

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its Two Hundred and Sixth Report to the Court of Appeals, transmitting thereby proposed new Rules 4-333.1, 5-617, 6-418, and 6-423; amendments to current Rules 1-311, 2-644, 2-704, 3-513, 3-644, 3-722, 3-731, 4-211, 4-216.1, 4-231, 4-253, 4-262, 4-263, 4-325, 4-331, 4-345, 4-351, 4-601.1, 4-612, 5-611, 5-615, 6-107, 6-209, 6-311, 6-411, 6-413, 6-416, 6-434, 6-455, 6-501, 9-206, 9-308, 10-108, 10-112, 10-202, 10-301, 14-204, 14-305, 15-504, 15-1302, 16-109, 16-702, 16-913, 16-914, 16-915, 16-934, 18-402, 18-404, 18-407, 18-425, 18-437, 19-202, 19-205, 19-206, 19-207, 19-210, 19-215, 19-216, 19-217, 19-801, and 20-107; and amendments to Forms 19-A.1 and Form 19-A.2.

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

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before December 30, 2020 any written comments they may wish to make to:

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Suzanne Johnson  
Clerk  
Court of Appeals of Maryland

November 30, 2020

The Honorable Mary Ellen Barbera,  
Chief Judge

The Honorable Robert N. McDonald

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Joseph M. Getty

The Honorable Brynja M. Booth

The Honorable Jonathan Biran,  
Judges

The Court of Appeals of Maryland  
Robert C. Murphy Courts of Appeal Building  
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its Two Hundredth and Sixth Report, and recommends that the Court adopt the new Rules and amendments to existing Rules transmitted with this Report. The proposed changes fall into thirteen categories.

**Category 1** consists of Rules changes required or helpful in implementing legislation enacted by the General Assembly in its 2019 and 2020 Session, as follows.

**Rule 4-612.** The proposed amendments to Rule 4-612 implement 2020 Laws, Chapter 223, which deals with cell site simulators, sometimes referred to as Stingrays. A copy of the Session Law is attached as **APPENDIX A**.

Rule 4-612 currently provides for a court order authorizing law enforcement officers to obtain location information from an electronic device. The proposed amendments apply the procedures in that Rule to the use of cell site simulators. Cell site simulators are portable devices that mimic or masquerade as a cell tower. They intercept and capture identifying information regarding electronic devices located within range of the simulator that otherwise would be captured by the nearest cell tower. The thrust of the statute is to require a court order based on a showing of probable cause for law enforcement

officers to use those devices. The statute uses the term "court order" rather than "warrant." The statute and the Rule contain certain requirements for an application for such an Order and for the Order itself.

**Rules 4-331, 4-333.1, and 4-345.** Rule 4-333.1 is a new Rule. That Rule and the proposed amendments to Rule 4-331 implement 2020 Laws, Chapters 126 and 127 that expand the list of offenses for which a court may vacate a sentence upon a finding that the defendant was a victim of human trafficking when the offense was committed. The amendment to a cross-reference in Rule 4-345 is a conforming one.

Amendments to **Rule 4-263** that implement 2020 Laws, Chapter 282, pertaining to disclosure of benefits to in-custody witnesses, have been blended into the amendments to that Rule contained in **Category 4** and are not separately set out in the Category 1 transmittals.

**Rule 4-216.1.** The amendments to Rule 4-216.1 implement 2020 Laws, Chapter 41 that defines and governs pretrial risk scoring instruments (currently known as "risk assessment tools"). The statute takes effect July 1, 2021. The Rules Committee included it in this Report so that it is not overlooked. The Court may wish to give that Rule a July 1, 2021 effective date.

**Rules 10-202, 10-112, and 10-301.** The amendments to Rule 10-202 implement 2020 Laws, Chapter 568, which adds nurse practitioners to the list of individuals who, together with a licensed physician, can examine or evaluate alleged disabled persons for purposes of guardianship proceedings. The amendments to Rules 10-112 and 10-301 are conforming ones.

**Rules 3-731 and 9-308.** The amendments to Rules 3-731 and 9-308 implement 2020 Laws, Chapters 134 and 135, which (1) permit a six-month extension of final peace orders, and (2) automatically extend the term of a final peace order or final protective order if a timely motion to extend the term has been filed but a hearing on the motion cannot be held before the expiration date. The automatic extension lasts until the hearing is held.

**Rule 9-206.** The amendments to Rule 9-206 implement 2020 Laws, Chapters 142 and 143, which adjust the child support guidelines when there is a shared physical custody arrangement.

**Rules 5-611 and 5-615.** The amendments to Rules 5-611 and 5-615 add a cross reference to the Court Dog and Child Witness Program created by 2020 Laws, Chapters 161 and 162.

**Rule 6-423.** New Rule 6-423 implements 2020 Laws, Chapter 543 dealing with the distribution of a check for less than \$1,000 discovered after an estate has been closed.

