

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its Two Hundred and Eighth Report to the Court of Appeals, recommending rescission of current Title 11 (Juvenile Causes) of the Maryland Rules of Procedure and replacement of it by proposed new Title 11 (Juvenile Causes); amendments to current Rules 1-101, 2-111, 4-101, 4-501, 5-101, 8-202, 9-101, 9-102, 9-103, 9-104, 9-105, 9-106, 9-109, 9-111, 10-101, 16-807, and 16-914; rescission of current Form 9-102.1 and renumbering of Forms 9-102.2, 9-102.3, 9-102.4, 9-102.5, 9-102.6, 9-102.7, 9-102.8, 9-102.9, and 9-102.10; and rescission of Appendix: Forms, Forms for Juvenile Causes, Forms 903-P/C, 903-P/A, 904-R, 904-S, 904-R/WS, 904-WS, 904-WA, 905-OE, 912-A, 912-N, 912-P/CDSC, 912-O/CDSC, 913-P/W, 913-O/W, 914-O/A, 915-O/PDC, 915-O/CJ, 915-O/PS, 915-O/PA, 916-P/RPC, 916-P/RPSC, 916-SCO, 916-O/RCAS, 916-O/TPPS, 918-O/S, 918-O/JR, and 920-FOT.

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

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before August 26, 2021 any written comments they may wish to make to:

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courts, their focus and their jurisdiction is narrow, although critically important - the welfare of children. They deal with children who, mostly through family circumstances, are not properly cared for (children in need of assistance (CINA)), children who are ungovernable and beyond the control of their parents (children in need of supervision (CINS)), children who commit acts that would be criminal if committed by an adult (delinquent), children in need of a public guardian, often leading to adoption, because of circumstances that make a continuation of the parental relationship detrimental to the child's best interest (termination of parental rights (TPR)), children who are persistently truant from school, and children against whom a peace order has been sought. As noted near the end of this Report, they also have a concurrent criminal jurisdiction regarding certain offenses committed by adults.

Although their jurisdiction is narrow in scope, within that scope the authority of the Juvenile Courts is very broad. They exercise both dispute resolution and problem-solving functions, and the Rules that govern their proceedings must accommodate both of those functions. Unlike the situation with most judicial proceedings, which are governed largely just by Rules of the Court of Appeals, Juvenile Court proceedings are governed also by detailed substantive and procedural requirements set forth in statutes - Title 8, Subtitles 3, 3A, and 3C of the Courts and Judicial Proceedings Article (CJP) and, with respect to TPR proceedings, in Title 5, Subtitle 3 of the Family Law Article.

That presented a drafting issue. Although the statutes are detailed in many respects, they do not cover all of the necessary procedural requirements. Anyone dealing with a Juvenile Court needs to be aware of both the statutory provisions and the Rules because they mesh. Our goal was to make the process as transparent and efficient as possible by alerting the judges, magistrates, attorneys, parties, and other participants, in the Rules, to all of what they need to know, either by copying relevant statutory procedural provisions in the Rules, when that is practicable, or by adding cross-references to those provisions when they are lengthy or are accompanied by extensive annotations.

The current Title 11 Rules are not subdivided by the kind of jurisdiction that is being exercised. Any distinction between the requirements for a CINA and a delinquency case, for example, is noted in a section, subsection, or phrase in the current Rule dealing with the general matter.

The Committee believes that the various kinds of cases that the Juvenile Courts deal with are sufficiently different to require that they be treated separately, so that, with limited exception, the participants can look in one place to see the composite procedural requirements applicable to that kind of case. This is done by dividing Title 11 into five distinct Chapters - Chapter 100 dealing with a few general provisions that, with limited exceptions, apply to all proceedings; Chapter 200 dealing with CINA cases; Chapter 300 dealing with TPR cases; Chapter 400 dealing with delinquency and citation cases; and Chapter 500 dealing with miscellaneous cases appearing less frequently, which are themselves dealt with in separate Rules in Chapter 500 (CINS, Voluntary Placement, Truancy, Peace Orders, Expungement, and Adults Charged Criminally With Contributing or School Attendance Violations). That also makes it easier to blend in the relevant statutory provisions.

Chapter 100 - General Provisions

Chapter 100 contains an Applicability Rule, definitions used throughout Title 11, and Rules dealing generally with magistrates, motions, subpoenas, summonses, service, hearings, producing the child in court, juvenile restraints, controlling the conduct of persons before the court, and the translation of papers into foreign languages. Most of those Rules are derived from the current Rules or statutes or follow current practice. We call special attention to Rules 11-101 (b) and (c) and 11-112, which are new.

Rule 11-101

Rule 11-101 is an "Applicability" Rule. Section (a) simply describes the kinds of proceedings covered by the Title. Section (b) puts in one place the evidentiary Rules that apply to the various kinds of proceedings conducted by the Juvenile Courts, and section (c) calls attention to the fact that there are two Interstate Compacts and a Federal statute that may apply to proceedings under Title 11 and, if any of them are applicable in a particular case, they will control, to the extent of any conflict.

With respect to section (b), there are many kinds of hearings conducted by the Juvenile Courts, and the Rules of Evidence applicable in those hearings differ. The basic Rules of Evidence are set forth in Title 5. Rule 1-101 (e) provides that those Rules in Title 5 apply "to all actions in the courts

of this State, except as otherwise provided by statute or rule." That statement is copied as well in Rule 5-101 (a). Exceptions -- and exceptions to the exceptions -- are provided in sections (b) and (c) of Rule 5-101.

Rule 5-101 (b) lists 12 kinds of proceedings in which the Title 5 Rules are inapplicable, two of which relate to Juvenile Court proceedings: subsection (b)(11) - detention and shelter care hearings, and subsection (b)(12) - "[a]ny other proceeding in which, prior to the adoption of the rules in this Title, the court was traditionally not bound by the common law rules of evidence."

Rule 5-101 (c) lists ten kinds of proceedings in which the Title 5 Rules apply but, "in the interest of justice, the court may decline to require strict application" of them. Included in that list are waiver, disposition, and modification hearings in Juvenile Court and "[a]ny other proceeding in which, prior to the adoption of the rules in this Title, the court was authorized to decline to apply the common law rules of evidence."

The two "catchall" provisions, themselves, can create uncertainty as to what the 24 Juvenile Courts in the State were doing prior to the taking effect of Title 5 on July 1, 1994 and thus what they may continue to do. All of it is subject to two clear mandates stated in Rule 5-101: lawful privileges must be respected and the Rules relating to the competence of witnesses apply in all cases.

The Committee believed that clarity was needed and considered two options - putting a provision in each of the Rules that provide for a hearing specifying what rules of evidence are applicable, or putting that in one general provision Rule - and chose the latter, mostly for convenience. Unlike the approach in Rule 5-101, in which strict application of that Rule is the default, the Committee chose to specify in Rule 11-101 (b) the hearings in which strict application is either required or not allowed and leave the discretionary approach as the default for all other hearings. That preserves what mostly is the practice now.

Rule 11-112

Rule 11-112 is a new Rule designed both as a matter of important judicial policy (access to justice) and to protect fundamental due process rights.

Increasingly, people who become parties to a Juvenile Court proceeding are not fluent in English. In open court proceedings, an interpreter would be provided for them. See Rule 1-333. The focus of this Rule is on documents that require a response or that can subject a person to a significant disadvantage if no response is timely filed or there is no timely compliance. Those documents need to be in a language that the non-English speaker can understand or, if in English, translated by an interpreter or translator made available by the filer of the document. The Committee note explains that this is statutorily required for Executive Branch agency documents and is feasible and already in place with respect to judicial documents. Where the foreign language is a rare one in Maryland, an interpreter or translator may be required rather than having the documents preprinted in that language.

Chapter 200 - CINA Cases

Chapter 200 contains the Rules that govern CINA proceedings. They are derived mostly from current Rules, statutes, or practice. Rule 11-211 (Emergency Medical Treatment) is new but is derived from CJP §3-824. The Committee believed it important for that authority to be in a Rule, to help assure that it is not overlooked.

Rule 11-212 (Discovery) also is new. The current Rule (11-109 b) states only that the court, on good cause shown, may pass such orders in aid of discovery and inspection of evidence as justice may require. The scope and procedures for discovery in CINA cases are limited by Federal and State statutes designed to protect the confidentiality of sensitive information in certain social service records. The disclosure of that information cannot be required by a general Rule but only by a court order specific to the case. See Code, Human Services Article, §§1-202 through 1-212 and 70 Op. Atty. Gen. 331 (1994). The Committee nonetheless believes that something more than the current Rule is desirable. It favors requiring the parties to seek relevant information on an informal basis and to resort to a court order only when that effort fails or is incomplete, and it sets both a standard for obtaining an order and sanctions for failure to comply.

Rule 11-216 (Disposition Hearing and Order) is derived in part from current Rule 11-115 but adds a list of permissible dispositions taken from Code, CJP §3-819.

Rule 11-217 is new. It incorporates the provisions of Code, CJP §3-812 and allows the court, on request of the local department of social services, to waive the requirement that the department make reasonable efforts to reunify a child with the child's parents when a condition set forth in §3-812 exists (mostly serious abuse or neglect of the child or certain criminal behavior by the parent).

Much of Rule 11-219 (Post Disposition Review and Modification; Permanency Plans) is new and is taken from Code, CJP §§, 3-816.2, 3-820, and 3-823.

Chapter 300 - TPR Cases

Chapter 300 contains the Rules governing TPR cases. They are mostly derived from current Rule 11-501, Title 9, Chapter 100 of the Md. Rules, and Code, Family Law Article (FL), §§5-313 through 5-328.

Rule 11-301 makes clear that the Rules in this Chapter do **not** apply to ordinary guardianships under Title 10 of the Md. Rules or to the termination of parental rights under Code, FL, Title 5, Subtitle 14 (Title 9, Chapter 400 of the Md. Rules) (child conceived as the result of nonconsensual sexual conduct committed against a parent by the other parent).

The TPR process begins after a child has been found to be a CINA, with the filing of a petition by the local department of social services or, as rarely occurs, by the child. That is dealt with in Rule 11-304 - who may file, where filed, timing, contents, and that it is a new case. Although the child must have already been found to be a CINA, the CINA case may still be open, and the TPR case may be consolidated with the CINA case. See Rule 11-311.

Upon the filing, the court must send notice to the parents and attorneys for the parents (Rule 11-305) and enter a show cause order (Rule 11-306). The show cause order informs the parents, in plain English (or in the foreign language known to a non-English speaker) of the three options the parent has: return an enclosed objection form that contains a request for the appointment of an attorney (Rule 11-307 and Form 11-307); file an enclosed affirmative consent form (Rule 11-309 and Form 11-309); or do nothing, in which event, after 30 days, the parent will be deemed by operation of law to have consented to the guardianship. If a parent objects and either has a disability that prevents him or her from effectively

participating in the case or is a minor, an attorney must be appointed for the parent (Rule 11-308).

Rule 11-312 deals with when a hearing may or must be held. Rule 11-313 provides time limits for a decision; Rule 11-314 recites the statutory standards for determining whether to grant the petition; and Rule 11-315 provides for the guardianship order. The next three Rules govern post-guardianship proceedings: review hearings (Rule 11-316); when a conditional consent fails (Rule 11-317); and termination of a guardianship (Rule 11-318). Rule 11-319 requires the clerk to keep a separate docket for these proceedings and requires that all papers in the guardianship proceeding be sealed. Because these proceedings are shifted to Title 11, conforming amendments are proposed to the Rules and Forms in Title 9, Chapter 100.

Chapter 400 - Delinquency and Citation Cases

Most of the Chapter 400 Rules are derived from the current Rules and the statutory provisions in CJP Title 3, Subtitle 8A.

Rule 11-404 - the right to an attorney - has been rewritten. The current Rule on the right to an attorney (Rule 11-106) attempts to deal with that right in CINA, CINS, and delinquency cases. Rule 11-404 deals just with delinquency and citation cases and incorporates by reference the applicable provisions of the Code regarding those cases. Section (b) of the Rule is new. It precludes an attorney for a child who is entitled to representation at State expense from striking his or her appearance unless another attorney has entered an appearance but terminates an appearance automatically 30 days after the order of termination is entered. Rule 11-405 (Taking Child into Custody) also is new but incorporates CJP §3-8A-14.

Rule 11-406 (Detention; Community Detention; Shelter Care) is derived from current Rule 11-112 and incorporates CJP §3-8A-15.

Rule 11-407 deals with the delinquency petition and is derived from current Rules 11-103 and 11-104 and CJP §3-8A-13.

Rule 11-408 (Citation) is new. It is derived from CJP §§3-8A-10 and 3-8A-33. A citation constitutes a charging document and an initial pleading against the child.

The next three Rules deal with the transfer of cases from or to another court. Rule 11-409 sets forth the procedure to be

followed upon the transfer of a case from the criminal court pursuant to §4-202 or §4-202.2 of the Criminal Procedure Article. It is derived from current Rule 11-102A. Rule 11-410 deals with the waiver of Juvenile Court jurisdiction and the transfer of a case to the criminal court pursuant to CJP §3-8A-06. It is derived from current Rule 11-113. Rule 11-411 deals with the transfer of a case from one county to another, when the case was filed in a county other than where the child resides or is domiciled. It is a new Rule but incorporates provisions in CJP §3-8A-09.

Rule 11-412 is new. It provides for an initial appearance hearing when, following the filing of a petition or citation, no attorney has entered an appearance for the child. The purpose is to determine whether the petition has been served (and, if not, to effect service), to explain the nature of the allegations in the petition and the possible dispositions if the child is found delinquent, and to explain the right of the child and the parents to an attorney. This is comparable to the procedure applicable in criminal cases pursuant to Rule 4-213.

Rules 11-413 (Response to Petition; Admission) and 11-414 (Amendments) are derived from current Rules 11-107 and 11-108, respectively. Rule 11-415 (Study; Examination) is derived from current Rule 11-105 and CJP §3-8A-17.

Rule 11-416 (Competence of Child) is new. It is derived from CJP §§3-8A-17.1 through 3-8A-17.11. Rule 11-417 (Emergency Medical Treatment) also is new. It incorporates CJP §3-8A-21.

Rule 11-418 (Discovery and Inspection) also is new. The current discovery Rule is Rule 11-109 - a long Rule patterned on Rule 4-263 applicable in criminal cases. Rule 11-418 does not change the substance of the current Rule but simply incorporates by reference Rule 4-263 with modifications only to some of the terminology (respondent in place of defendant, for example). As does the current Rule, Rule 11-418, recognizing the expedited procedure in Juvenile cases, requires disclosure of matters and information in time to permit their beneficial use at a hearing in which the material may be relevant, rather than as provided in Rule 4-263 (h).

Rule 11-419 (Motions) is new. It is based on Rule 4-252, with modifications necessary to accommodate the expedited procedure in Juvenile cases, particularly with respect to mandatory motions. Rather than requiring such motions to be filed within 30 days after the first appearance of the defendant

of counsel, the deadline is five business days before the first scheduled adjudicatory hearing, unless the court, for good cause, orders otherwise.

Rule 11-420 (Stet) is new. It is based on Rule 4-248 but requires that the delinquency petition be deemed terminated by operation of law when the respondent reaches age 21.

Rule 11-421 (Adjudicatory Hearing) is derived in part from current Rule 11-114 and CJP §§3-8A-15 and 3-8A-18. It retains the time limits on conducting the hearing (60 days from service of the petition generally, 14 days after denial or withdrawal of a waiver petition, 30 days after an order of continued detention, community detention, or shelter care) but adds, in subsection (b)(5) that, once commenced, an adjudicatory hearing shall be completed with a reasonable degree of continuity.

Rule 11-422 (Disposition Hearing and Order) is derived from current Rule 11-115 and CJP §3-8A-19. Section (e), dealing with citations, is new. Section (g), dealing with restitution, is derived in part from current Rule 11-118 and from Criminal Procedure Article, §11-603 and CJP §3-8A-28.

Rule 11-423 (Revisory Power; Post Disposition Hearings) is derived from current Rule 11-116 and CJP §3-8A-15. A concern was expressed regarding recommendations for modification made by agencies having supervision of the child that parents or other interested parties may not be aware of. To address that problem, the Committee has added the requirement in subsection (a)(4) that the agency notify the parties, who will have the right to request a hearing on the recommendation.

Rule 11-424 (Violation of Probation) is new. It is derived in part from current Rule 11-116 c and Rule 4-347.

Rule 11-425 (Final Order of Termination) is derived in part from current Rule 11-120. Section (b) is new and is modeled on language proposed in Rule 11-423 (a)(3) and (4).

Chapter 500 - Other Proceedings

Chapter 500 consists of a "Scope" Rule (11-501) and separate Rules for each of the other kinds of cases over which the Juvenile Courts have jurisdiction.

Rule 11-502 - Child in Need of Supervision

"Child in need of supervision" is defined in CJP §3-8A-01 (e) as a child who requires guidance, treatment, or rehabilitation and: (1) is required to attend school and is habitually truant; (2) is habitually disobedient, ungovernable, and beyond the control of the person having custody of him/her; (3) deports him/herself so as to injure or endanger him/herself or others; or (4) has committed an offense applicable only to children. The guidance, treatment, or rehabilitation is intended to repair family relationships and, through behavior modification, avert the child's moving into delinquency. At one time, CINS cases constituted a more significant part of Juvenile Court dockets. In more recent times, it has fallen by the wayside; very few CINS cases are being filed.¹ The statutory provisions governing CINS cases are lumped together with delinquency and peace order cases in CJP Title 3, Subtitle 8A. The Rules governing CINS cases are derived from those statutes.

A CINS petition may be filed only by a Department of Juvenile Services (DJS) intake officer. An alleged CINS may be taken into custody, placed in shelter care, and subjected to emergency medical treatment in the same manner as an alleged delinquent child but may not be placed in detention or community detention. See Rule 11-502 (e), (f), and (g).

Upon the filing of a petition, summonses and subpoenas are issued, and the court may hold an initial hearing to assure service and counsel. (Rule 11-502 (k)). The parties to a CINS case have the same right to an attorney as the parties to a delinquency case. (CJP §3-8A-20; Rule 11-502 (d)). Discovery is governed by Rule 11-502 (o). Hearings are conducted in an informal manner, and the court may exclude the general public. An adjudicatory hearing must be held before a judge or a magistrate within 60 days after service of the petition or, if the child is in shelter care, within 30 days after the date on which the court ordered continued shelter care. (Rule 11-502 (q)). Unless the petition is dismissed, a disposition hearing must be held and may be held on the same day as the adjudicatory hearing if notice of the hearing is waived. (Rule 11-502 (s)).

¹ In the three years FY 1981 through 1983 there were 1,131 CINS filings in the Juvenile Courts. In the past five years (2016 to 2020), only 245 CINS cases were filed. In 2020, there were 2; in 2019, there were 6; in 2018, there were 4.

The disposition options are listed in CJP §3-8A-19 (d). They include placing the child on probation or under supervision in his/her own home or in the custody or under the guardianship of a relative, other fit person, DJS, the Department of Health, or a public or licensed private agency. Rule 11-502 (s) (3) directs that the priorities in making a disposition shall be consistent with CJP §3-8A-02, which does not contain a list of priorities but states the purposes of that Subtitle. Sections (t) and (u) provide for modification or vacation of a disposition order and for termination of the court's jurisdiction.

Rule 11-503 - Voluntary Placement

A voluntary placement is an out-of-home placement of a child into foster care, kinship care, group care, or residential treatment care pursuant to a voluntary placement agreement between a local social services department and the parent or guardian of the child or a former CINA between the ages of 18 and 20 years and six months. It is provided for in Family Law Article, §5-525 and CJP §3-819.1. There is no current Rule dealing specifically with voluntary placements, notwithstanding that CJP §3-819.1 requires a hearing in the Juvenile Court to determine whether the voluntary placement should continue.

Rule 11-503 sets forth the procedure and covers the same topics covered in the Rules governing other Juvenile Court proceedings - definitions, the petition, service, responses, confidentiality of records, the child's right to an attorney, discovery, study and examination of the child, emergency medical treatment, the hearing, court findings, review hearings, and permanency plans.

Rule 11-504 - Truancy Reduction Pilot Program

As a matter of context, there are four statutes that punish truancy. As noted above, habitual truancy can support a CINS petition against the child (CJP §3-8A-01 (e)), and, as noted below with respect to Rule 11-507, an adult who contributes to a child becoming CINS is guilty of a misdemeanor that carries a sentence of up to three years in prison (CJP §3-8A-30). The CINS case is within the exclusive jurisdiction of the Juvenile Court. The "contributing" case also may be filed in the Juvenile Court, although those charges mostly are filed in the District Court or the criminal division of the Circuit Court.

With certain exceptions, section 7-301 (a-1) of the Education Article requires each child residing in Maryland between the ages of five and 18 to attend a public school regularly during the entire school year. Section 7-301 (e) makes it a misdemeanor subject to a fine and imprisonment for up to three days (five days for a subsequent violation) for a person who has legal custody or care and control of a child between the ages of five and 16 to fail to see that the child attends school or receive instruction. That charge is against the parent or custodian, not the child.

CJP Title 3, Subtitle 8C authorizes the respective Circuit Administrative Judges to establish a truancy reduction pilot program in the Circuit Courts in Dorchester, Harford, Kent, Prince George's, Somerset, Talbot, Wicomico, and Worcester Counties. Programs have been created in those counties, and the Committee has been advised that legislation is likely to be proposed to extend the program Statewide and no longer regard it as a pilot program. The basis of that program is CJP §3-8C-03, which repeats that a child who is required under §7-301 of the Education Article to attend school may not fail to do so without a lawful excuse, but, unlike §7-301 of the Education Article, provides that a violation of CJP§ 3-8C-03 constitutes a civil, not a criminal, offense.

The statute permits only an "authorized school official" to file a petition in Juvenile Court alleging that a child required by law to attend school has failed to do so without a lawful excuse but does not define that term. The statute provides for an adjudicatory hearing, a standard of proof, that the rules of evidence apply, for a disposition hearing and permissible dispositions, for probation, and that the Maryland Rules shall govern the format of the petition and the procedures to be followed. There is no current Rule regarding this program.

Rule 11-504 fills in the gaps. It clarifies who can file a petition - the school official designated by an agreement between the court and the local school system. The Rule covers the normal topics - the petition, summonses and subpoenas, adjudicatory and disposition hearings. Neither the statute nor the proposed Rule mention anything regarding the child's right to an attorney. There is no provision in the Code or in the proposed Rule for a right to appointed counsel because an adjudication of a Subtitle 8C violation is not a criminal conviction and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction. See CJP §3-8C-03.

Rule 11-505 -Peace Orders

Requests for peace orders against juveniles are filed in Juvenile Court pursuant to CJP, §§3-8A-19.1 through 3-8A-19.5. There currently is no Rule governing those requests. Proposed Rule 11-505 is new but follows the Code provisions.

A request for a peace order may be filed only by a DJS intake officer. The Rule provides where it must be filed, what it must contain, for the issuance and service of summonses for the child, the child's parent, guardian, or custodian, and the victim, the right to a hearing, the issuance of an order, the forms of relief, service of the order, and modification and rescission of the order.

Rule 11-506 - Expungement

Expungement of Juvenile Court records is provided for in CJP §3-8A-27.1. Rule 11-506 is derived from current Rule 11-601.

Rule 11-507 - Adult Charged with Contributing; School Attendance Violations

CJP §§3-828 and 3-8A-30 make it a misdemeanor, punishable by up to three years in prison, for an adult willfully to contribute to, encourage, cause, or tend to cause any act, omission, or condition that renders a child in need of assistance, delinquent, or in need of supervision. Because those offenses are misdemeanors, the District Court has jurisdiction over them. Because of the three-year prison sentence, the defendant has a right to a jury trial in a Circuit Court. CJP §§3-803 (c) and 3-8A-03 (b), however, give the Juvenile Courts concurrent jurisdiction over them as well. The statutes require the Juvenile Court to waive its jurisdiction on motion of either the State's Attorney or the adult defendant. CJP §3-8A-03 (c) separately gives the Juvenile Courts concurrent jurisdiction with the District Court over criminal cases arising under the compulsory public school attendance laws, and the defendant may elect to be tried in the District Court for a criminal violation of Code, Education Article, §7-301 (e). See CJP § 4-303.

There is no current Rule governing procedure in the Juvenile Courts with respect to those offenses, and drafting one was not easy. All of the procedural requirements applicable to criminal cases in Title 4 of the Rules - waiver of counsel,

waiver of jury trial, suppression motions - would need to be incorporated, at least by reference, in the Title 11 Rules. In fact, very few of these cases are actually filed in or remain in Juvenile Court. According to the Administrative Office of the Courts, none were filed in 2017, 2018, or 2019. In the three-year period 2009, 2010, and 2011, only four were filed, all in Garrett County.

The Juvenile Subcommittee of the Rules Committee supported a bill introduced into the 2021 Session of the General Assembly to repeal the concurrent jurisdiction of the Juvenile Courts over those offenses (HB 1338), but, although there was no opposition to the bill, it failed in the House Judiciary Committee. The Rules Committee, therefore, has drafted Rule 11-507 to provide a procedure for dealing with these cases, should any be filed in a Juvenile Court.

Conforming Amendments

Conforming amendments are proposed to Rules 1-101, 2-111, 4-101, 4-501, 5-101, 8-202, 9-101, 9-102, 9-103, 9-104, 9-105, 9-106, 9-109, 9-111, 10-101, 16-807, and 16-914, and Forms 9-102.2 through 9-102.10. Form 9-102.1 and the Forms for Juvenile Causes in the Appendix of Forms are proposed to be deleted.

For the further guidance of the Court and the public, following the proposed new Rules and the proposed amendments to each of the existing Rules is a Reporter's note describing in further detail the reasons for the proposals. We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully Submitted,

/ s /

Alan M. Wilner
Chair

AMW:sdm

cc: Suzanne C. Johnson, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 100 - GENERAL PROVISIONS

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

ADD new Rule 11-101, as follows:

Rule 11-101. APPLICABILITY

(a) Rules in Title 11

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

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

(b) Rules of Evidence

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

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

(A) Adjudicatory hearings conducted in:

(i) CINA proceedings under Chapter 200;

(ii) delinquency proceedings under Chapter 400; and

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

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

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

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

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

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

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

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

(B) Emergency hearing proceedings following the removal of a child from a court-ordered placement under Chapters 200 and 300; and

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

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

(c) Interstate Compacts; Indian Child Welfare Act

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

Section (b) sets out the applicability of the Rules of Evidence to the various proceedings in juvenile court. The Committee determined that it was preferable to create one general provision stating the applicability of the Rules in

Title 5 to these proceedings, rather than specify the applicability in each Rule that contains a hearing component.

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

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

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

ADD new Rule 11-102, 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," "local department," "mental disorder," "mental injury," "neglect," "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," "mental disorder," "mental retardation," "mentally handicapped child," "party," "peace order proceeding," "peace order request," "petition," "qualified expert," "respondent," "shelter care," "victim," "violation," and "witness."

(b) Additional Definitions

In this Title, the following additional definitions apply except as expressly otherwise provided or as necessary

implication requires:

(1) Court

"Court" means the division or part of the circuit court that exercises the jurisdiction conferred on the circuit courts by Code, Courts Article, Title 3, Subtitles 8, 8A, and 8C.

(2) Next Day

"Next day" means the next day that the circuit court is in session.

(3) Parent

"Parent" means a natural or adoptive parent whose parental rights have not been terminated and a de facto parent.

Cross Reference: See *Conover v. Conover*, 450 Md. 1 (2016) and *E.N. v. T.R.*, __ Md. __ (No. 44, September Term, 2020, filed July 12, 2021).

(4) Respondent

"Respondent" means the juvenile who is the subject of a petition.

(5) State's Attorney

"State's Attorney" has the meaning set forth in Rule 4-

102 to the extent the individual is authorized to represent the State in a proceeding under Code, Courts Article, Title 3, Subtitle 8A.

(6) Summons

“Summons” means a writ notifying the person named in the summons that: (A) the person summoned is a party in an action that has been commenced in the court from which the summons is issued, and (B) failure to attend may result in the issuance of a body attachment or contempt proceedings for the person summoned.

Source: This Rule is derived from former Rule 11-101 (2021).

REPORTER’S NOTE

Proposed Rule 11-102 contains definitions of terms that are used throughout the Title.

Section (a) incorporates statutory definitions in Title 3 of the Courts Article and states that if a definition in Subtitle 8 differs from a definition in Subtitle 8A, the definition in the Subtitle pursuant to which the proceeding was filed applies. A cross reference lists the terms defined in each Subtitle.

Section (b) defines additional terms used in the Title. “Court” is defined to include any circuit court division that exercises jurisdiction conferred by Code, Courts Article, Title 3, Subtitles 8, 8A, and 8C. “Next day” means the next day the court is in session. “Parent” is defined to include a de facto parent, established in accordance with *Conover v. Conover*, 450 Md. 1 (2016) and *E.N. v. T.R.*, ___ Md. ___ (No. 44, September Term,

2020, filed July 12, 2021). "Respondent" means the juvenile who is the subject of a petition. The definition of "State's Attorney" is derived from Rule 4-102. "Summons" is derived from the definition in Rule 1-202.

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

ADD new Rule 11-103, as follows:

Rule 11-103. MAGISTRATES

(a) General Authority; Applicability

(1) Generally

A magistrate appointed for juvenile causes is authorized to hear any cases and matters under this Title assigned by the court, except a hearing to terminate parental rights under Rule 11-312, a hearing on a waiver petition under Rule 11-410, or a trial under Rule 11-507.

(2) Exception

Other than the procedures set forth in section (b) of this Rule, the procedures in this Rule do not apply to hearings before a magistrate in detention or shelter care proceedings.

Cross reference: See Rule 11-204 for procedures in CINA shelter care proceedings. See Rule 11-406 for procedures in delinquency detention and shelter care proceedings.

(3) Findings, Conclusions, and Recommendations

The findings, conclusions, and recommendations of a magistrate do not constitute orders or final action of the court.

(b) Hearings

(1) Authority to Conduct and Regulate

A magistrate may conduct hearings and regulate all proceedings relating to a hearing, including:

(A) fixing the time and place of the hearing, including permitting remote participation in the hearing;

(B) directing the issuance of subpoenas to compel the attendance of witnesses and the production of documents or other tangible things;

(C) administering oaths to witnesses;

(D) ruling on the admissibility of evidence;

(E) examining witnesses;

(F) convening, continuing, and adjourning the hearing, as required; and

(G) recommending contempt proceedings or other sanctions to the court.

(2) Recording

All proceedings before a magistrate shall be recorded verbatim.

(c) Report and Recommendations

(1) Contents of Reports

The magistrate's report shall be a written report that includes proposed findings of fact, conclusions of law, and recommendations, and be accompanied by a proposed order.

(2) When Filed

Within 10 days after completing a disposition hearing or a post-disposition proceeding that requires a court order, the magistrate shall transmit to a judge assigned to the court the entire file in the case, together with the magistrate's report.

(3) Service

A copy of the report and proposed order shall be served on each party as provided by Rule 20-205 in MDEC counties or Rule 1-321 in non-MDEC counties.

Cross reference: See Rule 1-321 addressing the service of pleadings and other papers filed after the original pleading.

(d) Immediate Review

(1) By Agreement

The parties may agree to waive the right to file exceptions to the magistrate's report and recommendations and to the immediate entry of the order proposed by the magistrate with such amendments or clarifications to which the parties agree.

(2) Emergency Orders

If a magistrate finds that extraordinary circumstances exist and recommends that an order be entered immediately, a judge of the court shall review the file, any exhibits, and the magistrate's findings and recommendations and shall afford the parties an opportunity for oral argument. The court may accept, reject, or modify the magistrate's recommendations and issue an

immediate order. An order entered under this subsection remains subject to a later determination by the court on exceptions.

(e) Exceptions

(1) Filing; Content

Unless waived pursuant to subsection (d)(1) of this Rule, any party may file exceptions to the magistrate's proposed findings, conclusions, or recommended order. The exceptions shall be in writing, filed with the clerk within five days after service of the magistrate's report, and served on each other party. Exceptions shall specify:

(A) whether the excepting party requests that the hearing on exceptions be de novo or on the record made before the magistrate; and

(B) with particularity, those items to which the party excepts and, if the hearing is to be on the record, each asserted error.

