](mailto:Rules@mdcourts.gov) before June 16, 2021 at 3:30 p.m. to ensure that you receive the Zoom link prior to the meeting time.

If you have a comment related to a posted agenda item, you may e-mail it to [rules@mdcourts.gov](mailto:rules@mdcourts.gov) at least 24 hours prior to the beginning of the meeting. Your comment will be distributed to the members of the Rules Committee prior to the meeting.

Members of the public must observe the following protocols during the Zoom for Government virtual meeting:

- Upon joining the meeting, please note that your microphone will be muted. If you would like to request permission to speak, you may send a chat message in the Zoom platform to Colby Schmidt (the Zoom for Government meeting host). If there is an opportunity for you to speak, you will be recognized and your microphone will be unmuted by the host for the duration of your comment.
- You are advised that for the purpose of assisting staff with the preparation of minutes of the meeting, a back-up audio recording will be made. By speaking, you are consenting to the recording of your remarks.
- If there are any concerns regarding these procedures during the meeting, questions may be submitted via the chat tab during the meeting.

**Agenda and Proposed Rules Changes**

- The meeting agenda and proposed Rules changes are attached to this Notice. During the meeting, any updated materials will be available in the chat feature of the Zoom meeting.

*The agenda for a meeting of the Rules Committee generally will be posted 7-10 days before the date of the meeting. At the discretion of the Chair, items may be deleted from or added to the agenda.*

**AGENDA FOR**  
**RULES COMMITTEE MEETING**

**June 17, 2021**  
**(Thursday)**

**To Be Held via Zoom for Government**

Item 1. Consideration and reconsideration of certain, Ms. Day  
Rules in Chapters 100, 200, and 300 of  
proposed revised Title 11 (Juvenile Causes)

Proposed new Rules:

Rule 11-101 (Definitions)  
Rule 11-217 (Waiver of Reunification Efforts)  
Rule 11-219 (Post Disposition Review and  
Modification; Permanency Plans)  
Rule 11-301 (Applicability)  
Rule 11-319 (Court Records)

Conforming amendments to:

Rule 9-111 (Judgment of Adoption or  
Guardianship)

Item 2. Consideration of proposed new Title 11, Ms. Day  
Chapter 400 (Delinquency and Citation Proceedings)

Item 3. Consideration of proposed new Title 11, Ms. Day  
Chapter 500 (Other Proceedings)

Item 4. Consideration of proposed conforming amendments Ms. Day  
to:

Rule 1-101 (Applicability and Citation)  
Rule 4-101 (Applicability)  
Rule 5-101 (Scope)  
Rule 8-202 (Notice of Appeal - Times for Filing)  
Rule 10-101 (Applicability of Title; Jurisdiction)  
Rule 16-807 (Appointment, Compensation, Duties of  
Magistrates)  
Rule 16-914 (Case Records - Required Denial of  
Inspection Certain Categories)

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

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MEMORANDUM

TO : Members of the Rules Committee

FROM : Heather Cobun, Esq., Assistant Reporter

DATE : June 8, 2021

RE : June Meeting Agenda (Title 11 Revision)

Agenda Items 1, 2, 3, and 4 consist of the continuation of the proposed comprehensive revision of the Rules in Title 11 (Juvenile Causes), which was first presented at the April 16, 2021 meeting of the Rules Committee and continued at the May 14, 2021 meeting.

**Agenda Item 1**

Agenda Item 1 consists of turnaround from the May meeting, including amendments and proposed new Rules in Chapters 100, 200, and 300 approved by the Juvenile Subcommittee. Amendments to the versions of Rules previously approved by the Rules Committee are shown by underlines and ~~striketroughs~~, which will be removed prior to transmittal to the Court of Appeals.

- Rule 11-101 is amended to address the applicability of the Title 5 Rules of Evidence to proceedings in Title 11. References to the Title 5 Rules have been removed from the rest of the Title. Conforming amendments to Rule 5-101 are in Agenda Item 3.
- Rule 11-217 is new. It addresses requests to waive reunification efforts pursuant to Code, Courts Article, §3-812.
- Rule 11-219 (renumbered from 11-218) was remanded by the Rules Committee to address review hearings required by statute. It has been updated and restyled.
- Rule 11-301 is amended to clarify in the cross reference and Committee note that Chapter 300 applies only to public agency

guardianships terminating parental rights, not adoption proceedings after TPR.

- Rule 11-319 is new. It adds to Chapter 300 the court records provisions from Rule 9-112.
- Rule 9-111 is amended to add new section (f), incorporating current Rule 11-501 (g), which provides for the recordation of a judgment of adoption by a juvenile court in the circuit court adoption records.

## **Agenda Item 2**

Agenda Item 2 consists of proposed new Chapter 400, which governs delinquency and citation proceedings in Juvenile Court under Code, Courts Article, Title 3, Subtitle 8A.

## **Agenda Item 3**

Agenda Item 3 consists of proposed new Chapter 500, which governs Child in Need of Supervision proceedings (11-502), voluntary placement proceedings (11-503), truancy proceedings (11-504), peace order proceedings against a juvenile (11-505), expungement of juvenile records (11-506), and proceedings against an adult in juvenile court (11-507). Forms 11-506.1 through 11-506.3 at the end of the Chapter are for use in expungement proceedings.

## **Agenda Item 4**

Agenda Item 4 consists of conforming amendments to the Maryland Rules necessitated by proposed new Title 11.

# AGENDA ITEM 1

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 100 - GENERAL PROVISIONS

ADD new Rule 11-101, as follows:

Rule 11-101. APPLICABILITY

(a) Rules in Title 11

The Rules in this Title govern procedure in juvenile causes under Code, Courts Article, Title 3, Subtitles 8, 8A, and 8C; public agency guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II; and criminal proceedings against an adult under Code, Courts Article, §§3-828 and 3-8A-30 and Code, Education Article, §7-301. The Rules in this Title do not govern adoption proceedings.

Cross reference: For procedures governing adoptions under Code, Family Law Article, Title 5, Subtitle 3, Parts III, IV, V, and VI, see the Rules in Title 9, Chapter 100.

(b) Rules of Evidence

(1) In all proceedings under this Title, lawful privileges shall be respected and the Rules governing competency of witnesses shall apply.

(2) The Rules of Evidence in Title 5 of these Rules apply to the following proceedings under this Title:

Rule 11-101 ver. 1.4  
Juvenile S.C. approved  
For 6/17/21 R.C.

(A) Adjudicatory hearings conducted in:

(i) CINA proceedings under Chapter 200;

(ii) delinquency proceedings under Chapter 400; and

(iii) CINS, truancy, and peace order proceedings under Chapter 500;

(B) A hearing on waiver of reunification efforts under Rule 11-217;

(C) A hearing on a guardianship petition under Rule 11-312;

(D) A hearing following a failed conditional consent under Rule 11-317;

(E) A hearing on the merits of an emergency removal of a child from a court ordered placement under Chapters 200 and 300;

(F) Proceedings in which an adult is charged in juvenile court under Rule 11-507, to the same extent that the Rules of Evidence would apply to the proceeding in adult criminal court.

(3) Subject to subsection (b)(1) of this Rule, the Rules of Evidence in Title 5 of these Rules do not apply to the following proceedings under this Title:

(A) Shelter care and detention hearings under Chapters 200 and 400;

(B) Emergency hearing proceedings following the removal of a child from a court-ordered placement under Chapters 200 and

300; and

(C) Guardianship review hearings under Rule 11-316.

(4) Subject to subsection (b) (1) of this Rule, the court, in the interest of justice, may decline to require strict application of the Rules of Evidence in Title 5 of these Rules in all other proceedings.

(c) Interstate Compacts; Indian Child Welfare Act

The Rules in this Title are subject to the applicable provisions of Code, Human Services Article, Title 9, Subtitle 3 (Interstate Compact for Juveniles); Code, Family Law Article, Title 5, Subtitle 6 (Interstate Compact on the Placement of Children); and 25 U.S.C. §1901 et seq. (the Indian Child Welfare Act).

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-101 was approved by the Rules Committee on April 16, 2021. At the May 14, 2021 meeting, the Rules Committee remanded to the Juvenile Subcommittee the issue of the applicability of the Rules of Evidence in Title 5 to Title 11 proceedings. The Subcommittee proposes new section (b) to address the applicability of the Rules of Evidence in all proceedings in juvenile court. References to Title 5 have been removed from individual Rules throughout Title 11.

Rule 11-101 ver. 1.4  
Juvenile S.C. approved  
For 6/17/21 R.C.



Current Title 11 (Juvenile Causes) is proposed to be rescinded and replaced by a revised Title 11, divided into five chapters: Chapter 100 (General Provisions), Chapter 200 (Child in Need of Assistance; Voluntary Placement), Chapter 300 (Guardianship Terminating Parental Rights), Chapter 400 (Delinquency), and Chapter 500 (Other Proceedings).

In Rule 11-101, section (a) lists the Maryland Code sections that include proceedings governed by Title 11.

Subsection (b)(1) incorporates the provisions of Rule 5-101 stating that lawful privileges must be respected and the Rules governing competency of witnesses must apply. Generally, the Rules of Evidence apply at all adjudicatory hearings and other non-emergency hearings where significant rights of the parties are at stake, such as a hearing on a guardianship petition. Title 5 also applies to proceedings where an adult is charged in juvenile court. The Rules of Evidence do not apply at emergency hearings, including shelter care and detention proceedings, and guardianship review hearings. At all other proceedings under Title 11, the court, in the interest of justice, may decline to require strict application of the Rules of Evidence in Title 5.

Section (c) states that the Rules in Title 11 are subject to applicable Interstate Compacts and the federal Indian Child Welfare Act.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-217, as follows:

Rule 11-217. WAIVER OF REUNIFICATION EFFORTS

(a) Generally

A local department may ask the court to find that reasonable efforts to reunify a child with the child's parent or guardian are not required if the local department concludes that a condition listed in Code, Courts Article, §3-812 (b) exists.

(b) Timing

A request under section (a) of this Rule may be made in a petition filed pursuant to Rule 11-205 or by motion served on the parties any time after the filing of the initial petition. The court may not rule on the request until after the child is found to be in need of assistance at a disposition hearing held pursuant to Rule 11-216.

(c) Hearing

If the court finds by clear and convincing evidence after a hearing that any of the circumstances specified in Code, Courts Article, §3-812 (b) exists, the court shall waive the

NEW Rule 11-217  
Juvenile S.C. approved  
For 6/17/21 R.C.

requirement that reasonable efforts be made to reunify the child with the child's parent or guardian.

(d) Request for Permanency Hearing

If the court finds that reasonable efforts are not required, the local department shall request that a permanency planning hearing be held pursuant to Rule 11-218 (e) and make reasonable efforts to place the child in a timely manner in accordance with the permanency plan and complete the steps necessary to finalize the permanent placement of the child.

Cross reference: See Code, Courts Article, §3-812.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 11-217 addresses the ability of the local department to ask the court to find that reasonable efforts to reunify a child with the child's parent or guardian are not required if the local department concludes certain circumstances exist.

Section (a) incorporates the provisions of Code, Courts Article, §3-812 (b), with stylistic changes.

Section (b) incorporates the provisions of Code, Courts Article, §3-812 (c), with stylistic changes. The court may not rule on a request under this Rule until after a child is found to be CINA at a disposition hearing.

Section (c) incorporates the provisions of Code, Courts Article, §3-812 (d), with stylistic changes.

Section (d) incorporates the provisions of Code, Courts Article, §3-812 (e), with stylistic changes.

NEW Rule 11-217  
Juvenile S.C. approved  
For 6/17/21 R.C.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-219, as follows:

Rule 11-219. POST DISPOSITION REVIEW AND MODIFICATION;  
PERMANENCY PLANS

(a) Status Review

(1) Generally

Except as provided in subsection (a) (2) of this Rule,  
the court shall conduct a hearing to review the status of a  
child under its jurisdiction within six months after the filing  
of the first petition under this subtitle and at least every six  
months thereafter.

(2) Qualified Residential Treatment Program

If a child has been placed in a qualified residential  
treatment program, the court shall conduct a hearing to review  
the status of the child and determine the appropriateness of the  
placement within 60 days after the child enters the placement.

Cross reference: See Code, Courts Article, §3-816.2 regarding  
considerations at a review hearing under this section.

Committee note: A review hearing conducted by the court under  
subsection (e) (2) of this Rule satisfies the requirement of this

Rule 11-219  
Juvenile S.C. approved  
For 6/17/21 R.C.

section.

~~(a)~~ (b) Review of Custody and Guardianship

After granting custody or guardianship of a child to an individual pursuant to Code, Courts Article, §3-819.2, the court may order such further reviews as it determines to be in the child's best interests, consistent with Code, Courts Article, §3-823 (h).

~~(b)~~ (c) Review of Commitment to Certain Facilities

(1) In General

If a child has been committed for inpatient care and treatment in a psychiatric facility or facility for developmentally disabled individuals pursuant to Code, Courts Article, §3-819 (h) or (i), the court, on request of any party, the child's custodian, or the facility, shall hold a hearing after the first six months of the commitment and at six month intervals thereafter to determine whether the standards specified in those sections of the Code continue to exist. The court may hold a hearing at any other time for that purpose.

(2) Other Hearings Based on Individualized Treatment Plans

If an individualized treatment plan developed under Code, Health-General Article, §§7-1006 or 10-706 recommends that a child no longer meets the requirements of Code, Courts Article, §3-819 (h) or (i), as applicable, the court shall hold

a hearing to review the commitment order.

~~(e)~~ (d) Removal of Child from Court-Ordered Placement

(1) Emergency Hearing

(A) If, after or as part of a CINA disposition, the court orders a specific placement of the child and the local department, acting pursuant to Code, Courts Article, §3-820 (a), removes the child from that placement, gives the notice required by §3-820 (b), and files a motion to authorize a new placement, the court shall hold an emergency review hearing on the motion not later than the next day after the motion is filed.

(B) All parties shall be given reasonable notice of the hearing.

(C) The court may ratify the emergency removal only upon such evidence as would suffice under Code, Courts Article, §3-815 (d) to order shelter care.

(2) Hearing on the Merits

Unless all parties agree to the order entered following an emergency hearing, the court, at that hearing, shall schedule a full review hearing on the merits of the local department's action to be held within 30 days after the date of removal or, if agreed to by the parties or for good cause shown, at a later date.

~~(d)~~ (e) Permanency Plan Hearings

(1) Determination of Permanency Plan

If the court has ordered an out-of-home placement, as defined in Code, Family Law Article, §5-501 (i), it shall, within the times set forth in Code, Courts Article, §3-823 (b) or (c), hold a hearing to determine a permanency plan for the child. At that hearing, the court shall determine the child's permanency plan in accordance with Code, Courts Article, §3-823 (e), (f), and (g).

(2) Periodic Reviews

(A) Once a permanency plan has been approved pursuant to subsection ~~(d)(1)~~(e)(1) of this Rule, the court shall hold periodic hearings at the times set forth in Code, Courts Article, §3-823 (h)(1) to review the current plan.

(B) Notice of the hearing and an opportunity to be heard shall be provided to the parties and other individuals as required by Code, Courts Article, §3-816.3.

Cross reference: See Code, Courts Article, §3-816.3 for notice to the child's foster parent, preadoptive parent, or caregiver.

(C) At the review hearing, the court shall consider any written report of a local out-of-home care review board required under Code, Family Law Article, §5-545 and make the determinations and take the actions required by Code, Courts Article, §3-823 (h)(2).

(D) At least every 12 months, the court, at a review

hearing, shall consult on the record with the child, in an age-appropriate manner. If the court determined that the child is medically fragile or that it would be detrimental to the child's physical or mental health to be transported to the place where the consultation would occur, the consultation may occur remotely pursuant to Code, Courts Article, §3-823 (j)(3) and Rules 2-801 through 2-806.

(3) Reasonable Efforts Finding

At each hearing under this section, the court shall make a finding as required by Code, Courts Article, §3-816.1.

Source: This Rule is derived in part from former Rule 11-116 and is in part new.

REPORTER'S NOTE

The Rules Committee remanded proposed Rule 11-218 to the Juvenile Subcommittee for further discussion. It has been renumbered as Rule 11-219. New section (a) incorporates additional review hearings required by law. Changes to the previously approved version of the Rule are shown by underlines and strikethroughs.

Proposed Rule 11-219 is derived in part from current Rule 11-116.

Section (a) incorporates the provisions of Code, Courts Article, §3-816.2, with stylistic changes. A cross reference to the Code follows section (a). A Committee note incorporates an additional statutory provision.

Section (b) is based on current Rule 11-116 a. It states that, in general, an order of the court may be modified or

Rule 11-219  
Juvenile S.C. approved  
For 6/17/21 R.C.



vacated if the court finds that it is in the best interest of the child.

Section (a)(2) is new. It clarifies that if another Rule or statutory provision limits this general authority, that Rule or provision prevails. A Committee note following section (a) refers to various provisions in Code, Courts Article, Title 3, Subtitle 8, governing disposition and post-disposition orders.

Section (b) is based on current Rule 11-116 b. It permits the court to modify or vacate an order on its own initiative, on motion of a party, or on petition of another person. A motion or petition must state the relief sought and grounds for the relief. If the court proceeds on its own initiative, the order must set forth the grounds.

Section (c) is new. It requires that a hearing be held if the relief sought is a change in the custody, guardianship, or commitment of a respondent child and a hearing was requested.

Section (d) is new. It provides that a motion filed within 10 days of the entry of an order acts as a stay on the time for filing an appeal.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-301, as follows:

Rule 11-301. APPLICABILITY

The Rules in this Chapter apply to:

(a) Guardianship proceedings in a juvenile court to terminate parental rights after a child has been found to be a child in need of assistance; and

Committee note: A proceeding to terminate parental rights under this Chapter may be initiated during the pendency of a CINA appeal but the CINA case may not be closed until the appeal has concluded. See *In re Adoption/Guardianship of Cross H.*, 200 Md.App. 142 (2011), dismissed, 431 Md. 371 (2013).

(b) Guardianship review proceedings in a juvenile court after the entry of an order of guardianship that terminated parental rights.

Cross reference: See Code, Courts Article, §3-803 (a) (4) and (5) and Code, Family Law Article, Title 5, Subtitle 3, Part II.

Committee note: The Rules in this Chapter do not apply to (1) the guardianship of persons and property of minors and disabled persons governed by Code, Estates and Trusts Article, §13-101 et seq. and Title 10 of these Rules, ~~or~~ (2) termination of parental rights proceedings governed by Code, Family Law Article, Title 5, Subtitle 14, and Title 9, Chapter 400 of these Rules, or (3) adoption proceedings after entry of an order of guardianship that terminates parental rights governed by Code, Family Law Article, Title 5, Subtitle 3, Part IV.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-301 was approved by the Rules Committee on May 14, 2021. The Juvenile Subcommittee has reconsidered the Rule and proposes the above changes.

Proposed Rule 11-301 states the applicability of the Rules in Chapter 300. Chapter 300 governs guardianship proceedings in juvenile court to terminate parental rights after a child is found to be a CINA and subsequent review proceedings. These proceedings currently are governed by Rules in Title 9, Chapter 100.

Proposed amendments to section (a) add a Committee note addressing case law permitting the local department to commence TPR proceedings under this Chapter while a CINA finding is on appeal. The CINA case may not be closed and parental rights may not be terminated until the appeal has concluded.

A cross reference following section (b) refers to the Code sections conferring jurisdiction on the juvenile court to hear the guardianship proceedings and the Family Law Article Subtitle governing those proceedings.

A Committee note, which, in part, is copied from a Committee note that follows Rule 9-101 (a), clarifies that the Chapter does not apply to guardianship of persons and property governed by Code, Estates and Trusts Article, §13-101 *et seq.* Added to the Committee note is a reference to the inapplicability of the Chapter to termination of parental rights proceedings under Code, Family Law Article, Title 5, Subtitle 14. Also added are references to the Rules in Title 10 (Guardians and Other Fiduciaries) and Title 9, Chapter 400 (Termination of Parental Rights under Code, Family Law Article, Title 5, Subtitle 14). Proposed amendments to the Committee note clarify that the Rules in Chapter 300 do not apply to adoption proceedings in juvenile court after the termination of parental rights.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-319, as follows:

Rule 11-319. COURT RECORDS

(a) Revocation of Consent Docket

A revocation of consent to a public agency guardianship for which there is no pending guardianship proceeding shall be docketed in the circuit court for the county as provided in Rule 9-112 (a). The juvenile court shall have access to that docket.

(b) Sealing of Records

All pleadings and other papers in guardianship proceedings shall be sealed when they are filed and are not open to inspection by any person, including the parents, except upon an order of court.

Source: This Rule is derived from Rule 9-112.