**Rules 6-107, 6-411, 6-413, 6-416, 6-418, and 6-434.** The amendments to these Rules implement 2020 Laws, Chapter 435, which alters the laws dealing with a surviving spouse's right to claim a statutory elective share of a decedent's estate and the manner of calculating that share. In drafting these amendments, the Committee considered the need for, and drafted, additional Rules dealing with the situation in which the decedent also had created a revocable trust. We were asked to defer approval of those Rules, however, to allow consideration of them by the Registers of Wills, who will be discussing them at their next scheduled meeting in January. Although there is some overlap between the two sets of Rules, the Committee believes that the Rules submitted in this Report can be considered by the Court on their own and, because the changes made in Chapter 435 are now in effect and significant, these Rules should be presented now.

The amendments to Rule 6-411 provide the procedure and forms for electing a statutory share. The amendments to Rule 6-413 make clear that, except in a small estate proceeding, a claim properly presented against the Estate preserves a claim against the property of a revocable trust and requires the personal representative with knowledge of a revocable trust created by the decedent to notify the trustee of the claim. Chapter 435 provides for cross-notices among the personal representative, the trustee, a surviving spouse, and the person responsible for preparing the estate tax return. The amendments to Rule 6-416 deal with the determination of attorneys' fees when a surviving spouse elects a statutory share. New Rule 6-418 provides for the certification of the value of an elective share. The amendments to Rule 6-434 provide for transmitting elective share issues to a circuit court.

**Rules 16-915, 10-108, 15-1302, and 16-934.** Amendments to Rule 16-915 implement 2020 Laws, Chapter 539, requiring that certain identifying information regarding a witness in a criminal or juvenile delinquency case be shielded upon request by the witness or the State and that similar information regarding a victim be shielded on request by the State. The amendments to the other Rules are conforming ones.

**Category 2** consists of Rules regarding attorneys requested by the State Board of Law Examiners (SBLE) or the Administrative Office of the Courts (AOC).

**Rule 19-217 and Forms 19-A.1 and 19-A.2.** The amendments to Rule 19-217 and the two Forms were requested by AOC. They expand the information that must be provided by attorneys seeking *pro hac vice* admission.

**Rules 1-311 and 20-107.** The amendments to Rules 1-311 and 20-107 also were requested by AOC. They require attorneys to use the ID number registered with the Attorney Information System.

**Rules 19-202 and 19-205.** The amendments to these Rules, requested by SBLE, permits an applicant for bar admission to withdraw a character questionnaire, which would operate to withdraw as well the application for admission.

**Rules 19-206, 19-207, 19-210, 19-215, and 19-216.** The amendments to Rules 19-206 and 19-207, requested by SBLE, adjust the timing requirements for filing notices of intent to take the Uniform Bar Examination in Maryland and to transfer a qualifying score on the UBE. The amendments to the other Rules are conforming or housekeeping ones.

### **Category 3. Rule 16-913**

New section (e) addresses a problem brought to the Committee's attention by AOC. It mostly involves committees, subcommittees, and work groups of the Judicial Council but affects several other Judicial agencies as well. The problem stems from a tacit decision of the Court of Appeals in 1977, as a matter of judicial policy, to require judicial agencies to follow transparency rules similar to those that govern Executive Branch agencies under the Open Meetings Law (OML). To the extent that the judicial agency would be considered a "public body" under that law and exercises an "advisory function," that means that, subject to the exceptions stated in the OML, its meetings must be open to the public, it must give public notice of its agendas, and it must keep minutes accessible to the public. For 43 years, judicial agencies generally have complied with that policy.

That policy is explicit with respect to the Judicial Council. The Council is created by Rule 16-110 which, in section (d) makes clear that its function is strictly an advisory one. More significant, section (f) requires that its

meetings be open to the public, that notice of its meetings be posted on the Judiciary website, and that it keep minutes that also are posted on the Judiciary website. The Judicial Council operates, in large part, through committees, subcommittees, and work groups that the Council creates. Those units would not constitute public bodies under OML because they were not created by statute, Rule, or Executive Order. They are not required to hold open meetings or post public notice of their meetings and do not do so; nor are they required by law to keep minutes of their meetings, but they do create minutes and wish to continue doing so.

A question has been raised whether those minutes, which would constitute a judicial administrative record, may be subject to public inspection under the Access to Judicial Records Rules in Chapter 900 of Title 16. AOC desires, and the Rules Committee believes, that those minutes, of non-public meetings, should not be open to public inspection unless the unit desires to make a public disclosure of something it did. The basis for that is that the meeting itself was not open and not required to be open and that any recommendations from a committee, subcommittee, or work group will be presented to the Judicial Council and will become publicly accessible at that point.