(2) Transcript

If the hearing is to be on the record made before the magistrate, the excepting party shall cause to be prepared, transmitted to the court, and served on each other party, a transcript of so much of the proceeding as is necessary for the court to rule on the exceptions, unless (A) a transcript has already been filed, (B) the hearing is to be on an agreed statement of facts, or (C) the hearing is to be on an electronic

recording of the proceeding before the magistrate. The transcript shall be filed and served within 20 days after the filing of exceptions unless, upon motion made prior to expiration of the 20-day period, and for good cause, the court extends that time.

(f) Hearing on Exceptions

(1) Duty to Schedule

Upon the filing of timely exceptions which comply with this Rule, the court shall schedule a prompt hearing, which shall occur within 30 days after the filing of exceptions unless the court, with the agreement of the parties or for good cause, extends the time.

(2) Type and Scope of Hearing

(A) The hearing shall be limited to those matters to which exceptions have been filed.

(B) An excepting party, other than the State in a delinquency proceeding, may elect a hearing de novo or a hearing on the record made before the magistrate. If the excepting party did not request a de novo hearing when filing the exceptions, the hearing shall be on the record.

(C) If the State is the only excepting party in a proceeding involving juvenile delinquency, the hearing shall be on the record, supplemented by additional evidence as the judge considers relevant and to which the parties raise no objection.

(D) If the hearing is on the record, the court may confine the hearing to the particular allegations of error stated in the exceptions.

Cross reference: See Code, Courts Article, §3-807 (c).

(3) Record

(A) If the hearing is on the record made before the magistrate, the hearing shall be held either on an agreed statement of facts or on the part of the record that is relevant to the exceptions.

(B) The court, on its own initiative or on motion of a party, may accept an electronic recording of the proceeding in place of a transcript.

(g) Review by Court if No Exceptions Filed

If no exceptions have been filed in compliance with this Rule, the court, within 10 days after the expiration of the time for filing exceptions, shall:

(1) adopt the magistrate's proposed findings of fact, conclusions of law, and recommendations and enter an appropriate order based on them;

(2) remand the case to the magistrate for a further hearing;
or

(3) schedule a de novo hearing before the court, unless the parties agree to a hearing on the record.

Source: This Rule is derived in part from former Rules 11-110

and 11-111 (2021). Section (d) is new.

REPORTER'S NOTE

Proposed Rule 11-103 addresses the authority and duties of magistrates in juvenile proceedings under Title 11.

Section (a) is derived from current Rule 11-111 a and states the magistrate's authority to hear cases and matters assigned by the court. Generally, magistrates may hear any matters other than waiver petitions, hearings to terminate parental rights, and trials of adults charged under Rule 11-507. Sections (c) through (g) do not apply to hearings in detention or shelter care proceedings. A cross reference refers to Rules governing procedures in shelter care and detention proceedings.

Section (b) is derived from current Rule 11-110 a and specifies the authority of magistrates to conduct and regulate hearings, including fixing the time and place, issuing subpoenas, administering oaths, ruling on evidence, examining witnesses, convening and adjourning hearings, and recommending contempt or other sanctions. Proceedings before a magistrate shall be recorded.

Section (c) is derived from current Rule 11-111 b and states the requirements and procedure for the issuance of the magistrate's report and recommendations. Subsection (c)(1) requires the report to be written and include proposed findings of fact, conclusions of law, recommendations, and proposed orders. Even in cases where the parties waive exceptions, the magistrate must make a written report to provide the judge reviewing the matter context for the proposed order.

Subsection (c)(2) requires the report to be filed within 10 days after completing a disposition hearing or post-disposition proceeding requiring an order. Subsection (c)(3) requires service of the report on each party.

Section (d) is new and contains the procedure for an immediate review of the magistrate's report and recommendations. Subsection (d)(1) allows for immediate review by agreement of the parties. Subsection (d)(2) permits the magistrate to recommend an order be reviewed by a judge and entered

immediately in emergency circumstances if the magistrate finds that extraordinary circumstances exist. Provisions for immediate review of shelter care and detention determinations are included in later Rules. Such an order is subject to exceptions later.

Section (e) is derived from current Rule 11-111 c and addresses the exceptions process after the magistrate files a report and recommendations. Subsection (e)(1) states that the exceptions must be in writing, filed with the clerk within five days after service of the report, and served on the other parties. The exceptions must specify whether the excepting party requests that the hearing be de novo or on the record and the items to which the party excepts or, for a hearing on the record, each asserted error. Subsection (e)(2) requires the excepting party, if the hearing is on the record, to cause the necessary transcript to be prepared and transmitted to the court and the other parties. The transcript requirement does not apply when a transcript has already been filed, the hearing is on an agreed statement of facts, or the hearing will use an electronic recording of the proceedings before the magistrate.

Section (f) is also derived from current Rule 11-111 c and states the requirements for scheduling and conducting a hearing on exceptions. The court must schedule a prompt hearing to occur within 30 days after the filing of exceptions unless the court extends the time by agreement or for good cause. An excepting party that is not the State in a delinquency proceeding may elect a hearing de novo. A hearing will be on the record unless the excepting party requests de novo review. If the State is the excepting party, the hearing shall be on the record and supplemented by additional evidence as permitted. If the hearing is on the record, it shall be held on an agreed statement of facts or the relevant part of the record. The court may accept an electronic recording in place of a transcript.

Section (g) is derived from current Rule 11-111 d and states that the court shall act within 10 days of the expiration of the time for filing exceptions. The court may adopt the magistrate's recommendations and enter an appropriate order, remand the case to the magistrate, or schedule a de novo hearing before the court.

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

ADD new Rule 11-104, as follows:

Rule 11-104. MOTIONS

(a) Generally

An application to the court for an order shall be made by motion which, unless made during a hearing, shall (1) be in writing, (2) be accompanied by a proposed order, and (3) set forth the relief or order sought. This Rule does not apply to motions required to be filed pursuant to Rule 11-419 (b).

Cross reference: See Rule 11-419 (b) addressing mandatory motions in delinquency and citation proceedings.

(b) Response

Unless the court orders otherwise:

- (1) a party against whom a motion is directed is not required to file a response;
- (2) any response shall be filed within 10 days after service of the motion; and
- (3) if a party fails to file a response, the court may proceed to rule on the motion.

(c) Hearing

Any party desiring a hearing on a motion shall request the hearing in the motion or response under the heading "Request for Hearing." The title of the motion or response shall state that a hearing is requested.

(d) Statement of Grounds

The grounds of a written motion or response shall be stated with particularity.

(e) Affidavit

A motion or response that is based on facts not contained in the record or papers on file in the proceeding shall be supported by affidavit and accompanied by any papers or exhibits on which it is based.

Source: This Rule is new. It is derived from Rule 2-311.

REPORTER'S NOTE

Proposed Rule 11-104 is derived from current Rule 2-311 and provides that a request for a court order must be in the form of a motion, which shall be in writing unless made during a hearing. The Rule does not apply to mandatory motions filed in a delinquency proceeding, which are governed by Rule 11-419. Section (b) states that a party, unless ordered by the court, is not required to respond to a motion but any response shall be filed within 10 days after service.

A hearing on a motion may be requested pursuant to section (c). A motion or response shall state the grounds with particularity and be supported by affidavit if based on facts not contained in the record.

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

ADD new Rule 11-105, as follows:

Rule 11-105. SUBPOENAS

(a) Generally

Except as otherwise provided by law, the clerk shall issue a subpoena for each witness requested by any party, pursuant to Rule 2-510.

(b) Hospital Records

A subpoena for hospital records may be issued in accordance with Rule 2-510 (i).

Cross reference: See Rule 2-510 addressing subpoenas in civil proceedings generally. Section (i) of that Rule addresses records produced by custodians.

Source: This Rule is derived in part from former Rule 11-104 (2021). Section (b) is new.

REPORTER'S NOTE

Proposed Rule 11-105 is based in part on current Rule 11-104 (d) and states that subpoenas for witnesses and hospital records are governed by Rule 2-510. A cross reference to Rule 2-510 follows the Rule.

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

ADD new Rule 11-106, as follows:

Rule 11-106. SUMMONS

(a) Generally

Upon the filing of a petition, the clerk shall issue a summons for each party except the petitioner and a respondent child alleged to be in need of assistance.

(b) Content

(1) Generally

A summons shall contain:

- (A) the name of the court and the assigned docket reference;
- (B) the name and address of the person summoned;
- (C) the date of issue;
- (D) the date, time, and place of the scheduled hearing;
- (E) if any portion of the hearing is to be conducted by remote means pursuant to Rules 2-801 through 2-806, details regarding the manner of remote participation;
- (F) a statement that failure to attend may result in the person summoned being taken into custody; and

(G) a statement that the person summoned shall keep the court advised of the person's address during the pendency of the proceedings.

(2) Production of Child

A summons to a parent, guardian, or custodian of a respondent child shall require the person to produce the child at the place, on the date, and at the time stated in the summons.

Source: This Rule is derived from former Rule 11-104 (2021). Section (b) is new and is derived from former Form 904-S.

REPORTER'S NOTE

Proposed Rule 11-106 is derived from current Rule 11-104 and Form 904-S. Generally, the clerk shall issue a summons for each party upon the filing of the petition except the petitioner and respondent child in a CINA proceeding. The summons shall contain the details listed in section (b) and a summons to a parent, guardian, or custodian of a respondent child must require the person to produce the child.

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

ADD new Rule 11-107, as follows:

Rule 11-107. SERVICE OF PAPERS

(a) Summons

A summons issued pursuant to Rule 11-106 shall be served in the manner provided by Rule 2-121, and be returnable as provided by Rule 2-126.

(b) Other Papers

Except as otherwise provided by law, all other papers filed with the court, other than a petition or citation, shall be served in the manner provided by Rule 20-205 in MDEC counties or Rule 1-321 in non-MDEC counties.

Source: This Rule is derived in part from former Rule 11-104 c (2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-107 is derived in part from current Rule 11-104 c. Section (a) states that summonses shall be served pursuant to Rule 2-121, returnable as provided by Rule 2-126. Section (b) permits all other papers, except as provided by law, to be served pursuant to Rule 20-205 for MDEC counties or Rule 1-321 in non-MDEC counties.

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

ADD new Rule 11-108, as follows:

Rule 11-108. HEARINGS

(a) Non-jury

Hearings shall be conducted before a judge or magistrate without a jury, and shall be conducted in an informal manner.

(b) Recording

All proceedings shall be recorded verbatim by a recording method approved by the county administrative judge.

Committee note: The requirement that all juvenile proceedings be recorded verbatim applies regardless of the location of the hearing.

(c) Place of Hearing

A hearing may be conducted in open court, in chambers, remotely in conformance with the procedures and requirements in Rules 2-801 through 2-806, or elsewhere where appropriate facilities are available.

(d) Open and Closed Hearings

(1) Exclusion from CINA or Voluntary Placement Hearings

A determination of who may or shall be excluded from a CINA or voluntary placement hearing is governed by Code, Courts

Article, §3-810 (b).

(2) Exclusion from CINS, Delinquency, or Peace Order Hearings

A determination of who may be excluded from a CINS, delinquency, or peace order hearing is governed by Code, Courts Article, §3-8A-13 (f).

(3) Participation by Nonparties

Participation by foster parents, preadoptive parents, caregivers, and attorneys for those individuals is governed by Code, Courts Article, §3-816.3.

Cross reference: Code, Courts Article, §3-810 (b) addresses both mandatory and permissive exclusion of the general public from a CINA or voluntary placement hearing. Code, Courts Article, §3-8A-13 (f) addresses permissive exclusion of the general public from a CINS hearing or certain delinquency or peace order hearings, and requires certain delinquency proceedings to be conducted in open court.

(4) Confidential Information

The court shall take appropriate steps to prevent public disclosure of information that is confidential under state or federal law.

Committee note: Statutes that govern confidential information include Code, Health-General Article, §§4-302 and 4-307, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §1320d et seq. See also the Rules in Title 16, Chapter 900 (Access to Judicial Records).

(e) List of Open Hearings

Prior to the convening of court on each day that court is in session, the clerk shall prepare and make available to the

public a list of the hearings scheduled for that day that are required by Code, Courts Article, §3-8A-13 (f) to be conducted in open court. The list shall include the full name of each respondent and the time and location of the hearing.

(f) Notice

(1) Generally

Unless the parties are notified in open court and on the record of the date, time, place, and purpose of the next hearing, and except for a hearing on a petition for continued detention or shelter care, the clerk shall issue to each party a notice of the date, time, place, and purpose of each hearing. The notice shall be served in the manner provided by Rule 11-107.

(2) Timing

The notice shall be provided as soon as practicable. It shall be provided at least five days before the hearing unless a different time is provided by law, the five day notice period is waived, or the hearing is:

(A) on a petition for emergency medical treatment pursuant to Code, Courts Article, §3-824 (a) or §3-8A-13 (h);

(B) on a petition for continued shelter care or detention;

(C) a disposition hearing held the same day as the adjudicatory hearing; or

(D) an emergency review hearing under Code, Courts

Article, §3-820 (d).

(g) Consolidation

(1) Multiple Petitions Against One Respondent

If two or more petitions are filed against a respondent, hearings on the petitions may be consolidated or severed as justice may require.

(2) Petitions Filed Against More than One Respondent

(A) Except as otherwise provided in this subsection, hearings on petitions filed against more than one respondent arising out of the same incident or conditions may be consolidated or severed as justice may require.

(B) If prejudice may result to any respondent from a consolidation, the hearing on the petition against that respondent shall be severed and conducted separately.

(C) If petitions are filed against a child and an adult, the hearing on the petition filed against the child shall be severed and conducted separately from the adult proceeding.

(h) Victims

At an adjudicatory hearing in a delinquency action, the judge, magistrate, or clerk shall (1) inquire whether any victim or victim's representative, as defined in Code, Criminal Procedure Article, §11-104 (a), or family member of a victim is present, and (2) cause to be inserted in the case file a list of all such individuals as provided by the State's Attorney's

Office. Identifying information regarding those individuals shall be shielded pursuant to the Rules in Title 16, Chapter 900 and Code, Criminal Procedure Article, §11-301.

Committee note: Code, Courts Article, §3-8A-27.1 (b)(2) requires the court to serve a petition for expungement of a juvenile record on all listed victims and all family members of a listed victim "who are listed in the court file as having attended the adjudication for the case in which the person is seeking expungement." In order to comply with that requirement, the court file must include a list of those individuals.

(i) Admissions Made in Court

A party entitled to file a response, whether or not a response was filed, may admit in court and on the record any or all of the allegations in the petition or state an intention not to deny one or more of the allegations. The court shall neither encourage nor discourage an admission or denial.

Source: This Rule is derived from former Rule 11-110 (2021), except that section (i) is derived from former Rule 11-107 (2021).

REPORTER'S NOTE

Proposed Rule 11-108 is derived from current Rule 11-110 and provides that hearings shall be conducted without a jury, held in an informal matter, and recorded in a method approved by the county administrative judge. A Committee note following section (b) specifies that the recording requirement applies regardless of the location of the hearing.

Section (c) is derived from current Rule 11-110 b and addresses the potential locations of hearings, which can be conducted in open court, in chambers, remotely, or elsewhere as appropriate.

Section (d) is new but derived from statutes and addresses when hearings should be open or closed and cites statutes that govern exclusion of individuals from juvenile proceedings. Subsection (d)(4) states that the court shall take appropriate steps to prevent public disclosure of confidential information. A Committee note provides examples of state and federal privacy laws.

Section (e) is derived from current Rule 11-104 f and states that a list of open hearings shall be made available to the public each day. The list must include the full name of each respondent and the time and location of the hearing.

Section (f) addresses notice of hearings given to the parties. Generally, except for a hearing on a petition for continued detention or shelter care, the clerk is required to issue a notice of the date, time, place, and purpose of each hearing unless the parties are notified in open court on the record of the details of the next hearing. The notice shall be served in the manner provided by Rule 11-107. Subsection (f)(2) is based in part on current Rule 11-110 c and states that the notice shall be provided as soon as practicable and at least five days before the hearing unless otherwise provided by law or if the subject of the hearing is one of the following: a petition for emergency medical treatment, a petition for continued shelter care or detention, a disposition hearing held the same day as an adjudicatory hearing, or an emergency review hearing.

Section (g) is derived from current Rule 11-110 d and provides that multiple petitions against one respondent and petitions filed against more than one respondent may be consolidated or severed, as justice requires. If consolidation may result in prejudice to a co-respondent, that respondent's petition shall be severed. If petitions are filed against a child and an adult, the petition against the child shall be severed.

Section (h) requires the judge, magistrate, or clerk to inquire at an adjudicatory hearing about any victim or victim's representative and insert a list of those individuals in the case file with identifying information shielded. A Committee note states that the court is required by law to serve a petition for expungement of a juvenile record on all listed victims and listed family members.

Section (i) is derived from current Rule 11-107 and permits a party entitled to file a response to admit in court and on the record any or all of the allegations in the petition or state an intention not to deny.

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

ADD new Rule 11-109, as follows:

Rule 11-109. PRODUCTION OF CHILD

Unless the child's presence is excused by the court for good cause, the child's custodian shall bring the child to all hearings under the Rules in this Title. An attorney for the child may waive the child's presence in any proceeding other than a delinquency proceeding or a child consultation pursuant to Code, Courts Article, §3-823 (j).

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-109 is new and addresses production of a child at hearings under Title 11. Unless the child's presence is excused by the court for good cause, the custodian shall bring the child to all hearings. An attorney for the child may waive the child's presence in a proceeding other than a delinquency proceeding or child consultation.

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

ADD new Rule 11-110, as follows:

Rule 11-110. JUVENILE RESTRAINTS

If a child who is the subject of the proceedings is brought before the court wearing any physical restraint device, absent a particularized security concern, the device shall be removed while the child is in the courtroom or hearing room. Although security personnel have the ongoing responsibility for maintaining security and order throughout the proceeding, the judge or magistrate conducting the proceeding shall determine whether the child needs to remain in restraints while in the courtroom or hearing room.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-110 addresses when a child may be physically restrained while before the court. Generally, absent a particularized security concern, a physical restraint device shall be removed while the child is in the courtroom or hearing room. The ongoing responsibility for security falls to security personnel, but the judge or magistrate has the ultimate authority to determine if the child needs to remain in restraints.

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

ADD new Rule 11-111, as follows:

Rule 11-111. CONTROLLING CONDUCT

(a) Authority

On its own initiative or on application or motion of a party, the court may direct, restrain, or otherwise control the conduct of any person properly before the court in accordance with the provisions of Code, Courts Article, §3-821 or §3-8A-26.

(b) Service of Order

Any order under this Rule shall be served on the person to whom it is directed.

(c) Other Remedies

In addition to the remedies provided by section (a) of this Rule, Chapter 200 of Title 15 of these Rules is applicable to juvenile causes, and the sanctions provided in that Chapter may also be imposed.

Source: This Rule is derived from Rule 11-110 e (2021).

REPORTER'S NOTE

Proposed Rule 11-111 is derived from current Rule 11-110 e and authorizes the court to direct, restrain, or otherwise control the conduct of a person properly before the court in accordance with certain statutes. An order shall be served on the person to whom it is directed. Section (d) provides that Title 15, Chapter 200 (Contempt) Rules are also applicable.

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

ADD new Rule 11-112, as follows:

Rule 11-112. PAPERS IN A FOREIGN LANGUAGE

Whenever the court or other unit of the State or local government has reason to believe that an individual required to be served with a summons, subpoena, notice of hearing or court conference, or other document that requires a decision, action, or response by the individual, by reason of unfamiliarity with the English language, may be unable to read and understand the document, the unit shall (1) serve the document in English and in a language that the court or unit reasonably believes the individual can understand, or (2) as an attachment to the English version of the document, inform the individual in a language the court or unit reasonably believes the individual can understand that, if the individual, due to unfamiliarity with the English language, is unable to read and understand the document, upon request (A) a copy of the document in a language the individual understands will be made available, or (B) an individual fluent in the language the served individual understands will be made available to translate the document.

Committee note: Court documents can be translated into several languages by the Access to Justice Department of the Administrative Office of the Courts. See Code, State Government Article, §10-1103 requiring State agencies, including the Department of Human Services, Department of Juvenile Services, and Attorney General's Office to provide "the translation of vital documents ordinarily provided to the public into any language spoken by any limited English proficient population that constitutes 3% of the overall population within the geographic area served by a local office of a State program as measured by the United States Census."

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-112 is new and governs when a court or unit of government has to take steps to translate certain documents or otherwise inform an individual who is not proficient in English of his or her options for a translated document or interpreter services.

The Rule is triggered when the court or government unit has reason to believe that the recipient of a summons, subpoena, notice of hearing or court conference, or other document requiring a decision, action, or response may be unable to read and understand the document.

A Committee note outlines agencies and departments which are able to translate documents and cites a statute requiring State agencies to provide translation of certain documents under certain circumstances.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

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MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-201, as follows:

Rule 11-201. APPLICABILITY

The Rules in this Chapter govern child in need of assistance proceedings under Code, Courts Article, Title 3, Subtitle 8.

Committee note: Code, Courts Article, Title 3, Subtitle 8 applies to CINA and voluntary placement proceedings. This Chapter of the Rules addresses only CINA proceedings. Rule 11-503 governs voluntary placement proceedings.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-201 states the applicability of the Rules in Chapter 200. Chapter 200 governs Child in Need of Assistance (CINA) proceedings under Code, Courts Article, Title 3, Subtitle 8. A Committee note states that the Rules only govern CINA proceedings and Rule 11-503 governs voluntary placement proceedings.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-202, as follows:

Rule 11-202. DEFINITIONS

The following definitions apply in this Chapter:

(a) CINA Petition

"CINA petition" means a petition filed with the court pursuant to Code, Courts Article, §3-809.

(b) Emergency Shelter Care

"Emergency shelter care" means shelter care when a child has been removed from the home or placement by a local department in accordance with Code, Courts Article, §3-815.

(c) Petition for Continued Shelter Care

"Petition for continued shelter care" means a petition filed pursuant to Rule 11-204 (b).

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-202 contains additional definitions that apply in Chapter 200. "CINA petition" is defined as a petition filed pursuant to Code, Courts Article, §3-809. "Emergency shelter care" is defined as shelter care when a child has been removed from the home or a placement by the local department. "Petition for continued shelter care" is a petition filed pursuant to Rule 11-204 (b).

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-203, as follows:

Rule 11-203. CONFIDENTIALITY OF RECORDS

(a) Generally

All court records in CINA proceedings pertaining to a child are confidential and may not be disclosed, by subpoena or otherwise, except by order of court for good cause shown, or as permitted by Code, Courts Article, §3-827 or Code, Human Services Article, §1-202.

(b) Sealing

(1) Generally

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

(2) Opening of Sealed Records

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

Cross reference: See Rule 16-914 (a) regarding required denial of inspection of certain categories of records in actions involving children.

Source: This Rule is derived in part from former Rule 11-121 (2021).

REPORTER'S NOTE

Proposed Rule 11-203 is derived from current Rule 11-121 and relevant statutes. Generally, records in proceedings under the Rules in Chapter 200 are confidential and may not be disclosed except by order of the court or as permitted by law.

Section (b) governs sealing records. The court may order records of a child sealed for good cause on motion, petition, or its own initiative. The court shall seal the records after the child reaches age 21. Sealed records may be opened only by order of the court for good cause shown. A cross reference to the Title 16 access Rule governing inspection of records in juvenile proceedings follows the Rule.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-204, as follows:

Rule 11-204. SHELTER CARE

(a) Placement in Emergency Shelter Care

A local department may place a child in emergency shelter care before a hearing in conformance with Code, Courts Article, §3-815 (b).

Cross reference: See Code, Courts Article, §3-807 for the authority of a magistrate to order shelter care.

(b) Petition for Continued Shelter Care

Unless a child placed in emergency shelter care pursuant to section (a) of this Rule has been released, the local department shall:

(1) give to the child's parent, guardian, or custodian written notice of the emergency shelter care; and

(2) on the next day file a CINA petition with a request for continued shelter care or a separate petition requesting continued shelter care including the allegations supporting the request for continued shelter care.

(c) Hearing

(1) Timing

The court shall hold a hearing on a request for continued shelter care on the same day that the petition is filed. The hearing may be postponed or continued by the court for good cause shown, but it may not be postponed for more than eight days following the commencement of the respondent's emergency shelter care.

(2) Notice

The petitioner shall give reasonable notice of the time, place, and purpose of the hearing to the child's parent, guardian, and custodian, and to the child's other relatives who may be potential placement resources, if they can be located.

(3) Presence

A respondent shall be present for the hearing, except that the attorney for the respondent may waive the presence of that respondent.

Committee note: If the hearing is conducted by remote electronic means, "present" or "presence" means the ability (1) to observe the proceeding, (2) to communicate with other participants when such communication is permitted, and (3) to be observed by other participants when communicating.

(d) Order for Continued Shelter Care

(1) Limitation on Continued Shelter Care

The court may continue shelter care prior to adjudication if the court has reasonable grounds to find the criteria in Code, Courts Article, §3-815 (d) have been

satisfied.

(2) Duration

The court may not order continued shelter care for more than 30 days, except that it may extend the shelter care for an additional period not exceeding 30 days if it finds, by a preponderance of the evidence, after a hearing held as part of an adjudicatory hearing, that continued shelter care is needed to provide for the safety of the child.

(3) Findings and Order

If the court orders continued shelter care, the court shall make written findings as to the grounds for removal and the efforts that were made to avoid the need for removal as required by Code, Courts Article, §3-815 (d) and (e) and §3-816.1. If the hearing was conducted by a magistrate, the magistrate also shall make written findings, conclusions, and recommendations. If a magistrate declines to order continued shelter care, the magistrate shall prepare written findings in support of that determination and enter an order denying continued shelter care.

(4) Review of Magistrate's Shelter Care Determination

(A) Request

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

(B) Review by Judge

Not later than three days following a request for immediate review, a judge of the court shall review the file, any exhibits, and the magistrate's findings, conclusions, and recommendations and shall afford the parties an opportunity for oral argument.

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

REPORTER'S NOTE

Proposed Rule 11-204 is derived from current Rule 11-112 and addresses shelter care.

Section (a) states that a local department may place a child in emergency shelter care prior to a hearing in conformance with the statute. A cross reference following section (a) refers to the authority of a magistrate to order shelter care.

Unless a child placed in emergency shelter care pursuant to section (a) is released, the local department is required to take the steps outlined in section (b). Section (b) states that the local department shall give notice to the child's parent, guardian, or custodian of the emergency shelter care and file a CINA petition on the next day with a request for continued shelter care.

Section (c) is derived from current Rule 11-112 a 3 and governs hearings on a petition for continued shelter care. The hearing must be held the same day that the petition is filed but may be postponed for good cause shown. The hearing may not be postponed for more than eight days following the commencement of the emergency shelter care. The petitioner must give reasonable

notice of the time, place, and purpose of the hearing to the child's parent, guardian, and custodian as well as other relatives who may serve as potential placement resources, if located.

A respondent must be present for the hearing unless the presence is waived by the respondent's attorney.

Subsection (d)(1) is derived from current Rule 11-112 b and authorizes the court to continue shelter care prior to adjudication if there are reasonable grounds to find the criteria in the statute are satisfied. Subsection (d)(2) restricts the duration of continued shelter care to 30 days, with the possibility of an additional 30-day extension if the court finds after a hearing held as part of adjudication that the extension is needed for the child's safety.

Subsection (d)(3) requires the court ordering continued shelter care to make written findings regarding the grounds for removal and efforts to prevent removal. To facilitate review by a judge, additional requirements apply if shelter care is continued or denied by a magistrate. If a magistrate continues shelter care, the magistrate must make written findings, conclusions, and recommendations. If a magistrate denies shelter care, the magistrate must prepare written findings in support of that decision.

Subsection (d)(4) is new and addresses immediate review of a magistrate's shelter care determination as contemplated by the statute. A party may request review orally or in writing, and the review by a judge shall occur no later than three days following the request.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-205, as follows:

Rule 11-205. CINA PETITION

(a) Who May File

A CINA petition may be filed only by:

- (1) a local department; or
- (2) under the circumstances set forth in Code, Courts

Article, §3-809 (e), the person or agency that filed a complaint or caused a complaint to be filed with the local department.

Cross reference: See Rule 11-202 (a) for the definition of "CINA petition." See Code, Courts Article, §3-809 for administrative procedures relating to the decision whether to file a petition.

(b) Where Filed; Transfer

(1) Where Filed

A CINA petition shall be filed in the county where:

- (A) the child is residing when the petition is filed; or
- (B) any act on which the petition is based allegedly

occurred.

(2) Transfer

If a CINA petition is filed in a county other than the

county in which the child resides, the court may transfer the case in accordance with Code, Courts Article, §3-805 (b).

Cross reference: See Code, Courts Article, §3-805 (a) (1) concerning venue for filing.

(c) Separate CINA Petition for Each Child

A separate CINA petition shall be filed for each child alleged to be a CINA.

(d) Caption

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

(e) Form; Contents

The CINA petition shall be filed in substantially the form approved by the State Court Administrator and posted on the Judiciary website and shall state:

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

(2) the child's name, address, and, if known, date of birth, and the name and address of each parent, guardian, or custodian of the child;

(3) the basis for the court's jurisdiction over the child pursuant to Code, Courts Article, §3-803 or §3-804;

(4) that the child is in need of assistance and, in clear and simple language, the alleged facts in support of that

allegation;

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

(6) whether the child is in shelter care, and, if so:

(A) the date the shelter care commenced;

(B) whether the child's parent, guardian, or custodian has been notified; and

(C) whether the petitioner is seeking continued shelter care.

(f) Signature; Affidavit

(1) Who Must Sign

The CINA petition shall be signed by:

(A) the petitioner personally, if the petitioner is an individual; or

(B) an attorney for the petitioner in other cases.

(2) Effect of Signature

The signature constitutes a certification that the signer has read the petition, that to the best of the signer's knowledge, information, and belief, there is a legal and factual basis to support the petition, and that it is not filed for an improper purpose or delay.

(3) When Affidavit Required

A CINA petition filed under the Interstate Compact for

Juveniles or the Interstate Compact on the Placement of Children shall be verified by affidavit and comply with the requirements of the applicable Compact.

Cross reference: For the Interstate Compact for Juveniles, see Code, Human Services Article, Title 9, Subtitle 3. For the Interstate Compact on the Placement of Children, see Code, Family Law Article, Title 5, Subtitle 6.

(g) Copies

The petitioner shall file a sufficient number of copies to provide for service on the parties.

Committee note: Electronic filing of pleadings and papers is allowed only as provided by the Rules in Title 20.

Source: This Rule is derived in part from former Rule 11-103 (2021). Section (f) is derived from former Rule 11-103 a 3 and Rule 1-311 (b).

REPORTER'S NOTE

Proposed Rule 11-205 is derived from current Rule 11-103 and governs the CINA petition process. Section (a) addresses who is authorized by law to file a petition - a local department or, under certain circumstances, the person or agency that filed a complaint - and section (b) addresses the appropriate venue for filing a petition.

Section (c) requires a separate CINA petition to be filed for each child alleged to be a CINA and section (d) states the proper caption for the petition.

Section (e) is derived from current Rule 11-103 a 2 and states the required contents of a CINA petition. A petition must provide information about the petitioner, the child, and the basis for the court's jurisdiction. The petition must also

state that the child is in need of assistance, the facts supporting that allegation, and the names of any witnesses. The petition shall state whether the child is in shelter care and provide details.

Section (f) is derived from current Rule 11-103 a 3 and addresses signature requirements and when an affidavit is required pursuant to an interstate compact. A cross reference following the section refers to the statutes adopting the Interstate Compact for Juveniles and the Interstate Compact on the Placement of Children.

Section (g) is derived from current Rule 11-103 b and requires the petitioner to file a sufficient number of copies of the petition to provide for service on the parties. A Committee note following the section addresses permitted electronic filing.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-206, as follows:

Rule 11-206. SUMMONS; NOTICE TO ATTORNEY

(a) Issuance of Summons

The clerk shall issue a summons in accordance with Rule 11-106. If the petitioner is a person or entity other than the local department, the clerk also shall issue a summons to the local department.

(b) Notice

The summons shall contain a notice substantially in the form set forth in Form 11-206 that follows the Rules in this Chapter.

(c) Service

(1) Manner of Service

The summons, together with a copy of the petition, shall be served in the manner provided by Rule 2-121.

(2) Failure of Service

If a parent, guardian, or custodian of the respondent child cannot be served for any reason, the petitioner shall file proof of the steps taken to give notice or provide sworn

testimony of the steps taken to give notice. Notice of the pendency and nature of the proceeding shall be given as directed by the court.