REPORTER'S NOTE

Proposed Rule 11-319 adds to Chapter 300 the court records provision of current Rule 9-112, with stylistic changes.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; ~~GUARDIANSHIP TERMINATING PARENTAL RIGHTS~~

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-111 by deleting subsection (a)(1), by renumbering subsections (a)(2) through (a)(6) as subsections (a)(1) through (a)(5), and by adding new section (f), as follows:

Rule 9-111. JUDGMENT OF ADOPTION OR GUARDIANSHIP

(a) Time

The court may not enter a judgment of adoption or guardianship before the time set forth in Code, Family Law Article:

- ~~(1) §5-319 in a Public Agency Guardianship;~~
- ~~(2)~~ (1) §5-336 in a Public Agency Adoption without Prior TPR;
- ~~(3)~~ (2) §5-348 in a Public Agency Adoption after TPR;
- ~~(4)~~ (3) §5-3A-17 in a Private Agency Guardianship;
- ~~(5)~~ (4) §5-3A-33 in a Private Agency Adoption; or
- ~~(6)~~ (5) §5-3B-18 in an Independent Adoption.

(b) Information from Other Court

If a required consent indicates that any revocation of the consent must be filed in a court other than the trial court,

the trial court may not enter a judgment of adoption or guardianship until it has obtained from the other court a copy of all papers filed in connection with the consent or an affidavit of the clerk of the other court that no papers were filed in connection with the consent.

(c) Supplemental Report

Before entering a judgment of adoption or guardianship, the court may require a supplemental written report from the investigating officer or agency.

(d) Change of Name

If the name of the person adopted is changed, the judgment of adoption shall state the new name of the person adopted and the names of the adopting parents.

(e) Spouse of Parent

If the adopting parent is the spouse of a parent of the person to be adopted, the judgment shall specifically state whether and to what extent the parental rights of the parent are affected.

(f) Judgments of Adoption - Recording and Indexing

The clerk shall record and index each judgment of adoption entered by the juvenile court pursuant to Code, Family Law Article, §5-352 in the adoption records of the circuit court for the county where the judgment was awarded.

Committee note: Any attempt to set aside a judgment of adoption by reason of a procedural defect shall be filed with the court within one year following entry of the judgment. See Code, Family Law Article, §§5-342 as to a Public Agency Adoption without Prior TPR; 5-353 as to a Public Agency Adoption after TPR; 5-3A-37 as to a Private Agency Adoption; and 5-3B-26 as to an Independent Adoption.

An adoptive relationship created by a judgment of adoption in another jurisdiction shall be given full faith and credit by the courts of this State. See Code, Family Law Article, §§5-305 as to a Public Agency Adoption without Prior TPR; 5-305 as to a Public Agency Adoption after TPR; 5-3A-05 as to a Private Agency Adoption; and 5-3B-04 as to an Independent Adoption.

For the legal effect of adoption of an adult, see Code, Family Law Article, §5-308 §§5-341 as to a Public Agency Adoption without Prior TPR; 5-352 as to a Public Agency Adoption after TPR; 5-3A-36 as to a Private Agency Adoption; and 5-3B-25 as to an Independent Adoption.

Source: This Rule is derived in part from former Rules D79 and 11-501 (g) and is in part new.

REPORTER'S NOTE

Amendments to Rule 9-111 were approved by the Rules Committee on May 14, 2021. The Juvenile Subcommittee has reconsidered the Rule and proposes the above changes to incorporate the provisions of current Rule 11-501 (g).

Proposed amendments to Rule 9-111 reflect the Juvenile Subcommittee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

Section (a) is amended to delete subsection (a)(1) and renumber subsections (a)(2) through (a)(6) as subsections (a)(1) through (a)(5).

Rule 9-111 ver. 1.2  
Juvenile S.C. approved  
For 6/17/21 R.C.

New section (f) is derived from current Rule 11-501 (g) and provides for recordation of a judgment of adoption by a juvenile court in the circuit court adoption records.



# AGENDA ITEM 2

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

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Title 11 - Ch. 400 ver 2.0  
Juvenile S.C. approved  
For 6/17/21 R.C.

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Title 11 - Ch. 400 ver 2.0  
Juvenile S.C. approved  
For 6/17/21 R.C.

- (a) Filing
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MARYLAND RULES OF PROCEDURE

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CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-401, as follows:

Rule 11-401. APPLICABILITY

The Rules in this Chapter govern delinquency and citation proceedings under Code, Courts Article, Title 3, Subtitle 8A.

Committee note: Code, Courts Article, Title 3, Subtitle 8A applies to all juvenile cases other than Child in Need of Assistance (CINA) and Termination of Parental Rights (TPR) and includes, in addition to juvenile delinquency proceedings, peace order proceedings against juveniles, Child in Need of Supervision (CINS) proceedings, citation proceedings, and proceedings in which an adult is charged with contributing to a child being delinquent or in need of supervision. This Chapter of the Rules addresses only delinquency and citation proceedings. Rules governing CINS, peace order, adult charged with contributing, and Truancy Reduction Pilot Program cases are in Chapter 500.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-401 states the applicability of the Rules in Chapter 400.

Chapter 400 governs delinquency and citation proceedings under Code, Courts Article, Title 3, Subtitle 8A. A Committee note clarifies that, although Subtitle 8A also includes peace order proceedings against juveniles, Child in Need of

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Supervision (CINS) proceedings, citation proceedings, and proceedings where an adult is charged with contributing to a child being delinquent or in need of supervision, the Rules in Chapter 400 address only delinquency and citation proceedings. Rules governing CINS, peace order, adult charged with contributing, and Truancy Reduction Pilot Program cases are in Chapter 500.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-402, as follows:

Rule 11-402. DEFINITIONS

The following definitions apply in this Chapter:

(a) Statutory Definitions

The definitions stated in Code, Courts Article, §§3-8A-01 and 3-8A-35 apply to this Chapter, to the extent relevant.

(b) Additional Definitions.

(1) Complaint

"Complaint" means a written statement made by any person or agency to an intake office which, if true, would support the allegations of a delinquency petition.

(2) Delinquency Petition

"Delinquency petition" means the pleading filed with the court under Code, Courts Article, §3-8A-13 alleging that a child is a delinquent child.

(3) Emergency Detention or Shelter Care

"Emergency detention or shelter care" means detention or shelter care when a child has been taken into custody in

accordance with Code, Courts Article, §3-8A-15.

(4) Initial Appearance Hearing

“Initial appearance hearing” means a hearing to:

(A) determine whether the delinquency petition or citation has been served and, if not, to effect service;

(B) advise the child, and the child’s parent, guardian, or custodian, of the nature of the allegations and proceedings, and the range of possible dispositions; and

(C) advise the child, and the child’s parent, guardian, or custodian, of the right to counsel in accordance with Code, Courts Article, §3-8A-20.

(5) Parent

“Parent” includes a child’s parent, guardian, and custodian.

(6) Probation

“Probation” means a status created by a court order under which a child adjudicated to be delinquent, or an adult convicted under Code, Courts Article, §3-8A-30, is to remain subject to supervision of the Court under conditions the Court, or the agency designated by it, deems proper, but is not removed from the home.

(7) Waiver Petition

“Waiver petition” means a petition filed pursuant to

Rule 11-410.

Source: This Rule is derived in part from former Rule 11-101 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-402 contains definitions that apply in Chapter 400.

Section (a) states that the definitions in Code, Courts Article, §§3-8A-01 and 3-8A-35 apply, to the extent relevant.

Section (b) contains additional definitions derived from current Rule 11-101 for "complaint," "delinquency petition," "emergency detention or shelter care," "initial appearance hearing," "parent," "probation," and "waiver petition."

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-403, as follows:

Rule 11-403. CONFIDENTIALITY OF RECORDS

(a) Generally

Files and records of the court in juvenile proceedings under this Chapter, including docket entries and indices, are confidential and shall not be open to inspection except by order of the court or as otherwise expressly provided by law.

(b) Sealing

(1) Generally

On motion, petition, or on its own initiative, and for good cause shown, the court may order the court records of a child sealed and, upon petition or on its own initiative, shall order them sealed after the child has reached 21.

(2) Opening

If sealed, court records of a child may not be opened, for any purpose, except by order of the court for good cause shown.

Cross reference: See Code, Courts Article, §3-8A-27.

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Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-403 is new, but is derived from Code, Courts Article, §3-8A-27. Although pursuant to Code, Courts Article, §3-8A-13 (f) court proceedings in delinquency actions may be open to the public, files and records of delinquency proceedings under Chapter 400 are confidential and not open to inspection except by court order or as expressly provided by law.

Section (b) incorporates the provisions of Code, Courts Article, §3-8A-27 (c), with stylistic changes. A cross reference to Code, Courts Article, §3-8A-27 follows the section.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-404, as follows:

Rule 11-404. RIGHT TO ATTORNEY

(a) Generally

A party is entitled to be represented by an attorney at every stage of all proceedings under this Chapter in accordance with Code, Courts Article, §3-8A-20.

Cross reference: Code, Courts Article, §3-8A-20 contains provisions governing the waiver of representation, the court's duties when a child appears without an attorney, and representation by the Public Defender. See also Code, Courts Article, §3-8A-32 for special independent representation of a child when the court determines that is necessary.

(b) Striking of Attorney's Appearance

(1) By Motion

An attorney wishing to withdraw an appearance shall file a motion to withdraw. If the attorney's client is a child who is entitled to representation at State expense, the court shall deny the motion unless another attorney has entered an appearance.

(2) Automatic Termination of Appearance

When no appeal has been taken from a final order of



termination of the proceeding pursuant to Rule 11-425, the appearance of an attorney is automatically terminated 30 days after the order of termination is entered.

Cross reference: See Code, Courts Article, §3-8A-20 concerning the right to the assistance of counsel.

Source: This Rule is derived in part from former Rule 11-106 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-404 is derived in part from current Rule 11-106 and in part from Code, Courts Article, §3-8A-20.

Section (a), derived from the current Rule and the statute, states that a party is entitled to be represented by an attorney at all stages of all Chapter 400 proceedings. A cross reference following section (a) refers to the Code sections governing waiver of representation, the court's duties when a child appears without an attorney, representation by the Public Defender, and appointment of special independent representation of a child.

Section (b) is new. It requires an attorney wishing to withdraw an appearance to file a motion to withdraw. If the attorney is representing a child entitled to representation at State expense, the court must deny the motion unless another attorney has entered an appearance. The appearance of an attorney is automatically terminated 30 days after a final order of termination is entered, if no appeal is taken. A cross reference to Code, Courts Article, §3-8A-20 follows the section.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-405, as follows:

Rule 11-405. TAKING CHILD INTO CUSTODY

(a) Authority

A child may be taken into custody in accordance with Code, Courts Article, §3-8A-14 (a).

(b) Notice; Release; Detention

A law enforcement officer who takes a child into custody shall comply with the requirements of Code, Courts Article, §3-8A-14 (b).

(c) Failure to Bring Child before Court

If a parent, guardian, or custodian fails to bring a child before the court when directed by the court to do so, the court may issue a writ of attachment directing that the child be taken into custody and brought before the court. The court may proceed against the parent, guardian, or custodian for contempt pursuant to the Rules in Title 15, Chapter 200.

Committee note: This section does not preclude the court from the issuance of a writ of attachment for a parent, guardian, or custodian who fails to appear when ordered to do so.

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Cross reference: See Rules, Title 15, Chapter 200 concerning civil and criminal contempt.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-405 is new. It is derived from Code, Courts Article, §3-8A-14.

Section (a) permits a child to be taken into custody in accordance with Code, Courts Article, §3-8A-14 (a).

Section (b) requires a law enforcement officer who takes a child into custody to comply with Code, Courts Article, §3-8A-14 (b).

Section (c) incorporates the provisions of Code, Courts Article, §3-8A-14 (c), with stylistic changes.

A Committee note following Rule 11-405 (c) clarifies that the court is not precluded from issuing a writ of attachment for a parent, guardian, or custodian who fails to appear when ordered to do so. A cross reference to the Rules in Title 15, Chapter 200 follows the section.

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TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-406, 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).

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(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 community detention prior to 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 Requirements

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) and (f).

(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 detention;

(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 ground for continued detention or community detention.

(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 (i) that there was probable cause for the detention or community detention and (ii) that 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).

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

REPORTER'S NOTE

Proposed Rule 11-406 governs detention, community detention, and shelter care, and is derived from current Rule 11-112 and Code, Courts Article, §3-8A-15.

Section (a) is derived from Code, Courts Article, §3-8A-15 (a) and (h). The court or an intake officer may authorize detention, community detention, or shelter care for a child alleged to be a delinquent child. The child may not be detained in a jail or other facility for the detention of adults. A cross reference to Code, Courts Article, §3-8A-15 (a) and (h) follows the section.

Section (b) is derived from current Rule 11-112 a and Code, Courts Article, §3-8A-15 (b) and (c). It permits a child taken into custody to be placed in detention, shelter care, or community detention on an emergency basis as provided by statute.

Section (c) is derived from current Rule 11-112 b and Code, Courts Article, §3-8A-15 (d) and (f). Continued detention, community detention, or shelter care may only be ordered by a judge or magistrate, subject to the conditions set forth in the statute. Unless a child who had been placed in emergency detention, community detention, or shelter care has been released, an intake officer must file a petition, on or before the next day after the placement, requesting the court to authorize the continued detention, community detention, or shelter care. The petition must contain the information required by subsection (c)(4). A cross reference to Code, Courts Article, §3-8A-15 (f) follows the section.

Section (d) is derived from Code, Courts Article, §3-8A-15 (d)(3). It requires the petitioner to give reasonable notice of  
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the hearing to the child and the child's parent, guardian, or custodian if that person can be located.

Section (e) outlines the grounds for continued detention, community detention, or shelter care.

Subsection (e)(1) is derived from Code, Courts Article, §3-8A-15 (f)(1). It permits continued detention or community detention if the court finds, in an order entered at or after a hearing, that there was probable cause for the detention and that there are reasonable grounds to find that the detention is required to protect the child or others or that the child is likely to leave the court's jurisdiction. The Subcommittee has included the probable cause finding in subsection (e)(1)(A)(i) as a prerequisite for any continued detention, though it is not a required finding in the statute.

Subsection (e)(1)(B) requires the court to release the child from detention on appropriate conditions if the time requirements in the statute for holding an adjudicatory or waiver hearing are not met. The statute is silent on the consequences for failing to meet the time requirement. The Subcommittee believes that release on conditions is the appropriate procedure to maintain the safety of the child and others while preventing protracted detention with no hearing.

Subsection (e)(2) is derived from Code, Courts Article, §3-8A-15 (g). It permits continued shelter care only if the court makes the findings set forth in the statute.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-407, as follows:

Rule 11-407. DELINQUENCY PETITION

(a) Authority to File

A delinquency petition shall be prepared and filed by the State's Attorney.

Cross reference: See Code, Courts Article, §3-8A-13 (a) regarding the delinquency petition.

Committee note: See Code, Courts Article, §3-8A-10 for actions by the intake officer prior to the filing of a delinquency petition and time requirements for filing a petition. See also §3-8A-13 (b). In *In re Keith G.*, 325 Md. 538 (1992), however, the Court held that dismissal of the petition is not an appropriate remedy for a violation of those time requirements.

(b) Venue

A delinquency petition shall be filed in the court of the county where the alleged delinquent act occurred.

Cross reference: See Code, Courts Article, §3-8A-08 (b) addressing the filing of the petition in the county where the alleged act occurred, subject to transfer under Code, Courts, §3-8A-09.

(c) Form and Content

(1) Caption

The petition shall be captioned "In the Matter of . . .

. . . .”

(2) Contents

The petition shall state:

(A) the name and address of the petitioner and the basis of the petitioner’s authority to file the delinquency petition;

(B) the respondent’s name, address, and date of birth, and the name and address of the child’s parent, custodian, or guardian;

(C) that the respondent is alleged to be delinquent;

(D) in clear, simple, and concise language but with particularity, the alleged facts which constitute the alleged delinquency, including the date of the alleged delinquent act and the law(s) allegedly violated by the respondent;

(E) the name and address of each witness, known at the time the petition is filed, whom the petitioner intends to call to testify in support of the petition;

(F) whether the respondent is in detention, community detention, or shelter care and, if so, (i) when that placement commenced, (ii) whether the respondent’s parent, guardian, or custodian has been notified, and (iii) whether the petitioner is seeking continued detention, community detention, or shelter care.

(3) Signature

The delinquency petition shall be signed by the State's Attorney.

(d) Copies

The State's Attorney shall file with the clerk a sufficient number of copies of the petition to provide for service on the parties.

(e) Summons; Service

Unless the court orders otherwise, the clerk, upon the filing of the petition, shall promptly issue a summons substantially in the form approved by the State Court Administrator for each party other than the State's Attorney. The summons, together with a copy of the petition, shall be served in accordance with Rule 11-107 and shall be returnable as provided by Rule 2-126.

(f) Subpoena

The clerk shall issue a subpoena for each witness requested by a party pursuant to Rule 11-105.

Source: This Rule is derived in part from former Rules 11-103 and 11-104 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-407 governs the delinquency petition. It is derived in part from current Rules 11-103 and 11-104 and Code, Courts Article, §3-8A-13.

Section (a) is derived from Code, Courts Article, §3-8A-13 (b). It requires the petition to be prepared and filed by the State's Attorney. A cross reference to Code, Courts Article, §3-8A-13 (a) follows the section. A Committee note refers to Code, Courts Article, §3-8A-10 regarding actions by an intake officer prior to filing a petition and the time requirements for filing. The Committee note also refers to a Court of Appeals opinion holding that dismissal of the petition is not an appropriate remedy for a violation of the time requirements.

Section (b) is derived from Code, Courts Article, §3-8A-08. It requires the petition to be filed in the jurisdiction where the alleged delinquent act occurred. A cross reference to Code, Courts Article, §3-8A-08 (b) follows the section.

Section (c) is derived from current Rule 11-103 a. It states the required form and content of a delinquency petition. Subsection (c)(1) addresses the caption, subsection (c)(2) lists the required contents of a petition, and subsection (c)(3) requires the petition to be signed by the State's Attorney.

Section (d) is derived from current Rule 11-103 b. It requires the State's Attorney to file a sufficient number of copies of the petition to provide for service on the parties.

Section (e) incorporates the provisions of current Rule 11-104 c, with stylistic changes.

Section (f) is derived from current Rule 11-104 d. It requires the clerk to issue a subpoena for each witness requested by a party pursuant to Rule 11-105.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-408, as follows:

Rule 11-408. CITATION

(a) Filing

If an intake officer forwards a citation to the State's Attorney pursuant to Code, Courts Article, §3-8A-10, the State's Attorney may initiate an action by filing the citation with the clerk of the court, together with a sufficient number of copies to provide for service on the parties.

Cross reference: See Code, Courts Article, §3-8A-10, addressing the intake officer procedure upon receipt of a citation.

(b) Venue

A citation shall be filed in the county where the alleged act occurred.

Cross reference: See Code, Courts Article, §3-8A-08 (b) addressing the filing of the citation in the county where the alleged act occurred, subject to transfer under Code, Courts, §3-8A-09.

(c) Constitutes Initial Pleading

A citation serves as the initial pleading against a child for a violation and constitutes adequate process to give the

court jurisdiction over the child. A citation constitutes a charging document.

(d) Summons; Service

Unless the court orders otherwise, the clerk, upon the filing of a citation, shall issue a summons substantially in the form approved by the State Court Administrator for each party other than the State's Attorney. The summons, together with a copy of the citation, shall be served in accordance with Rule 11-107 and shall be returnable as provided by Rule 2-126.

(e) Subpoena

The clerk shall issue a subpoena for the individual who issued the citation and for each witness requested by a party pursuant to Rule 11-105.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-408 is new. It is derived from Code, Courts Article, §3-8A-10.

Section (a) states the process for filing a citation pursuant to Code, Courts Article, §3-8A-10 (k). If an intake officer forwards a citation to the State's Attorney, the State's Attorney may initiate an action by filing the citation with the clerk of the court with sufficient copies for service on the parties.

Section (b) requires the citation to be filed in the county where the alleged act occurred. A cross reference to Code, Courts Article, §3-8A-08 (b) follows the section.

Section (c) states that a citation serves as an initial pleading against a child, constitutes adequate process to give the court jurisdiction over a child, and constitutes a charging document.

Section (d) requires, unless the court orders otherwise, that the clerk issue a summons for each party other than the State's Attorney. The summons must be substantially in the form approved by the State Court Administrator. The summons and a copy of the petition must be served in accordance with Rule 11-107 and are returnable as provided by Rule 2-126.

Section (e) requires the clerk to issue a subpoena for each witness requested by a party pursuant to Rule 11-105.



MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-409, as follows:

Rule 11-409. TRANSFER FROM CRIMINAL COURT

(a) Transfer for Trial

(1) Petition

(A) Within 10 days after a court exercising criminal jurisdiction enters an order pursuant to Code, Criminal Procedure Article, §4-202 transferring jurisdiction over a defendant to the juvenile court, the State's Attorney shall file a delinquency petition pursuant to Rule 11-407.

(B) The State's Attorney shall attach to the petition a copy of the charging document that was filed in the court exercising criminal jurisdiction and the order of that court transferring jurisdiction.