#### **Category 4. Eyewitness Identification Evidence**

This Category consists of amendments to Rules **4-262, 4-263, and 4-325 and new Rule 5-617**. It emanates from issues raised, in part determined, and in part left open in *Small v. State*, 464 Md. 68 (2019). The Court in that case confirmed a continued adherence to the five factors set forth in *Manson v. Brathwaite*, 432 U.S. 98 (1977), *Neil v. Biggers*, 409 U.S. 188 (1972), and *Jones v. State*, 310 Md. 569 (1987) for assessing whether eyewitness identification evidence offered by the State in a criminal case is so unreliable that its admission would violate due process of law; namely:

- The opportunity of the witness to view the criminal at the time of the crime;
- The witness's degree of attention;
- The accuracy of the witness's prior description of the criminal;

- The level of certainty demonstrated by the witness at the confrontation; and
- The length of time between the crime and the confrontation.

In a Concurring Opinion, three judges of the Court expressed the view that some of those criteria were outdated and had been shown by recent studies and case law in other States to be factually inaccurate, misleading, or incomplete and asked that the Rules Committee craft Rules that would take account of the recent scientific evidence and judicial decisions elsewhere.

The decision in *Small* was a Constitutional one - what standards should apply **under a due process analysis** in determining the admissibility of an eyewitness identification evidence claimed to be sufficiently unreliable as "to create a very substantial likelihood that the witness misidentified the culprit." 464 Md. at 93. The Court did not appear to make any holding as to whether, or which, other factors shown to affect memory or the reliability of eyewitness identifications should be considered (1) by a court in determining admissibility as a matter of State evidence law, or (2) by the trier of fact in determining whether to credit the identification if the court does admit it. The Court's holding that the *Manson-Biggers* factors sufficed for due process purposes was taken by the Rules Committee to limit any review by it to a sub-Constitutional State law analysis.

At the request of the Concurring judges and with the assistance of representatives of the Innocence Project, both nationally and at the University of Baltimore Law School, the Criminal Pattern Jury Instruction Committee of the Maryland State Bar Association, and others, the Committee did undertake a study of the scientific literature and emerging caselaw in other States to consider whether additional factors, not inconsistent with those required by the Court for due process purposes, should be applied (1) for purposes of determining admissibility as a matter of Maryland evidence law, and (2) in developing appropriate pattern jury instructions in cases where the evidence was admitted.

Without reciting all of the detail, much of which the Court was aware of in deciding *Small*, the scientific literature, the emerging caselaw, and statutes enacted by the Maryland General Assembly have identified two categories of factors that have been shown to affect human memory and the reliability of



eyewitness identifications. They are generally denominated as "system variables" and "estimator variables."

System variables are those that are within the State's control and deal mostly with how an identification procedure - a line-up, a show-up, a photo array - was conducted by a law enforcement agency. Estimator variables are beyond the control of the criminal justice system, are more random and particular to the circumstances of the identification, and include such things as stress on the part of the witness, lighting, distance, and obstructions at the time of the identification, focus by the witness on a weapon rather than the face of the perpetrator, and, at least to some, uncertainties in the reliability of cross-racial identifications.

In 1999, the U.S. Department of Justice (DOJ) issued guidelines for law enforcement agencies that were intended to "integrate a growing body of psychological knowledge regarding eyewitness evidence with the practical demands of day-to-day enforcement." See *Eyewitness Evidence: A Guide for Law Enforcement*, U.S. Department of Justice (October 1999). The Guidelines covered such things as answering 911 calls in a non-suggestive manner, instructing witnesses to avoid discussing the incident with other witnesses, preparing mug books, instructing witnesses prior to conducting an identification procedure, documenting the procedure, recording witness recollections and identification results, and composing lineups and conducting show-ups.

Although those guidelines were not intended by DOJ as a legal mandate, in 2007, the General Assembly enacted § 3-506 of the Public Safety Article (PS), which required each law enforcement agency in the State to adopt written policies that complied with DOJ standards on accurate eyewitness identification. Following the decision in *State v. Henderson*, 27 A.3d 872 (N.J. 2011) and similar decisions in Alaska and Connecticut, the Legislature enacted PS § 3-506.1 that set forth certain specific requirements for eyewitness identification procedures and amended § 3-506 to require every law enforcement agency in the State to adopt a written policy that complies either with § 3-506.1. or with the Police Training Commission's Eyewitness Identification Model Policy. Those legislative mandates deal with System Variables. The *Small* Court took note of those statutes but determined that they were not intended to "dismantle [the Court's long standing *due process* jurisprudence." *Small*, 464 Md. at 86, n. 18 (emphasis added).

