

IN THE COURT OF APPEALS OF MARYLAND

R U L E S   O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted its One Hundred Fifty-Sixth Report to the Court recommending adoption of proposed amendments to Rules 16-1002 and 16-1008, all as set forth in that Report published in the *Maryland Register*, Vol.32, Issue 23, pages 1819 - 1822 (November 14, 2005); and

The Rules Committee having submitted a Supplement to the One Hundred Fifty-Sixth Report to the Court dated December 16, 2005 recommending adoption on an emergency basis of proposed amendments to Rule 16-1006 and recommending additional amendments to Rule 16-1008; and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed

amendments, together with comments received, and finding that an emergency does in fact exist with reference to certain of the proposed rules changes, it is this 10th day of January, 2006,

ORDERED, by the Court of Appeals of Maryland, that amendments to Rule 16-1006 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that action on proposed amendments to Rules 16-1002 and 16-1008 be, and it is hereby, deferred pending further study; and it is further

ORDERED that the rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 10, 2006, and insofar as practicable to all actions then pending; and it is further

ORDERED that a copy of this Order be published in the next issue of the *Maryland Register*.

/s/ Robert M. Bell

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Robert M. Bell

/s/ Irma S. Raker

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Irma S. Raker

/s/ Alan M. Wilner

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Alan M. Wilner

/s/ Dale R. Cathell

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Dale R. Cathell

/s/ Glenn T. Harrell, Jr.

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Glenn T. Harrell, Jr.

/s/ Lynne A. Battaglia

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Lynne A. Battaglia

/s/ Clayton Greene, Jr.

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Clayton Greene, Jr.

Filed: January 10, 2006

/s/ Alexander L. Cummings

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Clerk  
Alexander L. Cummings

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS  
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1006 (c) to limit the applicability of the section to a record that is created or maintained by an agency and is required by statute to be kept confidential, as follows:

Rule 16-1006. REQUIRED DENIAL OF INSPECTION - CERTAIN CATEGORIES OF CASE RECORDS

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) To revoke 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, and child in need of supervision 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.

(b) The following case records pertaining to a marriage license:

(1) A physician's certificate filed pursuant to Code, Family Law Article, §2-301, attesting to the pregnancy of a child under 18 years of age who has applied for a marriage license.

(2) Until a license is issued, the fact that an application for a license has been made, except to the parent or guardian of a party to be married.

(c) In any action or proceeding, a ~~case~~ record created or maintained by an agency concerning child abuse or neglect that is required by statute to be kept confidential.

Committee note: Statutes that require child abuse or neglect records to be kept confidential include Code, Article 88A, §§6 (b) and 6A and Code, Family Law Article, §5-707.

(d) The following case records in actions or proceedings involving attorneys or judges:

(1) Records and proceedings in attorney grievance matters declared confidential by Rule 16-723 (b).

(2) Case records with respect to an investigative subpoena issued by Bar Counsel pursuant to Rule 16-732;

(3) Subject to the provisions of Rule 19 (b) and (c) of the Rules Governing Admission to the Bar, case records relating to proceedings before a Character Committee.

(4) Case records consisting of Pro Bono Legal Service Reports filed by an attorney pursuant to Rule 16-903.

(5) Case records relating to a motion filed with respect to a

subpoena issued by Investigative Counsel for the Commission on Judicial Disabilities pursuant to Rule 16-806.

(e) The following case records in criminal actions or proceedings:

(1) A case record that has been ordered expunged pursuant to Rule 4-508.

(2) The following case records pertaining to search warrants:

(A) The warrant, application, and supporting affidavit, prior to execution of the warrant and the filing of the records with the clerk.

(B) Executed search warrants and all papers attached thereto filed pursuant to Rule 4-601.

(3) The following case records pertaining to an arrest warrant:

(A) A case record pertaining to an arrest warrant issued under Rule 4-212 (d) and the charging document upon which the warrant was issued until the conditions set forth in Rule 4-212 (d) (3) are satisfied.

(B) Except as otherwise provided in Code, State Government Article, §10-616 (q), a case record pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation and the charging document upon which the arrest warrant was issued.

(4) A case record maintained under Code, Courts Article, §9-106, of the refusal of a person to testify in a criminal

action against the person's spouse.

(5) A presentence investigation report prepared pursuant to Code, Correctional Services Article, §6-112.

(6) A case record pertaining to a criminal investigation by a grand jury or by a State's Attorney pursuant to Code, Article 10A, §39A.

Committee note: Although this Rule shields only case records pertaining to a criminal investigation, there may be other laws that shield other kinds of court records pertaining to such investigations. This Rule is not intended to affect the operation or effectiveness of any such other law.

(f) A transcript, tape recording, audio, video, or digital recording of any court proceeding that was closed to the public pursuant to rule or order of court.

(g) Backup audio recordings made by any means, computer disks, and notes disk of a court reporter that are in the possession of the court reporter and have not been filed with the clerk.

(h) The following case records containing medical information:

(1) A case record, other than an autopsy report of a medical examiner, that (A) consists of a medical or psychological report or record from a hospital, physician, psychologist, or other professional health care provider, and (B) contains medical or psychological information about an individual.

(2) A case record pertaining to the testing of an individual for HIV that is declared confidential under Code, Health - General Article, §18-338.1 or §18-338.2.

(3) A case record that consists of information, documents, or

records of a child fatality review team, to the extent they are declared confidential by Code, Health - General Article, §5-709.

(4) A case record that contains a report by a physician or institution concerning whether an individual has an infectious disease, declared confidential under Code, Health - General Article, §18-201 or §18-202.

(5) A case record that contains information concerning the consultation, examination, or treatment of a developmentally disabled person, declared confidential by Code, Health - General Article, §7-1003.

(i) A case record that consists of the federal or Maryland income tax return of an individual.

(j) A case record that:

(1) a court has ordered sealed or not subject to inspection, except in conformance with the order; or

(2) in accordance with Rule 16-1009 (b), is the subject of a motion to preclude or limit inspection.

Source: This Rule is new.