

IN THE COURT OF APPEALS OF MARYLAND

R U L E S O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted its Two Hundred and Eleventh Report and two Supplements thereto to the Court, recommending proposed new Rules 11-420.1 and 15-902 and new Title 14, Chapter 600, Division 2, containing new Rules 14-611, 14-612, 14-613, 14-614, 14-615, and 14-616; amendments to current Rules 1-102, 1-202, 2-402, 2-652, 3-113, 3-306, 3-533, 3-534, 4-217, 7-102, 7-104, 8-202, 9-105, 9-205, 9-205.3, 11-112, 11-204, 11-219, 11-220, 11-404, 11-405, 11-406, 11-419, 11-422, 11-423, 11-424, 11-502, 14-601, 14-602, 14-604, 14-606, 15-901, 16-110, 16-702, 16-914, 18-302, 19-303.8, 19-414, and 19-501; and rescission of current Rule 16-805; and

This Court having considered the proposed Rules changes, together with comments received, at an open meeting, notice of which was posted as prescribed by law, and making on its own motion certain amendments to the proposed changes, it is this 30th day of September, 2022

ORDERED, by the Court of Appeals of Maryland, that new Rules 11-420.1 and 15-902 and new Title 14, Chapter 600,

Division 2, containing new Rules 14-611, 14-612, 14-613, 14-614, 14-615, and 14-616 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that amendments to Rules 1-102, 1-202, 2-402, 2-652, 3-113, 3-306, 4-217, 8-202, 9-105, 9-205, 9-205.3, 11-112, 11-204, 11-219, 11-220, 11-404, 11-405, 11-406, 11-419, 11-422, 11-423, 11-424, 11-502, 14-601, 14-602, 14-604, 14-606, 15-901, 16-914, 18-302, 19-303.8, and 19-414 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that Rule 16-805 be, and it is hereby, rescinded; and it is further

ORDERED that the proposed amendments to Rules 3-533, 3-534, 7-102, and 7-104 be, and they are hereby, remanded to the Standing Committee on Rules of Practice and Procedure for further study; and it is further

ORDERED that action on the proposed amendments to Rules 16-110, 16-702, and 19-501 be, and it is hereby, deferred for further consideration by the Court; and it is further

ORDERED that the amendments to Rule 18-302 hereby adopted by this Court shall govern the courts of this State and all

parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after November 1, 2022 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that the amendments to Rule 19-414 hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and due to exigent circumstances shall take effect and apply to all actions commenced on or after October 1, 2022 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that all other Rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 1, 2023 and, insofar as practicable, to all actions then pending; and it is further

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

/s/ Matthew J. Fader

Matthew J. Fader

/s/ Shirley M. Watts

Shirley M. Watts

/s/ Michele D. Hotten

Michele D. Hotten

/s/ Brynja M. Booth

Brynja M. Booth

/s/ Jonathan Biran

Jonathan Biran

/s/ Steven B. Gould

Steven B. Gould

/s/ Angela M. Eaves

Angela M. Eaves

Filed: September 30, 2022

/s/ Suzanne C. Johnson

Clerk

Court of Appeals of Maryland

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



Suzanne C. Johnson, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-102 by deleting the provisions pertaining to the appointment of bail bond commissioners and licensing and regulation of bail bondsmen, and by making stylistic changes, as follows:

Rule 1-102. CIRCUIT AND LOCAL RULES

Unless inconsistent with these rules, circuit and local rules regulating (1) court libraries, (2) memorial proceedings, (3) auditors, and (4) compensation of trustees in judicial sales, ~~and (5) appointment of bail bond commissioners and licensing and regulation of bail bondsmen,~~ are not repealed. No circuit and local rules, other than ones regulating the matters and subjects listed in this Rule, shall be adopted.

Source: This Rule is derived from former Rule 1 f.

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 100 - CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

AMEND Rule 1-202 by updating a cross reference following section (k), as follows:

Rule 1-202. DEFINITIONS

. . .

(k) Holiday

"Holiday" means an "employee holiday" set forth in Code, State Personnel and Pensions Article, § 9-201.

Committee note: The "employee holidays" listed in Code, State Personnel and Pensions Article are:

- (1) January 1, for New Year's Day;
- (2) January 15, for Dr. Martin Luther King, Jr.'s Birthday, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;
- (3) the third Monday in February, for Presidents' Day;
- (4) May 30, for Memorial Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;
- (5) June 19, for Juneteenth National Independence Day;
- ~~(5)(6)~~ July 4, for Independence Day;
- ~~(6)(7)~~ the first Monday in September, for Labor Day;
- ~~(7)(8)~~ October 12, for Columbus Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;
- ~~(8)(9)~~ November 11, for Veterans' Day;
- ~~(9)(10)~~ the fourth Thursday in November, for Thanksgiving Day;
- ~~(10)(11)~~ the Friday after Thanksgiving Day, for American Indian Heritage Day;
- ~~(11)(12)~~ December 25, for Christmas Day;
- ~~(12)(13)~~ each statewide general election day in this State; and

~~(13)~~ (14) each other day that the President of the United States or the Governor designates for general cessation of business.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT  
CHAPTER 400 - DISCOVERY

AMEND Rule 2-402 by adding new subsection (g) (1) (C) concerning the protection of draft reports and disclosures of expert witnesses, by adding new subsection (g) (1) (D) regarding the protection of certain communications with an expert witness, and by adding a Committee note after the new subsections, as follows:

Rule 2-402. SCOPE OF DISCOVERY

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(a) Generally

A party may obtain discovery regarding any matter that is not privileged, including the existence, description, nature, custody, condition, and location of any documents, electronically stored information, and tangible things and the identity and location of persons having knowledge of any discoverable matter, if the matter sought is relevant to the subject matter involved in the action, whether it relates to the claim or defense of the party seeking discovery or to the claim



or defense of any other party. It is not ground for objection that the information sought is already known to or otherwise obtainable by the party seeking discovery or that the information will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. An interrogatory or deposition question otherwise proper is not objectionable merely because the response involves an opinion or contention that relates to fact or the application of law to fact.

(b) Limitations and Modifications; Electronically Stored Information Not Reasonably Accessible

(1) Generally

In a particular case, the court, on motion or on its own initiative and after consultation with the parties, by order may limit or modify these rules on the length and number of depositions, the number of interrogatories, the number of requests for production of documents, and the number of requests for admissions. The court shall limit the frequency or extent of use of the discovery methods otherwise permitted under these rules if it determines that (A) the discovery sought is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (B) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information

sought; or (C) the burden or cost of the proposed discovery outweighs its likely benefit, taking into account the complexity of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

(2) Electronically Stored Information Not Reasonably Accessible

A party may decline to provide discovery of electronically stored information on the ground that the sources are not reasonably accessible because of undue burden or cost. A party who declines to provide discovery on this ground shall identify the sources alleged to be not reasonably accessible and state the reasons why production from each identified source would cause undue burden or cost. The statement of reasons shall provide enough detail to enable the requesting party to evaluate the burdens and costs of providing the discovery and the likelihood of finding responsive information in the identified sources. On a motion to compel discovery, the party from whom discovery is sought shall first establish that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the party requesting discovery shall establish that its need for the discovery outweighs the burden and cost of locating, retrieving, and producing the information. If persuaded that the need for

discovery does outweigh the burden and cost, the court may order discovery and specify conditions, including an assessment of costs.

Committee note: The term "electronically stored information" has the same broad meaning in this Rule that it has in Rule 2-422, encompassing, without exception, whatever is stored electronically. Subsection (b)(2) addresses the difficulties that may be associated with locating, retrieving, and providing discovery of some electronically stored information. Ordinarily, the reasonable costs of retrieving and reviewing electronically stored information are borne by the responding party. At times, however, the information sought is not reasonably available to the responding party in the ordinary course of business. For example, restoring deleted data, disaster recovery tapes, residual data, or legacy systems may involve extraordinary effort or resources to restore the data to an accessible format. This subsection empowers the court, after considering the factors listed in subsection (b)(1), to shift or share costs if the demand is unduly burdensome because of the nature of the effort involved to comply and the requesting party has demonstrated substantial need or justification. See, *The Sedona Conference, The Sedona Principles: Best Practices Recommendations and Principles for Addressing Electronic Document Production*, (2d ed. 2007), Principle 13 and related Comment.

(c) Insurance Agreement

A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business might be liable to satisfy part or all of a judgment that might be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For

purposes of this section, an application for insurance shall not be treated as part of an insurance agreement.

(d) Work Product

Subject to the provisions of sections (f) and (g) of this Rule, a party may obtain discovery of documents, electronically stored information, and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including an attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the materials are discoverable under section (a) of this Rule and that the party seeking discovery has substantial need for the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of these materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

(e) Claims of Privilege or Protection

(1) Information Withheld

A party who withholds information on the ground that it is privileged or subject to protection shall describe the nature of the documents, electronically stored information,

communications, or things not produced or disclosed in a manner that, without revealing the privileged or protected information, will enable other parties to assess the applicability of the privilege or protection.

(2) Duty of Recipient

A party who receives a document, electronically stored information, or other property that the party knows or reasonably should know was inadvertently sent shall promptly notify the sender.

(3) Information Produced

Within a reasonable time after information is produced in discovery that is subject to a claim of privilege or of protection, the party who produced the information shall notify each party who received the information of the claim and the basis for it. A party who wishes to determine the validity of a claim of privilege or protection that is not controlled by a court order or a disclosure agreement entered into pursuant to subsection (e) (5) of this Rule shall promptly file a motion under seal requesting that the court determine the validity of the claim. A party in possession of information that is the subject of the motion shall appropriately preserve the information pending a ruling. A receiving party may not use or disclose the information until the claim is resolved and shall

take reasonable steps to retrieve any information the receiving party disclosed before being notified.

Cross reference: Rule 19-304.4 (b) of the Maryland Attorneys' Rules of Professional Conduct.

Committee note: Subsection (e)(3) allows a producing party to assert a claim of privilege or protection after production because it is increasingly costly and time-consuming to review all electronically stored information in advance. Unlike the corresponding federal rule, a party must raise a claim of privilege or protection within a "reasonable time." See *Elkton Care Center Associates v. Quality Care Management, Inc.*, 145 Md. App. 532 (2002).

#### (4) Effect of Inadvertent Disclosure

A disclosure of a communication or information covered by a privilege or protection does not operate as a waiver if the holder of the privilege or work product protection (A) made the disclosure inadvertently, (B) took reasonable precautions to prevent disclosure, and (C) took reasonably prompt measures to rectify the error once the holder knew or should have known of the disclosure.

Committee note: Courts in other jurisdictions are in conflict over whether an inadvertent disclosure of privileged or protected information constitutes a waiver. A few courts find that a disclosure must be intentional to be a waiver. Most courts find a waiver only if the disclosing party acted carelessly in disclosing the communication or information and failed to request its return in a timely manner. A few other courts hold that any mistaken disclosure of protected information constitutes waiver without regard to the protections taken to avoid such a disclosure. See generally *Hopson v. City of Baltimore*, 232 F.R.D. 228 (D. Md. 2005) for a discussion of this case law.

This subsection opts for the middle ground: inadvertent disclosure of privileged or protected information in connection

with a state or federal proceeding constitutes a waiver only if the party did not take reasonable precautions to prevent disclosure and did not make reasonable and prompt efforts to rectify the error. This position is in accord with Maryland common law, see, e.g., *Elkton Care Center Associates v. Quality Care Management, Inc.*, 145 Md. App. 532 (2002), and the majority view on whether inadvertent disclosure is a waiver. See, e.g., *Zapata v. IBP, Inc.*, 175 F.R.D. 574, 576-77 (D. Kan. 1997) (work product); *Hydraflow, Inc. v. Enidine, Inc.*, 145 F.R.D. 626, 637 (W.D.N.Y. 1993) (attorney-client privilege); *Edwards v. Whitaker*, 868 F.Supp. 226, 229 (M.D. Tenn. 1994) (attorney-client privilege).

(5) Controlling Effect of Court Orders and Agreements

Unless incorporated into a court order, an agreement as to the effect of disclosure of a communication or information covered by a privilege or protection is binding on the parties to the agreement but not on other persons. If the agreement is incorporated into a court order, the order governs all persons or entities, whether or not they are or were parties.

Committee note: Parties may agree to certain protocols to minimize the risk of waiver of a claim of privilege or protection. One example is a "clawback" agreement, meaning an agreement that production will occur without a waiver of privilege or protection as long as the producing party promptly identifies the privileged or protected documents that have been produced. See *The Sedona Conference, The Sedona Principles: Best Practices Recommendations and Principles for Addressing Electronic Document Production*, (2d ed. 2007), Comment 10.a. Another example is a "quick peek" agreement, meaning that the responding party provides certain requested materials for initial examination without waiving any privilege or protection. The requesting party then designates the documents it wishes to have actually produced, and the producing party may assert any privilege or protection. *Id.*, Comment 10.d.

Subsection (e) (5) codifies the well-established proposition that parties can enter into an agreement to limit the effect of waiver by disclosure between or among them. See, e.g., *Dowd v. Calabrese*, 101 F.R.D. 427, 439 (D.D.C. 1984) (no waiver where

the parties stipulated in advance that certain testimony at a deposition "would not be deemed to constitute a waiver of the attorney-client or work product privileges"); *Zubulake v. UBS Warburg LLC*, 216 F.R.D. 280, 290 (S.D.N.Y. 2003) (noting that parties may enter into "so-called 'claw-back' agreements that allow the parties to forego privilege review altogether in favor of an agreement to return inadvertently produced privileged documents"). Of course, such an agreement can bind only the parties to the agreement. The subsection makes clear that if parties want protection from a finding of waiver by disclosure in separate litigation, the agreement must be made part of a court order. Confidentiality orders are important in limiting the costs of privilege review and retention, especially in cases involving electronic discovery. The utility of a confidentiality order is substantially diminished if it provides no protection outside the particular litigation in which the order is entered. Parties are unlikely to be able to reduce the costs of preproduction review for privilege or protection if the consequence of disclosure is that the information can be used by nonparties to the litigation.