(C) If the petition is not filed as required by this section, the child shall be released from any detention, community detention, shelter care, or conditions of pre-trial release, without prejudice to the right of the State's Attorney to file a petition thereafter.

(2) Confinement; Conditions of Release

Except as provided in subsection (a) (1) (C) of this Rule, any conditions set forth in the order transferring jurisdiction relating to pre-trial release or placement of the child in detention, community detention, or shelter care shall remain in effect and be enforceable by the juvenile court pending an adjudicatory hearing unless modified or revoked by the juvenile court. On motion of the State's Attorney or the child, the court shall hold a detention hearing no later than the next day.

(b) Transfer for Disposition

If a court exercising criminal jurisdiction enters an order pursuant to Code, Criminal Procedure Article, §4-202.2 transferring jurisdiction over a defendant to the juvenile court for disposition, the juvenile court shall conduct a disposition under the regular procedures of the juvenile court.

(c) Transfer Back to Criminal Court Prohibited

If jurisdiction has been transferred to a juvenile court by a court exercising criminal jurisdiction pursuant to Code, Criminal Procedure Article, §4-202 or §4-202.2, the juvenile court may not transfer jurisdiction back to the criminal court.

Cross reference: See *Smith v. State*, 399 Md. 565 (2007) prohibiting the juvenile court from remanding a case to the criminal court for sentencing once jurisdiction has been transferred to the juvenile court for disposition. See also *In re Glenn S.*, 293 Md. 510 (1982) restricting the circuit court, once it has exercised its powers as a juvenile court, to the

powers granted to a juvenile court by statute.

Source: This Rule is derived in part from former Rule 11-102A and is in part new.

REPORTER'S NOTE

Proposed Rule 11-409 is derived from current Rule 11-102A and Code, Criminal Procedure Article, §§4-202 and 4-202.2. It addresses the transfer of jurisdiction to the juvenile court from a court exercising criminal jurisdiction.

Subsection (a) (1) incorporates the provisions of current Rule 11-102A b, with stylistic changes.

Subsection (a) (2) incorporates the provisions of current Rule 11-102A c, with stylistic changes. The court must hold a detention hearing no later than the next day after the State's Attorney or the child files a motion seeking a hearing.

Section (b) is derived from Code, Criminal Procedure Article, §4-202.2 (e). It requires the juvenile court to conduct a disposition hearing using juvenile court procedures if a court exercising criminal jurisdiction enters an order transferring jurisdiction for disposition.

Section (c) states that if jurisdiction has been transferred to a juvenile court pursuant to Code, Criminal Procedure Article, §4-202 or §4-202.2, the juvenile court may not transfer jurisdiction back to the criminal court. A cross reference following the section refers to two cases clarifying the restriction transferring jurisdiction back to criminal court once a case has been transferred to juvenile court.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-410, as follows:

Rule 11-410. WAIVER OF JURISDICTION

(a) Initiation of Waiver

The court's exclusive original jurisdiction may be waived by the court:

(1) on its own initiative in conformance with subsection

(b) (1) of this Rule; or

(2) on motion of the State's Attorney filed in conformance with subsection (b) (2) of this Rule.

Cross reference: See Code, Courts Article, §3-8A-03, concerning the jurisdiction of the court, and §3-8A-06, concerning the waiver of the court's exclusive jurisdiction.

(b) Timing

(1) Waiver on Court's Own Initiative

The court may waive its jurisdiction on its own initiative at any time after the filing of a delinquency petition but not later than 10 days before commencement of the first scheduled adjudicatory hearing.

(2) Motion by State's Attorney

(A) A motion to waive juvenile court jurisdiction filed by the State's Attorney may be filed with the delinquency petition or not later than 10 days before commencement of the first scheduled adjudicatory hearing.

(B) The motion to waive juvenile court jurisdiction shall state with particularity the reasons why the State's Attorney requests the waiver, taking into account the factors required to be considered by the court under Code, Courts Article, §3-8A-06 (e).

(3) Waiver of Time Requirement

For good cause, the court may waive the time requirements of subsection (b) (2) of this Rule if, before commencement of the first scheduled adjudicatory hearing, the State's Attorney files against the child a subsequent delinquency petition accompanied by a waiver motion or an indictment or criminal information in a criminal case.

(c) Investigation

Upon the filing of a waiver motion, or prior to any waiver of jurisdiction by the court on its own initiative, the court shall order the Department of Juvenile Services to make a waiver investigation and prepare a report that addresses the criteria listed in Code, Courts Article, §3-8A-06. The report shall include all records that are to be made available to the

court at a waiver hearing. The Department shall file the report with the clerk at least five days before the scheduled waiver hearing. At the time of filing, the Department shall provide a copy of the report to the State's Attorney's Office, and the District Office of the Public Defender or private counsel. If the child is unrepresented, the Department shall provide a copy of the report to the child.

(d) Hearing

(1) Required

The court may not waive its jurisdiction without first conducting a waiver hearing in accordance with this section.

(2) Notice

Reasonable notice of the time and place of the hearing shall be given to all parties pursuant to Rule 11-108 (f).

(3) Time of Hearing

Unless otherwise ordered, a waiver hearing shall be held:

(A) prior to an adjudicatory hearing; and (B) within 30 days after the date a petition for detention or community detention is granted, or, if the child is not detained or on community detention, within 30 days after service of the waiver petition.

Cross reference: See Rule 11-406 concerning detention and community detention.

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(4) Purpose of Hearing

A waiver hearing is for the sole purpose of determining whether the court should waive its jurisdiction.

(5) Admissibility of Report of Waiver Investigation

The report of the waiver investigation is admissible as evidence at the waiver hearing. Each party has the right to present evidence concerning the report.

Cross reference: See Code, Courts Article, §3-8A-17 (c) regarding admissibility of the report of a study as evidence. For admission of evidence, generally, see Rule 11-101 (b).

(6) Jurisdiction Previously Waived

If the court has previously waived its jurisdiction with respect to a delinquency petition filed against a respondent and a delinquency petition based on another alleged delinquent act is subsequently filed against the respondent, the court may waive its jurisdiction with respect to the subsequent petition based on the previous waiver after a limited hearing of which the respondent has been notified and at which the respondent has an opportunity to be heard.

Cross reference: See *In re Michael*, 53 Md. App. 271 (1982) regarding compliance with fundamental principles of due process.

(7) Respondent Over 21 Years of Age

If a delinquency petition is filed against a respondent who is over 21 years of age, the court may waive its

jurisdiction after a limited hearing of which the respondent has been notified and at which the respondent has an opportunity to be heard.

(e) Required Condition for Waiver; Criteria; and Considerations

(1) Required Condition

The court may not waive its jurisdiction unless it determines, by a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures.

(2) Criteria and Considerations

In considering that determination, the court shall assume that the respondent child committed the delinquent act alleged in the delinquency petition and shall consider the criteria set forth in Code, Courts Article, §3-8A-06 (e).

(f) Waiver Order

(1) Statement of Grounds

If the court concludes that its jurisdiction should be waived, it shall prepare and file or dictate into the record a statement of the grounds for its decision and enter an order:

(A) waiving its jurisdiction and ordering the child held for trial under the appropriate criminal procedure; and

(B) committing the child to the custody of the sheriff or



other appropriate officer in an adult detention facility pending a pretrial release hearing pursuant to Rule 4-222.

(2) Effect of Delinquency Petition

The delinquency petition shall be considered a charging document for the purpose of detaining the respondent child pending a pre-trial release hearing.

(3) Copies

Pending a pre-trial release hearing, the clerk promptly shall furnish to the appropriate officer true copies of the delinquency petition and the court's waiver order.

Source: This Rule is derived in part on former Rule 11-113 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-410 governs waiver. It is derived in part from current Rule 11-113 and Code, Courts Article, §3-8A-03.

Section (a) is derived from current Rule 11-113 a. It permits the court's exclusive original jurisdiction to be waived by the court on its own initiative or on motion of the State's Attorney. A cross reference following section (a) refers to statutory provisions governing the jurisdiction of the juvenile court and waiver.

Subsection (b) (1) is new. It states that the court may waive its jurisdiction on its own initiative at any time after the petition is filed but no later than 10 days before commencement of the first scheduled adjudicatory hearing. Subsection (b) (2) incorporates the provisions of current Rule 11-113 a.2., with stylistic changes and updated statutory

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references. The current Rule requires a motion for waiver to be filed before the first adjudicatory hearing. The new Rule requires the motion be filed no later than 10 days before the first scheduled adjudicatory hearing. Subsection (b)(3) is new. It permits the court to waive the time requirement for good cause shown if, before the first adjudicatory hearing commences, the State's Attorney files a subsequent delinquency petition accompanied by a waiver petition or an indictment or criminal information.

Section (c) is derived in part from current Rule 11-113 b. It requires the court to order the Department of Juvenile Services to make a waiver investigation and prepare a report in accordance with Code, Courts Article, §3-8A-06 upon the filing of a waiver motion or before the court waives jurisdiction on its own initiative. The contents of the report and filing requirements are contained in section (c).

Section (d) is derived in part from current Rule 11-113 c, d, and e and Code, Courts Article, §3-8A-06. A hearing is required by subsection (d)(1). Notice of the hearing must be given to all parties pursuant to Rule 11-108 (f). The hearing must be held prior to an adjudicatory hearing and within 30 days after service of the waiver motion, but if the child is detained or on community detention, the hearing must be held within 30 days after the petition for detention or community detention was granted. A cross reference to Rule 11-406 follows subsection (d)(3). Subsection (d)(4) states that the sole purpose of the hearing is to determine whether the court should waive its jurisdiction. Subsection (d)(5) states that the report of the waiver investigation is admissible as evidence and each party may present evidence at the hearing. A cross reference following subsection (d)(5) refers to the statute governing admissibility of the report of a study as evidence. Subsection (d)(6) permits the court to waive its jurisdiction after a limited hearing if the court had waived its jurisdiction with respect to a previous delinquency petition filed against a respondent. A cross reference following subsection (d)(6) refers to a Court of Special Appeals opinion discussing compliance with fundamental principles of due process. Subsection (d)(7) permits the court to waive its jurisdiction after a limited hearing if the delinquency petition is filed against a respondent who is over 21.

Section (e) incorporates the provisions of Code, Courts Article, §3-8A-06 (d) and (e), with stylistic changes.

Section (f) is derived from current Rule 11-113 g. If the court orders its jurisdiction waived, subsection (f)(1) requires the court to state the grounds for its decision, order the child held for trial under the appropriate criminal procedure, and commit the child to be held in an adult detention facility pending a pre-trial release hearing pursuant to Rule 4-222. Subsection (f)(2) states that the delinquency petition is considered a charging document for the purpose of detaining the respondent child after the court waives its jurisdiction. Subsection (f)(3) requires the clerk to provide true copies of the delinquency petition and waiver order to the appropriate officer in whose custody the child had been placed pending a pre-trial release hearing.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 -- DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-411, as follows:

Rule 11-411. TRANSFER TO ANOTHER JUVENILE COURT

(a) Authority of Transferring Court

(1) Generally

If a delinquency petition or citation is filed in a county other than the county where the child is living or domiciled, the court, on its own initiative or on motion of a party, may transfer the proceeding to the Juvenile Court of the county of the child's residence or domicile at any time prior to final termination of jurisdiction.

(2) Exception

If the child is alleged to have committed the offense of escape or attempted escape under Code, Criminal Law Article, §9-404 or §9-405, the court may not transfer the proceeding until after an adjudicatory hearing.

(b) Records

(1) Contents

Every document, social history, and record on file with

the clerk of the transferring court that pertains to the case shall accompany the transfer.

(2) Timing

The clerk shall transfer the records to the receiving court no later than 30 days from the date of the order of transfer.

(c) Authority of Receiving Court

The receiving court may take further action in the matter.

Cross reference: Code, Courts Article, §3-8A-09.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-411 is new. It is derived from Code, Courts Article, §3-8A-09. Section (a) incorporates the provisions of Code, Courts Article, §3-8A-09 (a), with stylistic changes.

Section (b) incorporates the provisions of Code, Courts Article, §3-8A-09 (b), with stylistic changes. The Subcommittee added a requirement that the materials must be sent to the receiving court no later than 30 days from the date of the order of transfer.

Section (c) states that the receiving court may take further action in the matter. A cross reference to Code, Courts Article, §3-8A-09 follows the section.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-412, as follows:

Rule 11-412. INITIAL APPEARANCE HEARING

(a) When Required

(1) Upon the filing of a delinquency petition or citation, the court shall schedule an initial appearance hearing unless an attorney has entered an appearance for the child.

(2) If an attorney enters an appearance, the hearing shall be cancelled.

(b) Notice

Notice of the date and time of the initial appearance hearing shall be included in the initial summons issued for the child and the child's parent, guardian, or custodian, directing the child and the child's parent, guardian, or custodian to appear for the hearing and directing the parent, guardian, or custodian to produce the child at the hearing.

(c) Writ of Attachment

Absent proof of actual notice by personal service of the summons or by other means directed by the court, no writ of

attachment may issue for failure to appear.

(d) Purpose of Hearing

The purpose of the initial appearance hearing is:

(1) to determine whether the petition or citation has been served and, if not, to effect service;

(2) to advise the child and the child's parent, guardian, or custodian of the nature of the allegations and proceedings, and the range of possible dispositions; and

(3) to advise the child and the child's parent, guardian, or custodian of the right to an attorney in accordance with Code, Courts Article, §3-8A-20.

Cross reference: See Code, Courts Article, §3-8A-20 concerning a party's right to the assistance of counsel.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-412 is new. It governs initial appearance hearings in juvenile court.

Section (a) requires an initial appearance hearing upon the filing of a delinquency petition or citation unless an attorney has entered an appearance for the child.

Section (b) requires that notice of the date and time of the initial appearance hearing be included in the initial summons issued for the child and the child's parent, guardian, or custodian. The summons must instruct the parent, guardian, or custodian to appear and to produce the child at the hearing.

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Section (c) prohibits issuance of a writ of attachment for failure to appear without proof of actual notice of the hearing.

Section (d) outlines the purpose of the initial appearance hearing. The hearing is to determine whether the petition or citation has been served; to advise the child and the child's parent, guardian, or custodian of the nature of the allegations and proceedings as well as the possible dispositions; and to advise the child and the child's parent, guardian, or custodian of the right to an attorney. A cross reference to the statute governing assistance of counsel follows the section.



MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-413, as follows:

Rule 11-413. RESPONSE TO PETITION; ADMISSION

(a) Response Permitted

A respondent served with a delinquency petition may file a response that admits or denies all or any facts alleged in the petition. Any written response shall be filed no later than 15 days prior to a scheduled adjudicatory or waiver hearing. Any allegation other than an allegation admitted in a written response is deemed denied.

(b) Admission

(1) Advice by Court; Finding

Before the court accepts a respondent's admission or non-denial of the allegations, the court shall, on the record and in open court:

(A) advise the respondent of the nature and possible consequence of the admission or non-denial; and

(B) ascertain whether the admission or non-denial is knowing, intelligent, and voluntary.

(2) Withdrawal of Admission

In the interest of justice, the court may permit an admission by a respondent to be withdrawn any time before disposition.

Source: This Rule is derived in part from former Rule 11-107 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-413 is derived in part from current Rule 11-107.

Section (a) permits, but does not require, a respondent served with a delinquency petition to file a response that admits or denies all or any of the facts alleged. Any response is to be filed no later than 15 days prior to a scheduled adjudicatory or waiver hearing. An allegation not admitted in a written response is deemed denied.

Section (b) requires the court to advise the respondent of the potential consequences of an admission or non-denial and make a finding as to whether the admission or non-denial is knowing, intelligent, and voluntary prior to accepting the admission or non-denial of the allegations. The court may permit the admission to be withdrawn any time prior to disposition in the interest of justice.

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TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-414, as follows:

Rule 11-414. AMENDMENTS

(a) Delinquency Petitions and Citations

With leave of court, a delinquency petition or citation may be amended at any time before the conclusion of the adjudicatory hearing, except that, if the amendment changes the character of the offense charged, the consent of the respondent is required.

(b) Other Pleadings and Motions

With leave of court, any other pleading or motion may be amended at any time before final disposition of the pleading or motion.

(c) Continuance

If an amendment is made, the court shall grant the parties a continuance or postponement as justice may require in light of the amendment.

Source: This Rule is derived from former Rule 11-108.

REPORTER'S NOTE

Proposed Rule 11-414 is derived from current Rule 11-108.

Section (a) permits amendment of a delinquency petition or citation with leave of the court any time before the adjudicatory hearing is concluded. The amendment requires the consent of the respondent if it changes the character of the offense charged.

Section (b) permits any other pleading or motion to be amended at any time prior to the final disposition of the pleading or motion, with leave of the court.

Section (c) requires the court to grant a continuance or postponement as necessary if an amendment is made.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-415, as follows:

Rule 11-415. STUDY; EXAMINATION

(a) Generally

After a delinquency petition or citation has been filed, the court may direct the Department of Juvenile Services or another qualified person to make a study concerning the child, the child's family, the child's environment, and other matters relevant to the disposition of the action in accordance with Code, Courts Article, §3-8A-17.

(b) Examination

(1) As part of the study, the court may order that the child or any parent, guardian, or custodian of the child be examined at a suitable place by a physician, psychiatrist, psychologist, or other professionally qualified individual.

**QUERY: Should there be a limitation of some kind on inpatient examinations for the parent, guardian, or custodian?**

(2) Any order for a physical or mental examination pursuant to this Rule shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom

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it is to be made. The court shall order that the examination be conducted on an outpatient basis if, considering the child's condition, that is feasible and appropriate. The order may regulate the filing of a report of findings and conclusions and the testimony at a hearing by the examining physician, psychiatrist, psychologist or other professionally qualified person, the payment of the expenses of the examination and any other relevant matters. The court may not place a child in detention, community detention, or shelter care solely for the purpose of conducting an examination.

(c) Copies of Report

The person making a report of a study or examination shall provide the report to the Department. Promptly upon receipt of the report, the Department shall file it with the court and deliver a copy of it to the State's Attorney and to the attorney for the child.

(d) Admissibility

The report of the study and examination is admissible as evidence at a waiver hearing and a disposition hearing but not at an adjudicatory hearing. The admissibility of any statement by the child is protected by the child's privilege against self-incrimination. Prior to the offering of the report, the attorney for each party may challenge or impeach findings in the

report or study and present appropriate evidence with respect to it.

Cross reference: Code, Courts Article, §§3-8A-12 (b) and 3-8A-17 (c).

Source: This Rule is derived in part from former Rule 11-105 a and is in part new.

REPORTER'S NOTE

Proposed Rule 11-415 is derived in part from current Rule 11-105 a and Code, Courts Article, §3-8A-17.

Section (a) is derived from Code, Courts Article, §3-8A-17 (a). It permits the court to direct that a study be made concerning the child and the family, environment, and other relevant matters after a petition or citation is filed.

Section (b) is derived from Code, Courts Article, §3-8A-17 (b) and current Rule 11-105 a 1. It describes the examination process. Under subsection (b)(1) court may order that the child or any parent, guardian, or custodian be examined at a suitable place by a qualified individual. Subsection (b)(2) is derived from current Rule 11-105 a 1. It requires that the order specify the time, place, and manner as well as the conditions and scope of the examination. The examination must be outpatient if feasible and appropriate for the child. The order may contain provisions regulating the filing of a report, testimony at a hearing, payment of expenses, and other relevant matters. A child may not be placed in detention, community detention, or shelter care solely for the purpose of conducting an examination.

Section (c) is derived from current Rule 11-105 a 2. It requires the person making a report of a study or examination to provide the report to the Department. The Department must file the report and deliver a copy to the State's Attorney and the attorney for the child.

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Section (d) incorporates the provisions of Code, Courts Article, §3-8A-17 (c), with stylistic changes. Added to the statutory provisions is a statement that the child's statements contained in the report are protected by the child's privilege against self-incrimination. A cross reference to statutory provisions governing the admissibility of statements made during a study or examination follows the section.



MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-416, as follows:

Rule 11-416. COMPETENCY OF CHILD

(a) Evaluation of Child's Mental Condition

(1) Generally

At any time after a delinquency petition is filed, the court, on its own initiative or on motion by the State's Attorney or the attorney for the child, shall stay all proceedings and order that the Maryland Department of Health or other qualified expert conduct an evaluation of the child's competence to proceed if the court makes the findings set forth in Code, Court's Article, §3-8A-17.1. Any motion or pleading that questions the child's competency to proceed shall be served on (A) the State's Attorney, (B) the child's attorney, (C) the child, if unrepresented by an attorney, (D) the Department of Juvenile Services, and (E) the Maryland Department of Health.

(2) Conduct of Evaluation

The evaluation shall be conducted in accordance with Code, Courts Article, §§3-8A-17.2 and 3-8A-17.3.

(b) Competency Hearing

(1) When Held

Within 15 days after receipt of a report of the evaluation, the court shall hold a competency hearing. For good cause, the court may extend the time for an additional 15 days.