The debate in the Rules Committee was not so much over the genuineness of the various system or estimator variables - whether they truly had an impact on the suggestiveness of an eyewitness identification procedure or the reliability of the actual identification. The Committee accepted the growing scientific consensus and emerging case law that they could and, at least as to some of them, likely did. The issue, rather, was whether they should be the subject of jury instructions rather than rulemaking. Partly in that context, the Committee worked closely with the MSBA Criminal Pattern Jury Instruction Committee, which has drafted and approved a set of jury instructions dealing mostly with the estimator variables. The Committee saw a need for Rules in three areas:

- First, in the discovery Rules (Rules 4-262 and 4-263), to assure that the State's current obligation to disclose "all relevant material or information regarding . . . pretrial identification of the defendant by a State's witness" includes the information required by PS §§ 3-506 and 3-506.1 (the system variables) and documents or other evidence indicating compliance or non-compliance with those requirements. The basis for that is the recognition that significant non-compliance with the statutory mandate may be grounds for a motion to suppress the identification as sufficiently suggestive to be unreliable and inadmissible as a matter of Maryland evidence law, retaining the factors confirmed in *Small* as applicable to a due process challenge;
- Second, new Rule 5-617, directing the court, in determining whether eyewitness identification evidence is suggestive or reliable for purposes of admissibility, to consider whether there was substantial compliance with the requirements of PS §§ 3-506 and 3-506.1; and
- Third, a new section (e) to Rule 4-325, directing that, if pretrial eyewitness identification evidence obtained with the participation of a law enforcement agency has been admitted, the court, upon request, shall instruct the jury, as relevant, that, in considering the reliability of the identification, the jury shall consider evidence of (1) whether there was compliance with the requirements of PS §§ 3-506 and 3-506.1; and (2) evidence of any other factor that reasonably may bear on the reliability of the identification.

With respect to that third requirement, the Committee had before it the draft of pattern jury instructions drafted by the

MSBA Criminal Pattern Jury Instruction Committee, a copy of which is attached as **APPENDIX B**.

The Committee's view is that these four Rules are purely procedural ones designed to make the identification procedure more transparent, give credence, as a matter of State law, to the statutory mandates regarding system variables, and, through jury instructions (which the court can apply to itself in a nonjury case), to give appropriate guidance in determining the ultimate reliability/credibility of the identification. Although many of the estimator variables have achieved widespread acceptance in the courts, not all of them have. The science is ongoing, which the Pattern Jury Instruction Committee can monitor. The Committee considered whether to make any recommendation regarding the allowance of expert testimony regarding the system or estimator variables but decided to leave that to the trial court's discretion guided by Rule 5-702 and the caselaw interpreting that Rule.

#### **Category 5. Miscellaneous - Title 2 Rules**

**Rule 2-644.** The amendment to Rule 2-644 corrects a cross-reference.

**Rule 2-704.** The amendment to Rule 2-704 (d) gives the court discretion in scheduling the presentation of evidence regarding an attorneys' fee award permitted as an element of damages. Where attorneys' fees are part of the party's damages, evidence regarding the amount of those fees ordinarily must be presented as part of the party's case-in-chief, but there may be circumstances in which it would be more efficient to defer that evidence until the party has established an entitlement to such fees. See Rule 2-703 (c) (1) governing attorneys' fees allowed by law.

#### **Category 6. Miscellaneous - Title 3 Rules**

**Rules 3-644 and 3-722.** The amendments update cross references.

**Rule 3-513.** **Rule 3-513** deals with testimony by telephone. The proposed amendment deletes what, with the massive predominance of cell phones, are essentially obsolete references to wired handsets, wireless handsets connected to a land line, and speaker phones.

## **Category 7. Title 4 Rules**

**Rule 4-211.** Rule 4-201 (a) provides that an offense shall be tried only on a charging document which, in the District Court, includes a citation when authorized by statute. Rule 4-211 (a) requires that the original of a citation shall be filed in the District Court promptly after its issuance and service. Nearly all traffic citations are now issued in electronic form, and, although the driver receives a paper copy, it is the electronic data that is uploaded to the District Court. A question has arisen as to whether that electronic data qualifies as a charging document. See *State v. Cornish* (Circ. Ct. for Wicomico Co., Case No. C-22-CR-000033) attached as **APPENDIX C**. The proposed amendment to Rule 4-211 (a), requested by the Chief Judge of the District Court, is intended to resolve that issue.

**Rule 4-231.** New section (e) permits the Circuit Courts to conduct an initial appearance and a review of a District Court's pretrial release decision remotely in accordance with Rule 2-804 but requires that a defendant's right to an attorney and an interpreter and a victim's right to be present not be infringed. The amendments to section (d) update a cross reference.

**Rule 4-351.** The amendment clarifies that the court may correct a commitment record at any time on motion or, after notice to the parties and an opportunity to object, on the court's own initiative and adds a cross reference to *Bratt v. State*, 468 Md. 481 (2020).