Subsection (e) (5) provides that an agreement of the parties governing confidentiality of disclosures is enforceable against nonparties only if it is incorporated in a court order, but there can be no assurance that this enforceability will be recognized by courts other than those of this State. There is some dispute as to whether a confidentiality order entered in one case can bind nonparties from asserting waiver by disclosure in separate litigation. See generally *Hopson v. City of Baltimore*, 232 F.R.D. 228 (D. Md. 2005), for a discussion of this case law.

(f) Trial Preparation - Party's or Witness' Own Statement

A party may obtain a statement concerning the action or its subject matter previously made by that party without the showing required under section (d) of this Rule. A person who is not a party may obtain, or may authorize in writing a party to obtain, a statement concerning the action or its subject matter previously made by that person without the showing required under section (d) of this Rule. For purposes of this



section, a statement previously made is (1) a written statement signed or otherwise adopted or approved by the person making it, or (2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, that is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(g) Trial Preparation - Experts

(1) Expected to be Called at Trial

(A) Generally

Subject to subsection (g) (1) (C) of this Rule, a party by interrogatories may require any other party to identify each person, other than a party, whom the other party expects to call as an expert witness at trial; to state the subject matter on which the expert is expected to testify; to state the substance of the findings and the opinions to which the expert is expected to testify and a summary of the grounds for each opinion; and to produce any written report made by the expert concerning those findings and opinions. A party also may take the deposition of the expert.

Committee note: This subsection requires a party to disclose the name and address of any witness who may give an expert opinion at trial, whether or not that person was retained in anticipation of litigation or for trial. *Cf. Dorsey v. Nold*, 362 Md. 241 (2001). See Rule 104.10 of the Rules of the U.S. District Court for the District of Maryland. The subsection does not require, however, that a party name himself or herself as an expert. See *Turgut v. Levin*, 79 Md. App. 279 (1989).

(B) Additional Disclosure with Respect to Experts Retained  
in Anticipation of Litigation or for Trial

In addition to the discovery permitted under subsection (g) (1) (A) of this Rule, a party by interrogatories may require the other party to summarize the qualifications of a person expected to be called as an expert witness at trial and whose findings and opinions were acquired or obtained in anticipation of litigation or for trial, to produce any available list of publications written by that expert, and to state the terms of the expert's compensation.

(C) Protection for Draft Reports or Disclosures

A party is not entitled to the discovery of drafts of any report or disclosure required under subsection (g) (1) (A) of this Rule regardless of the form in which the draft is recorded.

(D) Protection for Communications Between a Party's Attorney and Expert Witnesses

A party is not entitled to the discovery of communications between another party's attorney and an expert witness, regardless of the form of the communication, except to the extent that the communication (i) relates to compensation for the expert's study or testimony, (ii) identifies facts or data that the attorney provided and the expert considered in forming the opinion to be expressed, or (iii) identifies

assumptions that the party's attorney provided and the expert relied on in forming the opinions to be expressed.

Committee note: Subsections (g) (1) (C) and (g) (1) (D) are derived from Fed. R. Civ. P. 26 (b) (4). See the Advisory Committee notes for the 2010 amendment attached to the federal provisions for discussion of how these provisions are intended to operate.

(2) Not Expected to Be Called at Trial

When an expert has been retained by a party in anticipation of litigation or preparation for trial but is not expected to be called as a witness at trial, discovery of the identity, findings, and opinions of the expert may be obtained only if a showing of the kind required by section (d) of this Rule is made.

(3) Fees and Expenses of Deposition

Unless the court orders otherwise on the ground of manifest injustice, the party seeking discovery: (A) shall pay each expert a reasonable fee, at a rate not exceeding the rate charged by the expert for time spent preparing for a deposition, for the time spent in attending a deposition and for the time and expenses reasonably incurred in travel to and from the deposition; and (B) when obtaining discovery under subsection (g) (2) of this Rule, shall pay each expert a reasonable fee for preparing for the deposition.

Source: This Rule is derived as follows:  
Section (a) is derived from former Rule 400 c and the 1980 version of Fed. R. Civ. P. 33 (b).

Section (b) is new and is derived from the 2000 version of Fed. R. Civ. P. 26 (b) (2), except that subsection (b) (2) is derived from the 2006 Fed. R. Civ. P. 26 (b) (2) (B).

Section (c) is new and is in part derived from the 1980 version of Fed. R. Civ. P. 26 (b) (2).

Section (d) is derived from former Rule 400 d.

Section (e) is new and is derived from the 2006 version of Fed. R. Civ. P. 26 (b) (5).

Section (f) is derived from former Rule 400 e.

Subsections (g) (1) (A) and (B) ~~is~~ are derived in part from the 1980 version of Fed. R. Civ. P. 26 (b) (4) and former Rule 400 f and is in part new. Subsections (g) (1) (C) and (D) are derived from the 2010 version of Fed. R. Civ. P. 26 (b) (4).

Subsection (g) (2) is derived from the 1980 version of Fed. R. Civ. P. 26 (b) (4) and former Rule U12 b.

Subsection (g) (3) is derived in part from the 1980 version of Fed. R. Civ. P. 26 (b) (4) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT

CHAPTER 600 - JUDGMENT

AMEND Rule 2-652 by deleting section (a) and the related cross reference, and by re-lettering and conforming subsequent sections to account for the deletion, as follows:

Rule 2-652. ENFORCEMENT OF ATTORNEY'S LIENS

~~(a) Retaining Lien~~

~~Except as otherwise provided by the Maryland Attorneys' Rules of Professional Conduct, an attorney who has a common-law retaining lien for legal services rendered to a client may assert the lien by retaining the papers of the client in the possession of the attorney until the attorney's claim is satisfied.~~

~~Cross reference: Maryland Attorneys' Rules of Professional Conduct 19-301.8, 19-301.15, and 19-301.16.~~

~~(b)~~ (a) Statutory Lien

An attorney who has a lien under Code, Business Occupations and Professions Article, § 10-501, may assert the lien by serving a written notice by certified mail or personal delivery upon the client and upon each person against whom the lien is to be enforced. The notice shall claim the lien, state the attorney's interest in the action, proceeding, settlement,

judgment, or award, and inform the client or other person to hold any money payable or property passing to the client relating to the action, proceeding, settlement, judgment, or award.

Cross reference: Code, Business Occupations and Professions Article, § 10-501(d).

~~(e)~~ (b) Adjudication of Rights and Lien Disputes

(1) When a Circuit Court Action Has Been Filed

If a lien asserted pursuant to this Rule relates to an action that has been filed in a circuit court of this State, on motion filed by the attorney, the attorney's client in the action, or any person who has received a notice pursuant to section ~~(b)~~ (a) of this Rule, the court shall adjudicate the rights of the parties in relation to the lien, including the attorney's entitlement to a lien, ~~any dispute as to the papers subject to a lien under section (a) of this Rule,~~ and the amount of the attorney's claim.

(2) When No Circuit Court Action Has Been Filed

If a lien is asserted pursuant to this Rule and a related action has not been filed in a circuit court of this State, the attorney, the attorney's client, or any person who has received a notice pursuant to section ~~(b)~~ (a) of this Rule may file a complaint with a circuit court to adjudicate the rights of the parties in relation to the lien, including the

attorney's entitlement to a lien, ~~any dispute as to the papers~~  
~~subject to a lien under section (a) of this Rule,~~ and the amount  
of the attorney's claim.

Cross reference: For venue of a complaint filed pursuant to  
this section, see Code, Courts Article, §§ 6-201 - 203.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT

CHAPTER 100 - COMMENCEMENT OF ACTION AND PROCESS

AMEND Rule 3-113 by changing the time a summons is effective for service after the date of issuance, as follows:

Rule 3-113. PROCESS - DURATION, DORMANCY, AND RENEWAL OF SUMMONS

A summons is effective for service only if served within ~~30~~ 60 days after the date it is issued. A summons not served within that time shall be dormant, renewable only on written request of the plaintiff.

Committee note: See *Neel v. Webb Fly Screen Mfg. Co.*, 187 Md. 34, 48 A.2d 331 (1946).

Source: This Rule is new and replaces former M.D.R. 103 d 2.



MARYLAND RULES OF PROCEDURE  
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT  
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 3-306 by revising the definition of "original creditor" in subsection (a)(5), as follows:

Rule 3-306. JUDGMENT ON AFFIDAVIT

(a) Definitions

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

(1) Charge-Off

"Charge-off" means the act of a creditor that treats an account receivable or other debt as a loss or expense because payment is unlikely.

(2) Charge-Off Balance

"Charge-off balance" means the amount due on the account or debt at the time of charge-off.

(3) Consumer Debt

"Consumer debt" means a secured or unsecured debt that is for money owed or alleged to be owed and arises from a consumer transaction.

(4) Consumer Transaction

"Consumer transaction" means a transaction involving an individual seeking or acquiring real or personal property, services, future services, money, or credit for personal, family, or household purposes.

(5) Original Creditor

"Original creditor" means the lender, provider, or other person to whom a consumer originally was alleged to owe money pursuant to a consumer transaction. "Original creditor" includes a creditor excluded from the definition of "debt buyer" in Code, Courts Article, § 5-1201(i) (2) and the Central Collection Unit, a unit within the State Department of Budget and Management.

(6) Original Consumer Debt

"Original consumer debt" means the total of the consumer debt alleged to be owed to the original creditor, consisting of principal, interest, fees, and any other charges.

Committee note: If there has been a charge-off, the amount of the "original consumer debt" is the same as the "charge-off balance."

(7) Principal

"Principal" means the unpaid balance of the funds borrowed, the credit utilized, the sales price of goods or services obtained, or the capital sum of any other debt or obligation arising from a consumer transaction, alleged to be owed to the original creditor. It does not include interest,

fees, or charges added to the debt or obligation by the original creditor or any subsequent assignees of the consumer debt.

(8) Future Services

"Future services" means one or more services that will be delivered at a future time.

(9) Future Services Contract

"Future services contract" means an agreement that obligates a consumer to purchase a future service from a provider.

(10) Provider

"Provider" means any person who sells a service or future service to a consumer.

(b) Demand for Judgment by Affidavit

In an action for money damages a plaintiff may file a demand for judgment on affidavit at the time of filing the complaint commencing the action. The complaint shall be supported by an affidavit showing that the plaintiff is entitled to judgment as a matter of law in the amount claimed.

(c) Affidavit and Attachments - General Requirements

The affidavit shall:

- (1) be made on personal knowledge;
- (2) set forth such facts as would be admissible in evidence;
- (3) show affirmatively that the affiant is competent to testify to the matters stated in the affidavit; and

(4) include or be accompanied by:

(A) supporting documents or statements containing sufficient detail as to liability and damages, including the precise amount of the claim and any interest claimed;

(B) if interest is claimed, an interest worksheet substantially in the form prescribed by the Chief Judge of the District Court;

(C) if attorneys' fees are claimed, sufficient proof evidencing that the plaintiff is entitled to an award of attorneys' fees and that the fees are reasonable; and

(D) if the claim is founded upon a note, security agreement, or other instrument, the original or a photocopy of the executed instrument, or a sworn or certified copy, unless the absence thereof is explained in the affidavit.

(d) If Claim Arises From Assigned Consumer Debt

If the claim arises from consumer debt and the plaintiff is not the original creditor, the affidavit also shall include or be accompanied by (i) the items listed in this section, and (ii) an Assigned Consumer Debt Checklist, substantially in the form prescribed by the Chief Judge of the District Court, listing the items and information supplied in or with the affidavit in conformance with this Rule. Each document that accompanies the affidavit shall be clearly numbered as an exhibit and referenced by number in the Checklist.

(1) Proof of the Existence of the Debt or Account

Proof of the existence of the debt or account shall be made by a certified or otherwise properly authenticated photocopy or original of at least one of the following:

(A) a document signed by the defendant evidencing the debt or the opening of the account;

(B) a bill or other record reflecting purchases, payments, or other actual use of a credit card or account by the defendant; or

(C) an electronic printout or other documentation from the original creditor establishing the existence of the account and showing purchases, payments, or other actual use of a credit card or account by the defendant.

(2) Proof of Terms and Conditions

(A) Except as provided in subsection (d) (2) (B) of this Rule, if there was a document evidencing the terms and conditions to which the consumer debt was subject, a certified or otherwise properly authenticated photocopy or original of the document actually applicable to the consumer debt at issue shall accompany the affidavit.

(B) Subsection (d) (2) (A) of this Rule does not apply if

- (i) the consumer debt is an unpaid balance due on a credit card;
- (ii) the original creditor is or was a financial institution subject to regulation by the Federal Financial Institutions

Examination Council or a constituent federal agency of that Council; and (iii) the claim does not include a demand or request for attorneys' fees or interest on the charge-off balance in excess of the Maryland Constitutional rate of six percent per annum.

Committee note: This Rule is procedural only, and subsection (d)(2)(B)(iii) is not intended to address the substantive issue of whether interest in any amount may be charged on a part of the charge-off balance that, under applicable and enforceable Maryland law, may be regarded as interest.

