

IN THE SUPREME COURT 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 Two Hundred and Twenty-Fourth Report to the Supreme Court of Maryland, recommending a proposed new Preamble to the Maryland Rules, proposed new Rules 4-268, 9-202.1, and 15-1601, and proposed amendments to current Rules 1-201, 1-325, 1-332, 2-705, 3-711, 4-211, 4-213.1, 4-252, 4-262, 4-263, 4-271, 4-314, 5-606, 6-209, 6-311, 9-205.3, 10-108, 10-111, 10-201, 10-202, 10-402, 10-403, 11-102, 11-302, 11-405, 11-406, 11-410, 11-419, 11-420.2, 11-422, 11-423, 15-1302, 16-911, 16-912, 16-914, 16-915, 16-916, 16-933, 16-934, 17-105, 18-101.2, 18-201.2, 18-204.1, 18-305, 19-306.1, 19-504, 19-607, 19-737, 19-738, and 19-752 of the Maryland Rules of Procedure, all as posted for comment on the website of the Maryland Judiciary; and

This Court having considered the proposed Rules changes, together with comments received, at an open meeting, notice of which was posted as prescribed by law, and making on its own motion certain amendments to the proposed Rules changes, it is this 26th day of June, 2025

ORDERED, by the Supreme Court of Maryland, that the new Preamble to the Maryland Rules be, and it is hereby, adopted in the form attached to this Order; and it is further

ORDERED that new Rules 4-268, 9-202.1, and 15-1601 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that amendments to Rules 1-201, 1-325, 1-332, 2-705, 3-711, 4-211, 4-213.1, 4-252, 4-262, 4-263, 4-271, 4-314, 5-606, 6-209, 6-311, 9-205.3, 10-108, 10-111, 10-201, 10-202, 10-402, 11-102, 11-302, 11-405, 11-406, 11-410, 11-419, 11-420.2, 11-422, 11-423, 15-1302, 16-911, 16-912, 16-914, 16-915, 16-916, 16-933, 16-934, 17-105, 18-101.2, 18-201.2, 18-204.1, 18-305, 19-306.1, 19-504, 19-607, 19-737, 19-738, and 19-752 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that the proposed amendments to Rule 10-403 be, and they are hereby, rejected; 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 October 1, 2025 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that a copy of this Order be posted promptly on the website of the Maryland Judiciary.

/s/ Matthew J. Fader
Matthew J. Fader

/s/ Shirley M. Watts
Shirley M. Watts

/s/ Brynja M. Booth
Brynja M. Booth

/s/ Jonathan Biran
Jonathan Biran

/s/ Steven B. Gould
*Steven B. Gould

/s/ Angela M. Eaves
Angela M. Eaves

/s/ Peter K. Killough
**Peter K. Killough

Filed: June 26, 2025

/s/ Gregory Hilton
Clerk
Supreme Court of Maryland

Pursuant to the Maryland Uniform Electronic Legal
Materials Act (§§ 10-1601 et seq. of the State
Government Article) this document is authentic.



Gregory Hilton, Clerk

*Justice Gould declined to approve for adoption the Preamble to the Maryland Rules of Procedure and the amendments to Rules 5-606, 18-101.2, and 18-201.2.

**Justice Killough declined to approve for adoption the Preamble to the Maryland Rules of Procedure and the amendments to Rules 18-101.2 and 18-201.2.

Dissenting Statement of Gould, J.

I write to explain my vote against the amendments to Maryland Rules 5-606, 18-101.2, 18-201.2, and the new preamble to the Maryland Rules, all proposed in the Two Hundred and Twenty-Fourth Report.

Rule 5-606

The no-impeachment rule has deep historical roots, tracing back to Lord Mansfield's 1785 decision in *Vaise v. Delaval* (1785) 99 Eng. Rep. 944 (KB). *Williams v. State*, 204 Md. 55, 68 (1954). Maryland first recognized this rule in 1831 and has consistently applied it for nearly two centuries. *Id.* at 70-71. This Court explained that "[s]uch evidence is forbidden by public policy, since it would disclose the secrets of the jury room and afford an opportunity for fraud and perjury." *Id.* at 67 (quoting *Brinsfield v. Howeth*, 110 Md. 520, 530 (1909)). And we warned that permitting post-verdict juror testimony would "render all verdicts insecure[,] create "a most pernicious practice," and lead to "harassment of jurors by disgruntled losing parties[,] "removal of an element of finality from judicial decisions[,] and "a decrease in public confidence in the judicial process." *Id.* at 67.

These principles are not relics of bygone days. Just three years ago we said:

"It has long been the rule in Maryland, without any deviation, that a juror may not impeach his or her verdict." *Stokes v. State*, 379 Md. 618, 637, 843 A.2d 64, 75 (2004) (citations omitted). See also *Colvin-el v. State*, 332 Md. 144, 184, 630 A.2d 725, 745 (1993), cert. denied sub nom. Colvin-El v. Maryland, 512 U.S. 1227, 114 S.Ct. 2725, 129 L.Ed.2d 849 (1994) ("The well-settled Maryland rule is that jurors cannot be heard to impeach their verdict." (Citations omitted)). "[O]ne reason for the rule is to protect the secrecy of jury deliberations. . . . [W]hile privacy is not a constitutional end in itself, it is the means of ensuring the integrity of the jury trial itself." *Stokes*, 379 Md. at 638, 843 A.2d at 75-76 (citations omitted). This is because allowing a juror to impeach a verdict "would disclose the secrets of the jury

room and afford an opportunity for fraud and perjury.” *Id.* at 637, 843 A.2d at 75 (citation omitted). Other purposes of the no-impeachment rule include avoiding “harassment of jurors by disgruntled losing parties; removal of an element of finality from judicial decisions; and through allowing jurors to swear to alleged examples of reprehensible conduct, a decrease in public confidence in the judicial process.” *Id.* at 637, 843 A.2d at 75 (citation omitted).

Williams v. State, 478 Md. 99, 131 (2022) (alterations in original).

This Court can, of course, exercise its rulemaking authority to codify the exception to the no-impeachment rule recognized in *Pena-Rodriguez v. Colorado*, 580 U.S. 206 (2017). But if we are going to do so, we should also take seriously the Supreme Court’s statement that “[t]he practical mechanics of acquiring and presenting such evidence will no doubt be shaped and guided by state rules[.]” *Id.* at 226. Elaborating on that point, the Court said:

This case does not ask, and the Court need not address, what procedures a trial court must follow when confronted with a motion for a new trial based on juror testimony of racial bias. See 27 *Wright* 575–578 (noting a divergence of authority over the necessity and scope of an evidentiary hearing on alleged juror misconduct). The Court also does not decide the appropriate standard for determining when evidence of racial bias is sufficient to require that the verdict be set aside and a new trial be granted. Compare, *e.g.*, *Shillcutt*, 827 F.2d, at 1159 (inquiring whether racial bias “pervaded the jury room”), with, *e.g.*, *Henley*, 238 F.3d, at 1120 (“One racist juror would be enough”).

Id. at 228.

This Court is codifying the *Pena-Rodriguez* exception without addressing the procedural issues that the Supreme Court acknowledged and assumed would be addressed at the state level. The amended Rule 5-606 does not say when or how a claim under subsection (b)(2) must be made. It does not establish a burden of proof that the court must

apply in deciding the claim. It does not say whether the rules of evidence will apply. It appears that, after nearly two centuries of strict adherence to the no-impeachment rule, the law in Maryland will soon be that a verdict may be successfully challenged based on nothing more than an affidavit of one juror accusing another juror of racial bias. The rule does not even specify which of the two forms of affidavit under Rule 1-304 is required, that is, whether the affidavit must be based on personal knowledge or on information and belief. This is not an insignificant point: If the former, a new trial could be granted based on a single level of hearsay; if the latter, then a new trial could be granted based on multiple levels of hearsay.

The consensus at the open hearing on June 3, 2025 was that such a claim under Rule 5-606(b)(2) would be adjudicated under Rule 4-331, which governs motions for a new trial in criminal cases. But the rule does not say that. And assuming that is so, under which subsection? Is it a 10-day motion under subsection (a)? A 90-day motion under subsection (b)? A one-year motion under subsection (c)? And what about civil cases?

In my view, when we exercise our rulemaking power, we should try do so in a way that promotes fairness and efficiency. Simply codifying the *Pena-Rodriguez* exception without addressing the important procedural issues raised in that case is not a prudent use of our rulemaking authority. Accordingly, I voted against adopting these amendments to Rule 5-606.

Title 18 Rules and the New Preamble

I also voted against the adoption of the amendments to Rules 18-101.2 and 18-201.2 and the new proposed preamble. I, of course, share the commitment to judicial impartiality

and ensuring that cases are decided based on the facts and law, uninfluenced by personal biases. Those issues are addressed in other rules, including Rules 18-100.4 (judicial conduct promoting public confidence), 18-102.2 (general conduct standards), 18-102.3 (avoiding bias and prejudice), 18-102.8 (Decorum, Demeanor, and Communication with Jurors), and their corresponding provisions for judicial appointees in Rules 18-202.2, 18-202.3, and 18-202.8 (Decorum and Demeanor). The Two Hundred and Twenty-Fourth Report does not explain why the existing rules are inadequate to the task. Accordingly, I voted against adopting these amendments.

MARYLAND RULES OF PROCEDURE

PREAMBLE

ADD a Preamble to the Maryland Rules, as follows:

PREAMBLE

The mission of the Maryland Judiciary is to provide fair, efficient, and effective justice for all persons who come before it. The Judiciary is committed to ensuring the integrity and impartiality of the judicial system and to providing court interactions free of bias that interferes with the fair administration of justice and the appearance of such bias. In all court interactions, each judge, judicial officer, employee, and agent acting on behalf of the Maryland Judiciary should refrain from engaging in conduct that exhibits actual or implicit bias based on race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation – whether directed toward counsel, court staff, witnesses, parties, jurors, or any other individual or group of individuals – and is encouraged to take action to discourage others from engaging in such conduct.

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 200 – CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

AMEND Rule 1-201 by adding new section (f), as follows:

Rule 1-201. RULES OF CONSTRUCTION

(a) General

These rules shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. When a rule, by the word “shall” or otherwise, mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules or by statute. If no consequences are prescribed, the court may compel compliance with the rule or may determine the consequences of the noncompliance in light of the totality of the circumstances and the purpose of the rule.

(b) Jurisdiction and Venue Unaffected

These rules shall not be construed to extend or limit the jurisdiction of any court or, except as expressly provided, the venue of actions.

(c) Effect on Common Law and Statutory Provisions

Neither these rules nor omissions from these rules supersede common law or statute unless inconsistent with these rules.

(d) Singular and Plural – Gender

Words in the singular include the plural and words in any gender include all genders except as necessary implication requires.

(e) Headings, References, and Notes Not Rules

Headings, subheadings, cross references, committee notes, source references, and annotations are not part of these rules.

(f) Statute of Limitations

The term “statute of limitations” includes a statute of repose, except as necessary implication requires.

Source: This Rule is derived as follows:

Section (a) is in part consistent with the 1966 version of Fed. R. Civ. P. 1 and is derived from former Rule 701. The last two sentences are new.

Section (b) is derived from former Rule 1 h and i.

Section (c) is derived from former Rules 1 g and 701.

Section (d) is derived from former Rule 2 c.

Section (e) is derived from former Rule 2 b.

Section (f) is new.

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 300 – GENERAL PROVISIONS

AMEND Rule 1-325 by adding “Request for Court Waiver of Open Costs” to the tagline of section (d); by creating new subsection (d)(1) with the existing provisions of section (d); by re-lettering current subsections (d)(1) and (d)(2) as (d)(1)(A) and (d)(1)(B), respectively; by re-lettering current subsections (d)(1)(A) and (d)(1)(B) as (d)(1)(A)(i) and (d)(1)(A)(ii), respectively; by re-lettering current subsections (d)(1)(A)(i) through (d)(1)(A)(iii) as (d)(1)(A)(i)(a) through (d)(1)(A)(i)(c), respectively; by adding new subsection (d)(2) governing a request for waiver of open costs; by adding a reference to new subsection (d)(2) to subsections (f)(2)(A) and (f)(2)(B); by updating the affidavit requirement in subsection (f)(2)(B); and by making stylistic changes, as follows:

Rule 1-325. WAIVER OF COSTS DUE TO INDIGENCE – GENERALLY

(a) Scope

This Rule applies only to (1) original civil actions in a circuit court or the District Court and (2) requests for relief that are civil in nature filed in a criminal action.

Committee note: Original civil actions in a circuit court include actions governed by the Rules in Title 7, Chapter 200, 300, and 400. Requests for relief that are civil in nature filed in a criminal action include petitions for expungement and requests to shield all or part of a record.

(b) Definition

In this Rule, “prepaid costs” means costs that, unless prepayment is waived pursuant to this Rule, must be paid prior to the clerk's docketing or accepting for docketing a pleading or paper or taking other requested action.

Committee note: “Prepaid costs” may include a fee to file an initial complaint or a motion to reopen a case, a fee for entry of the appearance of an attorney, and any prepaid compensation, fee, or expense of a magistrate or examiner. See Rules 1-501, 2-541, 2-542, 2-603, and 9-208.

(c) No Fee for Filing Request

No filing fee shall be charged for the filing of the request for waiver of prepaid costs pursuant to section (d) or (e) of this Rule.

(d) Waiver of Prepaid Costs by Clerk; Request for Court Waiver of Open Costs

(1) Prepaid Costs

On written request, the clerk shall waive the prepayment of prepaid costs, without the need for a court order, if:

~~(1)(A)~~ the party is an individual who is represented ~~(A)(i)~~ by an attorney retained through a pro bono or legal services program on a list of programs serving ~~low income~~ low-income individuals that is submitted by the Maryland Legal Services Corporation to the State Court Administrator and posted on the Judiciary website, provided that an authorized agent of the program provides the clerk with a statement that ~~(i)(a)~~ names the program, attorney, and party; ~~(ii)(b)~~ states that the attorney is associated with the program and the party meets the financial eligibility criteria of the Corporation; and ~~(iii)(c)~~ attests that the payment of filing fees is not subject to Code, Courts Article, § 5-1002 (the Prisoner Litigation Act), or ~~(B)(ii)~~ by an attorney provided by the Maryland Legal Aid Bureau, Inc. or the Office of the Public Defender, and

~~(2)(B)~~ except for an attorney employed or appointed by the Office of the Public Defender in a civil action in which that Office is required by statute to represent the party, the attorney certifies that, to the best of the attorney's knowledge, information, and belief, there is good ground to support the claim, application, or request for process and it is not interposed for any improper purpose or delay.

Committee note: The Public Defender represents indigent individuals in a number of civil actions. See Code, Criminal Procedure Article, § 16-204(b).

Cross reference: See Rule 1-311 (b) and Rule 19-303.1 (3.1) of the Maryland Attorneys' Rules of Professional Conduct.

(2) Request for Waiver of Open Costs at Conclusion of Action

A request under subsection (d)(1) of this Rule may include a request for final waiver of open costs by the court at the conclusion of the action. The request for final waiver of open costs shall include the attorney's certification that the attorney's client signed an affidavit stating that the client does not anticipate a material change in the financial information contained in the client's application for representation. The court shall consider the request at the conclusion of the action in accordance with section (f) of this Rule.

(e) Waiver of Costs by Court

(1) Prepaid Costs

(A) Request for Waiver

An individual unable by reason of poverty to pay a prepaid cost and not subject to a waiver under section (d) of this Rule may file a request for an order waiving the prepayment of the prepaid cost. The request shall be accompanied

by (i) the pleading or paper sought to be filed; (ii) an affidavit substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the Clerks' offices; and (iii) if the individual is represented by an attorney, the attorney's certification that, to the best of the attorney's knowledge, information, and belief, there is good ground to support the claim, application, or request for process and it is not interposed for any improper purpose or delay.

Cross reference: See Rule 1-311 (b) and Rule 19-303.1 (3.1) of the Maryland Attorneys' Rules of Professional Conduct.

(B) Review by Court; Factors to be Considered

The court shall review the papers presented and may require the individual to supplement or explain any of the matters set forth in the papers. In determining whether to grant a prepayment waiver, the court shall consider:

(i) whether the individual has a family household income that qualifies under the client income guidelines for the Maryland Legal Services Corporation for the current year, which shall be posted on the Judiciary website; and

(ii) any other factor that may be relevant to the individual's ability to pay the prepaid cost.

(C) Order; Payment of Unwaived Prepaid Costs

If the court finds that the party is unable by reason of poverty to pay the prepaid cost and that the pleading or paper sought to be filed does not appear, on its face, to be frivolous, it shall enter an order waiving prepayment of the prepaid cost. In its order, the court shall state the basis for granting or denying the request for waiver. If the court denies, in whole or in part, a

request for the waiver of its prepaid costs, it shall permit the party, within 10 days, to pay the unwaived prepaid cost. If, within that time, the party pays the full amount of the unwaived prepaid costs, the pleading or paper shall be deemed to have been filed on the date the request for waiver was filed. If the unwaived prepaid costs are not paid in full within the time allowed, the pleading or paper shall be deemed to have been withdrawn.

(2) Request for Waiver of Open Costs at Conclusion of Action

A request under subsection (e)(1) of this Rule may include a request for final waiver of open costs at the conclusion of the action. The request shall indicate in the affidavit required by subsection (e)(1) of this Rule that the individual does not anticipate a material change in the information provided in the affidavit. The court shall consider the request at the conclusion of the action in accordance with section (f) of this Rule.

(f) Award of Costs at Conclusion of Action

(1) Generally

At the conclusion of an action, the court and the clerk shall allocate and award costs as required or permitted by law.

Cross reference: See Rules 2-603, 3-603, 7-116, and *Mattison v. Gelber*, 202 Md. App. 44 (2011).

(2) Waiver

(A) Request

At the conclusion of an action, a party who otherwise did not request a final waiver of open costs pursuant to subsection (d)(2) or (e)(2) of this Rule may seek a final waiver of open costs, including any unpaid appearance fee, by

filing a request for the waiver, together with (i) an affidavit substantially in the form prescribed by subsection (e)(1)(B) of this Rule, or (ii) if the party was granted a waiver of prepayment of prepaid costs by court order pursuant to section (e) of this Rule and remains unable to pay the costs, an affidavit that recites the existence of the prior waiver and the party's continued inability to pay by reason of poverty.