(3) Effect of Delay in Service

Delay in effecting service upon, or in giving notice to, any parent, guardian, or custodian shall not prevent the court from proceeding.

(d) Notice to Child's Attorney

The clerk shall send to the respondent child's attorney a copy of the petition and a notice of any scheduled hearing.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-206 governs the issuance, content, and service of a summons. This Rule is new but draws from current Rules 2-112, 2-114, and 2-121.

Section (a) requires the clerk to issue a summons in accordance with Rule 11-106. If the petitioner is not the local department, a summons shall also be issued to the local department.

Section (b) provides that the summons must be accompanied by a notice in the form provided in Form 11-206.

Section (c) states that if the parent, guardian, or custodian cannot be served, the petitioner shall file proof of the steps taken to attempt service. Subsection (c)(3) provides

that a delay in effecting service on or giving notice to a parent, guardian, or custodian does not prevent the court from proceeding.

Section (d) directs the clerk to send a copy of the petition and notice of any scheduled hearing to the respondent child's attorney.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-207, as follows:

Rule 11-207. RIGHT TO ATTORNEY; CASA

(a) Generally

A party is entitled to the assistance of an attorney at every stage of a CINA proceeding.

(b) Representation of Child

(1) Generally

A child who is the subject of a CINA petition shall be represented by an attorney. The right to an attorney for a child may not be waived.

(2) Source of Attorney

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

(3) Assessment of Compensation for Child's Attorney

After considering the party's ability to pay, the court

may assess against any party reasonable compensation for the services of an attorney appointed to represent a child.

(c) Other Parties; Representation at State Expense

(1) Limitation on Entitlement

Except as otherwise provided in this Rule and for the local department and the child who is the subject of the petition, a party is not entitled to representation at State expense unless the party is (A) indigent, or (B) otherwise not represented and (i) under the age of 18 years or (ii) incompetent by reason of mental disability.

(2) Public Defender

The Office of the Public Defender may not represent a party in a CINA proceeding unless the party (A) is the parent or guardian of the alleged CINA, (B) applies to the Office requesting representation in the proceeding, and (C) is financially eligible for the services of the Public Defender.

Cross reference: See Code, Courts Article, §3-813 concerning assistance of counsel.

(d) Court-Appointed Special Advocate

In addition to the appointment of an attorney, the court may appoint a special advocate under the Court-Appointed Special Advocate Program created by Code, Courts Article, §3-830.

Cross reference: See Code, Courts Article, §3-830 concerning Court-Appointed Special Advocates.

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

(2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-207 is derived in part from current Rule 11-106. Section (a) states that a party is entitled to the assistance of an attorney at every stage of a CINA proceeding.

Section (b) governs representation of a child. A child respondent is always represented, and the right to an attorney cannot be waived. Unless it is not in the best interest of the child, the court must appoint an attorney contracted by the Department of Human Services to represent a child and strike the appearance of another attorney who has entered an appearance. After considering the party's ability to pay, the court may assess reasonable compensation against any party for the services of an attorney appointed to represent a child.

Other parties may be entitled to representation at State expense as provided in section (c). A party is entitled to representation at State expense if the party is indigent or under the age of 18 and incompetent by reason of mental disability. The Office of the Public Defender may only represent a party in a CINA proceeding if the party is the parent or guardian of the respondent child, applies to the office requesting representation, and is financially eligible.

The court may also appoint a Court-Appointed Special Advocate for a respondent child as provided in section (d).

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-208, as follows:

Rule 11-208. RESPONSE TO PETITION

(a) Nature of Response

A party served with a petition may file a written response that admits or denies all or any of the facts alleged in the petition. Any allegation not admitted in the response is deemed denied.

(b) Withdrawal of Admission

At any time before disposition, the court, in the interest of justice, may permit an admission in a response to be withdrawn.

Source: This Rule is derived from former Rule 11-107 (2021).

REPORTER'S NOTE

Proposed Rule 11-208 is derived from current Rule 11-107. Section (a) is derived from current Rule 11-107 a and provides that a party served with a petition may file a written response that admits or denies any or all facts alleged. Any allegation not admitted is deemed denied.

Section (b) provides that, in the interest of justice, the court may permit an admission to be withdrawn before disposition.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-209, as follows:

Rule 11-209. AMENDMENTS TO PLEADINGS AND OTHER PAPERS

(a) Generally

With the approval of the court:

(1) A CINA petition may be amended at any time prior to the commencement of the adjudicatory hearing. With the approval of the court and for good cause shown, the CINA petition may be amended at any time prior to the conclusion of the adjudicatory hearing.

(2) A motion or other pleading may be amended at any time before the final disposition of the motion or pleading.

(b) Continuance; Postponement

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

Source: This Rule is derived in part from former Rule 11-108 (2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-209 is derived from current Rule 11-108.

Generally, a CINA petition may be amended at any time before the adjudicatory hearing begins or, for good cause shown, prior to the conclusion of the adjudicatory hearing. A motion or other pleading may be amended at any time before the final disposition of the motion or pleading.

If an amendment is made, section (b) requires the court to grant a continuance or postponement, as justice may require.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-210, as follows:

Rule 11-210. STUDY; PHYSICAL OR MENTAL EXAMINATION

(a) Order

(1) Generally

Any order for a study or examination pursuant to Code, Courts Article, §3-816 shall specify the time, place, manner, conditions, and scope of the study or examination and the person or persons by whom it is to be made.

(2) Physical or Mental Examination

Any order for a physical or mental examination pursuant to Code, Courts Article, §3-816 also:

(A) shall require that the examination be conducted on an outpatient basis if, considering the child's condition, that is feasible and appropriate;

(B) may order an inpatient evaluation for a placement period not to exceed 21 days if, after a hearing, the court finds: (i) that an inpatient evaluation is necessary, and (ii) that there are no less restrictive means to obtain an evaluation; and

(C) may address (i) the filing of a report of findings and conclusions, and the testimony at a hearing by the examining physician, psychiatrist, psychologist, or other professionally qualified person, (ii) the payment of the expenses of the examination, and (iii) any other relevant matters.

(b) Copies of Report

The person making a report of a study or examination shall provide the report to the local department. Promptly upon receipt of the report, the local department shall file it with the court and serve a copy of it on the attorney for each party represented by an attorney and on each unrepresented party. Reports ordered pursuant to Code, Courts Article, §3-816 shall be served at least 5 days before presentation to the court.

(c) Use of Report Ordered Under Code, Courts Article, §3-816

The report of an examination ordered pursuant to Code, Courts Article, §3-816 and testimony regarding that report is not admissible at an adjudicatory hearing but is admissible at a disposition hearing and post-disposition hearing.

Cross reference: See Code, Courts Article, §3-816 concerning case studies.

Source: This Rule is derived in part from former Rule 11-105 (2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-210 is derived in part from current Rule 11-105. Code, Courts Article, §3-816 provides that after a petition is filed, the court may order the local department or another qualified agency to arrange for a study concerning the child and the child's family and environment. As a part of the study, the court also may order that the child or any parent, guardian, or custodian be examined by a qualified person.

Section (a) is modeled after current Rule 11-105 a 1 and provides for the content of a court order under this Rule. Any order must specify the time, place, manner, conditions, and scope of the study or examination. A physical or mental examination of a child must be outpatient, if feasible, but an inpatient evaluation may be required if, after a hearing, it is found to be necessary and no less restrictive option is available. The order may address the filing of a report of findings and conclusions, testimony at a hearing, payment of expenses, and any other relevant matters.

Section (b) is derived from current Rule 11-105 a 2 and governs service of copies of the report. The person making a report of a study must deliver it to the local department. The local department must serve a copy on each attorney for a represented party and each unrepresented party. Reports of an examination ordered pursuant to §3-816 must be served at least five days before presentation to the court.

Section (c) restricts admissibility of a report of an examination ordered pursuant to §3-816 to disposition and post-disposition hearings, as permitted by the statute. The report is not admissible at an adjudicatory hearing.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-211, as follows:

Rule 11-211. EMERGENCY MEDICAL TREATMENT

(a) Court Order

(1) Generally

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

(2) Placement in Emergency Facility

A child may be placed in an emergency facility on an emergency basis in accordance with Code, Health-General Article, Title 10, Subtitle 6, Part IV.

Cross reference: See Code, Health-General Article, §§10-620 through 10-630.

(b) Expedited Hearing

The court shall hear and rule on a petition seeking an

order for emergency medical, dental, surgical, or psychiatric treatment on an expedited basis.

(c) Life-Sustaining Procedures

The court shall apply the factors set forth in Code, Estates and Trusts Article, §13-711 (b), to the extent relevant, when deciding whether to withhold or withdraw a life-sustaining procedure as defined in Code, Estates and Trusts Article, §13-711 (c).

Cross reference: See Code, Courts Article, §3-824.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-211 is new and addresses emergency medical treatment for children subject to the court's jurisdiction under this Chapter. There are separate Rules in Chapter 200 and Chapter 400 to incorporate the different statutory provisions for emergency medical treatment for an alleged CINA and an alleged delinquent child, respectively. A subsection of a Rule in Chapter 500 addresses emergency medical treatment for an alleged CINS.

Code, Courts Article, §3-824 governs the authority of the court to order emergency medical, dental, surgical, or psychiatric treatment for a child who is the subject of a CINA petition.

In Rule 11-211, subsection (a)(1) establishes the general authority of the court. The subject child must be alleged to be suffering from a condition or illness that a licensed professional believes requires immediate treatment, and the

child's parent, guardian, or custodian must be unavailable or, if available, refuses, without good cause, to consent to treatment. Subsection (a)(2) incorporates the provisions of Code, Courts Article, §3-824 (b)(2), with stylistic changes.

Section (b) requires that a hearing be held and a ruling made on an expedited basis.

Section (c) requires the court to apply the factors from Code, Estates and Trusts Article, §13-711 (b) when considering whether to withhold or withdraw a life-sustaining procedure.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-212, as follows:

Rule 11-212. DISCOVERY

(a) Terminology

The terms "disclosure" and "discovery" are used in this Rule and other discovery Rules interchangeably. For purposes of this Rule, "disclosure" is the broader term that refers generally to information turned over to another party, whether voluntarily through informal means or pursuant to a request. "Discovery" refers more narrowly to information that must be turned over pursuant to a formal request. Neither term is intended to narrow what this Rule or other law requires to be disclosed.

(b) Informal

Before any party may seek discovery under these Rules, the parties or their respective attorneys shall make a good faith effort to resolve all questions of discovery, and to provide information required or requested under these Rules as to which there is no dispute. When there are items requested by one party that the other party has refused to disclose, the

demanding party may make an appropriate motion to the court. The motion shall be made as early as practicable prior to the next hearing and shall state, if true, that good faith efforts were made to resolve the dispute and that those efforts have been unsuccessful. Nothing in this Rule shall delay the disclosure of any items agreed upon by the parties pending resolution of any motion for discovery.

(c) Court Order

Upon a motion filed pursuant to section (b), the court may order a party to disclose and make available for inspection, photographing, or other copying any material or information within the possession or control of the party that (1) was requested but not disclosed, (2) is not precluded by this Rule or other law from disclosure, (3) is relevant to the allegations in the petition or to the adjudication or disposition of the action, and (4) in the interest of justice ought to be disclosed.

Committee note: See Code, Human Services Article, §§1-202 through 1-212, limiting the disclosure of certain records of social service agencies regarding children, and 79 Op. Atty. General 331 (1994), concluding that those statutes, as then codified, and federal law "require that an order mandating discovery in a CINA case be by a specific court order issued upon consideration of the particular circumstances of the case, rather than by a general rule." The intent of section (c) of this Rule is to permit the court to enter such an order specific to the case.

(d) Continuing Duty to Disclose

If, prior to or during a hearing, a party discovers (1) additional evidence or material previously requested or ordered to be disclosed by it that is subject to discovery or inspection under this Rule, or (2) the identity of an additional witness or witnesses, the party promptly shall notify the opposing party or the court of the additional evidence, material, or witness.

(e) 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:

(1) order that party to permit discovery or inspection of the matters not previously disclosed;

(2) grant a reasonable continuance;

(3) strike the testimony to which the undisclosed matter relates;

(4) prohibit the party from introducing evidence or witnesses not disclosed; or

(5) enter any other order appropriate under the circumstances that is consistent with the best interest of the child.

(f) Protective Orders

(1) Generally

On motion of a party or a person from whom disclosure is required 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) Written Statement

Upon motion of any party, 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 whole or in part, in the form of a written statement to be inspected by the court. If the court enters an order granting relief, the entire text of the statement shall be sealed and preserved in the records of the court and made available to the appellate court in the event of an appeal.

(g) Work Product

Disclosure of legal research or of records, correspondence, reports, or memoranda shall not be required to the extent that they contain the opinions, theories, or conclusions of the attorney for a party, or members of the attorney's staff.

(h) Intervenors

If intervention has been allowed pursuant to Rule 11-215, the court may enter orders pertaining to disclosure to and from the intervenor as justice may require.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-212 is new and governs discovery in a CINA proceeding.

Section (a) states that the terms "disclosure" and "discovery" are used interchangeably throughout Rule 11-212 and other discovery Rules. Generally, "disclosure" is the broader term for information turned over to another party, either voluntarily or in response to a request. "Discovery" refers to information that must be turned over pursuant to a formal request.

Section (b) instructs parties or their attorneys to make a good faith effort to resolve all questions of discovery and provide information required or requested before involving the court. When a party refuses to disclose a requested item, the requesting party may file a motion to obtain it. The motion must be filed as early as practicable prior to the next hearing and state that good faith efforts were made to resolve the dispute. Agreed-upon items should continue to be disclosed, regardless of the status of any disputed items.

Upon a motion, the court may order disclosure pursuant to section (c). The order may require the disclosing party to make any material or information available for inspection or copying if it was requested but not disclosed, is not precluded by Rule or law from disclosure, is relevant to the allegations or the adjudication or disposition proceedings, and it is in the interest of justice for it to be disclosed. A Committee note refers to Code, Human Services Article, which limits disclosure of certain social services agency records regarding children, and a 1994 opinion of the Maryland Office of the Attorney General, which concludes that state and federal law require a specific court order to mandate discovery of those records in a CINA case.

Section (d) provides that parties have a continuing duty to disclose additional evidence or material previously requested if it is discovered prior to a hearing.

Section (e) addresses sanctions for failure to comply with this Rule or an order issued pursuant to this Rule. The court may order discovery or inspection of the material, grant a reasonable continuance, strike testimony related to the undisclosed matter, prohibit the introduction of evidence or witnesses not disclosed, or enter any other appropriate order.

Section (f) permits the court to enter a protective order for good cause shown denying or restricting specified disclosures on motion of a party, person from whom disclosure is required, or a person named or depicted in the material requested. The court may permit a written statement showing cause for denial or restriction. The statement shall be sealed if the court grants the motion.

Section (g) states that attorney work product is not required to be disclosed.

Section (h) provides that the court may enter orders pertaining to disclosure to and from a person who was permitted to intervene.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-213, as follows:

Rule 11-213. ADJUDICATORY HEARING

(a) Requirement

After a CINA petition has been filed, the court shall hold an adjudicatory hearing.

(b) Timing

(1) Generally

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

(2) Child in Shelter Care

(A) If the respondent child is in shelter care, the adjudicatory hearing shall be commenced within 30 days after the date on which the court ordered continued shelter care.

(B) For good cause, the court may extend the time for the hearing for a period not to exceed an additional 30 days. The court may not order continued shelter care for more than 30 days, except that it may extend the shelter care for an additional period not exceeding 30 days if it finds, by a

preponderance of the evidence after a hearing held as part of an adjudicatory hearing, that continued shelter care is needed to provide for the safety of the child.

(C) If the hearing is not held within the period permitted in this subsection, the child shall be released from shelter care upon the conditions set by the court, pending an adjudicatory hearing.

Cross reference: See *In re Vanessa C.*, 104 Md. App. 452 (1995), holding that, although an adjudicatory hearing need not be completed within the permissible 30-day period, it must be commenced within that period, continue, insofar as possible, on a day-to-day basis, and be completed with a reasonable degree of continuity. See also *In re Keith W.*, 310 Md. 99 (1987), holding that failure to hold an adjudicatory hearing within the time allowed by the Rule does not require dismissal of the petition.

(3) Child Not in Shelter Care

If the respondent child is not in shelter care, the adjudicatory hearing shall be held within 60 days after the CINA petition and the summons issued pursuant to Rule 11-206 are served on the attorney for the respondent child. On motion of a party made within that period, the county administrative judge, or the judge designated by the administrative judge, for extraordinary cause shown, may extend the time within which the adjudicatory hearing may be held. The judge shall state on the record the cause that requires an extension and specify the number of days of the extension.

(c) Presentation of Evidence; Burden of Proof

The petitioner shall present the evidence in support of the CINA petition and shall have the burden of proving the allegations in the petition by a preponderance of the evidence. Any other person authorized by the court may present evidence in support of the CINA petition.

Committee note: If the local department seeks to withdraw the CINA petition over the objection of the child, the child may elect to proceed on the CINA petition, in which event the child shall become the petitioner for the purposes of this section. See *In re Najasha B.*, 409 Md. 20 (2009).

(d) Adjudication; Findings; Adjudicatory Order

(1) Hearing Conducted by Magistrate

If the adjudicatory hearing was conducted by a magistrate, the magistrate shall announce into the record at the conclusion of the hearing the (A) findings of fact and conclusions of law supporting the recommended adjudication, and (B) a finding as required by Code, Courts Article, §3-816.1.

(2) Hearing Conducted by Judge

If the adjudicatory hearing was conducted by a judge, the judge shall:

(A) prepare and file with the clerk an adjudicatory order specifying the adjudication; and

(B) either announce and dictate into the record at the conclusion of the hearing, or include in the adjudicatory order or attached memorandum, (i) the findings of fact and conclusions of law supporting the adjudication, and (ii) a finding as

required by Code, Courts Article, §3-816.1.

Source: This Rule is derived in part from former Rule 11-114 (2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-213 is derived in part from current Rule 11-114.

Section (a) provides that the court must hold an adjudicatory hearing after a CINA petition is filed.

Section (b) provides that, generally, the adjudicatory hearing may not be held earlier than 15 days after the filing of the petition, unless the parties agree otherwise. If the respondent child is in shelter care, the hearing must begin within 30 days of the court's order continuing shelter care.

Subsection (b) (2) (B) is derived from Code, Courts Article, §3-815 (c) (4) and provides that the court may extend the time for the hearing by no more than an additional 30 days for good cause. Continued shelter care cannot be ordered for more than 30 days unless the court finds, by a preponderance of the evidence after a hearing, that continued shelter care is necessary for the child's safety. The child must be released from shelter care on conditions if the hearing is not held within the required time period. A cross reference after subsection (b) (2) cites two appellate opinions on the timing requirements for an adjudicatory hearing.

If a child is not in shelter care, subsection (b) (3) requires that the adjudicatory hearing be held within 60 days after the CINA petition and summons are served on the attorney for the respondent child. On motion of a party within the 60-day period, the county administrative judge or his or her designee may extend the time for the adjudicatory hearing to be held for extraordinary cause shown. The judge shall state the cause on the record and specify the length of the extension.

Section (c) is derived from current Rule 11-114. Section

(c) provides that the petitioner shall present evidence in support of the CINA petition and that the burden of proving the allegations by a preponderance of the evidence is on the petitioner. Any other person authorized by the court may present evidence in support of the petition. A Committee note after section (c) incorporates a Court of Appeals holding permitting a child to proceed on a CINA petition if the department seeks to withdraw it.

If the adjudicatory hearing is conducted by a magistrate, subsection (d)(1) requires the magistrate to announce into the record findings of fact and conclusions of law to support the adjudication and a required finding under Code, Courts Article, §3-816.1. If the hearing is conducted by a judge, subsection (d)(2) provides that the judge shall prepare and file with the clerk an adjudicatory order and document findings of fact, conclusions of law, and the required finding under Code, Courts Article, §3-816.1 either by dictating them into the record or including them in the adjudicatory order.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-214, as follows:

Rule 11-214. IDENTITY AND ADDRESS OF PARENTS

(a) Duty of Court

At each hearing, the court, in accordance with Code, Courts Article, §3-822, shall:

(1) Inquire into and make findings of fact on the record regarding the identity and current address of each parent and each child before the court; and

(2) Inform each parent of the parent's obligation to notify the court and the local department of all changes in that parent's address. If disclosure of a parent's address of residence reasonably could affect the safety of the parent or others who reside at that address, the court shall keep the parent's address confidential, direct the department to keep the address confidential, and permit the parent to provide an alternate address for service of documents.

(b) Duty of Clerk

The clerk shall:

(1) Keep a listing of every address provided by a parent of

a child who is the subject of a CINA petition; and

(2) On request of a local department, disclose to the local department all addresses listed by the parent within the preceding 270 days.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-214 is derived from Code, Courts Article, §3-822 and requires the court to inquire and make findings on the record regarding the identify and address of each parent and child at each hearing. The court must also inform each parent of the parent's obligation to notify the court and the local department of any change of address and permit a parent to provide an alternate address to receive service if the court finds it necessary for the safety of the parent or others residing with the parent.

Section (b) requires the clerk to keep a list of every address provided by a parent of a child who is the subject of a CINA petition and disclose the addresses listed by a parent within the preceding 270 days to the local department on request.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-215, as follows:

Rule 11-215. INTERVENTION

(a) Request to Intervene

Any person, other than a parent, may file and serve a motion to intervene in a disposition, including a proceeding to review, modify, or vacate a dispositional order, for the sole purpose of seeking custody or guardianship of the respondent child. Unless the CINA petition is dismissed, the motion may be filed at any time following adjudication. It shall state the grounds for intervention and be accompanied by a proposed pleading setting forth the claim, and it may include a request for a hearing.

(b) Proceedings on Motion

(1) Preliminary Determination

A motion filed pursuant to section (a) shall be presented immediately to the judge or magistrate in the proceeding for a preliminary determination of whether it is a proper filing seeking custody or guardianship of the respondent child. If the court finds that the movant is seeking custody or

guardianship of the respondent child, the court shall issue an order directing the clerk to provide to the movant (A) the name and address of the parties or any alternate address for service that was provided pursuant to Rule 11-214 (a) (2) and (B) the name and address of the attorneys representing the parties to enable the movant to effectuate service.

(2) Hearing; Decision

The court shall not decide a motion to intervene until:

(A) the adjudicatory hearing has been concluded; and

(B) if a hearing was requested, after a hearing on the nonparty's right to intervene.

(3) Effect of Granting Motion

If the court grants the motion, the pleading accompanying the motion shall be deemed filed, and the person permitted to intervene shall be designated as "intervenor" for the purpose of seeking custody or guardianship of the respondent child. The intervenor:

(A) shall not be deemed a party for purposes of any right to counsel at State expense under Rule 11-207; and

(B) may receive, upon request and by court order, only those studies and reports that directly relate to the intervenor's petition for custody or guardianship of the respondent child.

Cross reference: See the Committee note to Rule 11-212 (c).

(c) Termination of Intervention

Unless the court orders otherwise, intervention terminates when an intervenor:

(1) is denied custody or guardianship of the respondent child; or

(2) was granted custody or guardianship of the child and the court subsequently rescinds that custody or guardianship.

Source: This Rule is derived from former Rule 11-122 (2021).

REPORTER'S NOTE

Proposed Rule 11-215 is based on current Rule 11-122. Section (a) permits any person, other than a parent, to file and serve a motion to intervene in a disposition, including a proceeding to review, modify, or vacate a dispositional order, for the purpose of seeking custody or guardianship of the respondent child. The motion must state the grounds for intervention and be accompanied by a proposed pleading setting forth the claim, and it may include a request for a hearing.

Section (b) requires the motion to be presented to the court for a determination that it is a proper filing seeking custody or guardianship of the minor child. If the filing is deemed proper, the court must issue an order directing the clerk to provide certain names and addresses for the parties and the parties' attorneys to the movant to enable him or her to effectuate service on the parties.

The court may not rule on a motion to intervene unless the adjudicatory hearing has been concluded and after any requested hearing on the motion to intervene has been held. If the court grants the motion, the pleading accompanying the motion is deemed filed, and the filer is designated as "intervenor." The

intervenor is not a party entitled to counsel at State expense and may, by order of the court, receive only those studies and reports that relate to the intervenor's petition.

Under section (c), intervention terminates when an intervenor is denied custody or guardianship after a hearing or, if granted custody or guardianship, the custody or guardianship is later rescinded.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-216, as follows:

Rule 11-216. DISPOSITION HEARING AND ORDER

(a) Generally

Unless a CINA petition is dismissed, the court shall:

- (1) determine promptly any pending motion to intervene; and
- (2) conduct a separate disposition hearing to determine whether the respondent child is a child in need of assistance as defined in Code, Courts Article, §3-801 (f).

(b) Scheduling

(1) The disposition hearing shall be held on the same day as the adjudicatory hearing unless the court, on motion of a party or on its own initiative, finds good cause for a postponement.

(2) If the court postpones the disposition hearing, it shall be held no later than 30 days after the conclusion of the adjudicatory hearing, unless the court finds good cause for a further delay.

(c) Purpose of Hearing

The purpose of a disposition hearing is to determine:

- (1) whether the child is in need of assistance; and

(2) if so, the nature and extent of the court's intervention necessary to protect the child's health, safety, and well-being. Cross reference: See Code, Courts Article, §3-801 (m).

(d) Possible Dispositions

The court shall make one of the following dispositions:

(1) find that the child is not in need of assistance and, subject to entering an order of custody pursuant to Code, Courts Article, §3-819 (e), dismiss the petition;

(2) hold in abeyance a finding whether a child with a developmental disability or mental illness is a child in need of assistance and take an action provided for in Code, Courts Article, §3-819 (b) (1) (ii); or

(3) find that the child is in need of assistance and take one or more of the actions provided for in Code, Courts Article, §3-819 or §3-819.2, as appropriate.

(e) Inpatient Commitment to Certain Facilities

(1) Order for Evaluation

If the court has reason to believe that a child should be placed for inpatient care or treatment in a psychiatric facility or facility for developmentally disabled persons and has not already received a current evaluation report pursuant to Rule 11-210, it shall order that the child be evaluated pursuant to that Rule. The order shall require the agency conducting the evaluation to submit a written report setting forth:

(A) the extent to which the standard for commitment set forth in Code, Courts Article, §3-819 (h) or (i) is met;

(B) the basis for that finding; and

(C) the reason for its recommended disposition.

(2) Conduct of Evaluation

(A) The evaluation shall be conducted on an outpatient basis unless, considering the child's condition, that is not feasible.

(B) If an inpatient evaluation is necessary, the court may authorize the admission of the child to a facility for a period not to exceed 21 days unless, for good cause, the court extends that time.

(3) Limitations on Commitment

The court may not commit a child for inpatient care and treatment in a psychiatric facility or a facility for developmentally disabled persons unless the court finds by clear and convincing evidence that the standards set forth in Code, Courts Article, §3-819 (h) or (i) are met.

(4) Commitment for Inpatient Care and Treatment

Each order that commits a child for inpatient care and treatment in a psychiatric facility or facility for developmentally disabled persons shall require the custodian to file progress reports with the court at intervals no greater than every six months during the life of the order.

Cross reference: See Rule 11-218 requiring periodic review hearings based on progress reports.

(f) Statement of Reasons

(1) By a Judge

If the disposition hearing is conducted by a judge and the disposition order includes placement of the child outside the child's home, the judge shall announce and dictate into the record a statement of the reasons for the placement.

(2) By a Magistrate

If the disposition hearing is conducted by a magistrate, the magistrate shall comply with Rule 11-103 (c).

(3) Reasonable Efforts Finding

The court shall make a finding as required by Code, Courts Article, §3-816.1.

Source: This Rule is derived from former Rule 11-115 (2021).

REPORTER'S NOTE

Proposed Rule 11-216 is based in part on current Rule 11-115 and on Code, Courts Article, §3-819. Sections (a) and (b) are derived from the statute. Section (a) requires the court to promptly determine any pending motion to intervene and conduct a separate disposition hearing. Section (b) states that the disposition hearing will occur on the same day as the adjudicatory hearing unless there is good cause for postponement. A postponed hearing must be held no later than 30 days after the conclusion of the adjudicatory hearing unless the court finds good cause for further delay.

Section (c) is based on Code, Courts Article, §3-801 (m), which defines the purpose of the disposition hearing.

The possible dispositions in section (d) are derived from Code, Courts Article, §3-819 (b). The court may find that the child is not a CINA and dismiss the petition, hold in abeyance a finding of whether a child with a developmental disability or mental illness is a CINA, or find that the child is a CINA and take appropriate action authorized by statute.

Section (e) is derived from current Rule 11-115 c and Code, Courts Article, §3-819 (h) and (i). The court is authorized to order that a child the court believes should be placed in a facility for inpatient care receive an evaluation. The contents of the report of the evaluating agency are governed by subsections (e) (1) (A)-(C) and the conduct of the evaluation is governed by subsection (e) (2). Subsection (e) (3) requires the court to find by clear and convincing evidence that the standards in Code, Courts Article, §3-819 (h) or (i) are met before committing a child for inpatient care and treatment. Subsection (e) (4) states that an order committing a child must require the custodian to file progress reports at least every six months.

Section (f) provides that a judge conducting a disposition hearing and issuing an order placing the child outside of the home must announce and dictate reasons into the record. If the disposition hearing is conducted by a magistrate, the magistrate must comply with Rule 11-103 (c). The court is required to make findings pursuant to Code, Courts Article, §3-816.1 at the hearing.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-217, as follows:

Rule 11-217. WAIVER OF REUNIFICATION EFFORTS

(a) Generally

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

(b) Timing

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

(c) Hearing

If the court finds by clear and convincing evidence after a hearing that any of the circumstances specified in Code, Courts Article, §3-812 (b) exist, the court shall waive the requirement that reasonable efforts be made to reunify the child

with the child's parent or guardian.

(d) Request for Permanency Hearing

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-218, as follows:

Rule 11-218. MODIFICATION OR VACATION OF ORDER

(a) Authority

(1) Generally

Except as otherwise provided in paragraph (2) of this section, an order of the court entered in a CINA proceeding may be modified or vacated if the court finds that action to be in the best interest of the child.

(2) Limitations

If another Rule in this Chapter or in Code, Courts Article, Title 3, Subtitle 8 provides a limitation on the general authority set forth in this section, or a standard or procedure that is different from or additional to the provisions of this Rule, that limitation, standard, or procedure shall prevail.

Committee note: Various provisions in Code, Courts Article, Title 3, Subtitle 8, mostly dealing with disposition and post-disposition orders, provide certain substantive standards, limitations, and procedures, including the extent to which the Rules in Title 5 shall strictly apply, that may differ from or supplement the general provisions in this Rule. See, in particular, §§3-819.2, 3-802, and 3-823. Some of those

provisions are incorporated into other Rules in this Chapter. To the extent of any inconsistency between those provisions and this Rule, those provisions, to the extent applicable, shall prevail.

(b) On Motion, Petition, or Own Initiative

(1) Generally

The court may proceed under this Rule on motion of a party, on petition of any other person, institution, or agency having supervision or custody of a respondent child, or on its own initiative.

(2) Motion; Petition

A motion or petition shall set forth concisely and with particularity the relief sought and the grounds for that relief.

(3) Own Initiative

If the court proceeds on its own initiative, the order shall set forth the grounds on which it is based.

(c) Hearing

If the relief sought is a change in the custody, guardianship, or commitment of a respondent child and a hearing is requested, a hearing shall be held. In all other cases, the court may grant or deny the requested relief, in whole or in part, without a hearing.

(d) Time to Appeal

A motion filed pursuant to this Rule, if filed within 10 days of the entry of an order, shall act as a stay on the time

for filing an appeal.

Source: This Rule is derived in part from former Rule 11-116 (2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-218 is derived in part from current Rule 11-116.

Subsection (a) (1) is based on current Rule 11-116 a and states that, in general, an order of the court may be modified or vacated if the court finds that it is in the best interest of the child. Subsection (a) (2) is new and clarifies that if another Rule or statutory provision limits this general authority, that Rule or provision prevails. A Committee note following section (a) refers to various provisions in Code, Courts Article, Title 3, Subtitle 8, governing disposition and post-disposition orders.