(2) Conduct of Hearing

(A) In a competency hearing, the court shall presume that the child did not commit the act alleged in the petition.

Cross reference: See Code, Courts Article, §3-8A-17.11.

(B) Findings of fact shall, be based on the evaluation of the child by the qualified expert. The State bears the burden of proving the child's competency beyond a reasonable doubt.

(3) Finding of Competency

If the court determines that the child is competent to proceed, it shall enter an order stating that the child is competent, lift the stay imposed under section (a) of this Rule, and proceed with the delinquency petition or violation of probation petition in accordance with the time periods specified in Code, Courts Article, §3-8A-17.5.

(4) Finding of Incompetency

(A) If the court determines that the child is incompetent to proceed but that there is a substantial probability that the child may be able to attain competency in the foreseeable future

and that services are necessary to attain competency, the court shall proceed in accordance with Code, Courts Article, §3-8A-17.6.

(B) If the court determines that the child is incompetent to proceed and is unlikely to attain competency in the foreseeable future, it shall proceed in accordance with Code, Courts Article, §3-8A-17.7 or §3-8A-17.8, as appropriate.

(C) The following evidence presented in connection with a competency determination is inadmissible in any proceeding except one relating to the child's competency:

(i) Any statement made by the child or information elicited during a competency evaluation, competency hearing in connection with the determination of competency, or while services were being provided under Code, Title 3, Subtitle 8A;

(ii) Any report prepared by a qualified expert unless the attorney for the child introduces the report or any part of it in a hearing other than a competency hearing.

Cross reference. See Code, Courts Article, §3-8A-17.10 (b).

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-416 is new. It is derived from the statutory provisions regarding competency of a child in Code, Courts Article, §§3-8A-17.1 through 3-8A-17.11.

Section (a) is derived from Code, Courts Article, §§3-8A-17.1 through 3-8A-17.3. Generally, on its own initiative or on motion by a party, the court may stay all proceedings and order an evaluation of the child's competency to proceed if the court makes certain findings required by law. The evaluation is to be conducted in accordance with the applicable Code provisions.

Section (b), derived from various applicable statutory provisions, governs the competency hearing. Subsection (b) (1) is derived from Code, Courts Article, §3-8A-17.4 (a). It requires the court to hold a competency hearing within 15 days after the receipt of the report, unless the time is extended by up to 15 days for good cause. Subsection (b) (2) (A) is derived from Code, Courts Article, §3-8A-17.11. It states that the court must presume at the competency hearing that the child did not commit the alleged act. A cross reference to the statute follows the subsection. Subsection (b) (2) (B) is derived from Code, Courts Article, §3-8A-17.4 (c) and (d). It requires the court's findings to be based on the evaluation of the child and states that the State has the burden of proving the child's competency beyond a reasonable doubt. Subsection (b) (3) is derived from Code, Courts Article, §3-8A-17.5. If the court determines that the child is competent, the court enters an order stating that the child is competent, lifts the stay imposed under section (a), and proceeds with the petition in accordance with the applicable time periods. Subsection (b) (4) (A) is derived from Code, Courts Article, §3-8A-17.6. If the court determines that the child is incompetent but that there is a substantial probability that the child may obtain competency, the court may proceed as permitted by statute to order competency attainment services. Subsection (b) (4) (B) is derived from Code, Courts Article, §§3-8A-17.7 and 3-8A-17.8. If the court determines that the child is incompetent and unlikely to attain competency, the court proceeds in accordance with the applicable statute. Subsection (b) (4) (C) is derived from Code, Courts Article, §3-8A-17.10 (b). It provides that any statement made by the child or information elicited during a

competency evaluation, competency hearing, or the provision of services and any report prepared by an expert are not admissible at any other proceeding except that the report is admissible if the attorney for the child introduces it. A cross reference to the statutory provisions follows the subsection.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-417, as follows:

Rule 11-417. EMERGENCY MEDICAL TREATMENT

The court may order emergency medical, dental, or surgical treatment of a child who is already under the jurisdiction of the court and alleged to be suffering from a condition or illness which, in the opinion of a licensed physician or dentist, requires immediate treatment if the child's parent, guardian, or custodian is not available or, without good cause, refuses to consent to the treatment.

Cross reference: See Code, Courts Article, §3-8A-21. Compare Code, Courts Article, §3-824, providing broader authority in CINA and voluntary placement proceedings.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-417 is new. It is derived from Code, Courts Article, §3-8A-21 and permits the court to order emergency medical, dental, or surgical treatment of a child who is under the court's jurisdiction and alleged to be suffering from a condition or illness requiring immediate treatment. The court may act if the child's parent, guardian, or custodian is not available or refuses to consent to treatment without good

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cause. A cross reference to the statute and the comparable provision in Code, Courts Article, §3-824 is included at the end of the Rule.

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CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-418, as follows:

Rule 11-418. DISCOVERY AND INSPECTION

(a) Rule 4-263 Applicability

The provisions of Rule 4-263 apply to proceedings under this Chapter except (1) "defendant" and "defense" as used in Rule 4-263 shall be construed to refer to a "respondent" under the Rules in this Chapter, (2) "conviction" as used in Rule 4-263 shall be construed to include a prior delinquency finding of a juvenile, and (3) the time requirements set forth in Rule 4-263 (h) and (i) are superseded by the provisions of section (b) of this Rule.

(b) Time for Completion of Discovery and Resolution of Discovery Disputes

All matters and information to which a party is entitled must be disclosed in time to permit its beneficial use at a hearing in which the material or information may be relevant. If the material or information is not so disclosed, the court may grant a continuance or postponement of the hearing to permit



the disclosure or inspection. A motion to compel discovery shall be filed no later than 10 days before the next scheduled hearing, and any response may be filed within five days after service of the motion.

(c) Subpoena for Tangible Evidence Before Trial

On motion of a party, the court may order the issuance of a subpoena commanding a person to produce for inspection and copying at a specified time and place before trial designated documents, recordings, photographs, or other tangible things, not privileged, which may constitute or contain evidence relevant to the action. Any response to the motion shall be filed within five days.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-418 is new. The Subcommittee discussed various options for discovery in delinquency and citation proceedings before recommending the adoption of the provisions contained in Rule 4-263 (Discovery in Circuit Court).

Section (a) states that Rule 4-263 applies to discovery in juvenile court delinquency and citation proceedings except that certain terms used in the Rules in Title 4 are construed to be applicable in juvenile court proceedings. "Defendant" and "defense" in Rule 4-263 are construed to mean "respondent." "Conviction" is construed to include a prior delinquency finding of a juvenile. The time requirements in Rule 4-263 (h) and (i) are not compatible with the shortened timeline of a juvenile

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delinquency case, therefore those time requirements are superseded by section (b) of Rule 11-418.

Section (b) provides that all required disclosures must be made in time to permit their beneficial use at a hearing where the information may be relevant. If any material or information is not disclosed, the court may grant a continuance or postponement. A motion to compel discovery must be filed no later than 10 days before the next scheduled hearing and the response is due within five days after service of the motion.

Section (c) incorporates the provisions of Rule 4-264, with stylistic changes.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-419, as follows:

Rule 11-419. MOTIONS

(a) Generally

(1) Content

A motion filed pursuant to this Rule shall (A) be in writing, unless the court otherwise directs, (B) state the grounds upon which it is made, and (C) set forth the relief sought. A motion requesting suppression of evidence or a motion alleging an illegal source of information as the basis for probable cause, shall be supported by precise and specific factual averments. Every motion shall contain or be accompanied by a statement of points and citation of authorities.

(2) Response

A response, if made, shall be filed within 10 days after service of the motion and contain or be accompanied by a statement of points and citation of authorities.

(3) Determination

Motions filed pursuant to this Rule shall be determined

before trial and, to the extent practicable, before the day of trial, except that the court may defer until after trial its determination of a motion to dismiss for failure to obtain a speedy trial. If factual issues are involved in determining the motion, the court shall state its findings on the record.

(b) Mandatory Motions - Generally

In a delinquency proceeding, the following matters shall be raised by motion in conformity with this Rule and if not so raised are waived unless the court, for good cause shown, orders otherwise:

(1) A defect in the institution of the prosecution;

(2) A defect in the charging document other than its failure to show jurisdiction in the court or its failure to charge an offense;

(3) An unlawful search, seizure, interception of wire or oral communication, or pretrial identification;

(4) An unlawfully obtained admission, statement, or confession; and

(5) A request for joint or separate trial of respondents or offenses.

(c) Time for Filing

(1) Mandatory Motions

A motion under section (b) of this Rule shall be filed

within 15 days after the earlier of the appearance of counsel or the initial appearance of the respondent before the court pursuant to Rule 11-412, except that when discovery discloses the basis for a motion, the motion may be filed within five days after the discovery is furnished.

(2) Other Motions

A motion asserting failure of the charging document to show jurisdiction in the court or to charge an offense may be raised and determined at any time. Any other defense, objection, or request capable of determination before trial without trial of the general issue, shall be raised by motion filed at any time before trial.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-419 is new. It is based on current Rule 4-252.

Subsection (a) (1) incorporates the provisions of Rule 4-252 (e), with stylistic changes. Subsection (a) (2) is derived from Rule 4-252 (f), but requires a response to be made within 10 days after service of the motion. Subsection (a) (3) incorporates the provisions of Rule 4-252 (g) (1).

Section (b) incorporates the provisions of Rule 4-252 (a), with stylistic changes.

Subsection (c) (1) requires mandatory motions under section (b) to be filed within 15 days after the earlier of the appearance of counsel or the initial appearance of the respondent before the court. If discovery discloses the basis for the motion, the motion may be filed within five days after the discovery is provided. Subsection (c) (2) incorporates the provisions of Rule 4-252 (d).

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-420, as follows:

Rule 11-420. STET

(a) Entry of Stet

On motion of the State's Attorney, the court may postpone an adjudication indefinitely by ordering that a stet be entered on the docket. The respondent need not be present when the stet is ordered, but an adjudication may not be stayed under this Rule over the objection of the respondent.

(b) Notice

If neither the respondent nor the respondent's attorney is present when the stet is ordered, the clerk shall send notice to the respondent, if the respondent's whereabouts are known, and to the respondent's attorney and parents, guardian, or custodian. If notice is required, the clerk may send one notice listing all alleged delinquent acts that have been ordered statted.

(c) Recall of Warrant or Detainer

Unless the court orders otherwise, when a stet is entered

on the docket, the clerk shall take the action necessary to recall or revoke any outstanding warrant, writ, or detainer that could lead to the arrest or detention of the respondent because of the statted alleged delinquent acts.

(d) Rescheduling of Adjudicatory Hearing

An adjudicatory hearing may be scheduled for an alleged delinquent act that has been statted pursuant to this Rule at the request of the respondent or the State's Attorney made within one year from the date the stet was entered on the docket. The petition shall be deemed terminated by operation of law when the respondent reaches age 21.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-420 is new. It is based on current Rule 4-248.

Section (a) is based on Rule 4-248 (a). It provides permits the court to postpone an adjudication indefinitely on motion of the State's Attorney by ordering that a stet be entered. The respondent does not have to be present, but an adjudication cannot be stayed over the objection of the respondent.

Section (b) is also based on Rule 4-248 (a). It states that if neither the respondent nor the respondent's attorney is present when the stet is ordered, the clerk shall send notice of the stet to certain individuals.



Section (c) is based on Rule 4-248 (b). It requires the clerk to recall or revoke any outstanding warrant, writ, or detainer that could lead to the arrest or detention of the respondent for the statted alleged delinquent acts, unless the court orders otherwise.

Section (d) is based on Rule 4-248 (a). On request of the respondent or State's Attorney made within one year from the date the stet was entered, section (d) permits the court to schedule an adjudicatory hearing for an alleged delinquent act that has been statted. The petition is deemed terminated by operation of law when the respondent reaches age 21.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-421, as follows:

Rule 11-421. ADJUDICATORY HEARING

(a) Requirement and Purpose

After a petition or citation has been filed, the court shall hold an adjudicatory hearing unless the court has waived its jurisdiction or entered a stet pursuant to Rule 11-420.

(b) Timing

(1) Earliest Time

Unless all parties agree to an earlier date, an adjudicatory hearing may not be held earlier than 15 days after the filing of the delinquency petition or citation.

(2) Generally

An adjudicatory hearing shall be commenced within 60 days after the earlier of service of the delinquency petition on the respondent or the entry of appearance of counsel for the respondent.

(3) Respondent in Detention, Community Detention, or Shelter Care

If the respondent is in detention, community detention, or shelter care, the adjudicatory hearing shall commence within 30 days after the date on which the court ordered continued detention, community detention, or shelter.

(4) Waiver Petition Filed

If a waiver petition has been filed, the adjudicatory hearing shall be commenced within 30 days after the waiver petition is denied or withdrawn. If the respondent is in detention, community detention, or shelter care, the adjudicatory hearing shall be commenced within 14 days after the waiver petition was denied or withdrawn.

(5) Completion

Once commenced, an adjudicatory hearing shall be completed with a reasonable degree of continuity.

Committee note: See, *In re Vanessa C.*, 104 Md.App. 452 (1995) and *In re Ryan S.*, 139 Md.App. 94 (2002), reversed and remanded on other grounds 369 Md. 26 (2002), addressing the reasonable degree of continuity.

(6) Extension of Time Limits

Upon motion made on the record by the petitioner or respondent within the time limits set above, the administrative judge of the county or a judge designated by the administrative judge, for extraordinary cause shown, may extend the time within which the adjudicatory hearing may be held. The judge shall state on the record the cause which requires an extension and

specify the number of days of the extension.

(c) Evidence; Standard of Proof

The State's Attorney:

(1) shall present the evidence in support of the delinquency petition or citation; and

(2) has the burden of proving, beyond a reasonable doubt, that the respondent committed a delinquent act alleged in a petition or a violation alleged in a citation.

(d) Adjudication; Adjudicatory Order

If the adjudicatory hearing is conducted by a judge, the judge shall prepare and file a written adjudicatory order accompanied by a written statement or an oral statement dictated in the record stating (1) a finding whether or to what extent the State has proved the allegations of the juvenile petition or citation, and (2) the grounds upon which the finding is based. If the hearing is conducted by a magistrate, the magistrate shall prepare and file a report in accordance with Rule 11-103

(c).

Source: This Rule is derived in part from former Rule 11-114 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-421 is derived in part from current Rule 11-114 and Code, Courts Article, §§3-8A-15 and 3-8A-18.

Section (a) is derived from current Rule 11-114 a. It requires the court to hold an adjudicatory hearing after a petition or citation has been filed unless the court has waived its jurisdiction or entered a stet.

Section (b) governs the timing of the hearing. An adjudicatory hearing may not be held earlier than 15 days after the filing of the petition or citation, unless the parties agree to an earlier date. Subsection (b)(2) is derived from current Rule 11-114 b 1. It requires the hearing to be commenced within 60 days after the earlier of service of the petition or the entry of appearance of counsel. Subsection (b)(3) is derived from current Rule 11-114 b 2 and Code, Courts Article, §3-8A-15 (d)(6). If the respondent is in detention, community detention, or shelter care, the hearing must begin within 30 days after the date continued detention or shelter care was ordered. Subsection (b)(4) is derived from current Rule 11-114 b 1. If a waiver motion was filed, subsection (b)(4) requires that the hearing begin within 30 days after the petition is denied or withdrawn. If the respondent is in detention, community detention, or shelter care, the hearing must be commenced within 14 days after the waiver petition was denied or withdrawn. Subsection (b)(5) requires an adjudicatory hearing, once commenced, to be completed with a reasonable degree of continuity. A Committee note refers to two cases addressing the reasonable degree of continuity. Subsection (b)(6) is derived from current Rule 11-114 b 1. It permits the administrative judge or a designee to extend the time for an adjudicatory hearing on motion and for extraordinary cause shown. The judge must state the reasons for the extension on the record and specify the length of the extension.

Section (c) is derived from current Rule 11-114 c and e and Code, Courts Article, §3-8A-18 (c). The State's Attorney presents the evidence in support of the petition or citation and has the burden of proving the allegations beyond a reasonable doubt.

Section (d) is derived from current Rule 11-114 f. If the hearing is conducted by a judge, the judge must prepare and file a written adjudicatory order accompanied by a written statement or statement dictated into the record making certain findings. If the hearing is conducted by a magistrate, the magistrate must prepare and file a report in accordance with Rule 11-103 (c).

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-422, as follows:

Rule 11-422. DISPOSITION HEARING AND ORDER

(a) Generally

Upon a finding that allegations of the delinquency petition or citation have been proven beyond a reasonable doubt, the court shall hold a separate disposition hearing, unless such hearing is waived in writing by all of the parties.

(b) Time for Hearing

(1) Citation

In a citation proceeding, the disposition hearing shall be held on the same day as the adjudicatory hearing unless the court, for good cause, orders otherwise.

(2) Delinquency Petition

In a delinquency petition proceeding, the disposition hearing may be held on the same day as the adjudicatory hearing if notice of the disposition hearing is waived on the record by all parties.

(3) If Not Held on Same Day

(A) If the disposition hearing is not held on the same day as the adjudicatory hearing, and the respondent is not in detention or community detention, the disposition hearing shall be held not later than 30 days after the conclusion of the adjudicatory hearing.

(B) If the respondent is in detention or community detention, the disposition hearing shall be held no later than 14 days after the conclusion of the adjudicatory hearing, unless the detention is extended in conformance with Code, Courts Article, §3-8A-15 (d)(6).

(c) Priorities in Disposition

The priorities in making a disposition shall be consistent with the purposes set forth in Code, Courts Article, §3-8A-02.

(d) Permitted Dispositions - Delinquency Petition

(1) Definition

In this section, "probation with stay of delinquency finding" means a status created by a court order in which the court, with the consent of the respondent, places the respondent in a probationary status with appropriate conditions after the court has made a finding that the respondent committed a delinquent act, but without making a finding that the respondent is a delinquent child.



(2) On Delinquency Petition

(A) Generally

In a proceeding based on a delinquency petition, the court may enter a disposition authorized by Code, Courts Article, §3-8A-19 (d), (f), (g), (h), (i), or (j), subject to the conditions and limitations set forth in those sections and in Code, Courts Article, §§3-8A-22, 3-8A-24, and 3-8A-35.

Cross reference: Code, Courts Article, §3-8A-19 (d) addresses the court's disposition generally. Subsection (f) of that section addresses the guardian appointed under the section. Subsection (g) of that section addresses placement of a child in an emergency facility on an emergency basis under Health-General Article, Title 10, Subtitle 6, Part IV. Subsections (h) and (i) of the section address commitment of a child to the custody of the State Department of Health for inpatient care and treatment in a State mental hospital or State mental retardation facility, respectively. Subsection (j) of that section addresses the requirement that a commitment order issued under either Subsection (h) or (i) must require the State Department of Health to file certain progress reports.

(B) Probation with Stay of Delinquency Finding

In addition to the dispositions permitted in (d) (2) (A) of this section, the court may enter a disposition of probation with stay of delinquency finding.

(e) Permitted Disposition - On Citation

In a proceeding based on a citation, the court may enter a disposition authorized by Code, Courts Article, §3-8A-19 (e), subject to the conditions and limitations set forth in that section.

(f) Procedure

(1) Disposition Conducted by Judge

If a judge conducts the disposition hearing, the judge shall enter a written disposition order and shall either file or announce and dictate into the record (A) a statement of reasons for any order that includes placement of the respondent outside the respondent's home, and (B) a statement of each condition for any probation.

(2) Disposition Conducted by Magistrate

If a magistrate conducts the disposition hearing, the proceeding shall be in accordance with Rule 11-103. A commitment recommend by a magistrate is subject to approval by the court in accordance with Rule 11-103 but may be implemented in advance of court approval, subject to a stay if requested by a party, pending a hearing on exceptions.

Cross reference: See Rule 11-101 (b) concerning application of the Rules in Title 5 to a disposition hearing.

(g) Restitution

(1) Generally

As part of a disposition, the court may order that the respondent, the respondent's parents, or both, pay restitution to a victim subject to the conditions and limitations as set forth in Code, Criminal Procedure Article, Title 11, Subtitle 6.

Restitution may not be ordered unless:

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(A) the individual ordered to pay is given reasonable notice that restitution is being sought and the amount that is being requested;

(B) the individual is given a fair opportunity to defend against the request;

(C) sufficient evidence is admitted of the amount of loss or expense incurred for which restitution is allowed and that such loss or expense was the direct result of the respondent's delinquent act; and

(D) sufficient evidence is admitted of the individual's ability to comply with the restitution order.

Cross reference: Under Code, Courts Article, §3-8A-28 the court may enter restitution against the child's parent, the child or both, as provided by Code, Criminal Procedure Article, Title 11, Subtitle 6. That subtitle sets out the process for restitution orders. See also, *In re Ramont K.*, 305 Md 482 (1986) and cases cited therein.