**Rule 4-253.** The amendment adds a reference to *Hemming v. State*, 469 Md. 219 (2020).

**Rule 4-601.1.** The amendment expands the Rule to permit courts to entertain applications and enter orders, except for wiretaps, by electronic means. The Rule currently is limited to orders for pen registers and trap and trace devices.

## **Category 8. Title 6 Rules**

**Rules 6-209, 6-311, 6-455, and 6-501.** The amendments to these Rules are updating ones.

## **Category 9. Title 14 Rules**

**Rule 14-305.** New section (c) is in the nature of an anti-conflict-of-interest provision. It requires an auctioneer at a foreclosure of judicial sale to file an affidavit that (1) it has not paid any compensation to anyone for hiring the

auctioneer, (2) it has no interest in the property sold other than a lawful fee for conducting the sale, and (3) it has no agreement to conduct or assist in conducting a resale of the property other than a resale ordered by the court.

**Rule 14-204.** The amendment clarifies that the priority of filing a foreclosure action is limited to fractional owners of the same lien instrument and not junior lienholders.

#### **Category 10. Title 15 Rule**

**Rule 15-504.** Section (a) is amended to take account of the Court's decision in *Fuller v. Republican Cent. Comm.*, 444 Md. 613, 635-36 (2015) regarding the facts that must be shown to justify the grant of a temporary restraining order.

#### **Category 11. Title 16 Rules**

**Rule 16-109.** The amendment to Rule 16-109 recognizes that, traditionally, the educational programs conducted during meetings of the Judicial Conferences have been under the auspices of the educational unit of the Judiciary created by Administrative Order of the Chief Judge of the Court of Appeals, which currently is the Judicial College.

**Rule 16-702.** The amendment to Rule 16-702 removes the Executive Committee of the Conference of Circuit Judges from the Rule but authorizes the Conference to appoint such a committee.

**Rule 16-914.** A cross-reference has been corrected.

#### **Category 12. Title 18 Rules**

**Rule 18-402.** Rule 18-402 defines a judge's "address of record" for purposes of Judicial Disabilities Commission proceedings as the judge's current home address or another address designated in writing by the judge. All Maryland judges, except some judges of the Orphans' Courts are attorneys who must register a preferred address with the Attorney Information System (AIS) and keep that address current. See Rule 19-802. The amendment clarifies that, if the judge is an attorney, the address of record is the address designated by the judge with AIS.

**Rule 18-404.** The proposed amendments to Rule 18-404, requested by the Judicial Disabilities Commission (JDC), deal with the place and method of service of a Statement of Charges and other documents in a JDC proceeding.

**Rule 18-407.** The amendment to 18-407 is derived from a proposal by JDC. It allows the Commission, when a judge resigns or voluntarily retires prior to the resolution of a complaint against the judge, to provide to Bar Counsel information pertaining to conduct by the judge that may constitute a violation of the Rules of Professional Conduct that raises a substantial question as to the judge's honesty, trustworthiness, or fitness as an attorney.

**Rule 18-425.** The amendment to Rule 18-425 provides consistency with Rule 18-422 (a)(4)(f), that, if a judge has not requested notice of a complaint filed with JDC, the judge will not be notified that a complaint has been dismissed without a letter of cautionary advice.

**Rule 18-437.** At the request of JDC, the time for responding to exceptions filed to a JDC Report in the Court of Appeals is increased from 15 days to 30 days.

**Category 13. Title 19 Rule**

**Rule 19-801.** Rule 19-801 is amended to add the Attorney Grievance Commission, Bar Counsel, the Commission on Judicial Disabilities, and Investigative Counsel as a "constituent agency" for purposes of the Attorney Information System.

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

Respectfully submitted,

Alan M. Wilner  
Chair

AMW:wlp  
cc: Suzanne C. Johnson, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 600 - CRIMINAL INVESTIGATIONS AND MISCELLANEOUS

PROVISIONS

AMEND Rule 4-612 to include cell site simulators in the title and section (b) of the Rule, as follows:

RULE 4-612. ORDER FOR CELL SITE SIMULATOR OR ELECTRONIC DEVICE LOCATION INFORMATION

(a) Definitions

The definitions in Code, Criminal Procedure Article, § 1-203.1 (a) apply in this Rule.

(b) Issuance of Order

A court may issue an order authorizing or directing a law enforcement officer to use a cell site simulator or obtain location information from an electronic device if there is probable cause to believe that a misdemeanor or felony has been or will be committed by the owner or user of the electronic device or by an individual about whom the information sought by the cell site simulator or the location information is being sought, and the information sought by the cell site simulator or the location information being sought (1) is evidence of or will lead to evidence of the misdemeanor or felony being investigated or (2)

will lead to the apprehension of an individual for whom an arrest warrant has been previously issued. The application for the order, the order issued, and the notice of the order shall conform to the requirements of Code, Criminal Procedure Article, § 1-203.1.