Cross reference: See Federal Financial Institutions Examination Council Uniform Retail Credit Classification and Account Management Policy, 65 Fed. Reg. 36903-36906 (June 12, 2000).

### (3) Proof of Plaintiff's Ownership

The affidavit shall contain a statement that the plaintiff owns the consumer debt. It shall include or be accompanied by:

(A) a chronological listing of the names of all prior owners of the debt and the date of each transfer of ownership of the debt, beginning with the name of the original creditor; and

(B) a certified or other properly authenticated copy of the bill of sale or other document that transferred ownership of the debt to each successive owner, including the plaintiff.

Committee note: If a bill of sale or other document transferred debts in addition to the consumer debt upon which the action is based, the documentation required by subsection (d)(3)(B) of this Rule may be in the form of a redacted document that provides the general terms of the bill of sale or other document and the document's specific reference to the debt sued upon.

(4) Identification and Nature of Debt or Account

The affidavit shall include the following information:

(A) the name of the original creditor;

(B) the full name of the defendant as it appears on the original account;

(C) the last four digits of the social security number for the defendant appearing on the original account, if known;

(D) the last four digits of the original account number;

and

(E) the nature of the consumer transaction, such as utility, credit card, consumer loan, retail installment sales agreement, service, or future services.

(5) Future Services Contract Information

If the claim is based on a future services contract, the affidavit shall contain facts evidencing that the plaintiff currently is entitled to an award of damages under that contract.

(6) Account Charge-Off Information

If there has been a charge-off of the account, the affidavit shall contain the following information:

(A) the date of the charge-off;

(B) the charge-off balance;

(C) an itemization of any fees or charges claimed by the plaintiff in addition to the charge-off balance;

(D) an itemization of all post-charge-off payments received and other credits to which the defendant is entitled; and

(E) the date of the last payment on the consumer debt or of the last transaction giving rise to the consumer debt.

(7) Information for Debts and Accounts Not Charged Off

If there has been no charge-off, the affidavit shall contain:

(A) an itemization of all money claimed by the plaintiff, (i) including principal, interest, finance charges, service charges, late fees, and any other fees or charges added to the principal by the original creditor and, if applicable, by subsequent assignees of the consumer debt and (ii) accounting for any reduction in the amount of the claim by virtue of any payment made or other credit to which the defendant is entitled;

(B) a statement of the amount and date of the consumer transaction giving rise to the consumer debt, or in instances of multiple transactions, the amount and date of the last transaction; and

(C) a statement of the amount and date of the last payment on the consumer debt.

(8) Licensing Information



The affidavit shall include a list of all Maryland collection agency licenses that the plaintiff currently holds and provide the following information as to each:

- (A) license number,
- (B) name appearing on the license, and
- (C) date of issue.

Cross reference: See Code, Courts Article, § 5-1203(b)(2), concerning the plaintiff's requirements if a judgment on affidavit under section (d) of this Rule is denied.

(e) Subsequent Proceedings

(1) When Notice of Intention to Defend Filed

If the defendant files a timely notice of intention to defend pursuant to Rule 3-307, the plaintiff shall appear in court on the trial date prepared for a trial on the merits. If the defendant fails to appear in court on the trial date, the court may proceed as if the defendant failed to file a timely notice of intention to defend.

(2) When No Notice of Intention to Defend Filed

(A) If the defendant fails to file a timely notice of intention to defend, the plaintiff need not appear in court on the trial date and the court may determine liability and damages on the basis of the complaint, affidavit, and supporting documents filed pursuant to this Rule. If the defendant fails to appear in court on the trial date and the court determines that the pleading and documentary evidence are sufficient to

entitle the plaintiff to judgment, the court shall grant the demand for judgment on affidavit.

(B) If the court determines that the pleading and documentary evidence are insufficient to entitle the plaintiff to judgment on affidavit, the court may deny the demand for judgment on affidavit or may grant a continuance to permit the plaintiff to supplement the documentary evidence filed with the demand. If the defendant appears in court at the time set for trial and it is established to the court's satisfaction that the defendant may have a meritorious defense, the court shall deny the demand for judgment on affidavit. If the demand for judgment on affidavit is denied or the court grants a continuance pursuant to this section, the clerk shall set a new trial date and mail notice of the reassignment to the parties, unless the plaintiff is in court and requests the court to proceed with trial.

Cross reference: Rule 3-509.

(f) Reduction in Amount of Damages

Before entry of judgment, the plaintiff shall inform the court of any reduction in the amount of the claim by virtue of any payment or other credit.

(g) Notice of Judgment on Affidavit

When a demand for judgment on affidavit is granted, the clerk shall mail notice of the judgment promptly after its entry

to each party at the latest address stated in the pleadings. The notice shall inform (1) the plaintiff of the right to obtain a lien on real property pursuant to Rule 3-621, and (2) the defendant of the right to file a motion to vacate the judgment within 30 days after its entry pursuant to Rule 3-535 (a). The clerk shall ensure that the docket or file reflects compliance with this section.

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is derived from former M.D.R. 610 a.

Section (c) is derived from former M.D.R. 610 a.

Section (d) is new.

Section (e) is derived from former M.D.R. 610 b, c, and d.

Section (f) is derived from former M.D.R. 610 e.

Section (g) is derived from former M.D.R. 610 d.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEEDURES

AMEND Rule 4-217 by deleting subsection (b) (3); by deleting the cross reference following subsection (b) (3); by re-numbering the definitions contained in subsections (b) (4) through (b) (7) as subsections (b) (3) through (b) (6), respectively; by deleting the cross reference following subsection (d) (3) (C); by deleting the provision relating to a bail bond commissioner and the reference to Rule 16-805 from subsection (i) (5) (C); and by making stylistic changes, as follows:

Rule 4-217. CIRCUIT AND LOCAL RULES

(a) Applicability of Rule

This Rule applies to all bail bonds taken pursuant to Rule 4-216, 4-216.1, 4-216.2, or 4-216.3, and to bonds taken pursuant to Rules 4-267, 4-348, and 4-349 to the extent consistent with those rules.

(b) Definitions

As used in this Rule, the following words have the following meanings:

(1) Bail Bond

"Bail bond" means a written obligation of a defendant, with or without a surety or collateral security, conditioned on the appearance of the defendant as required and providing for the payment of a penalty sum according to its terms.

(2) Bail Bondsman

"Bail bondsman" means an authorized agent of a surety insurer.

~~(3) Bail Bond Commissioner~~

~~"Bail bond commissioner" means any person appointed to administer rules adopted pursuant to Maryland Rule 16-805.~~

~~Cross reference: Code, Criminal Procedure Article, § 5-203.~~

~~(4)~~ (3) Clerk

"Clerk" means the clerk of the court and any deputy or administrative clerk.

~~(5)~~ (4) Collateral Security

"Collateral security" means any property deposited, pledged, or encumbered to secure the performance of a bail bond.

~~(6)~~ (5) Surety

"Surety" means a person other than the defendant who, by executing a bail bond, guarantees the appearance of the defendant, and includes an uncompensated or accommodation surety.

~~(7)~~ (6) Surety Insurer

"Surety insurer" means any person in the business of becoming, either directly or through an authorized agent, a surety on a bail bond for compensation.

(c) Authorization to Take Bail Bond

Any clerk, District Court commissioner, or other person authorized by law may take a bail bond. The person who takes a bail bond shall deliver it to the court in which the charges are pending, together with all money or other collateral security deposited or pledged and all documents pertaining to the bail bond.

Cross reference: Code, Criminal Procedure Article, §§ 5-204 and 5-205. See Code, Insurance Article, § 10-309, which requires a signed affidavit of surety by the defendant or the insurer that shall be provided to the court if payment of premiums charged for bail bonds is in installments.

(d) Qualification of Surety

(1) In General

The Chief Clerk of the District Court shall maintain a list containing: (A) the names of all surety insurers who are in default, and have been for a period of 60 days or more, in the payment of any bail bond forfeited in any court in the State<sup>7</sup>; (B) the names of all bail bondsmen authorized to write bail bonds in this State<sup>7</sup>; and (C) the limit for any one bond specified in the bail bondsman's general power of attorney on file with the Chief Clerk of the District Court. The clerk of each circuit court and the Chief Clerk of the District Court

shall notify the Insurance Commissioner of the name of each surety insurer who has failed to resolve or satisfy bond forfeitures for a period of 60 days or more. The clerk of each circuit court also shall send a copy of the list to the Chief Clerk of the District Court.

Cross reference: For penalties imposed on surety insurers in default, see Code, Insurance Article, § 21-103(a).

(2) Surety Insurer

No bail bond shall be accepted if the surety on the bond is on the current list maintained by the Chief Clerk of the District Court of those in default. No bail bond executed by a surety insurer directly may be accepted unless accompanied by an affidavit reciting that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

Cross reference: For the obligation of the District Court Clerk or a circuit court clerk to notify the Insurance Commissioner concerning a surety insurer who fails to resolve or satisfy bond forfeitures, see Code, Insurance Article, § 21-103(b).

(3) Bail Bondsman

No bail bond executed by a bail bondsman may be accepted unless the bondsman's name appears on the most recent list maintained by the Chief Clerk of the District Court, the bail bond is within the limit specified in the bondsman's general power of attorney as shown on the list or in a special power of

attorney filed with the bond, and the bail bond is accompanied by an affidavit reciting that the bail bondsman:

(A) is duly licensed in the jurisdiction in which the charges are pending, if that jurisdiction licenses bail bondsmen;

(B) is authorized to engage the surety insurer as surety on the bail bond pursuant to a valid general or special power of attorney; and

(C) holds a valid license as an insurance broker or agent in this State, and that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

~~Cross reference: Code, Criminal Procedure Article, § 5-203 and Rule 16-805 (Appointment of Bail Bond Commissioner Licensing and Regulation of Persons Authorized to Write Bonds).~~

(e) Collateral Security

(1) Authorized Collateral

A defendant or surety required to give collateral security may satisfy the requirement by:

(A) depositing with the person who takes the bond the required amount in cash or certified check, or pledging intangible property approved by the court; or

Cross reference: See Code, Criminal Procedure Article, §§ 5-203 and 5-205, permitting certain persons to post a cash bail or cash bond when an order specifies that the bail or bond may be posted only by the defendant.



(B) encumbering one or more parcels of real estate situated in the State of Maryland, owned by the defendant or surety in fee simple absolute, or as chattel real subject to ground rent. No bail bond to be secured by real estate may be taken unless (i) a Declaration of Trust of a specified parcel of real estate, in the form set forth at the end of this Title as Form 4-217.1, is executed before the person who takes the bond and is filed with the bond, or (ii) the bond is secured by a Deed of Trust to the State or its agent and the defendant or surety furnishes a verified list of all encumbrances on each parcel of real estate subject to the Deed of Trust in the form required for listing encumbrances in a Declaration of Trust.

(2) Value

Collateral security shall be accepted only if the person who takes the bail bond is satisfied that it is worth the required amount.

(3) Additional or Different Collateral Security

Upon a finding that the collateral security originally deposited, pledged, or encumbered is insufficient to ensure collection of the penalty sum of the bond, the court, on motion by the State or on its own initiative and after notice and opportunity for hearing, may require additional or different collateral security.

(f) Condition of Bail Bond

The condition of any bail bond taken pursuant to this Rule shall be that the defendant personally appear as required in any court in which the charges are pending, or in which a charging document may be filed based on the same acts or transactions, or to which the action may be transferred, removed, or if from the District Court, appealed, and that the bail bond shall continue in effect until discharged pursuant to section (j) of this Rule.

(g) Form and Contents of Bond--Execution

Every pretrial bail bond taken shall be in the form of the bail bond set forth at the end of this Title as Form 4-217.2, and, except as provided in Code, Criminal Procedure Article, § 5-214, shall be executed and acknowledged by the defendant and any surety before the person who takes the bond.

(h) Voluntary Surrender of the Defendant by Surety

A surety on a bail bond who has custody of a defendant may procure the discharge of the bail bond at any time before forfeiture by:

(1) delivery of a copy of the bond and the amount of any premium or fee received for the bond to the court in which the charges are pending or to a commissioner in the county in which the charges are pending who shall thereupon issue an order committing the defendant to the custodian of the jail or detention center; and

(2) delivery of the defendant and the commitment order to the custodian of the jail or detention center, who shall thereupon issue a receipt for the defendant to the surety. Unless released on a new bond, the defendant shall be taken forthwith before a judge of the court in which the charges are pending.

On motion of the surety or any person who paid the premium or fee, and after notice and opportunity to be heard, the court may by order award to the surety an allowance for expenses in locating and surrendering the defendant, and refund the balance to the person who paid it.

(i) Forfeiture of Bond

(1) On Defendant's Failure to Appear--Issuance of Warrant

If a defendant fails to appear as required, the court shall order forfeiture of the bail bond and issuance of a warrant for the defendant's arrest and may set a new bond in the action. The clerk shall promptly notify any surety on the defendant's original bond, and the State's Attorney, of the forfeiture of that bond and the issuance of the warrant.

Cross reference: Code, Criminal Procedure Article, § 5-211.

(2) On Defendant's Posting a Bond After Issuance of Warrant

If a new bond is set under subsection (i)(1) of this Rule and the defendant posts the bond:

(A) a judicial officer shall mark the warrant satisfied;  
and

(B) the court shall reschedule the hearing or trial.