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-219, as follows:

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

(a) Status Review

(1) Generally

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

(2) Qualified Residential Treatment Program

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

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

(b) Review of Custody and Guardianship

After granting custody or guardianship of a child to an

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

(c) Review of Commitment to Certain Facilities

(1) In General

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

(2) Other Hearings Based on Individualized Treatment Plans

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

(d) Removal of Child from Court-Ordered Placement

(1) Emergency Hearing

(A) If, after or as part of a CINA disposition, the court

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

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

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

(2) Hearing on the Merits

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

(e) Permanency Plan Hearings

(1) Determination of Permanency Plan

If the court has ordered an out-of-home placement, as defined in Code, Family Law Article, §5-501 (i), it shall, within the times set forth in Code, Courts Article, §3-823 (b) or (c), hold a hearing to determine a permanency plan for the

child. At that hearing, the court shall determine the child's permanency plan in accordance with Code, Courts Article, §3-823 (e), (f), and (g) and make findings in accordance with Code, Courts Article, §3-816.2 (a) (2).

(2) Periodic Reviews

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

Committee note: Federal law requires the court to continue to conduct a hearing to review the status of each child under its jurisdiction at least every six months. At that hearing, the court must make the findings required by Code, Courts Article, §3-816.2 (a) (2). See 42 U.S.C. §675 (5) (B).

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

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

(C) At the review hearing, the court shall consider any written report of a local out-of-home care review board required under Code, Family Law Article, §5-545 and make the determinations and take the actions required by Code, Courts Article, §3-823 (h) (2) and make the findings required by Code, Courts Article, §3-816.2 (a) (2).

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

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

(3) Reasonable Efforts Finding

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

Source: This Rule is derived in part from former Rule 11-115 c (2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-219 is derived in part from current Rule 11-115 c.

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

Section (b) is new. It permits the court to order further reviews after granting custody or guardianship under Code, Courts Article, §3-819.2.

Section (c) is derived from current Rule 11-115 c 3. It provides for review if a child has been committed for inpatient care. The court must hold a hearing on request of any party, the child's custodian, or the facility after the first six months and at six-month intervals thereafter. If an

individualized treatment plan for the child recommends that the child no longer meets the requirements for commitment set forth in Code, Courts Article, §3-819 (h) or (i), the court must hold a review hearing immediately.

Section (d) is new. It is derived from Code, Courts Article, §3-820. The Code section provides for an emergency hearing, then a full hearing on the merits when a child is removed from a court-specified placement by the local department. Subsection (d)(1) requires the local department to file a motion to authorize the new placement and the court to hold an emergency review hearing by the next day. All parties must receive reasonable notice, and the court may ratify the emergency removal only if there is sufficient evidence. The Rules of Evidence do not apply at the emergency review hearing. Subsection (d)(2) requires a full hearing on the merits to be scheduled unless the parties agree to an order at the emergency hearing. The full hearing must be held within 30 days but may be postponed by agreement or good cause shown.

Section (e) is new. It is derived from Code, Courts Article, §3-823 and §3-816.2. If the court orders an out-of-home placement, it shall hold a hearing within the time specified in the statute to determine a permanency plan. Periodic reviews of the permanency plan must be held in accordance with the statute. A Committee note following subsection (e)(2)(A) refers to a federal statute requiring certain review hearings and findings occur every six months for children in out-of-home placements. Subsection (e)(3) requires the court to make findings pursuant to Code, Courts Article, §3-816.1.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

ADD new Rule 11-220, as follows:

Rule 11-220. TERMINATION OF PROCEEDING

(a) Termination of Jurisdiction

(1) Generally

Except as provided in subsection (a) (2), upon termination of the court's jurisdiction over the respondent child, the court shall enter a final order terminating the proceeding.

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

(2) Limited Retention of Jurisdiction

If the court enters an order directing the provision of services to a child under Code, Courts Article, §3-819 (c) (3) or §3-823 (h) (2) (vii), the court retains jurisdiction for the limited purpose of enforcement, modification, or termination of the order.

Cross reference: See Code, Courts Article, §§3-804 (d) and 3-823 (k) and *In re Adoption/Guardianship Dustin R.*, 445 Md. 536 (2015) for continuing jurisdiction over a CINA.

(b) Prior to Termination of Jurisdiction

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

Cross reference: See *In re Emileigh F.*, 355 Md. 198 (1999) and *In re Joseph N.*, 407 Md. 278 (2009) precluding the court from terminating the proceeding while an appeal from its decision is pending.

Source: This Rule is derived from former Rule 11-120 (2021).

REPORTER'S NOTE

Proposed Rule 11-220 is derived from current Rule 11-120. Subsection (a)(1) requires the court to enter a final order terminating the proceeding when the court's jurisdiction over a respondent child terminates. A cross reference cites statutory provisions and case law governing termination of jurisdiction. Subsection (a)(2) creates an exception for limited retention of jurisdiction. A cross reference to Code sections and case law follows the subsection.

Section (b) permits a court, upon a finding of good cause, to enter a final order terminating the proceeding prior to the expiration of jurisdiction. A cross reference identifies cases that preclude the court from terminating its jurisdiction while an appeal is pending.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE FORMS

FORM

ADD new Form 11-206, as follows:

FORM 11-206. NOTICE INCLUDED IN CINA SUMMONS

TO THE PERSON SUMMONED: The Court, at this or any later hearing, may consider and enter orders concerning the shelter care, commitment, custody, treatment, and supervision of the respondent child _____ (full name of child); responsibility for the child's support; controlling the conduct of persons before the court; and assessing court costs.

You may hire a lawyer to represent you. If you do so, be sure to show this Summons to the lawyer. If you cannot afford a lawyer, promptly contact the Office of the Public Defender on any weekday between 8:30 a.m. and 4:30 p.m. at:

_____. A postponement will not be granted because you fail to contact a lawyer.

If you do not want a lawyer but wish to subpoena witnesses on your behalf, you must request promptly issuance of the subpoenas. A postponement will not be granted if you fail to do so.

If you received a Request for Witness Subpoena Form with this Summons, you must list neatly the names and addresses of the witnesses you wish to call on the form and return promptly the form to the Clerk of the Juvenile Court at the address shown on the form.

If you did not receive a Request for Witness Form, you must contact promptly the Clerk of the Juvenile Court on any weekday between 8:30 a.m. and 4:30 p.m. at _____ (telephone number), who will provide you with the necessary subpoena forms.

Any reasonable accommodation for persons with a disability must be requested by contacting the court before the hearing.

REPORTER'S NOTE

Proposed Form 11-206 is the form notice to include in a CINA summons issued on the filing of a CINA petition. It is based on former Form 904-S and notifies the recipient of the potential for court orders impacting care, custody, and support for the respondent child as well as orders controlling conduct of individuals and court costs. It also advises the recipient of the right to hire a lawyer, the right to subpoena witnesses, and the process for requesting a witness subpoena.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

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MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-301, as follows:

Rule 11-301. APPLICABILITY

The Rules in this Chapter apply to:

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

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

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-302, as follows:

Rule 11-302. DEFINITIONS

The following definitions apply in this Chapter:

(a) Statutory Definitions

The definitions in Code, Family Law Article, §5-301 are applicable to this Chapter.

Cross reference: See Code, Family Law Article, §5-301 for definitions of "caregiver," "child," "developmental disability," "guardianship," "identifying information," "parent," and "party."

(b) Additional Definitions

In this Chapter:

(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) and 5-301.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-302 contains additional definitions that apply in Chapter 300.

Section (a) states that the definitions in Code, Family Law Article, §5-301 are applicable and a cross reference lists the definitions in that statute.

Section (b) includes additional definitions for "CINA" and "local department." "CINA" is defined as a child in need of assistance under Chapter 200 of the Rules. "Local department" is defined using the definition from Code, Courts Article, §3-801.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-303, as follows:

Rule 11-303. APPLICATION OF OTHER TITLES

The Rules in Titles 1, 2, and 5 apply to proceedings under this Chapter except as otherwise provided by law.

Source: This Rule is derived in part from former Rule 11-501 (c) (2021) and is in part new.

REPORTER'S NOTE

Proposed Rule 11-303 states the applicability of other Titles to the Rules in Chapter 300.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-304, as follows:

Rule 11-304. PETITION FOR GUARDIANSHIP

(a) Who May File

A petition for guardianship may be filed only by:

- (1) a local department;
- (2) the child who would be the subject of the guardianship;

or

- (3) an attorney appointed for a child in a CINA action.

(b) Where Filed

A petition for guardianship shall be filed in the juvenile court for the county in which:

- (1) the child who is the subject of the petition was adjudicated to be a CINA; or
- (2) jurisdiction is maintained over an open CINA proceeding involving the child.

(c) Timing

The petition shall be filed before:

- (1) the child attains 18 years of age; and
- (2) a petition for adoption is filed, except as provided by

Code, Family Law Article, §5-331.

(d) New Case

The petition shall be filed as a new action that is separate from any other proceeding involving the child.

(e) Caption

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

(f) Contents

The petition shall be signed and verified and shall state, to the extent known:

(1) whether the petitioner is the local department, the child, or the attorney appointed for a child in a CINA action;

(2) the name and address of the local department;

(3) the name, sex, and date of birth of the child;

(4) the basis of the court's jurisdiction;

(5) the name of the court and the case number of each proceeding in which the child was adjudicated a CINA or in which the child is currently alleged to be a CINA;

(6) the name and address of the child's last attorney of record in the CINA proceeding;

(7) the name, address, and age of each living parent of the child;

(8) the name and address of each living parent's last attorney of record in the CINA proceeding;

(9) the names and addresses of all persons, other than a foster parent who cared for the child while the child was committed to the custody of a child placement agency, who have had legal or physical care, custody, or control of the child since the child's birth and the period during which each of those persons had such care, custody, or control;

(10) facts known to the petitioner that may indicate that a party:

(A) has a disability that makes the party incapable of consenting to the guardianship petition or participating effectively in the proceedings or, if no such facts are known to the petitioner, a statement to that effect;

(B) by virtue of illiteracy or unfamiliarity with the English language, may be unable to read or comprehend the petition and the show cause order issued pursuant to Rule 11-306 and, if the problem is unfamiliarity with the English language, (i) a statement of which language(s) the party does understand, and (ii) a statement that a copy of the petition and all attachments intended for service on that party have been translated into a language that the party understands; or

(C) is otherwise entitled to the appointment of an attorney by the court;

(11) whether any required consent that is given is conditional and the terms of any conditional consent; and

(12) whether any required consent that was given has been revoked.

(g) Attachments

The petitioner shall attach as exhibits to the petition:

- (1) all written consents for the guardianship in the possession or control of the petitioner;
- (2) if applicable, proof of guardianship or relinquishment of parental rights granted by an administrative, executive, or judicial body of a State or other jurisdiction and a certification that the guardianship or relinquishment was granted in compliance with the laws of that State or jurisdiction;
- (3) if a parent of the child cannot be identified or located, an affidavit of the petitioner describing with particularity the attempts made to identify and locate the unknown or missing parent;
- (4) any post-adoption agreement; and
- (5) a notice of filing that:
 - (A) states the date on which the petition was filed;
 - (B) identifies each person whose consent was filed with the petition;
 - (C) has printed on it the website that the State Department of Human Services maintains under Code, Human Services Article, §2-302; and

(D) includes no identifying information that would be in violation of an agreement or consent.

(h) Unknown Facts; Unavailable Documents

(1) If a fact required to be stated by section (f) of this Rule is unknown to the petitioner or a document required to be attached by section (g) is unavailable, the petitioner shall so state and give the reason in the petition or in a subsequent affidavit.

(2) If the document becomes available after the petition is filed, the petitioner shall file it as soon as it becomes available.

(i) Facts Known to Local Department

If the petitioner is the child or the attorney for the child and the local department declines to disclose to the petitioner a fact required by section (f) of this Rule which is known to the local department, the local department shall disclose the fact to the court in writing at the time the petition is filed.

Source: This Rule was derived in part from Rule 9-103 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-304 is new but derived from Code, Family Law Article, §5-313 and Rule 9-103.

Section (a) permits a guardianship petition to be filed only by a local department, the child who would be the subject of the guardianship, or the child's attorney.

Section (b) requires the petition to be filed in the juvenile court in the jurisdiction where the child was adjudicated to be a CINA or where jurisdiction is maintained over an open CINA proceeding involving the child.

Section (c) is derived from Code, Family Law Article, §5-313 (a) and (c) and requires the petition to be filed before the child turns 18 and before a petition for adoption, except as provided by statute.

Section (d) states that the petition constitutes a new action separate from any other proceeding involving the child.

Section (e) governs the caption of the case and is derived from Rule 9-103 (a).

Section (f) states the required contents of the petition, which are derived in part from current Rule 9-103 (b)(1). The petition must be signed and verified and state certain information, to the extent known. Subsections (f)(1) and (f)(2), requiring the petition to state whether the petitioner is the local department, the child, or the attorney appointed for a child in a CINA action and the name and address of the local department, are new. Subsections (f)(3), (7), and (9) are based on Rule 9-103 (b)(1)(B), (C), and (G), respectively. Subsection (f)(4), requiring the petition to state the basis of the court's jurisdiction, is also new, as are subsections (f)(5), (6), and (8), which require details of the CINA proceeding, including the case number and information about the last attorneys of record for the child and the parents. Subsection (f)(10) is partially derived from Rule 9-103 (b)(1)(K) and (L) and requires the petition to include any known facts that indicate that a party has a disability making the party incapable of consenting to the guardianship or participating in the proceedings, or a statement of the lack of those facts, and any other facts that indicate that a party is otherwise entitled to the appointment of an attorney by the court. Subsection (f)(10)(B) is new and covers known facts that

indicate that a party may be unable to read or comprehend the petition due to an unfamiliarity with the English language. The petition must identify the language(s) the party does understand and state that a copy of the petition and attachments have been appropriately translated. Subsections (f)(11) and (12) are new and require the petition to state whether any consent that is given is conditional and the terms and whether any required consent has been revoked.

Section (g) governs the required attachments to a petition and is derived in part from Rule 9-103 (b)(2) and Code, Family Law Article, §5-313 (d). Subsections (g)(1), (2), (3), and (4) are derived from Rule 9-103 (b)(2)(A)(viii), (ix), (x), and (xi) and Code, Family Law Article, §5-313 (d)(1) and (2). Subsection (g)(5) is derived from Code, Family Law Article, §5-313 (d)(3) and states the required contents of a notice filing.

Section (h) is derived from current Rule 9-103 (d) and provides that if a required fact or document is not known or not available, the petitioner must state that and give the reason. If the document becomes available, the petitioner must then file it.

Section (i) is derived from current Rule 9-103 (e) and requires, when the petitioner is not the local department, that any facts required by section (f) which are known to the local department which the local department declines to disclose to the petitioner be disclosed to the court at the time the petition is filed.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-305, as follows:

Rule 11-305. NOTICE OF FILING; STATUS CONFERENCE

(a) Notice Requirement

Within five days after a petition for guardianship is filed, the clerk shall send, by first class mail, a copy of the petition and the notice of filing that was attached to the petition to:

- (1) the local department;
- (2) each of the child's living parents who has not waived the right to notice;
- (3) each living parent's last attorney of record in the CINA case; and
- (4) the child's last attorney of record in the CINA case.

(b) Parental Address

- (1) The clerk shall keep a listing of each address given to the court for a parent.
- (2) The notice to each living parent shall be sent to the parent's last address known to the court.

(c) Status Conference

At the time the notice of filing is sent, the court shall schedule a status conference for no later than 60 days after the filing of the petition and shall include the date, time, and place of that conference with the notice of filing. At the status conference, the court shall inquire into the existence of any revocations of consent not disclosed in the guardianship petition.

Committee note: A consent obtained prior to the filing of a guardianship petition is filed in the child's CINA case. See Code, Family Law Article, §5-321 (b). A revocation of consent delivered before the guardianship petition is docketed in the child's CINA case under Rule 11-309 (e) (2) (B).

Source: This Rule is derived from Rule 9-104.

REPORTER'S NOTE

Proposed Rule 11-305 is new but is derived from Code, Family Law Article, §5-315 and current Rule 9-104.

Section (a) is derived from Code, Family Law Article, §5-315 (a) and requires the clerk to send a copy of the petition and the notice of filing within five days to the local department, living parents of the child and their last attorney of record in the CINA case, and the child's last attorney in the CINA case.

Subsection (b) (1) requires the clerk to keep a list of each address provided by the parent. Subsection (b) (2) is derived in part from Code, Family Law Article §5-315 (c), which requires notice to be sent to a parent at the last address known to the court.

Section (c) is derived from Rule 9-104 (b) and requires that a status conference be scheduled for no later than 60 days

after the petition is filed and that the date, time, and place of the conference be included with the notice of filing. The requirement that the court inquire into the existence of revocations of consent not disclosed in the petition is new. It is intended to ensure that no revocation delivered to the clerk prior to the filing of the petition is overlooked. A Committee note following section (c) explains the process for filing a consent and docketing a revocation prior to the filing of a petition.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-306, as follows:

Rule 11-306. ORDER TO SHOW CAUSE

(a) Issuance

Promptly after the filing of a petition for guardianship under Rule 11-304, the court shall issue a show cause order in substantial conformity with the form set forth in Form 11-306 at the end of this Chapter.

(b) Translation

If the petition alleges or the court otherwise becomes aware that, due to unfamiliarity with the English language, a party may be unable to read or comprehend the petition, the show cause order, the Notice of Objection, or the Affirmative Consent forms required to be served on the party, the court shall direct the petitioner (1) to draft and serve those documents in English and in a language that the party can understand, or (2) otherwise arrange for the documents to be translated for the party by a certified interpreter or translator.

Cross reference: See Rule 1-333 regarding certified interpreters and Rule 11-112 regarding papers in a foreign language.

(c) Service

(1) Generally

The petitioner shall serve the show cause order, together with the petition, two copies of the Notice of Objection/Request for Attorney form set forth in Form 11-307 containing the case caption and court address but otherwise blank, and any completed Consent by Parent to Guardianship forms set forth in Form 11-309 on:

(A) each of the child's living parents who has not consented to the guardianship;

(B) each living parent's last attorney of record in the CINA case; and

(C) the child's last attorney of record in the CINA case.

(2) Method of Service

Service shall be made in the manner specified in Code, Family Law Article, §5-316 (c) through (f).

Source: This Rule is derived from Rule 9-105.

REPORTER'S NOTE

Proposed Rule 11-306 is derived from Code, Family Law Article, §5-313 and current Rule 9-105.

Section (a) is derived from Rule 9-105 (a) and Code, Family Law Article, §5-316 (a) and requires the court promptly to issue a show cause order after the filing of a petition for

guardianship. The order must be in substantial conformity with Form 11-306.

Section (b) is new and provides for translation at the court's directive of the petition, show cause order, notice of objection, or affirmative consent if the petition alleges or the court is aware that the recipient may not be able to read and comprehend the documents. The court can order the petitioner to serve the translated documents on the recipient or arrange for translation of the documents by a certified interpreter or translator. A cross reference refers to Rules regarding certified interpreters and papers in a foreign language.

Section (c) is derived from current Rule 9-104 (c) and Code, Family Law Article, §5-316. Subsection (c)(1) requires the show cause order, petition, two blank copies of the Notice of Objection/Request for Attorney form, and any completed affirmative consents be served in the forms set forth within the Chapter. Service is to be made on each living parent who has not consented to the guardianship and the last attorney of record for each living parent and the child in the CINA case. Subsection (c)(2) requires the method of service to be according to the statute.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-307, as follows:

Rule 11-307. NOTICE OF OBJECTION

(a) In General

Any person having the right to participate in a proceeding under this Chapter may file a notice of objection to the petition for guardianship. The notice shall be substantially in compliance with Form 11-307 at the end of this Chapter.

(b) Time for Filing

(1) An objection shall be filed:

(A) if the show cause order was served in Maryland, within 30 days after service;

(B) if the show cause order was served outside Maryland but within the United States, within 60 days after service;

(C) if the show cause order was served outside the United States, within 90 days after service; or

(D) if the show cause order was served by publication pursuant to Code, Family Law Article, §5-316 (f), not less than 30 days after the later of (i) the last date that the notice was

published in the newspaper, or (ii) the last day that the notice was posted on the Department of Human Services website.

(2) Subject to subsection (b)(3), if a notice of objection is not filed within the time specified in this section, the party will be deemed to have consented to the guardianship.

Cross reference: See *In re Adoption No. T00130003*, 370 Md. 250 (2002) and *In re Adoption No. 93321055*, 344 Md. 458 (1997) for the effect of the failure to file a notice of objection within the time specified.

(3) In the event of a late-filed objection, the court may deem the filing timely for good cause shown.

(c) Contents

An objection shall be substantially in the form set forth in Form 11-307 and may include a request for an attorney as provided in that form.

(d) Service

The clerk shall serve a copy of each notice of objection on all parties in the manner provided by Rule 1-321.

(e) Response

Within 10 days after being served with a notice of objection, any party may file a response challenging the standing of the person to file the notice or the timeliness of the filing of the notice.

(f) Hearing

If any party files a timely response, the court shall

hold a hearing promptly on the issues raised in the response.

(g) Access to Records

If the court determines that the person filing the notice of objection has standing to do so and that the notice was timely filed, it shall issue an order permitting the person to inspect the papers filed in the proceeding, subject to reasonable conditions imposed in the order.

Source: This Rule is derived from Rule 9-107.

REPORTER'S NOTE

Proposed Rule 11-307 is derived from current Rule 9-107. Section (a) permits any person with the right to participate in a proceeding under the Chapter to file a notice of objection to the petition using Form 11-307.

Section (b) is derived from current Rule 9-107 (b) and governs the time for filing an objection depending on whether the show cause order was served in Maryland, in another state, outside of the country, or by publication. Subsections (b) (2) and (b) (3) state that a party will be deemed to have consented to the guardianship if an objection is not timely filed, but the court may deem a late filing timely for good cause shown. A cross reference following subsection (b) (2) refers to two Court of Appeals opinions dealing with the legal effect of failing to file a timely notice of objection.

Section (c) requires the objection to be in the form set forth in Form 11-307 and states that it may include a request for an attorney as provided in that form.

Sections (d), (e), (f), and (g) are derived from Rule 9-107 (c), (d), (e), and (f), respectively. The clerk is instructed to serve a copy of each notice on all parties pursuant to Rule 1-321. Within 10 days after being served, any party may file a response challenging the objector's standing or timeliness. The

court must hold a hearing on the issues raised in a timely response to the objection and permit a person with standing to inspect papers filed in the proceedings by issuing an order permitting that person to inspect the papers filed.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-308, as follows:

Rule 11-308. ATTORNEY FOR PARENT AND CHILD; GUARDIAN AD LITEM

(a) Right to Attorney

Each parent and the child have a right to an attorney in a proceeding under this Chapter.

(b) Appointed Attorney for Parent

(1) Unless a parent will be represented by an attorney retained by the parent or the Office of the Public Defender provides representation under Code, Criminal Procedure Article, §16-204, the court shall appoint an attorney to represent a parent who files a timely notice of objection pursuant to Rule 11-307 and who:

(A) has a disability that makes the parent incapable of effectively participating in the case; or

(B) is a minor.

Committee note: The Office of the Public Defender is required to provide representation to indigent individuals in certain proceedings. See Code, Criminal Procedure Article, §16-204.

(2) To determine whether a disability makes a parent incapable of effectively participating in a case, the court, on

motion or its own initiative, may order an examination of the parent.

(c) Appointed Attorney for Child

The court shall appoint an attorney to represent the child in accordance with Code, Family Law Article, §5-307 (b). Ordinarily, if the child currently is represented by an attorney in a pending CINA case and that attorney is under contract with the Department of Human Services to provide services under this section, the court shall appoint that attorney.

Committee note: When appointing an attorney for the child, the court must consider the child's best interests, and it may not appoint an attorney who has a conflict of interest.

(d) Dual Representation

An attorney or firm may represent more than one party in a case but only to the extent permitted by the Maryland Attorneys' Rules of Professional Conduct.

Cross reference: See Maryland Attorneys' Rules of Professional Conduct 19-301.7 and 19-301.8.

(e) Compensation

An attorney appointed under this Rule may be awarded reasonable fees and costs, as approved by the court.

(f) Guardian Ad Litem

If, on motion by the attorney for a parent or from other compelling evidence, the court finds that (1) a parent, by reason of physical, mental, or developmental disability, is and

will remain, for an indefinite period, unable to comprehend the nature of the proceeding, read and understand the petition and show cause order, and make a knowing and voluntary decision whether to consent or file a timely notice of objection to the guardianship, and (2) the parent does not already have a court-appointed guardian of the person authorized and willing to act for the parent, the court shall appoint a guardian ad litem for the parent. After consultation with the attorney and such other persons as the guardian ad litem deems appropriate, the guardian ad litem may file a consent pursuant to Rule 11-309 or a notice of objection pursuant to Rule 11-307 on behalf of the parent.

(g) Court-Appointed Special Advocate

In addition to the appointment of an attorney, the court may appoint a special advocate under the Court-Appointed Special Advocate program created by Code, Courts Article, §3-830.

Source: This Rule is derived in part from Rule 9-106 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-308 is new but derived from parts of current Rule 9-106 and Code, Family Law Article, §5-307.

Section (a) states that each parent and the child have a right to an attorney in a proceeding under the Chapter.

Section (b) is derived from Code, Family Law Article, §5-307 (a) and provides for the appointment of an attorney for a

parent who files a timely notice of objection and has a disability making the parent incapable of effective participation or who is a minor. A Committee note following subsection (b)(1) refers to the statute governing representation by the Office of the Public Defender. The court may order an examination to determine if a disability makes a parent incapable of effectively participating in the case.

Section (c) is derived from Code, Family Law Article, §5-307 (b) and provides for the appointment of an attorney for the child. The court must appoint an attorney in accordance with the statute. Ordinarily, if the child is represented in the pending CINA case by an attorney under contract with the Department, the court will appoint that attorney in the TPR proceeding. A Committee note states the considerations in appointing counsel.

Section (d) is derived from Code, Family Law Article, §5-307 (c) and permits dual representation by an attorney or firm in a case to the extent permitted by the Maryland Attorneys' Rules of Professional Conduct. A cross reference cites two relevant Rules.

Section (e) is derived from Code, Family Law Article, §3-507 (d) and provides that an attorney appointed under the Rule may be awarded reasonable fees and costs.

Section (f) governs the appointment of a guardian ad litem for a parent if, on motion by the attorney or because of compelling evidence, the court makes certain findings. The parent must be found to have a disability making the parent unable to understand and participate in the proceeding and the parent must not already have a court-appointed guardian of the person. The guardian ad litem may file a consent or a notice of objection after consultation with the attorney and other appropriate persons.

Section (g) is modeled after proposed new Rule 11-207 (d) and governs the appointment of a Court-Appointed Special Advocate.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-309, as follows:

Rule 11-309. AFFIRMATIVE CONSENT BY PARENT TO GUARDIANSHIP

(a) Generally

A person whose consent is required may consent affirmatively to a guardianship in accordance with this Rule. An affirmative consent may be given before or after the filing of a petition for guardianship.

(b) Form and Content

A written affirmative consent shall be substantially in the form set forth in Form 11-309. An oral affirmative consent shall be on the record before a judge and shall include a waiver of the right to revoke the consent.

Cross reference: See Code, Family Law Article, §5-321 (a) (2).

(c) Conditions to Validity

(1) An affirmative consent by a parent is not valid unless:

(A) the consent is given in a language that the parent understands;

(B) if consent is given in a language other than English, it is given before a judge on the record or accompanied by an

affidavit of a qualified translator that sets forth the translator's qualifications and states that the translation of the document of consent is accurate;

(C) the parent has received notice in writing or on the record before a judge of the provisions and rights set forth in Code, Family Law Article, §5-321 (a) (3) (iii);

(D) if signed after an attorney has entered an appearance for the parent, the consent is accompanied by an affidavit of the attorney stating that the attorney has reviewed the consent with the parent and that the consent is knowing and voluntary; and

(E) if the parent is a minor or has a disability, the consent is accompanied by an affidavit of an attorney appointed under Code, Family Law Article, §5-307 (a) stating that the consent of the parent is knowing and voluntary.

(2) The affidavit of the attorney required by subsections (c) (1) (D) and (E) shall be in the form set forth in Form 11-309.

(d) Filing of Consent

(1) Consent Obtained Before Guardianship Petition Filed

If a local department receives a consent to guardianship before a guardianship petition is filed, the local department promptly shall file the consent in the child's CINA case and serve a copy of it on (A) each living parent of the child, (B) the parent's last attorney of record in the CINA case, and (C)

the child's last attorney of record in the CINA case.

(2) Consent Obtained After Guardianship Petition Filed

If a party obtains a consent to a guardianship after a guardianship petition is filed, the party promptly shall file the consent with the court in which the petition is pending and serve a copy of it on each other party.

(e) Revocation of Consent

(1) Generally

A parent may revoke a revocable affirmative consent to a guardianship at any time within 30 days after the consent is filed pursuant to section (d) of this Rule.

Committee note: A consent entered into before a judge on the record shall include a waiver of a revocation period. See Code, Family Law Article, §5-321 (a) (2).

(2) Method of Revocation

(A) Generally

Within the time allowed by subsection (e) (1) of this Rule, a parent may revoke a revocable consent to a guardianship only (i) on the record before a judge or (ii) by a signed writing actually delivered by mail or in person to the clerk. If the revocation is delivered to an agent of the local department, the agent shall deliver the revocation promptly to the court.

(B) Revocation Before Guardianship Petition Filed; Notice

If a revocable consent was filed pursuant to

subsection (d) (1) of this Rule and a revocation is delivered before a guardianship petition is filed, the revocation shall be docketed in the child's CINA case. The court shall send to all parties in the CINA proceeding, including the person who revoked the consent, a copy of the revocation.

(3) Hearing

Upon receipt of a revocation, the court shall schedule an immediate hearing to determine the status of the petition. The clerk shall send to all parties, including the person who revoked the consent, a copy of the revocation and notice of the hearing.

(f) Non-fulfillment of Conditional Consent or Acquiescence

Non-fulfillment of conditional consent or acquiescence is governed by Rule 11-317.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-309 is new but derived from Code, Family Law Article, §5-321.

Section (a) states that a person whose consent is required for a guardianship may affirmatively consent before or after the petition is filed.

Section (b) is derived in part from Code, Family Law Article, §5-321 (a) (2) and requires a written consent to be in the form set forth in Form 11-309 and an oral consent to be on the record before a judge and include a waiver of the revocation period.

Subsection (c) (1) states what conditions must be present for an affirmative consent to be valid. The conditions are derived from Code, Family Law Article, §5-321 (a) (3). Subsection (c) (2) requires the affidavit of the attorney required in certain instances to be in the form set forth in Form 11-309.

Section (d) is derived from Code, Family Law Article, §5-321 (b). Subsection (d) (1) requires a consent received before the guardianship petition to be filed in the child's CINA case and served on each living parent and the last attorneys of record for the parents and the child in the CINA case. Subsection (d) (2) requires a consent received after the petition is filed to be promptly filed in the court where the petition is pending and served on each party.

Section (e) is derived in part from Code, Family Law Article, §5-321 (c) and is in part new. A parent may revoke affirmative consent at any time within 30 days after the consent is filed. A Committee note after subsection (e) (1) states that a consent on the record before a judge is irrevocable. Subsection (e) (2) (A) states that a revocation may be made on the record before a judge or by a signed writing delivered to the clerk. If a revocation is delivered to an agent of the department, the agent must deliver it promptly to the court. Subsection (e) (2) (B) is new and states that a revocation delivered before a petition is filed is docketed in the child's CINA case with a consent filed pursuant to subsection (d) (1). The court must send notice to all parties in the CINA proceeding, together with a copy of the revocation. A hearing on the status of the petition must be scheduled immediately after the court receives the revocation.

Section (f) refers to Rule 11-317 for the procedure upon non-fulfillment of conditional consent or acquiescence.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-310, as follows:

Rule 11-310. INVESTIGATION

In addition to any investigation required by Code, Family Law Article, §5-323 (c), the court may order a neutral person or governmental unit to conduct any investigation that the court considers necessary to determine the child's best interests in ruling on a petition for guardianship.

Cross reference: See Code, Family Law Article, §5-317.

Source: This Rule is derived in part from Rule 9-106 and is in part new.

REPORTER'S NOTE

Proposed Rule 11-310 is new but derived from current Rule 9-106 (d) (1) (A) and Code, Family Law Article, §5-317. It provides that the court may order a neutral person or unit to conduct any investigation necessary to determine the child's best interests in a guardianship case.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-311, as follows:

Rule 11-311. CONSOLIDATION

A guardianship proceeding may be consolidated with or severed from any other case pending in the juvenile court involving the child, as justice may require.