(2) Evidence; Burden of Proof

In a hearing to determine whether restitution should be ordered, a written statement or bill for medical, dental, hospital, counseling, funeral, or burial expenses is sufficient evidence of the amount, fairness, and reasonableness of the charges and the necessity for the services or materials provided. An individual who challenges the fairness or reasonableness of the charges or necessity for the services or materials has the burden of proving that the amount is not fair

and reasonable.

Source: This Rule is derived in part from former Rule 11-115 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-422 is derived from current Rule 11-115, Code, Courts Article, §3-8A-19, and Code, Criminal Procedure Article, §11-603.

Section (a) is derived from current Rule 11-115 a and Code, Courts Article, §3-8A-19 (b)(1). If the court finds that allegations of the petition or citation have been proven beyond a reasonable doubt, the court must hold a separate disposition hearing unless the hearing is waived by all of the parties in writing.

Section (b) is derived in part from current Rule 11-115 a and Code, Courts Article, §3-8A-19 (b)(2). Subsection (b)(1) is new. It provides that the disposition hearing in a citation proceeding must be held on the same day as the adjudicatory hearing unless the court orders otherwise. Subsection (b)(2) is derived from Code, Courts Article, §3-8A-19 (b)(2). It states that, in a delinquency petition proceeding, the disposition hearing may be held on the same day as the adjudicatory hearing if notice is waived on the record by all the parties. Subsection (b)(3)(A) is derived from current Rule 11-115 a. It states that, for a child not in detention or community detention, if the disposition hearing is not held on the same day as the adjudicatory hearing, it must be held no later than 30 days after the adjudicatory hearing concludes. Subsection (b)(3)(B) is derived from Code, Courts Article, §3-8A-15 (d)(6)(ii). It requires the disposition hearing for a child in detention or community detention be held no later than 14 days after the conclusion of the adjudicatory hearing, unless the detention is extended as permitted by law.

Section (c) is derived from Code, Courts Article, §3-8A-19 (c). It requires the priorities in making a disposition to be consistent with Code, Courts Article, §3-8A-02.

Section (d) is derived from Code, Courts Article, §3-8A-19. It addresses the permitted dispositions on a delinquency petition. Subsection (d)(1) defines "probation with stay of delinquency finding" as a status created by a court order placing the respondent on probation with appropriate conditions after finding that the respondent committed a delinquent act but without finding that the respondent is a delinquent child. The procedure for placing a respondent child on probation is contained in subsection (d)(2)(B). Subsection (d)(2)(A) lists the generally permitted dispositions by referring to the subsections in Code, Courts Article, §3-8A-19, which are subject to the conditions and limitations in Code, Courts Article, §§3-8A-22, 3-8A-24, and 3-8A-35. A cross reference after subsection (d)(2)(A) identifies the dispositions contained in the various sections in Code, Courts Article, §3-8A-19.

Section (e) is new and governs the permitted dispositions in a citation proceeding. The court may enter a disposition authorized by Code, Courts Article, §3-8A-19 (e).

Section (f) is derived in part from current Rule 11-115 b. Subsection (f)(1) requires a judge presiding over a disposition hearing to enter a written disposition order and either file or announce and dictate into the record certain statements. Subsection (f)(2) requires a magistrate presiding over a disposition hearing to conduct the hearing in accordance with Rule 11-103. A commitment recommended by a magistrate is subject to court approval. It may be implemented in advance, but implementation is subject to a stay if requested by a party, pending a hearing on exceptions.

Section (g) is derived from Code, Criminal Procedure Article, §11-603 and Code, Courts Article, §3-8A-28. Subsection (g)(1) permits the court to order the respondent, the respondent's parents, or both to pay restitution to a victim subject to Code, Criminal Procedure Article, Title 11, Subtitle 6. Restitution may be ordered only if certain conditions are present. A cross reference to relevant statutory provisions and case law follows the subsection. Subsection (g)(2) contains a

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list of certain types of evidence that are sufficient to support a restitution claim. An individual who opposes the restitution has the burden of proving the amount is not fair and reasonable.

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ADD new Rule 11-423, as follows:

Rule 11-423. POST-DISPOSITION HEARING

(a) Hearing Requirement

If a child remains in a facility used for detention for the act for which the child has been adjudicated delinquent for more than 25 days after the court has made a disposition pursuant to Code, Courts Article, §3-8A-19, (1) the court shall schedule a hearing on the first available court date after the 25th day and (2) the Department of Juvenile Services shall appear with the child to explain the reasons for the continued detention. A hearing shall be conducted every 25 days thereafter as long as the child remains in a facility used for detention.

Cross reference: See Code, Courts Article, §3-8A-15 (1).

(b) Revisory Power

(1) Generally

The court may modify or vacate an order if the court finds that action to be in the best interest of the respondent

or the public.

(2) Own Initiative or Petition

The court may exercise its authority under section (a) on its own initiative or on motion of any party or other person having supervision or custody of the respondent. If the court proceeds on its own initiative, the order shall state the grounds on which it is based. A motion shall state in concise terms the grounds on which the relief is requested.

(3) Hearing

(A) Commitment to Maryland Department of Health

If the order sought to be modified or vacated committed the respondent to the Department of Health pursuant to Code, Courts Article, §3-8A-19 (h), (i), or (j), the court shall proceed in accordance with those sections.

Cross reference: Courts Article, §3-8A-19 (h) addresses the commitment of a child to the custody of the Department of Health for inpatient care and treatment in a State mental hospital. Subsection (i) of that statute addresses commitment of a child to the custody of the State Department of Health for inpatient care and treatment in a State mental retardation facility. Subsection (j) of that statute addresses the requirement that a commitment order issued under either Subsection (i) or (j) must require the State Department of Health to file certain progress reports.

(B) Other Cases

In all other cases, the court may grant or deny the relief, in whole or in part, without a hearing.

Source: This Rule is derived in part from former Rule 11-116

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and is in part new.

REPORTER'S NOTE

Proposed Rule 11-423 is derived in part from current Rule 11-116 and Code, Courts Article, §3-8A-15 (1).

Section (a) is derived from Code, Courts Article, §3-8A-15 (1), with stylistic changes. The court must hold a hearing and the Department of Juvenile Services must appear if a child has been adjudicated delinquent but remains in a facility used for detention more than 25 days. Additional hearings are required at 25-day intervals as long as the child remains in detention.

Section (b) is derived from current Rule 11-116. It states that the court may modify or vacate an order if the court finds that it is in the best interest of the respondent or the public. Subsection (b)(1) is derived from current Rule 11-116 b. It permits the court to exercise its revisory power on its own initiative, on motion of any party, or on motion of any other person having supervision or custody of the respondent. If the court acts on its own initiative, the order must state the grounds. A motion must state the grounds on which the relief is requested. Subsection (b)(2), which governs hearings under the Rule, is derived in part from current Rule 11-116 c. Under subsection (b)(2)(A), if the order to be modified or vacated committed the respondent to the Department of Health under Code, Courts Article, §3-8A-19, the court must proceed in accordance with the applicable statutory provisions. A cross reference to the statutory provisions follows the subsection. Subsection (b)(2)(B) permits the court to grant or deny the relief in all other cases without a hearing.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-424, as follows:

Rule 11-424. VIOLATION OF PROBATION

(a) How Initiated

Proceedings for revocation of probation may be initiated by the court on its own initiative or by motion. A motion shall state each condition of probation that the respondent is alleged to have violated and the nature of the violation and request relief.

(b) Notice

The court shall enter an order to show cause why the relief should not be granted and setting a time and date for a hearing. The clerk shall cause a copy of the motion, if any, and the show cause order to be served on the parties. If the show cause order is issued on the court's initiative, the order shall state each condition of probation that the respondent is alleged to have violated and the nature of the violation.

(c) Hearing

The court shall hold a hearing to determine whether a

violation has occurred and, if so, whether the probation should be revoked. The court may conduct the hearing in an informal manner. The respondent shall be given the opportunity to admit or deny the alleged violations, to testify, to present witnesses, and to cross-examine the witnesses testifying against the respondent. If the respondent is found to be in violation of any condition of probation, the court shall (1) specify the condition violated and (2) afford the respondent the opportunity, personally and through counsel, to make a statement and to present information in support of or opposition to any modification of the existing order.

Source: This Rule is derived in part from Rule 4-347 and former Rule 11-116 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-424 is new. It is derived in part from current Rule 11-116 c and Rule 4-347. The Rule governs violation of probation proceedings in juvenile court.

Section (a) is based on Rule 4-347 (a). It provides that violation of probation proceedings may be initiated by the court on its own initiative or by motion. A motion must identify each condition of probation that is alleged to have been violated and the nature of the violation.

Section (b) is derived in part from current Rule 11-116 c and Rule 4-347 (a). It requires the court to enter an order to show cause why the relief sought should not be granted and schedule a hearing. If the show cause order is issued on the

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court's own initiative, the order must state each condition of probation alleged to have been violated and the nature of the violation. A copy of the motion, if any, and the show cause order must be served on the parties.

Section (c) generally incorporates the provisions of Rule 4-347 (e), with stylistic changes.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-425, as follows:

Rule 11-425. FINAL ORDER OF TERMINATION

For good cause, the court may enter a final order terminating its jurisdiction over a respondent prior to the expiration of the court's jurisdiction by operation of law (1) on the court's own initiative, (2) on motion of a party, or (3) on the recommendation of an appropriate governmental agency exercising supervision over the respondent.

Cross reference: See Code, Courts Article, §3-8A-24, addressing the duration of an order in a delinquency or CINS case. Under subsection (c), an order under Courts Article, Title 3, Subtitle 8A "is not effective after the child become 21 years old."

Source: This Rule is derived from former Rule 11-120.

REPORTER'S NOTE

Proposed Rule 11-425 incorporates the provisions of current Rule 11-120, with stylistic changes. A cross reference to the statute governing duration of orders follows the Rule.

# AGENDA ITEM 3

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 500 - OTHER PROCEEDINGS

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FORM 11-506.2. ORDER FOR EXPUNGEMENT OF JUVENILE RECORDS  
FORM 11-506.3. CERTIFICATE OF COMPLIANCE

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 500 - OTHER PROCEEDINGS

ADD new Rule 11-501, as follows:

Rule 11-501. SCOPE

This Chapter includes Rules governing:

- (a) child in need of supervision (CINS) proceedings pursuant to Code, Courts Article, Title 3, Subtitle 8A;
- (b) voluntary placement proceedings pursuant to Code, Courts Article, Title 3, Subtitle 8;
- (c) a peace order requested against a child pursuant to Code, Courts Article, §§3-8A-19.1 through 3-8A-19.5;
- (d) proceedings concerning a child's failure to attend school as required under Code, Courts Article, §§3-8C-01 through 3-8C-10;
- (e) proceedings regarding the expungement of juvenile records proceedings pursuant to Code, Courts Article, §3-8A-27.1; and
- (f) proceedings against an adult charged with contributing to the status of a child pursuant to Code, Courts Article, §§3-810 and 3-8A-10 and an adult charged with violation of compulsory school attendance laws pursuant to Code, Education Article, §7-

301.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-501 states the scope of the Rules in Chapter 500.

The Rules in this Chapter govern child in need of supervision proceedings, voluntary placement proceedings, peace orders requested against a child, proceedings concerning a child's failure to attend school, proceedings regarding the expungement of juvenile records, and proceedings against an adult charged in juvenile court.

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 500 - OTHER PROCEEDINGS

ADD new Rule 11-502, as follows:

Rule 11-502. CHILD IN NEED OF SUPERVISION

(a) Applicability

This Rule governs child in need of supervision proceeding conducted pursuant to Code, Courts Article, Title 3, Subtitle 8A.

(b) Definitions

(1) The definitions stated in Code, Courts Article, §3-8A-01 apply to this Rule, to the extent relevant.

(2) "CINS petition" means the pleading filed with the court under Code, Courts Article, §3-8A-13 alleging that a child is in need of supervision.

(c) Confidentiality of Records

The confidentiality provisions stated in Code, Courts Article, §3-8A-27 and Title 16, Chapter 900 of the Maryland Rules apply to court records pertaining to a child who is or was the subject of a proceeding under this Rule.

(d) Attorney

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Rule 11-404 applies with respect to the right to representation by an attorney at a proceeding under this Rule.

Cross reference: See Code, Courts Article, §3-8A-20 (a).

(e) Taking Child into Custody

Rule 11-405 applies with respect to taking a child into custody, except that a child alleged to be in need of supervision may not be placed in detention or community detention.

(f) Shelter Care

A child alleged to be in need of supervision may be placed in shelter care in accordance with the applicable provisions of Code, Courts Article, §3-8A-15 and Rule 11-406.

(g) Emergency Medical Treatment

The court may order emergency medical dental, or surgical treatment for a child alleged to be in need of supervision in conformance with Code, Courts Article, §3-8A-21 and Rule 11-417.

(h) CINS Petition

(1) Who May File

A CINS petition may be filed only by an intake officer.

Cross reference: See Code, Courts Article, §3-8A-13 (b).

(2) Where Filed



The CINS petition shall be filed in the county where the child resides.

Cross reference: See Code, Courts Article, §3-8A-08 (a).

(3) When Filed

The CINS petition shall be filed within the applicable time limits set forth in Code, Courts Article, §3-8A-10.

Committee note: For administrative proceedings and requirements prior to the filing of a CINS petition, see Code, Courts Article, §§3-8A-10 and 3-8A-13. A court may dismiss a petition for failure to comply with the requirements of §3-8A-10 only if the child demonstrates actual prejudice. See also *In re Keith G.*, 325 Md. 538 (1992).

(4) Form and Content

The CINS petition shall be captioned "In the Matter of . . . . ." and shall state:

(A) the name and address of the petitioner and the basis of the petitioner's authority to file the petition;

(B) the child's name, address, and date of birth, and the name and address of the child's parent, guardian, or custodian;

(C) that the child is alleged to be in need of supervision;

(D) in clear, simple, and concise language but with particularity, the facts which constitute the alleged need for supervision, including the date of the alleged act(s) and, as applicable, any law(s) allegedly violated by the child;

(E) the name and address of each witness, known at the time the petition is filed, whom the petitioner intends to call to testify in support of the petition; and

(F) whether the child is in shelter care and, if so, (i) when that placement commenced, (ii) whether the child's parent, guardian, or custodian has been notified, and (iii) whether the petitioner is seeking continued shelter care.

(5) Copies

The intake officer shall file with the clerk a sufficient number of copies of the CINS petition to provide for service on the parties.

(i) Summons; Service

Unless the court orders otherwise, the clerk, upon the filing of the CINS petition, shall promptly issue a summons, substantially in the form approved by the State Court Administrator and posted on the Judiciary website, for each party other than the petitioner. The summons, together with a copy of the CINS petition, shall be served in accordance with Rule 11-107 and shall be returnable as provided in Rule 2-126.

(j) Subpoenas

The clerk shall issue a subpoena for each witness requested by a party pursuant to Rule 11-105.

(k) Initial Appearance Hearing

The court may hold an initial hearing to assure service and counsel in accordance with Rule 11-412.

(l) Response to CINS Petition; Admission

A party served with a CINS petition under this Rule may file a response in conformance with Rule 11-413.

(m) Amendments

A petition, a motion, or any other paper filed under this Rule may be amended in accordance with Rule 11-414.

(n) Study; Examination

The court may direct the Department of Juvenile Services, or another qualified agency, to make a study concerning the child, the child's family, the child's environment, and other matters relevant to the disposition of the case, in accordance with the applicable provisions of Code, Courts Article, §3-8A-17.

(o) Discovery

(1) Generally

Without the necessity of a request, the petitioner shall furnish to the defense (A) all material or information in any form, whether or not admissible, that is possessed by or is in the control of the Department of Juvenile Services and that (i) the petitioner intends to offer into evidence or (ii) tends to negate the allegations of the petition or mitigate the severity

of a disposition, and (B) all written and oral statements of the child that relate to the allegations of the petition and all material and information that relate to the acquisition of such statements. For good cause, the court may require such other disclosures and inspections as justice may require.

(2) Matters Not Required to Be Disclosed

Notwithstanding any other provision of this Rule, the Department of Juvenile Services is not required to disclose (A) the mental impressions, trial strategy, personal beliefs, or other privileged attorney work product, or (B) any other material or information if the court finds that its disclosure is not Constitutionally required and would entail a substantial risk of harm to any person that outweighs the interest of disclosure.

(3) Time for Completion

To the extent practicable, the disclosure and inspection of all matters and information required or permitted by this Rule shall be completed in time to permit its beneficial use at a hearing in which the material or information may be relevant. If the material or information is not so disclosed, the court may grant a continuance or postponement of the hearing to permit the disclosure or inspection.

(4) Disclosures Not to Be Filed with the Court

Unless otherwise ordered by the court, disclosures made pursuant to this Rule shall not be filed with the court but may be used at a hearing or as an exhibit to support or oppose a motion.

(5) Failure to Comply

The failure of a party to comply with a disclosure obligation does not automatically disqualify a witness from testifying. If a motion is filed to disqualify the witness, disqualification is within the discretion of the court.

(p) Hearings - Generally

The court shall conduct all hearings in an informal manner. The court may exclude the general public from a hearing and admit only those persons having a direct interest in the proceeding and their representatives.

Cross reference: See Code, Courts Article, §3-8A-13 (f) (1) and (2).

(q) Adjudicatory Hearing

(1) Requirement; Purpose

(A) After a CINS petition is filed, the court shall hold an adjudicatory hearing.

(B) The purpose of the hearing is to determine whether the allegations of the petition, other than allegations that the child requires guidance, treatment, or rehabilitation, are true.

(2) Timing

(A) Unless the parties agree to an earlier date, an adjudicatory hearing may not be held earlier than 15 days after the filing of the CINS petition.

(B) If the child is not in shelter care, the hearing shall be commenced within 60 days after the later of service of the petition or the entry of appearance of counsel for the child.

(C) If the child remains in shelter care, the hearing shall be commenced within 30 days after the date on which the court ordered continued shelter care. If the hearing is not held within that time, the child shall be released from shelter care on reasonable conditions set by the court pending an adjudicatory hearing.

(D) Once commenced, an adjudicatory hearing shall be completed with a reasonable degree of continuity.

(3) Evidence; Standard of Proof

The petitioner shall present the evidence in support of the petition and has the burden of proving the allegations of the petition by a preponderance of the evidence.

(r) Adjudication; Adjudicatory Order

If the adjudicatory hearing is conducted by a judge, the judge shall prepare and file a written adjudicatory order accompanied by a written statement or an oral statement dictated

into the record stating (1) a finding whether or to what extent the petitioner has proved the allegations of the petition, and (2) the grounds on which the finding is based. If the hearing is conducted by a magistrate, the magistrate shall prepare and file a report in accordance with Rule 11-103 (c) or (d).

(s) Disposition Hearing and Order

(1) Generally

Unless a CINS petition is dismissed, the court shall conduct a separate disposition hearing to determine whether the respondent child is in need of supervision as defined in Code, Courts Article, §3-8A-01 (e).

(2) Scheduling

The disposition hearing may be held on the same day as the adjudicatory hearing if notice of the disposition hearing is waived on the record by all parties. If the disposition hearing is not held on the same day as the adjudicatory hearing and the child is not in shelter care, the disposition hearing shall be held not later than 30 days after the conclusion of the adjudicatory hearing. If the child is in shelter care, the disposition hearing shall be held no later than 14 days after the conclusion of the adjudicatory hearing, unless shelter care is extended in conformance with Code, Courts Article, §3-8A-15 (d) (6). If shelter care is extended, the disposition hearing

shall be held before expiration of the extended shelter care.

(3) Priorities in Disposition

The priorities in making a disposition shall be consistent with the purposes set forth in Code, Courts Article, §3-8A-02.

(4) Procedure

If a judge conducts the hearing, the judge shall enter a written disposition order and shall either file or announce and dictate into the record (i) a statement of reasons for any order that includes placement of the child outside the child's home, and (ii) a statement of each condition for any probation. If a magistrate conducts the hearing, the proceeding shall be in accordance with Rule 11-103.

(t) Modification or Vacation of Order

The court may modify or vacate an order if the court finds that action to be in the best interest of the child or the public. The provisions of Rule 11-423 (b) (1), (b) (2), (b) (3) (A) and (b) (3) (B) shall apply to a proceeding under this section.

(u) Termination of Jurisdiction

The court may enter a final termination of its jurisdiction in accordance with Rule 11-425.

Source: This Rule is new.



REPORTER'S NOTE

Proposed Rule 11-502 is based on provisions in Code, Courts Article, Title 3, Subtitle 8A governing child in need of supervision (CINS) proceedings.

Section (a) states the applicability of the Rule to CINS proceedings.

Section (b) incorporates the statutory definitions in Code, Courts Article, §3-8A-01 and defines "CINS petition."

Section (c) states that the confidentiality provisions in Code, Courts Article, §3-8A-27 and Title 16, Chapter 900 apply to court records pertaining to a child who is the subject of a CINS petition.

Section (d) incorporates the provisions of proposed Rule 11-404 relating to representation by an attorney. A cross reference to Code, Courts Article, §3-8A-20 (a) follows the section.