(B) Determination by Court

In an action under Title 9, Chapter 200 of these Rules or Title 10 of these Rules, the court shall grant a final waiver of open costs if the requirements of Rules 2-603 (e) or 10-107 (b), as applicable, are met. In all other civil matters, the court may grant a final waiver of open costs if the party against whom the costs are assessed is unable to pay them by reason of poverty. The court may require a party who requested a final waiver of open costs pursuant to subsection (d)(2) or (e)(2) of this Rule to file ~~the supplemental affidavit required by subsection (f)(2)(A)(ii) of this Rule~~ an affidavit stating that the party (i) was granted a prior waiver of prepaid costs in the action pursuant to this Rule and (ii) remains unable to pay the costs by reason of poverty.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 300 – GENERAL PROVISIONS

AMEND Rule 1-332 by retitling the Rule “Reasonable Accommodations for Persons with Disabilities”; by re-titling section (a) as “Applicability” and adding a statement of applicability; by adding new section letter (b) before “Definitions”; by adding new subsection (b)(2) defining “Person with a Disability” with a cross reference following the subsection; by adding new subsection (b)(3) defining “Reasonable Accommodation”; by renumbering current subsection (a)(2) as (b)(4); by re-lettering current section (b) as section (c) and by changing the tagline to “Request for Reasonable Accommodation”; by deleting the tagline of re-lettered subsection (c)(1) and replacing it with “Generally”; by clarifying in re-lettered subsection (c)(1) who may request a reasonable accommodation; by adding a Committee note following re-lettered subsection (c)(1); by creating new subsection (c)(2) containing provisions from current subsection (b)(1), with amendments; by adding a Committee note after new subsection (c)(2); by adding new section (d) governing the procedure when a reasonable accommodation is requested; by adding new subsection (d)(1) and a Committee note pertaining to the authority to make an accommodation determination; by adding new subsection (d)(2) and a Committee note pertaining to the interactive process; by adding new subsection (d)(3) and a Committee note pertaining to the factors for consideration; by re-lettering current subsection (b)(2) as new subsection (d)(4) and modifying the tagline; by

adding a provision to new subsection (d)(4) referring to compliance with Rule 1-333 (c); by deleting current subsection (b)(3); by adding new subsection (d)(5) pertaining to notice of the court’s determination; by adding new section (e) requiring publication of data on accommodation requests; and by making stylistic changes, as follows:

Rule 1-332. ~~ACCOMMODATION UNDER THE AMERICANS WITH~~
~~DISABILITIES ACT~~ REASONABLE ACCOMMODATIONS FOR PERSONS WITH
DISABILITIES

(a) Applicability

This Rule applies to accommodations for persons with disabilities.

(b) Definitions

In this Rule, the following definitions apply except as otherwise expressly provided or as necessary implication requires:

(1) ADA

“ADA” means the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*

(2) Person with a Disability

“Person with a disability” means an individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in court services, programs, or activities, with or without reasonable modifications to policies, practices, or procedures, the removal of

architectural, communication, or transportation barriers, or the provision of auxiliary aids and services.

Cross reference: See 42 U.S.C. § 12131.

(3) Reasonable Accommodation

“Reasonable accommodation” means a measure necessary to provide a person with a disability the opportunity to access a court service, program, or activity in a manner consistent with State and federal law. A reasonable accommodation may include, for example:

(A) a reasonable modification in policy, practice, or procedure;

(B) a reasonable modification to a deadline or time limit that Rule 1-204 permits to be modified but that does not alter a statutory deadline or a statute of limitations;

(C) remote participation by a party or witness in accordance with Title 21 of these Rules;

(D) an auxiliary aid or service other than a personal device, including equipment, that is made available without charge; and

Committee note: An auxiliary aid or service may include a qualified interpreter or other effective method of making aurally delivered materials available to an individual who is deaf or hard of hearing; a qualified reader, taped text, or another effective method of making visually delivered materials available to an individual who is blind or has low vision; acquisition or modification of equipment or devices; and other similar services and actions. See 42 U.S.C. § 12103, 28 C.F.R. § 35.104, and 28 C.F.R. § 35.160.

(E) recognition of a supported decision-making arrangement entered pursuant to Code, Estates and Trusts Article, Title 18.

(2)(4) Victim

“Victim” includes a victim's representative as defined in Code, Criminal Procedure Article, § 11-104.

~~(b) Accommodation Under the ADA~~ (c) Request for Reasonable Accommodation

~~(1) Notification of Need for Accommodation Generally~~

~~A person~~ An attorney, party, witness, victim, juror, prospective juror, or member of the public requesting an a reasonable accommodation under the ADA or other applicable Maryland or federal law for an attorney, a party, a witness, a victim, a juror, or a prospective juror promptly shall notify the court of the request.

Committee note: An individual authorized to act on behalf of the person with a disability or with the permission of the person with a disability may request an accommodation.

(2) Submission

To the extent practicable, a request for ~~an~~ a reasonable accommodation shall be ~~(1)(A)~~ presented on a form approved by ~~administrative order of the Supreme Court~~ the State Court Administrator, posted on the Judiciary website, and available from the clerk of the court ~~and on the Judiciary website~~ and ~~(2)(B)~~ submitted to the court not less than 30 days before the proceeding for which the accommodation is requested. The request should include a case number, if applicable, but need not be filed in a particular action or served on any other party.

Committee note: This Rule does not impose a strict 30-day filing deadline and recognizes that advance notice is not always practicable for all requests for accommodation. Reasonable advance notice is required to the extent feasible so that a court or staff can implement reasonable accommodations.

Insufficient advance notice may prevent the provision of a reasonable accommodation.

(d) Determination of Request

(1) Authority to Determine

The court shall consider a reasonable accommodation request that pertains to a motion before the court, the rescheduling of a case, or any other matter that involves the administration of court proceedings or the substantive rights of litigants. The court may approve the requested accommodation, deny the requested accommodation, or offer an alternative accommodation. The court may designate the ADA coordinator to consider and determine other requests.

Committee note: Accommodation requests that may be considered and determined administratively include requests that involve facilities, furniture, and other available accommodations that do not involve substantive issues or affect court procedure.

(2) Interactive Process

The court or designated ADA coordinator shall review the request and, if appropriate, engage the requestor in an interactive process to determine a reasonable accommodation.

Cross reference: See *In the Matter of Chavis*, 486 Md. 247 (2023), pertaining to procedures and standards for evaluating a request for reasonable accommodations under the ADA.

(3) Factors – Generally

In determining what, if any, accommodation to grant, the court or the ADA coordinator shall:

(A) consider (i) the provisions of the ADA and applicable federal regulations adopted under the ADA; (ii) Code, State Government Article, §§ 20-304 and 20-901; (iii) Code, Courts Article, § 9-114; (iv) Code, Criminal Procedure Article, §§ 1-202 and 3-103; and (v) other applicable Maryland and federal law;

(B) give primary consideration to the accommodation requested;

(C) consider whether an accommodation would result in (i) a fundamental alteration of the nature of a court service, program, or activity or (ii) an undue financial and administrative burden; and

(D) make the determination on an individual and case-specific basis, with due regard to the nature of the disability and the feasibility of the requested accommodation.

Committee note: In considering reasonable accommodations for a person with a disability, the primary focus is on providing accommodations that enable the individual to participate in or qualify for a program, service, or activity. The focus must not be on the extent of the individual's impairment.

~~(2)~~(4) Request for Sign Language Interpreter

~~The~~ If the accommodation requested is the provision of a sign language interpreter, the court shall determine whether a sign language interpreter is needed in accordance with the requirements of the ADA; Code, Courts Article, § 9-114; and Code, Criminal Procedure Article, §§ 1-202 and 3-103. If the request is granted, the court shall appoint a sign language interpreter in accordance with Rule 1-333 (c).

~~(3) Provision of Accommodation~~

~~The court shall provide an accommodation if one is required under the ADA. If the accommodation is the provision of a sign language interpreter, the court shall appoint one in accordance with Rule 1-333 (c).~~

(5) Notification of Determination

The court or ADA coordinator promptly shall notify the requestor of its accommodation determination. If a requested accommodation is denied, the court or ADA coordinator shall specify the reason for the denial.

(e) Publication of Data on Accommodation Requests

Each court shall submit an annual report to the State Court Administrator, without identifying information and in a manner that protects the identities of those requesting accommodations, containing (1) data on the number and types of reasonable accommodation requests submitted, (2) the types of reasonable accommodations granted, and (3) the number of reasonable accommodation requests denied. The State Court Administrator shall publish a compilation of the data on the Judiciary website.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 700 – CLAIMS FOR ATTORNEYS’ FEES AND RELATED EXPENSES

AMEND Rule 2-705 by deleting an extraneous word in section (a), as follows:

Rule 2-705. ATTORNEYS’ FEES TO A PREVAILING PARTY PURSUANT TO CONTRACT

(a) Scope of Rule

This Rule applies to a claim for an award of attorneys' fees ~~to~~ attributable to litigation in a circuit court pursuant to a contractual provision permitting an award of attorneys' fees to the prevailing party in litigation arising out of the contract. It does not apply to a claim for attorneys' fees allowed by contract as an element of damages for breach of the contract or to a claim for attorneys' fees authorized by statute or other law.

Cross reference: See Rules 2-703 and 2-704.

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MARYLAND RULES OF PROCEDURE
TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT
CHAPTER 700 – SPECIAL PROCEEDINGS

AMEND Rule 3-711 by creating section (a) consisting of the current language of the Rule and by adding new section (b) pertaining to the required notice of intent in an action for summary ejectment, as follows:

Rule 3-711. LANDLORD-TENANT AND GRANTEE ACTIONS

(a) Generally

Landlord-tenant and grantee actions shall be governed by (1) the procedural provisions of all applicable general statutes, public local laws, and municipal and county ordinances, and (2) unless inconsistent with the applicable laws, the rules of this Title, except that no pretrial discovery under Chapter 400 of this Title shall be permitted in a grantee action, or an action for summary ejectment, wrongful detainer, or distress for rent, or an action involving tenants holding over.

(b) Summary Ejectment – Required Notice of Intent

Before filing a complaint for summary ejectment pursuant to Code, Real Property Article, § 8-401, the landlord shall provide to the tenant a written notice of the landlord's intent to file the complaint in accordance with Code, Real Property Article, § 8-401(c). The notice shall be in the form approved by the State Court Administrator, as posted on the Judiciary website and available in the offices of the clerks of the District Court, including the portion of the

form that provides information pertaining to resources available to tenants and landlords.

Source: This Rule is derived from former M.D.R. 1 b and 401 a. Section (b) is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-211 by adding new section (e) pertaining to the identity of a minor victim and by adding a cross reference following section (e), as follows:

Rule 4-211. FILING OF CHARGING DOCUMENT

(a) Citation

The original of a citation shall be filed in District Court promptly after its issuance and service. Electronic data documenting the citation uploaded to the District Court by or on behalf of the peace officer who issued the citation shall be regarded as an original of the citation.

(b) Statement of Charges

(1) Before Any Arrest

Except as otherwise provided by statute, a judicial officer may file a statement of charges in the District Court against a defendant who has not been arrested for that offense upon written application containing an affidavit showing probable cause that the defendant committed the offense charged. If not executed by a peace officer, the affidavit shall be made and signed before a judicial officer.

(2) After Arrest

When a defendant has been arrested without a warrant, unless an information is filed in the District Court, the officer who has custody of the

defendant shall (A) forthwith cause a statement of charges to be filed against the defendant in the District Court and (B) at the same time or as soon thereafter as is practicable file an affidavit containing facts showing probable cause that the defendant committed the offense charged.

Cross reference: See Code, Courts Article, § 2-608 for special requirements concerning an application for a statement of charges against a law enforcement officer, an educator, or a person within the definition of “emergency services personnel” in that section for an offense allegedly committed in the course of executing the person's duties.

(c) Information

A State's Attorney may file an information as permitted by Rule 4-201.

Committee note: Nothing in section (b) of this Rule precludes the filing of an information in the District Court by a State's Attorney at any time, whether in lieu of the filing of a statement of charges or as an additional or superseding charging document after a statement of charges has been filed.

(d) Indictment

The circuit court shall file an indictment returned by a grand jury.

(e) Identity of Minor Victim

If a person responsible for filing a charging document with the court pursuant to this Rule knows that the charging document contains the name of or any other information that reasonably could be expected to identify a minor victim, the person shall notify the clerk in writing of the presence of identifying information in the document and where in the document that information is contained.

Cross reference: See Code, Criminal Procedure Article, § 11-301.

Source: This Rule is derived as follows:
Section (a) is derived from the last clause of M.D.R. 720 i.
Section (b) is derived from M.D.R. 720 a and b.

Section (c) is new.
Section (d) is new.
Section (e) is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-213.1 by correcting terminology in subsection (g)(1) and by adding clarifying language to subsections (g)(1) and (g)(2), as follows:

Rule 4-213.1. APPOINTMENT, APPEARANCE, OR WAIVER OF ATTORNEY AT INITIAL APPEARANCE

• • •

(g) Provisional and Limited Appearance

(1) Provisional Representation by Public Defender

Unless a District Court commissioner has made a final determination of indigence and the Public Defender has entered a general appearance pursuant to Rule 4-214, any appearance entered by the Public Defender at an initial appearance shall be provisional, shall terminate automatically upon the conclusion of that stage of the criminal action, and shall not commence the time for setting a trial date pursuant to Rule 4-271. For purposes of this section, eligibility for provisional representation shall be determined by a District Court ~~commissioner~~ commissioner prior to or at the time of the proceeding.

(2) Limited Appearance

Unless a general appearance has been entered pursuant to Rule 4-214, an appearance by a court-appointed or privately retained attorney shall be limited

to the initial appearance before the judicial officer, ~~and~~ shall terminate automatically upon the conclusion of that stage of the criminal action, and shall not commence the time for setting a trial date pursuant to Rule 4-271.

(3) Inconsistency with Rule 4-214

Section (g) of this Rule prevails over any inconsistent provision in Rule 4-214.

Committee note: The entry of a provisional or limited appearance in accordance with this Rule does not constitute the entry of an appearance for the purpose of bringing, prosecuting, or defending an action and does not require the payment of a fee under Code, Courts Article, § 7-204.

Source: This Rule is new but is derived, in part, from amendments proposed to Rule 4-216 in the 181st Report of the Standing Committee on Rules of Practice and Procedure.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-252 by adding a cross reference following subsection (a)(3), as follows:

Rule 4-252. MOTIONS IN CIRCUIT COURT

(a) Mandatory Motions

In the circuit court, 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;

Cross reference: See Code, Criminal Procedure Article, Title 2, Subtitle 5 regarding admissibility of results generated by facial recognition technology.

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

Cross reference: See Code, Courts Article, § 3-8A-14.2 regarding admissibility of a statement made by a child, including a child charged as an adult, during a custodial interrogation.

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

...

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-262 by adding a Committee note after subsection (c)(2); by deleting the current tagline of subsection (d)(1); by creating new subsections (d)(1) and (d)(2) with the language of current subsection (d)(1); by deleting the tagline and stem language of current subsection (d)(2) requiring a defendant to submit a written request to obtain certain disclosures; by renumbering subsections (d)(2)(A) through (d)(2)(F) as subsections (d)(3) through (d)(8), respectively; by adding new subsection (d)(6) pertaining to facial recognition technology; by adding clarifying language and deleting language referring to discovery requests in section (i); by adding new language to section (n) concerning sanctions; and by making stylistic changes, as follows:

Rule 4-262. DISCOVERY IN DISTRICT COURT

(a) Applicability

This Rule governs discovery and inspection in the District Court.

Discovery is available in the District Court in actions that are punishable by imprisonment.

Committee note: This Rule also governs discovery in actions transferred from District Court to circuit court upon a jury trial demand made in accordance with Rule 4-301 (b)(1)(B). See Rule 4-301 (c).

(b) Definitions

In this Rule, the terms “defense,” “defense witness,” “oral statement,” “provide,” “State's witness,” and “written statement” have the meanings stated in Rule 4-263 (b).

Cross reference: For the definition of “State's Attorney,” see Rule 4-102 (l).

(c) Obligations of the Parties

(1) Due Diligence

The State's Attorney and defense shall exercise due diligence to identify all of the material and information that must be disclosed under this Rule.

(2) Scope of Obligations

The obligations of the State's Attorney and the defense extend to material and information that must be disclosed under this Rule and that are in the possession or control of the attorney, members of the attorney's staff, or any other person who either reports regularly to the attorney's office or has reported to the attorney's office in regard to the particular case.

Committee note: In many jurisdictions, the State complies with discovery requirements imposed under Rules 4-262 and 4-263 through “open file” discovery. While, in appropriate cases, “open file” discovery may satisfy the State’s discovery obligation, the full scope of discovery may require provision of additional discovery material beyond that contained in the “open file,” as expressly outlined in Rules 4-262 (c) and 4-263 (c).

Cross reference: For the obligations of the State's Attorney, see *State v. Williams*, 392 Md. 194 (2006).

(d) Disclosure by the State's Attorney

~~(1) Without Request~~

Without the necessity of a request, the State's Attorney shall provide to the defense:

(1) Exculpatory Information

~~all~~ All material or information in any form, whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged;

(2) Impeachment Information

~~and all~~ All material or information in any form, whether or not admissible, that tends to impeach a State's witness;

Cross reference: See *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Giglio v. U.S.*, 405 U.S. 150 (1972); *U.S. v. Agurs*, 427 U.S. 97 (1976); *Thomas v. State*, 372 Md. 342 (2002); *Goldsmith v. State*, 337 Md. 112 (1995); and *Lyba v. State*, 321 Md. 564 (1991).

~~(2) On Request~~

~~On written request of the defense, the State's Attorney shall provide to the defense:~~

~~(A)~~(3) Statements of Defendant and Co-defendant

All written and all oral statements of the defendant and of any co-defendant that relate to the offense charged and all material and information, including documents and recordings, that relate to the acquisition of such statements;

~~(B)~~(4) Written Statements, Identity, and Telephone Numbers of State's Witnesses

As to each State's witness the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony: ~~(i)~~(A) the name of the witness; ~~(ii)~~(B) except as provided under Code, Criminal Procedure Article, § 11-205 or Rule 16-934, the address and, if known to the State's Attorney, the

telephone number of the witness; and ~~(iii)~~(C) the statements of the witness relating to the offense charged that are in a writing signed or adopted by the witness or are in a police or investigative report;

~~(C)~~(5) Searches, Seizures, Surveillance, and Pretrial Identification

All relevant material or information regarding:

~~(i)~~(A) specific searches and seizures, eavesdropping, or electronic surveillance including wiretaps; and

~~(ii)~~(B) pretrial identification of the defendant by a State's witness;

Committee note: In addition to disclosure of a pretrial identification of a defendant by a State's witness, in some cases, disclosure of a pretrial identification of a co-defendant by a State's witness also may be required. See *Green v. State*, 456 Md. 97 (2017).