(3) Striking Out Forfeiture for Cause

If the defendant or surety can show reasonable grounds for the defendant's failure to appear, notwithstanding Rule 2-535, the court shall (A) strike out the forfeiture in whole or in part, ~~and,~~ (B) set aside any judgment entered thereon pursuant to subsection (5) (A) of this section, and (C) order the remission in whole or in part of the penalty sum paid pursuant to subsection (4) of this section.

Cross reference: Code, Criminal Procedure Article, § 5-208(b) (1) and (2) and *Allegany Mut. Cas. Co. v. State*, 234 Md. 278, 199 A.2d 201 (1964).

(4) Satisfaction of Forfeiture

Within 90 days from the date the defendant fails to appear, which time the court may extend to 180 days upon good cause shown, a surety shall satisfy any order of forfeiture, either by producing the defendant in court or by paying the penalty sum of the bond. If the defendant is produced within such time by the State, the court shall require the surety to pay the expenses of the State in producing the defendant and shall treat the order of forfeiture satisfied with respect to the remainder of the penalty sum.

(5) Enforcement of Forfeiture

If an order of forfeiture has not been stricken or satisfied within 90 days after the defendant's failure to appear, or within 180 days if the time has been extended, the clerk shall forthwith:

(A) enter the order of forfeiture as a judgment in favor of the governmental entity that is entitled by statute to receive the forfeiture and against the defendant and surety, if any, for the amount of the penalty sum of the bail bond, with interest from the date of forfeiture and costs including any costs of recording, less any amount that may have been deposited as collateral security; ~~and~~

(B) cause the judgment to be recorded and indexed among the civil judgment records of the circuit court of the county; and

(C) prepare, attest, and deliver or forward ~~to any bail bond commissioner appointed pursuant to Rule 16-805,~~ to the State's Attorney, to the Chief Clerk of the District Court, and to the surety, if any, a true copy of the docket entries in the cause, showing the entry and recording of the judgment against the defendant and surety, if any.

Enforcement of the judgment shall be by the State's Attorney in accordance with those provisions of the rules relating to the enforcement of judgments.

(6) Subsequent Appearance of Defendant

When the defendant is produced in court after the period allowed under subsection (4) of this section, the surety may apply for the refund of any penalty sum paid in satisfaction of the forfeiture less any expenses permitted by law. The court shall strike out a forfeiture of bail or collateral and deduct only the actual expense incurred for the defendant's arrest, apprehension, or surrender provided that the surety paid the forfeiture of bail or collateral during the period allowed for the return of the defendant under subsection (4) of this section.

(7) Where Defendant Incarcerated Outside This State

(A) If, within the period allowed under subsection (4) of this section, the surety produces evidence and the court finds that the defendant is incarcerated in a penal institution outside this State and that the State's Attorney is unwilling to issue a detainer and subsequently extradite the defendant, the court shall strike out the forfeiture and shall return the bond or collateral security to the surety.

(B) If, after the expiration of the period allowed under subsection (4) of this section, but within 10 years from the date the bond or collateral was posted, the surety produces evidence and the court finds that the defendant is incarcerated in a penal institution outside this State, that the State's Attorney is unwilling to issue a detainer and subsequently

extradite the defendant, and that the surety agrees in writing to defray the expense of returning the defendant to the jurisdiction in accordance with Code, Criminal Procedure Article, § 5-208(c), subject to subsection (C) of this section, the court shall strike out the forfeiture and refund the forfeited bail bond or collateral to the surety provided that the surety paid the forfeiture of bail or collateral within the time limits established under subsection (4) of this section.

(C) On motion of the surety, the court may refund a forfeited bail bond or collateral that was not paid within the time limits established under subsection (4) of this section if the surety produces evidence that the defendant was incarcerated when the judgment of forfeiture was entered, and the court strikes out the judgment for fraud, mistake, or irregularity.

(j) Discharge of Bond--Refund of Collateral Security

(1) Discharge

The bail bond shall be discharged when:

(A) all charges to which the bail bond applies have been steted, unless the bond has been forfeited and 10 years have elapsed since the bond or other security was posted; or

(B) all charges to which the bail bond applies have been disposed of by a nolle prosequi, dismissal, acquittal, or probation before judgment; or

(C) the defendant has been sentenced in the District Court and no timely appeal has been taken, or in the circuit court exercising original jurisdiction, or on appeal or transfer from the District Court; or

(D) the court has revoked the bail bond pursuant to Rule 4-216.3 or the defendant has been convicted and denied bail pending sentencing; or

(E) the defendant has been surrendered by the surety pursuant to section (h) of this Rule.

Cross reference: See Code, Criminal Procedure Article, § 5-208(d) relating to discharge of a bail bond when the charges are steted. See also Rule 4-349 pursuant to which the District Court judge may deny release on bond pending appeal or may impose different or greater conditions for release after conviction than were imposed for the pretrial release of the defendant pursuant to Rule 4-216, 4-216.1, 4-216.2, or 4-216.3.

(2) Refund of Collateral Security--Release of Lien

Upon the discharge of a bail bond and surrender of the receipt, the clerk shall return any collateral security to the person who deposited or pledged it and shall release any Declaration of Trust that was taken.

Source: This Rule is derived from former Rule 722 and M.D.R. 722.



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 correcting a cross reference after  
section (a), as follows:

Rule 8-202. NOTICE OF APPEAL - TIMES FOR FILING

(a) Generally

Except as otherwise provided in this Rule or by law, the  
notice of appeal shall be filed within 30 days after entry of  
the judgment or order from which the appeal is taken. In this  
Rule, "judgment" includes a verdict or decision of a circuit  
court to which issues have been sent from an Orphans' Court.  
Cross reference: Code, Courts Article, § 12-302(c) ~~(3)~~ (4).

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-105 by deleting section (d) and by re-lettering sections (e) through (g) as (d) through (f), as follows:

Rule 9-105. SHOW CAUSE ORDER; DISABILITY OF A PARTY; OTHER NOTICE

. . .

~~(d)~~ Notice of Name Change

~~If the person to be adopted is an adult and the petitioner desires to change the name of the person to be adopted to a surname other than that of the petitioner, notice of a proposed change of name shall also be given in the manner provided in Rule 15-901.~~

. . .

~~(e)~~ (d) Form of Show Cause Order

. . .

~~(f)~~ (e) Form of Notice of Objection

. . .

~~(g)~~ (f) Form of Notice for Service by Publication and Posting

. . .

Source: This Rule is in part derived from former Rule D74 and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT, AND

CHILD CUSTODY

AMEND Rule 9-205 by modifying the tagline of section (a), by making stylistic changes to section (a), by adding new subsection (a) (2) (A) defining "abuse," by adding new subsection (a) (2) (B) defining "coercive control," and by deleting a reference to Code, Family Law Article, § 4-501 and adding a reference to coercive control in subsection (b) (2), as follows:

Rule 9-205. MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES

(a) ~~Scope of Rule~~ Applicability; Definitions

(1) This Rule applies to any action or proceeding under this Chapter in which the custody of or visitation with a minor child is an issue, including:

~~(1)~~ (A) an initial action to determine custody or visitation;

~~(2)~~ (B) an action to modify an existing order or judgment as to custody or visitation; and

~~(3)~~ (C) a petition for contempt by reason of non-compliance with an order or judgment governing custody or visitation.

(2) In this Rule, the following definitions apply:

(A) "Abuse" has the meaning stated in Code, Family Law Article, § 4-501.

(B) "Coercive control" means a pattern of emotional or psychological manipulation, maltreatment, threat of force, or intimidation used to compel an individual to act, or refrain from acting, against the individual's will.

(b) Duty of Court

(1) Promptly after an action subject to this Rule is at issue, the court shall determine whether:

(A) mediation of the dispute as to custody or visitation is appropriate and likely would be beneficial to the parties or the child; and

(B) a mediator possessing the qualifications set forth in section (c) of this Rule is available to mediate the dispute.

(2) If a party or a child represents to the court in good faith that there is a genuine issue of abuse, ~~as defined in Code, Family Law Article, § 4-501,~~ of the party or child or coercive control of a party and that, as a result, mediation would be inappropriate, the court may not order mediation.

(3) If the court concludes that mediation is appropriate and likely to be beneficial to the parties or the child and that a qualified mediator is available, it shall enter an order requiring the parties to mediate the custody or visitation dispute. The order may stay some or all further proceedings in

the action pending the mediation on terms and conditions set forth in the order.

Cross reference: With respect to subsection (b) (2) of this Rule, see Rule 1-341 and Rules 19-303.1 and 19-303.3 of the Maryland Attorneys' Rules of Professional Conduct.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT, AND

CHILD CUSTODY

AMEND Rule 9-205.3 by correcting references in subsections (f) (2) and (f) (4), as follows:

Rule 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS

. . .

(f) Description of Custody Evaluation

(1) Mandatory Elements

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

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

(B) an interview of each party and any adult who performs a caretaking role for the child or lives in a household with the child;

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

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

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

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

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

(G) screening for intimate partner violence;

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

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

(2) Optional Elements – Generally

Subject to subsection ~~(f)(3)~~ (f)(4) of this Rule, at the discretion of the custody evaluator, a custody evaluation also may include:

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

(B) a review of additional records;



(C) employment verification;

(D) a mental health evaluation;

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

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

(3) Elements of Specific Issue Evaluation

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

(4) Optional Elements Requiring Court Approval

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

. . .

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

AMEND Rule 11-112 by deleting references to a unit of the State or local government; by replacing the phrase, "the unit shall serve," with the phrase, "the court shall issue"; by requiring that a certain Multilingual Advisement Form be attached to certain documents; by altering the Committee note to refer to translation of certain documents into priority languages; by altering the Committee note to state that the Access to Justice Department does not translate case-specific documents; by altering the Committee note to state that a provision of the State Government Article applies to "certain State agencies, departments, and programs in the Executive Branch of government"; and by making stylistic changes, as follows:

Rule 11-112. PAPERS IN A FOREIGN LANGUAGE

Whenever the court ~~or a 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 court unit shall ~~(1) serve~~ issue the document in English and (1) if the document is available in a language that the court or unit reasonably believes the individual can understand, issue the document in that language, or (2) if the document is not available in a language the court reasonably believes the individual can understand, attach a Multilingual Advisement Form approved by the State Court Administrator. ~~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: The Access to Justice Department of the Administrative Office of the Courts provides translation services to the Maryland courts and can provide translations of certain forms and materials into priority languages at the court's request. The Access to Justice Department does not provide translation of case-specific documents. See Code, State Government Article, § 10-1103 requiring certain State agencies, departments, and programs in the Executive Branch of government, 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.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

AMEND Rule 11-204 by requiring that a written request pursuant to subsection (d) (4) (A) be made no later than the next day after entry of the magistrate's order, 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 no later than the next day after entry of the magistrate's order pursuant to subsection (d) (3) of this Rule.

(B) Review by Judge

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

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



MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

AMEND Rule 11-219 by deleting a certain statutory reference from section (b), by adding new subsection (e)(2)(D) pertaining to a permanency plan that is another planned living arrangement, by adding new subsection (e)(2)(E) pertaining to placement in a qualified residential treatment program, and by making stylistic changes, 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) If the permanency plan is another planned permanent living arrangement, at the review hearing the court shall make the determinations and take the actions required by Code, Courts Article, § 3-823(h) (3).

(E) For a child placed in a qualified residential treatment program, at the review hearing the court shall make the determinations and take the actions required by Code, Courts Article, § 3-823(h) (4).

~~(D)~~ (F) 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.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 200 - CHILD IN NEED OF ASSISTANCE

AMEND Rule 11-220 by updating a statutory reference in subsection (a) (2), 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)~~ § 3-823(h) (2) (viii), 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).



MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-404 by adding a statute to the cross reference following section (a), 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-14.2 for the requirement that a juvenile consult with an attorney retained by the parent, guardian, or custodian of the child or provided by the Office of the Public Defender prior to a custodial interrogation and 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.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

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

Rule 11-405. TAKING CHILD INTO CUSTODY

(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) and 3-8A-14.2.

(c) Failure to Bring Child before Court

Subject to Rule 11-412 (c), 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.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-406 by updating a cross reference following section (a); by updating a statutory reference in subsection (c) (2); by adding new subsection (c) (4) (A) pertaining to a petition for continued detention, community detention, or shelter care; by adding new subsection (c) (4) (B) pertaining to a petition for continued detention; by adding new subsections (c) (4) (B) (i) and (c) (4) (B) (ii) containing the current provisions of subsection (c) (4); by adding new subsection (c) (4) (B) (iii) pertaining to statutory provisions governing detention; by adding new subsection (c) (4) (B) (iv) pertaining to a risk scoring instrument; by adding new subsection (c) (4) (C) pertaining to a petition for continued shelter care; by updating a cross reference following section (c); by adding a sentence to subsection (e) (1) (A) pertaining to statutory provisions governing detention; by updating a statutory reference in subsection (e) (2); by adding new section (f) governing requirements when a child is in detention; by adding a cross reference following section (f); by re-lettering current section (f) as section (g); and by making stylistic changes, 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)~~(g).

(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)~~(f).

(3) Requirement of Petition

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

(4) Contents of Petition

(A) Generally

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

~~(A) The the allegations supporting the relief sought.~~

(B) Detention

~~For~~ If continued detention ~~based on allegations that~~  
~~the juvenile has committed a delinquent act,~~ is sought, the  
petitioner shall:

(i) Sufficient state sufficient details of the alleged  
~~offense delinquent act~~ 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;~~

(ii) state the reasons for the emergency detention; ~~and~~

(iii) state sufficient information for the court to make  
a determination that the detention is permitted by Code, Courts  
Article, §§ 3-8A-15(b) (3) and 3-8A-19.7; and

(iv) attach to the petition a copy of the results of a  
risk scoring instrument as defined by Code, Courts Article, § 3-  
8A-15(b) (2).