Source: This Rule is derived from former Rule 11-501 (2021).

REPORTER'S NOTE

Proposed Rule 11-311 is derived from current Rule 11-501. It states that a guardianship proceeding may be consolidated with or severed from another case pending in the juvenile court involving that child as justice may require.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-312, as follows:

Rule 11-312. HEARING - GUARDIANSHIP PETITION

(a) When Hearing is Discretionary

A hearing on the merits of a guardianship petition may be held but is not required if:

(1) the conditions set forth in Code, Family Law Article, §5-320 (a) (1) are satisfied; and

(2) no party becomes aware and the court is not advised that a condition of consent under Code, Family Law Article, §5-320 (b) may not be fulfilled.

(b) When Hearing is Required

A hearing on the merits of a guardianship petition shall be held:

(1) when required to determine paternity under Code, Family Law Article, §5-306 (b) (2);

(2) when the case is proceeding under Code, Family Law Article, §5-320 (a) (1) and a party becomes aware or the court is advised that a condition of consent under Code, Family Law Article, §5-320 (b) may not be fulfilled; or

(3) when the case is proceeding as a non-consensual guardianship under Code, Family Law Article, §5-323 and the court will be required to make a finding under Code, Family Law Article, §5-320 (a) (2), in which event the hearing shall be a trial on the merits of the petition.

(c) Notice

The court shall give reasonable notice of any hearing under this Rule to all parties.

(d) Judge to Preside

All hearings under this Rule shall be before a judge.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-312 is new but is derived from Code, Family Law Article, §5-318.

A hearing on the merits of a guardianship petition is not required if certain statutory conditions are met. A hearing must be held when required by law to determine paternity, when a condition of consent may not be fulfilled, or when the court must make a finding that termination of parental rights in a non-consensual guardianship case is in the best interests of the child.

Notice of a hearing must be reasonable and given to all parties under section (c) and a judge must preside over all hearings under this Rule.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-313, as follows:

Rule 11-313. TIME LIMIT ON RULING

(a) Earliest Time

A court shall not enter an order for guardianship of a child under this Chapter earlier than the later of (1) 30 days after the birth of the child, (2) expiration of the time for revocation of consent that has not been waived under Code, Family Law Article, §5-321 (c), or (3) expiration of the time to respond to a show cause order.

(b) Latest Time

A court shall rule on a petition for guardianship:

(1) within 180 days after the petition is filed; and

(2) within 45 days after the earlier of (A) receipt of all consents required under Code, Family Law Article, §§5-313 through 5-328, or (B) a trial on the merits.

Cross reference: See *In re Adoption of Jayden G.*, 433 Md. 50 (2013) providing that the court's failure to rule within 180 days does not mandate dismissal of a petition.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-313 is new. It incorporates provisions of Code, Family Law Article, §5-319, with stylistic changes.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-314, as follows:

Rule 11-314. GRANT OF GUARDIANSHIP

(a) Generally

A court may grant a petition for guardianship under this Chapter only under the circumstances set forth in Code, Family Law Article, §5-320 (a) (1) or (a) (2).

(b) With Consent

If all required consents have been given in accordance with Code, Family Law Article, §§5-313 through 5-328, and the child has not filed a timely objection, the court may enter an order for guardianship. Within five days after entry of the order, the court shall give the notices required by Code, Family Law Article, §5-322 (b).

(c) Without Consent

(1) Generally

(A) A court may grant a petition for guardianship without the required consents or over the child's objection only in accordance with Code, Family Law Article, §5-323 and this Rule.

(B) A court shall not grant a petition for guardianship

without the required consents or over the child's objection unless, after complying with subsection (c)(2) of this Rule, it finds by clear and convincing evidence that (i) the parent is unfit to remain in a parental relationship with the child, or (ii) exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the child's best interests such that terminating the rights of the parent is in the child's best interests.

(2) Required Considerations and Findings

(A) Except as provided in subsection (c)(3) of this Rule, in making the findings required under subsection (c)(1)(B) of this Rule, the court shall (i) consider the criteria set forth in Code, Family Law Article, §5-323 (d), and (ii) make specific findings as to each criterion, including findings as to how that criterion affects a determination of a parent's unfitness or the existence of exceptional circumstances that would make a continuation of the parental relationship detrimental to the best interests of the child.

Cross reference: See *In re Adoption/Guardianship of Alonza D.*, 412 Md. 442 (2010).

(B) If the court finds that an act or circumstance set forth in Code, Family Law Article, §5-323 (d)(3)(iii), (iv), or (v) exists, the court shall make a specific finding, based on facts in the record, whether return of the child to a parent's

custody poses an unacceptable risk to the child's future safety.

(3) When Consideration of Criteria Excused

(A) The court need not consider any of the criteria set forth in Code, Family Law Article, §5-323 (d) if, after a thorough investigation by a local department, the court finds that (i) the identities of the child's parents are unknown, and (ii) during the 60 days immediately after the child's adjudication as a CINA, no one has claimed to be the child's parent.

(B) The court shall not consider any of the criteria set forth in Code, Family Law Article, §5-323 (d) (1) if it waives reunification efforts under Code, Courts Article, §3-812 (d).

(C) The court may waive a local department's obligation to provide services described in Code, Family Law Article, §5-323 (d) (1) in accordance with Code, Family Law Article, §5-323 (e) (1) and (2).

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-314 is new. It is derived from Code, Family Law Article, §§5-322 and 5-323.

Section (a) states the general principle that a court may grant a petition for guardianship under Chapter 300 only as permitted by Code, Family Law Article, §5-320 (a).

Section (b) is derived from Code, Family Law Article, §5-322 and governs consensual guardianships if all required consents have been given and the child has not objected. The court must give all required notices within five days after entry of the order.

Section (c) is derived from Code, Family Law Article, §5-323 and governs nonconsensual guardianships.

Subsection (c) (1) (A) provides that the court may grant a petition for guardianship without the required consents or over the child's objection only in accordance with the statute.

Subsection (c) (1) (B) requires a finding by clear and convincing evidence that the parent remains unfit to parent or, due to exceptional circumstances, the continuation of the parental relationship is detrimental to the child's best interests.

Subsection (c) (2) incorporates the required considerations and findings of Code, Family Law Article, §5-323, which are required before the court may grant a petition. A cross reference following subsection (c) (2) (A) cites to a Court of Appeals decision discussing explicit findings.

Subsection (c) (3) provides for situations where the court is excused from considering the statutory criteria.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-315, as follows:

Rule 11-315. GUARDIANSHIP ORDER

(a) Separate Order

An order denying or granting a petition for guardianship shall be a separate order.

(b) Order Accompanying Denial of Guardianship

If the court issues an order denying guardianship, it shall enter an additional separate order that includes:

(1) a specific finding on whether reasonable efforts have been made to finalize the child's permanency plan;

(2) any order under Code, Courts Article, Title 3, Subtitle 8 that the court finds to be in the child's best interests; and

(3) a date, no later than 180 days after the date of the order, for the next review hearing under Code, Courts Article, Title 3, Subtitle 8.

Cross reference: See Code, Courts Article, §3-823.

(c) Order Accompanying Grant of Guardianship

If the court issues an order granting guardianship, it shall enter an additional separate order that includes:

(1) a directive terminating the child's CINA case;

(2) such other directives permitted by Code, Family Law Article, §5-324 (b) that the court determines are appropriate; and

(3) a date, no later than 180 days after the date of the order, for an initial guardianship review hearing under Code, Family Law Article, §5-326 and Rule 11-316.

(d) Copies of Order

The court shall send a copy of each order to (1) each party or, if represented, to the attorney for the party; (2) each of the child's living parents who has not waived the right to notice; (3) each living parent's last attorney of record in the CINA case; and (4) the child's last attorney of record in the CINA case.

(e) Effects of Order for Guardianship

An order granting guardianship has the effects set forth in Code, Family Law Article, §5-325.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-315 is new. It is derived from Code, Family Law Article, §§5-324 and 5-325.

Section (a) requires that an order denying or granting a petition for guardianship be a separate order.

Section (b) is derived from Code, Family Law Article, §5-324 (a). It requires an order denying guardianship to be accompanied by an additional separate order including specific findings, any permitted order determined to be in the child's best interests, and a date for the next review hearing. A cross reference is provided to Code, Courts Article, §3-823, which governs permanent child placements.

Section (c) is derived from Code, Family Law Article, §5-324 (b). It requires an order granting guardianship to be accompanied by an additional separate order terminating the child's CINA case, stating other applicable statutorily permitted directives, and setting a date for an initial review hearing.

Section (d) is derived from Code, Family Law Article, §5-324 (c). It governs to whom the court is required to send a copy of each order.

Section (e) states that an order granting guardianship has the effects set forth in Code, Family Law Article, §5-325.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-316, as follows:

Rule 11-316. GUARDIANSHIP REVIEW HEARINGS

(a) Timing

The court shall hold:

(1) an initial guardianship review hearing scheduled in the order entered under Rule 11-315 (c) (3) no later than 180 days after the date of the order; and

(2) a guardianship review hearing at least once each year after the initial guardianship review hearing until the court's jurisdiction terminates.

Cross reference: See Code, Family Law, §5-324 (b) (1) (vi).

(b) Purpose

(1) The initial guardianship review hearing shall be held to establish a permanency plan for the child.

(2) At each guardianship review hearing, the court shall determine whether:

(A) the child's current circumstances and placement are in the child's best interests;

(B) the permanency plan that is in effect is in the

child's best interests; and

(C) reasonable efforts have been made to finalize the permanency plan that is in effect.

Cross reference: See Code, Courts Article, §3-816.1 for the required findings related to reasonable efforts by the department.

(3) A child's permanency plan may be, in order of priority:

(A) adoption of the child;

(B) custody and guardianship of the child by an individual; or

(C) for a child at least 16 years old, another planned permanent living arrangement that (i) addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and (ii) includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life.

(c) Notice

The court shall give at least 30 days' notice before each hearing under this section to the local department, the child's attorney, and each of the child's living parents who has not waived the right to notice and to that parent's attorney. The local department shall give at least seven days' notice of the hearing to the child's caregiver.

(d) Right of Parent and Caregiver at Hearing

(1) A parent is entitled to be heard and to participate at a guardianship review hearing but is not a party solely on the basis of the right to notice and to be heard and participate.

(2) A caregiver is entitled to be heard at a guardianship review hearing but is not a party solely on the basis of the right to notice and to be heard.

Committee note: An individual entitled to notice under Code, Family Law Article, §5-326 is not a party, but may file a motion to intervene pursuant to Rule 2-215.

(e) Duty of Local Department

At least 10 days prior to a review hearing, the local department shall comply with the requirements of Code, Family Law Article, §5-326 (a) (5).

(f) Duty and Authority of Court

(1) At each guardianship review hearing, the court shall comply with the requirements of Code, Family Law Article, §5-326 (a) (8) and Code, Courts Article, §3-816.1.

(2) The court may approve a permanency plan other than adoption only if the court finds that, for a compelling reason, adoption is not in the child's best interests.

(3) At a guardianship review hearing held one year or more after the order for guardianship was entered, the court may designate an individual guardian of the child if the requirements of Code, Family Law Article, §5-326 (a) (10) are met.

(g) Removal of Child from Court-Ordered Placement

(1) Emergency Review Hearing

(A) When Required

If the court has ordered a specific placement for a child and the local department, acting pursuant to Code, Family Law Article, §5-326 (b) (1), removes the child from that placement, the court shall hold an emergency hearing on the change on the next day after the change.

Cross reference: See Rule 11-102 for definition of "next day."

(B) Notice

The court shall give reasonable notice of an emergency review hearing to (i) the child's attorney, (ii) the attorney for each other party, and (iii) each of the child's living parents who has not waived the right to notice and that parent's attorney.

(C) Standard

The standard of emergency review as to a change shall be the standard for continued shelter care in a hearing under Code, Courts Article, §3-815.

(2) Hearing on the Merits of the Department's Action

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

if agreed to by the parties, at a later date.

(h) Annual Consultation

At least every 12 months, at a hearing under this Rule, the court shall consult on the record with the child in an age-appropriate manner for the purposes and in the manner specified or allowed under Code, Family Law Article, §5-326 (c).

Committee note: This Rule deals only with the court proceedings. See Code, Family Law Article, §5-326 for additional duties imposed on the local department.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-316 is new. It is derived from Code, Family Law Article, §5-326.

The timing for guardianship review hearings in section (a) is derived from Code, Family Law Article, §5-324 (b) (1) (vi) and §5-326 (a) (1) (ii). A cross reference following section (a) refers to the Code section requiring the court to set a date for the first review hearing in an order accompanying an order granting guardianship of a child.

The purpose of the initial guardianship review hearing is stated in subsection (b) (1). This subsection is derived from Code, Family Law Article, §5-326 (a) (1) (i). The purpose of each subsequent guardianship review hearing as outlined in subsection (b) (2) is derived from Code, Family Law Article, §5-326 (a) (2). A cross reference to Code, Courts Article, §3-816.1 follows subsection (b) (2) (C). The permissible permanency plans for a child, in order of priority in subsection (b) (3), are derived from Code, Family Law Article, §5-326 (a) (6).

Notice requirements in section (c) are derived from Code, Family Law Article, §5-326 (3) (i).

The right of a parent at the hearing is stated in subsection (d) (1), which is derived from Code, Family Law Article, §5-326 (a) (3). The right of a caregiver at the hearing is stated in subsection (d) (2), which is derived from Code, Family Law Article, §5-326 (a) (4).

A Committee note following section (d) clarifies that an individual entitled to notice pursuant to the statute is not a party, but may file a motion to intervene.

Section (e) contains the requirement that the local department comply with Code, Family Law Article, §5-326 (a) (5).

Subsection (f) (1) requires the court to comply with Code, Family Law Article, §5-326 (a) (8) at each review hearing. Subsection (f) (2) is based on Code, Family Law Article, §5-326 (a) (9), and subsection (f) (3) is based on Code, Family Law Article, §5-326 (a) (10).

The requirements and procedure for an emergency guardianship review hearing in section (g) are derived from Code, Family Law Article, §5-326 (b). A cross reference following subsection (g) (1) (A) refers to the definition of "next day" in Rule 11-102.

Subsection (g) (1) (B) is derived from Code, Family Law Article, §5-326 (b) (2) (ii) and requires reasonable notice of an emergency review hearing to the child's attorney, the attorney for each other party, and each living parent who has not waived the right to notice and the attorney for that parent.

The standard of review as to a change is stated in subsection (g) (1) (C). It is the standard for continued shelter care in a hearing under Code, Courts Article, §3-815.

Subsection (g) (2) is derived from Code, Family Law Article, §5-326 (b) (2) (iv) and requires a full review hearing on the merits of the department's action unless the parties agree to the order entered following the emergency hearing.

Section (h) is derived from Code, Family Law Article, §5-326 (c). It requires the court to consult with the child on the record for the purposes stated in the statute.

A Committee note clarifies that there are additional duties imposed on the local department outside of the court proceeding.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-317, as follows:

Rule 11-317. FAILED CONDITIONAL CONSENT

(a) Notice

If, at any time before the court issues an order for adoption of the child, a party becomes aware that a condition of consent to the guardianship may not be fulfilled, the party promptly shall:

- (1) file a notice with the juvenile court;
- (2) notify all other parties; and
- (3) if consent was received from a person who is not a party, give notice to that person.

(b) Hearing

The juvenile court shall hold a hearing within 30 days after the filing of the notice.

(c) Order

If the court finds that a condition to consent cannot be fulfilled and the party or person whose condition cannot be fulfilled does not enter into a new consent, the juvenile court shall:

(1) set aside the guardianship order;

(2) set the case in for a prompt trial on the merits of the guardianship petition; and

(3) reopen the CINA case for review pursuant to Code, Courts Article, §3-823.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-317 is new. It incorporates the provisions of Code, Family Law Article, §5-327, with stylistic changes.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-318, as follows:

Rule 11-318. TERMINATION OF GUARDIANSHIP

(a) Local Department Guardianship

If a local department is the child's guardian, the court retains jurisdiction as provided in Code, Family Law Article, §5-328 (a).

(b) Individual Guardian

If the child's guardian is an individual, the court retains jurisdiction as provided in Code, Family Law Article, §5-328 (b).

(c) Adoption Order

An order for adoption of a child terminates the child's guardianship case.

(d) Child with Developmental Disability

If the court has entered an order directing the provision of services to the child under Code, Family Law Article, §5-324 (b) (1) (ii) (7) (B), the court retains jurisdiction to rule on any motion related to the enforcement, modification, or termination of the order for as long as the order is in effect. This section

does not apply to an order for adoption entered under section (c) of this Rule.

Cross reference: See Code, Family Law Article, §5-328 (e).

(e) Closing Case

On termination of a guardianship, the court shall enter an order closing the guardianship action.

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-318 is new. It incorporates provisions of Code, Family Law Article, §5-328, with stylistic changes.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

ADD new Rule 11-319, as follows:

Rule 11-319. COURT RECORDS

The court shall keep a separate docket for guardianship proceedings. All pleadings and other papers in guardianship proceedings shall be sealed when they are filed and are not open to inspection by any person, including a parent, except upon an order of court.

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

REPORTER'S NOTE

Proposed Rule 11-319 is new. It incorporates the provisions of current Rule 9-112, with stylistic changes.

MARYLAND RULES OF PROCEDURE
TITLE 11 - JUVENILE CAUSES
CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS
FORMS

ADD new Form 11-306, as follows:

Form 11-306. ORDER TO SHOW CAUSE

An order to show cause shall be substantially in the following form:

[Caption of Case]

ORDER TO SHOW CAUSE

(WITH ATTACHED NOTICE OF OBJECTION/REQUEST FOR ATTORNEY)

[Name of person to be served]

[Address of person, including county]

[Relationship of person to child for whom guardianship is sought]

IMPORTANT

- This is a court order.
- Please read this document carefully.
- If you do not understand this order, have someone explain it to you.

What will happen if you do not follow the instructions in this

order:

- The court may **TERMINATE YOUR PARENTAL RIGHTS** (cut off your rights) to your child, **[CHILD'S NAME]**; and
- Your child may be **ADOPTED** by someone else.

If you want to keep your parental rights and remain the parent of your child:

- You have to fill out the "**Notice of Objection,**" sign it, and return it to the clerk of the court no later than **[DATE]**. The Notice of Objection form is included with this order.
- You have the right to an attorney. The attorney in your Child in Need of Assistance (CINA) case is not automatically your attorney in this case.
- If you want the court to appoint an attorney for you, you have to fill out numbers 3 and 4 on the attached Notice of Objection Form.

You are hereby notified that:

1. Petition for Guardianship and to Terminate Parental Rights

A Petition for Guardianship was filed in the Juvenile Court for [county or Baltimore City] on [date] by [name of petitioner] to appoint a guardian for your child [child's name and date of birth]. If the court grants the petition, your parental rights to the child will be terminated permanently, and the child will be eligible for adoption by someone else.

2. Your Right to Object

If you do not want your parental rights to be terminated, you have to make sure that the court gets the attached Notice of Objection/Request for Attorney by no later than [DEADLINE].

All that you need to do is fill it out and mail or hand-

deliver it to the clerk at [address of court].

You may, but do not have to, give reasons for your objection.

If the court does not get your Notice of Objection/Request for Attorney by [deadline], the court will rule that you have agreed to the guardianship and to the termination of your parental rights. You will not have a court hearing.

3. You Have the Right to an Attorney

You have the right to an attorney in this guardianship case. The attorney in your Child in Need of Assistance (CINA) case is not automatically your attorney in this case.

If you want an attorney but cannot afford one, or if you are under 18 years old or have a disability that makes you unable to participate effectively in your case, you may be entitled to have the court appoint an attorney for you for free.

If you want to hire your own attorney, you may do so. If you do not know an attorney you may call the [county or Baltimore City] bar association at [phone number] to see if they can help you.

REPORTER'S NOTE

Proposed Form 11-306 is derived from current Rule 9-105 (e). The Form is revised to include short, readable points at the top to communicate the importance and urgency of the document. The form notifies the recipient that a petition for guardianship and to terminate parental rights was filed, provides details about the court, informs the recipient of the right to object, instructs the recipient to use the Notice of Objection/Request for Attorney form attached to the order if the recipient wishes to object, and advises the recipient of the right to an attorney.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS

FORMS

ADD new Form 11-307, as follows:

Form 11-307. NOTICE OF OBJECTION/REQUEST FOR ATTORNEY

A notice of objection/request for attorney shall be substantially in the following form:

[Caption of Case]

MAKE SURE THIS FORM IS SIGNED AND COMPLETE. MAIL OR DELIVER TO:

Clerk, Juvenile Court for _____

Address

1. I, [first and last name], object to the Petition for Guardianship of my child [child's name, and date of birth].

2. My reasons for objecting are as follows: [you do not have to give any reasons]

_____.

3. I do do not want the court to appoint an attorney to represent me. (Check one)

4. If you checked that you want the court to appoint an attorney, please check the box or boxes that apply to you:

I cannot afford to hire an attorney.

I am under 18 years of age.

I have a disability that makes me unable to participate effectively in the case. My disability is

_____.

Signature

Name (printed or typed)

Address

Telephone number

E-mail address

REPORTER'S NOTE

Proposed Form 11-307 is derived from current Rule 9-105 (f). The form allows the individual objecting to the petition for guardianship to note the objection, provide any reasons, and request a court-appointed attorney.

MARYLAND RULES OF PROCEDURE
TITLE 11 - JUVENILE CAUSES
CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS
FORMS

ADD new Form 11-309, as follows:

Form 11-309. CONSENT BY PARENT TO GUARDIANSHIP

A consent by a parent to guardianship shall be substantially in the following form:

CONSENT BY PARENT TO GUARDIANSHIP WITH THE RIGHT TO
CONSENT TO ADOPTION OF [NAME OF CHILD] BY [NAME OF
LOCAL DEPARTMENT/GUARDIAN]

INSTRUCTIONS

The attached written consent form is an important legal document. You must read all of these instructions BEFORE you decide whether to sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. What a Consent Means

If you sign this consent, you are agreeing and acknowledging that the court may, and likely will, enter an order that:

1. Except as otherwise specified in this consent, terminates all of your parental rights to your child;

2. Makes the local department of social services the legal guardian of the child;

3. Grants to the local department of social services the authority to consent to the adoption or other planned permanent living arrangement of the child without the need of any further consent by you; and

4. Also grants to the local department of social services the authority to take other actions regarding the child specified in §5-325 (b) of the Courts and Judicial Proceedings Article of the Maryland Code.

B. Right to Speak with a Lawyer

1. You have the right to speak with a lawyer before you decide whether to sign the consent.

2. If a lawyer has been appointed for you in a CINA case, speak with that lawyer before you decide whether to sign this consent. If a lawyer has not been appointed for you and you are unable to afford a lawyer, you may be eligible for a lawyer free of charge through the Office of the Public Defender. You should contact the Office of the Public Defender, and ask for a lawyer to represent you in a D.S.S. (Department of Social Services) guardianship case. The Public Defender's telephone number is _____ . The e-mail address is _____ .

3. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you must have a lawyer review the form with you before you can consent to the guardianship. You should contact the Office of the Public Defender or let the Juvenile Court know that you need to have a lawyer appointed for you.

4. Even if you do not have the right to have the court appoint a lawyer for you or to be represented through the Office of the Public Defender, you have the right to speak with a lawyer you choose before you decide whether to consent.

C. Post-Adoption Agreement

If you have made a written agreement with the adoptive parents for future contact with them or the child (known as a post-adoption agreement), a copy of that agreement must be

attached to the signed consent form. If you have a post-adoption agreement, and, after the adoption, the adoptive parents do not do what they agreed to do, it will **not** affect your consent to the guardianship or the adoption. If that happens, however, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

D. Consent

If you decide to sign the consent form, you will have two choices:

1. You can consent to the guardianship and the adoption of your child by any family approved by the local [Department of Social Services or Montgomery County Department of Health and Human Services]; or

2. You can consent to the guardianship only if the child is adopted into a specific family. This is called a "conditional consent." If you sign a conditional consent, and the family whose name is on the consent cannot adopt the child, your consent will no longer be valid. The court will try to locate you to find out if you want to sign a new consent. If you do not sign a new consent, the court can have a trial to decide whether your parental rights should be ended (terminated) and whether guardianship with the right to consent to adoption should be granted, even without your consent.

E. Effect of Post-Adoption Agreement

If you have a post-adoption agreement, you will keep only the rights the agreement gives you. See Paragraph C. Violation of the agreement will not affect your consent or the adoption.

F. Filing of Consent

After you sign the consent form, the person or agency to whom you give the form must file it in the Juvenile Court promptly. If a guardianship case has been filed, it will be filed in the guardianship case. If a guardianship case has not been filed, it will be filed in the child's CINA (Child in Need of Assistance) case. When it is filed, a copy of the filed consent form will be sent to you at the address you list at the end of the consent form. It is your responsibility to let the

court know if your address changes.

G. Right to Revoke Consent

1. If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent within 30 days after the date that it is filed in Juvenile Court. The only way that you can revoke this consent is by giving a signed written revocation statement with the name, sex, and date of birth of the child (if you know it) to:

Juvenile Clerk, Circuit Court for _____, at _____ (Address).

2. The written and signed revocation statement must be sent to the court, not to your social worker or lawyer. You may deliver your written revocation of consent in person or by mail. If it is not received by the Juvenile Clerk's office within 30 days after the date the consent form was filed in court, it will be too late, and you will not be able to withdraw the consent or stop the guardianship from being granted.

H. Further Notice of Guardianship and Adoption Proceedings

1. A petition for guardianship with the right to consent to adoption has been or will be filed in the Juvenile Court for _____ County/Baltimore City. If you sign the consent form, it will also be filed in the Juvenile Court.

2. You have the right to be notified when the petition is filed, about any hearings before or after a guardianship is granted, and if a guardianship is granted, if and when the child is adopted. Any notices will be sent to the address given by you on the consent form, unless you write to the Juvenile Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

I. Compensation

Under Maryland law, you are not allowed to charge or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and

customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

J. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a disclosure veto. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

K. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Services for adoption search, contact, and reunion services.

L. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an American Indian tribe, as defined by federal law, you have special legal rights under the Federal Indian Child Welfare Act (25 U.S.C. §1901). You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

M. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents and the guardian to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

N. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must

be someone 18 or older but may not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness's name, address, and telephone number in the blanks on the last page.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must first sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO
ADOPTION OR OTHER PLANNED PERMANENT LIVING ARRANGEMENT OF
_____ TO _____

Use a pen to fill out this form. You must complete each section.

A. Language of Form

1. The instructions and this consent form are in _____ (language), which is a language I can read and understand.

2. If the form is in a language other than English, attached to it is an affidavit in English of the person who translated the document from English attesting that the translation is accurate and listing his or her qualifications.

B. Identifying Information

1. Name

My full name is _____.

2. Age

My date of birth is _____.

3. Child's Birth Information

The child who is the subject of this consent was born on _____ (date) at _____ (name of hospital or address of birthplace) in _____ (city, state, and county, and country of birth)

4. Status as Parent

(a) I am _____

- the mother of the child;
- the father of the child;
- alleged to be the father of the child.

(b) If I checked "alleged to be the father of the child" (Check all that apply):

- (1) I was married to the mother of the child at the time of conception of the child.
- (2) I was married to the mother of the child at the time the child was born.
- (3) I was named as the father on the child's birth certificate.
- (4) The child's mother named me as the child's father.
- (5) I have been adjudicated by a court to be the child's father.
- (6) I have acknowledged myself orally or in writing to be the child's father.
- (7) On the basis of genetic testing, I have been have not been indicated to be the child's biological father.
- (8) I do not know if I am the father of the child.
- (9) I deny that I am the father of the child.

C. Advice of Counsel; Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

I already have spoken with a lawyer whose name and telephone number are _____, regarding this form and whether I should consent to the guardianship. I have read the instructions in front of this form, and I am ready to consent to the guardianship with the right to consent to adoption.

OR

[] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the guardianship with the right to consent to adoption.

D. Consent

Check **one** of the following statements:

[] After consulting or having the opportunity to consult with an attorney, I voluntarily and of my own free will consent to the ending (termination) of my parental rights and responsibilities with respect to my child and to the appointment of _____ [Department of Social Services or Montgomery County Department of Health and Human Services] to be the guardian of my child, with the right of the guardian to consent to the child's adoption or other planned permanent living arrangement.

OR

[] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____ [Department of Social Services or Montgomery County Department of Health and Human Services], to be the guardian of my child on the condition that my child is adopted by _____.

E. Further Notice

Check **one** of the following:

[] I give up (waive) the right to any further notice of the guardianship case, any reviews after guardianship is granted, or when my child is adopted.

OR

[] I give up (waive) the right to any further notice of the guardianship case or any reviews after guardianship is granted, but I want to be notified when my child is adopted.

OR

[] I want to be notified about everything that happens in the guardianship case, all reviews after guardianship is granted, and when my child is adopted.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent within 30 days after the date that it is filed in Juvenile Court. The only way that you can revoke this consent is by giving a signed written revocation statement with the name, sex, and date of birth of the child (if you know it) to:

Juvenile Clerk, Circuit Court for _____, at _____ (Address).

G. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM AND GUARDIANSHIP IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

(Signature)

(Date)

(Printed Name)

Address

(City, State, Zip Code)

(Telephone Number)

(E-Mail Address)

(Witness Signature)

(Date)

(Printed Name)

Address

(City, State, Zip Code)

(Telephone Number)

(E-Mail Address)

REPORTER'S NOTE

Proposed Form 11-309 is based on current Form 9-102.1, which informs the parent of his or her rights and the effect of signing the consent.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

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MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-401, as follows:

Rule 11-401. APPLICABILITY

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

Chapter 400 governs delinquency and citation proceedings under Code, Courts Article, Title 3, Subtitle 8A. A Committee note clarifies that, although Subtitle 8A also includes peace order proceedings against juveniles, Child in Need of Supervision (CINS) proceedings, citation proceedings, and proceedings where an adult is charged with contributing to a

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-402, as follows:

Rule 11-402. DEFINITIONS

The following definitions apply in this Chapter:

(a) Statutory Definitions

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

(b) Additional Definitions

(1) Complaint

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

(2) Delinquency Petition

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

(3) Emergency Detention or Shelter Care

"Emergency detention or shelter care" means detention or shelter care when a child has been taken into custody in accordance with Code, Courts Article, §3-8A-15.

(4) Initial Appearance Hearing

“Initial appearance hearing” means a hearing to:

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

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

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

(5) Probation

“Probation” means a status created by a court order under which a child adjudicated to be delinquent is to remain subject to supervision of the court under conditions the court, or the agency designated by it, deems proper, but is not removed from the home.

(6) Waiver Petition

“Waiver petition” means a petition filed pursuant to Rule 11-410.

Source: This Rule is derived in part from former Rule 11-101 (2021) and is in part new.

REPORTER'S NOTE

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-403, as follows:

Rule 11-403. CONFIDENTIALITY OF RECORDS

(a) Generally

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

(b) Sealing

(1) Generally

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

(2) Opening

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-404, as follows:

Rule 11-404. RIGHT TO ATTORNEY

(a) Generally

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

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

(b) Striking of Attorney's Appearance

(1) By Motion

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

(2) Automatic Termination of Appearance

When no appeal has been taken from a final order of

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

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

Source: This Rule is derived in part from former Rule 11-106 (2021) and is in part new.

REPORTER'S NOTE

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-405, as follows:

Rule 11-405. TAKING CHILD INTO CUSTODY

(a) Authority

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

(b) Notice; Release; Detention

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

(c) Failure to Bring Child before Court

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

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

Cross reference: See Title 15, Chapter 200 of these Rules

concerning civil and criminal contempt.

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-406, as follows:

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

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

(1) Who May Authorize

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

(2) Limitation on Place of Detention

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

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

(b) Emergency Placement Prior to Hearing

(1) Emergency Detention

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

(2) Emergency Shelter Care

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

(3) Emergency Community Detention

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

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

(1) Who May Authorize

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

(2) Basis, Conditions, and Limitations

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

(3) Requirement of Petition

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

(4) Contents of Petition

A petition to authorize continued detention, community

detention, or shelter care shall include:

(A) The allegations supporting the relief sought;

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

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

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

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

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

(d) Notice

The petitioner shall give reasonable notice, oral or written, of the time, place, and purpose of the hearing to the

child and to the child's parent, guardian, or custodian, if that person can be found.