Section (e) incorporates the provisions of proposed Rule 11-405 relating to taking a child into custody, except that a child alleged to be in need of supervision may not be placed in detention or community detention.

Section (f) permits a child to be placed in shelter care in accordance with the applicable provisions in Code, Courts Article, §3-8A-15 and proposed Rule 11-406.

Section (g) permits the court to order certain emergency medical treatment in accordance with Code, Courts Article, §3-8A-21 and proposed Rule 11-417.

Section (h) governs the CINS petition and incorporates the provisions of Code, Courts Article, §§3-8A-13 (b), 3-8A-08 (a), and 3-8A-10 regarding the filing of the petition. A Committee note following subsection (h) (3) refers to administrative proceedings and requirements prior to the filing of a CINS petition and the authority of the court to dismiss a petition for failure to comply with the requirements, under certain

circumstances. Subsection (h) (4) governs the form and content of the petition and is modeled after the delinquency petition requirements in proposed Rule 11-407 (c). Subsection (h) (5) specifies the number of copies to be provided to the clerk.

Section (i) governs issuance of summonses and service of the summons and petition. It is copied from proposed Rule 11-407 (e).

Section (j) incorporates the provisions of proposed Rule 11-105 regarding subpoenas.

Section (k) incorporates the provisions of proposed Rule 11-412 regarding the initial appearance hearing.

Section (l) incorporates the provisions of proposed Rule 11-413 regarding a response to the petition.

Section (m) incorporates the provisions of proposed Rule 11-414 regarding amendments.

Section (n) incorporates the provisions of Code, Courts Article, §3-8A-17 regarding study and examination.

Section (o) governs discovery. It is derived from current Rule 11-109. Subsection (o) (1) lists the required disclosures by the petitioner, derived from Rule 11-109 a 3 (a) through (e) with stylistic changes. For good cause shown, the court may require other disclosures and inspections as justice may require. Subsection (o) (2) (A) is derived from current Rule 11-109 a 5 with stylistic changes. Subsection (o) (2) (B) is new. It exempts certain disclosures if the court finds that the disclosure of the information or material is not Constitutionally required and the substantial risk of harm to a person outweighs the interest of disclosure. Subsection (o) (3) is modeled after proposed Rule 11-418 (b), requiring disclosure and inspection to be completed in time to permit its beneficial use at the relevant hearing. Subsection (o) (4) states that disclosures are not to be filed with the court unless otherwise ordered, but may be used at a hearing or as an exhibit to support or oppose a motion. Subsection (o) (5) states that

failure to comply with disclosure obligations does not automatically disqualify a witness from testifying.

Section (p) states that hearings are informal and the general public may be excluded except for individuals having a direct interest in the proceedings and their representatives. A cross reference to Code, Courts Article, §3-8A-13 (f) (1) and (2) follows the section.

Section (q) governs the adjudicatory hearing. Subsection (q) (1) requires the court to hold an adjudicatory hearing and states the purpose of the hearing. Subsection (q) (2) incorporates the timing provisions of proposed Rule 11-421 (b) (1), (2), (3), and (5). Subsection (q) (3) states that the petitioner presents evidence in support of the petition and has the burden to prove the allegations by a preponderance of the evidence.

Section (r) governs the adjudication and adjudicatory order. It is modeled after proposed Rule 11-421 (d).

Section (s) governs the disposition hearing and order. Subsection (s) (1) requires the court to conduct a separate disposition hearing to determine whether the respondent child is in need of supervision. Subsection (s) (2) incorporates the scheduling provisions of proposed Rule 11-422 (b) (2) and (3). Subsection (s) (3) states that the priorities in making a disposition are to be consistent with Code, Courts Article, §3-8A-02. Subsection (s) (4) incorporates the provisions of proposed Rule 11-422 (f), with stylistic changes.

Section (t) permits the court to modify or vacate an order if the court finds that it is in the best interest of the child or the public. Certain provisions of proposed Rule 11-423 apply to a proceeding under this section.

Section (u) incorporates the provisions of proposed Rule 11-425 regarding termination of jurisdiction.

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 500 - OTHER PROCEEDINGS

ADD new Rule 11-503, as follows:

Rule 11-503. VOLUNTARY PLACEMENT

(a) Applicability; Definitions

(1) Applicability

This Rule applies to voluntary placement proceedings under Code, Courts Article, Title 3, Subtitle 8 and Code, Family Law Article, §5-525.

(2) Definitions

In this Rule, the following definitions apply:

(A) Former CINA

"Former CINA" means an individual who (i) has been found to be a CINA, (ii) is now at least 18 years old but under the age of 21 years, and (iii) is subject to the jurisdiction of the court pursuant to Code, Courts Article, §3-804 (a) (2).

(B) Voluntary Placement Agreement

"Voluntary placement agreement" has the meaning stated in Code, Family Law Article, §5-501 (m).

(C) Voluntary Placement Petition

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“Voluntary placement petition” means a petition filed pursuant to this Rule.

(b) Who May File

A voluntary placement petition may be filed only by a local department.

(c) Where Filed

(1) Child under Age 18

The voluntary placement petition for a child under the age of 18 shall be filed in the county where a parent or legal guardian of the child resides.

(2) Former CINA

The voluntary placement petition for a former CINA shall be filed in the county where:

(A) The former CINA's commitment to the local department was rescinded; or

(B) The former CINA receives voluntary placement services.

(3) Transfer

Whenever a voluntary placement petition is filed other than in the county in which the child or the former CINA resides, the court may transfer the case in accordance with Code, Courts Article, §3-805 (b).

Cross reference: See Code, Courts Article, §3-805 (a) (2) concerning venue for filing.

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(d) Caption

The voluntary placement petition shall be captioned  
"Matter of the Voluntary Placement of ....."

(e) Content

(1) Child under Age 18

The voluntary placement petition for a child under the  
age of 18 shall state:

(A) the name and address of the petitioner and the basis  
of the petitioner's authority to file the petition pursuant to  
section (b) of this Rule;

(B) the name, address, and birth date of the child who  
is the subject of the petition;

(C) the name of the person with whom the child is placed  
and the address of the child's out-of-home placement;

(D) the name and address of each parent or guardian of  
the child, if known;

(E) the facts supporting the finding that it is in the  
best interest of the child that the voluntary placement  
continue; and

(F) the name and address of each witness known at the  
time the petition is filed whom the petitioner intends to call  
to testify in support of the petition.

A copy of the voluntary placement agreement shall be

attached to the petition.

(2) Former CINA

The voluntary placement petition for a former CINA shall state:

(A) the name and address of the petitioner and the basis of the petitioner's authority to file the petition pursuant to section (b) of this Rule;

(B) the name, address, and birth date of the former CINA who is the subject of the petition;

(C) that the former CINA's commitment to a local department was rescinded after the individual reached the age of 18 years but before the individual reached the age of 20 years and 6 months;

(D) that the former CINA did not exit foster care due to reunification, adoption, guardianship, marriage, or military duty;

(E) the facts supporting the finding that it is in the best interest of the former CINA that the voluntary placement continue; and

(F) the name and address of each witness known at the time the petition is filed whom the petitioner intends to call to testify in support of the petition.

A copy of the voluntary placement agreement shall be

attached to the petition.

(3) Amendment

With the approval of the court, a voluntary placement petition may be amended at any time prior to the conclusion of the first voluntary placement hearing.

(f) Signature

The voluntary placement petition shall be signed by an attorney for the petitioner.

(g) Summons; Service

(1) Summons

Upon the filing of a petition, the clerk shall issue a summons in accordance with Rule 11-106.

(2) Service

(A) Generally

Service shall be made in accordance with Rule 11-107.

(B) Child under Age 18

The petition for a child under the age of 18 shall be served on the child, the attorney for the child, each living parent, and each guardian.

(C) Former CINA

The petition for a former CINA shall be served on the former CINA and the last attorney of record in the CINA proceeding for the former CINA.



(h) Response

A party served with a petition may file a written response that admits or denies all or any of the facts alleged in the petition. Any allegation not admitted in the response is deemed denied. At any time before disposition, the court, in the interest of justice, may permit an admission in a response to be withdrawn.

(i) Confidentiality of Records

(1) Generally

All court records in a proceeding under this Rule are confidential and may not be disclosed, by subpoena or otherwise, except by order of court on good cause shown, or as permitted by Code, Courts Article, §3-827 or Code, Human Services Article, §1-202.

(2) Sealing

On motion, petition, or on its own initiative, and for good cause shown, the court may order the court records of a child sealed and shall order them sealed after the child has reached 21. If sealed, court records of a child may not be opened, for any purpose, except by order of court for good cause shown.

(j) Representation of Child or Former CINA

(1) Generally

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A child or former CINA who is the subject of a petition for voluntary placement shall be represented by an attorney. The right to an attorney for a child under the age of 18 may not be waived.

(2) Source of Attorney

Unless the court finds that it would not be in the best interests of the child or former CINA, the court (A) shall appoint an attorney with whom the Department of Human Services has contracted to provide that service, and (B) if another attorney has entered an appearance for the child or former CINA, the court shall strike the appearance of that attorney.

(k) Discovery

The court may enter orders pertaining to disclosures as justice may require.

(1) Study; Physical or Mental Examination; Emergency Medical Treatment

(1) Study; Examination

The court may order a study or examination as provided in Code, Courts Article, §3-816.

(2) Emergency Medical Treatment

The court may order emergency medical, dental, surgical, or psychiatric treatment of a child who is the subject of a petition under this Rule as provided in Code, Courts Article,

§3-824 and Rule 11-211.

(m) Hearing

(1) Requirement

Within 30 days after a voluntary placement petition is filed, the court shall hold a voluntary placement hearing and make findings as required by subsection (1)(2). For a child under the age of 18 years, the hearing shall be held prior to the child's 18th birthday.

(2) Findings

(A) Child under Age 18

For a child under the age of 18 years, the court shall make findings as to whether:

(i) continuation of the placement is in the child's best interests; and

(ii) reasonable efforts have been made to reunify the child with the family or to place the child in a timely manner in accordance with the child's permanency plan.

Cross reference: See Code, Family Law Article, §5-525 (b)(1)(i) and (iii) regarding minor children. See Code, Family Law Article, §5-525 (b)(2)(ii), requiring approval of a juvenile court for a continuation beyond 180 days of an out-of-home placement pursuant to a voluntary placement agreement.

(B) Former CINA

For a former CINA, the court shall make findings as to whether a continuation of the voluntary placement is in the best

interest of the former CINA.

Cross reference: See Code, Family Law Article, §5-525 (b)(3) regarding former CINAs.

(3) Review Hearings

The court shall conduct a hearing to review the status of the child as required by Code, Courts Article, §3-816.2.

(n) Disposition

(1) Child under Age 18

Following the hearing for a child under the age of 18 years, the court shall enter an order making a disposition in accordance with Code, Courts Article, §3-819.1 (b).

(2) Former CINA

Following the hearing for a former CINA, the court shall enter an order making a disposition in accordance with Code, Courts Article §3-819.1 (c).

Cross reference: See Code, Courts Article, §3-819.1 concerning voluntary placement hearings.

(o) Modification or Vacation of Order

An order of the court entered in a voluntary placement proceeding may be modified or vacated if the court finds that action to be in the best interest of the child unless a provision in Code, Courts Article, Title 3, Subtitle 8, provides otherwise.

(p) Permanency Plan Hearing

(1) Determination of Permanency Plan

The court shall hold a permanency plan hearing to determine the permanency plan for a child under the age of 18 years no later than 11 months after a child continued in a voluntary placement under Code, Courts Article, §3-819.1 (b) enters an out of home placement. At that hearing, the court shall determine the child's permanency plan in accordance with Code, Courts Article, §3-823 (e), (f), and (g).

(2) Periodic Reviews

(A) Once a permanency plan has been approved pursuant to subsection (p) (1) of this Rule, the court shall hold periodic review hearings at the times set forth in Code, Courts Article, §3-823 (h) (1) to review the current plan.

(B) Notice of the hearing and an opportunity to be heard shall be provided to the parties and other individuals as required by Code, Courts Article, §3-816.3.

Cross reference: See Code, Courts Article, §3-816.3 for notice to the child's foster parent, preadoptive parent, or caregiver.

(C) At the review hearing, the court shall consider any written report of a local out-of-home care review board required under Code, Family Law Article, §5-545 and make the determinations and take the actions required by Code, Courts Article, §3-823 (h) (2).

(D) At least every 12 months, the court, at a review

hearing, shall consult on the record with the child as required by Code, Courts Article, §3-823 (j).

(q) Continuing Jurisdiction

If the court obtains jurisdiction over a child, that jurisdiction continues in that case until the child reaches the age of 21 years, unless the court terminates the case.

Cross reference: See Code, Courts Article, §3-804 (b), providing that jurisdiction over a child in voluntary placement continues until the child is age 21, unless the court terminates the case.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-503 governs voluntary placement proceedings.

Section (a) states the applicability of the Rule and additional definitions that apply to proceedings under the Rule. Subsection (a)(2)(A) defines a former CINA as an individual over the age of 18 years who may be subject to a voluntary placement petition. Voluntary placement agreement has the meaning in Code, Family Law Article, §5-101 (m). Voluntary placement petition means a petition filed under the Rule.

Section (b) states that only the local department may file a voluntary placement petition.

Section (c) incorporates the provisions of Code, Courts Article, §3-805 (a)(2) and (b), with stylistic changes.

Section (d) states the required caption for a petition.

Section (e) is derived in part from Code, Courts Article, §3-811 (a) (2) and states the required contents of a petition. Subsection (e) (1) governs a petition for a child under the age of 18, and subsection (e) (2) governs a petition for a former CINA. A copy of the voluntary placement agreement must be filed with the petition. Subsection (e) (3) permits the petition to be amended with the approval of the court at any time prior to the conclusion of the first hearing.

Section (f) requires the petition to be signed by an attorney for the petitioner.

Section (g) governs issuance of summonses and service of the summons and petition. Subsection (g) (1) requires the clerk to issue a summons in accordance with proposed Rule 11-106. Subsection (g) (2) provides for service in accordance with proposed Rule 11-107. A petition for a child under the age of 18 years is served on the child, the attorney for the child, each living parent, and each guardian. A petition for a former CINA is served on the former CINA and the last attorney of record for the former CINA in the CINA proceeding.

Section (h) permits, but does not require, a party served with a petition to file a written response admitting or denying facts alleged. An allegation not admitted is deemed denied. An admission may be withdrawn with the court's permission.

Section (i) incorporates the provisions of Code, Courts Article, §3-827 regarding confidentiality of records, with stylistic changes.

Section (j) incorporates provisions from proposed Rule 11-207 relating to representation by an attorney. Although Code, Courts Article, §3-813 pertains to representation at State expense of children who are the subject of CINA petitions, the Subcommittee was advised that children in voluntary placement proceedings, including former CINAs, also receive representation from attorneys under contract with the Department of Human Services.

Section (k) states that the court may enter orders pertaining to disclosures as justice requires.

Section (l) permits the court to order a study or examination as provided in Code, Courts Article, §3-816 or emergency medical treatment as provided in Code, Courts Article, §3-824 and proposed Rule 11-211.

Section (m) incorporates the provisions of Code, Courts Article, §3-819.1 (a), with stylistic changes. A cross reference following subsection (m) (2) (A) refers to Code sections in the Family Law Article pertaining to voluntary placements of minor children. A cross reference following subsection (m) (2) (B) refers to a Family Law Article provision relating to former CINAs. Subsection (m) (3) requires review hearings pursuant to Code, Courts Article, §3-816.2.

Section (n) incorporates the provisions of Code, Courts Article, §3-819.1 (b) and (c), with stylistic changes.

Section (o) permits an order of the court entered in a proceeding to be modified or vacated if it is in the best interest of the child and not contrary to a provision in Code, Courts Article, Title 3, Subtitle 8.

Section (p) incorporates the provisions of Code, Courts Article, §3-823. A cross reference following subsection (p) (2) (B) refers to required notice to individuals other than the parties.

Section (q) incorporates the provisions of Code, Courts Article, §3-804 (b) relating to continuing jurisdiction over a child. A cross reference to the Code follows the section.



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CHAPTER 500 - OTHER PROCEEDINGS

ADD new Rule 11-504, as follows:

Rule 11-504. TRUANCY REDUCTION PILOT PROGRAM

(a) Applicability

This Rule governs truancy reduction pilot program proceedings under Code, Courts Article, Title 3, Subtitle 8C.

(b) Definition

In this Rule, "truancy petition" means the pleading filed with the court under Code, Courts Article, §3-8C-04 alleging a violation of Code, Courts Article, §3-8C-03.

(c) Confidentiality of Records

The confidentiality provisions stated in Code, Courts Article, §3-8A-27 and Title 16, Chapter 900 of the Maryland Rules apply to court records pertaining to a child who is or was the subject of a proceeding under this Rule.

(d) Truancy Petition

(1) Who May File

An authorized school official designated pursuant to an agreement between the court and the local school system may file

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a petition in the juvenile court alleging a violation of Code, Courts Article, §3-8C-03.

Cross reference: See Code, Courts Article, §3-8C-04, providing that an authorized school official may file a petition alleging a violation of Subtitle 8C.

(2) Where Filed

The truancy petition shall be filed in the county in which the child is living or domiciled, and which has a Truancy Reduction Pilot Program established pursuant to Code, Courts Article, Title 3, Subtitle 8C.

(3) Content

The petition shall allege that the child is required to attend school and has failed to do so without lawful excuse and shall set forth in clear and simple language the facts supporting that allegation.

(e) Summons; Service

Unless the court orders otherwise, the clerk, upon the filing of the petition, promptly shall issue a summons, substantially in the form approved by the State Court Administrator, for the child, the child's parents, and the petitioner. The summons, together with a copy of the petition, shall be served in accordance with Rule 11-107 and shall be returnable as provided in Rule 2-126.

(f) Response to Petition

A party served with the petition may file a response that admits or denies all or any facts alleged in the petition. A response shall be in writing and shall be filed within 15 days after service of the petition. Any allegation not admitted in a written response is deemed denied.

(g) Transfer of Proceeding

If the petition is filed in a county other than the county where the child is living or domiciled, the court, on motion of a party or on its own initiative, promptly may transfer the proceeding to the county where the child lives or is domiciled, and which has a Truancy Reduction Pilot Program established pursuant to Code, Courts Article, Title 3, Subtitle 8C, at any time prior to final termination of its jurisdiction. Every document, social history, and record on file with the clerk pertaining to the case shall accompany the transfer. The court to which the case is transferred may take further action.

(h) Subpoena

The clerk shall issue a subpoena for each witness requested by a party pursuant to Rule 11-105.

(i) Adjudicatory Hearing

(1) Requirement; Purpose

After a petition has been filed, the court shall hold an adjudicatory hearing to determine whether the facts alleged in

the petition are true.

Cross reference: See Code, Courts Article, §3-8A-13 (f) for the guidelines for determining who may or shall be excluded from a proceeding under this Rule.

(2) Burden of Proof

The petitioner has the burden of proving the allegations of the petition by a preponderance of the evidence.

(j) Disposition Hearing

(1) Requirement

Upon a finding that the allegations of the petition have been sustained, the court shall hold a separate disposition hearing.

(2) When Held

The court shall hold the disposition hearing on the same day as the adjudicatory hearing unless, on motion of a party or the court's own initiative, the court finds good cause to delay the disposition hearing. If the disposition hearing is delayed, it shall be held within 15 days after the conclusion of the adjudicatory hearing unless good cause is shown for a further delay.

Cross reference: See Code, Courts Article, §3-8C-06 (a) through (c) concerning the disposition hearing.

(k) Permitted Dispositions

The court may order the child to:

(1) attend school;

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- (2) perform community service;
- (3) attend counseling, including family counseling;
- (4) attend substance abuse evaluation and treatment;
- (5) attend mental health evaluation and treatment; or
- (6) keep a curfew with the hours set by the court.

Cross reference: See Code, Courts Article, §3-8C-06 (d) concerning disposition orders.

(1) Retention of Jurisdiction

The court shall retain jurisdiction until every condition of the court's order is satisfied.

Committee note: Jurisdiction under this Rule terminates when a child is no longer required to attend school pursuant to Code, Education Article, §7-301.

Cross reference: See Code, Courts Article, §3-8C-10 concerning retention of jurisdiction.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-504 governs Truancy Reduction Pilot Program proceedings under Code, Courts Article, Title 3, Subtitle 8C.

Section (a) states the applicability of the Rule.

Section (b) defines "truancy petition" as the pleading filed with the court under Code, Courts Article, §3-8C-04 alleging a violation of Code, Courts Article, §3-8C-03.

Section (c) states that the confidentiality provisions in Code, Courts Article, §3-8A-27 and Title 16, Chapter 900 of the Rules apply to court records pertaining to a child who is or was the subject of a proceeding under this Rule.

Section (d) governs the truancy petition and incorporates the provisions of various Code sections. Subsection (d)(1) is based on Code, Courts Article, §3-8C-04, and a cross reference to that Code section follows the subsection. Subsection (d)(2) states the venue for a petition. Subsection (d)(3) is based on Code, Courts Article, §3-8C-05 (a).