(6) Facial Recognition Technology

Information regarding the use or nonuse of facial recognition technology, as required by Code, Criminal Procedure Article, § 2-504;

~~(D)~~(7) Reports or Statements of Experts

As to each State's witness the State's Attorney intends to call to testify as an expert witness other than at a preliminary hearing:

~~(i)~~(A) the expert's name and address, the subject matter on which the expert is expected to testify, the substance of the expert's findings and opinions, and a summary of the grounds for each opinion;

~~(ii)~~(B) the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and

~~(iii)~~(C) the substance of any oral report and conclusion by the expert;

~~(E)~~(8) Evidence for Use at Trial

The opportunity to inspect, copy, and photograph all documents, computer-generated evidence as defined in Rule 2-504.3 (a), recordings, photographs, or other tangible things that the State's Attorney intends to use at a hearing or at trial; and

~~(F)~~(9) Property of the Defendant

The opportunity to inspect, copy, and photograph all items obtained from or belonging to the defendant, whether or not the State's Attorney intends to use the item at a hearing or at trial.

(e) Disclosure by Defense

On written request of the State's Attorney, the defense shall provide to the State's Attorney:

(1) Reports or Statements of Experts

As to each defense witness the defense intends to call to testify as an expert witness:

(A) the expert's name and address, the subject matter on which the expert is expected to testify, the substance of the findings and the opinions to which the expert is expected to testify, and a summary of the grounds for each opinion;

(B) the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and

(C) the substance of any oral report and conclusion by the expert; and

(2) Defense of Duress

Notice of an intention to rely on a defense of duress pursuant to Code, Criminal Law Article, § 11-306(c).

(3) Documents, Computer-Generated Evidence, and Other Things

The opportunity to inspect, copy, and photograph any documents, computer-generated evidence as defined in Rule 2-504.3 (a), recordings, photographs, or other tangible things that the defense intends to use at a hearing or at trial.

(f) Person of the Defendant

(1) On Request

On written request of the State's Attorney that includes reasonable notice of the time and place, the defendant shall appear for the purpose of:

(A) providing fingerprints, photographs, handwriting exemplars, or voice exemplars;

(B) appearing, moving, or speaking for identification in a lineup; or

(C) trying on clothing or other articles.

(2) On Motion

On motion filed by the State's Attorney, with reasonable notice to the defense, the court, for good cause shown, shall order the defendant to appear and (A) permit the taking of buccal samples, samples of other materials of the body, or specimens of blood, urine, saliva, breath, hair, nails, or material under the nails or (B) submit to a reasonable physical or mental examination.

(g) Matters Not Discoverable

(1) By Any Party

Notwithstanding any other provision of this Rule, neither the State's Attorney nor the defense is 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 in disclosure.

(2) By the Defense

The State's Attorney is not required to disclose the identity of a confidential informant unless the State's Attorney intends to call the informant as a State's witness or unless the failure to disclose the informant's identity would infringe a constitutional right of the defendant.

(h) Continuing Duty to Disclose

Each party is under a continuing obligation to produce discoverable material and information to the other side. A party who has responded to a request or order for discovery and who obtains further material information shall supplement the response promptly.

(i) Procedure

To the extent practicable, the discovery and inspection required or permitted by this Rule shall be completed before the hearing or trial date, except that asserting a defense pursuant to subsection (e)(2) of this Rule shall be made at least 10 days before the trial. ~~If a request was made before the date of the hearing or trial and the request was refused or denied, or pretrial~~

~~compliance was impracticable~~ If compliance was refused, denied, or impracticable, the court may grant a delay or continuance in the hearing or trial to permit the inspection or discovery.

(j) Requests, Motions, and Responses to be filed with the Court

Requests for discovery, motions for discovery, and any responses to the requests or motions shall be filed with the court.

(k) Discovery Material not to be Filed with the Court

Except as otherwise provided in these Rules or by order of court, discovery material shall not be filed with the court. This section does not preclude the use of discovery material at trial or as an exhibit to support or oppose a motion.

(l) Retention; Inspection of Original

The party generating discovery material shall retain the original until the expiration of any sentence imposed on the defendant and, on request, shall make the original available for inspection and copying by the other party.

(m) Protective Orders

On motion of a party, a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, the court, for good cause shown, may order that specified disclosures be denied or restricted in any manner that justice requires.

(n) Failure to Comply With Discovery Obligation

If at any time during the proceedings the court finds that a party has failed to comply with this Rule or an order issued pursuant to this Rule, the court

may order that party to permit the discovery of the matters not previously disclosed, strike any or all testimony to which the undisclosed matter relates, grant a reasonable continuance, prohibit the party from introducing in evidence the matter not disclosed, grant a mistrial, or enter any other order appropriate under the circumstances. The failure of a party to comply with a discovery obligation in this Rule does not automatically disqualify a witness from testifying. If a motion is filed to disqualify the witness's testimony, disqualification is within the discretion of the court.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-263 by adding a Committee note after subsection (c)(2), by deleting the cross reference after subsection (d)(6), by adding subsection (d)(11) addressing disclosures concerning in-custody witness testimony, by adding new subsection (d)(12) pertaining to facial recognition technology, by adding a cross reference after new subsection (d)(11), by replacing the word “the” with the phrase “any or all” in section (n), by deleting a Committee note at the end of section (n), and by making stylistic changes, as follows:

Rule 4-263. DISCOVERY IN CIRCUIT COURT

• • •

(c) Obligations of the Parties

(1) Due Diligence

The State's Attorney and defense shall exercise due diligence to identify all of the material and information that must be disclosed under this Rule.

(2) Scope of Obligations

The obligations of the State's Attorney and the defense extend to material and information that must be disclosed under this Rule and that are in the possession or control of the attorney, members of the attorney's staff, or any other person who either reports regularly to the attorney's office or has reported to the attorney's office in regard to the particular case.

Committee note: In many jurisdictions, the State complies with discovery requirements imposed under Rules 4-262 and 4-263 through “open file” discovery. While, in appropriate cases, “open file” discovery may satisfy the State’s discovery obligation, the full scope of discovery may require provision of additional discovery material beyond that contained in the “open file,” as expressly outlined in Rules 4-262 (c) and 4-263 (c).

Cross reference: For the obligations of the State's Attorney, see *State v. Williams*, 392 Md. 194 (2006).

(d) Disclosure by the State's Attorney

Without the necessity of a request, the State's Attorney shall provide to the defense:

(1) Statements

All written and all oral statements of the defendant and of any co-defendant that relate to the offense charged and all material and information, including documents and recordings, that relate to the acquisition of such statements;

(2) Criminal Record

Prior criminal convictions, pending charges, and probationary status of the defendant and of any co-defendant;

(3) State's Witnesses

As to each State's witness the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony: (A) the name of the witness; (B) except as provided under Code, Criminal Procedure Article, § 11-205 or Rule 16-912 (b), the address and, if known to the State's Attorney, the telephone number of the witness; and (C) all written statements of the witness that relate to the offense charged;

(4) Prior Conduct

All evidence of other crimes, wrongs, or acts committed by the defendant that the State's Attorney intends to offer at a hearing or at trial pursuant to Rule 5-404 (b);

(5) Exculpatory Information

All material or information in any form, whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged;

(6) Impeachment Information

All material or information in any form, whether or not admissible, that tends to impeach a State's witness, including:

(A) evidence of prior conduct to show the character of the witness for untruthfulness pursuant to Rule 5-608 (b);

(B) a relationship between the State's Attorney and the witness, including the nature and circumstances of any agreement, understanding, or representation that may constitute an inducement for the cooperation or testimony of the witness;

~~Cross reference: For the requirement to disclose a “benefit” to an “in custody witness,” see Code, Courts Article, § 10-924.~~

(C) prior criminal convictions, pending charges, or probationary status that may be used to impeach the witness, but the State's Attorney is not required to investigate the criminal record of the witness unless the State's Attorney knows or has reason to believe that the witness has a criminal record;

(D) an oral statement of the witness, not otherwise memorialized, that is materially inconsistent with another statement made by the witness or with a statement made by another witness;

(E) a medical or psychiatric condition or addiction of the witness that may impair the witness's ability to testify truthfully or accurately, but the State's Attorney is not required to inquire into a witness's medical, psychiatric, or addiction history or status unless the State's Attorney has information that reasonably would lead to a belief that an inquiry would result in discovering a condition that may impair the witness's ability to testify truthfully or accurately;

(F) the fact that the witness has taken but did not pass a polygraph examination; and

(G) the failure of the witness to identify the defendant or a co-defendant;

Cross reference: See *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Giglio v. U.S.*, 405 U.S. 150 (1972); *U.S. v. Agurs*, 427 U.S. 97 (1976); *Thomas v. State*, 372 Md. 342 (2002); *Goldsmith v. State*, 337 Md. 112 (1995); and *Lyba v. State*, 321 Md. 564 (1991).

(7) Searches, Seizures, Surveillance, and Pretrial Identification

All relevant material or information regarding:

(A) specific searches and seizures, eavesdropping, and electronic surveillance including wiretaps; and

(B) pretrial identification of the defendant by a State's witness including, if the pretrial identification involved participation by personnel from a law enforcement agency, (i) a copy of or an electronic link to the written policies relating to eyewitness identification required by Code, Public Safety Article,

§§ 3-506 and 3-506.1, and (ii) documents or other evidence indicating compliance or non-compliance with the requirements of Code, Public Safety Article, §§ 3-506 and 3-506.1;

Committee note: In addition to disclosure of a pretrial identification of a defendant by a State's witness, in some cases, disclosure of a pretrial identification of a co-defendant by a State's witness also may be required. See *Green v. State*, 456 Md. 97 (2017).

(8) Reports or Statements of Experts

As to each expert consulted by the State's Attorney in connection with the action:

(A) the expert's name and address, the subject matter of the consultation, the substance of the expert's findings and opinions, and a summary of the grounds for each opinion;

(B) the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and

(C) the substance of any oral report and conclusion by the expert;

(9) Evidence for Use at Trial

The opportunity to inspect, copy, and photograph all documents, computer-generated evidence as defined in Rule 2-504.3 (a), recordings, photographs, or other tangible things that the State's Attorney intends to use at a hearing or at trial; ~~and~~

(10) Property of the Defendant

The opportunity to inspect, copy, and photograph all items obtained from or belonging to the defendant, whether or not the State's Attorney intends to use the item at a hearing or at trial;

(11) In-custody Witness Testimony

If the State's Attorney intends to introduce testimony of an in-custody witness:

(A) any benefits an in-custody witness has received, or expects to receive, in exchange for providing testimony;

(B) the substance, time, and place of any statement (i) allegedly made by a suspect or defendant to the in-custody witness or (ii) made by an in-custody witness to law enforcement implicating the suspect or defendant; and

(C) other cases in which the in-custody witness testified, provided that the testimony can be ascertained through reasonable inquiry, and whether the in-custody witness received a benefit in exchange for providing testimony in those other cases; and

Cross reference: See Rule 4-268 concerning pre-trial hearings prior to the admission of in-custody witness testimony.

(12) Facial Recognition Technology

Information regarding the use or nonuse of facial recognition technology, as required by Code, Criminal Procedure Article, § 2-504.

(e) Disclosure by Defense

Without the necessity of a request, the defense shall provide to the State's Attorney:

(1) Defense Witness

The name and, except when the witness declines permission, the address of each defense witness other than the defendant, together with all written statements of each such witness that relate to the subject matter of the testimony of that witness. Disclosure of the identity and statements of a person who will be called for the sole purpose of impeaching a State's witness is not required until after the State's witness has testified at trial.

(2) Reports or Statements of Experts

As to each defense witness the defense intends to call to testify as an expert witness:

(A) the expert's name and address, the subject matter on which the expert is expected to testify, the substance of the findings and the opinions to which the expert is expected to testify, and a summary of the grounds for each opinion;

(B) the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and

(C) the substance of any oral report and conclusion by the expert;

(3) Character Witnesses

As to each defense witness the defense intends to call to testify as to the defendant's veracity or other relevant character trait, the name and, except when the witness declines permission, the address of that witness;

(4) Alibi Witnesses

If the State's Attorney has designated the time, place, and date of the alleged offense, the name and, except when the witness declines permission, the address of each person other than the defendant whom the defense intends to call as a witness to show that the defendant was not present at the time, place, or date designated by the State's Attorney;

(5) Insanity Defense

Notice of any intention to rely on a defense of not criminally responsible by reason of insanity, and the name and, except when the witness declines permission, the address of each defense witness other than the defendant in support of that defense; and

Committee note: The address of an expert witness must be provided. See subsection (e)(2)(A) of this Rule.

(6) Defense of Duress

Notice of an intention to rely on a defense of duress pursuant to Code, Criminal Law Article, § 11-306(c).

(7) Documents, Computer-Generated Evidence, and Other Things

The opportunity to inspect, copy, and photograph any documents, computer-generated evidence as defined in Rule 2-504.3 (a), recordings, photographs, or other tangible things that the defense intends to use at a hearing or at trial.

(f) Person of the Defendant

(1) On Request

On request of the State's Attorney that includes reasonable notice of the time and place, the defendant shall appear for the purpose of:

(A) providing fingerprints, photographs, handwriting exemplars, or voice exemplars;

(B) appearing, moving, or speaking for identification in a lineup; or

(C) trying on clothing or other articles.

(2) On Motion

On motion filed by the State's Attorney, with reasonable notice to the defense, the court, for good cause shown, shall order the defendant to appear and (A) permit the taking of buccal samples, samples of other materials of the body, or specimens of blood, urine, saliva, breath, hair, nails, or material under the nails or (B) submit to a reasonable physical or mental examination.

(g) Matters Not Discoverable

(1) By Any Party

Notwithstanding any other provision of this Rule, neither the State's Attorney nor the defense is 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 in disclosure.

(2) By the Defense

The State's Attorney is not required to disclose the identity of a confidential informant unless the State's Attorney intends to call the informant as a State's witness or unless the failure to disclose the informant's identity would infringe a constitutional right of the defendant.

(h) Time for Discovery

Unless the court orders otherwise:

(1) the State's Attorney shall make disclosure pursuant to section (d) of this Rule within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant before the court pursuant to Rule 4-213 (c), and

(2) the defense shall make disclosure pursuant to section (e) of this Rule no later than 30 days before the first scheduled trial date, except that asserting a defense pursuant to subsection (e)(6) of this Rule shall be made at least 10 days before the first scheduled trial date.

(i) Motion to Compel Discovery

(1) Time

A motion to compel discovery based on the failure to provide discovery within the time required by section (h) of this Rule shall be filed within ten days after the date the discovery was due. A motion to compel based on inadequate discovery shall be filed within ten days after the date the discovery was received.

(2) Content

A motion shall specifically describe the information or material that has not been provided.

(3) Response

A response may be filed within five days after service of the motion.

(4) Certificate

The court need not consider any motion to compel discovery unless the moving party has filed a certificate describing good faith attempts to discuss with the opposing party the resolution of the dispute and certifying that they are unable to reach agreement on the disputed issues. The certificate shall include the date, time, and circumstances of each discussion or attempted discussion.

(j) Continuing Duty to Disclose

Each party is under a continuing obligation to produce discoverable material and information to the other side. A party who has responded to a request or order for discovery and who obtains further material information shall supplement the response promptly.

(k) Manner of Providing Discovery

(1) By Agreement

Discovery may be accomplished in any manner mutually agreeable to the parties. The parties shall file with the court a statement of their agreement.

(2) If No Agreement

In the absence of an agreement, the party generating the discovery material shall (A) serve on the other party copies of all written discovery material, together with a list of discovery materials in other forms and a statement of the time and place when these materials may be inspected, copied, and photographed, and (B) promptly file with the court a notice that (i) reasonably identifies the information provided and (ii) states the date and

manner of service. On request, the party generating the discovery material shall make the original available for inspection and copying by the other party.

(3) Requests, Motions, and Responses to Be Filed With the Court

Requests for discovery, motions for discovery, motions to compel discovery, and any responses to the requests or motions shall be filed with the court.

(4) Discovery Material Not to Be Filed With the Court

Except as otherwise provided in these Rules or by order of court, discovery material shall not be filed with the court. This section does not preclude the use of discovery material at trial or as an exhibit to support or oppose a motion.

(l) Retention

The party generating discovery material shall retain the original until the earlier of the expiration of (i) any sentence imposed on the defendant or (ii) the retention period that the material would have been retained under the applicable records retention and disposal schedule had the material been filed with the court.

(m) Protective Orders

(1) Generally

On motion of a party, a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, the court, for good cause shown, may order that specified disclosures be denied or restricted in any manner that justice requires.

(2) In Camera Proceedings

On request of party, or a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, the court may permit any showing of cause for denial or restriction of disclosures to be made in camera. A record shall be made of both in court and in camera proceedings. Upon the entry of an order granting relief in an in camera proceeding, all confidential portions of the in camera portion of the proceeding shall be sealed, preserved in the records of the court, and made available to the appellate court in the event of an appeal.

(n) Sanctions

If at any time during the proceedings the court finds that a party has failed to comply with this Rule or an order issued pursuant to this Rule, the court may order that party to permit the discovery of the matters not previously disclosed, strike ~~the~~ any or all testimony to which the undisclosed matter relates, grant a reasonable continuance, prohibit the party from introducing in evidence the matter not disclosed, grant a mistrial, or enter any other order appropriate under the circumstances. The failure of a party to comply with a discovery obligation in this Rule does not automatically disqualify a witness from testifying. If a motion is filed to disqualify the witness's testimony, disqualification is within the discretion of the court.

~~Committee note: When testimony of an in-custody witness is offered, the Court, at the request of a defendant, shall conduct a hearing to ensure that the State's Attorney has disclosed all material and information related to the in-custody witness as required by law. See Code, Courts Article, § 10-924.~~

Source: This Rule is new and is derived in part from former Rule 741 and the 1998 version of former Rule 4-263.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

ADD new Rule 4-268, as follows:

Rule 4-268. PRE-TRIAL HEARING PRIOR TO ADMISSION OF IN-CUSTODY
WITNESS TESTIMONY

At the request of the defendant, the court shall conduct a hearing prior to admitting the testimony of an in-custody witness to determine whether the State's Attorney has disclosed all material and information related to the in-custody witness as required by law.