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

(1) Detention or Community Detention

(A) Generally

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

(B) Release on Conditions

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

(2) Shelter Care

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

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

(2021) and is in part new.

REPORTER'S NOTE

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

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

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

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

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-407, as follows:

Rule 11-407. DELINQUENCY PETITION

(a) Authority to File

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

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

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

(b) Venue

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

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

(c) Form and Content

(1) Caption

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

. . . .”

(2) Contents

The petition shall state:

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

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

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

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

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

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

(3) Signature

The delinquency petition shall be signed by the State’s

Attorney.

(d) Copies

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

(e) Summons; Service

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

(f) Subpoena

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

Source: This Rule is derived in part from former Rules 11-103 and 11-104 (2021) and is in part new.

REPORTER'S NOTE

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

Section (a) is derived from Code, Courts Article, §3-8A-13 (b). It requires the petition to be prepared and filed by the State's Attorney. A cross reference to Code, Courts Article,

§3-8A-13 (a) follows the section. A Committee note refers to Code, Courts Article, §3-8A-10 regarding actions by an intake officer prior to filing a petition and the time requirements for filing. The Committee note also refers to a Court of Appeals opinion holding that dismissal of the petition is not an appropriate remedy for a violation of the time requirements.

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-408, as follows:

Rule 11-408. CITATION

(a) Filing

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

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

(b) Venue

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

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

(c) Constitutes Initial Pleading

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

charging document.

(d) Summons; Service

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

(e) Subpoena

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-409, as follows:

Rule 11-409. TRANSFER FROM CRIMINAL COURT

(a) Transfer for Trial

(1) Petition

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

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

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

(2) Confinement; Conditions of Release

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

(b) Transfer for Disposition

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

(c) Transfer Back to Criminal Court Prohibited

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

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

Source: This Rule is derived in part from former Rule 11-102A (2021) and is in part new.

REPORTER'S NOTE

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-410, as follows:

Rule 11-410. WAIVER OF JURISDICTION

(a) Initiation of Waiver

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

(1) on its own initiative in conformance with subsection

(b) (1) of this Rule; or

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

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

(b) Timing

(1) Waiver on Court's Own Initiative

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

(2) Motion by State's Attorney

(A) A motion to waive juvenile court jurisdiction filed by

the State's Attorney may be filed with the delinquency petition or not later than five days before commencement of the first scheduled adjudicatory hearing.

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

(3) Waiver of Time Requirement

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

(c) Investigation

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

hearing. At the time of filing, the Department shall provide a copy of the report to the State's Attorney's Office, and the District Office of the Public Defender or private counsel. If the child is unrepresented, the Department shall provide a copy of the report to the child.

(d) Hearing

(1) Required

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

(2) Notice

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

(3) Time of Hearing

Unless otherwise ordered, a waiver hearing shall be held:

(A) prior to an adjudicatory hearing; and

(B) within 30 days after the date a petition for detention or community detention is granted, or, if the child is not detained or on community detention, within 30 days after service of the waiver petition.

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

(4) Purpose of Hearing

A waiver hearing is for the sole purpose of determining

whether the court should waive its jurisdiction.

(5) Admissibility of Report of Waiver Investigation

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

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

(6) Jurisdiction Previously Waived

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

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

(7) Respondent Over 21 Years of Age

If a delinquency petition is filed against a respondent who is over 21 years of age, the court may waive its jurisdiction after a limited hearing of which the respondent has been notified and at which the respondent has an opportunity to be heard.

(e) Required Condition for Waiver; Criteria; 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: See *Davis v. State*, __ Md. __ (2021).

(f) Waiver Order

(1) Statement of Grounds

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

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

(B) committing the child to the custody of the sheriff or other appropriate officer in an adult detention facility pending a pretrial release hearing pursuant to Rule 4-222.

(2) Effect of Delinquency Petition

The delinquency petition shall be considered a charging

document for the purpose of detaining the respondent child pending a pre-trial release hearing.

(3) Copies

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

Source: This Rule is derived in part from former Rule 11-113 (2021) and is in part new.

REPORTER'S NOTE

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

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

Subsection (b)(1) is new. It states that the court may waive its jurisdiction on its own initiative at any time after the petition is filed but no later than 10 days before commencement of the first scheduled adjudicatory hearing. Subsection (b)(2) incorporates the provisions of current Rule 11-113 a 2, with stylistic changes and updated statutory references. The current Rule requires a motion for waiver to be filed before the first adjudicatory hearing. The new Rule requires the motion be filed no later than five days before the first scheduled adjudicatory hearing. Subsection (b)(3) is new. It permits the court to waive the time requirement for good cause shown if, before the first adjudicatory hearing commences, the State's Attorney files a subsequent delinquency petition

accompanied by a waiver petition or an indictment or criminal information.

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

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

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

Section (f) is derived from current Rule 11-113 g. If the court orders its jurisdiction waived, subsection (f)(1) requires the court to state the grounds for its decision, order the child held for trial under the appropriate criminal procedure, and

commit the child to be held in an adult detention facility pending a pre-trial release hearing pursuant to Rule 4-222. Subsection (f) (2) states that the delinquency petition is considered a charging document for the purpose of detaining the respondent child after the court waives its jurisdiction. Subsection (f) (3) requires the clerk to provide true copies of the delinquency petition and waiver order to the appropriate officer in whose custody the child had been placed pending a pre-trial release hearing.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-411, as follows:

Rule 11-411. TRANSFER TO ANOTHER JUVENILE COURT

(a) Authority of Transferring Court

(1) Generally

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

(2) Exception

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

(b) Records

(1) Contents

Every document, social history, and record on file with the clerk of the transferring court that pertains to the case

shall accompany the transfer.

(2) Timing

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

(c) Authority of Receiving Court

The receiving court may take further action in the matter.

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-412, as follows:

Rule 11-412. INITIAL APPEARANCE HEARING

(a) When Required

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

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

(b) Notice

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

(c) Writ of Attachment

Absent proof of actual notice by personal service of the summons or service by other means directed by the court, no writ of attachment may issue for failure to appear.

(d) Purpose of Hearing

The purpose of the initial appearance hearing is:

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

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

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-413, as follows:

Rule 11-413. RESPONSE TO PETITION; ADMISSION

(a) Response Permitted

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

(b) Admission

(1) Advice by Court; Finding

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

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

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

(2) Withdrawal of Admission

In the interest of justice, the court may permit the respondent to withdraw an admission at any time before disposition.

Source: This Rule is derived in part from former Rule 11-107 (2021) and is in part new.

REPORTER'S NOTE

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-414, as follows:

Rule 11-414. AMENDMENTS

(a) Delinquency Petitions and Citations

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

(b) Other Pleadings and Motions

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

(c) Continuance or Postponement

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

Source: This Rule is derived from former Rule 11-108 (2021).

REPORTER'S NOTE

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-415, as follows:

Rule 11-415. STUDY; EXAMINATION

(a) Generally

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

(b) Examination

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

(2) Any order for a physical or mental examination pursuant to this Rule shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made. Any examination of a parent, guardian, or custodian of the child shall be on an outpatient basis. The

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

(c) Copies of Report

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

(d) Admissibility

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

it.

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

Source: This Rule is derived in part from former Rule 11-105 a (2021) and is in part new.

REPORTER'S NOTE

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-416, as follows:

Rule 11-416. COMPETENCY OF CHILD

(a) Evaluation of Child's Mental Condition

(1) Generally

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

(2) Conduct of Evaluation

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

(b) Competency Hearing

(1) When Held

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

(2) Conduct of Hearing

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

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

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

(3) Finding of Competency

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

(4) Finding of Incompetency

(A) If the court determines that the child is incompetent to proceed but that there is a substantial probability that the child may be able to attain competency in the foreseeable future and that services are necessary to attain competency, the court shall proceed in accordance with Code, Courts Article, §3-8A-

17.6.

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

(5) Use of Certain Evidence in Other Proceedings

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

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

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

Section (b), derived from various applicable statutory provisions, governs the competency hearing. Subsection (b) (1) is derived from Code, Courts Article, §3-8A-17.4 (a). It requires the court to hold a competency hearing within 15 days after the receipt of the report, unless the time is extended by up to 15 days for good cause. Subsection (b) (2) (A) is derived from Code, Courts Article, §3-8A-17.11. It states that the court must presume at the competency hearing that the child did not commit the alleged act. A cross reference to the statute follows the subsection. Subsection (b) (2) (B) is derived from Code, Courts Article, §3-8A-17.4 (c) and (d). It requires the court's findings to be based on the evaluation of the child and states that the State has the burden of proving the child's competency beyond a reasonable doubt. Subsection (b) (3) is derived from Code, Courts Article, §3-8A-17.5. If the court determines that the child is competent, the court enters an order stating that the child is competent, lifts the stay imposed under section (a), and proceeds with the petition in accordance with the applicable time periods. Subsection (b) (4) (A) is derived from Code, Courts Article, §3-8A-17.6. If the court determines that the child is incompetent but that there is a substantial probability that the child may obtain competency, the court may proceed as permitted by statute to order competency attainment services. Subsection (b) (4) (B) is derived from Code, Courts Article, §§3-8A-17.7 and 3-8A-17.8. If the court determines that the child is incompetent and unlikely to attain competency, the court proceeds in accordance with the applicable statute. Subsection (b) (5) is derived from Code, Courts Article, §3-8A-17.10 (b). It provides that any statement made by the child or information elicited during a competency evaluation, competency hearing, or the provision of

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-417, as follows:

Rule 11-417. EMERGENCY MEDICAL TREATMENT

The court may order emergency medical, dental, or surgical treatment of a child who is already under the jurisdiction of the court if (1) the child is alleged to be suffering from a condition or illness which, in the opinion of a licensed physician or dentist, requires immediate treatment, and (2) the child's parent, guardian, or custodian is not available or, without good cause, refuses to consent to the treatment.

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

Source: This Rule is new.

REPORTER'S NOTE

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

provision in Code, Courts Article, §3-824 is included at the end of the Rule.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-418, as follows:

Rule 11-418. DISCOVERY AND INSPECTION

(a) Rule 4-263 Applicability

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

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

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

shall be filed no later than 10 days before the next scheduled hearing, and any response may be filed within five days after service of the motion.

(c) Subpoena for Tangible Evidence Before Trial

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

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-418 is new. It adopts the provisions contained in Rule 4-263 (Discovery in Circuit Court).

Section (a) states that Rule 4-263 applies to discovery in juvenile court delinquency and citation proceedings except that certain terms used in the Rules in Title 4 are construed to be applicable in juvenile court proceedings. "Defendant" and "defense" in Rule 4-263 are construed to mean "respondent." "Conviction" is construed to include a prior delinquency finding of a juvenile. The time requirements in Rule 4-263 (h) and (i) are not compatible with the shortened timeline of a juvenile delinquency case, therefore those time requirements are superseded by section (b) of Rule 11-418.

Section (b) provides that all required disclosures must be made in time to permit their beneficial use at a hearing where

the information may be relevant. If any material or information is not disclosed, the court may grant a continuance or postponement. A motion to compel discovery must be filed no later than 10 days before the next scheduled hearing and the response is due within five days after service of the motion.

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-419, as follows:

Rule 11-419. MOTIONS

(a) Generally

(1) Content

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

(2) Response

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

(3) Determination

Motions filed pursuant to this Rule shall be determined on the day of trial but prior to trial, except that the court

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

(b) Mandatory Motions - Generally

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

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

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

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

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

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

(c) Time for Filing

(1) Mandatory Motions

A motion under section (b) of this Rule shall be filed no later than five business days before the first scheduled adjudicatory hearing, unless the court, for good cause shown,

orders otherwise.

(2) Other Motions

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

Subsection (c)(1) requires mandatory motions under section (b) to be filed no later than five business days before the first scheduled adjudicatory hearing, unless the court orders otherwise for good cause. If discovery discloses the basis for the motion, the motion may be filed within five days after the discovery is provided. Subsection (c)(2) incorporates the provisions of Rule 4-252 (d).

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-420, as follows:

Rule 11-420. STET

(a) Entry of Stet

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

(b) Notice

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

(c) Recall of Warrant or Detainer

When a stet is entered on the docket, the court shall order the clerk to take the action necessary to recall or revoke

any outstanding warrant, writ, or detainer that could lead to the arrest or detention of the respondent because of the stettered alleged delinquent acts.

(d) Rescheduling of Adjudicatory Hearing

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

Section (c) is based on Rule 4-248 (b). It requires the court to order the clerk to recall or revoke any outstanding warrant, writ, or detainer that could lead to the arrest or

detention of the respondent for the statted alleged delinquent acts, unless the court orders otherwise.

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-421, as follows:

Rule 11-421. ADJUDICATORY HEARING

(a) Requirement and Purpose

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

(b) Timing

(1) Earliest Time

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

(2) Generally

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

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

If the respondent is in detention, community detention,

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

(4) Waiver Petition Filed

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

(5) Completion

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

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

(6) Extension of Time Limits

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

(c) Evidence; Standard of Proof

The State's Attorney:

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

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

(d) Adjudication; Adjudicatory Order

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

Source: This Rule is derived in part from former Rule 11-114 (2021) and is in part new.

REPORTER'S NOTE

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

Section (a) is derived from current Rule 11-114 a. It requires the court to hold an adjudicatory hearing after a

petition or citation has been filed unless the court has waived its jurisdiction or entered a stet.

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-422, as follows:

Rule 11-422. DISPOSITION HEARING AND ORDER

(a) Generally

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

(b) Time for Hearing

(1) Citation

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

(2) Delinquency Petition

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

(3) If Not Held on Same Day

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

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

(c) Priorities in Disposition

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

(d) Permitted Dispositions - Delinquency Petition

(1) Generally

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

Cross reference: Code, Courts Article, §3-8A-19 (d) addresses the court's disposition generally. Subsection (f) of that section addresses the guardian appointed under the section. Subsection (g) of that section addresses placement of a child in an emergency facility on an emergency basis under Code, Health-

General Article, Title 10, Subtitle 6, Part IV. Subsections (h) and (i) of the section address commitment of a child to the custody of the State Department of Health for inpatient care and treatment in a State mental hospital or State mental retardation facility, respectively. Subsection (j) of that section addresses the requirement that a commitment order issued under either subsection (h) or (i) must require the State Department of Health to file certain progress reports.

(2) Probation with Stay of Delinquency Finding

In addition to the dispositions permitted in (d)(1) of this section, the court may enter a disposition of probation with stay of delinquency finding, which is a status created by a court order in which the court, with the consent of the respondent, places the respondent in a probationary status with appropriate conditions after the court has made a finding that the respondent committed a delinquent act, but without making a finding that the respondent is a delinquent child.

(e) Permitted Disposition - Citation

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

(f) Procedure

(1) Disposition Hearing Conducted by Judge

If a judge conducts the disposition hearing, the judge shall enter a written disposition order and shall either file or announce and dictate into the record (A) a statement of reasons

for any order that includes placement of the respondent outside the respondent's home, and (B) a statement of each condition for any probation.

(2) Disposition Hearing Conducted by Magistrate

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

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

(g) Restitution

(1) Generally

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

Restitution may not be ordered unless:

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

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

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

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

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

(2) Evidence; Burden of Proof

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

Source: This Rule is derived in part from former Rule 11-115 (2021) and is in part new.

REPORTER'S NOTE

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

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

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

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

Section (d) is derived from Code, Courts Article, §3-8A-19. It addresses the permitted dispositions on a delinquency petition. Subsection (d)(1) lists the generally permitted dispositions by referring to the subsections in Code, Courts Article, §3-8A-19, which are subject to the conditions and limitations in Code, Courts Article, §§3-8A-22, 3-8A-24, and 3-8A-35. A cross reference after subsection (d)(1) identifies the

dispositions contained in the various sections in Code, Courts Article, §3-8A-19. Subsection (d)(2) permits the court to enter a disposition of probation with stay of delinquency findings.

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

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

Section (g) is derived from Code, Criminal Procedure Article, §11-603 and Code, Courts Article, §3-8A-28. Subsection (g)(1) permits the court to order the respondent, the respondent's parents, or both to pay restitution to a victim subject to Code, Criminal Procedure Article, Title 11, Subtitle 6. Restitution may be ordered only if certain conditions are present. A cross reference to relevant statutory provisions and case law follows the subsection. Subsection (g)(2) contains a list of certain types of evidence that are sufficient to support a restitution claim. An individual who opposes the restitution has the burden of proving the amount is not fair and reasonable.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-423, as follows:

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

(a) Revisory Power

(1) Authority

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

(2) On Motion

The court may exercise its authority under subsection (a)(1) of this Rule on motion of any party. A motion shall state with particularity the grounds on which the relief is requested. The court may grant or deny the relief, in whole or in part, without a hearing.

(3) Own Initiative

The court may exercise its authority under subsection (a)(1) of this Rule on its own initiative. If it proposes to do so, the court shall notify the parties of its intent and inform them of the right to respond and request a hearing within 10 days. The court may not modify or vacate an order earlier than

10 days after the issuance of the notice. If a timely request for a hearing is made, the court shall conduct a hearing.

(4) On Recommendation

The court may exercise its authority under subsection (a) (1) of this Rule on written recommendation to the court by the appropriate governmental agency exercising supervision or custody of the respondent. The governmental agency making the recommendation shall (A) notify the parties of the recommendation and provide a copy of the recommendation to the parties, (B) inform the parties of the right to respond and request a hearing within 10 days from the date the notice was sent, and (C) provide a copy of the notice and recommendation to the court, accompanied by a statement of the date that notice was sent. A response or request for a hearing shall be filed with the clerk. The court may not act on the recommendation earlier than 10 days from the date that notice is issued, unless the parties consent in writing to the entry of an order implementing the recommendation. If a timely request for a hearing is made, the court shall conduct a hearing.

Committee note: This Rule is not intended to preclude a governmental agency from making a recommendation in writing in advance of a scheduled hearing or on the record in a court proceeding.

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

(b) Child in Detention

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

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

Source: This Rule is derived in part from former Rule 11-116 (2021) and is in part new.

REPORTER'S NOTE

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

Section (a) governs the court's exercise of its revisory power over orders. Subsection (a)(1) is derived from current Rule 11-116 a. It states the court's authority to modify or vacate an order.

Subsection (a)(2) is derived in part from current Rule 11-116 b which permits the court to exercise its revisory power on motion of any party. The motion must state the grounds on which the relief is requested. The court may grant or deny the motion without a hearing.

Subsections (a)(3) and (a)(4) permit the court to exercise its revisory power on its own initiative or on recommendation of a governmental agency with supervision or custody of the respondent, as allowed by current Rule 11-116 b. The procedures in these subsections are new to ensure that the parties have adequate notice and an opportunity to respond to any contemplated court action modifying or vacating an order.

Subsection (a)(3) requires the court to notify the parties of its intent to modify or vacate an order *sua sponte* and wait 10 days before acting to permit the parties to respond or request a hearing. If a hearing is requested within the 10 days, the court must hold a hearing.

Subsection (a)(4) creates a new procedure for a recommendation by a governmental agency, typically the Department of Juvenile Services, to modify or vacate an order. The Rules Committee was informed that problems can arise when a recommendation is made to the court without notice to the parties, particularly the State, which must notify victims and may want to respond. There is no requirement that such a recommendation be filed in the proceeding. Subsection (a)(4) requires the agency to notify the parties, send a copy of the recommendation to the parties, and inform the parties of the right to respond and request a hearing. The agency must provide the notice and recommendation to the court and tell the court when notice was sent to the parties. The court may not act on the recommendation earlier than 10 days from the date that notice is sent unless the parties consent to the recommendation. If a hearing is requested within the 10 days, the court must

have a hearing. A Committee note clarifies that the provisions of subsection (a)(4) do not preclude the agency from making a written recommendation in advance of a scheduled hearing or making an oral recommendation on the record at a hearing.

Subsection (a)(5) is derived from current Rule 11-116 a. It applies to a request to modify or vacate a commitment to the Department of Health under Code, Courts Article, §3-8A-19. The court must proceed in accordance with the relevant Code section. A cross reference to the statutory provisions follows the subsection.

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-424, as follows:

Rule 11-424. VIOLATION OF PROBATION

(a) How Initiated

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

(b) Show Cause Order

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

(c) Hearing

The court shall hold a hearing to determine whether a

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

Source: This Rule is derived in part from Rule 4-347 and former Rule 11-116 (2021) and is in part new.

REPORTER'S NOTE

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

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

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

probation alleged to have been violated and the nature of the violation. A copy of the motion, if any, and the show cause order must be served on the parties.

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-425, as follows:

Rule 11-425. FINAL ORDER OF TERMINATION

(a) Generally

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

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

(b) Own Initiative; On Recommendation

(1) Own Initiative

The court may exercise its authority under section (a) on its own initiative. If it proposes to do so, the court shall notify the parties of its intent and inform them of the right to respond and request a hearing within 10 days. The court may not

terminate its jurisdiction earlier than 10 days after the issuance of the notice. If a timely request for a hearing is made, the court shall conduct a hearing.

(2) On Recommendation

The court may exercise its authority under section (a) of this Rule on written recommendation to the court by the appropriate governmental agency exercising supervision or custody of the respondent. The governmental agency making the recommendation shall (A) notify the parties of the recommendation and provide a copy of the recommendation to the parties, (B) inform the parties of the right to respond and request a hearing within 10 days from the date the notice was sent, and (C) provide a copy of the notice and recommendation to the court, accompanied by a statement of the date that notice was sent. A response or request for a hearing shall be filed with the clerk. The court may not act on the recommendation earlier than 10 days from the date that notice is issued, unless the parties consent in writing to the entry of an order implementing the recommendation. If a timely request for a hearing is made, the court shall conduct a hearing.

Source: This Rule is derived from former Rule 11-120 (2021).

REPORTER'S NOTE

Proposed Rule 11-425 is derived in part from current Rule 11-120 and is in part new.

Section (a) incorporates the provisions of current Rule 11-120, with stylistic changes. A cross reference to the statute governing duration of orders follows the section.

Section (b) is new. It is modeled after proposed new Rule 11-423 subsections (a)(3) and (a)(4). It requires notice to the parties of the court's intent to terminate its jurisdiction on its own initiative or on the recommendation of a governmental agency with custody or supervision of the respondent.

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

ADD new Rule 11-501, as follows:

Rule 11-501. SCOPE

This Chapter includes Rules governing:

- (a) child in need of supervision (CINS) proceedings pursuant to Code, Courts Article, Title 3, Subtitle 8A;
- (b) voluntary placement proceedings pursuant to Code, Courts Article, Title 3, Subtitle 8;
- (c) peace order proceedings pursuant to Code, Courts Article, §§3-8A-19.1 through 3-8A-19.5;
- (d) proceedings concerning a child's failure to attend school as required under Code, Courts Article, §§3-8C-01 through 3-8C-10;
- (e) proceedings regarding the expungement of juvenile records pursuant to Code, Courts Article, §3-8A-27.1; and
- (f) proceedings against an adult charged with contributing to the status of a child pursuant to Code, Courts Article, §§3-810 and 3-8A-10 and an adult charged with violation of compulsory school attendance laws pursuant to Code, Education Article, §7-301.

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

ADD new Rule 11-502, as follows:

Rule 11-502. CHILD IN NEED OF SUPERVISION

(a) Applicability

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

(b) Definitions

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

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

(c) Confidentiality of Records

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

(d) Attorney

Rule 11-404 applies with respect to the right to

representation by an attorney at a proceeding under this Rule.

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

(e) Taking Child into Custody

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

(f) Shelter Care

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

(g) Emergency Medical Treatment

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

(h) CINS Petition

(1) Who May File

A CINS petition may be filed only by an intake officer.
Cross reference: See Code, Courts Article, §3-8A-13 (b).

(2) Where Filed

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

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

(3) When Filed

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

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

(4) Form and Content

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

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

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

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

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

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

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

(5) Copies

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

(i) Summons; Service

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

(j) Subpoenas

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

(k) Initial Appearance Hearing

The court may hold an initial hearing to ensure service and provide notice of the right to counsel in accordance with Rule 11-412.

(l) Response to CINS Petition; Admission

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

(m) Amendments

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

(n) Study; Examination

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

(o) Discovery

(1) Generally

Without the necessity of a request, the petitioner shall furnish to the defense (A) all material or information in any form, whether or not admissible, that is possessed by or is in the control of the Department of Juvenile Services and that (i) the petitioner intends to offer into evidence or (ii) tends to negate the allegations of the petition or mitigate the severity of a disposition, and (B) all written and oral statements of the child that relate to the allegations of the petition and all material and information that relate to the acquisition of such statements. For good cause, the court may require such other

disclosures and inspections as justice may require.

(2) Matters Not Required to Be Disclosed

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

(3) Time for Completion

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

(4) Disclosures Not to Be Filed with the Court

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

(5) Failure to Comply

The failure of a party to comply with a disclosure

obligation does not automatically disqualify a witness from testifying. If a motion is filed to disqualify the witness, disqualification is within the discretion of the court.

(p) Hearings - Generally

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

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

(q) Adjudicatory Hearing

(1) Requirement; Purpose

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

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

(2) Timing

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

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

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

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

(3) Evidence; Standard of Proof

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

(r) Adjudication; Adjudicatory Order

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

(s) Disposition Hearing and Order

(1) Generally

Unless a CINS petition is dismissed, the court shall

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

(2) Scheduling

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

(3) Priorities in Disposition

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

(4) Procedure

If a judge conducts the hearing, the judge shall enter a written disposition order and shall either file or announce and dictate into the record (A) a statement of reasons for any order

that includes placement of the child outside the child's home, and (B) a statement of each condition for any probation. If a magistrate conducts the hearing, the proceeding shall be in accordance with Rule 11-103.

(t) Modification or Vacation of Order

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

(u) Termination of Jurisdiction

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

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

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

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

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

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

Section (h) governs the CINS petition and incorporates the provisions of Code, Courts Article, §§3-8A-13 (b), 3-8A-08 (a), and 3-8A-10 regarding the filing of the petition. A Committee note following subsection (h) (3) refers to administrative proceedings and requirements prior to the filing of a CINS petition and the authority of the court to dismiss a petition for failure to comply with the requirements, under certain circumstances. Subsection (h) (4) governs the form and content of the petition and is modeled after the delinquency petition requirements in proposed Rule 11-407 (c). Subsection (h) (5) specifies the number of copies to be provided to the clerk.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ADD new Rule 11-503, as follows:

Rule 11-503. VOLUNTARY PLACEMENT

(a) Applicability; Definitions

(1) Applicability

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

(2) Definitions

In this Rule, the following definitions apply:

(A) Former CINA

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

(B) Voluntary Placement Agreement

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

(C) Voluntary Placement Petition

"Voluntary placement petition" means a petition filed

pursuant to this Rule.

(b) Who May File

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

(c) Where Filed

(1) Child under Age 18

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

(2) Former CINA

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

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

(B) the former CINA receives voluntary placement services.

(3) Transfer

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

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

(d) Caption

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

(e) Content

(1) Child under Age 18

The voluntary placement petition for a child under the age of 18 years shall be accompanied by a copy of the voluntary placement agreement and shall state:

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

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

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

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

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

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

(2) Former CINA

The voluntary placement petition for a former CINA shall

be accompanied by a copy of the voluntary placement agreement and shall state:

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

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

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

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

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

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

(3) Amendment

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

(f) Signature

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

(g) Summons; Service

(1) Summons

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

(2) Service

(A) Generally

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

(B) Child under Age 18

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

(C) Former CINA

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

(h) Response

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

to be withdrawn.

(i) Confidentiality of Records

(1) Generally

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

(2) Sealing

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

(j) Representation of Child or Former CINA

(1) Generally

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

(2) Source of Attorney

Unless the court finds that it would not be in the best interests of the child or former CINA, the court shall (A)

appoint an attorney with whom the Department of Human Services has contracted to provide that service, and (B) if another attorney has entered an appearance for the child or former CINA, strike the appearance of that attorney.

(k) Discovery

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

(l) Study or Examination; Emergency Medical Treatment

(1) Study; Examination

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

(2) Emergency Medical Treatment

The court may order emergency medical, dental, surgical, or psychiatric treatment of a child who is the subject of a petition under this Rule as provided in Code, Courts Article, §3-824 and Rule 11-211.

(m) Hearing

(1) Requirement

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

(2) Findings

(A) Child under Age 18

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

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

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

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

(B) Former CINA

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

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

(3) Review Hearings

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

(n) Disposition

(1) Child under Age 18

Following the hearing for a child under the age of 18 years, the court shall enter an order making a disposition in

accordance with Code, Courts Article, §3-819.1 (b).

(2) Former CINA

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

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

(o) Modification or Vacation of Order

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

(p) Permanency Plan Hearing

(1) Determination of Permanency Plan

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

(2) Periodic Reviews

(A) Once a permanency plan has been approved pursuant to

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

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

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

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

(D) At least every 12 months, the court, at a review hearing, shall consult on the record with the child as required by Code, Courts Article, §3-823 (j).

(q) Continuing Jurisdiction

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

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

Source: This Rule is new.

REPORTER'S NOTE

Proposed Rule 11-503 governs voluntary placement proceedings.

Section (a) states the applicability of the Rule and additional definitions that apply to proceedings under the Rule. Subsection (a)(2)(A) defines a "former CINA" as an individual over the age of 18 years who may be subject to a voluntary placement petition. "Voluntary placement agreement" has the meaning in Code, Family Law Article, §5-501 (m). "Voluntary placement petition" means a petition filed under the Rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section (p) incorporates the provisions of Code, Courts Article, §3-823. A cross reference following subsection

(p) (2) (B) refers to required notice to individuals other than the parties.

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

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

ADD new Rule 11-504, as follows:

Rule 11-504. TRUANCY REDUCTION PILOT PROGRAM

(a) Applicability

This Rule governs Truancy Reduction Pilot Program proceedings under Code, Courts Article, Title 3, Subtitle 8C.

(b) Definition

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

(c) Confidentiality of Records

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

(d) Truancy Petition

(1) Who May File

An authorized school official designated pursuant to an agreement between the court and the local school system may file a petition in the juvenile court alleging a violation of Code,

Courts Article, §3-8C-03.

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

(2) Where Filed

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

(3) Content

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

(e) Summons; Service

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

(f) Response to Petition

A party served with the petition may file a response that admits or denies all or any facts alleged in the petition. A

response shall be in writing and shall be filed within 15 days after service of the petition. Any allegation not admitted in a written response is deemed denied.

(g) Transfer of Proceeding

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

(h) Subpoena

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

(i) Adjudicatory Hearing

(1) Requirement; Purpose

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

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

(2) Burden of Proof

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

(j) Disposition Hearing

(1) Requirement

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

(2) When Held

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

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

(k) Permitted Dispositions

The court may order the child to take one or more of the following actions:

- (1) attend school;
- (2) perform community service;
- (3) attend counseling, including family counseling;

- (4) attend substance abuse evaluation and treatment;
- (5) attend mental health evaluation and treatment; or
- (6) keep a curfew with the hours set by the court.

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

(1) Retention of Jurisdiction

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

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

Section (a) states the applicability of the Rule.

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

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

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

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

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

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

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

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

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

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

Section (1) incorporates the provisions of Code, Courts Article, §3-8C-10, with stylistic changes. A Committee note states that jurisdiction terminates when a child is no longer required to attend school. A cross reference to the Code section follows section (1).

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

ADD new Rule 11-505, as follows:

Rule 11-505. PEACE ORDER PROCEEDINGS

(a) Applicability

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

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

(b) Definition

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

(c) Confidentiality of Records

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

(d) Request for Peace Order

(1) Who May File

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

(2) Where Filed

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

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

(3) Content

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

(4) Summons; Service

Upon the filing of a request, the clerk shall issue a summons for the child, the parent, guardian, or custodian of the child, and the victim to appear for a hearing at the time and place stated in the summons. The request and summons shall be served on the child and the parent, guardian, or custodian of the child pursuant to Rule 2-121. The summons shall be served on the victim. If the summons is not served within 180 days, the court shall dismiss the request.

(e) Right to Hearing

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

(f) Issuance of Peace Order

(1) Findings

The court may issue a peace order if:

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

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

(2) Order by Magistrate

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

(g) Forms of Relief

(1) Generally

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

(2) Limitations

(A) The order shall contain only the relief that is minimally necessary to protect the victim.

(B) Relief granted in the peace order shall be effective

for the period stated in the order, not to exceed six months.