Source: This Rule is new.

REPORTER'S NOTE

Chapter 223, 2020 Laws of Maryland (SB 246) adds to Code, Criminal Procedure Article, § 1-203.1 provisions that permit a court to issue an order authorizing or directing a law enforcement officer to use a cell site simulator. Proposed amendments to Rule 4-612 add references to cell site simulators to conform the Rule to the revised statute.



MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-331 to delete subsection (b) (2) regarding motions filed pursuant to Code, Criminal Procedure Article, § 8-302 and to re-letter subsections (b) (1) (A) and (b) (1) (2) as (b) (1) and (b) (2), as follows:

RULE 4-331. MOTIONS FOR NEW TRIAL; REVISORY POWER

(a) Within Ten Days of Verdict

On motion of the defendant filed within ten days after a verdict, the court, in the interest of justice, may order a new trial.

Cross reference: For the effect of a motion under this section on the time for appeal see Rules 7-104(b) and 8-202(b).

(b) Revisory Power

~~(1) Generally~~

The court has revisory power and control over the judgment to set aside an unjust or improper verdict and grant a new trial:

~~(A)~~ (1) in the District Court, on motion filed within 90 days after its imposition of sentence if an appeal has not been perfected;

~~(B)(2)~~ in the circuit courts, on motion filed within 90 days after its imposition of sentence. Thereafter, the court has revisory power and control over the judgment in case of fraud, mistake, or irregularity.

~~(2) Act of Prostitution While Under Duress~~

~~On motion filed pursuant to Code, Criminal Procedure Article, § 8-302, the court has revisory power and control over a judgment of conviction of prostitution to vacate the judgment, modify the sentence, or grant a new trial.~~

. . .

REPORTER'S NOTE

As noted in the Reporter's note to Rule 4-333.1, amendments to Code, Criminal Procedure Article, § 8-302 became effective on June 1, 2020. The amended provisions of § 8-302 are incorporated into new Rule 4-333.1. Amendments to Rule 4-331 are therefore proposed to reflect that the provisions of § 8-302 are no longer addressed by the Rule.

Proposed amendments to Rule 4-331 delete subsection (b) (2) and re-letter subsections (b) (1) (A) and (b) (1) (2) as (b) (1) and (b) (2) respectively.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

ADD NEW Rule 4-333.1, as follows:

RULE 4-333.1. MOTION TO VACATE JUDGMENT OF CONVICTION OF HUMAN  
TRAFFICKING VICTIM

(a) Scope

This Rule applies to a motion to vacate a judgment of conviction filed by an individual convicted of a qualifying offense pursuant to Code, Criminal Procedure Article, § 8-302 if the individual's participation in the offense was a direct result of being a victim of human trafficking.

(b) Timing

The motion shall be filed within a reasonable period of time after the conviction.

(c) Content

The motion shall:

- (1) be in writing; and
- (2) describe the evidence and include copies of any documents showing that the movant is entitled to relief under Code, Criminal Procedure Article, § 8-302.

(d) Notice

The motion shall be:

(1) served on the State's Attorney for the jurisdiction where the conviction for the qualifying offense occurred; and

(2) if the qualifying offense occurred within five years before the filing of the motion, mailed to any victim's or victim's representative's last known address.

(e) Disposition without a hearing

(1) The Court may dismiss a motion filed under this section without a hearing if:

(i) The motion fails to assert grounds on which relief may be granted;

(ii) The motion offers no additional evidence beyond that which has previously been considered by the Court; or

(iii) The movant acted fraudulently or in bad faith in filing the motion.

(2) The Court may grant a motion filed under this section without a hearing if:

(i) The State's Attorney consents to the motion;

(ii) No objection has been filed by a victim or victim's representative; and

(iii) At least 60 days have elapsed since notice and service of the motion.

(f) Disposition

The Court may grant a motion filed under this section on finding by a preponderance of the evidence that the movant's participation in the qualifying offense was a direct result of being a victim of human trafficking. The court shall state the reasons for its ruling on the record.

REPORTER'S NOTE

Chapters 126/127, 2020 Laws of Maryland, (HB 242/SB 206), effective June 1, 2020, modified Code, Criminal Procedure Article, § 8-302. The statute previously permitted the court to vacate a conviction, modify the sentence, or grant a new trial if a person convicted of prostitution was acting under duress caused by the act of another committed in violation of Title 3, Subtitle 11 of the Criminal Law Article or in violation of the prohibition against human trafficking. The amendments to § 8-302 provide a list of additional qualifying offenses that may now be vacated by motion if participation in the offense was the direct result of being a victim of human trafficking. The revised statute also removes language permitting the court to modify the sentence or grant a new trial based on the motion, providing only that the court shall vacate the conviction if the motion is granted.