(C) Shelter Care

~~For~~ If continued shelter care, ~~a statement that is~~  
sought, the petition shall state:

(i) ~~Continuation~~ that 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 that 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)~~(e) concerning the grounds for continued detention or community detention and Code, Courts Article, § 3-8A-15-~~(g)~~(f) 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. For a child in detention, the court also shall make a finding that the detention is permitted by Code, Courts Article, §§ 3-8A-15(b)(3) and 3-8A-19.7.

(B) Release on Conditions

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

(2) Shelter Care

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

(f) Child in Detention - Required Actions

(1) Plan for Release

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

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

(2) Review Hearing

Within 14 days after the court orders detention of a child, and every 14 days thereafter, the Department of Juvenile Services shall appear at a hearing before the court with the child to explain the reasons for continued detention.

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

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

(1) Request

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

(2) Review by Judge

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-419 by adding a cross reference following subsection (b) (4), 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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-420.1, as follows:

Rule 11-420.1. INFORMAL ADJUSTMENT

(a) Generally

At any time prior to the commencement of an adjudicatory hearing, with the consent of the State's Attorney, the child, and the child's attorney, the court may hold proceedings in abeyance and order the matter referred to the Department of Juvenile Services for informal adjustment.

Committee note: Informal adjustment is a process by which the Department of Juvenile Services attempts to resolve a complaint made pursuant to Code, Courts Article, § 3-8A-10(a) without court involvement. See Code, Courts Article, § 3-8A-10(n) authorizing the court to refer a matter for informal adjustment and Code, Courts Article, § 3-8A-10(e) and (f) pertaining to the informal adjustment process.

(b) Report

No later than 30 days following an order referring a matter for informal adjustment, the Department of Juvenile Services shall provide to the court and the parties a status report regarding the progress of the child in the informal adjustment process.

(c) Disposition

At the conclusion of the informal adjustment process, the Department of Juvenile Services shall inform the court and the parties in writing or on the record whether the child successfully completed the process. If the child successfully completed the informal adjustment process, the court shall dismiss the delinquency petition. If the child did not successfully complete the informal adjustment process, the court shall resume the delinquency proceedings.

Source: This Rule is new.



MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-422 by adding a statutory reference to subsections (d) (1) and (d) (2), by adding a cross reference following section (d), and by making stylistic changes, 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-19.6, 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~~ that section address commitment of a child to the custody of the State Department of Health for inpatient care and treatment in a State mental hospital or State mental retardation facility, 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 subsection (d) (1) of this ~~section~~ Rule, the court may, subject to Code, Courts Article, § 3-8A-19.6, 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.

Cross reference: See Code, Courts Article, § 3-8A-19.6 for limitations on the term of probation that may be imposed by the court.

(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.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-423 by recaptioning section (a); by deleting the caption to subsection (a) (1); by deleting current section (b); by adding new section (b); by renumbering subsections (a) (2) through (a) (4) as (b) (1) through (b) (3), respectively; by recaptioning subsection (a) (5) as section (c); and by making stylistic changes, as follows:

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

(a) ~~Revisory Power~~ Generally

~~(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.

(b) On Motion, Own Initiative, or Recommendation

~~(2)~~ (1) 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)~~(2) 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)~~(3) 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)~~ (c) Commitment to Maryland Department of Health

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

Cross reference: 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 25<sup>th</sup> 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.~~

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

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-424 by amending section (a) to apply to proceedings concerning alleged violations of probation, by deleting a provision in section (c) related to the conduct of hearings, and by adding new section (d) pertaining to extension of probation, as follows:

Rule 11-424. VIOLATION OF PROBATION

(a) How Initiated

Proceedings ~~for revocation~~ concerning an alleged violation 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.

(d) Extension of Probation

If the respondent is found to be in violation of a condition of probation, the court may extend the probation as permitted by Code, Courts Article, § 3-8A-19.6.

Source: This Rule is derived in part from Rule 4-347 and former Rule 11-116 (2021) and is in part new.

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

AMEND Rule 11-502 by adding a statement permitting referral for informal adjustment to subsection (q)(1)(A) and by altering a reference to Rule 11-423 in section (t), 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, unless the court refers the matter for informal adjustment in accordance with Rule 11-420.1. If the court refers the matter for informal adjustment, "delinquency petition" as used in Rule 11-420.1 shall be construed to refer to a "CINS petition" under this Rule.

(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 (a) and (b) ~~(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.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

TABLE OF CONTENTS

DIVISION 1 - FORECLOSURE BY COUNTY OR MUNICIPAL CORPORATION

RULE 14-601. APPLICABILITY

RULE 14-602. DEFINITIONS

- (a) Interested Party
- (b) Municipal Corporation
- (c) Real Property
- (d) Tax

RULE 14-603. VENUE [NO AMENDMENTS PROPOSED]

RULE 14-604. ~~IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS~~  
COMPLAINT

- (a) Contents
- (b) Exhibits to be Filed

RULE 14-605. PROCESS [NO AMENDMENTS PROPOSED]

RULE 14-606. HEARING

- (a) Timing
- (b) Right to Cure
- (c) Conduct of Hearing
- (d) Finding
- (e) Judgment

DIVISION 2 - FORECLOSURE BY STATE GOVERNMENT

RULE 14-611. APPLICABILITY

RULE 14-612. DEFINITIONS

- (a) Department
- (b) Dwelling

- (c) Interested Party
- (d) Ombudsman
- (e) Program
- (f) Tax

RULE 14-613. VENUE

RULE 14-614. COMPLAINT

RULE 14-615. PROCESS

RULE 14-616. HEARING

- (a) Timing
- (b) Right to Cure
- (c) Conduct of Hearing
- (d) Finding
- (e) Judgment
- (f) Post-Judgment Sale



MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 1 - FORECLOSURE BY COUNTY OR MUNICIPAL CORPORATION

AMEND Rule 14-601 by replacing the phrase "this Chapter" with "Division 1 of Chapter 600," as follows:

Rule 14-601. APPLICABILITY

The Rules in ~~this Chapter~~ Division 1 of Chapter 600 govern in rem foreclosure actions filed by a county or municipal corporation to satisfy delinquent taxes pursuant to Code, Tax--Property Article, §§ 14-873 - 14-876.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 1 - FORECLOSURE BY COUNTY OR MUNICIPAL CORPORATION

AMEND Rule 14-602 by replacing the phrase "this Chapter" with "Division 1," as follows:

Rule 14-602. DEFINITIONS

In the Rules in ~~this Chapter~~ Division 1, the following definitions apply except as otherwise expressly provided or as necessary implication requires:

. . .

**NO AMENDMENTS TO RULE 14-603 ARE PROPOSED**

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 1 - FORECLOSURE BY COUNTY OR MUNICIPAL CORPORATION

Rule 14-603. VENUE

A complaint for in rem foreclosure shall be commenced in the circuit court for the county in which the real property is located.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 1 - FORECLOSURE BY COUNTY OR MUNICIPAL CORPORATION

AMEND Rule 14-604 by revising the title of the Rule and by making stylistic changes to section (a), as follows:

Rule 14-604. ~~IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS~~  
COMPLAINT

(a) Contents

In an in rem foreclosure, the complaint, in addition to complying with Rules 2-303 through 2-305, shall set forth:

- (1) the identity of the county or municipal corporation seeking foreclosure, including its address;
- (2) a description of the real property as it appears in the county land records;
- (3) the tax identification number of the real property;
- (4) an averment that the taxes are at least six months delinquent at the time of filing;
- (5) the amount of ~~taxes that are delinquent~~ the tax delinquency as of the date of filing;

Committee note: A complaint may be amended to include any taxes that become delinquent after commencement of the in rem foreclosure action. See Code, Tax--Property Article, § 14-875(f).

(6) the ~~names~~ name and last known ~~addresses~~ address of each interested party;

(7) an averment that the real property is either

(A) a vacant lot, or

(B) improved property cited as

(i) vacant and unsafe, or

(ii) unfit for human habitation or other authorized use;

(8) an averment that the value of the real property as determined in accordance with Code, Tax--Property Article, § 14-874(a) (2) is less than the total amount of liens for unpaid taxes;

(9) a request that the circuit court not schedule a hearing on the complaint until at least 30 days after the date the complaint is accepted for filing by the clerk; and

(10) a request for judgment

(A) foreclosing the existing interest of all interested parties in the real property and

(B) ordering the transfer of ownership of the real property to the county or municipal corporation.

Cross reference: See Code, Tax--Property Article, §§ 14-874(a), 14-875(e).

(b) Exhibits to be Filed

The complaint shall be accompanied by:

(1) a certificate of the collector showing the total amount of tax due with all penalties and interest;

Cross reference: See Code, Tax--Property Article, §§ 1-101(e) and 14-869(b).

(2) a copy of a document establishing the value of the real property in compliance with Code, Tax--Property Article, § 14-874(a) (2); and

(3) if applicable, a copy of each violation notice pertaining to an averment in the complaint that is referenced in subsection (a) (7) (B) of this Rule.

Cross reference: See Code, Tax--Property Article, § 14-875(e) (9).

**NO AMENDMENTS TO RULE 14-605 ARE PROPOSED**

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 1 - FORECLOSURE BY COUNTY OR MUNICIPAL CORPORATION

Rule 14-605. PROCESS

Within five days after the complaint is accepted by the clerk for filing, the county or municipal corporation shall (a) in compliance with Rule 2-122 (a) (3), cause notice to be posted in a conspicuous place on the real property subject to the in rem foreclosure that at a minimum sets forth (1) the name of the court in which the in rem foreclosure action has been filed and the case number of the action, (2) that the property is subject to an action seeking foreclosure, and (3) that further information about the foreclosure action may be obtained from the clerk's office, and (b) send notice and a copy of the complaint to each interested party by first-class mail and certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service.

Cross reference: See Code, Tax--Property Article, § 14-875(d) (2).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 1 - FORECLOSURE BY COUNTY OR MUNICIPAL CORPORATION

AMEND Rule 14-606 by deleting the word "circuit" from section (a) and by replacing the word "state" with the phrase "include a finding" in subsections (e)(1) and (e)(2), as follows:

Rule 14-606. HEARING

(a) Timing

The ~~circuit~~ court shall schedule a hearing for a date no earlier than 30 days after the date the complaint is accepted for filing by the clerk.

Cross reference: Code, Tax--Property Article, § 14-876.

(b) Right to Cure

Until a judgment foreclosing the tax lien is entered in favor of the county or municipal corporation, any interested party may cure the tax lien by paying all past due taxes, including penalties and interest.

Cross reference: See Code, Tax--Property Article, § 14-804 (unpaid taxes on real property are tax liens) and Code, Tax--Property Article, § 14-875(g).

(c) Conduct of Hearing



Any interested party shall have the right to be heard, to contest the delinquency of the taxes, and to contest the adequacy of the proceedings.

Cross reference: See Code, Tax--Property Article, § 14-876(b).

(d) Finding

If the court finds by a preponderance of the evidence that (1) notice has been provided to all interested parties pursuant to Rule 14-605 and (2) the information set forth in the complaint is accurate and in compliance with Rule 14-604, the court shall enter a judgment in favor of the county or municipal corporation.

Cross reference: See Code, Tax--Property Article, § 14-876(c).

(e) Judgment

The judgment shall:

(1) ~~state~~ include a finding that notice has been provided to all interested parties;

(2) ~~state~~ include a finding that the real property is a vacant lot or an improved property cited as vacant and unsafe or unfit for human habitation or other authorized use and that the value of the real property is shown to be less than the amount of the unpaid taxes; and

(3) order that ownership of the real property be transferred to the county or municipal corporation on behalf of which the complaint was filed.

Cross reference: See Code, Tax--Property Article, §§ 14-876(c) (1)-(2).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 2 - FORECLOSURE BY STATE GOVERNMENT

ADD new Rule 14-611, as follows:

Rule 14-611. APPLICABILITY

The Rules in Division 2 of Chapter 600 govern in rem foreclosure actions filed by or on behalf of the State Department of Assessments and Taxation to satisfy delinquent taxes pursuant to Code, Tax--Property Article, § 14-890.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 2 - FORECLOSURE BY STATE GOVERNMENT

ADD new Rule 14-612, as follows:

Rule 14-612. DEFINITIONS

In the Rules in Division 2, the following definitions apply except as otherwise expressly provided or as necessary implication requires:

(a) Department

"Department" means the State Department of Assessments and Taxation.

Cross reference: See Code, Tax--Property Article, § 1-101.

(b) Dwelling

(1) "Dwelling" means:

(A) a house that is:

(i) used as the principal residence of the homeowner;

and

(ii) actually occupied or expected to be actually occupied by the homeowner for more than six months of a 12-month period as set forth in Code, Tax--Property Article, § 9-105; and

(B) the lot or curtilage on which the house is erected.

(2) "Dwelling" includes:

(A) a condominium unit that is occupied by an individual who has a legal interest in the condominium;

(B) an apartment in a cooperative apartment corporation that is occupied by an individual who has a legal interest in the apartment; and

(C) a part of real property used other than primarily for residential purposes, if the real property is used as a principal residence by an individual who has a legal interest in the real property.

Cross reference: See Code, Tax--Property Article, § 9-105.