Cross reference: See Rule 4-263 and Code, Courts Article, § 10-924.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-271 by adding clarifying language to section (a), as follows:

Rule 4-271. TRIAL DATE

(a) Trial Date in Circuit Court

(1) The date for trial in the circuit court shall be set within 30 days after the earlier of the appearance of counsel pursuant to Rule 4-214 or the first appearance of the defendant before the circuit court pursuant to Rule 4-213, and shall be not later than 180 days after the earlier of those events. When a case has been transferred from the District Court because of a demand for jury trial, and an appearance of counsel entered in the District Court was automatically entered in the circuit court pursuant to Rule 4-214 (a), the date of the appearance of counsel for purposes of this Rule is the date the case was docketed in the circuit court. On motion of a party, or on the court's initiative, and for good cause shown, the county administrative judge or that judge's designee may grant a change of a circuit court trial date. If a circuit court trial date is changed, any subsequent changes of the trial date may be made only by the county administrative judge or that judge's designee for good cause shown.

Cross reference: See Code, Criminal Procedure Article, § 6-103; see also *Jackson v. State*, 485 Md. 1 (2023).

(2) Upon a finding by the Chief Justice of the Supreme Court that the number of demands for jury trial filed in the District Court for a county is having a critical impact on the efficient operation of the circuit court for that county, the Chief Justice, by Administrative Order, may exempt from this section cases transferred to that circuit court from the District Court because of a demand for jury trial.

(b) Change of Trial Date in District Court

The date for trial in the District Court may be changed on motion of a party, or on the court's initiative, and for good cause shown.

Committee note: Subsection (a)(1) of this Rule is intended to incorporate and continue the provisions of Rule 746 from which it is derived. Stylistic changes have been made.

Source: This Rule is derived as follows:

Section (a) is in part derived from former Rule 746 a and b, and is in part new. Section (b) is derived from former M.D.R. 746.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 300 – TRIAL AND SENTENCING

AMEND Rule 4-314 by updating terminology in subsection (b)(6), as follows:

Rule 4-314. DEFENSE OF NOT CRIMINALLY RESPONSIBLE

...

(b) Procedure for Bifurcated Trial

...

(6) Order of Proof

(A) Evidence of mental disorder or ~~mental retardation~~ intellectual disability as defined in Code, Criminal Procedure Article, § 3-109 shall not be admissible in the guilt stage of the trial for the purpose of establishing the defense of lack of criminal responsibility. This evidence shall be admissible for that purpose only in the second stage following a verdict of guilty.

...

MARYLAND RULES OF PROCEDURE

TITLE 5 – EVIDENCE

CHAPTER 600 – WITNESSES

AMEND Rule 5-606 by adding clarifying language to subsection (b)(1), by adding new subsection (b)(2), by adding a cross reference after new subsection (b)(2), and by renumbering subsequent subsections, as follows:

Rule 5-606. COMPETENCY OF JUROR AS WITNESS

(a) At the Trial

A member of a jury may not testify as a witness before that jury in the trial of the case in which the sworn juror is sitting. If the sworn juror is called to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

(b) Inquiry Into Validity of Verdict

(1) ~~It~~ Except as provided in subsection (b)(2) of this Rule, in any inquiry into the validity of a verdict, a sworn juror may not testify as to (A) any matter or statement occurring during the course of the jury's deliberations, (B) the effect of anything upon that or any other sworn juror's mind or emotions as influencing the sworn juror to assent or dissent from the verdict, or (C) the sworn juror's mental processes in connection with the verdict.

(2) In any inquiry into the validity of a verdict, a sworn juror may testify as to a clear statement made by a juror indicating that the juror relied on a racial or other unconstitutional stereotype or animus.

Cross reference: See *Peña-Rodriguez v. Colorado*, 580 U.S. 206 (2017).

~~(2)~~(3) A sworn juror's affidavit or evidence of any statement by the juror concerning a matter about which the juror would be precluded from testifying may not be received for these purposes.

~~(3)~~(4) Notes made under Rule 2-521 (a) or Rule 4-326 (a) may not be used to impeach a verdict.

(c) “Verdict” Defined

For purposes of this Rule, “verdict” means a verdict returned by a trial jury.

Committee note: This Rule does not address or affect the secrecy of grand jury proceedings.

Source: This Rule is derived in part from F.R.Ev. 606.

MARYLAND RULES OF PROCEDURE

TITLE 6 – SETTLEMENT OF DECEDENTS’ ESTATES

CHAPTER 200 – SMALL ESTATE

AMEND Rule 6-209 by updating the language in the form notice in section (a) pertaining to objection to the appointment, as follows:

Rule 6-209. NOTICE OF APPOINTMENT

(a) Notice

When notice of appointment is required to be published by the order of the register, the personal representative shall file the notice in duplicate in the following form:

(FILE IN DUPLICATE)

(name and address of attorney)

SMALL ESTATE

NOTICE OF APPOINTMENT

Estate No. _____

NOTICE TO CREDITORS

NOTICE TO UNKNOWN HEIRS

TO ALL PERSONS INTERESTED IN THE ESTATE OF _____.

Notice is given that _____ (name & address) was on _____ (date) appointed personal representative of the small estate of _____ who died on _____ (date) (with) (without) a will.

Further information can be obtained by reviewing the estate file in the office of the Register of Wills or by contacting the personal representative or the attorney.

All interested persons or unpaid claimants having any objection to the appointment shall file their objections with the Register of Wills within 30 days after the date of publication of this notice. All persons having an objection to the probate of the will shall file their objections with the Register of Wills within six months after the date of publication of this Notice.

All persons having claims against the decedent must serve their claims on the undersigned personal representative or file them with the Register of Wills with a copy to the undersigned on or before the earlier of the following dates:

- (1) Six months from the date of the decedent's death, or
- (2) Thirty days after the personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the claims will be barred unless the creditor presents the claim within thirty days from the mailing or other delivery of the notice. Any claim not served or filed within that time, or any extension provided by law, is unenforceable thereafter.

Personal Representative(s)

True Test Copy

Name and Address of Register of Wills for _____

Name of newspaper designated by personal representative _____

(b) Modification of Form

If the initial appointment is made under judicial probate, this form may be modified to delete reference to the notice of the right to object to the appointment of the personal representative or to the probate of the decedent's will, as applicable.

(c) Publication

The register shall cause the notice to be published once in a newspaper of general circulation in the county of appointment.

(d) Certificate of Publication

Within 60 days after publication, the personal representative shall cause to be filed with the register a certification that the required newspaper notice has been published.

Cross reference: Code, Estates and Trusts Article, §§ 7-103 and 5-604(b); Rule 6-401.

MARYLAND RULES OF PROCEDURE
TITLE 6 – SETTLEMENT OF DECEDENTS’ ESTATES
CHAPTER 300 – OPENING ESTATES

AMEND Rule 6-311 by replacing certain language in the form notice in section (a) pertaining to objection to the appointment, as follows:

Rule 6-311. NOTICE OF APPOINTMENT

(a) Notice

The petitioner shall file with the register, in duplicate, a notice of appointment in the following form:

(FILE IN DUPLICATE)

(name and address of attorney)

NOTICE OF APPOINTMENT

NOTICE TO CREDITORS

NOTICE TO UNKNOWN HEIRS

Estate No. _____

TO ALL PERSONS INTERESTED IN THE ESTATE OF _____.

Notice is given that _____ (name & address) was on _____ (date) appointed personal representative of the estate of _____ who died on _____ (date) (with) (without) a will.

Further information can be obtained by reviewing the estate file in the office of the Register of Wills or by contacting the personal representative or the attorney.

~~All persons having any objection to the appointment (or to the probate of the decedent's will) shall file their objections with the Register of Wills on or before the ____ day of _____ (6 months from date of appointment), _____ (year).~~

All interested persons or unpaid claimants having any objection to the appointment of the personal representative shall file their objection with the Register of Wills on or before the ____ day of _____ (6 months from date of appointment), _____ (year).

All persons having any objection to the probate of the will of the decedent shall file their objections with the Register of Wills on or before the ____ day of _____ (6 months from date of appointment), _____ (year).

Any person having a claim against the decedent must present the claim to the undersigned personal representative or file it with the Register of Wills with a copy to the undersigned on or before the earlier of the following dates:

- (1) Six months from the date of the decedent's death, or
- (2) Two months after the personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the claim will be barred unless the creditor presents the claims within two months from the mailing or other delivery of the notice. A claim not presented or filed on or before that date, or any extension provided by law, is unenforceable thereafter. Claim forms may be obtained from the Register of Wills.

 Personal Representative(s)

 True Test Copy

Name and Address of Register of Wills for _____

Name of newspaper designated by personal representative _____

(b) Modification of Form

If the initial appointment is made under judicial probate, this form may be modified to delete reference to the notice of the right to object to the appointment of the personal representative or to the probate of the decedent's will, as applicable. If there was a prior small estate proceeding, the form shall be modified to state that fact. If the initial appointment was made more than six months after the decedent's death, the form may be modified to eliminate the reference to persons having a claim against the estate.

Cross reference: Code, Estates and Trusts Article, §§ 7-103 and 8-104; Rule 6-401.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 200 – DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT, AND
CHILD CUSTODY

ADD new Rule 9-202.1, as follows:

Rule 9-202.1. CHILD SUPPORT MODIFICATION

(a) Applicability

This Rule applies to a motion to modify child support pursuant to Code, Family Law Article, § 12-104 that is filed more than 30 days after entry of an order by a Maryland court establishing or modifying child support. It does not apply to modification of a support order or income withholding order issued in another state or a foreign support order registered in this State.

Cross reference: See Code, Family Law Article, Title 10, Subtitle 3, Part VI, Subpart C pertaining to registration and modification of a child support order of another state.

(b) Form of Motion

The motion shall be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the clerks' offices.

(c) Issuance of Summons

Pursuant to Rule 1-321 (e), the clerk shall issue a summons to be served with the motion.

(d) Service

(1) On Non-Moving Party

Except as otherwise provided in section (e) of this Rule, the summons and the motion shall be served on the non-moving party in accordance with Rule 2-121 (a).

(2) On Child Support Administration

If the Child Support Administration is charged with collecting child support in the action, in addition to the service required by subsection (d)(1) of this Rule, the moving party shall serve a copy of the summons and the motion on the local office of child support by first-class mail.

(e) Alternative Methods of Service

(1) Request

If (A) the current address of the non-moving party is not known to the moving party, (B) the moving party is unable to serve the non-moving party after having made reasonable good faith efforts to do so, or (C) the moving party alleges facts supporting that personal service on the non-moving party is impracticable, the moving party may file a request to permit an alternative method of service pursuant to Rule 2-121 (b) or (c), as appropriate, together with an affidavit in support of the request. The request and affidavit shall be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the clerks' offices. If the Child Support Administration is charged with collecting child support in the action, the moving party shall serve the Child Support Administration by mailing a copy of the request and affidavit to the local office of child support by first-class mail.

(2) Determination of Request

The court promptly shall consider a request filed pursuant to section (e) of this Rule. The court may hold a hearing to determine an appropriate method of service, except that the court shall hold a hearing if the Child Support Administration is charged with collecting child support in the action and requests a hearing within 15 days of being served pursuant to subsection (e)(1) of this Rule. If a hearing is held, the court shall permit remote electronic participation pursuant to Rule 21-201. If the court grants the request, it shall enter an order permitting an alternative method of service reasonably calculated to give actual notice of the action to the non-moving party, which may include:

(A) authorizing service pursuant to Rule 2-121 (b);

(B) permitting the moving party to send a copy of the summons and the motion to the non-moving party by electronic means, including email, text message, or social media; or

(C) if no other means of contact is available, and the Child Support Administration is charged with collecting child support and has an email address not known to be inactive for the non-moving party in its records, ordering the Child Support Administration to make prompt electronic service by email.

(3) Order Permitting Alternative Service

An order permitting an alternative method of service shall include:

(A) the authorized method or methods of alternative service;

(B) a method for demonstrating proof of service;

(C) if the Child Support Administration is ordered to serve the non-moving party electronically, instructions for providing the court with the email address used for service confidentially; and

(D) a directive to the non-moving party to provide to the court, in writing, within the time allowed for filing a response to the motion, an address to which pleadings, papers, and notices are to be sent.

Committee note: The non-moving party may provide any street address or post office box at which the party is willing and able to receive pleadings, papers, and notices, including any documents that may require prompt action on the part of the non-moving party. The address may be provided as part of a response to the motion.

Cross reference: See Code, State Government Article, §§ 7-301 to 7-313 and Rule 1-205 concerning participation in the Address Confidentiality Program. See Rule 1-311 (a) concerning information to be provided when filing a pleading or paper with the court.

(4) Failure to Provide Address

If a non-moving party who is served pursuant to section (e) of this Rule fails to provide the court with an address as required by subsection (e)(3)(D) of this Rule within the time allowed for responding to the motion, the court shall enter an order stating a method by which pleadings and papers may be served and notices may be sent, which may be the method of alternative service used for service of the initial motion.

(f) Motion to Modify Child Support as Counterclaim

A non-moving party who is served with a summons and motion to modify child support or a petition for contempt in an action involving child support may file a motion to modify child support as a counterclaim and serve it on the

moving party in accordance with Rule 1-321 (a). If the Child Support Administration is charged with collecting child support in the action and is not the moving party, the party filing the counterclaim shall serve a copy of it on the local office of child support by first-class mail. If the Child Support Administration is the moving party, the party filing the counterclaim shall serve each other party named in the child support order sought to be modified in accordance with the procedure set forth in subsection (d)(1) or section (e) of this Rule.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 200 – DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT, AND
CHILD CUSTODY

AMEND Rule 9-205.3 by adding clarifying language to subsection (c)(2); by creating new subsection (d)(1)(A) using the language of current subsection (d)(1); by adding new subsection (d)(1)(B) regarding continuing education and licensing requirements; by creating new subsection (d)(2)(A) addressing mandatory training using language from current subsection (d)(2), with modifications; by creating new subsection (d)(2)(B) concerning required experience using language from current subsection (d)(2), with modifications; by updating the topics of required knowledge and experience in subsection (d)(2)(B); by modifying the court’s ability to waive licensing requirements in subsection (d)(3); and by making stylistic changes, as follows:

Rule 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS

(a) Applicability

This Rule applies to the appointment or approval by a court of a person to ~~perform~~ conduct an assessment in an action under this Chapter in which child custody or visitation is at issue.

Committee note: In this Rule, when an assessor is selected by the court, the term “appointment” is used. When the assessor is selected by the parties and the selection is incorporated into a court order, the term “approval” is used.

(b) Definitions

In this Rule, the following definitions apply:

(1) Assessment

“Assessment” includes a custody evaluation, a home study, a mental health evaluation, and a specific issue evaluation.

(2) Assessor

“Assessor” means an individual who ~~performs~~ conducts an assessment.

(3) Custody Evaluation

“Custody evaluation” means a study and analysis of the needs and development of a child who is the subject of an action or proceeding under this Chapter and of the abilities of the parties to care for the child and meet the child's needs.

(4) Custody Evaluator

“Custody evaluator” means an individual appointed or approved by the court to ~~perform~~ conduct a custody evaluation.

(5) Home Study

“Home study” means an inspection of a party's home that focuses upon the safety and suitability of the physical surroundings and living environment for the child.

(6) Mental Health Evaluation

“Mental health evaluation” means an evaluation of an individual's mental health ~~performed~~ conducted by a psychiatrist or psychologist who has the qualifications set forth in subsection ~~(d)(1)(A) or (B)~~ (d)(1)(A)(i) or (ii) of this Rule.

A mental health evaluation may include psychological testing.

(7) Specific Issue Evaluation

“Specific issue evaluation” means a focused investigation into a specific issue raised by a party, the child's attorney, or the court affecting the safety, health, or welfare of the child as may affect the child’s best interests.

Committee note: A specific issue evaluation is not a “mini” custody evaluation. A custody evaluation is a comprehensive study of the general functioning of a family and of the parties’ parenting capacities. A specific issue evaluation is an inquiry, narrow in scope, into a particular issue or issues that predominate in a case. The issue or issues are defined by questions posed by the court to the assessor in an order. The evaluation primarily is fact-finding, but the court may opt to receive a recommendation. Examples of questions that could be the subject of specific issue evaluations are questions concerning the appropriate school for a child with special needs and how best to arrange physical custody and visitation for a child when one parent is relocating.

(8) State

“State” includes the District of Columbia.

(c) Authority

(1) Generally

On motion of a party or child's counsel, or on its own initiative, the court may order an assessment to aid the court in evaluating the health, safety, welfare, or best interests of a child in a contested custody or visitation case.

(2) Appointment or Approval

The court may appoint or approve any person deemed competent by the court to ~~perform~~ conduct a home study. The court may not appoint or approve a person to ~~perform~~ conduct a custody evaluation or specific issue evaluation unless (A) the assessor has the qualifications set forth in subsections (d)(1) and (d)(2) of this Rule, or (B) the qualifications set forth in subsection (d)(1) of this

Rule have been waived for the assessor pursuant to subsection (d)(3) of this Rule.

(3) Cost

The court may not order the cost of an assessment to be paid, in whole or in part, by a party without giving the parties notice and an opportunity to object.

Committee note: Nothing in this Rule precludes the court from ordering preliminary screening or testing for alcohol and substance use.

(d) Qualifications of Custody Evaluator

(1) Education and Licensing

(A) Required Education and Licensure

A custody evaluator shall be:

~~(A)~~(i) a physician licensed in any State who is board-certified in psychiatry or has completed a psychiatry residency accredited by the Accreditation Council for Graduate Medical Education or a successor to that Council;

~~(B)~~(ii) a Maryland-licensed psychologist or a psychologist with an equivalent level of licensure in any other state;

~~(C)~~(iii) a Maryland-licensed clinical marriage and family therapist or a clinical marriage and family therapist with an equivalent level of licensure in any other state;

~~(D)~~(iv) a Maryland-licensed certified social worker-clinical or a clinical social worker with an equivalent level of licensure in any other state;

~~(E)~~(v) ~~(i)~~(a) a Maryland-licensed graduate or master social worker with at least two years of experience in ~~(a)~~(1) one or more of the areas listed in

subsection ~~(d)(2)(d)(2)(B)~~ of this Rule, ~~(b) performing (2) conducting~~ custody evaluations, or ~~(e)(3)~~ any combination of subsections ~~(a)(d)(1)(A)(v)(a)(1)~~ and ~~(b)(d)(1)(A)(v)(a)(2),~~; or ~~(ii)(b)~~ a graduate or master social worker with an equivalent level of licensure and experience in any other state; or

~~(F)(vi)~~ a Maryland-licensed clinical professional counselor or a clinical professional counselor with an equivalent level of licensure in any other state.