The provisions of former Code, Criminal Procedure Article, § 8-302 are currently incorporated into Rule 4-331. Rule 4-331, however, deals primarily with the court's ability to order a new trial and exercise revisory power, containing only brief references to vacating a conviction. Rule 4-333, in contrast, addresses vacating convictions, but applies only to motions filed by the State's Attorney. Criminal Procedure Article, § 8-302 directs the court to vacate a conviction, but no longer permits ordering a new trial or modifying a sentence. A motion pursuant to § 8-302 is filed by the defendant. Accordingly, new Rule 4-333.1 is proposed to address motions to vacate convictions of qualifying offenses filed by the defendant because he or she was a victim of human trafficking.

Section (a) sets forth the scope of Rule 4-333.1. Section (b) states that the motion shall be filed within a reasonable period of time after the conviction. Content requirements for the motion are set forth in section (c). Notice requirements for the motion are explained in section (d). Section (e) provides the circumstances under which the court may dismiss or grant the motion without a hearing. Section (f) provides that the court may grant a motion filed under this section on finding by a preponderance of the evidence that the movant's participation in the qualifying offense was a direct result of being a victim of human trafficking, and that the reasons for the ruling shall be stated on the record.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-345 to delete a portion of a cross reference,  
as follows:

RULE 4-345. SENTENCING - REVISORY POWER OF COURT

...

(f) Open Court Hearing

The court may modify, reduce, correct, or vacate a sentence only on the record in open court, after hearing from the defendant, the State, and from each victim or victim's representative who requests an opportunity to be heard. The defendant may waive the right to be present at the hearing. No hearing shall be held on a motion to modify or reduce the sentence until the court determines that the notice requirements in subsection (e) (2) of this Rule have been satisfied. If the court grants the motion, the court ordinarily shall prepare and file or dictate into the record a statement setting forth the reasons on which the ruling is based.

Cross reference: ~~See Code, Criminal Procedure Article, § 8-302, which allows the court to vacate a judgment, modify a sentence, or grant a new trial for an individual convicted of prostitution if, when the crime was committed, the individual was acting~~

~~under duress caused by the act of another committed in violation of Code, Criminal Law Article, § 11-303, the prohibition against human trafficking. See Code, Criminal Law Article, § 5-609.1 regarding an application to modify a mandatory minimum sentence imposed for certain drug offenses prior to October 1, 2017, and for procedures relating thereto.~~

. . .

REPORTER'S NOTE

Chapters 126/127, 2020 Laws of Maryland, (HB 242/SB 206), amending Code, Criminal Procedure Article, § 8-302, became effective on June 1, 2020. Although the prior version of § 8-302 permitted the court discretion to order a new trial or modify a sentence, the amended provisions of § 8-302 provide that the court shall vacate the judgment if the motion is granted. Accordingly, a reference to § 8-302 in Rule 4-345 concerning revisions of sentences is no longer relevant.

A proposed amendment to Rule 4-345 deletes the description of § 8-302 in a cross reference after section (f).



MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-216.1 to include the definition of a pretrial risk scoring instrument, to add two cross references, to update section numbering, and to make language consistent throughout the Rule, as follows:

RULE 4-216.1. PRETRIAL RELEASE--STANDARDS GOVERNING

(a) Definitions

The following definitions apply in this Rule:

. . .

(5) Pretrial Risk Scoring Instrument

"Pretrial risk scoring instrument" means a tool, a metric, an algorithm, or software that is used to assist in determining the eligibility of a defendant for pretrial release in a pretrial proceeding based on the defendant's flight risk and threat to community safety.

Cross reference: See Code, Criminal Procedure, § 5-103.

~~(5)~~ (6) Release on Personal Recognizance

"Release on personal recognizance" means a release, without the requirement of a bond, based on a written promise by

the defendant (A) to appear in court when required to do so, (B) to commit no criminal offense while on release, and (C) to comply with all other conditions imposed by the judicial officer pursuant to this Rule, Rule 4-216.2, or by other law while on release.

Committee note: The principal differences between a personal recognizance and a bond are that the former does not provide for payment of a penalty sum if the defendant fails to appear when required and is not subject to any financial conditions.

~~(6)~~(7) Special Condition

“Special condition” means a condition of release required by a judicial officer, other than the conditions that the defendant appear in court when required to do so and commit no criminal offense while on release.

~~(7)~~(8) Special Condition of Release with Financial Terms

“Special condition of release with financial terms” means the requirement of collateral security or the guarantee of the defendant’s appearance by a compensated surety as a condition of the defendant’s release. The term does not include (A) an unsecured bond by the defendant or (B) the cost associated with a service that is a condition of release and is affordable by the defendant or waived by the court.

Committee note: Examples of a condition of release that is not a special condition of release with financial terms are participation in an ignition interlock program, use of an alcohol consumption monitoring system, and GPS monitoring.