(c) Interested Party

"Interested Party" means:

(1) the person who last appears as owner of the dwelling on the collector's tax roll;

(2) a mortgagee of the property or an assignee of a mortgagee of record;

(3) a holder of a beneficial interest in a deed of trust recorded against the dwelling;

(4) a taxing agency that has the authority to collect tax on the dwelling; or

(5) any person having a current interest in the real property whose identity and address are (A) reasonably

ascertainable from the county land records or (B) revealed by a full title search consisting of at least 50 years.

Cross reference: See Code, Tax--Property Article, § 14-889.

(d) Ombudsman

"Ombudsman" means the State Tax Sale Ombudsman established under Code, Tax--Property Article, § 2-112.

(e) Program

"Program" means the Homeowner Protection Program established under Code, Tax--Property Article, § 14-883, et seq.

(f) Tax

"Tax" means any tax or charge of any kind due to the State or any of its political subdivisions, or to any other taxing agency, that by law is a lien against the dwelling on which it is imposed or assessed. "Tax" includes applicable interest.

Cross reference: See Code, Tax--Property Article, § 14-801(d). For the fees and costs permitted to be imposed on a homeowner, see Code, Tax--Property Article, § 14-889. For the definition of "other taxing agency," see Code, Tax--Property Article, § 14-801(b).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 2 - FORECLOSURE BY STATE GOVERNMENT

ADD new Rule 14-613, as follows:

Rule 14-613. VENUE

A complaint for in rem foreclosure shall be commenced in the circuit court for the county in which the dwelling is located.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 2 - FORECLOSURE BY STATE GOVERNMENT

ADD new Rule 14-614, as follows:

Rule 14-614. COMPLAINT

In an in rem foreclosure filed by or on behalf of the Department, the complaint, in addition to complying with Rules 2-303 through 2-305, shall set forth:

- (a) the name and address of the Department;
- (b) a description of the dwelling as it appears in the county land records;
- (c) the tax identification number of the dwelling;
- (d) an averment from the Ombudsman that:
  - (1) at least three years have elapsed since the homeowner first enrolled in the Program;
  - (2) all reasonable efforts to assist the homeowner to pay the taxes owed to the Department have failed; and
  - (3) the homeowner's enrollment in the program was not cancelled under Code, Tax--Property Article, § 14-886(d);
- (e) the amount of delinquent taxes as of the date of filing;



(f) the name and last known address of each interested party and, if applicable, a statement that the address of a particular interested party is unknown;

(g) a request that the court not schedule a hearing on the complaint until at least 30 days after the date the complaint is accepted for filing by the clerk; and

(h) a request for judgment:

(1) foreclosing the existing interests of all interested parties in the dwelling; and

(2) ordering the dwelling to be sold at public auction.

Cross reference: See Code, Tax--Property Article, § 14-890(f).

Committee note: A complaint may be amended to include any taxes that become delinquent after commencement of the in rem foreclosure action. See Code, Tax--Property Article, § 14-890(g).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 2 - FORECLOSURE BY STATE GOVERNMENT

ADD new Rule 14-615, as follows:

Rule 14-615. PROCESS

Within five days after the complaint is accepted by the clerk for filing, the Department or its representative shall (a) in compliance with Rule 2-122 (a) (3), cause notice to be posted in a conspicuous place on the dwelling subject to the in rem foreclosure that sets forth (1) the name of the court in which the in rem foreclosure action has been filed and the case number of the action, (2) that the dwelling is subject to an action seeking foreclosure, and (3) that further information about the foreclosure action may be obtained from the clerk's office, and (b) send notice and a copy of the complaint to each interested party by first-class mail and certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service.

Cross reference: See Code, Tax--Property Article, § 14-890(d) (2).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 600 - IN REM FORECLOSURE OF LOCAL GOVERNMENT TAX LIENS

DIVISION 2 - FORECLOSURE BY STATE GOVERNMENT

ADD new Rule 14-616, as follows:

Rule 14-616. HEARING; JUDGMENT

(a) Timing

The court shall schedule a hearing for a date no earlier than 30 days after the date the complaint is accepted for filing by the clerk.

Cross reference: Code, Tax--Property Article, § 14-890(i).

(b) Right to Cure

Until a judgment foreclosing the tax lien is entered, any interested party may cure the tax lien by paying all past due taxes, including applicable interest.

Cross reference: See Code, Tax--Property Article, § 14-890(h).

(c) Conduct of Hearing

Any interested party shall have the right to be heard, to contest the delinquency of the taxes, and to contest the adequacy of the proceedings.

Cross reference: See Code, Tax--Property Article, § 14-890(j).

(d) Finding

If the court finds by a preponderance of the evidence that (1) notice has been provided to all interested parties pursuant to Rule 14-615 and (2) the information set forth in the complaint is accurate and in compliance with Rule 14-614, the court shall enter judgment.

(e) Judgment

The judgment shall:

(1) include a finding that notice has been provided to all interested parties; and

(2) order that the dwelling be sold at public auction.

Cross reference: See Code, Tax--Property Article, § 14-890(k).

(f) Post-Judgment Sale

After entry of a judgment ordering the sale of a dwelling pursuant to this Division, the sale shall be conducted in accordance with Chapter 300 of this Title.

Cross reference: See Code, Tax--Property Article, § 14-890(l)-

(p).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 900 - ~~NAME~~ - CHANGE OF NAME; JUDICIAL DECLARATION OF GENDER IDENTITY

TABLE OF CONTENTS

RULE 15-901. ACTION FOR CHANGE OF NAME

- ~~(a) Applicability~~
- ~~(b) Venue~~
- ~~(c) Petition~~
- ~~(d) Service of Petition - When Required~~
- ~~(e) Notice~~
- ~~(f) Objection to Petition~~
- ~~(g) Action by Court~~

- (a) Applicability
- (b) Venue
- (c) Petition
- (d) Minors - Notice to Nonconsenting Parent, Guardian, or Custodian
- (e) Objection to Petition
- (f) Action by Court; Hearing

RULE 15-902. ACTION FOR JUDICIAL DECLARATION OF GENDER IDENTITY

- (a) Applicability
- (b) Venue
- (c) Minors - Notice to Nonconsenting Parent, Guardian, or Custodian
- (d) Action by Court; Hearing

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 900 - ~~NAME~~ CHANGE OF NAME; JUDICIAL DECLARATION OF  
GENDER IDENTITY

AMEND Rule 15-901 by changing the Chapter title; by revising the applicability section of the Rule; by deleting language pertaining to venue from section (b); by adding new subsections (b) (1) and (b) (2) pertaining to venue for petitions by an adult and on behalf of a minor, respectively; by adding new subsection (c) (1) (B) pertaining to venue; by re-lettering the subsequent subsections in subsection (c) (1); by altering subsection (c) (1) (G) to address certain consents to the name change of a minor; by adding a Committee note pertaining to confidential information in petitions on behalf of minors; by altering a cross reference following subsection (c) (1); by clarifying and adding to the information required by subsection (c) (1) (H); by adding new subsection (c) (2) (B) pertaining to written consents to the name change of a minor; by moving current section (e) to new section (d); by re-captioning section (d) to pertain to notice to parents, guardians, and custodians who do not consent to a petition on behalf of a minor; by adding new subsection (d) (1) pertaining to notice generally; by adding new subsection (d) (2) pertaining to notice in a language other

than English; by adding new subsection (d) (3) pertaining to documents to be served; by deleting certain provisions in current section (d) so that service must comply with Rule 2-121; by deleting current subsection (e) (2) pertaining to publication; by re-lettering current section (f) as section (e) pertaining to an objection to a petition; by modifying section (e) pertaining to failure by a parent, guardian, or custodian to object to a petition on behalf of a minor; by adding a Committee note following new section (e) regarding the right to object to a petition by an adult; by re-lettering current section (g) as section (f) pertaining to action by the court and hearings; by creating new subsection (f) (1) with language from current section (g) pertaining to court action on a petition by an adult; by adding a Committee note following subsection (f) (1) regarding the 30-day delay before the court may enter an order on a petition for a name change for an adult; by adding new subsection (f) (2) pertaining to court action and hearing requirements for a petition on behalf of a minor; and by making stylistic changes, as follows:

Rule 15-901. ACTION FOR CHANGE OF NAME

(a) Applicability

This Rule applies to actions for change of name other than in connection with an adoption, ~~or~~ divorce, or declaration of gender identity.

(b) Venue

~~An action for change of name shall be brought in the county where the person whose name is sought to be changed resides.~~

(1) Change of Name of an Adult

An action for change of name of an adult shall be brought in the county where the adult resides, carries on a regular business, is employed, habitually engages in a vocation, or was born.

(2) Change of Name of a Minor

An action for change of name of a minor shall be brought by an adult petitioner on behalf of the minor in the county where the minor resides or where a parent, guardian, or custodian of the minor resides.

(c) Petition

(1) Contents

~~The~~ An action for change of name shall be commenced by filing a petition captioned "In the Matter of ..." [stating the name of the ~~person~~ individual whose name is sought to be changed] "for change of name to ..." [stating the change of name



desired]. The petition shall be under oath and shall contain ~~at least~~ the following information:

(A) the name, address, and date and place of birth of the ~~person~~ individual whose name is sought to be changed;

(B) a statement as to why venue is appropriate;

~~(B)~~ (C) whether the ~~person~~ individual whose name is sought to be changed has ever been known by any other name and, if so, the each name ~~or names~~ and the circumstances under which ~~they~~ were the name was used;

~~(C)~~ (D) the change of name desired;

~~(D)~~ (E) all reasons for the requested change;

~~(E)~~ (F) a certification that the petitioner is not requesting the name change for any illegal or fraudulent purpose;

~~(F)~~ (G) if the ~~person~~ individual whose name is sought to be changed is a minor, (i) a statement explaining why the petitioner believes that the name change is in the best interest of the minor; (ii) the names and addresses of that person's parents the name and address of each parent and any guardian or custodian of the minor; (iii) whether each of those persons consents to the name change; (iv) whether the petitioner has reason to believe that any parent, guardian, or custodian is unfamiliar with the English language and, if so, the language the petitioner reasonably believes the individual can

understand; (v) if the minor is at least ten years old, whether the minor consents to the name change; and (vi) if the minor is younger than ten years old, whether the minor objects to the name change; and

Committee note: If a petition filed on behalf of a minor contains confidential information pertaining to the minor, the petitioner may request that the court seal or otherwise limit inspection of a case record as provided in Rule 16-934.

~~(G)~~ (H) whether the ~~person~~ individual whose name is sought to be changed has ever registered or been required to register as a sexual offender and, if so, the each full ~~name(s)~~ name, (including ~~suffixes~~) any suffix, under which the ~~person~~ individual was registered and each state where the registration requirement originated.

Cross reference: See Code, Criminal Procedure Article, § 11-705, which requires a registered sexual offender whose name has been changed by order of court to send written notice of the change to ~~the Department of Public Safety and Correctional Services~~ each law enforcement unit where the registrant resides or habitually lives within ~~seven~~ three days after the order is entered.

(2) Documents to Be Attached to Petition

The petitioner shall attach to the petition:

(A) a copy of a birth certificate or other documentary evidence from which the court can find that the current name of the ~~person~~ individual whose name is sought to be changed is as alleged; and

(B) if the individual whose name is sought to be changed is a minor, (i) the written consent of each parent, guardian, and custodian of the minor or an explanation why the consent is not attached, and (ii) the written consent of the minor, if the minor is at least ten years old.

~~(d) Service of Petition - When Required~~

~~If the person whose name is sought to be changed is a minor, a copy of the petition, any attachments, and the notice issued pursuant to section (c) of this Rule shall be served upon that person's parents and any guardian or custodian in the manner provided by Rule 2-121. When proof is made by affidavit that good faith efforts to serve a parent, guardian, or custodian pursuant to Rule 2-121 (a) have not succeeded and that Rule 2-121 (b) is inapplicable or that service pursuant to that Rule is impracticable, the court may order that service may be made by (1) the publication required by subsection (c) (2) of this Rule and (2) or mailing a copy of the petition, any attachments, and notice by first class mail to the last known address of the parent, guardian, or custodian to be served.~~

~~(e) Notice~~

~~(1) Issued by Clerk~~

(d) Minors - Notice to Nonconsenting Parent, Guardian, or Custodian

(1) Generally

Upon the filing of ~~the~~ a petition for change of name of a minor, if the written consent of each parent, guardian, and custodian of the minor was not filed pursuant to subsection (c) (2) (B) of this Rule, the clerk shall sign and issue a ~~notice~~ Notice in a form approved by the State Court Administrator that (A) includes the caption of the action, (B) describes the substance of the petition and the relief sought, and (C) states ~~the latest date by which an objection to the petition may be filed~~ that any objection to the name change shall be filed no later than 30 days after service of the petition.

(2) Notice or Advisement in Language Other Than English

If the petition states that a nonconsenting parent, guardian, or custodian may be unfamiliar with the English language, the clerk also shall either issue the Notice in the language indicated in the petition or, if the Notice is not available in the indicated language, attach a Multilingual Advisement Form approved by the State Court Administrator to the Notice that was issued in English.

(3) Documents to Be Served

A copy of the following documents shall be served upon each nonconsenting parent, guardian, or custodian in the manner provided by Rule 2-121:

(A) the Notice,

(B) the petition,

(C) each attachment to the petition, and

(D) if the petition indicates that the individual to be served is unfamiliar with the English language, either the Notice in the indicated language or a Multilingual Advisement Form attached to the Notice.