(B) Continuing Education and Licensure Requirements

A custody evaluator shall comply with all conditions necessary to maintain professional licensure, including completing all mandatory continuing education requirements.

(2) Training and Experience

(A) Mandatory Training

~~Unless waived by the court, a~~ A custody evaluator shall have completed, ~~or commit to completing, the next available~~ a training program that conforms ~~with~~ to guidelines established by the Administrative Office of the Courts. ~~The current guidelines~~ Current training guidelines shall be posted on the Judiciary's website.

(B) Required Experience

~~In addition to complying with the continuing requirements of the custody evaluator's field, a~~ A custody evaluator shall have ~~training or~~ experience in conducting or observing ~~or performing~~ custody evaluations, and shall have ~~current~~ demonstrated knowledge ~~in the following areas of and~~ experience in the following topics:

- ~~(A)~~(i) domestic and family violence;
- ~~(B)~~(ii) child neglect and abuse, including sexual abuse;
- (iii) child and adult development;
- (iv) trauma and its impact on children and adults;
- ~~(C)~~(v) family ~~conflict and dynamics~~ and conflict resolution;
- ~~(D)~~ child and adult development; (vi) disability-related issues; and
- ~~(E)~~(vii) the impact of divorce and separation on children and adults.

(3) Waiver of Licensing Requirements

If a court employee, or an individual under contract with the court, ~~regularly has been performing~~ conducted custody evaluations ~~on a regular basis as an employee of, or under contract with, the court~~ for at least ~~five~~ fourteen years prior to January 1, ~~2016~~ 2025, the court may waive any of the requirements set forth in subsection (d)(1) of this Rule, provided that the individual ~~participates in~~ completes a training program required by subsection (d)(2)(A) of this Rule and completes at least 20 hours per year of continuing education relevant to ~~the performance of~~ conducting custody evaluations, ~~including course work in one or more of the areas listed in subsection (d)(2) of this Rule.~~

(e) Custody Evaluator Lists and Selection

(1) Custody Evaluator Lists

If the circuit court for a county appoints custody evaluators who are not court employees, the family support services coordinator for the court shall maintain a list of qualified custody evaluators. An individual, other than a

court employee, who seeks appointment by a circuit court as a custody evaluator shall submit an application to the family support services coordinator for that court. If the applicant has the qualifications set forth in section (d) of this Rule, the applicant's name shall be placed on a list of qualified individuals. The family support services coordinator, upon request, shall make the list and the information submitted by each individual on the list available to the public.

(2) Selection of Custody Evaluator

(A) By the Parties

By agreement, the parties may employ a custody evaluator of their own choosing who may, but need not, be on the court's list. The parties may, but need not, request the court to enter a consent order approving the agreement and selection. The court shall enter the order if one is requested and the court finds that the custody evaluator has the qualifications set forth in section (d) and that the agreement contains the relevant information set forth in section (g) of this Rule.

(B) By the Court

An appointment of an individual, other than a court employee, as a custody evaluator by the court shall be made from the list maintained by the family support services coordinator. In appointing a custody evaluator from a list, the court is not required to choose at random or in any particular order from among the qualified evaluators on the list. The court should endeavor to use the services of as many qualified individuals as practicable, but the court may consider, in light of the issues and circumstances presented by the action

or the parties, any special training, background, experience, expertise, or temperament of the available prospective appointees. An individual appointed by the court to serve as a custody evaluator shall have the qualifications set forth in section (d) of this Rule.

(3) Selection of Assessor to ~~Perform~~ Conduct Specific Issue Evaluation

Selection of an assessor to ~~perform~~ conduct a specific issue evaluation shall be made from the same list and by the same process as pertains to the selection of a custody evaluator.

(f) Description of Custody Evaluation

(1) Mandatory Elements

Subject to any protective order of the court, a custody evaluation shall include:

(A) a review of the relevant court records pertaining to the litigation;

(B) an interview of each party and any adult who performs a caretaking role for the child or lives in a household with the child or, if an adult who lives in a household with the child cannot be located despite best efforts by the custody evaluator, documentation or a description of the custody evaluator's efforts to locate the adult and any information gained about the adult;

(C) an interview of the child, unless the custody evaluator determines and explains that by reason of age, disability, or lack of maturity, the child lacks capacity to be interviewed;

(D) a review of any relevant educational, medical, and legal records pertaining to the child;

(E) if feasible, observations of the child with each party, whenever possible in that party's household;

(F) contact with any high neutrality/low affiliation collateral sources of information, as determined by the assessor;

Committee note: “High neutrality/low affiliation” is a term of art that refers to impartial, objective collateral sources of information. For example, in a custody contest in which the parties are taking opposing positions about whether the child needs to continue taking a certain medication, the child's treating doctor would be a high neutrality/low affiliation source, especially if the doctor had dealt with both parties.

(G) screening for intimate partner violence;

(H) factual findings about the needs of the child and the capacity of each party to meet the child's needs; and

(I) a custody and visitation recommendation based upon an analysis of the facts found or, if such a recommendation cannot be made, an explanation of why.

(2) Optional Elements – Generally

Subject to subsection (f)(4) of this Rule, at the discretion of the custody evaluator, a custody evaluation also may include:

(A) contact with collateral sources of information that are not high neutrality/low affiliation;

(B) a review of additional records;

(C) employment verification;

(D) a mental health evaluation;

(E) consultation with other experts to develop information that is beyond the scope of the evaluator's practice or area of expertise; and

(F) an investigation into any other relevant information about the child's needs.

(3) Elements of Specific Issue Evaluation

Subject to any protective order of the court, a specific issue evaluation may include any of the elements listed in subsections (f)(1)(A) through (G) and (f)(2) of this Rule. The specific issue evaluation shall include fact-finding pertaining to each issue identified by the court and, if requested by the court, a recommendation as to each.

(4) Optional Elements Requiring Court Approval

The custody evaluator or specific issue evaluation assessor may not include an optional element listed in subsection (f)(2)(D), (E), or (F) if any additional cost is to be assessed for the element unless, after notice to the parties and an opportunity to object, the court approved inclusion of the element.

(g) Order of Appointment

An order appointing or approving a person to ~~perform~~ conduct an assessment shall include:

(1) the name, business address, and telephone number of the person being appointed or approved;

(2) any provisions the court deems necessary to address the safety and protection of the parties, all children of the parties, any other children residing in the home of a party, and the person being appointed or approved;

(3) a description of the task or tasks the person being appointed or approved is to undertake;

(4) a provision concerning payment of any fee, expense, or charge, including a statement of any hourly rate that will be charged which, as to a court appointment, may not exceed the maximum rate established under section (n) of this Rule and, if applicable, a time estimate for the assessment;

(5) the term of the appointment or approval and any deadlines pertaining to the submission of reports to the parties and the court, including the dates of any pretrial or settlement conferences associated with the furnishing of reports;

(6) any restrictions upon the copying and distribution of reports, whether pursuant to this Rule, agreement of the parties, or entry of a separate protective order;

(7) as to a custody evaluation, whether a written report pursuant to subsection (i)(1)(B) of this Rule or an oral report on the record pursuant to subsection (i)(1)(A) of this Rule is required;

(8) as to a specific issue evaluation, each issue to be evaluated and whether a recommendation is requested as to each; and

(9) any other provisions the court deems necessary.

(h) Removal or Resignation of Person Appointed or Approved to ~~Perform~~
Conduct an Assessment

(1) Removal

The court may remove a person appointed or approved to ~~perform~~ conduct an assessment upon a showing of good cause.

(2) Resignation

A person appointed or approved to ~~perform~~ conduct an assessment may resign prior to completing the assessment and preparing a report pursuant to section (i) of this Rule only upon a showing of good cause, notice to the parties, an opportunity to be heard, and approval of the court.

(i) Report of Assessor

(1) Custody Evaluation Report

A custody evaluator shall prepare a report and provide the parties access to the report in accordance with subsection (i)(1)(A) or (i)(1)(B) of this Rule.

(A) Oral Report on the Record

If the court orders a pretrial or settlement conference to be held at least 45 days before the scheduled trial date or hearing at which the evaluation may be offered or considered, and the order appointing or approving the custody evaluator does not require a written report, the custody evaluator may present the custody evaluation report orally to the parties and the court on the record at the conference. The custody evaluator shall produce and provide to the court and parties at the conference a written list containing an adequate description of all documents reviewed in connection with the custody evaluation. If custody and access are not resolved at the conference, and no written report has been provided, the court shall (i) provide a transcript of the oral report to the parties free of charge and, if a copy of the transcript is prepared for the court's file, maintain that copy under seal, or (ii) direct the custody evaluator to prepare a written report and furnish it to the parties and

the court in accordance with subsection (i)(1)(B) of this Rule. Absent the consent of the parties, the judge or magistrate who presides over a settlement conference at which an oral report is presented shall not preside over a hearing or trial on the merits of the custody dispute.

(B) Written Report Prepared by the Custody Evaluator

If an oral report is not prepared and presented pursuant to subsection (i)(1)(A) of this Rule, the custody evaluator shall prepare a written report of the custody evaluation and shall include in the report a list containing an adequate description of all documents reviewed in connection with the custody evaluation. The report shall be furnished to the parties and to the court under seal at least 45 days before the scheduled trial date or hearing at which the evaluation may be offered or considered. The court may shorten or extend the time for good cause shown but the report shall be furnished to the parties no later than 15 days before the scheduled trial or hearing.

(2) Report of Specific Issue Evaluation

An assessor who ~~performed~~ conducted a specific issue evaluation shall prepare a written report that addresses each issue identified by the court in its order of appointment or approval and, if requested by the court, make a recommendation. The report shall be furnished to the parties and to the court, under seal, as soon as practicable after completion of the evaluation and, if a date is specified in the order of appointment or approval, by that date. The report shall include a list containing an adequate description of all documents reviewed in connection with the specific issue evaluation.

(3) Report of Home Study

Unless preparation of a written report is waived by the parties, an assessor who ~~performed~~ conducted a home study shall prepare a written report of the home study and furnish it to the parties and to the court under seal. The report shall be furnished as soon as practicable after completion of the home study and, if a date is specified in the order of appointment or approval, by that date.

(4) Report of Mental Health Evaluation

An assessor who ~~performed~~ conducted a mental health evaluation shall prepare a written report. The report shall be made available to the parties solely for use in the case and shall be furnished to the court under seal. The report shall be made available and furnished as soon as practicable after completion of the evaluation and, if a date is specified in the order of appointment or approval, by that date.

Committee note: An assessor's written report submitted to the court in accordance with section (i) of this Rule shall be kept by the court under seal. The only access to these reports by a judge or magistrate shall be in accordance with subsections (k)(2) and (k)(3) of this Rule. Each circuit court, through MDEC, shall devise the means for keeping these reports under seal.

(j) Copying and Dissemination of Report

A party may copy a written report of an assessment or the transcript of an oral report prepared pursuant to subsection (i)(1)(A) of this Rule but, except as permitted by the court, shall not disseminate the report or transcript other than to individuals intended to be called as experts by the party.

Cross reference: See subsection (g)(6) of this Rule concerning the inclusion of restrictions on copying and distribution of reports in an order of appointment

or approval of an assessor. See the Rules in Title 15, Chapter 200, concerning proceedings for contempt of court for violation of a court order.

(k) Court Access to Written Report

(1) Generally

Except as otherwise provided by this Rule, the court may receive access to a report by an individual appointed or approved by the court to ~~perform~~ conduct an assessment only if the report has been admitted into evidence at a hearing or trial in the case.

(2) Advance Access to Report by Stipulation of the Parties

Upon consent of the parties, the court may receive and read the assessor's report in advance of the hearing or trial.

(3) Access to Report by Settlement Judge or Magistrate

A judge or magistrate conducting a settlement conference shall have access to the assessor's report.

(l) Discovery

(1) Generally

Except as provided in this section, an individual who ~~performs~~ conducts an assessment under this Rule is subject to the Maryland Rules applicable to discovery in civil actions.

(2) Deposition of Court-Paid Assessor

Unless leave of court is obtained, any deposition of an assessor who is a court employee or is working under contract for the court and paid by the court shall: (A) be held at the courthouse where the action is pending or other court-approved location; (B) take place after the date on which an oral or written

report is presented to the parties; and (C) not exceed two hours, with the time to be divided equally between the parties.

(m) Testimony and Report of Assessor at Hearing or Trial

(1) Subpoena for Assessor

A party requesting the presence of the assessor at a hearing or trial shall subpoena the assessor no less than ten days before the hearing or trial.

(2) Admission of Report Into Evidence Without Presence of Assessor

The court may admit an assessor's report into evidence without the presence of the assessor, subject to objections based other than on the presence or absence of the assessor. If the assessor is present, a party may call the assessor for cross-examination.

Committee note: The admissibility of an assessor's report pursuant to subsection (m)(2) of this Rule does not preclude the court or a party from calling the assessor to testify as a witness at a hearing or trial.

(n) Fees

(1) Applicability

Section (n) of this Rule does not apply to a circuit court for a county in which all custody evaluations are ~~performed~~ conducted by court employees, free of charge to the litigants.

(2) Fee Schedules

Subject to the approval of the Chief Justice of the Supreme Court, the county administrative judge of each circuit court shall develop and adopt maximum fee schedules for custody evaluations. In developing the fee schedules, the county administrative judge shall take into account the

availability of qualified individuals willing to provide custody evaluation services and the ability of litigants to pay for those services. A custody evaluator appointed by the court may not charge or accept a fee for custody evaluation services in that action in excess of the fee allowed by the applicable schedule. Violation of this subsection shall be cause for removal of the individual from all lists maintained pursuant to subsection (e)(1) of this Rule.

(3) Allocation of Fees and Expenses

As permitted by law, the court may order the parties or a party to pay the reasonable and necessary fees and expenses incurred by an individual appointed by the court to ~~perform~~ conduct an assessment in the case. The court may fairly allocate the reasonable and necessary fees of the assessment between or among the parties. In the event of the removal or resignation of an assessor, the court may consider the extent to which any fees already paid to the assessor should be returned.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 10-108 by updating the cross reference following subsection (a)(2) and by making a stylistic amendment, as follows:

Rule 10-108. ORDERS

(a) Order Appointing Guardian

(1) Generally

An order appointing a guardian shall:

(A) state whether the guardianship is of the property, the person, or both;

(B) state the name, sex, and date of birth of the minor or the disabled person;

(C) state the name, address, telephone number, and e-mail address, if available, of the guardian;

(D) state whether the appointment of a guardian is solely due to a physical disability, and if not, the reason for the guardianship;

(E) state (i) the amount of the guardian's bond or that bond is waived and (ii) the date by which proof of any bond shall be filed with the court;

Cross reference: See Rule 10-702 (a), requiring the bond to be filed before the guardian commences the performance of any fiduciary duties.

(F) state the date by which any annual report of the guardian shall be filed; and

Cross reference: See Rule 10-706 (b).

(G) state the specific powers and duties of the guardian and any limitations on those powers or duties either expressly or by referring to the specific sections or subsections of an applicable statute containing those powers and duties; and

(H) except as to a public guardian, unless the guardian has already satisfied the requirement or the court orders otherwise, direct the guardian to complete an orientation program and training in conformance with the applicable Guidelines for Court-Appointed Guardians attached as an Appendix to the Rules in this Title.

Committee note: An example of an appointment as to which waiver of the orientation and training requirements of subsection (a)(1)(H) of this Rule may be appropriate is the appointment of a temporary guardian for a limited purpose or specific transaction.

Cross reference: Code, Estates and Trusts Article, §§ 13-201(b) and (c), 13-213, 13-214, 13-705(b), 13-708, and 15-102 and Title 15, Subtitle 6 (Maryland Fiduciary Access to Digital Assets Act).

(2) Confidential Information

Information in the order or in papers filed by the guardian that is subject to being shielded pursuant to the Rules in Title 16, Chapter 900 shall remain confidential, but, in its order, the court may permit the guardian to disclose that information when necessary to the administration of the guardianship, subject to a requirement that the information not be further disclosed without the consent of the guardian or the court.

Committee note: Disclosure of identifying information to financial institutions and health care providers, for example, may be necessary to further the purposes of the guardianship.

Cross reference: See Rule 16-914 (e) and (i) and Rule 16-915 ~~(e)~~(f).

• • •

MARYLAND RULES OF PROCEDURE

TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 10-111 by altering a reference to the head of the Department of Veterans Affairs in the instructions, as follows:

Rule 10-111. PETITION FOR GUARDIANSHIP OF MINOR

...

ADDITIONAL INSTRUCTIONS

1. The required exhibits are as follows:

(a) A copy of any instrument nominating a guardian [Code, Estates and Trusts Article, § 13-701 and Maryland Rule 10-301 (d)];

(b) If the petition is for the appointment of a guardian for a minor who is a beneficiary of the Department of Veterans Affairs, a certificate of the ~~Administrator or the Administrator's authorized representative~~ Secretary of that Department or any authorized representative of the Secretary, setting forth the age of the minor as shown by the records of the Department of Veterans Affairs, and the fact that appointment of a guardian is a condition precedent to the payment of any moneys due the minor from the Department of Veterans Affairs shall be prima facie evidence of the necessity for the appointment [Code, Estates and Trusts Article, § 13-802 and Maryland Rule 10-301 (d)].

2. Attached additional sheets to answer all the information requested in this petition, if necessary.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 – GUARDIAN OF PERSON

AMEND Rule 10-201 by stating that a request pursuant to section (f) may be filed any time after the filing of a petition, as follows:

Rule 10-201. PETITION FOR APPOINTMENT OF A GUARDIAN OF THE PERSON

...

(f) Request for Expedited Hearing in Connection with Medical Treatment

(1) Contents

A request for an expedited hearing in connection with medical treatment pursuant to Code, Estates and Trust Article, § 13-705(f) shall be verified and filed with the petition for guardianship of the person of an alleged disabled person or at any time after the filing of the petition. The request shall contain the following information:

(A) the reason for seeking an expedited hearing;

(B) a description of the proposed change in the alleged disabled person's medical treatment;

(C) a statement of how the alleged disabled person's medical circumstances will be harmed if the proceeding is not expedited;

(D) a description of all efforts made to notify interested persons and any person nominated as guardian of person about the request for an expedited hearing; and

(E) whether the alleged disabled person lacks sufficient understanding or capacity to make or communicate a responsible decision to consent or to refuse consent, the basis for that belief, and an explanation of steps taken to obtain consent to the proposed medical treatment through other means.