(h) Service of Peace Order

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

(i) Modification; Rescission

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

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

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

Subsection (d) (1) states that a request for a peace order may be filed by an intake officer or a State's Attorney pursuant to Code, Courts Article, §3-8A-19.1 (b). Subsection (d) (2) incorporates the provisions of Code, Courts Article, §3-8A-08 (c), with stylistic changes. Subsection (d) (3) provides that the request must allege that the child committed one or more of the acts listed in Code, Courts Article, §3-8A-19.1 (b) against a victim within 30 days before the filing of the request. Subsection (d) (4) requires a summons to be issued for the child, the parent, guardian, or custodian of the child, and the victim. The peace order request and summons are served on the child and the parent, guardian, or custodian of the child pursuant to Rule 2-121. The summons is served on the victim. If the summons is not served within 180 days, the court must dismiss the request.

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

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

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

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

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

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

Add Rule 11-506, as follows:

RULE 11-506. EXPUNGEMENT

(a) Applicability

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

(b) Definitions

In this Rule, the following definitions apply:

(1) Expungement

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

(A) by obliteration;

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

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

(2) Juvenile Record

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

(3) Petition

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

(4) Petitioner

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

(5) Victim

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

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

(c) Venue

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

to which the case was transferred.

(d) Service

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

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

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

(3) the State's Attorney.

(e) Content

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

(f) Objection

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

(g) Hearing

(1) On Own Initiative

The court may hold a hearing on its own initiative, whether or not an objection is filed.

(2) If Objection Filed

Except as provided in subsection (g)(4) of this Rule,

the court shall hold a hearing if an objection is filed within 30 days after the petition is served.

(3) If No Objection Filed

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

(4) Facially Deficient Petition

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

(h) Grant or Denial of Petition

(1) Expungement Granted

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

(2) Expungement Denied

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

(i) Service of Order and Compliance Form

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

(j) Appeal

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

(k) Stay Pending Appeal

(1) Entry

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

(2) Lifting

The court shall lift a stay upon disposition of any appeal or, if no notice of appeal was timely filed, upon expiration of the time prescribed for filing a notice of appeal.

If an order for expungement has been stayed and no appeal is pending, the stay may be lifted upon written consent of the State's Attorney.

(3) Notice

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

(1) Advice of Compliance

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

Source: This Rule is derived from former Rule 11-601 (2021).

REPORTER'S NOTE

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

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

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

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

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

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

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

ADD new Rule 11-507, as follows:

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

(a) Applicability

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

Committee note: The court has concurrent jurisdiction with the District Court and the criminal division of the circuit court over adults charged under Code, Courts Article, §§3-828 and 3-8A-30. See Code, Courts Article, §§3-803 (c), 3-8A-03 (b), and 4-303. The court has concurrent jurisdiction with the District Court over violations arising under Code, Education Article, §7-301. See Code, Courts Article, §§3-8A-03 (c), 4-302 (c), and 4-303.

(b) Definitions

(1) Statutory Definitions

The definitions stated in Code, Courts Article, §§3-801

and 3-8A-01 apply to this Rule, to the extent relevant.

(2) Defendant

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

(c) Confidentiality of Records

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

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

(d) Counsel

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

(e) Pretrial Release

If the defendant was arrested, the defendant shall be presented to a judicial officer in accordance with Rules 4-213, 4-216, 4-216.1, 4-216.2, 4-216.3, and 4-217.

(f) Petition

(1) Charging Document

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

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

(2) Caption

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

(3) Where Filed

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

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

(4) Form and Content

(A) Generally

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

(B) Adult Charged with Contributing

A petition alleging an adult willfully contributed to,

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

(C) Compulsory School Attendance

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

(5) Service

A copy of the petition shall be served on the defendant in accordance with Rule 4-212, and any summons shall be issued in accordance with subsection (b) (2) of that Rule.

(g) Preliminary Hearing

(1) Generally

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

(2) Purpose of Hearing

The purpose of the hearing is:

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

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

(h) Waiver of Jurisdiction

(1) Transfer on Motion

The court shall waive its jurisdiction and transfer the action to the District Court or the criminal division of the circuit court, as permitted by law, on motion of the State's Attorney or the defendant made on the record at a hearing held pursuant to section (g) of this Rule or filed in writing no

later than 30 days prior to the first scheduled trial date. If the defendant files a motion requesting a transfer permitted by law and the State's Attorney files a motion that differs on the choice of transferee court, the State's Attorney's motion shall be denied and the defendant's motion shall be granted.

(2) Court-Initiated Transfer

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

(A) Other Charges Pending

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

(B) Jury Trial Right

If a defendant fails to file a motion during the time period specified in subsection (h)(1), a judge of the court, on the record, shall conduct a hearing, at which the defendant shall be present. At the hearing, the court shall advise the defendant that (i) the defendant has a right to a jury trial, (ii) if the defendant requests a jury trial, the court must grant the request, and (iii) failure to make such a request will constitute a waiver of the right to a jury trial. Unless, after

conducting the inquiry required by Rule 4-246 (b), the court determines that the defendant has knowingly and voluntarily waived the right to a jury trial, the court shall transfer the action to the criminal division of the circuit court on its own initiative.

(i) Bill of Particulars

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

(j) Plea

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

(k) Discovery

The parties are entitled to discovery in accordance with Rule 4-262.

(l) Trial

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

Source: This Rule is new.

REPORTER'S NOTE

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

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

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

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

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

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

Section (f) governs the petition. Subsection (f)(1) states that the petition constitutes a charging document and must be prepared and filed by the State's Attorney. A cross reference to Code, Courts Article, §3-8A-13 and Rule 4-102 (a) follows the subsection. Subsection (a)(2) provides that the caption for the petition is "In re" and the first and last name of the defendant. Subsection (f)(3) requires the petition to be filed

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

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

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

Subsection (h)(1) pertains to transfer on motion of a party. It states that the court shall waive its jurisdiction on motion of either the State or the defendant. Mandatory transfer on motion of either the State or the defendant is required by Code, Courts Article, §§3-803 (c) and 3-8A-03 (b). The motion may be made on the record at the preliminary hearing or in writing no later than 30 days prior to the first scheduled trial date. In cases where the District Court and the criminal division of the circuit court have concurrent jurisdiction, and the State and defendant differ on the choice of transferee court, the Rule provides that the defendant's choice prevails.

Subsection (h)(2) pertains to court-initiated transfers that may be made when a defendant is charged with contributing to a child being CINA, CINS, or delinquent. Pursuant to subsection (h)(2)(A), the juvenile court may waive its jurisdiction on its own initiative if other charges relating to the incident are pending in the District Court or the criminal division of the circuit court and transfer the matter to that court. Additionally, if the defendant is charged with a

violation of Code, Courts Article, §3-828 or §3-8A-30 and did not file a waiver motion in the specified time, subsection (h)(2)(B) requires the court to hold a hearing at which it informs the defendant of the right to a jury trial, of the right to file a request for a jury trial, which the court must grant, and that failure to make the request will constitute a waiver of the right to a jury trial. Unless, using the inquiry required by Rule 4-246 (b), the juvenile court determines that the defendant is making a knowing and voluntary waiver of the right to a jury trial, the court must transfer the matter to the criminal division of the circuit court for a jury trial.

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

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

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

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

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

ADD new Form 11-506.1, as follows:

Form 11-506.1. PETITION FOR EXPUNGEMENT OF JUVENILE RECORDS

(Caption)

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

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

_____, I was [] arrested or [] served
(Date)

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

at _____, Maryland, as a
result of the following incident _____

_____.

2. I was charged with the offense of _____

_____.

3. On or about _____, the charge was

(Date)

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

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

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

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

against me.

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

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

I solemnly affirm under the penalties of perjury that the contents of this petition are true to the best of my knowledge,

information, and belief.

_____	_____
(Date)	(Signature)

	(Address)

	(Telephone No.)

REPORTER'S NOTE

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

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

ADD new Form 11-506.2, as follows:

Form 11-506.2. ORDER FOR EXPUNGEMENT OF JUVENILE RECORDS

(Caption)

ORDER FOR EXPUNGEMENT OF JUVENILE RECORDS

Having found that _____
(Name)

of _____
(Address)

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

Court for _____

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

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

ORDERED that the clerk forthwith shall have a copy of this

Order served by certified mail on or delivered to all family members of the victim, who are designated in the court file as having attended the adjudication for the case in which the person is seeking expungement; and it is further

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

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

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

ORDERED that this Order

[] is stayed pending further order of the court.

[] is not stayed.

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

ADD new Form 11-506.3, as follows:

Form 11-506.3. CERTIFICATE OF COMPLIANCE

(CAPTION)

CERTIFICATE OF COMPLIANCE

On this _____ day of _____, _____, I have
(Month) (Year)

complied with the Order for Expungement of Records dated
_____ entered in the above-captioned case.

Custodian

Signature

Title

REPORTER'S NOTE

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

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-101 by revising the Juvenile Causes exception in section (b) to refer to new Chapters 100, 200, 400, and 500 of Title 11; by revising the applicability of Title 9 in section (i) to conform to revisions to that Title; and by revising the applicability of Title 11 in section (k) to confirm to the revisions to that Title, as follows:

Rule 1-101. APPLICABILITY

. . .

(b) Title 2

Title 2 applies to civil matters in the circuit courts, except for Juvenile Causes under Title 11, Chapters 100, 200, 400, and 500 of these Rules and except as otherwise specifically provided or necessarily implied.

. . .

(i) Title 9

Title 9 applies to proceedings under Code, Family Law Article, Title 5, Subtitle 3, Parts III and IV (Adoption without Prior Termination of Parental Rights and Adoption after Termination of Parental Rights); proceedings under Code, Family

Law Article, Title 5, Subtitles ~~3 (Guardianship to and Adoption through Local Department)~~, 3A (Private Agency Guardianship and Adoption)~~7~~ and 3B (Independent Adoption); proceedings for termination of parental rights under Code, Family Law Article, Title 5, Subtitle 14; proceedings relating to divorce, annulment, alimony, child support, and child custody and visitation; and proceedings under Code, Family Law Article, Title 4, Subtitle 5 (Domestic Violence).

. . .

(k) Title 11

Title 11 applies to juvenile causes and expungement of juvenile records under Code, Courts Article, Title 3, Subtitles 8, and 8A, and 8C; public agency guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II; and criminal proceedings against an adult under Code, Courts Article, §§3-828 and 3-8A-30 and Code, Education Article, §7-301.

. . .

REPORTER'S NOTE

Proposed conforming amendments to Rule 1-101 reflect the Rules Committee's recommendation to rescind current Title 11 (Juvenile Causes) and replace it with a new Title 11 consisting of five chapters: Chapter 100 (General Provisions), Chapter 200 (Child in Need of Assistance), Chapter 300 (Guardianship Terminating Parental Rights), Chapter 400 (Delinquency and Citation Proceedings), and Chapter 500 (Other Proceedings).

Section (b) is amended to state that the Rules in Title 2 do not apply to juvenile causes under Title 11, Chapters 100, 200, 400, and 500. The Rules in Title 2 are applicable in Chapter 300 proceedings.

Section (i) is amended to reflect that public agency guardianships terminating parental rights under Code, Family Law Article, Title 5, Subtitle 3, Part II, are removed from Title 9, Chapter 100 and placed in Title 11, Chapter 300. The remaining proceedings under Code, Family Law Article, Title 5, Subtitle 3 continue to be governed by the Rules in Title 9.

Section (k) is amended to reflect additional proceedings governed by the Rules in revised Title 11, including public agency guardianships, truancy reduction proceedings, and criminal proceedings against adults charged in juvenile court.

MARYLAND RULES OF PROCEDURE

TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT

CHAPTER 100 - COMMENCEMENT OF ACTION AND PROCESS

AMEND Rule 2-111 by updating the Committee note following section (a), as follows:

Rule 2-111. PROCESS - REQUIREMENTS PRELIMINARY TO SUMMONS

(a) Information Report

Except as otherwise provided by administrative order of the Chief Judge of the Court of Appeals approved by the Court of Appeals, the plaintiff shall file with the complaint an information report substantially in the form available from the clerk pursuant to 16-302 (b). If the plaintiff fails to file a required information report with the complaint, the court may proceed without the plaintiff's information to assign the action to any track within the court's differentiated case management system.

Committee note: By revised administrative order of the Chief Judge approved by the Court of Appeals on December 2, 2005 effective December 2, 2005, an information report is not required to be filed with a complaint within the following categories:

. . .

(11) Juvenile cause, other than action to terminate parental rights and related adoption or to expunge criminal record (Rules 11-101 through 11-122), which procedures currently are set forth

in Rules 11-101 through 11-220, 11-401 through 11-425, and 11-501 through 11-505; and

. . .

REPORTER'S NOTE

A proposed conforming amendment to Rule 2-111 reflects the Rules Committee's recommendation to rescind current Title 11 (Juvenile Causes) and replace it with a new Title 11 consisting of five chapters: Chapter 100 (General Provision), Chapter 200 (Child in Need of Assistance), Chapter 300 (Guardianship Terminating Parental Rights), Chapter 400 (Delinquency and Citation Proceedings), and Chapter 500 (Other Proceedings). The Committee note following section (a) is based upon a 2005 Administrative Order. Paragraph (11) of the Committee note is updated to reflect the revised numbering of the Rules in Title 11.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 100 - GENERAL

AMEND Rule 4-101 by updating a cross reference, as follows:

Rule 4-101. APPLICABILITY

The rules in this Title govern procedure in all criminal matters, post conviction procedures, and expungement of records in both the circuit courts and the District Court, except as otherwise specifically provided.

Cross reference: See Rules 4-501 and ~~11-601~~ 11-506 concerning expungement of juvenile records.

Source: This Rule is derived from former Rule 701 and M.D.R. 701.

REPORTER'S NOTE

The proposed conforming amendment to Rule 4-101 updates the cross reference to the Rule governing expungement of juvenile records to proposed new Rule 11-506.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-501 by updating an internal reference, as follows:

Rule 4-501. APPLICABILITY

The procedure provided by this Chapter is exclusive and mandatory for use in all judicial proceedings for expungement of records whether pursuant to Code, Criminal Procedure Article, §§10-102 through 10-109 or otherwise, except that expungement of juvenile records is governed by ~~Rule 11-601~~ Rule 11-506.

Source: This Rule is derived from former Rule EX2.

REPORTER'S NOTE

The proposed conforming amendment to Rule 4-501 updates the reference to the Rule governing expungement of juvenile records to proposed new Rule 11-506.

MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 5-101 by conforming it to the evidentiary provisions set forth in Rule 11-101 (b), as follows:

Rule 5-101. SCOPE

. . .

(b) Rules Inapplicable

The rules in this Title other than those relating to the competency of witnesses do not apply to the following proceedings:

- (1) Proceedings before grand juries;
- (2) Proceedings for extradition or rendition;
- (3) Direct contempt proceedings in which the court may act summarily;
- (4) Small claim actions under Rule 3-701 and appeals under Rule 7-112 (d) (2);
- (5) Issuance of a summons or warrant under Rule 4-212;
- (6) Pretrial release under Rule 4-216, 4-216.1, 4-216.2, or 4-216.3 or release after conviction under Rule 4-349;
- (7) Preliminary hearings under Rule 4-221;
- (8) Post-sentencing procedures under Rule 4-340;

(9) Sentencing under Rule 4-342;

(10) Issuance of a search warrant under Rule 4-601;

(11) Detention and shelter care hearings under ~~Rule 11-112~~
Title 11, Chapters 200 and 400; and

(12) Emergency hearing proceedings following the removal of
a child from a court-ordered placement under Title 11, Chapters
200 and 300;

(13) Guardianship review hearings under Rule 11-316; and

~~(12)~~ (14) Any other proceeding in which, prior to the
adoption of the rules in this Title, the court was traditionally
not bound by the common-law rules of evidence.

(c) Discretionary Application

In the following proceedings, the court, in the interest
of justice, may decline to require strict application of the
rules in this Title other than those relating to the competency
of witnesses:

(1) The determination of questions of fact preliminary to
admissibility of evidence when the issue is to be determined by
the court under Rule 5-104 (a);

(2) Proceedings for revocation of probation under Rule 4-
347;

(3) Hearings on petitions for post-conviction relief under
Rule 4-406;

(4) Plenary proceedings in the Orphans' Court under Rule 6-

462;

~~(5) Waiver hearings under Rule 11-113;~~

~~(6) Disposition hearings under Rule 11-115, including permanency planning hearings under Code, Courts Article, §3-823;~~

~~(7) Modification hearings under Rule 11-116;~~

(5) Proceedings under Title 11 of these Rules except proceedings listed in section (b) of this Rule and proceedings listed in Rule 11-101 (b) (2) in which strict application of the Rules in this Title is required;

~~(8) (6) Catastrophic health emergency proceedings under Title 15, Chapter 1100; and~~

~~(9) (7) Hearings on petitions for coram nobis under Rule 15-1206; and~~

~~(10) (8) Any other proceeding in which, prior to the adoption of the rules in this Title, the court was authorized to decline to apply the common-law rules of evidence.~~

(d) Privileges

In all actions and proceedings, lawful privileges shall be respected.

Source: This Rule is derived in part from Uniform Rule of Evidence 1101 and is in part new.

REPORTER'S NOTE

Proposed amendments to Rule 5-101 update references to Title 11 proceedings in section (b), "Rule Inapplicable," and section (c), "Discretionary Application," to conform Rule 5-101 to the evidentiary provisions set forth in Rule 11-101 (b). See the Reporter's note to Rule 11-101.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF
SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-202 by adding references to Rule 11-218 to
section (c), as follows:

Rule 8-202. NOTICE OF APPEAL - TIMES FOR FILING

. . .

(c) Civil Action--Post-Judgment Motions

In a civil action, when a timely motion is filed pursuant to Rule 2-532, 2-533, ~~or~~ 2-534, or 11-218, the notice of appeal shall be filed within 30 days after entry of (1) a notice withdrawing the motion or (2) an order denying a motion pursuant to Rule 2-533 or disposing of a motion pursuant to Rule 2-532, ~~or~~ 2-534, or 11-218. A notice of appeal filed before the withdrawal or disposition of any of these motions does not deprive the trial court of jurisdiction to dispose of the motion. If a notice of appeal is filed and thereafter a party files a timely motion pursuant to Rule 2-532, 2-533, ~~or~~ 2-534, or 11-218, the notice of appeal shall be treated as filed on the same day as, but after, the entry of a notice withdrawing the motion or an order disposing of it.

Committee note: A motion filed pursuant to Rule 2-535, if filed within ten days after entry of judgment, will have the same effect as a motion filed pursuant to Rule 2-534, for purposes of this Rule. *Unnamed Att'y v. Attorney Grievance Comm'n*, 303 Md. 473, 494 A.2d 940 (1985); *Sieck v. Sieck*, 66 Md.App. 37, 502 A.2d 528 (1986).

. . .

REPORTER'S NOTE

Proposed amendments to Rule 8-202 add Rule 11-218 to the post-judgment motions referenced in section (c).

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

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MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-101 by renaming Title 9, Chapter 100 to "ADOPTION; PUBLIC AGENCY GUARDIANSHIP;" by altering section (a) to reference Code, Family Law Article, Title 5, Subtitle 3, Parts III and VI; by specifying that the Rules in Title 9 do not govern proceedings under Code, Family Law Article, Title 5, Subtitle 3, Part II; by revising the cross reference to state the new location of the Rules governing guardianships terminating parental rights; by deleting the definition of Public Agency Guardianship in subsection (b) (6); and by making stylistic changes, as follows:

Rule 9-101. APPLICABILITY; DEFINITIONS

(a) Applicability

The Rules in this Chapter apply to proceedings under Code, Family Law Article, Title 5, Subtitle 3, Parts III and IV (Adoption without Prior Termination of Parental Rights and Adoption after Termination of Parental Rights) and Subtitles 3 ~~(Guardianship to and Adoption through Local Department)~~, 3A (Private Agency Guardianship and Adoption),~~7~~ and 3B (Independent

Adoption). They do not apply to proceedings under Code, Family Law Article, Title 5, Subtitle 3, Part II (Guardianship) or Subtitle 14 (Child Conceived without Consent).

Cross reference: See Title 11, Chapter 300 for Rules dealing with public agency guardianship proceedings under Code, Family Law Article, Title 5, Subtitle 3, Part II. See Chapter 400 of this Title for Rules dealing with termination of parental rights proceedings under Code, Family Law Article, Title 5, Subtitle 14.

Committee note: The Rules in this Chapter do not apply to the guardianship of persons and property of minors and disabled persons governed by Code, Estates and Trusts Article, §13-101 et seq.

(b) Definitions

The terms used in this Chapter that are defined in Code, Family Law Article, Titles 1 and 5 shall have the meanings stated in those titles. In addition, in this Chapter, the following definitions apply except as expressly otherwise provided or as necessary implication requires.

. . .

~~(6) Public Agency Guardianship~~

~~"Public Agency Guardianship" means a guardianship under Code, Family Law Article, Title 5, Subtitle 3, Part II.~~

~~(7)~~ (6) TPR

"TPR" means termination of parental rights.

Source: This Rule is in part derived from former Rule D71 and is in part new.

REPORTER'S NOTE

Proposed new Title 11, Chapter 300 applies to public agency guardianships terminating parental rights, which are currently governed by the Rules in Title 9, Chapter 100. These guardianships are filed in juvenile court, and the Rules Committee recommends their removal from the Title 9 Rules and their placement in the new Title 11 Rules.

"Guardianship Terminating Parental Rights" is deleted from the Chapter title and substituted with "Private Agency Guardianship."

The proposed amendments to the Rules and Forms in Title 9 remove references to Public Agency Guardianships contained in Code, Family Law Article, Title 5, Subtitle 3, Part II and currently governed by the Rules in Title 9, Chapter 100.

Section (a) is amended to remove Part II Guardianships from Title 9 and state that the Rules in Title 9, Chapter 100 apply to proceedings under Parts III and IV. The amendments clarify that the Rules in Title 9 do not govern Part II Guardianships, and an updated cross reference states that the Rules governing those guardianships are located in Title 11.

Amendments to section (b) delete the definition of "Public Agency Guardianship" in subsection (b)(6) and renumber subsection (b)(7) as subsection (b)(6).

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-102 by deleting certain statutory references from the cross reference following section (a), by deleting a form reference from subsection (b) (1), by renumbering forms referenced in subsections (b) (1) through (b) (3), by deleting a statutory reference in subsection (c) (1) (A), and by making stylistic changes, as follows:

Rule 9-102. CONSENTS; REVOCATION OF CONSENT

(a) Consents Generally Required

Except when otherwise permitted, a judgment of adoption or guardianship may not be entered without the consents prescribed by Code, Family Law Article.

Cross reference: For provisions governing the authority to grant guardianships or adoptions and the validity of consents, see Code, Family Law Article, ~~§§5-320 and 5-321 as to a Public Agency Guardianship;~~ §§5-338 and 5-339 as to a Public Agency Adoption without Prior TPR; 5-350 and 5-351 as to a Public Agency Adoption after TPR; 5-3A-18 and 5-3A-19 as to a Private Agency Guardianship; 5-3A-35 as to a Private Agency Adoption; and 5-3B-20 and 5-3B-21 as to an Independent Adoption.

(b) Form of Consents, Affidavits of Attorneys, and Disclosure Vetoes

(1) Consent of Parent

If signed on or after July 1, 2007, the consent of a parent to a guardianship or to an adoption shall be substantially in the applicable form set forth at the end of this Title as ~~Form 9-102.1 (Consent of Parent to a Public Agency Guardianship)~~, Form ~~9-102.2~~ 9-102.1 (Consent of Parent to a Private Agency Guardianship), Form ~~9-102.3~~ 9-102.2 (Consent of Parent to a Public Agency Adoption without Prior TPR), Form ~~9-102.4~~ 9-102.3 (Consent of Parent to an Independent Adoption with Termination of Parental Rights), or Form ~~9-102.5~~ 9-102.4 (Consent of Parent to an independent Adoption without Termination of Parental Rights).

(2) Consent of Child to Adoption

If signed on or after July 1, 2007, the consent of a child to an adoption shall be substantially in the applicable form set forth at the end of this Title as Form ~~9-102.6~~ 9-102.5 (Consent of Child to a Public Agency Adoption or Private Agency Adoption) or Form ~~9-102.7~~ 9-102.6 (Consent of Child to an Independent Adoption).

(3) Attorney Affidavit

When required and if signed on or after July 1, 2007, the affidavit by an attorney as to the validity of the consent of a parent to a guardianship or adoption or a child to an adoption shall be substantially in the applicable form set forth

at the end of this Title as Form ~~9-102.8~~ 9-102.7 (Attorney Affidavit as to Consent of a Parent to a ~~Public Agency Guardianship~~ or Private Agency Guardianship), Form ~~9-102.9~~ 9-102.8 (Attorney Affidavit as to Consent of a Parent to Adoption), or Form ~~9-102.10~~ 9-102.9 (Attorney Affidavit as to Consent of a Child to Adoption).

Cross reference: See Rule 9-106 (c).

(4) Disclosure Vetoes

The disclosure vetoes that are required to be attached to the consent forms may be found on the website of the Maryland Department of Human Services.

(c) Revocation of Consent

(1) Time for Revocation of Consent

(A) By a Parent

The time for revocation of consent by a parent is as provided in Code, Family Law Article, ~~§5-321 (Public Agency Guardianship)~~, §5-339 (Public Agency Adoption without Prior TPR), §5-3A-19 (Private Agency Guardianship), and §5-3B-21 (Independent Adoption).

. . .

(2) Procedure for Revocation of Consent

. . .

(B) By Agency, Guardian, or Adoptee

An agency, guardian, or adoptee may revoke consent to

an adoption by (i) in person or through counsel on the record at a hearing or (ii) in a writing signed by the executive head of the agency, the guardian, or the adoptee and filed with the court. If the revocation is delivered to an agent of a public or private agency, the agent shall deliver the revocation promptly to the court.

Cross reference: See Rule 9-112.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 9-102 reflect the Rules Committee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

Section (a) is amended to remove the reference to Code, Family Law Article, §§5-320 and 5-321 in the cross reference.

Section (b) is amended to remove the reference to Form 9-102.1 (Consent of Parent to a Public Agency Guardianship), which is revised and moved to Title 11, Chapter 300. The remaining forms are renumbered to reflect the deletion.

Section (c) is amended to delete a reference to Code, Family Law Article, §5-320 in subsection (c)(1)(A) and add the word "see" to the cross reference following subsection (c)(2)(B).

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-103 by deleting certain statutory references from the cross references following subsections (b) (2) (A) (viii) and (b) (2) (A) (ix); by deleting subsection (b) (2) (A) (xiv) (1); by renumbering current subsections (b) (2) (A) (xiv) (2) and (b) (2) (A) (xiv) (3) as subsections (b) (2) (A) (xiv) (1) and (b) (2) (A) (xiv) (2), respectively; by deleting subsection (b) (2) (B) (iv) (1); by renumbering current subsections (b) (2) (B) (iv) (2), (b) (2) (B) (iv) (3), and (b) (2) (B) (iv) (4) as subsection (b) (2) (B) (iv) (1), (b) (2) (B) (iv) (2), and (b) (2) (B) (iv) (3), respectively; and by deleting a statutory reference in the cross reference following section (c), as follows:

Rule 9-103. PETITION

. . .

(b) Petition for Adoption

. . .

(2) Exhibits

(A) The following documents shall accompany the petition as exhibits:

. . .

(viii) The original of all consents to the adoption, any required affidavits of translators or attorneys, and, if available, a copy of any written statement by the consenting person indicating a desire to revoke the consent, whether or not that statement constitutes a valid revocation;

Cross reference: See Code, Family Law Article, ~~§§5-313, 5-320, and 5-321~~ as to a Public Agency Guardianship; §§5-331, 5-338, and 5-339 as to a Public Agency Adoption without Prior TPR; 5-345, 5-350, and 5-351 as to a Public Agency Adoption after TPR; 5-3A-13, 5-3A-18, and 5-3A-19 as to a Private Agency Guardianship; 5-3A-35 as to a Private Agency Adoption; and 5-3B-20 and 5-3B-21 as to an Independent Adoption.

(ix) If applicable, proof of guardianship or relinquishment of parental rights granted by an administrative, executive, or judicial body of a state or other jurisdiction; a certification that the guardianship or relinquishment was granted in compliance with the jurisdiction's laws; and any appropriate translation of documents required to allow the child to enter the United States;

Cross reference: See, Code, Family Law Article, ~~§§5-305, 5-313, and 5-320~~ as to a Public Agency Guardianship; §§5-305, 5-331, and 5-338 as to a Public Agency Adoption without Prior TPR; 5-305 and 5-345 as to a Public Agency Adoption after TPR; 5-3A-05, 5-3A-13, and 5-3A-18 as to a Private Agency Guardianship; 5-3A-05 as to a Private Agency Adoption; and 5-3B-04 and 5-3B-20 as to an Independent Adoption.

. . .

(xiv) If required, a notice of filing as prescribed by Code, Family Law Article:

~~(1) §5-313 in a Public Agency Guardianship;~~

~~(2)(1) §5-331 in a Public Agency Adoption without Prior TPR; or~~

~~(3)(2) §5-345 in a Public Agency Adoption after TPR.~~

(B) The following documents shall be filed before a judgment of adoption is entered:

. . .

(iv) An affidavit of counsel for a parent, if required by Code, Family Law Article:

~~(1) §§5-307 and 5-321 in a Public Agency Guardianship;~~

~~(2)(1) §§5-307 and 5-339 in a Public Agency Adoption without Prior TPR;~~

~~(3)(2) §§5-3A-07 and 5-3A-19 in a Private Agency Guardianship; or~~

~~(4)(3) §§5-3B-06 and 5-3B-21 in an Independent Adoption.~~

. . .

(c) Petition for Guardianship

A petition for guardianship shall state all facts required by subsection (b) (1) of this Rule, to the extent that the requirements are applicable and known to the petition. It

shall be accompanied by all documents required to be filed as exhibits by subsection (b) (2) of this Rule, to the extent the documents are applicable. The petition shall also state the license number of the child placement agency.

Cross reference: See, Code, Family Law Article, ~~§§5-313 as to a Public Agency Guardianship~~ and §5-3A-13 as to a Private Agency Guardianship.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 9-103 reflect the Rules Committee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

Section (b) is amended to remove references to statutes in Code, Courts Article, Title 5, Subtitle 3, Part II from the cross references following subsections (b) (2) (A) (viii) and (b) (2) (A) (ix). Subsection (b) (2) (A) (xiv) (1) is deleted, and subsections (b) (2) (A) (xiv) (2) and (b) (2) (A) (xiv) (3) are renumbered as subsections (b) (2) (A) (xiv) (1) and (b) (2) (A) (xiv) (2). Subsection (b) (2) (B) (iv) (1) is deleted and subsections (b) (2) (B) (iv) (2), (b) (2) (B) (iv) (3), and (b) (2) (B) (iv) (4) are renumbered as subsections (b) (2) (B) (iv) (1), (b) (2) (B) (iv) (2), and (b) (2) (B) (iv) (3), respectively.

Section (c) is amended to delete reference to Code, Family Law Article, §5-313 from the cross reference.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-104 by deleting subsection (a)(1); by renumbering subsections (a)(2) through (a)(6) as subsections (a)(1) through (a)(5), respectively; and by deleting "guardianship or" from section (b), as follows:

Rule 9-104. NOTICE OF FILING OF PETITION; STATUS CONFERENCE

(a) Notice of Filing of Petition

Notice of the filing of a petition for guardianship or adoption shall be given as required by Code, Family Law Article:

- ~~(1) §5-315 in a Public Agency Guardianship;~~
- ~~(2)~~ (1) §5-333 in a Public Agency Adoption without Prior TPR;
- ~~(3)~~ (2) §5-346 in a Public Agency Adoption after TPR;
- ~~(4)~~ (3) §5-3A-14 in a Private Agency Guardianship;
- ~~(5)~~ (4) §5-3A-30 in a Private Agency Adoption;
- ~~(6)~~ (5) §5-3B-14 in an Independent Adoption.

(b) Status Conference

In a public agency ~~guardianship or~~ adoption, at the time the notice of filing is sent, the court shall schedule a status conference no later than 60 days after the filing of the

petition.

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 9-104 reflect the Rules Committee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

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

The words "guardianship or" are deleted from section (b).