~~(2)~~ Publication

~~Unless the court on motion of the petitioner orders otherwise, the notice shall be published one time in a newspaper of general circulation in the county in which the action was pending at least fifteen days before the date specified in the notice for filing an objection to the petition. The petitioner shall thereafter file a certificate of publication.~~

~~(f)~~ (e) Objection to Petition

Any person may file an objection to the petition. The objection ~~shall be filed within the time specified in the notice~~ and shall be supported by an affidavit ~~which~~ that sets forth the reasons for the objection. The affidavit shall be made on personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. The objection and affidavit shall be served upon the petitioner in accordance with Rule 1-321. The petitioner may file a response within 15 days after being served with the objection and affidavit. A parent, guardian, or custodian of a

minor who does not file an objection within 30 days after being served in accordance with section (d) of this Rule shall be deemed to have consented to the name change of the minor. A person desiring a hearing shall so request in the objection or response under the heading "Request for Hearing."

Committee note: Nothing in this Rule is intended to abrogate the right of a person who learns of a requested name change to object to the name change where there is personal knowledge of an illegal or fraudulent purpose or harm to the rights of others.

~~(g)~~ (f) Action by Court; Hearing

(1) Name Change of Adult

~~After the time for filing objections and responses has expired, the~~ The court may hold a hearing or may rule on ~~the~~ a petition to change the name of an adult without a hearing and shall enter an appropriate order, except that the court shall not deny the petition without a hearing ~~if one was requested by the petitioner.~~ The court may not enter an order earlier than 30 days after the petition was filed.

Committee note: Although there is no publication or other required notice of a requested name change of an adult, if a person learns of a requested name change, the 30-day delay in the entry of an order after the petition is filed affords a period of time within which an objection could be filed.

(2) Name Change of Minor

The court may hold a hearing or may rule on a petition to change the name of a minor without a hearing and enter an appropriate order if (A) the written consent of the minor, if

required, has been filed, and (B) each parent, guardian, and custodian (i) has filed a written consent pursuant to subsection (c) (2) (B) of this Rule, or (ii) having been served pursuant to section (d) of this Rule, did not timely file an objection. In all other cases in which a name change of a minor is requested, the court shall hold a hearing and enter an appropriate order no earlier than 30 days after all nonconsenting parents, guardians, or custodians have been served in accordance with section (d) of this Rule.

Source: This Rule is derived in part from former Rules BH70 through BH75 and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 900 - ~~NAME~~ CHANGE OF NAME; JUDICIAL DECLARATION OF  
GENDER IDENTITY

ADD new Rule 15-902, as follows:

Rule 15-902. ACTION FOR JUDICIAL DECLARATION OF GENDER IDENTITY

(a) Applicability

This Rule applies to actions for judicial declaration of gender identity, with or without a name change.

Committee note: Under certain circumstances, a judicial declaration of gender identity may be necessary to change an individual's gender designation on a birth certificate or to affirm the individual's gender identity in legal, administrative, and other contexts.

Cross reference: See Rule 16-914 (p) concerning inspection of a case record in an action filed under this Rule. For a change of name without a judicial declaration of gender identity, see Rule 15-901.

(b) Venue

(1) Declaration of Gender Identity of an Adult

An action for judicial declaration of gender identity shall be brought in the county where the adult resides, carries on a regular business, is employed, habitually engages in a vocation, or was born.

(2) Declaration of Gender Identity of a Minor



An action for judicial declaration of gender identity of a minor shall be brought by an adult petitioner on behalf of the minor in the county where the minor resides or where a parent, guardian, or custodian of the minor resides, or where the minor was born.

(c) Petition

(1) Contents

An action for judicial declaration of gender identity shall be commenced by filing a petition captioned "In the Matter of ..." [stating the name of the individual for whom the declaration is sought] "for judicial declaration of gender identity as..." [stating the gender designation desired]. The petition shall be under oath and shall contain the following information:

(A) the name, address, and date and place of birth of the individual for whom the relief requested is sought;

(B) a statement as to why venue is appropriate;

(C) the gender identity declaration desired;

(D) all reasons for the relief requested;

(E) a certification that the petitioner is not requesting the relief for any illegal or fraudulent purpose; and

(F) if the individual for whom the declaration is sought is a minor, (i) a statement explaining why the petitioner believes that the relief requested is in the best interest of

the minor; (ii) the name and address of each parent and any guardian or custodian of the minor; (iii) whether each of those individuals consents to the relief requested; (iv) whether the petitioner has reason to believe that any parent, guardian, or custodian is unfamiliar with the English language and, if so, the language the petitioner reasonably believes the individual can understand; (v) if the minor is at least ten years old, whether the minor consents to the relief requested; and (vi) if the minor is younger than 10 years old, whether the minor objects to the relief requested.

(2) Change of Name

If the petitioner also requests a name change, the petition shall include the following information:

(A) whether the individual whose name is sought to be changed has ever been known by any other name and, if so, each name and the circumstances under which the name was used;

(B) the change of name desired; and

(C) whether the individual whose name is sought to be changed has ever registered or been required to register as a sexual offender and, if so, each full name, including any suffix, under which the individual was registered and each state where the registration requirement originated.

Cross reference: See Code, Criminal Procedure Article, § 11-705, which requires a registered sexual offender whose name has been changed by order of court to send written notice of the

change to each law enforcement unit where the registrant resides or habitually lives within three days after the order is entered.

(3) Documents to Be Attached to the Petition

The petitioner shall attach to the petition:

(A) if the individual for whom relief is sought is a minor, (i) the written consents of each parent, guardian, or custodian of the minor or an explanation why the consent is not attached, and (ii) the written consent of the minor, if the minor is at least 10 years old;

(B) any documentation in support of the requested declaration of gender identity; and

(C) if the petitioner requests a name change, a copy of a birth certificate or other documentary evidence from which the court can find that the current name of the person whose name is sought to be changed is as alleged.

(d) Minors - Notice to Nonconsenting Parent, Guardian, or Custodian

(1) Generally

Upon the filing of a petition under this Rule on behalf of a minor, if the written consent of each parent, guardian, and custodian of the minor was not filed pursuant to subsection (c) (2) (B) of this Rule, the clerk shall sign and issue a Notice in a form approved by the State Court Administrator that (A) includes the caption of the action, (B) describes the substance

of the petition and the relief sought, and (C) states that any objection to the relief requested shall be filed no later than 30 days after service of the petition.

(2) Notice or Advisement in Language Other Than English

If the petition states that a nonconsenting parent, guardian, or custodian may be unfamiliar with the English language, the clerk also shall either issue the Notice in the language indicated in the petition or, if the Notice is not available in the indicated language, attach a Multilingual Advisement Form approved by the State Court Administrator to the Notice that was issued in English.

(3) Documents to Be Served

A copy of the following documents shall be served upon each nonconsenting parent, guardian, or custodian in the manner provided by Rule 2-121:

(A) the Notice,

(B) the petition,

(C) each attachment to the petition, and

(D) if the petition indicates that the individual to be served is unfamiliar with the English language, either the Notice in the indicated language or a Multilingual Advisement Form attached to the Notice.

(4) Objection to Petition

A parent, guardian, or custodian of a minor who does not consent to the relief requested may file an objection no later than 30 days after being served in accordance with subsection (d) (3) of this Rule. The objection shall be supported by an affidavit that sets forth the reasons for the objection. The affidavit shall be made on personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. The objection and affidavit shall be served upon the petitioner in accordance with Rule 1-321. The petitioner may file a response within 15 days after being served with the objection and affidavit. A parent, guardian, or custodian of a minor who does not file an objection within 30 days after being served in accordance with subsection (d) (3) of this Rule shall be deemed to have consented to the relief requested.

(e) Action by Court; Hearing

(1) Petition Seeking Declaration of Gender Identity of an Adult

The court may hold a hearing on a petition seeking a declaration of gender identity of an adult, or may grant the relief requested without a hearing, and shall enter an appropriate order, except that the court may not deny any of the relief requested without a hearing.

(2) Petition Filed on Behalf of a Minor

The court may hold a hearing or may grant the relief requested on a petition filed on behalf of a minor without a hearing and enter an appropriate order if (A) the written consent of the minor, if required, has been filed, and (B) each parent, guardian, and custodian (i) has filed a written consent pursuant to subsection (c) (3) (A) of this Rule, or (ii) having been served pursuant to subsection (d) (3) of this Rule, did not timely file an objection. In all other cases, the court shall hold a hearing no earlier than 30 days after all nonconsenting parents, guardians, or custodians have been served in accordance with subsection (d) (3) of this Rule and enter an appropriate order. To aid the court in evaluating the best interests of the minor, the court may order further proceedings, which may include a specific issue evaluation using the procedure set forth in Rule 9-205.3. The court may not deny any of the relief requested without a hearing.

Committee note: Not all individuals identify as cisgender or transgender or on a binary of male or female. See *In re K.L.*, 252 Md.App. 148 (2021), citing *Grimm v. Gloucester County School Board*, 972 F. 3d 586 (4th Cir. 2020).

Cross reference: See *In re K.L.*, 252 Md.App. 148 (2021); *In re Heilig*, 372 Md. 692 (2003); Code, Health General Article, § 4-211; and Code, Transportation Article, § 12-305.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

DELETE Rule 16-805, as follows:

~~Rule 16-805. APPOINTMENT OF BAIL BOND COMMISSIONER - LICENSING AND REGULATION OF PERSONS AUTHORIZED TO WRITE BONDS~~

~~A majority of the judges of the circuit courts in any appellate judicial circuit may appoint a bail bond commissioner, license persons authorized to write bail bonds within the appellate judicial circuit, and regulate acceptance of bail bonds written by those licensees. Each bail bond commissioner appointed pursuant to this Rule shall prepare, maintain, and periodically distribute to all District Court commissioners and clerks within the jurisdiction of the appellate judicial circuit for posting in their respective offices, to the State Court Administrator, and to the Chief Clerk of the District Court, an alphabetical list of licensees within the appellate judicial circuit, showing each licensee's name, business address and telephone number, and any limit on the amount of any one bond, and the aggregate limit on all bonds, each licensee is authorized to write.~~

~~Source: This Rule is derived from former Rule 16-817 (2016).~~

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

AMEND Rule 16-914 by adding new section (p) pertaining to a judicial declaration of gender identity and by correcting stylistic errors in subsections (f)(4) and (k)(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.

(b) Case records pertaining to petitions for relief from abuse filed pursuant to Code, Family Law Article, § 4-504, which shall be sealed until the earlier of service or denial of the petition.

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

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

Committee note: Statutes that require child abuse or neglect records to be kept confidential include Code, Human Services Article, §§ 1-202 and 1-203 and Code, Family Law Article, § 5-707.

(e) Except for docket entries and orders entered under Rule 10-108, papers and submissions filed in guardianship actions or proceedings under Title 10, Chapter 200, 300, 400, or 700 of the Maryland Rules.

Committee note: Most filings in guardianship actions are likely to be permeated with financial, medical, or psychological information regarding the minor or disabled person that ordinarily would be sealed or shielded under other Rules. Rather than require custodians to pore through those documents to redact that kind of information, this Rule shields the documents themselves subject to Rule 16-934, which permits the court, on a motion and for good cause, to permit inspection of case records that otherwise are not subject to inspection. There may be circumstances in which that should be allowed. The guardian, of course, will have access to the case records and may need to share some of them with third persons in order to perform his or her duties, and this Rule is not intended to impede the guardian from doing so. Public access to the docket entries and to orders entered under Rule 10-108 will allow others to be informed of the guardianship and to seek additional access pursuant to Rule 16-934.

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

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

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

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

(B) Executed search warrants and all papers attached thereto filed pursuant to Rule 4-601, except as authorized by a judge under that Rule.

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

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

(B) Except as otherwise provided in Code, General Provisions Article, § 4-316, a case record pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation and the charging document upon which the arrest warrant was issued.

(4) Unless entered into evidence at a hearing or trial or otherwise ordered by the court, a case record pertaining to ~~(i)~~(A) a pen register or trace device applied for or ordered pursuant to Rule 4-601.1, ~~(ii)~~(B) an emergency order applied for or entered pursuant to Rule 4-602, ~~(iii)~~(C) the interception of wire or oral communications applied for or ordered pursuant to Rule 4-611, or ~~(v)~~(D) an order for electronic device location information applied for or entered pursuant to Rule 4-612.

(5) A case record maintained under Code, Courts Article, § 9-106, of the refusal of an individual to testify in a criminal action against the individual's spouse.

(6) Subject to Rules 16-902 (c) and 4-341, a presentence investigation report prepared pursuant to Code, Correctional Services Article, § 6-112.

(7) Except as otherwise provided by law, a case record pertaining to a criminal investigation by (A) a grand jury, (B) a State's Attorney pursuant to Code, Criminal Procedure Article, § 15-108, (C) the State Prosecutor pursuant to Code, Criminal Procedure Article, § 14-110, or (D) the Attorney General when acting pursuant to Article V, § 3 of the Maryland Constitution or other law or a federal law enforcement agency.

Cross reference: See Code, Criminal Procedure Article, §§ 1-203.1, 9-101, 14-110, and 15-108, and Rules 4-612 and 4-643 dealing, respectively, with electronic device location, extradition warrants, States' Attorney, State Prosecutor, and grand jury subpoenas, and Code, Courts Article, §§ 10-406, 10-408, 10-4B-02, and 10-4B-03 dealing with wiretap and pen register orders. See also Code, Criminal Procedure Article, §§ 11-110.1 and 11-114 dealing with HIV test results.

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

(8) A case record required to be shielded by Code, Criminal Procedure Article, Title 10, Subtitle 3 (Criminal Records - Shielding).