Committee note: Examples of consent “through other means” include consent obtained or ascertained through a valid advance directive, consent by an individual pursuant to an applicable Power of Attorney that specifically authorizes health care decision-making, and consent by a surrogate authorized under Code, Health General Article, Title 5, Subtitle 6, Part I (Health Care Decisions Act).

(2) Factors for Court to Consider

In determining whether to expedite the hearing in connection with medical treatment, the court shall consider:

(A) the degree to which the alleged disabled person's current circumstances are not meeting his or her medical needs in the most appropriate manner;

(B) the degree to which alternative arrangements are or can be made available;

(C) the urgency, necessity, and gravity of the proposed medical treatment and any medical risks to the alleged disabled person if the proceedings are not expedited;

(D) the ability of the alleged disabled person or other legally authorized individual to provide necessary consents for services; and

(E) any other factor that the court considers relevant.

(3) Scheduling of an Expedited Hearing

If the court makes a determination to expedite a hearing because of the need for medical treatment, the hearing shall be scheduled as soon as practicable, taking into account:

(A) the ability of the petitioner to properly serve or notify interested persons on an expedited basis;

(B) the ability of the attorney for the alleged disabled person, government agencies, and court-appointed investigators to perform necessary investigations on an expedited basis; and

(C) any other circumstances that the court considers relevant.

Committee note: The procedure set forth in section (f) of this Rule is not a substitute for a petition for emergency services under Rule 10-210, nor is it intended to affect the court's discretion to schedule expedited hearings, generally. If the petition is also for the appointment of a guardian of the property, the court may hear and rule on that part of the petition on an expedited basis as well.

Cross reference: See Code, Estates and Trusts Article, §§ 13-702 and 13-705(f), Rule 10-205 (b), and *In re: Sonny E. Lee*, 132 Md. App. 696 (2000).

Source: This Rule is derived as follows:

Section (a) is derived from former Rule R71 a.

Section (b) is new.

Section (c) is derived from former Rule R72 a and b.

Section (d) is new.

Section (e) is new.

Section (f) is new.

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 – GUARDIAN OF PERSON

AMEND Rule 10-202 by changing references to a “disabled person” in section (a) to an “alleged disabled person,” as follows:

Rule 10-202. CERTIFICATES AND CONSENTS

(a) Certificates

(1) Generally Required

If guardianship of the person of a an alleged disabled person is sought, the petitioner shall file with the petition signed and verified certificates of the following persons who have examined or evaluated the alleged disabled person: (A) two physicians licensed to practice medicine in the United States, or (B) one such licensed physician and one licensed psychologist, licensed certified social worker-clinical, or nurse practitioner. An examination or evaluation by at least one of the health care professionals shall have been within 21 days before the filing of the petition.

(2) Form

Each certificate required by subsection (a)(1) of this Rule shall be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the offices of the clerks of the circuit courts.

(3) Absence of Certificates

(A) Refusal to Permit Examination

If the petition is not accompanied by the required certificate and the petition alleges that the alleged disabled person is residing with or under the control of a person who has refused to permit examination or evaluation by a physician, psychologist, licensed certified social worker-clinical, or nurse practitioner, and that the alleged disabled person may be at risk unless a guardian is appointed, the court shall defer issuance of a show cause order. The court shall instead issue an order requiring that the person who has refused to permit the alleged disabled person to be examined or evaluated appear personally on a date specified in the order and show cause why the alleged disabled person should not be examined or evaluated. The order shall be personally served on that person and on the alleged disabled person.

(B) Appointment of Health Care Professionals by Court

If the court finds after a hearing that examinations are necessary, it shall appoint (i) two physicians or (ii) one physician and one psychologist, licensed certified social worker-clinical, or nurse practitioner to conduct the examinations or the examination and evaluation and file their reports with the court. If both health care professionals find the person to be disabled, the court shall issue a show cause order requiring the alleged disabled person to answer the petition for guardianship and shall require the petitioner to give notice pursuant to Rule 10-203. Otherwise, the petition shall be dismissed. Cross reference: See Code, Estates and Trusts Article, § 13-705.

...

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 400 – STANDBY GUARDIAN

AMEND Rule 10-402 by altering a provision in the Notice issued pursuant to section (e), and by making a stylistic change, as follows:

Rule 10-402. PETITION BY PARENT

• • •

(c) Contents

The petition shall be captioned “In the Matter of ...” [stating the name of the minor]. It shall be signed and verified by the petitioner and shall include the following information:

- (1) The petitioner's name, address, age, and telephone number;
- (2) The petitioner's familial relationship to the minor;
- (3) The name, address, and date of birth of the minor;
- (4) If the minor is at least 14 years of age, the wishes of the minor, if known;
- (5) Whether the minor has any siblings and, if so, their names and ages and whether a standby guardianship is sought for them;
- (6) The proposed standby guardian's name, address, age, and telephone number;
- (7) The proposed standby guardian's relationship to the minor;
- (8) A statement explaining why the appointment of the proposed standby guardian is in the best interests of the minor;

(9) Whether and under what circumstances the standby guardianship is to be of the minor's person, property, or both;

(10) If the standby guardian is to be a guardian of the property of the minor, the nature, value, and location of the property;

(11) A description of the duties and powers of the standby guardian, including whether the standby guardian is to have the authority to apply for, receive, and use public benefits and child support payable on behalf of the minor;

Cross reference: For the powers of a guardian of the person of a minor, see Code, Estates and Trusts Article, § 13-702. For the powers of a guardian of the property, see Code, Estates and Trusts Article, § 15-102.

(12) A statement (A) whether the standby guardian has been convicted of a crime listed in Code, Estates and Trusts Article, § 11-114 or any such charge is currently pending against the standby guardian, and (B) if the standby guardian has been convicted of such a crime, the charge for which the standby guardian was convicted, the year of the conviction, the court in which the conviction occurred, and any good cause for the appointment, if applicable under § 11-114(b);

(13) Whether the authority of the standby guardian is to become effective on the petitioner's incapacity, death, or the first of those circumstances to occur;

Cross reference: Code, Estates and ~~Trust~~ Trusts Article, § 13-906.

(14) A statement that there is a significant risk that the petitioner will become incapacitated or die within two years of the filing of the petition and the basis for the statement;

Cross reference: Code, Estates and Trusts Article, § 13-903(a).

(15) If the petitioner is unable to appear in court for a hearing pursuant to Rule 10-404, a statement explaining why;

(16) If a person having parental rights does not join in the petition, a statement to that effect and the following information, to the extent known: (A) the identity of the person, (B) if the identity of the person is not known, what efforts were made to identify and locate the person, and (C) if the identity of the person is known, the reasons the person did not join the petition, if known, and a description of the efforts made to inform the person about the petition; and

(17) If the petitioner believes that notice to the minor would be unnecessary or would not be in the best interests of the minor, a statement explaining why.

...

(e) Notice to Interested Persons

The Notice to Interested Persons shall be in the following form:

In the Matter of

In the Circuit Court for

(Name of minor)

(County)

(docket reference)

NOTICE TO INTERESTED PERSONS

A petition has been filed seeking the appointment of a standby guardian of the [person] [property] [person and property] of _____, a minor.

You are receiving this because you are related to or otherwise concerned with the welfare of the minor.

Please examine the attached papers carefully.

If you object to the appointment of a standby guardian, please file a response with the court at (address of courthouse) no later than 30 days after the date of issue of this Notice. (Be sure to include the case number.) If a response is not received by the court, the court may rule on the petition without a ~~hearing~~ your input. If you wish to participate in this proceeding in any way, notify the court and be prepared to attend any hearing.

CERTIFICATE OF SERVICE

I certify that a copy of the petition and the "Notice to Interested Persons" was mailed, by ordinary mail, postage prepaid, and by certified mail, postage prepaid and return receipt requested, this ____ day of _____, to _____ at _____.

Petitioner

Name (printed)

Address

Telephone Number

...

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 11-102 by updating the terms in the cross reference following section (a), as follows:

Rule 11-102. DEFINITIONS

The following definitions apply in this Title:

(a) Statutory Definitions

The definitions in Code, Courts Article, §§ 3-801 and 3-8A-01 are applicable to this Title. If a definition in Code, Courts Article, Title 3, Subtitle 8 differs from the definition of the term in Code, Courts Article, Title 3, Subtitle 8A, the definition in the Subtitle under which the particular action or proceeding was filed applies.

Cross reference: See Code, Courts Article, § 3-801 for definitions of “abuse,” “adjudicatory hearing,” “adult,” “child,” “child in need of assistance,” “CINA,” “commit,” “custodian,” “custody,” “developmental disability,” “disposition hearing,” “guardian,” “guardianship,” “labor trafficking,” “local department,” “mental disorder,” “mental injury,” “neglect,” “parent,” “party,” “qualified residential treatment program,” “reasonable efforts,” “relative,” “sex trafficking,” “sexual abuse,” “sexual molestation or exploitation,” “shelter care,” “shelter care hearing,” “TPR proceeding,” “voluntary placement,” and “voluntary placement hearing.”

See Code, Courts Article, § 3-8A-01 for definitions of “adjudicatory hearing,” “adult,” “child,” “child in need of supervision,” “citation,” “commit,” “community detention,” “competency hearing,” “custodian,” “delinquent act,” “delinquent child,” “detention,” “developmental disability,” “disposition hearing,” “incompetent to proceed,” “intake officer,” “intellectual disability,” “mental disorder,” “~~mental retardation~~,” “mentally handicapped child,” “party,”

“peace order proceeding,” “peace order request,” “petition,” “qualified expert,”
“respondent,” “shelter care,” “victim,” “violation,” and “witness.”

• • •

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 – GUARDIANSHIP TERMINATING PARENTAL RIGHTS

AMEND Rule 11-302 by updating a statutory reference in the cross reference following section (b), as follows:

Rule 11-302. DEFINITIONS

The following definitions apply in this Chapter:

• • •

(b) Additional Definitions

(1) CINA

“CINA” means a child in need of assistance under Chapter 200 of these Rules.

(2) Local Department

“Local department” means the local department of social services for the county in which the court is located. In Montgomery County, “local department” means the Department of Health and Human Services.

Cross reference: See Code, Courts Article, §§ 3-801 ~~(p)~~(q) and 5-301.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 11 – JUVENILE CAUSES

CHAPTER 400 – DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-405 by adding a statutory reference to section (b), as follows:

Rule 11-405. TAKING CHILD INTO CUSTODY

• • •

(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) and (d) and 3-8A-14.2.

• • •

MARYLAND RULES OF PROCEDURE

TITLE 11 – JUVENILE CAUSES

CHAPTER 400 – DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-406 by adding a provision pertaining to waiver of the required review hearing to subsection (f)(2) and by making a stylistic change, as follows:

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

...

(f) Child in Detention--Required Actions

(1) Plan for Release

Within 10 days after a court orders detention of a child, the Department of Juvenile Services shall submit a plan to the court for releasing the child into the community.

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

(2) Review Hearing

Within 14 days after the court orders detention of a child, and every 14 days thereafter, the Department of Juvenile Services shall appear at a review hearing before the court with the child to explain the reasons for continued detention. With the consent of the State's Attorney and the child's attorney, the court may waive the hearing, provided that no waiver of a review hearing under this subsection previously was granted.

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

• • •

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-410 by adding to the tagline of subsection (f)(1), by adding new subsection (f)(1)(C) pertaining to records containing identifying information of a minor victim, by adding a cross reference following new subsection (f)(1)(C), and by making stylistic changes, as follows:

Rule 11-410. WAIVER OF JURISDICTION

• • •

(e) Required Condition for Waiver; Criteria; 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).

Cross ~~Reference~~ reference: See *Davis v. State*, ~~___ Md. ___~~ 474 Md. 439 (2021).

(f) Waiver Order

(1) Statement of Grounds; Contents of Order

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; and

(C) if identifying information of a minor victim or other restricted information is in the case record, ordering the State's Attorney or other filer to comply with the requirements of Rule 20-201.1 prior to the transfer of the case record to the court exercising criminal jurisdiction.

Cross reference: See Code, Courts Article, § 11-301 pertaining to redaction of identifying information of a minor victim.

(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 from former Rule 11-113 (2021) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 11 – JUVENILE CAUSES

CHAPTER 400 – DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-419 by adding a cross reference following subsection (b)(3), as follows:

Rule 11-419. MOTIONS

...

(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;

Cross reference: See Code, Criminal Procedure Article, Title 2, Subtitle 5 regarding admissibility of results generated by facial recognition technology.

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

Cross reference: See Code, Courts Article, § 3-8A-14.2 regarding admissibility of a statement made by a child during a custodial interrogation.

- (5) A request for a joint trial or separate trials or respondents or offenses.

...

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 – DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-420.2 by updating a statutory reference in the cross reference following section (e), as follows:

Rule 11-420.2. SAFE HARBOR – VICTIMS OF CHILD SEX TRAFFICKING AND HUMAN TRAFFICKING

...

(e) Use of Certain Evidence in Other Proceedings

Any statement made by the child or information elicited from the child (1) in connection with services provided pursuant to a referral under Code, Courts Article, § 3-8A-17.13(b)(1)(iii) or (2) at a hearing pursuant to section (c) of this Rule is inadmissible against the child in any proceeding except a hearing held pursuant to subsection (c)(1) of this Rule.

Cross reference: See Code, Family Law Article, § 5-704.4 pertaining to the Safe Harbor Regional Navigator Grant Program. See Code, Courts Article, § 3-8A-14 ~~(d)~~(e) pertaining to duties of a law enforcement officer if there is reason to believe that a child who has been detained is a victim of sex trafficking or human trafficking. See Code, Courts Article, § 3-8A-14.2 pertaining to custodial interrogation of children.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 – DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-422 by updating the terminology in the cross reference following subsection (d)(1) and by making stylistic changes, as follows:

Rule 11-422. DISPOSITION HEARING AND ORDER

...

(d) Permitted Dispositions – Delinquency Petition

(1) 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-19.6, 3-8A-22, 3-8A-24, and 3-8A-35.

Cross reference: In Code, Courts Article, § 3-8A-19, subsection (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 Code, Health-General Article, Title 10, Subtitle 6, Part IV. Subsections (h) and (i) ~~of that 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~~ facility for individuals with an intellectual disability, 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.

...

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 – DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-423 by updating the terminology in the cross reference following section (c) and by making stylistic changes, as follows:

Rule 11-423. REVISORY POWER; POST-DISPOSITION HEARINGS

...

(c) 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: In Code, Courts Article, § 3-8A-19, subsection (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 Department of Health for inpatient care and treatment in a State ~~mental retardation facility~~ facility for individuals with an intellectual disability. Subsection (j) ~~of that statute~~ addresses the requirement that a commitment order issued under either subsection (i) or (j) must require the Department of Health to file certain progress reports.

...

MARYLAND RULES OF PROCEDURE

TITLE 15 – OTHER SPECIAL PROCEEDINGS

CHAPTER 1300 – STRUCTURED SETTLEMENT TRANSFERS

AMEND Rule 15-1302 by updating the cross reference following subsection (c)(1)(F), as follows:

Rule 15-1302. PETITION FOR APPROVAL

• • •

(c) Contents of Petition

In addition to any other necessary averments, the petition shall:

(1) subject to section (d) of this Rule, include as exhibits:

(A) a copy of the structured settlement agreement;

(B) a copy of any order of a court or other governmental authority approving the structured settlement;

(C) a copy of each annuity contract that provides for payments under the structured settlement agreement or, if any such annuity contract is not available, a copy of a document from the annuity issuer or obligor evidencing the payments payable under the annuity policy;

(D) a copy of the transfer agreement;

(E) a copy of any disclosure statement provided to the payee by the transferee;

(F) a written Consent by the payee substantially in the form specified in Rule 15-1303;

Cross reference: For shielding requirements applicable to identifying information contained in the payee's Consent, see Rule 16-915 (h)(i).

...

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1600 – DERIVATIVE ACTIONS

ADD new Rule 15-1601, as follows:

Rule 15-1601. DERIVATIVE ACTIONS

(a) Applicability

This Rule applies to a derivative action against a business entity to enforce a right that properly may be asserted by that entity.

Cross reference: See *Werbowsky v. Collomb*, 362 Md. 581 (2001) pertaining to corporations; *Plank v. Cherneski*, 469 Md. 548 (2020) and Code, Corporations and Associations Article, Title 4A, Subtitle 8 pertaining to limited liability companies; and Code, Corporations and Associations Article, Title 10, Subtitle 10 pertaining to limited partnerships.

(b) Complaint

Notwithstanding the provisions of Rule 2-304, the complaint shall state:

- (1) facts supporting that the plaintiff is entitled to bring each derivative cause of action on behalf of the business entity nominal defendant;
- (2) that the plaintiff was so entitled at the time of the transaction or conduct complained of and at the time the derivative action is brought, or that the plaintiff's entitlement devolved on the plaintiff by operation of law; and
- (3) with particularity, (A) the attempts, if any, of the plaintiff to obtain the desired action from the business entity, and, if known, the reasons the desired action was not obtained, or (B) the reasons for not making an attempt to obtain the desired action.

Committee note: A court may consider the use of Rule 2-502 when appropriate. See *Bender v. Schwartz*, 172 Md. App. 648 (2007).

(c) Plaintiff as Representative

The derivative action may be maintained only if it appears, under applicable law, that the plaintiff fairly and adequately represents the interests of the business entity in pursuing the derivative action.

(d) Settlement, Dismissal, and Compromise

Unless all equity holders consent to a proposed settlement, voluntary dismissal, or compromise of the derivative action, a derivative action may be settled, voluntarily dismissed, or compromised only with the court's approval, after notice of the proposed settlement, voluntary dismissal, or compromise has been given to all equity holders in the manner ordered by the court and an opportunity for a hearing has been provided. Unless specified by the court, the consent may be either in writing or on the record in open court.

(e) Fees and Costs

A court may award reasonable attorneys' fees and costs as permitted by law.

Cross reference: For the ability of the court to award attorneys' fees and costs, see *Boland v. Boland*, 423 Md. 296, 317 (2011) pertaining to corporations; Code, Corporations and Associations Article, § 4A-804 pertaining to limited liability companies; and Code, Corporations and Associations Article, § 10-1004, pertaining to limited partnerships.

Source: This Rule is new. It is derived in part from Fed. R. Civ. P. 23.1.