Section (e) provides that, unless the court orders otherwise, the clerk issues a summons upon the filing of the petition. The summons must be in the form approved by the State Court Administrator. The summons and petition are served on the child, the child's parents, and the petitioner accordance with proposed Rule 11-107 and returnable as provided in Rule 2-126.

Section (f) permits, but does not require, a party served with a petition to file a response that admits or denies all or any facts alleged. The response must be in writing and filed within 15 days after service of the petition. Any allegation not admitted is deemed denied.

Section (g), pertaining to transfer of the proceeding, incorporates the provisions of Code, Courts Article, §3-8C-08, with stylistic changes.

Section (h) states that proposed Rule 11-105 governs subpoenas.

Section (i) incorporates the provides of Code, Courts Article, §3-8C-05 (b), with stylistic changes. A cross reference to Code, Courts Article, §3-8A-13 (f), which addresses exclusion from a proceeding, follows subsection (i)(1). Subsection (i)(2) states the burden of proof.

Section (j) incorporates the provisions of Code, Courts Article, §3-8C-06 (a) through (c), with stylistic changes. A cross reference to those sections of the Code follows the section.

Section (k) incorporates the provisions of Code, Courts Article, §3-8C-06 (d), with stylistic changes. A cross reference to the Code section follows the section.

Section (l) incorporates the provisions of Code, Courts Article, §3-8C-10, with stylistic changes. A Committee note states that jurisdiction terminates when a child is no longer required to attend school. A cross reference to the Code section follows section (l).

MARYLAND RULES OF PROCEDURE  
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CHAPTER 500 - OTHER PROCEEDINGS

ADD new Rule 11-505, as follows:

Rule 11-505. PEACE ORDER PROCEEDINGS

(a) Applicability

This Rule applies to proceedings authorized under and governed by Code, Courts Article, §§3-8A-19.1 through 3-8A-19.5. Unless specifically incorporated in this Rule, the procedures set forth in code, Courts Article, Title 3, Subtitle 15 and Rule 3-731 are not applicable.

Cross reference: See Code, Courts Article, §3-1502 (b).

(b) Definition

In this Rule, "victim" means an individual against whom an act set forth in Code, Courts Article, §3-8A-19.1 (b) was committed or is alleged to have been committed.

(c) Confidentiality of Records

The confidentiality provisions stated in Code, Courts Article, §3-8A-27 and Title 16, Chapter 900 of the Maryland Rules apply to court records pertaining to a child who is or was the subject of a proceeding under this Rule.

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(d) Request for Peace Order

(1) Who May File

A request for a peace order may be filed by a Department of Juvenile Services intake officer pursuant to Code, Courts Article, §3-8A-19.1 (b) (1) or a State's Attorney pursuant to §3-8A-19.1 (b) (2).

(2) Where Filed

A request shall be filed in the county where the alleged act occurred subject to transfer as provided in Code, Courts Article, §3-8A-09.

Cross reference: See Code, Courts Article, §3-8A-08 (c).

(3) Content

The request shall allege that the child committed one or more of the acts set forth in Code, Courts Article, §3-8A-19.1 (b) against a victim within 30 days before the filing of the request.

(4) Summons; Service

Upon the filing of a request, the clerk shall issue a summons for the child, the parent, guardian, or custodian of the child, and the victim to appear for a hearing at the time and place stated in the summons. The request and summons shall be served on the child and the parent, guardian, or custodian of the child pursuant to Rule 2-121 or by certified mail and first-

class mail, restricted delivery. The summons shall be served on the victim.

(e) Right to Hearing

The child has a right to be heard on the question of whether a peace order should be issued.

(f) Issuance of Peace Order

(1) Findings

The court may issue a peace order if:

(A) The court finds by clear and convincing evidence that the child has committed and is likely in the future to commit an act set forth in Code, Courts Article, §3-8A-19.1 (b) against the victim; or

(B) the child consents to the issuance of the peace order.

(2) Order by Magistrate

Relief pursuant to this Rule may be ordered by a magistrate subject to review by a judge upon request. A request for review shall be made within two days.

(g) Forms of Relief

(1) Generally

A peace order may contain any of the relief set forth in Code, Courts Article, §3-8A-19.2 (c) (1).

(2) Limitations

(A) The order shall contain only the relief that is

minimally necessary to protect the victim.

(B) Relief granted in the peace order shall be effective for the period stated in the order, not to exceed six months.

(h) Service of Peace Order

A copy of the peace order shall be served on the victim, the child, the child's parent, guardian, or custodian, the appropriate law enforcement agency, and any other person directed by the court. If the person to be served is present at a hearing, the order shall be served at that time. Otherwise, the order shall be served by first class mail to the person's last known address.

(i) Modification; Rescission

After giving notice to the victim and the child, and conducting a hearing, the court may modify or rescind the peace order during the term of the order.

Cross reference: See Code, Court's Article, §3-8A-19.5 regarding violations of a peace order.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-505 governs peace order proceedings against a juvenile under Code, Courts Article, §§3-8A-19.1 through 3-8A-19.5.

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Section (a) states the applicability of the Rule and specifies that the procedures set forth in Code sections and the Maryland Rules governing peace orders against an adult do not apply unless specifically incorporated. A cross reference to Code, Courts Article, §1502 (b) follows the section.

Section (b) incorporates the definition of "victim" from Code, Courts Article, §3-8A-19.1 (a).

Section (c) states that the confidentiality provisions in Code, Courts Article, §3-8A-27 and Title 16, Chapter 900 of the Rules apply to court records pertaining to a child who was or is the subject of a proceeding under the Rule.

Subsection (d)(1) states that a request for a peace order may be filed by an intake officer or a State's Attorney pursuant to Code, Courts Article, §3-8A-19.1 (b). Subsection (d)(2) incorporates the provisions of Code, Courts Article, §3-8A-08 (c), with stylistic changes. Subsection (d)(3) provides that the request must allege that the child committed one or more of the acts listed in Code, Courts Article, §3-8A-19.1 (b) against a victim within 30 days before the filing of the request. Subsection (d)(4) requires a summons to be issued for the child, the parent, guardian, or custodian of the child, and the victim. The peace order request and summons are served on the child and the parent, guardian, or custodian of the child pursuant to Rule 2-121 or by certified mail and first-class mail. The summons is served on the victim.

Section (e) incorporates the provisions of Code, Courts Article, §3-8A-19.2 (b)(1), with stylistic changes.

Section (f) incorporates the provisions of Code, Courts Article, §3-8A-19.2 (b)(2). Subsection (f)(2) provides that relief may be granted by a magistrate subject to review by a judge. Any request for review must be made within two days after entry of the order.

Section (g) incorporates the provisions of Code, Courts Article, §3-8A-19.2 (c), with stylistic changes.

Section (h) incorporates the provisions of Code, Courts Article, §3-8A-19.3, with stylistic changes.

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Section (i) incorporates the provisions of Code, Courts Article, §3-8A-19.4, with stylistic changes. A cross reference to the Code section governing violations of a peace order follows the section.

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CHAPTER 500 - OTHER PROCEEDINGS

Add Rule 11-506, as follows:

RULE 11-506. EXPUNGEMENT

(a) Applicability

This Rule applies to petitions for expungement of juvenile records under Code, Courts Article, §3-8A-27.1.

(b) Definitions

In this Rule, the following definitions apply:

(1) Expungement

"Expungement" means the removal of court or police records from public inspection:

(A) by obliteration;

(B) by removal to a separate secure area to which the public and other persons having no legitimate reason for being there are denied access; or

(C) if access to a court or police record can be obtained only by reference to another court or police record, by the expungement of that record or the part of that record providing

the access.

(2) Juvenile Record

“Juvenile record” means a court or police record concerning a child alleged or adjudicated delinquent or in need of supervision or who has received a citation for a violation. A juvenile record does not include records maintained under Code, Criminal Procedure Article, Title 11, Subtitle 7 or by a law enforcement agency for the sole purpose of collecting statistical information concerning juvenile delinquency and that do not contain any information that would reveal the identity of a person.

(3) Petition

“Petition” means a petition for expungement of juvenile records in accordance with this Rule.

(4) Petitioner

“Petitioner” means the person who files a petition in accordance with this Rule.

(5) Victim

“Victim” means a person against whom a delinquent act has been committed or attempted.

Cross reference: See Code, Courts Article, §3-8A-01 for other definitions.

(c) Venue

A petition shall be filed in the court in which the

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juvenile petition or citation was filed, except that, if the case was transferred, the petition shall be filed in the court to which the case was transferred.

(d) Service

The clerk shall have a copy of the petition served by mail or delivered to:

(1) all listed victims in the case in which the petitioner is seeking expungement at the address listed in the court file in that case;

(2) all family members of a victim listed in subsection (d)(1) of this Rule, who are listed in the court file as having attended the adjudication for the case in which the petitioner is seeking expungement; and

(3) the State's Attorney.

(e) Content

The petition shall be substantially in the form set forth in Form 11-506.1.

(f) Objection

A person entitled to service pursuant to section (d) of this Rule may file an objection to the petition.

(g) Hearing

(1) On Own Initiative

The court may hold a hearing on its own initiative,



whether or not an objection is filed.

(2) If Objection Filed

Except as provided in subsection (g) (4) of this Rule, the court shall hold a hearing if an objection is filed within 30 days after the petition is served.

(3) If No Objection Filed

The court may grant the petition without a hearing if no timely objection is filed.

(4) Facially Deficient Petition

The court may deny the petition without a hearing if the court finds that the petition, on its face, fails to meet the requirements of Code, Courts Article, §3-8A-27.1 (c).

(h) Grant or Denial of Petition Following a Hearing

(1) Expungement Granted

If, after a hearing, applying the standards and conditions set forth in Code, Courts Article, §3-8A-27.1 (c) and (d), the court finds that the petitioner is entitled to expungement, it shall grant the petition and order the expungement of all court and police records relating to the delinquency or the child in need of supervision petition, or citation. An order for expungement shall be substantially in the form set forth in Form 11-506.2.

(2) Expungement Denied

If, after a hearing, applying the standards and conditions set forth in Code, Courts Article, §3-8A-27.1 (c) and (d), the court finds that the petitioner is not entitled to expungement, it shall deny the petition.

(i) Service of Order and Compliance Form

Upon entry of a court order granting or denying expungement, the clerk shall serve a copy of the order and any stay of the order pending an appeal on all parties to the proceeding. Upon entry of an order granting expungement, the clerk shall serve on the custodian of juvenile records, a true copy of the order and a blank form of the Certificate of Compliance set forth in Form 11-506.3.

(j) Appeal

The petitioner or the State's Attorney may appeal an order granting or denying the petition within 30 days after entry of the order by filing a notice of appeal with the clerk of the court from which the appeal is taken and by serving a copy on the opposing parties or attorneys.

Cross reference: A victim may appeal to the Court of Special Appeals from a final order that denies or fails to consider a right secured to the victim by law. See Code, Criminal Procedure Article, §11-103.

(k) Stay Pending Appeal

(1) Entry

If the court, over the objection of the State's

Attorney, enters an order granting expungement, the order is stayed for 30 days after entry and thereafter if a timely notice of appeal is filed, pending the disposition of the appeal and further order of court.

(2) Lifting

The court shall lift a stay upon disposition of any appeal or, if no notice of appeal was timely filed, upon expiration of the time prescribed for filing a notice of appeal. If an order for expungement has been stayed and no appeal is pending, the stay may be lifted upon written consent of the State's Attorney.

(3) Notice

Promptly upon the lifting of a stay, the clerk shall send notice of the lifting of the stay to the parties and to the custodian of records, including the Central Repository, to which an order for expungement and a compliance form are required to be sent pursuant to section (i) of this Rule.

(1) Advice of Compliance

Unless an order is stayed pending an appeal, each custodian of juvenile records subject to the order of expungement shall advise, in writing, the court, the petitioner, and all parties to the petition for expungement proceeding of compliance with the order within 60 days after entry of the

order.

Source: This Rule is derived from former Rule 11-601.

REPORTER'S NOTE

Proposed Rule 11-506 governs expungement of juvenile records. It is derived from current Rule 11-601 and Code, Courts Article, §3-8A-27.1. References to forms for juvenile expungement are updated throughout the Rule.

Sections (a) and (b) carry forward current Rule 11-601 (a) and (b), respectively.

Section (c) is based on current Rule 11-601 (c) with the addition of a provision for the situations in which a case was transferred after filing.

Sections (d), (e), (f), and (g) carry forward current Rule 11-601 (d), (e), (f), and (g), respectively.

Section (h) incorporates the provisions of current Rule 11-601 (h) with the addition of references to the specific statutory provisions.

Sections (i), (j), (k), and (l) carry forward current Rule 11-601 (i), (j), (k), and (l), respectively.

MARYLAND RULES OF PROCEDURE  
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CHAPTER 500 - OTHER PROCEEDINGS

ADD new Rule 11-507, as follows:

Rule 11-507. ADULT CHARGED WITH CONTRIBUTING; SCHOOL ATTENDANCE VIOLATIONS

(a) Applicability

This Rule applies to proceedings in which an adult has been charged under Code, Courts Article, §3-828 or §3-8A-30 with willfully contributing to, encouraging, causing, or tending to cause any act, omission, or condition that renders a child in need of assistance, in need of supervision, or delinquent and proceedings in which an adult has been charged under Code, Education Article, §7-301, for a violation of the compulsory school attendance laws.

Committee note: The court has concurrent jurisdiction with the District Court and the criminal division of the circuit court over adults charged under Code, Courts Article, §§3-828 and 3-8A-30. See Code, Courts Article, §§3-803 (c) and 3-8A-03 (b). The court has concurrent jurisdiction with the District Court over violations arising under Code, Education Article, §7-301. See Code, Courts Article, §3-8A-03 (c) and Code, Courts Article, §4-302 (c).

(b) Definitions

(1) Statutory Definitions

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The definitions stated in Code, Courts Article, §§3-801 and 3-8A-01 apply to this Rule, to the extent relevant.

(2) Defendant

In this Rule, "defendant" means the adult charged under Code, Courts Article, §3-828 or §3-8A-30, or Code, Education Article, §7-301.

(c) Confidentiality of Records

The confidentiality provisions contained in Code, Courts Article, Title 3, Subtitles 8 and 8A do not apply to records pertaining to an adult charged under Code, Courts Article, §3-828 or §3-8A-30. Provisions relating to the confidentiality of records pertaining to a child shall apply.

Cross reference: See Code, Courts Article, §§3-827 and 3-8A-27.

(d) Counsel

An adult charged under Code, Courts Article, §3-828 or §3-8A-30 or Code, Education Article, §7-301 is entitled to be represented by counsel at every stage of all proceedings under this Rule. Absent a waiver in accordance with Rule 4-215, an indigent defendant shall be represented by the Office of the Public Defender.

(e) Pretrial Release

If the defendant was arrested, the defendant shall be presented to a judicial officer in accordance with Rules 4-213,

4-216, 4-216.1, 4-216.2, 4-216.3, and 4-217.

(f) Petition

(1) Charging Document

A charge against an adult pursuant to Code, Courts Article, §3-828 or §3-8A-30 or Code, Education Article, §7-301 shall be made by a petition which, for the purposes of this Rule, constitutes a charging document. The petition shall be prepared and filed by the State's Attorney.

Cross reference: See Code, Courts Article, §3-8A-13 (b) and Rule 4-102 (a).

(2) Caption

The petition shall be captioned "In re (first name and last name of the defendant)."

(3) Where Filed

The petition shall be filed in the county where the alleged conduct occurred.

Cross reference: See Code, Courts Article, §§3-8A-08 (b) and 3-8A-09 regarding venue and transfer for a petition alleging a violation of Code, Courts Article, §3-8A-30.

(4) Form and Content

(A) Generally

The petition shall be labeled a petition but shall otherwise be in the form and contain the specificity of a charging document. The petition shall contain the notice required by Rule 4-202 (a).

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(B) Adult Charged with Contributing

A petition alleging an adult willfully contributed to, encouraged, caused, or tended to cause any act, omission, or condition that renders a child in need of assistance, in need of supervision, or delinquent shall advise the defendant that (i) the defendant has the right to have the charge tried in either the District Court or the criminal division of the circuit court by filing a motion in the juvenile court asking that court to waive its jurisdiction and transfer the action and (ii) the defendant has a right to have the action tried before a jury, and, to exercise that right, the defendant must file a motion pursuant to section (h) of this Rule asking that the action be transferred to the criminal division of the circuit court for a jury trial.

(C) Compulsory School Attendance

A petition alleging an adult violated a provision of Code, Education Article, §7-301 shall state that the defendant has the right to have the charge tried in the District Court by filing a motion in the juvenile court asking that court to waive its jurisdiction and transfer the action.

(5) Service

A copy of the petition shall be served on the defendant in accordance with Rule 4-212, and any summons shall be issued



in accordance with subsection (b) (2) of that Rule.

(g) Preliminary Hearing

(1) Generally

No later than 15 days after service of the petition, the court shall schedule a preliminary hearing.

(2) Purpose of Hearing

The purpose of the hearing is:

(A) if an attorney has not entered an appearance for the defendant, to comply with Rule 4-215; and

(B) to consider any other preliminary matter that may properly be considered at that time, including advice to the defendant (i) of the right to request a waiver of the court's jurisdiction and transfer of the action to the District Court or the criminal division of the circuit court, as permitted by law, and (ii) if the defendant is charged with a violation of Code, Courts Article, §3-828 or §3-8A-30, of the right to a jury trial, which may be implemented by requesting a waiver of the court's jurisdiction and transfer of the action to the criminal division of the circuit court pursuant to section (h) of this Rule.

(h) Waiver of Jurisdiction

(1) Transfer on Motion

The court shall waive its jurisdiction and transfer the

action to the District Court or the criminal division of the circuit court, as permitted by law, on motion of the State's Attorney or the defendant made on the record at a hearing held pursuant to section (g) of this Rule or filed in writing no later than 30 days prior to the first scheduled trial date. If the defendant files a motion requesting a transfer permitted by law and the State's Attorney files a motion that differs on the choice of transferee court, the State's Attorney's motion shall be denied and the defendant's motion shall be granted.

(2) Court-Initiated Transfer

For a defendant charged with a violation of Code, Courts Article, §3-828 or §3-8A-30:

(A) Other Charges Pending

The court may waive its jurisdiction on its own initiative within the time period specified in subsection (h)(1) if other charges arising from the same incident are pending against the adult in the District Court or the criminal division of the circuit court. The court shall transfer the action to the court where the other charges are pending.

(B) Jury Trial Right

If a defendant fails to file a motion during the time period specified in subsection (h)(1), a judge of the court, on the record, shall conduct a hearing, at which the defendant

shall be present. At the hearing, the court shall advise the defendant that (i) the defendant has a right to a jury trial, (ii) if the defendant requests a jury trial, the court must grant the request, and (iii) failure to make such a request will constitute a waiver of the right to a jury trial. Unless, after conducting the inquiry required by Rule 4-246 (b), the court determines that the defendant has knowingly and voluntarily waived the right to a jury trial, the court shall transfer the action to the criminal division of the circuit court on its own initiative.

(i) Bill of Particulars

The defendant may file a demand for a bill of particulars in accordance with Rule 4-241.

(j) Plea

The defendant shall enter a plea in accordance with Rule 4-242. An initial plea shall be entered within 15 days after the appearance of an attorney has been entered or a finding by the court that the defendant has waived the right to counsel pursuant to Rule 4-215. If the defendant fails to enter a plea within the time allowed, the court shall enter a plea of not guilty for the defendant.

(k) Discovery

The parties are entitled to discovery in accordance with

Rule 4-262.

(1) Trial

An action under this Rule shall be tried before a judge under procedures applicable to the trial of a criminal action in the District Court. The State has the burden of proving guilt beyond a reasonable doubt.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-507 is new and governs proceedings against an adult in juvenile court.

Section (a) states that the Rule applies to proceedings where an adult is charged with contributing to a child being in need of assistance or supervision or being delinquent as well as violations of the school attendance laws. A Committee note following section (a) identifies the statutes granting concurrent jurisdiction to the juvenile court.

Section (b) states the definitions that apply in proceedings under this Rule. Statutory definitions in Code, Courts Article, §§3-801 and 3-8A-01 apply to the extent relevant. "Defendant" means the adult charged.

Section (c) states that confidentiality provisions in Code, Courts Article, Title 3, Subtitles 8 and 8A do not apply to records pertaining to an adult but do apply to records pertaining to a child.

Section (d) states that a defendant is entitled to representation by counsel. An indigent defendant is entitled to representation by the Office of the Public Defender.

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Section (e) requires the defendant to be presented to a judicial officer in accordance with relevant Title 4 Rules after arrest.