Cross reference: See Code, Criminal Law Article, § 5-601.1 governing confidentiality of judicial records pertaining to a citation issued for a violation of Code, Criminal Law Article, § 5-601 involving the use or possession of less than 10 grams of marijuana.

(9) The following case records pertaining to a child excluded from the jurisdiction of the Juvenile Court under Code, Courts Article, § 3-8A-03(d)(1), (4), or (5):

(A) A case record pertaining to a case where a motion to transfer jurisdiction to the Juvenile Court pursuant to Code, Criminal Procedure Article, § 4-202 is pending or the time for filing such motion has not expired.

(B) A case record pertaining to a case transferred to the Juvenile Court.

Committee note: Nothing in this Rule precludes a clerk from divulging a case number to an attorney for the purpose of entering an appearance in the case or petitioning the court for access to the court file to determine whether to enter an appearance in the case.

(g) A transcript or an audio, video, or digital recording of any court proceeding that was closed to the public pursuant to Rule, order of court, or other law.

(h) Subject to the Rules in Title 16, Chapter 500, backup audio recordings, computer disks, and notes of a court reporter that have not been filed with the clerk.

(i) The following case records containing medical or other health information:

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

(2) A case record pertaining to the testing of an individual for HIV that is declared confidential under Code, Health-General Article, § 18-338.1, § 18-338.2, or § 18-338.3.

(3) A case record that consists of information, documents, or records of a child fatality review team, to the extent they are declared confidential by Code, Health-General Article, § 5-709.

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

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

(6) A case record relating to a petition for an emergency evaluation made under Code, Health-General Article, § 10-622 and declared confidential under § 10-630 of that Article.

(j) A case record that consists of the federal, state, or local income tax return of an individual.

(k) A case record that:

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

(2) in accordance with Rule 16-934 ~~(b)~~(c) is the subject of a pending petition to preclude or limit inspection.

(l) A case record that consists of a financial statement filed pursuant to Rule 9-202, a Child Support Guideline Worksheet filed pursuant to Rule 9-206, or a Joint Statement of Marital and Non-marital Property filed pursuant to Rule 9-207. Cross reference: See also Rule 9-203.

(m) A document required to be shielded under Rule 20-203 (e) (1).

(n) An unredacted document filed pursuant to Rule 1-322.1 or Rule 20-203 (e) (2).

(o) A parenting plan or joint statement prepared and filed pursuant to Rules 9-204.1 and 9-204.2.

(p) An action for judicial declaration of gender identity filed pursuant to Rule 15-902.

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

MARYLAND RULES OF PROCEDURE  
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES  
CHAPTER 300 - JUDICIAL ETHICS COMMITTEE

AMEND Rule 18-302 by adding one circuit court judge and one senior judge to the composition of the Judicial Ethics Committee and by replacing the word "former" in subsection (c)(1) with the word "senior," as follows:

Rule 18-302. EXISTENCE; MEMBERSHIP; TERMS

(a) Creation

There is a Judicial Ethics Committee.

(b) Membership

The Committee consists of ~~13~~ 15 members appointed by the Chief Judge of the Court of Appeals. Of the ~~13~~ 15 members:

- (1) one shall be a judge of the Court of Special Appeals;
- (2) ~~two~~ three shall be circuit court judges;
- (3) two shall be judges of the District Court;
- (4) one shall be a judge of an orphans' court;
- (5) ~~three~~ four shall be senior judges;
- (6) one shall be a clerk of a circuit court;
- (7) one shall be a judicial appointee as defined in Rule 18-200.3; and



(8) two shall not be a judge or other official or employee of the Judicial Branch of the State government or an attorney.

(c) Terms

(1) The term of a member is three years and begins on July 1, except that the ~~former~~ senior judges appointed pursuant to subsection (b) (5) of this Rule shall not have a term and shall serve at the pleasure of the Chief Judge of the Court of Appeals.

(2) The terms of the members shall be staggered so that the terms of not more than four members expire each year.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(5) A member may not serve more than two consecutive three-year terms.

Source: This Rule is derived from sections (b), (c), and (d) of former Rule 16-812.1 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

AMEND Rule 19-303.8 to adopt sections (g) and (h) of American Bar Association Model Rule 3.8 as sections (f) and (g), to add the relevant Model Rule Comments with minor changes to mirror existing language, and to make stylistic changes, as follows:

Rule 19-303.8. SPECIAL RESPONSIBILITIES OF A PROSECUTOR (3.8)

The prosecutor in a criminal case shall:

- (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
- (b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, an attorney and has been given reasonable opportunity to obtain an attorney;
- (c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;
- (d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in

connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; ~~and~~

(e) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent an employee or other person under the control of the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 19-303.6 (3.6) or this Rule;

(f) when a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall:

(1) promptly disclose that evidence to an appropriate court or authority; and

(2) if the conviction was obtained in the prosecutor's jurisdiction:

(i) promptly disclose that evidence to the defendant unless a court authorizes delay; and

(ii) undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense that the defendant did not commit; and

(g) when a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit, the prosecutor shall seek to remedy the conviction.

#### COMMENT

[1] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. Precisely how far the prosecutor is required to go in this direction is a matter of debate and varies in different jurisdictions. Many jurisdictions have adopted the ABA Standards of Criminal Justice Relating to Prosecution Function, which in turn are the product of prolonged and careful deliberation by attorneys experienced in both criminal prosecution and defense. See also Rule 19-303.3 (d) (3.3), governing ex parte proceedings, among which grand jury proceedings are included. Applicable law may require other measures by the prosecutor and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of Rule 19-308.4 (8.4).

[2] Section (c) of this Rule does not apply to an accused appearing self-represented with the approval of the tribunal. Nor does it forbid the lawful questioning of a suspect who has knowingly waived the rights to an attorney and silence.

[3] The exception in section (d) of this Rule recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest.

[4] Section (e) of this Rule supplements Rule 19-303.6 (3.6), which prohibits extrajudicial statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the context of a criminal prosecution, a prosecutor's extrajudicial statement can create the additional problem of increasing public condemnation of the accused. Although the announcement of an indictment, for example, will necessarily have severe consequences for the accused, a prosecutor can, and should, avoid comments which have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused. Nothing in this Comment is intended to restrict the statements which a prosecutor may make which comply with Rule 19-303.6 (b) (3.6) or 19-303.6 (c) (3.6).

[5] Like other attorneys, prosecutors are subject to Rules 19-305.1 (5.1) and 19-305.3 (5.3), which relate to responsibilities regarding attorneys and non-attorneys who work for or are associated with the attorney's office. Section (e) of this Rule reminds the prosecutor of the importance of these obligations in connection with the unique dangers of improper extrajudicial statements in a criminal case. In addition, section (e) of this Rule requires a prosecutor to exercise reasonable care to prevent persons assisting or associated with the prosecutor from making improper extrajudicial statements, even when such persons are not under the direct supervision of the prosecutor. Ordinarily, the reasonable care standard will be satisfied if the prosecutor issues the appropriate cautions to law-enforcement personnel and other relevant individuals.

[6] When a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a person outside the prosecutor's jurisdiction was convicted of a crime that the person did not commit, section (f) of this Rule requires prompt disclosure to the court or other appropriate authority, such as the chief prosecutor of the jurisdiction where the conviction occurred. If the conviction was obtained in the prosecutor's jurisdiction, section (f) of this Rule requires the prosecutor to examine the evidence and undertake further investigation to determine whether the defendant is in fact innocent or make reasonable efforts to cause another appropriate authority to undertake the necessary investigation, and to promptly disclose the evidence to the court and, absent court-authorized delay, to the defendant. Consistent with the objectives of Rules 19-304.2 (4.2) and 19-304.3 (4.3), disclosure to a represented defendant must be made through the defendant's attorney, and, in the case of an unrepresented defendant, would ordinarily be accompanied

by a request to a court for the appointment of an attorney to assist the defendant in taking such legal measures as may be appropriate.

[7] Under section (g) of this Rule, once the prosecutor knows of clear and convincing evidence that the defendant was convicted of an offense that the defendant did not commit, the prosecutor must seek to remedy the conviction. Necessary steps may include disclosure of the evidence to the defendant, requesting that the court appoint an attorney for an unrepresented indigent defendant and, where appropriate, notifying the court that the prosecutor has knowledge that the defendant did not commit the offense of which the defendant was convicted.

[8] A prosecutor's independent judgment, made in good faith, that the new evidence is not of such nature as to trigger the obligations of sections (f) and (g) of this Rule, though subsequently determined to have been erroneous, does not constitute a violation of this Rule.

**Model Rules Comparison** - Rule 19-303.8 (3.8) has been rewritten to retain elements of existing Maryland language and to incorporate some changes from the Ethics 2000 Amendments to the ABA Model Rules and from the 2008 amendments to ABA Model Rule 3.8. ABA Model Rule 3.8 (e) has not been adopted.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 400 - ATTORNEY TRUST ACCOUNTS

AMEND Rule 19-414 by extending from October 31, 2022 to April 30, 2023 the deadline stated in section (d) for the Client Protection Fund to prepare and transmit the reports required by Code, Commercial Law Article, § 17-310 and transfer certain funds to the State Comptroller and by adding an exception to the initial compliance requirement in section (e), as follows:

Rule 19-414. FUNDS PRESUMED ABANDONED

(a) Definition

In this Rule, "Client Protection Fund" means the Client Protection Fund of the Bar of Maryland.

(b) Generally

Funds deposited in an attorney's trust account pursuant to Rule 19-404 for the benefit of a client or other person are presumed abandoned if: (A) the beneficial owner affirmatively declined in writing to accept the funds, other than because of a dispute as to the amount owed; or (B) after three years from the date the funds were deposited or were required to be deposited pursuant to that Rule, the attorney is unable to determine the

identity or location of the beneficial owner after having made reasonable efforts to do so.

Committee note: Reasonable efforts must commence when the attorney first has notice of a problem identifying or locating a person who may be entitled to trust account funds or other property held by the attorney. Reasonable efforts may include (1) making a diligent search for any records or information in the attorney's file, any court file to which the attorney has access, and any published directory, available public records, estate records, or obituary records in a jurisdiction in which the attorney has reason to believe the person may reside; (2) seeking the assistance of the client and, if ethically appropriate, other attorneys, unrepresented parties, and witnesses in the case who may have information regarding the name or whereabouts of the person; (3) attempting to determine whether the person is in the custody of the Federal Bureau of Prisons, the Maryland Department of Public Safety and Correctional Services, or the local government of a jurisdiction in which the attorney has reason to believe the person may reside; (4) conducting an internet search for the person using information possessed by the attorney; and (5) attempting to contact the person by first-class mail, certified mail, and e-mail.

Code, Commercial Law Article, § 17-306 declares, for purposes of the Maryland Uniform Disposition of Abandoned Property Act, that intangible personal property held in a fiduciary capacity for the benefit of another person is presumed abandoned unless, within three years after it becomes payable or distributable, the owner has increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary. That is not a workable definition with respect to attorney trust accounts. Persons who may be entitled to the payment of attorney trust account funds would not be able to increase or decrease the funds, and, if they correspond with the attorney, their identity and likely their location will be revealed. The definition in this Rule is intended to be a reasonable and practicable one that would be acceptable to the Comptroller.

(c) Duty of Attorney upon Presumed Abandonment



(1) Upon determining that attorney trust funds are presumed abandoned pursuant to section (b) of this Rule, the attorney shall: (A) comply with Code, Commercial Law Article, § 17-308.2, and (B) prepare the requisite report and transmit it, together with the funds and any non-IOLTA accrued interest, to the State Comptroller in accordance with Code, Commercial Law Article, §§ 17-310 and 17-312.

(2) The transmission shall be accompanied by a report filed at the times specified and containing the information required by Code, Commercial Law Article, § 17-310.

Cross reference: See Rule 19-301.6 regarding confidential information.

Committee note: Code, Commercial Law Article, § 17-310(d) anticipates an annual report covering the period July 1 through June 30 to be filed no later than October 31.

(3) No such funds or report shall be transmitted to the Client Protection Fund.

Committee note: For several decades, a practice was in place for attorneys who have been unable to identify or locate persons entitled to trust funds received by the attorney to transfer those funds to the Client Protection Fund. The intent of this Rule is to end that practice. The sole statutory mission of the Client Protection Fund is to receive, investigate, and pay claims filed by persons injured by the misconduct of attorneys, not deal with abandoned money in attorney trust fund accounts. See Rule 19-602 (a) and Maryland State Bar Association Committee on Ethics, Ethics Docket 92-2 (1992), which states: "After the property is presumed abandoned, you, as holder, are required to file a report with the State Comptroller's Office regarding the property."

(d) Transfer of Funds from Client Protection Fund

On or before ~~October 31, 2022~~ April 30, 2023, the Client Protection Fund shall (1) prepare the reports required by Code, Commercial Law Article, § 17-310, and (2) transmit them, together with all attorney trust account funds that, on or prior to that date, were received by the Client Protection Fund and all non-IOLTA accrued interest thereon that have not previously been paid by the Client Protection Fund to persons lawfully entitled to those funds, to the State Comptroller, in accordance with Code, Commercial Law Article, §§ 17-310 and 17-312 and applicable regulations adopted by the Comptroller.

(e) Initial Compliance with this Rule

Except as provided in section (d) of this Rule, the The first reports under this Rule shall be filed no later than October 31, 2022 and shall include all attorney trust funds that qualify as abandoned as of June 30, 2022.

Committee note: Notwithstanding the provisions of this Rule, Rule 19-407 requires attorneys to keep certain records pertaining to the attorney's trust accounts and to maintain those records for at least five years after the date the record was created.