MARYLAND RULES OF PROCEDURE
TITLE 16 – COURT ADMINISTRATION
CHAPTER 900 – ACCESS TO JUDICIAL RECORDS
DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-911 by updating the tagline to section (f) and by adding new subsection (f)(3), as follows:

RULE 16-911. REQUIRED DENIAL OF INSPECTION--IN GENERAL

(a) When Inspection Would be Contrary to Federal Law, Certain Maryland Law, Maryland Rules, or Court Order

A custodian shall deny inspection of a judicial record or any part of a judicial record if inspection would be contrary to:

- (1) the Constitution of the United States, a Federal statute, or a Federal regulation adopted under a Federal statute and that has the force of law;
- (2) the Maryland Constitution;
- (3) a provision of the PIA that is made applicable to judicial records by the Rules in this Chapter;
- (4) a Rule adopted by the Supreme Court; or
- (5) an order entered by the court having custody of the judicial record or by any higher court having jurisdiction over
 - (A) the judicial record,
 - (B) the custodian of the judicial record, or
 - (C) the person seeking inspection of the judicial record.

(b) When Inspection Would be Contrary to Other Maryland Statutes

Unless inspection is otherwise permitted by the Rules in this Chapter, a custodian shall deny inspection of a judicial record or any part of a judicial record if inspection would be contrary to a statute enacted by the Maryland General Assembly, other than the PIA, that expressly or by necessary implication applies to a judicial record.

(c) When Record is Subject to Lawful Privilege or Confidentiality

Unless otherwise ordered by a court, a custodian shall deny inspection of a judicial record or part of a judicial record that, by law, is confidential or is subject to an unwaived lawful privilege.

(d) Judicial or other Professional Work Product

A custodian shall deny inspection of a judicial record or part of a judicial record that contains judicial or other professional work product.

(e) Record Subject to Expungement Order

A custodian shall deny inspection of a judicial record that has been ordered expunged.

(f) Security of Judicial Facilities, Equipment, Operations, Personnel;

Protected Individuals and Information

A custodian shall deny inspection of:

- (1) a continuity of operations plan; ~~and~~
- (2) judicial records or parts of judicial records that consist of or describe policies, procedures, directives, or designs pertaining to the security or safety

of judicial facilities, equipment, operations, or personnel, or of the members of the public while in or in proximity to judicial facilities or equipment; and

(3) judicial records or parts of judicial records created or maintained by the Office of Information Privacy in relation to Code, Courts Article, Title 3, Subtitles 23 and 24.

Cross reference: For an example of a statute enacted by the General Assembly other than the PIA that restricts inspection of a case record, see Code, Criminal Procedure Article, Title 10, Subtitle 3.

Committee note: Subsection (a)(5) of this Rule allows a court to seal a record or otherwise preclude its disclosure. So long as a judicial record is under seal or subject to an order precluding or limiting disclosure, it may not be disclosed except in conformance with the court's order. The authority to seal a judicial record must be exercised in conformance with the general policy of these Rules and with supervening standards enunciated in decisions of the Supreme Court of the United States and the Supreme Court of Maryland. See *Baltimore Sun Co. v. Colbert*, 323 Md. 290 (1991).

Source: This Rule is derived from former Rule 16-906 (2019).

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-912 by replacing the number “15” with the number “17” in subsection (c)(2)(B) and by conforming the cross reference following subsection (c)(2)(B) to the amended subsection, as follows:

Rule 16-912. ACCESS TO NOTICE, SPECIAL JUDICIAL UNIT, LICENSE, AND DOMESTIC PARTNERSHIP RECORDS

(a) Notice Records

Except as otherwise provided by statute, a custodian may not deny inspection of a notice record that has been recorded and indexed by the clerk.

Cross reference: See Code, Real Property Article, § 3-111, precluding certain personal information from being included in recordable documents after June 1, 2010 and providing for the redaction of such information if included.

(b) Special Judicial Unit Records

(1) Generally

Subject to unwaived lawful privileges and subsection (b)(2) of this Rule, where a requested record falls within the confidentiality rules applicable to a special judicial unit, access to the record is governed by the confidentiality Rules applicable to that unit.

(2) Exception

Access to administrative records of special judicial units that are not subject to a confidentiality provision in the Rules governing the unit shall be governed by Rule 16-913.

Cross reference: See Rule 18-407, applicable to records and proceedings of the Commission on Judicial Disabilities, the Judicial Inquiry Board, and Investigative Counsel; Rule 19-105, applicable to the State Board of Law Examiners, the Accommodation Review Committee, and the character committees; and Rule 19-707, applicable to records and proceedings of the Attorney Grievance Commission and Bar Counsel.

(c) License Records

(1) Business License Records

Except as otherwise provided by the Rules in this Chapter, the right to inspect business license records is governed by the applicable provisions of Parts II, III, and IV of the PIA.

(2) Marriage License Records

A custodian shall deny inspection of the following records pertaining to a marriage license:

(A) certificate of a physician or certified nurse practitioner 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; and

(B) until the license becomes effective, the fact that an application for a license has been made, except to the parent or guardian of a minor party to be married who is ~~15~~ 17 years old or older.

Cross reference: See Code, Family Law Article, § 2-301, which lists the conditions necessary to permit a 17-year-old minor ~~between 15 and 17 years old~~ to legally marry and Code, Family Law Article, § 2-402(e), which permits disclosure to a parent or guardian of such a minor prior to the license becoming effective.

(d) Domestic Partnership Records

A custodian shall deny inspection of the portion of a declaration of domestic partnership or declaration of termination that contains the home address of either domestic partner.

Cross reference: See Code, Estates and Trusts Article, § 2-214(d)(3).

Source: This Rule is derived from former Rule 16-905 (2019).

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-914 by adding new section (s), 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:

• • •

(c) Case records shielded pursuant to Code, Courts Article, § 3-1510 (peace orders), Code, Family Law Article, § 4-512 (domestic violence protective orders), or Code, Public Safety Article, § 5-602(c) (extreme risk protective orders).

• • •

(r) In an action under Title 7, Chapter 200 of these Rules, the record of an administrative agency proceeding where the Administrative Agency Restricted Information Statement indicates that the record contains restricted information as defined by Rule 20-101 (s).

Cross reference: See Rules 7-206 and 7-206.1 pertaining to the record of an administrative agency proceeding filed in an action for judicial review of an administrative agency decision. For procedures to request an administrative agency to provide access to public portions of the agency's record of an administrative agency proceeding, see Code, General Provisions Article, Title 4 (Public Information Act).

(s) Case records shielded pursuant to Code, Real Property Article, § 8-503

(failure to pay rent actions).

Source: This Rule is derived in part from former Rule 16-907 (2019), and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-915 by adding new section (d) pertaining to identifying information of a minor victim; by adding a cross reference following new section (d); and by re-lettering sections (d) through (h) as (e) through (i), respectively, as follows:

Rule 16-915. CASE RECORDS – REQUIRED DENIAL OF INSPECTION –
SPECIFIC INFORMATION

Except as otherwise provided by law, the Rules in this Chapter, or court order, a custodian shall deny inspection of a case record or a part of a case record that would reveal:

- (a) The name, address, telephone number, e-mail address, or place of employment of an individual who reports the abuse of a vulnerable adult pursuant to Code, Family Law Article, § 14-302.
- (b) Except as provided in Code, General Provisions Article, § 4-331, the home address, telephone number, and private e-mail address of an employee of the State or a political subdivision of the State.
- (c) The address, telephone number, and e-mail address of a victim or victim's representative in a criminal action, juvenile delinquency action, or an action under Code, Family Law Article, Title 4, Subtitle 5, who has requested, or as to

whom the State has requested, that such information be shielded. Such a request may be made at any time, including in a victim notification request form filed with the clerk or a request or petition filed under Rule 16-934.

(d) The name of a minor victim or any other information that could reasonably be expected to identify a minor victim in a criminal action or a juvenile delinquency action where the juvenile court waives jurisdiction.

Cross reference: See Code, Criminal Procedure Article, § 11-301(b).

~~(d)~~(e) The address, telephone number, and e-mail address of a witness in a criminal or juvenile delinquency action, who has requested, or as to whom the State has requested, that such information be shielded. Such a request may be made at any time, including a request or petition filed under Rule 16-934.

~~(e)~~(f) Any part of the Social Security or federal tax identification number of an individual.

~~(f)~~(g) A trade secret, confidential commercial information, confidential financial information, or confidential geological or geophysical information.

~~(g)~~(h) Information about a person who has received a copy of a case record containing information prohibited by Rule 1-322.1.

~~(h)~~(i) The address, telephone number, and e-mail address of a payee contained in a Consent by the payee filed pursuant to Rule 15-1302 (c)(1)(F).

Cross reference: See Rule 16-934 (i) concerning information shielded upon a request authorized by Code, Courts Article, Title 3, Subtitle 15 (peace orders) or Code, Family Law Article, Title 4, Subtitle 5 (domestic violence) and in criminal actions. For obligations of a filer of a submission containing restricted information, see Rules 16-916 and 20-201.1.

Source: This Rule is derived from former Rule 16-908 (2019).

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-916 by adding to subsection (b)(2) a provision authorizing a person who is the subject of a case record to advise the custodian that a case record contains information not subject to inspection and a provision permitting the custodian to refer to a judge a question as to whether information is subject to public inspection and by making stylistic changes, as follows:

Rule 16-916. CASE RECORDS – PROCEDURES FOR COMPLIANCE

(a) Duty of Person Filing Record

(1) A person who files or authorizes the filing of a case record shall inform the custodian, in writing, whether, in the person's judgment, the case record, any part of the case record, or any information contained in the case record is confidential and not subject to inspection under the Rules in this Chapter.

(2) The custodian is not bound by the person's determination that a case record, any part of a case record, or information contained in a case record is not subject to inspection and shall permit inspection of a case record unless, in the custodian's independent judgment, subject to review as provided in Rule 16-932, the case record is not subject to inspection.

(3) Notwithstanding subsection (a)(2) or (b)(2) of this Rule, a custodian may

rely on a person's failure to advise that a case record, part of a case record, or information contained in a case record is not subject to inspection, and, in default of such advice, the custodian is not liable for permitting inspection of the case record, part of the case record, or information, even if the case record, part of the case record, or information in the case record is not subject to inspection under the Rules in this Chapter.

Cross reference: See Rule 1-322.1 and 20-201.

(b) Duty of Clerk

(1) The clerk shall make a reasonable effort, promptly upon the filing or creation of a case record, to shield any information that is not subject to inspection under the Rules in this Chapter and that has been called to the attention of the custodian by the person filing or authorizing the filing of the case record.

Cross reference: See Rule 20-203.

(2) ~~Persons~~ A person (A) who filed or authorized the filing of a case record filed prior to July 1, 2016 or (B) who is a subject of a case record or acting on behalf of a subject of a case record filed at any time may advise the custodian in writing whether any part of the case record is not subject to inspection. The custodian is not bound by that ~~determination~~ assertion and may refer the matter to a judge for consideration. The custodian shall make a reasonable effort, as time and circumstances allow, to shield from those case records any information that is not subject to inspection under the Rules in this Chapter and that has been called to the attention of the custodian. The duty under this

RULE 16-916

subsection is subordinate to all other official duties of the custodian.

Committee note: In subsections (a)(1) and (b)(2) of this Rule, the requirement that a custodian be notified “in writing” is satisfied by an electronic filing if permitted by Rule 1-322 or required by the Rules in Title 20.

Source: This Rule is derived from former Rule 16-913 (2019).

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 4 – RESOLUTION OF DISPUTES

AMEND Rule 16-933 by updating the tagline of subsection (a)(1), by adding new subsection (a)(2) pertaining to the ability of the State Court Administrator or custodian to seek declaratory and injunctive relief in certain circumstances, by adding “or requester” to sections (b) and (c) to clarify that these sections cover both requesters and custodians, by adding a reference to subsection (a)(1) in subsections (e)(1) and (g)(1), by adding new subsection (e)(2) pertaining to the burden the custodian or State Court Administrator must meet, by adding new subsection (g)(2) pertaining to the contents of an order entered in response to a request under section (a)(2) of this Rule, and by making stylistic changes, as follows:

Rule 16-933. DECLARATORY AND INJUNCTIVE RELIEF

(a) Generally

(1) Right to File – Requester

If a custodian or SCA denies a request for inspection of a judicial record or for the creation of a new judicial record, fails to respond to such a request within the time allowed by these Rules for a response, or proposes to charge a fee for the inspection or creation of judicial records that the requester believes

is inappropriate, the requester may file a complaint for declaratory and injunctive relief pursuant to the Maryland Declaratory Judgment Act.

(2) Right to File – Custodian or SCA

A custodian or SCA may file a complaint for declaratory and injunctive relief pursuant to the Maryland Declaratory Judgment Act alleging that a request for inspection of a judicial record or pattern of requests is frivolous, vexatious, or in bad faith.

~~(2)~~(3) Waiver of Court Costs

Court costs for the action shall be waived.

~~(3)~~(4) Exhaustion of Administrative Remedies Not Required

Failure to seek administrative review under Rule 16-932 shall not be grounds to dismiss the action.

(b) Where Filed; Service

The complaint shall be filed in the circuit court for the county in which the custodian is employed and shall be served on the custodian or requester in accordance with Rule 2-121.

(c) Response

The custodian or requester shall file a response within 30 days after service of the complaint and summons.

(d) Expedited Treatment

The court shall schedule a hearing promptly, if one is requested, and give expedited treatment to the action.

(e) Burden

(1) Complaint Filed by Requester

~~The~~ For a complaint filed pursuant to subsection (a)(1) of this Rule, the custodian or SCA shall have the burden of ~~(1)(A)~~ sustaining the decision that the custodian or SCA made to deny inspection or production of the requested information or judicial record, or to delay a decision on the request, and ~~(2)(B)~~ justifying the proposed fee, if that is in dispute.

(2) Complaint Filed by Custodian or SCA

For a complaint filed pursuant to subsection (a)(2) of this Rule, the custodian or SCA shall have the burden of demonstrating that a request or pattern of requests is frivolous, vexatious, or in bad faith.

(f) In Camera Inspection

The court may direct the custodian to produce a copy of the judicial record at issue for in camera inspection to determine whether the record or any part of it may be withheld pursuant to these Rules.

(g) Order

(1) Complaint Filed by Requester

~~If~~ For a complaint filed pursuant to subsection (a)(1) of this Rule, if the court finds that the requester has a right to inspect all or any of the record or to have a new judicial record created, it shall enter an order ~~(1)(A)~~ directing the custodian to produce or create the record or the part of the record subject to inspection for inspection by the requester within a specified time, and ~~(2)(B)~~ if in issue, determine the appropriate fee for producing or creating the record. Otherwise, the court shall dismiss the complaint.

(2) Complaint Filed by Custodian or SCA

For a complaint filed pursuant to subsection (a)(2) of this Rule, if the court finds that the custodian or SCA has met the burden of proof set forth in subsection (e)(2) of this Rule, the court shall enter an order granting appropriate relief. Otherwise, the court shall dismiss the complaint.

(3) Enforcement

Willful disobedience of an order issued under this Rule may be enforced by contempt. No money damages or attorneys' fees may be awarded to any party.

Source: This Rule is in part derived from former Rule 16-914 (2019) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 4 – RESOLUTION OF DISPUTES

AMEND Rule 16-934 by adding new subsection (d)(2) pertaining to ruling on a motion without a hearing; by renumbering current subsections (d)(2) through (d)(5) as (d)(3) through (d)(6), respectively; by clarifying in renumbered subsections (d)(4) and (d)(5) that a hearing is pursuant to section (f) of the Rule; and by updating internal references in renumbered subsection (d)(6); as follows:

Rule 16-934. CASE RECORDS – COURT ORDER DENYING OR PERMITTING INSPECTION NOT OTHERWISE AUTHORIZED BY RULE

(a) Purpose; Scope

(1) Generally

This Rule is intended to authorize a court to permit inspection of a case record that is not otherwise subject to inspection, or to deny inspection of a case record that otherwise would be subject to inspection, if the court finds, by clear and convincing evidence, (1) a compelling reason under the particular circumstances to enter such an order, and (2) that no substantial harm will come from such an order.

(2) Exception

This Rule does not apply to, and does not authorize a court to permit inspection of, a case record where inspection would be contrary to the United States or Maryland Constitution, a Federal statute or regulation that has the force of law, a Maryland statute other than the PIA, or to a judicial record that is not subject to inspection under Rule 16-911 (c), (d), (e), or (f).

(b) Petition

(1) A party to an action in which a case record is filed, and a person who is the subject of or is specifically identified in a case record may file in the action a petition:

(A) to seal or otherwise limit inspection of a case record filed in that action that is not otherwise shielded from inspection under the Rules in this Chapter or Title 20 or other applicable law; or

(B) subject to subsection (a)(2) of this Rule, to permit inspection of a case record filed in that action that is not otherwise subject to inspection under the Rules in this Chapter or Title 20 or other applicable law.

(2) Except as provided in subsection (b)(3) of this Rule, the petition shall be filed with the court in which the case record is filed and shall be served on:

(A) all parties to the action in which the case record was filed; and

(B) if the petition is to permit inspection of a case record filed in that action that is not otherwise subject to inspection, each identifiable person who is a subject of the case record.

(3) A petition to shield a judicial record pursuant to Code, Criminal Procedure Article, Title 10, Subtitle 3 shall be filed in the county where the

judgment of conviction was entered and shall state that the petition is filed pursuant to this Rule and that it should be shielded. The petition shall be shielded, subject to further order of the court. Service shall be made, and proceedings shall be held as directed in that Subtitle.

(4) The petition shall be under oath and shall state with particularity the circumstances that justify an order under this Rule. Unless the court orders otherwise, the petition and any response to it shall be shielded.

(c) Shielding of Record Upon Petition

(1) Section (c) of this Rule does not apply to a petition filed pursuant to Code, Criminal Procedure Article, Title 10, Subtitle 3 or a submission pursuant to Rule 20-201.1 (d).

(2) Upon the filing of a petition to seal or otherwise limit inspection of a case record pursuant to section (a) of this Rule, the custodian shall deny inspection of the case record for a period not to exceed five business days, including the day the motion is filed, in order to allow the court an opportunity to determine whether a temporary order should issue. Immediately upon docketing, a petition to seal or otherwise limit inspection of a case record shall be delivered to a judge for consideration.

(d) Temporary Order Precluding or Limiting Inspection

(1) The court shall consider a petition to preclude or limit inspection filed under this Rule on an expedited basis.

(2) If it does not appear clearly from specific facts shown by affidavit or other statement under oath that there is a substantial basis to believe that the case

record is properly subject to an order precluding or limiting inspection pursuant to this Rule, the court may, without a hearing, deny the petition. If the court denies the petition pursuant to this subsection, the petitioner may file a motion for reconsideration no later than 15 days after the date of denial of the petition. The court may reconsider the denial only if the petitioner provides additional facts shown by affidavit or other statement under oath demonstrating a substantial basis to believe that the case record is subject to an order precluding or limiting inspection pursuant to this Rule.