Section (f) governs the petition. Subsection (f)(1) states that the petition constitutes a charging document and must be prepared and filed by the State's Attorney. A cross reference to Code, Courts Article, §3-8A-13 and Rule 4-102 (a) follows the subsection. Subsection (a)(2) provides that the caption for the petition is "In re" and the first and last name of the defendant. Subsection (f)(3) requires the petition to be filed in the county where the alleged conduct occurred but permits transfer to the county where the child resides or is domiciled. A cross reference to Code, Courts Article, §§3-8A-08 (b) and 3-8A-09 follows the subsection. Subsection (f)(4) states the required content of a petition, which must be in the form of a charging document and contain the notice required by Rule 4-202 (a). Subsection (f)(4) requires notice to the defendant of the defendant's right to have the charge tried in the District Court or the criminal division of the circuit court, as permitted by law. Subsection (f)(4)(B) requires notice of the right to a jury trial, which can occur only in circuit court. Subsection (f)(5) requires the petition to be served on the defendant and a summons to be issued in accordance with Rule 4-212.

Section (g) establishes a preliminary hearing for the purposes of informing the defendant of the right to an attorney and the right to have the action transferred to the District Court or the criminal division of the circuit court, as permitted by law. The hearing must occur no later than 15 days after the service of the petition.

Section (h) describes the process for waiver of the juvenile court's jurisdiction and the transfer of the action.

Subsection (h)(1) pertains to transfer on motion of a party. It states that the court shall waive its jurisdiction on motion of either the State or the defendant. Mandatory transfer on motion of either the State or the defendant is required by Code, Courts Article, §§3-803 (c) and 3-8A-03 (b). The motion may be made on the record at the preliminary hearing or in writing no later than 30 days prior to the first scheduled trial

date. In cases where the District Court and the criminal division of the circuit court have concurrent jurisdiction, and the State and defendant differ on the choice of transferee court, the Rule provides that the defendant's choice prevails.

Subsection (h) (2) pertains to court-initiated transfers that may be made when a defendant is charged with contributing to a child being CINA, CINS, or delinquent. Pursuant to subsection (h) (2) (A), the juvenile court may waive its jurisdiction on its own initiative if other charges relating to the incident are pending in the District Court or the criminal division of the circuit court and transfer the matter to that court. Additionally, if the defendant is charged with a violation of Code, Courts Article, §§3-828 or 3-8A-30 and did not file a waiver motion in the specified time, subsection (h) (2) (B) requires the court to hold a hearing at which it informs the defendant of the right to a jury trial, the right to file a request for a jury trial, which the court must grant, and that failure to make the request will constitute a waiver of the right to a jury trial. Unless, using the inquiry required by Rule 4-246 (b), the juvenile court determines that the defendant is making a knowing and voluntary waiver of the right to a jury trial, the court must transfer the matter to the criminal division of the circuit court for a jury trial.

Section (i) permits the defendant to file a demand for a bill of particulars in accordance with Rule 4-241.

Section (j) requires the defendant to enter a plea in accordance with Rule 4-242. The initial plea must be entered within 15 days after the appearance of an attorney or a finding that the defendant has waived the right to counsel. If the defendant fails to enter a plea, the court will enter a plea of not guilty.

Section (k) states that discovery is governed by Rule 4-262.

Section (l) provides that a trial must be conducted by a judge under procedures that apply to a District Court criminal action. The State has the burden of proving guilt beyond a reasonable doubt.

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 500 - OTHER PROCEEDINGS

ADD new Form 11-506.1, as follows:

Form 11-506.1. PETITION FOR EXPUNGEMENT OF JUVENILE RECORDS

(Caption)

PETITION FOR EXPUNGEMENT OF JUVENILE RECORDS  
(Code, Courts Article, §3-8A-27.1)

1. (Check one of the following boxes) On or about

\_\_\_\_\_, I was [ ] arrested or [ ] served  
(Date)

with a citation by an officer of the \_\_\_\_\_  
(Law Enforcement Agency)

at \_\_\_\_\_, Maryland, as a  
result of the following incident \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. I was charged with the offense of \_\_\_\_\_  
\_\_\_\_\_.

3. On or about \_\_\_\_\_, the charge was  
(Date)

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disposed of as follows (check one of the following boxes):

- a.  The State's Attorney entered a nolle prosequi.
- b.  The delinquency or Child in Need of Supervision petition or the citation was dismissed.
- c.  The court, in an adjudicatory hearing, did not find that the allegations in the delinquency or Child in Need of Supervision petition or citation were true.
- d.  The adjudicatory hearing was not held within two years after the delinquency or Child in Need of Supervision petition or citation was filed.
- e.  The court, in a disposition hearing, found that I did not require guidance, treatment, or rehabilitation.
- f.  The court, in a disposition hearing, found that I did require guidance, treatment, or rehabilitation.

4. Each of the following statements are true (check each true statement):

- a.  I am at least 18 years old.
- b.  At least two years have elapsed since the last official action in my juvenile record.
- c.  I have never been adjudicated delinquent, or, I was only adjudicated delinquent one time.
- d.  I have not subsequently been convicted of any offense.
- e.  No delinquency petition or criminal charge is pending



against me.

- f. [ ] I have not been adjudicated delinquent for an offense that, if committed by an adult, would constitute: a crime of violence (as defined in Code, Criminal Law Article, §14-101); a violation of Code, Criminal Law Article, §3-308; or a felony.
- g. [ ] I have not been required to register as a sex offender under Code, Criminal Procedure Article, §11-704.
- h. [ ] I have not been adjudicated delinquent for an offense involving the use of a firearm, (as defined in Code, Public Safety Article, §5-101) in the commission of a crime of violence (as defined in Code, Criminal Law Article, §14-101).
- i. [ ] I have fully paid any monetary restitution ordered by the court in the delinquency proceeding.
- j. [ ] I understand that the court shall consider my best interests, my stability in the community, and the safety of the public in its consideration of this petition.

WHEREFORE, I request the court to enter an Order for Expungement of my juvenile record pertaining to the above action.

I solemnly affirm under the penalties of perjury that the

contents of this petition are true to the best of my knowledge,  
information, and belief.

_____	_____
(Date)	(Signature)
	_____
	(Address)
	_____
	_____
	(Telephone No.)

REPORTER'S NOTE

Proposed form 11-506.1 carries forward the provisions of  
current Form 11-601.

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 500 - OTHER PROCEEDINGS

ADD new Form 11-506.2, as follows:

Form 11-506.2. ORDER FOR EXPUNGEMENT OF JUVENILE RECORDS

(Caption)

ORDER FOR EXPUNGEMENT OF JUVENILE RECORDS

Having found that \_\_\_\_\_  
(Name)

of \_\_\_\_\_  
(Address)

is entitled to expungement of the juvenile records and the court records in this action, it is by the \_\_\_\_\_

Court for \_\_\_\_\_

City/County, Maryland, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(Month) (Year)

ORDERED that the clerk forthwith shall have a copy of this Order served by certified mail on or delivered to all listed victims in the case in which the person is seeking expungement; and it is further

ORDERED that the clerk forthwith shall have a copy of this Order served by certified mail on or delivered to all family

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members of the victim, who are designated in the court file as having attended the adjudication for the case in which the person is seeking expungement; and it is further

ORDERED that the clerk forthwith shall have a copy of this Order served by certified mail on or delivered to the State's Attorney; and it is further

ORDERED that within 60 days after the entry of this Order or, if this Order is stayed, 30 days after the stay is lifted, the clerk and the following custodians of court and police records relating to the delinquency or Child in Need of Supervision petition or citation shall (1) expunge all court and police records relating to the delinquency or Child in Need of Supervision petition, or citation in their custody, (2) file an executed Certificate of Compliance, and (3) serve a copy of the Certificate of Compliance on the petitioner; and it is further

ORDERED that the clerk and other custodians of records forthwith upon receipt of this Order, if it is not stayed, or the stay has been lifted, shall expunge and remove the records from public inspection; and it is further

ORDERED that this Order

[ ] is stayed pending further order of the court.

[ ] is not stayed.

(Custodian)	(Address)
Date	Judge

NOTICE TO PETITIONER: Until a custodian of records has received a copy of this Order AND filed a Certificate of Compliance, expungement of the records in the custody of that custodian is not complete and may not be relied upon.

REPORTER'S NOTE

Proposed form 11-506.2 carries forward the provisions of current Form 11-602.

MARYLAND RULES OF PROCEDURE  
TITLE 11 - JUVENILE CAUSES  
CHAPTER 500 - OTHER PROCEEDINGS

ADD new Form 11-506.3, as follows:

Form 11-506.3. CERTIFICATE OF COMPLIANCE

(CAPTION)

CERTIFICATE OF COMPLIANCE

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I have  
(Month) (Year)  
complied with the Order for Expungement of Records dated  
\_\_\_\_\_ entered in the above-captioned case.

\_\_\_\_\_  
Custodian

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

REPORTER'S NOTE

Proposed form 11-506.3 carries forward the provisions of current Form 11-603.

# AGENDA ITEM 4



MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-101 by altering the reference to Title 11 causes to include new Chapters 100, 200, 400, and 500; by altering the applicability of Title 9 in section (i) to reference Code, Family Law Article, Title 5, Subtitle 3, Parts III, IV, V, and VI; and by altering the applicability of Title 11 in section (k) to include truancy proceedings and proceedings against an adult in juvenile court, as follows:

Rule 1-101. APPLICABILITY

. . .

(b) Title 2

Title 2 applies to civil matters in the circuit courts, except for Juvenile Causes under Title 11, Chapters 100, 200, 400, and 500 of these Rules and except as otherwise specifically provided or necessarily implied.

. . .

(i) Title 9

Title 9 applies to proceedings under Code, Family Law Article, Title 5, Subtitles ~~3 (Guardianship to and Adoption through Local Department)~~, 3A (Private Agency Guardianship and Title 11 - conforming amendments For 6/17/21 R.C.

Adoption) ~~7~~ and 3B (Independent Adoption); proceedings under Code, Family Law Article, Subtitle 3, Parts III, IV, V, and VI (Adoption without Prior Termination of Parental Rights, Adoption after Termination of Parental Rights, Access to Records, and Prohibited Acts); proceedings for termination of parental rights under Code, Family Law Article, Title 5, Subtitle 14; proceedings relating to divorce, annulment, alimony, child support, and child custody and visitation; and proceedings under Code, Family Law Article, Title 4, Subtitle 5 (Domestic Violence).

. . .

(k) Title 11

Title 11 applies to juvenile causes and expungement of juvenile records under Code, Courts Article, Title 3, Subtitles 8, ~~and 8A~~, and 8C; public agency guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II ; and criminal proceedings against an adult under Code, Courts Article, §§3-828 and 3-8A-30 and Code, Education Article, §7-301.

. . .

REPORTER'S NOTE

Proposed conforming amendments to Rule 1-101 reflect the Juvenile Subcommittee's recommendation to rescind current Title 11 (Juvenile Causes) and replace it with a new Title 11

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consisting of five chapters: Chapter 100 (General Provision), Chapter 200 (Child in Need of Assistance), Chapter 300 (Guardianship Terminating Parental Rights), Chapter 400 (Delinquency), and Chapter 500 (Other Provisions).

Section (b) is amended to state that the Rules in Title 2 do not apply to juvenile causes under Title 11, Chapters 100, 200, 400, and 500. The Rules in Title 2 are applicable in Chapter 300 proceedings.

Section (i) is amended to reflect that public agency guardianships terminating parental rights under Code, Family Law Article, Title 5, Subtitle 3, Part II, are removed from Title 9, Chapter 100 and placed in Title 11, Chapter 300. The remaining proceedings under Code, Family Law Article, Title 5, Subtitle 3 are governed by the Rules in Title 9.

Section (k) is amended to reflect additional proceedings governed by the Rules in proposed new Title 11, including truancy and adults charged in juvenile court.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 100 - GENERAL

AMEND Rule 4-101 by updating a cross reference, as follows:

Rule 4-101. APPLICABILITY

The rules in this Title govern procedure in all criminal matters, post conviction procedures, and expungement of records in both the circuit courts and the District Court, except as otherwise specifically provided.

Cross reference: See Rules 4-501 and ~~11-601~~ 11-506 concerning expungement of juvenile records.

Source: This Rule is derived from former Rule 701 and M.D.R. 701.

REPORTER'S NOTE

The proposed conforming amendment to Rule 4-101 updates the cross reference to the Rule governing expungement of juvenile records to proposed new Rule 11-506.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-501 by updating an internal reference, as follows:

Rule 4-501. APPLICABILITY

The procedure provided by this Chapter is exclusive and mandatory for use in all judicial proceedings for expungement of records whether pursuant to Code, Criminal Procedure Article, §§10-102 through 10-109 or otherwise, except that expungement of juvenile records is governed by ~~Rule 11-601~~ Rule 11-506.

Source: This Rule is derived from former Rule EX2.

REPORTER'S NOTE

The proposed conforming amendment to Rule 4-501 updates the reference to the Rule governing expungement of juvenile records to proposed new Rule 11-506.

MARYLAND RULES OF PROCEDURE  
TITLE 5 - CRIMINAL CAUSES  
CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 5-101 by deleting references to Title 11 proceedings in sections (b) and (c) and renumbering, by adding new section (d) to address applicability of the Rules in Title 5 to Title 11 proceedings, by re-lettering section (d) as section (e), and by making stylistic changes, as follows:

Rule 5-501. SCOPE

. . .

(b) Rules Inapplicable

The rules in this Title other than those relating to the competency of witnesses do not apply to the following proceedings:

- (1) Proceedings before grand juries;
- (2) Proceedings for extradition or rendition;
- (3) Direct contempt proceedings in which the court may act summarily;
- (4) Small claim actions under Rule 3-701 and appeals under Rule 7-112 (d) (2);
- (5) Issuance of a summons or warrant under Rule 4-212;
- (6) Pretrial release under Rule 4-216, 4-216.1, 4-216.2, or

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4-216.3 or release after conviction under Rule 4-349;

(7) Preliminary hearings under Rule 4-221;

(8) Post-sentencing procedures under Rule 4-340;

(9) Sentencing under Rule 4-342;

(10) Issuance of a search warrant under Rule 4-601; and

~~(11) Detention and shelter care hearings under Rule 11-112;~~

and

~~(12)~~ (11) Any other proceeding in which, prior to the adoption of the rules in this Title, the court was traditionally not bound by the common-law rules of evidence.

(c) Discretionary Application

In the following proceedings, the court, in the interest of justice, may decline to require strict application of the rules in this Title other than those relating to the competency of witnesses:

(1) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Rule 5-104 (a);

(2) Proceedings for revocation of probation under Rule 4-347;

(3) Hearings on petitions for post-conviction relief under Rule 4-406;

(4) Plenary proceedings in the Orphans' Court under Rule 6-462;

~~(5) Waiver hearings under Rule 11-113;~~

~~(6) Disposition hearings under Rule 11-115, including permanency planning hearings under Code, Courts Article, §3-823;~~

~~(7) Modification hearings under Rule 11-116;~~

~~(8)~~ (5) Catastrophic health emergency proceedings under Title 15, Chapter 1100; and

~~(9)~~ (6) Hearings on petitions for coram nobis under Rule 15-1206; and

~~(10)~~ (7) Any other proceeding in which, prior to the adoption of the rules in this Title, the court was authorized to decline to apply the common-law rules of evidence.

(d) Title 11 Proceedings

Application of the Rules of Evidence to proceedings under Title 11 is governed by Rule 11-101.

~~(d)~~ (e) Privileges

In all actions and proceedings, lawful privileges shall be respected.

Source: This Rule is derived in part from Uniform Rule of Evidence 1101 and is in part new.

REPORTER'S NOTE

Proposed conforming amendments to Rule 5-101 eliminate references to Title 11 proceedings and create new section (d) to refer to Rule 11-101, which lays out the applicability of the Rules of Evidence in all Title 11 proceedings. Current section (d) is re-lettered as (e).



MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF  
SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-202 by adding references Rule 11-218 to  
section (c), as follows:

Rule 8-202. NOTICE OF APPEAL - TIMES FOR FILING

. . .

(c) Civil Action--Post-Judgment Motions

In a civil action, when a timely motion is filed pursuant to Rule 2-532, 2-533, ~~or 2-534~~, or 11-218, the notice of appeal shall be filed within 30 days after entry of (1) a notice withdrawing the motion or (2) an order denying a motion pursuant to Rule 2-533 or disposing of a motion pursuant to Rule 2-532, ~~or 2-534~~, or 11-218. A notice of appeal filed before the withdrawal or disposition of any of these motions does not deprive the trial court of jurisdiction to dispose of the motion. If a notice of appeal is filed and thereafter a party files a timely motion pursuant to Rule 2-532, 2-533, ~~or 2-534~~, or 11-218, the notice of appeal shall be treated as filed on the same day as, but after, the entry of a notice withdrawing the motion or an order disposing of it.

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Committee note: A motion filed pursuant to Rule 2-535, if filed within ten days after entry of judgment, will have the same effect as a motion filed pursuant to Rule 2-534, for purposes of this Rule. *Unnamed Att'y v. Attorney Grievance Comm'n*, 303 Md. 473, 494 A.2d 940 (1985); *Sieck v. Sieck*, 66 Md.App. 37, 502 A.2d 528 (1986).

. . .

REPORTER'S NOTE

Proposed amendments to Rule 8-202 add Rule 11-218 to the post-judgment motions in section (c).

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-101 by updating an internal reference in the cross reference following subsection (b), as follows:

Rule 10-101. APPLICABILITY OF TITLE; JURISDICTION

. . .

(b) Scope of Jurisdiction

In proceedings under this Title, the court may exercise its jurisdiction generally or for a limited purpose. An investment in a common trust fund by a fiduciary administering an estate subject to the jurisdiction of a court does not bring the administration of the common trust fund under the jurisdiction of the court.

Cross reference: For the definition of "common trust fund," see Code, Financial Institutions Article, §3-501 (b).

Committee note: The rules in this Title do not apply to a guardian with the right to consent to adoption (Code, Family Law Article, §5-301 *et seq.* and Title 9, Chapter 100 and Title 11, Chapter 300 of these rules); a trustee appointed to foreclose a mortgage or deed of trust or to make a judicial sale (Title 14, Chapters 200 and 300 of these rules); a trustee of a recovery by a minor in tort (Code, Estates and Trusts Article, §13-401 *et seq.*); a custodian of property under the Maryland Uniform Transfers to Minors Act (Code, Estates and Trusts Article, §13-301 *et seq.*); or a receiver or assignee for the benefit of creditors (Title 13 of these Rules).

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Source: This Rule is derived in part from former Rule V71 and is in part new.

REPORTER'S NOTE

The proposed conforming amendment to Rule 10-101 updates the reference to Rules governing a guardian with the right to consent to adoption in the cross reference following subsection (b).

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

AMEND Rule 16-807 by updating an internal reference in subsection (b) (1), as follows:

Rule 16-807. APPOINTMENT, COMPENSATION, DUTIES OF MAGISTRATES

. . .

(b) Special Magistrates

(1) Appointment; Compensation

The circuit court of a county may appoint a special magistrate for a particular action, except proceedings on matters referable to a standing magistrate under Rule 9-208 or Rule ~~11-111~~ 11-103. Unless the compensation of a special magistrate is paid with public funds, the court (A) shall prescribe the compensation of the special magistrate, (B) may tax the compensation as costs, and (C) may assess the costs among the parties.

Cross reference: See Code, Courts Article, § 2-102(b) (4) and (c) and § 2-501(b).

. . .

REPORTER'S NOTE

The proposed conforming amendment to Rule 16-807 updates the reference in subsection (b) (1) to the Rule governing magistrates to proposed new Rule 11-103.

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURT ADMINISTRATION  
CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

AMEND Rule 16-914 by adding certain proceedings to subsection (a) (2) and by adding a clarifying sentence to the Committee note following subsection (a) (2), as follows:

Rule 16-914. CASE RECORDS - REQUIRED DENIAL OF INSPECTION - CERTAIN CATEGORIES

Except as otherwise provided by law, court order, or the Rules in this Chapter, the custodian shall deny inspection of:

(a) All case records filed in the following actions involving children:

(1) Actions filed under Title 9, Chapter 100 of the Maryland Rules for:

(A) adoption;

(B) guardianship; or

(C) revocation of a consent to adoption or guardianship for which there is no pending adoption or guardianship proceeding in that county.

(2) Delinquency, child in need of assistance, public agency guardianship terminating parental rights, voluntary placement, child in need of supervision, peace order, and truancy actions

in Juvenile Court, except that, if a hearing is open to the public pursuant to Code, Courts Article, § 3-8A-13 (f), the name of the respondent and the date, time, and location of the hearing are open to inspection unless the record was ordered expunged.

Committee note: In most instances, the "child" or "children" referred to in this section will be minors, but, as Juvenile Court jurisdiction extends until a child is 21, in some cases, the children legally may be adults.

Case records filed in proceedings against an adult in the juvenile court pursuant to Rule 11-507 are not subject to this section.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 16-914 add public agency guardianship, voluntary placement, and peace order proceedings to the Juvenile Court actions listed in subsection (a)(2). The Committee note is amended to clarify that criminal charges filed against an adult in Juvenile Court are not subject to the Rule.