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-105 by deleting subsection (a) (1); by renumbering subsections (a) (2) through (a) (4) as subsections (a) (1) through (a) (3), respectively; by deleting certain statutory references from the cross reference following subsection (b) (2) (D); by deleting subsection (c) (1) (A), by renumbering subsections (c) (1) (B) through (c) (1) (D) as subsections (c) (1) (A) through (c) (1) (C), respectively; by deleting "guardianship or" from subsection (c) (3); by deleting language relating to Public Agency Guardianship from the form in section (e); by deleting language relating to Public Agency Guardianship from the form in section (f); by deleting subsection (g) (1), and by renumbering subsections (g) (2) through (g) (4) as subsections (g) (1) through (g) (3), respectively; as follows:

Rule 9-105. SHOW CAUSE ORDER; DISABILITY OF A PARTY; OTHER NOTICE

(a) Requirement for Show Cause Order

Promptly upon the filing of a petition for adoption or

guardianship, the court shall issue a show cause order in substantially the form set forth in section (e) of this Rule when required by Code, Family Law Article:

- ~~(1) §5-316 in a Public Agency Guardianship;~~
- ~~(2)~~ (1) §5-334 in a Public Agency Adoption without Prior TPR;
- ~~(3)~~ (2) §5-3A-15 in a Private Agency Guardianship;
- ~~(4)~~ (3) §5-3B-14 in an Independent Adoption.

If the petition seeks adoption of a minor, the show cause order shall not divulge the name of the petitioner. If the petition seeks appointment of a guardian, the show cause order shall state the name of the child placement agency seeking guardianship.

(b) Appointment of Attorney for Disabled Party

(1) If the parties agree that a party who is not represented has a disability that makes the party incapable of consenting or participating effectively in the proceeding, the court shall appoint an attorney who shall represent the disabled party throughout the proceeding.

(2) If there is a dispute as to whether a party who is not represented has a disability that makes the party incapable of consenting or participating effectively in the proceeding, the court shall:

- (A) hold a hearing promptly to resolve the dispute;
- (B) appoint an attorney to represent the alleged disabled

party at that hearing;

(C) provide notice of that hearing to all parties; and

(D) if the court finds at the hearing that the party has such a disability, appoint an attorney who shall represent the disabled party throughout the proceeding.

Cross reference: See Code, Family Law Article, ~~§§5-307 as to a Public Agency Guardianship;~~ §§5-307 as to a Public Agency Adoption without Prior TPR; 5-3A-07 as to a Private Agency Guardianship; and 5-3B-06 as to an Independent Adoption. For eligibility of an individual for representation by the Office of the Public Defender, see Code, Family Law Article, §5-307 and Code, Criminal Procedure Article, §16-204..

(c) Service of Show Cause Order

(1) Method of Service

The show cause order shall be served on those persons and in the manner required by Code, Family Law Article:

~~(A) §5-316 in a Public Agency Guardianship;~~

~~(B)~~ (A) §5-334 in a Public Agency Adoption without Prior TPR;

~~(C)~~ (B) §5-3A-15 in a Private Agency Guardianship; or

~~(D)~~ (C) §5-3B-15 in an Independent Adoption.

(2) Time for Service

Unless the court orders otherwise, a show cause order shall be service within 90 days after the date it is issued. If service is not made within the period, a new show cause order shall be issued at the request of the petition.

(3) Notice of Objection

A show cause order shall be served with two copies of a pre-captioned notice of objection form in substantially the form set forth in section (f) of this Rule. In a public agency ~~guardianship or~~ adoption, a copy of the petition shall be attached.

. . .

(e) Form of Show Cause Order

Except as provided in section (g) of this Rule, the show cause order shall be substantially in the following form:

IMPORTANT

THIS IS A COURT ORDER. IF YOU DO NOT UNDERSTAND WHAT THE ORDER SAYS, HAVE SOMEONE EXPLAIN IT TO YOU. YOUR RIGHT TO AN ATTORNEY IS EXPLAINED IN PARAGRAPH 3 OF THIS ORDER. IF YOU DO NOT MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN PARAGRAPH 2 OF THIS ORDER, YOU HAVE AGREED TO A TERMINATION OF YOUR PARENTAL RIGHTS.

(Note to Drafter of Show Cause Order: For the form of the caption of the Show Cause Order, see Rule 9-103 (a).)

SHOW CAUSE ORDER

TO:

(Name of Person to be Served)

(Address, including County)

(Relationship of person served to individual who is the subject of the proceeding)

. . .

(Note to Drafter of Show Cause Order: Include only those of the

following paragraphs that are applicable to the type of guardianship or adoption proceeding that has been filed.)

~~{In a Public Agency Guardianship:}~~

~~— You are a parent of the person for whom a guardian is sought and:~~

~~— (A) you are under 18 years of age; or~~

~~— (B) you have a disability that makes you unable to participate effectively in the case; or~~

~~— (C) you object to the guardianship and cannot afford to hire an attorney because you are indigent.~~

. . .

(f) Form of Notice of Objection

The notice of objection shall be substantially in the following form:

(Note to Drafter of the Notice of Objection/Request for Appointment of Attorney: For the caption of the form, see Rule 9-103 (a).)

NOTICE OF OBJECTION/REQUEST FOR APPOINTMENT OF ATTORNEY

(Instructions to the person served with the show cause order:

IF YOU WISH TO OBJECT, YOU MUST MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN THE SHOW CAUSE ORDER. You may use this form to do so. You need only sign this form, print or type your name, address, and telephone number underneath your signature, and mail or deliver it to the court at the address shown in paragraph 2 of

the show cause order. **IF THE COURT HAS NOT RECEIVED YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN PARAGRAPH 2 OF THE SHOW CAUSE ORDER, YOU HAVE AGREED TO A THE TERMINATION OF YOUR PARENTAL RIGHTS.** If you wish to state your reasons, you may state them on this sheet.)

1. I object to the _____ of the
(Adoption/Guardianship)

above-named individual. My reasons for objecting are as follows:

2. I do/do not want the Court to appoint an attorney to **(Circle one)** represent me. If I circled that I do want the court to appoint an attorney for me, I believe that I am entitled to a court-appointed attorney because:

(Check appropriate box or boxes)

(Note to Drafter of the Notice of Objection/Request for Appointment of Attorney: Include only those of the following paragraphs which are applicable to the type of guardianship or adoption proceeding that has been filed.)

~~**{In a Public Agency Guardianship:}**~~

~~{ } I am the parent of the person for whom a guardian is sought and:~~

~~[] I am under 18 years of age.~~

~~[] I have a disability that makes me unable to participate effectively in the case.~~

~~[] I object to the guardianship and cannot afford to hire an attorney because I am indigent.~~

. . .

(g) Form of Notice for Service by Publication and Posting

The notice for service by publication and posting shall be in the form required by Code, Family Law Article:

~~(1) §5-316 in a Public Agency Guardianship;~~

~~(2)~~ (1) §5-334 in a Public Agency Adoption without Prior TPR;

~~(3)~~ (2) §5-3A-15 in a Private Agency Guardianship; or

~~(4)~~ (3) §5-3B-15 in an Independent Adoption.

Source: This Rule is in part derived from former Rule D74 and is in part new.

REPORTER'S NOTE

Proposed amendments to Rule 9-105 reflect the Rules Committee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

Section (a) is amended to delete subsection (a)(1) and renumber current subsections (a)(2) through (a)(4) as subsections (a)(1) through (a)(3), respectively.

Section (b) is amended to delete a reference to Code, Family Law Article, §5-307 from the cross reference following subsection (b)(2)(D).

Section (c) is amended to delete subsection (c)(1)(A) and renumber current subsections (c)(1)(B) through (c)(1)(D) as subsections (c)(1)(A) through (c)(1)(C), respectively. The words "guardianship or" are deleted from subsection (c)(3).

The form show cause order in section (e) is amended to delete language relating to Public Agency Guardianship.

The form notice of objection in section (f) is amended to delete language relating to Public Agency Guardianship.

Section (g) is amended to delete subsection (g)(1) and renumber current subsections (g)(2) through (g)(4) as subsections (g)(1) through (g)(3), respectively.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-106 by deleting subsection (a) (1); by renumbering subsections (a) (2) through (a) (6) as subsections (a) (1) through (a) (5), respectively; by deleting a statutory reference from the cross reference following section (b); by deleting subsection (c) (1) (A); by renumbering subsections (c) (1) (B) through (c) (1) (D) as subsections (c) (1) (A) through (c) (1) (C), respectively; by deleting subsection (d) (1) (A), and by renumbering subsections (d) (1) (B) and (d) (1) (C) as subsections (d) (1) (A) and (d) (1) (B), respectively, as follows:

Rule 9-106. APPOINTMENT OF ATTORNEY - ATTORNEY AFFIDAVIT - INVESTIGATION

(a) Appointment of Attorney

The court shall appoint an attorney for a party when required by Code, Family Law Article:

- ~~(1) §5-307 in a Public Agency Guardianship;~~
- ~~(2)~~ (1) §5-307 in a Public Agency Adoption without Prior TPR;
- ~~(3)~~ (2) §5-307 in a Public Agency Adoption after TPR;
- ~~(4)~~ (3) §5-3A-07 in a Private Agency Guardianship;

- ~~(5)~~ (4) §5-3A-07 in a Private Agency Adoption; or
- ~~(6)~~ (5) §5-3B-06 in an Independent Adoption.

(b) Payment of Attorney's Fees

Even if the prospective adoptee is not entitled to a court-appointed attorney, the person is entitled to consult an attorney chosen by that person. The adoptive parents or agency may agree to pay all or part of the attorney's fees on behalf of the person, or the court may order the adoptive parents or agency to do so.

Cross reference: See Code, Family Law Article, ~~§§5-309 as to a Public Agency Guardianship;~~ §§5-309 as to a Public Agency Adoption without Prior TPR; 5-3A-09 as to a Private Agency Guardianship; and 5-3B-08 as to an Independent Adoption.

(c) Affidavit of Attorney

(1) With a Parental Consent

The attorney shall file an affidavit in the applicable form set forth at the end of this Title with a consent signed by a parent when required by Code, Family Law Article;

~~(A) §5-321 in a Public Agency Guardianship;~~

~~(B)~~ (A) §5-339 in a Public Agency Adoption without Prior TPR;

~~(C)~~ (B) §5-3A-19 in a Private Agency Guardianship; or

~~(D)~~ (C) §5-3B-21 in an Independent Adoption.

. . .

(d) Investigation by Court

(1) Optional

The Court may order an investigation as provided by Code, Family Law Article:

~~(A) §5-317 in a Public Agency Guardianship;~~

~~(B)~~ (A) §5-3A-16 in a Private Agency Guardianship; or

~~(C)~~ (B) §5-3B-16 in an Independent Adoption.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 9-106 reflect the Rules Committee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

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

Section (b) is amended to delete Code, Family Law Article, §5-309 from the cross reference.

Section (c) is amended to delete subsection (c)(1)(A) and renumber current subsections (c)(1)(B) through (c)(1)(D) as subsections (c)(1)(A) through (c)(1)(C), respectively.

Section (d) is amended to delete subsection (d)(1)(A) and renumber current subsections (d)(1)(B) and (d)(1)(C) as subsections (d)(1)(A) and (d)(1)(B), respectively.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-109 by deleting subsection (a) (1) (A); by renumbering subsections (a) (1) (B) through (a) (1) (E) as subsections (a) (1) (A) through (a) (1) (D), respectively; by deleting "Public or" from subsection (a) (2); and by deleting the cross reference following subsection (a) (2), as follows:

Rule 9-109. HEARING ON THE MERITS

(a) Requirement

(1) Generally

The court shall hold a hearing and make findings on the record on the merits of a guardianship petition as provided by Code, Family Law Article:

~~(A) §5-318 in a nonconsensual Public Agency Guardianship;~~

~~(B) (A) §5-335 in a Public Agency Adoption without Prior~~

TPR;

~~(C) (B) §5-347 in a Public Agency Adoption after TPR;~~

~~(D) (C) §5-3A-32 in a Private Agency Adoption; or~~

~~(E) (D) §5-3B-17 in an Independent Adoption.~~

(2) Guardianship

The court may hold a hearing on the merits of a consensual ~~Public or~~ Private Agency Guardianship petition.

~~Cross reference: See Code, Family Law Article, §5-318 as to a Public Agency Guardianship.~~

. . .

REPORTER'S NOTE

Proposed amendments to Rule 9-109 reflect the Rules Committee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

Section (a) is amended to delete subsection (a)(1)(A) and renumber subsections (a)(1)(B) through (a)(1)(E) as subsections (a)(1)(A) through (a)(1)(D), respectively. The phrase "Public or" is deleted from subsection (a)(2) and the cross reference following subsection (a)(2) is deleted.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

PRIVATE AGENCY GUARDIANSHIP

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

Rule 9-111. JUDGMENT OF ADOPTION OR GUARDIANSHIP

(a) Time

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

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

(b) Information from Other Court

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

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

(c) Supplemental Report

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

(d) Change of Name

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

(e) Spouse of Parent

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

(f) Judgments of Adoption - Recording

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

Committee note: Any attempt to set aside a judgment of adoption

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

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

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

Source: This Rule is derived in part from former Rule D79 and former Rule 11-501 (g) (2021) and is in part new.

REPORTER'S NOTE

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

ADOPTIONS

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

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MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

~~FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND
ADOPTIONS~~

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

DELETE Form 9-102.1 in its entirety, as follows:

~~Form 9-102.1. CONSENT OF PARENT TO A PUBLIC AGENCY GUARDIANSHIP~~

~~CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT
TO ADOPTION OF _____ TO THE
_____ DEPARTMENT OF SOCIAL SERVICES~~

INSTRUCTIONS

. . .

~~A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED
TO THIS CONSENT FORM.~~

~~IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS
CONSENT FORM.~~

REPORTER'S NOTE

The proposed deletion of Form 9-102.1 reflects the Rules Committee's recommendation that Rules governing Public Agency Guardianships under Code, Family Law Article, Title 5, Subtitle 3, Part II, be removed from Title 9 and placed in proposed new Title 11. See the Reporter's note to Rule 9-101.

Title 9 Forms

As part of that recommendation, Form 9-102.1 (Consent of Parent to a Public Agency Guardianship) is deleted from Title 9, and a revised version is included in new Title 11, Chapter 300. Remaining Forms 9-102.2 through 9-102.10 are renumbered as Forms 9-102.1 through 9-102.9, respectively. The substance of the forms remains unchanged.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

~~ADOPTIONS~~

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.2 by renumbering it as Form 9-102.1, as follows:

Form ~~9-102.2~~ 9-102.1. CONSENT OF PARENT TO A PRIVATE AGENCY GUARDIANSHIP

CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT

TO ADOPTION OF _____ TO

_____, **A LICENSED**

PRIVATE ADOPTION AGENCY

INSTRUCTIONS

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

ADOPTIONS

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.3 by renumbering it as Form 9-102.2, as follows:

Form ~~9-102.3~~ 9-102.2. CONSENT OF PARENT TO A PUBLIC AGENCY ADOPTION WITHOUT PRIOR TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Adoption of CINA without Prior Termination of Parental Rights

INSTRUCTIONS

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

ADOPTIONS

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.4 by renumbering it as Form 9-102.3, as follows:

Form ~~9-102.4~~ 9-102.3. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION WITH TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Independent Adoption with Termination of Parental Rights

INSTRUCTIONS

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

ADOPTIONS

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.5 by renumbering it as Form 9-102.4, as follows:

Form ~~9-102.5~~ 9-102.4. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION WITHOUT PRIOR TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Independent Adoption without Termination of Parental Rights

INSTRUCTIONS

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

~~ADOPTIONS~~

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.6 by renumbering it as Form 9-102.5, as follows:

Form ~~9-102.6~~ 9-102.5. CONSENT OF CHILD TO A PUBLIC AGENCY ADOPTION OR PRIVATE AGENCY ADOPTION

CONSENT OF _____ TO ADOPTION

INSTRUCTIONS

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

~~ADOPTIONS~~

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.7 by renumbering it as Form 9-102.6, as follows:

Form ~~9-102.7~~ 9-102.6. CONSENT OF CHILD TO AND INDEPENDENT ADOPTION

CONSENT OF _____ TO INDEPENDENT ADOPTION

INSTRUCTIONS

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

~~ADOPTIONS~~

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.8 by renumbering it as Form 9-102.7 and by deleting "Public Agency Guardianship" from the caption, as follows:

Form ~~9-102.8~~ 9-102.7. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO A ~~PUBLIC AGENCY GUARDIANSHIP OR~~ PRIVATE AGENCY GUARDIANSHIP

Affidavit by Attorney as to Consent of

_____ (parent) to Guardianship

with the Right to Consent to Adoption ("Guardianship")

by _____ (agency) of _____ (child)

1. I am the attorney representing _____,
a parent of _____, the child who is the
subject of the consent.

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

In addition, "Public Agency Guardianship" is deleted from the caption of the Form.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

~~ADOPTIONS~~

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.9 by renumbering it as Form 9-102.8, as follows:

Form ~~9-102.9~~ 9-102.8. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO ADOPTION

Affidavit by Attorney as to Consent of

_____ (parent)

to Adoption of _____

1. I am the attorney representing _____,
a parent of _____, the child who is the
subject of the consent.

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

FORMS FOR ~~GUARDIANSHIPS THAT TERMINATE PARENTAL RIGHTS AND~~

~~ADOPTIONS~~

ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.10 by renumbering it as Form 9-102.9, as follows:

Form ~~9-102.10~~ 9-102.9. ATTORNEY AFFIDAVIT AS TO CONSENT OF A CHILD TO ADOPTION

Affidavit by Attorney as to Consent of

_____ (child) to Adoption

1. I am the attorney representing _____,
the individual who is the subject of this adoption proceeding
("the child").

. . . .

REPORTER'S NOTE

See the Reporter's Note to the proposed deletion of current Form 9.102.1

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-101 by updating a cross reference following section (b), as follows:

Rule 10-101. APPLICABILITY OF TITLE; JURISDICTION

. . .

(b) Scope of Jurisdiction

In proceedings under this Title, the court may exercise its jurisdiction generally or for a limited purpose. An investment in a common trust fund by a fiduciary administering an estate subject to the jurisdiction of a court does not bring the administration of the common trust fund under the jurisdiction of the court.

Cross reference: For the definition of "common trust fund," see Code, Financial Institutions Article, §3-501 (b).

Committee note: The rules in this Title do not apply to a guardian with the right to consent to adoption (Code, Family Law Article, §5-301 *et seq.* and Title 11, Chapter 300 of these rules; and Code, Family Law Article, §5-3A-01 *et seq.* and Title 9, Chapter 100 of these rules); a trustee appointed to foreclose a mortgage or deed of trust or to make a judicial sale (Title 14, Chapters 200 and 300 of these rules); a trustee of a recovery by a minor in tort (Code, Estates and Trusts Article, §13-401 *et seq.*); a custodian of property under the Maryland Uniform Transfers to Minors Act (Code, Estates and Trusts Article, §13-301 *et seq.*); or a receiver or assignee for the benefit of creditors (Title 13 of these Rules).

Source: This Rule is derived in part from former Rule V71 and is in part new.

REPORTER'S NOTE

The proposed conforming amendment to Rule 10-101 updates the references in the cross reference following section (b).

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

AMEND Rule 16-807 by updating an internal reference in subsection (b) (1), as follows:

Rule 16-807. APPOINTMENT, COMPENSATION, DUTIES OF MAGISTRATES

. . .

(b) Special Magistrates

(1) Appointment; Compensation

The circuit court of a county may appoint a special magistrate for a particular action, except proceedings on matters referable to a standing magistrate under Rule 9-208 or Rule ~~11-111~~ 11-103. Unless the compensation of a special magistrate is paid with public funds, the court (A) shall prescribe the compensation of the special magistrate, (B) may tax the compensation as costs, and (C) may assess the costs among the parties.

Cross reference: See Code, Courts Article, § 2-102(b) (4) and (c) and § 2-501(b).

. . .

REPORTER'S NOTE

The proposed conforming amendment to Rule 16-807 updates the reference in subsection (b) (1) to the Rule governing magistrates to proposed new Rule 11-103.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

AMEND Rule 16-914 by adding certain proceedings to subsection (a) (2) and by adding a clarifying sentence to the Committee note following subsection (a) (2), as follows:

Rule 16-914. CASE RECORDS - REQUIRED DENIAL OF INSPECTION - CERTAIN CATEGORIES

Except as otherwise provided by law, court order, or the Rules in this Chapter, the custodian shall deny inspection of:

(a) All case records filed in the following actions involving children:

(1) Actions filed under Title 9, Chapter 100 of the Maryland Rules for:

(A) adoption;

(B) guardianship; or

(C) revocation of a consent to adoption or guardianship for which there is no pending adoption or guardianship proceeding in that county.

(2) Delinquency, child in need of assistance, public agency guardianship terminating parental rights, voluntary placement, child in need of supervision, peace order, and truancy actions

in Juvenile Court, except that, if a hearing is open to the public pursuant to Code, Courts Article, § 3-8A-13 (f), the name of the respondent and the date, time, and location of the hearing are open to inspection unless the record was ordered expunged.

Committee note: In most instances, the "child" or "children" referred to in this section will be minors, but, as Juvenile Court jurisdiction extends until a child is 21, in some cases, the children legally may be adults. The Juvenile Court also has jurisdiction over certain proceedings against an adult. Case records pertaining to these proceedings are not subject to this section. See Rule 11-507.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 16-914 add public agency guardianship, voluntary placement, and peace order proceedings to the Juvenile Court actions listed in subsection (a)(2). The Committee note is amended to clarify that criminal charges filed against an adult in Juvenile Court are not subject to the Rule.

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

FORMS FOR JUVENILE CAUSES

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~~Form 904-S. SUMMONS~~

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Appendix: Forms

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MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 903-P/C in its entirety, as follows:

~~Form 903-P/C. JUVENILE PETITION-CHILD~~

~~MATTER OF~~

~~_____~~

~~-(Respondent)-~~

~~IN THE _____ COURT~~

~~FOR _____ CITY/COUNTY~~

~~SITTING AS A JUVENILE~~

~~COURT~~

~~— CASE NUMBER _____~~

~~JUVENILE PETITION-CHILD~~

~~. . .~~

~~STATE OF MARYLAND~~

~~by _____~~

~~State's Attorney/Intake
Officer for~~

~~_____ City/County~~

~~Petitioner~~

~~The names of each witness to be summoned in support of this
petition are: _____~~

REPORTER'S NOTE

The Rules Committee recommends the deletion of the forms for Juvenile Causes located in the Appendix of Forms. These forms are obsolete in light of the revisions to Title 11 (Juvenile Causes).

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

FORMS FOR JUVENILE CAUSES

DELETE Form 903-P/A in its entirety, as follows:

~~Form 903-P/A. JUVENILE PETITION-ADULT~~

~~(CAPTION)~~

~~JUVENILE PETITION-ADULT~~

~~TO THE HONORABLE JUDGE OF THE COURT:~~

~~The Petition of the State of Maryland respectfully shows:~~

~~. . .~~

~~WHEREFORE, the State asks that the Court make appropriate findings and dispositions under the Juvenile Causes Law (Title 3, Subtitle 8, Courts Article, Annotated Code of Maryland).~~

~~STATE OF MARYLAND~~

~~by _____~~

~~State's Attorney/Intake
Officer for~~

~~_____ City/County~~

~~Petitioner~~

~~The names of each witness to be summoned in support of this petition are: _____~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

FORMS FOR JUVENILE CAUSES

DELETE Form 904-R in its entirety, as follows:

~~Form 904-R. RECOGNIZANCE OF PARENT, GUARDIAN, OR CUSTODIAN
RECOGNIZANCE OF PARENT, GUARDIAN, OR CUSTODIAN~~

~~RECOGNIZANCE OF PARENT, GUARDIAN, OR CUSTODIAN~~

~~I hereby acknowledge:~~

~~1. That I am the parent, guardian, or custodian of _____;~~

~~. . .~~

~~6. That I will immediately notify the Clerk of the Juvenile
Court at _____,~~

~~_____ Address _____ Telephone~~

~~of any new address for me or the child.~~

Witness _____ Parent/Guardian/Custodian

_____ Address

Date _____

_____ Telephone Number

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

FORMS FOR JUVENILE CAUSES

DELETE Form 904-S in its entirety, as follows:

~~Form 904-S. SUMMONS~~

~~(CAPTION)~~

~~SUMMONS~~

~~STATE OF MARYLAND _____ City/County~~

~~. . .~~

~~RETURN OF SERVICE~~

~~SUMMONED _____ by _____ Non Est:~~

~~personal service and delivering _____ Other~~

~~a copy of this Summons and~~

~~the attached _____ ATTEMPTS AT SERVICE~~

~~_____ Date Time Date Time~~

~~to the said _____~~

~~at _____~~

~~this ___ day of _____ 19___~~

~~_____ By: _____~~

~~_____ Sheriff~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 904-R/WS in its entirety, as follows:

~~Form 904-R/WS. REQUEST FOR WITNESS SUBPOENA~~

~~(CAPTION)~~

~~REQUEST FOR WITNESS SUBPOENA~~

~~Clerk, Juvenile Court for _____ City/County~~

~~. . .~~

~~_____ Signed _____~~

~~_____ Respondent, Parent, Guardian, Custodian or Attorney~~

~~_____ (Circle appropriate status)~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 904-WS in its entirety, as follows:

~~Form 904-WS. WITNESS SUBPOENA~~

~~(CAPTION)~~

~~WITNESS SUBPOENA~~

~~STATE OF MARYLAND _____ City/County:~~

~~. . .~~

~~this _____ day of _____ 19____~~

~~_____ By: _____~~

~~_____ Sheriff~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 904-WA in its entirety, as follows:

~~Form 904-WA. WRIT OF ATTACHMENT~~

~~(CAPTION)~~

~~WRIT OF ATTACHMENT~~

~~TO THE SHERIFF OF _____ CITY/COUNTY~~

~~. . .~~

~~NON EST _____~~

Sheriff

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

FORMS FOR JUVENILE CAUSES

DELETE Form 905-OE in its entirety, as follows:

~~Form 905-OE. ORDER FOR PHYSICAL OR MENTAL EXAMINATION OF
RESPONDENT~~

~~(CAPTION)~~

~~ORDER FOR PHYSICAL OR MENTAL EXAMINATION OF RESPONDENT~~

~~WHEREAS, the Respondent is before this Court on a Juvenile
Petition alleging that he is:~~

~~. . .~~

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form
903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 912-A in its entirety, as follows:

~~Form 912-A. AUTHORIZATION FOR EMERGENCY DETENTION OR SHELTER
CARE PENDING HEARING~~

~~(CAPTION)~~

~~AUTHORIZATION FOR EMERGENCY DETENTION
OR SHELTER CARE PENDING HEARING~~

. . .

~~STATE OF MARYLAND~~

~~By _____~~

~~Juvenile Services Intake Officer~~

~~for _____ City/County~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 912-N in its entirety, as follows:

~~Form 912-N. NOTICE OF EMERGENCY DETENTION/SHELTER CARE AND
NOTICE OF HEARING~~

~~(CAPTION)~~

~~NOTICE OF EMERGENCY DETENTION/ SHELTER CARE AND NOTICE OF
HEARING~~

. . .

~~STATE OF MARYLAND~~

~~By _____~~

~~Juvenile Services Intake Officer for~~

~~_____~~

~~City/County~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form
903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 912-P/CDSC in its entirety, as follows:

~~Form 912-P/CDSC. PETITION FOR CONTINUED DETENTION OR SHELTER CARE~~

~~(CAPTION)~~

~~PETITION FOR CONTINUED DETENTION OR SHELTER CARE~~

. . .

~~STATE OF MARYLAND~~

~~By _____~~

~~Juvenile Services Intake Officer~~

~~for _____ City/County~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 912-O/CDSC in its entirety, as follows:

~~Form 912-O/CDSC. ORDER FOR CONTINUED DETENTION OR SHELTER CARE~~

~~(CAPTION)~~

~~ORDER FOR CONTINUED DETENTION OR SHELTER CARE~~

. . .

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 913-P/W in its entirety, as follows:

~~Form 913-P/W. PETITION FOR WAIVER OF JUVENILE JURISDICTION~~

~~(CAPTION)~~

~~PETITION FOR WAIVER OF JUVENILE JURISDICTION~~

. . .

~~STATE OF MARYLAND~~

~~By _____~~

~~State's Attorney~~

~~for _____ City/County~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

FORMS FOR JUVENILE CAUSES

DELETE Form 913-O/W in its entirety, as follows:

~~Form 913-O/W. ORDER WAIVING JUVENILE JURISDICTION~~

~~(CAPTION)~~

~~ORDER WAIVING JUVENILE JURISDICTION~~

~~. . .~~

~~ORDERED, that a copy of this Order be served upon the Respondent, the State's Attorney for _____ City/County, Maryland, and the sheriff or other custodian of the adult detention facility.~~

Judge

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 914-O/A in its entirety, as follows:

~~Form 914-O/A. ORDER OF ADJUDICATION~~

~~(CAPTION)~~

~~ORDER OF ADJUDICATION~~

~~. . .~~

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 915-O/PDC in its entirety, as follows:

~~Form 915-O/PDC. ORDER FOR PROBATION OF DELINQUENT CHILD~~

~~(CAPTION)~~

~~ORDER FOR PROBATION OF DELINQUENT CHILD~~

~~. . .~~

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 915-O/CJ in its entirety, as follows:

~~Form 915-O/CJ. ORDER FOR COMMITMENT OF JUVENILE~~

~~(CAPTION)~~

~~ORDER FOR COMMITMENT OF JUVENILE~~

. . .

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 915-O/PS in its entirety, as follows:

~~Form 915-O/PS. ORDER FOR PROTECTIVE SUPERVISION~~

~~(CAPTION)~~

~~ORDER FOR PROTECTIVE SUPERVISION~~

. . .

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 915-O/PA in its entirety, as follows:

~~Form 915-O/PA. ORDER FOR PROBATION ADULT~~

~~(CAPTION)~~

~~ORDER FOR PROBATION ADULT~~

. . .

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 916-P/RPC in its entirety, as follows:

~~Form 916-P/RPC. PETITION FOR REVOCATION OF PROBATION AND FOR
COMMITMENT OF DELINQUENT CHILD~~

~~(CAPTION)~~

~~PETITION FOR REVOCATION OF PROBATION AND FOR COMMITMENT OF
DELINQUENT CHILD~~

. . .

~~STATE OF MARYLAND~~

By _____

~~_____ (Agency)~~

~~Petitioner~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

FORMS FOR JUVENILE CAUSES

DELETE Form 916-P/RPSC in its entirety, as follows:

~~Form 916-P/RPSC. PETITION FOR REVOCATION OF PROTECTIVE SUPERVISION AND FOR COMMITMENT~~

~~(CAPTION)~~

~~PETITION FOR REVOCATION OF PROTECTIVE SUPERVISION AND FOR COMMITMENT~~

. . .

~~STATE OF MARYLAND~~

By _____

~~_____ (Agency)~~

~~Petitioner~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 916-SCO in its entirety, as follows:

~~Form 916-SCO. SHOW CAUSE ORDER~~

~~(CAPTION)~~

~~SHOW CAUSE ORDER~~

. . .

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 916-O/RCAS in its entirety, as follows:

~~Form 916-O/RCAS. ORDER RESCINDING COMMITMENT AND FOR AFTERCARE SUPERVISION~~

~~(CAPTION)~~

~~ORDER RESCINDING COMMITMENT AND FOR AFTERCARE SUPERVISION~~

. . .

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 916-O/TPPS in its entirety, as follows:

~~Form 916-O/TPPS. ORDER TERMINATING PROBATION/PROTECTIVE
SUPERVISION~~

~~(CAPTION)~~

~~ORDER TERMINATING PROBATION/PROTECTIVE SUPERVISION~~

. . .

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 918-O/S in its entirety, as follows:

~~Form 918-O/S. ORDER FOR SUPPORT~~

~~(CAPTION)~~

~~ORDER FOR SUPPORT~~

~~. . .~~

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 918-O/JR in its entirety, as follows:

~~Form 918-O/JR. ORDER FOR JUDGMENT OF RESTITUTION~~

~~(CAPTION)~~

~~ORDER FOR JUDGMENT OF RESTITUTION~~

~~. . .~~

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.

MARYLAND RULES OF PROCEDURE
APPENDIX: FORMS
FORMS FOR JUVENILE CAUSES

DELETE Form 920-FOT in its entirety, as follows:

~~Form 920-FOT. FINAL ORDER OF TERMINATION~~

~~(CAPTION)~~

~~FINAL ORDER OF TERMINATION~~

~~. . .~~

~~Recommended:~~

~~_____~~

~~Master for Juvenile Causes~~

~~_____~~

~~Judge~~

REPORTER'S NOTE

See the Reporter's note to the proposed deletion of Form 903-P/C.