~~(2)~~(3) The court may enter a temporary order precluding or limiting inspection of a case record if it clearly appears from specific facts shown by affidavit or other statement under oath that (A) there is a substantial basis for believing that the case record is properly subject to an order precluding or limiting inspection pursuant to this Rule, and (B) immediate, substantial, and irreparable harm will result to the person seeking the relief or on whose behalf the relief is sought if temporary relief is not granted before a full adversary hearing can be held on the propriety of a final order precluding or limiting inspection.

~~(3)~~(4) If a petition to preclude or limit inspection is filed by a plaintiff prior to service of the original pleading, the petition to preclude or limit inspection shall be served on the defendant with the original pleading. ~~The~~ Unless the petition is denied pursuant to subsection (d)(2) of this Rule, the court shall hold a hearing under section (f) of this Rule on the petition to preclude or limit

inspection within 15 days after the earlier of (A) filing of proof of service of the original pleading or (B) filing of the first responsive pleading by the defendant.

~~(4)~~(5) If a petition to preclude or limit inspection is filed after all parties have been served in the underlying action, the court shall hold a hearing under section (f) of this Rule on the petition within 15 days after the petition to preclude or limit inspection is filed, unless the petition is denied pursuant to subsection (d)(2) of this Rule.

~~(5)~~(6) For good cause shown, a temporary order precluding or limiting inspection may be extended for up to 30 days after service under subsection ~~(d)(3)~~(d)(4) or filing under subsection ~~(d)(4)~~(d)(5) of this Rule.

(e) Referral for Evidentiary Hearing

If a petition to preclude or limit inspection is filed in an appellate court and the appellate court determines that an evidentiary hearing is needed pursuant to this Rule, the appellate court may refer the matter to a judge of a circuit court to conduct the evidentiary hearing.

(f) Hearing; Final Order

(1) A court may not enter an order permitting inspection of a case record that is not otherwise subject to inspection under the Rules in this Chapter in the absence of an opportunity for a full adversary hearing.

(2) After an opportunity for a full adversary hearing, the court shall enter a final order:

(A) precluding or limiting inspection of a case record that is not otherwise shielded from inspection under the Rules in this Chapter;

(B) permitting inspection, under such conditions and limitations as the court finds necessary, of a case record that is not otherwise subject to inspection under the Rules in this Chapter; or

(C) denying the petition.

(3) A final order shall include or be accompanied by findings regarding the interest sought to be protected by the order.

(4) A final order that precludes or limits inspection of a case record shall be as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order.

(5) A final order granting relief under Code, Criminal Procedure Article, Title 10, Subtitle 3 shall include the applicable provisions of the statute. If the order pertains to a judgment of conviction in (A) an appeal from a judgment of the District Court or (B) an action that was removed pursuant to Rule 4-254, the order shall apply to the records of each court in which there is a record of the action, and the clerk shall transmit a copy of the order to each such court.

(6) In determining whether to permit or deny inspection, the court shall determine, upon clear and convincing evidence:

(A) whether a special and compelling reason exists to preclude, limit, or permit inspection of the particular case record, and, if so, a description of that reason;

(B) whether any substantial harm is likely to come from the order and, if so, the nature of that harm; and

(C) if the petition seeks to permit inspection of a case record that has been previously sealed by court order under subsection (f)(2)(A) of this Rule and the movant was not a party to the case when the order was entered, whether the order satisfies the standards set forth in subsections (f)(3), (4), and (6)(A) of this Rule.

(7) Unless the time is extended by the court on motion of a party and for good cause, the court shall enter a final order within 30 days after a hearing was held or waived.

(g) Filing of Order

A copy of any temporary or final order shall be filed in the action in which the case record in question was filed and, except as otherwise provided by law, shall be subject to public inspection.

(h) Non-Exclusive Remedy

This Rule does not preclude a court from exercising its authority under other law to enter an appropriate order that seals, shields, or limits inspection of a case record or that makes a case record subject to inspection.

(i) Request to Shield Certain Information

(1) Section (i) of this Rule applies to a request, filed by an individual entitled to make it, (A) to shield information in a case record that is subject to shielding under Code, Courts Article, Title 3, Subtitle 15 (peace orders) or Code, Family Law Article, Title 4, Subtitle 5 (domestic violence) or (B) in a criminal or juvenile delinquency action, to shield the address or telephone number of a victim, victim's representative or witness.

(2) The request shall be in writing and filed with the person having custody of the record.

(3) If the request is granted, the custodian shall deny inspection of the shielded information. The shield shall remain in effect until terminated or modified by order of court. Any person aggrieved by the custodian's decision may file a petition under section (b) of this Rule.

Committee note: If a court or District Court Commissioner grants a request to shield information under section (h) of this Rule, no adversary hearing is held unless a hearing is required by statute or a person seeking inspection of the shielded information files a petition under section (b) of this Rule.

Source: This Rule is derived from former Rule 16-912 (2019).

MARYLAND RULES OF PROCEDURE
TITLE 17 – ALTERNATIVE DISPUTE RESOLUTION
CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 17-105 by adding new section (f), as follows:

Rule 17-105. MEDIATION CONFIDENTIALITY

(a) Mediator

Except as provided in sections (c) and (d) of this Rule, a mediator and any person present or otherwise participating in the mediation at the request of the mediator shall maintain the confidentiality of all mediation communications and may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding.

(b) Parties

Except as provided in sections (c) and (d) of this Rule:

(1) a party to a mediation and any person present or who otherwise participates in a mediation at the request of a party may not disclose or be compelled to disclose a mediation communication in any judicial, administrative, or other proceeding; and

(2) the parties may enter into a written agreement to maintain the confidentiality of mediation communications and to require all persons who are present or who otherwise participate in a mediation to join in that agreement.

Cross reference: See Rule 5-408 (a)(3).

(c) Signed Document

A document signed by the parties that records points of agreement expressed and adopted by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential, unless the parties agree otherwise in writing.

Cross reference: See Rule 9-205 (h) concerning the submission of a document embodying the points of agreement to the court in a child access case.

(d) Permitted Disclosures

In addition to any disclosures required by law, a mediator, a party, and a person who was present or who otherwise participated in a mediation may disclose or report mediation communications:

(1) to a potential victim or to the appropriate authorities to the extent they reasonably believe necessary to help prevent serious bodily harm or death to the potential victim;

(2) when relevant to the assertion of or defense against allegations of mediator misconduct or negligence; or

(3) when relevant to a claim or defense that an agreement arising out of a mediation should be rescinded because of fraud, duress, or misrepresentation.

Cross reference: For the legal requirement to report suspected acts of child abuse, see Code, Family Law Article, § 5-705.

(e) Discovery; Admissibility of Information

Mediation communications that are confidential under this Rule are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.

Cross reference: See Rule 5-408 (b). See also Code, Courts Article, Title 3, Subtitle 18, which does not apply to mediations to which the Rules in Title 17 apply.

(f) Screening; Confidentiality

Except as provided in section (d) of this Rule and subject to the provisions of section (b) of this Rule pertaining to parties, all documents, records, and statements containing mediation communications made by, for, or at the request of the court to assist with a determination of whether to order or refer a matter to mediation shall be confidential, and any person privy to the mediation communications shall maintain the confidentiality of all mediation communications and may not disclose or be compelled to disclose the mediation communication in any judicial, administrative, or other proceeding.

Source: This Rule is derived from former Rule 17-109 (2012). Section (f) is new.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING INTEGRITY AND THE AVOIDANCE OF IMPROPRIETY

AMEND Rule 18-101.2 by adding new section (c) pertaining to avoiding the perception of bias, by adding “or bias” to Comment 1, by adding to Comment 4 encouragement to participate in education and activities that promote awareness of biases, by adding new Comment 6, and by renumbering current Comment 6 as Comment 7, as follows:

Rule 18-101.2. PROMOTING CONFIDENCE IN THE JUDICIARY (ABA RULE 1.2)

(a) Promoting Public Confidence

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.

(b) Avoiding Perception of Impropriety

A judge shall avoid conduct that would create in reasonable minds a perception of impropriety.

(c) Avoiding Perception of Bias

A judge shall avoid conduct that would create in reasonable minds a perception that the judge is acting with bias based on race, sex, gender,

religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety or bias. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other individuals and must accept the restrictions imposed by this Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judges should participate in activities, including training and other educational opportunities, that promote ethical conduct among judges and attorneys, support professionalism within the judiciary and the legal profession, encourage increased awareness of actual and implicit biases, and promote access to justice for all.

[5] Actual improprieties include violations of law, Court Rules, and this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with competence, impartiality, and integrity is impaired.

[6] Members of the public interacting with the judiciary should be treated fairly and impartially both in fact and in appearance. Judges should be mindful that bias may be explicit but also may be implicit, meaning behavior that is largely influenced by subconscious associations and judgments without prompting. If a judge is alerted that the judge's conduct could cause a reasonable person to question the judge's impartiality or otherwise suggest impermissible bias on the part of the court, the judge should evaluate the conduct and, if necessary, take reasonable and lawful steps to correct the conduct.

~~[6]~~[7] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

RULE 18-101.2 (1.2)

Source: This Rule is derived in part from former Rule 1.2 of Rule 16-813 (2016) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING INTEGRITY AND THE AVOIDANCE OF IMPROPRIETY

AMEND Rule 18-201.2 by adding taglines to sections (a) and (b), by adding new section (c) pertaining to avoiding the perception of bias, by adding “or bias” to Comment 1, by adding to Comment 4 encouragement to participate in education and activities that promote awareness of biases, by adding new Comment 6, by renumbering current Comment 6 as Comment 7, as follows:

Rule 18-201.2. PROMOTING CONFIDENCE IN THE JUDICIARY

(a) Promoting Public Confidence

A judicial appointee shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.

(b) Avoiding Perception of Impropriety

A judicial appointee shall avoid conduct that would create in reasonable minds a perception of impropriety.

(c) Avoiding Perception of Bias

A judicial appointee shall avoid conduct that would create in reasonable minds a perception that the judicial appointee is acting with bias based on

race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety or bias. This principle applies to both the professional and personal conduct of a judicial appointee.

[2] A judicial appointee should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by this Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judicial appointee undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judicial appointees should participate in activities, including training and other educational opportunities, that promote ethical conduct among judicial appointees and attorneys, support professionalism within the judiciary and the legal profession, encourage increased awareness of actual and implicit biases, and promote access to justice for all.

[5] Actual improprieties include violations of law, Court Rules, and this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judicial appointee's ability to carry out the responsibilities of the judicial appointee's position with competence, impartiality, and integrity is impaired.

[6] Members of the public interacting with the judiciary should be treated fairly and impartially both in fact and in appearance. Judicial appointees should be mindful that bias may be explicit but also may be implicit, meaning behavior that is largely influenced by subconscious associations and judgments without prompting. If a judicial appointee is alerted that the judicial appointee's conduct could cause a reasonable person to question the judicial appointee's impartiality or otherwise suggest impermissible bias on the part of the court, the judicial appointee should evaluate the conduct and, if necessary, take reasonable and lawful steps to correct the conduct.

~~[6]~~[7] A judicial appointee should, where appropriate, initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judicial appointee must act in a manner consistent with this Code.

RULE 18-201.2

Source: This Rule is derived in part from former Rule 1.2 of Rule 16-814 (2016) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING POLITICAL ACTIVITY

AMEND Rule 18-204.1 by correcting a typographical error in subsection (b)(1), as follows:

Rule 18-204.1. DEFINITIONS

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(b) Candidate for Election

(1) “Candidate for election” means a judicial appointee who seeks initial election to a circuit ~~el~~~~ourt~~ court or an Orphans' Court.

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MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 300 – JUDICIAL ETHICS COMMITTEE

AMEND Rule 18-305 by replacing incorrect references in section (c) to Rule 18-703 and Rule 18-704 with references to Rule 18-603 and Rule 18-604, and by replacing incorrect references in section (d) to Rule 18-703 (e) and 18-704 (e) with references to Rule 18-603 (e) and Rule 18-604 (e), as follows:

Rule 18-305. DUTIES

In addition to its other duties imposed by law, the Committee:

(a) shall give advice, as provided in this Rule, with respect to the application or interpretation of the Maryland Code of Judicial Conduct and the Maryland Code of Conduct for Judicial Appointees;

(b) is designated as the body to give advice with respect to the application or interpretation of any provision of Code, General Provisions Article, § 5-501 et seq. and § 5-601 et seq., to a State official in the Judicial Branch;

(c) shall review timely appeals from the State Court Administrator's decision not to extend, under Rule ~~18-703~~ 18-603 or ~~18-704~~ 18-604, the period for filing a financial disclosure statement;

(d) shall determine, under ~~Rule 18-703 (e)~~ Rule 18-603 (e) or ~~Rule 18-704 (e)~~ Rule 18-604 (e), whether to allow a judge or judicial appointee to correct a deficiency as to a financial disclosure statement or to refer the matter, as to a

judge, to the Commission on Judicial Disabilities or, as to a judicial appointee, to the State Ethics Commission; and

(e) shall submit to the Rules Committee recommendations for necessary or desirable changes in any ethics provision.

Source: This Rule is derived from section (i) of former Rule 16-812.1 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL

CONDUCT

PUBLIC SERVICE

AMEND Rule 19-306.1 by correcting a typographical error in the title, as follows:

Rule 19-306.1. PRO BONO ~~PUBLIC~~ PUBLICO SERVICE (6.1)

(a) Professional Responsibility

An attorney has a professional responsibility to render pro bono publico legal service.

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MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 500 – PRO BONO LEGAL SERVICES

AMEND Rule 19-504 by updating a reference in sections (a) and (b), as follows:

Rule 19-504. PRO BONO ATTORNEY

(a) Definition

As used in this Rule, “pro bono attorney” means an attorney who is authorized by Rule 19-218 or Rule 19-605 ~~(a)(2)~~ (b)(2) to represent clients, without compensation other than reimbursement of reasonable and necessary expenses, and whose practice is limited to providing such representation. “Pro bono attorney” does not include (1) an active member of the Maryland Bar in good standing or (2) an attorney whose certificate of authorization to practice under Rule 19-218 permits the attorney to receive compensation for the practice of law under that Rule.

Cross reference: For the professional responsibility of an active member of the Maryland Bar to render pro bono publico legal service, see Rule 19-306.1 (6.1) (Pro Bono Publico Service) of the Maryland Attorneys' Rules of Professional Conduct.

(b) Authorization to Practice as a Pro Bono Attorney

To practice as a pro bono attorney, an out-of-state attorney shall comply with Rule 19-218 and a retired/inactive member of the Maryland Bar shall

comply with Rule 19-605 (a)(2) (b)(2).

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MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 600 – CLIENT PROTECTION FUND

AMEND Rule 19-607 by updating a reference in subsection (d)(1), as follows:

Rule 19-607. DISHONORED CHECKS

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(c) Temporary Suspension Order

(1) Notice by Treasurer

The treasurer of the Fund promptly, but not more often than once each calendar quarter, shall submit to the Supreme Court a proposed interim Temporary Suspension Order stating the name and account number of each attorney who remains in default of payment for a dishonored check and related charges.

(2) Entry and Service of Order

The Supreme Court shall enter an Interim Temporary Suspension Order prohibiting the practice of law in the State by each attorney as to whom the Court is satisfied that the treasurer has made reasonable efforts to give notice concerning the dishonored check. The treasurer shall mail by first class mail a copy of the interim Temporary Suspension Order to each attorney named in the order at the attorney's last address as it appears on the records of the trustees.

The mailing by the treasurer of the copy constitutes service of the order on the attorney.

(d) Payment; Termination or Replacement of Interim Order

(1) Procedure Upon Payment

Upon payment of the full amount due by the attorney, the trustees and the Court shall follow the procedure set forth in Rule ~~19-605 (a)(4)~~ 19-606 (c).

(2) If No Payment

If the full amount due is not paid by the time the Court enters its next Temporary Suspension Order under Rule 19-606 and, as a result, the attorney is included in that order, the interim order shall terminate and be replaced by the Temporary Suspension Order.

Source: This Rule is derived from former Rule 16-811.7 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

SPECIAL PROCEEDINGS

AMEND Rule 19-737 by adding “service of” to subsection (d)(1), as follows:

Rule 19-737. RECIPROCAL DISCIPLINE OR INACTIVE STATUS

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(d) Temporary Suspension of Attorney

(1) Show Cause Order

When the petition and disciplinary or remedial order demonstrate that an attorney has been disbarred or suspended, is currently suspended from practice pending a final order of a court in another jurisdiction, or has been transferred to disability inactive status based on incapacity in another jurisdiction, the Supreme Court shall order that the attorney, within 15 days from the date of service of the order, show cause in writing why the attorney should not be suspended from the practice of law or transferred to disability inactive status immediately until the further order of the Supreme Court. The show cause order shall be served in accordance with Rule 19-723.

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MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

SPECIAL PROCEEDINGS

AMEND Rule 19-738 by adding “service of” to section (d), as follows:

Rule 19-738. DISCIPLINE ON CONVICTION OF CRIME

• • •

(d) Show Cause Order

When the petition demonstrates that an attorney has been found guilty or convicted of a serious crime, the Supreme Court shall order that the attorney, within 15 days from the date of service of the order, show cause in writing why the attorney should not be suspended immediately from the practice of law until the further order of the Supreme Court.

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MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

REINSTATEMENT

AMEND Rule 19-752 by changing “may” to “shall” in subsection (e)(1) and by adding the words “and reasoning” to that subsection, as follows:

Rule 19-752. REINSTATEMENT – OTHER SUSPENSION; DISBARMENT; DISABILITY INACTIVE STATUS; RESIGNATION

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(e) Response to Petition

(1) Generally

Within 30 days after service of the petition, Bar Counsel shall file and serve on the attorney a response. Except as provided in subsection (d)(2) of this Rule, the response shall admit or deny the averments in the petition in accordance with Rule 2-323 (c). The response ~~may~~ shall include Bar Counsel's recommendations and reasoning in support of or opposition to the petition and with respect to any conditions to reinstatement.

(2) Consent

If Bar Counsel is satisfied that the attorney has complied fully with the provisions of Rule 19-741 and any requirements or conditions in the order of suspension or disbarment, and there are no known complaints or disciplinary

proceedings pending against the attorney, the response may be in the form of a consent to the reinstatement.

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