~~(8)~~(9) Surety

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

~~(9)~~(10) Surety Insurer

“Surety insurer” means a person in the business of becoming, either directly or through an agent, a surety on a bond for compensation.

~~(10)~~(11) Uncompensated Surety

“Uncompensated surety” means an accommodation surety who does not charge or receive compensation for acting as a surety for the defendant.

. . .

(f) Consideration of Factors

(1) Recommendation of Pretrial Release Services Program

In determining whether a defendant should be released and the conditions of release, the judicial officer shall give consideration to the recommendation of any pretrial release services program that has made a risk assessment of the defendant in accordance with a validated ~~risk assessment tool~~ pretrial risk scoring instrument and is willing to provide an acceptable level of supervision over the defendant during the period of release if so directed by the judicial officer.

Cross reference: For validation requirements for pretrial risk scoring instruments, see Code, Criminal Procedure, § 5-103 (b).

(2) Other Factors

In addition to any recommendation made in accordance with subsection (f)(1) of this Rule, the judicial officer shall consider the following factors:

(A) the nature and circumstances of the offense charged, the nature of the evidence against the defendant, and the potential sentence upon conviction;

(B) the defendant's prior record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings;

(C) the defendant's family ties, employment status and history, financial resources, reputation, character and mental condition, length of residence in the community, and length of residence in this State;

(D) any request made under Code, Criminal Procedure Article, § 5-201 (a) for reasonable protections for the safety of an alleged victim;

(E) any recommendation of an agency that conducts pretrial release investigations;

(F) any information presented by the State's Attorney and any recommendation of the State's Attorney;

(G) any information presented by the defendant or defendant's attorney;

(H) the danger of the defendant to an alleged victim, another person, or the community;

(I) the danger of the defendant to himself or herself; and

(J) any other factor bearing on the risk of a willful failure to appear and the safety of each alleged victim, another person, or the community, including all prior convictions and any prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

. . .

REPORTER'S NOTE

Chapter 41, 2020 Laws of Maryland (HB 49), effective July 1, 2021, defines a "pretrial risk scoring instrument" that may be used to assist the court in determining the eligibility of a defendant for pretrial release. The statute also requires that any such tool used by a jurisdiction must have an independent validation study conducted at least once every five years. Amendments are proposed to Rule 4-216.1 to address the language added by Chapter 41.

New subsection (a) (5) adds the definition of "pretrial risk scoring instrument." A proposed cross reference cites to Code, Criminal Procedure, § 5-103, the source of the definition. Former subsections (a) (5), (a) (6), (a) (7), (a) (8), (a) (9), and (a) (10) are re-numbered as (a) (6), (a) (7), (a) (8), (a) (9), (a) (10), and (a) (11), respectively.

Proposed amendments to section (f) replace the term "pretrial risk assessment" with "pretrial risk scoring instrument." A proposed cross reference after section (f) addresses the validation requirements for pretrial risk scoring instruments pursuant to Code, Criminal Procedure Article, § 5-103.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-202 by adding nurse practitioner to the list of health care professionals who may examine an alleged disabled person and sign a certificate required to accompany a petition for guardianship in subsection (a) (1) (B) and (a) (3) (A), by updating a cross reference following section (a), and by making stylistic changes, as follows:

Rule 10-202. CERTIFICATES AND CONSENTS

(a) Certificates

(1) Generally Required

If guardianship of the person of a disabled person is sought, the petitioner shall file with the petition signed and verified certificates of the following persons who have examined or evaluated the alleged disabled person: (A) (i) two physicians licensed to practice medicine in the United States ~~who have examined the disabled person,~~ or (B) (ii) one such licensed physician ~~who has examined the disabled person~~ and one licensed psychologist, ~~or~~ licensed certified social worker-clinical, or

nurse practitioner ~~who has seen and evaluated the disabled person.~~ An examination or evaluation by at least one of the health care professionals shall have been within 21 days before the filing of the petition.

(2) Form

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

(3) Absence of Certificates

(A) Refusal to Permit Examination

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

order shall be personally served on that person and on the disabled person.

(B) Appointment of Health Care Professionals by Court

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

Cross reference: See Code, Estates and Trusts Article, ~~§ 13-801~~ § 13-705.

. . .

REPORTER'S NOTE

To comply with Chapter 568, 2020 Laws of Maryland (SB 576), proposed amendments to Rule 10-202 add nurse practitioners to the list of health care professionals who may examine or evaluate an alleged disabled person and sign a certificate accompanying a petition for guardianship and physician's certification. Previously, the law required certification from two physicians or from a physician and either a licensed psychologist or licensed certified social worker-clinical. Stylistic changes to section (a) are made, and a cross reference following the section is updated.



MARYLAND RULES OF PROCEDURE  
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES  
CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-112, to conform to a recent statutory change,  
and to make stylistic changes, as follows:

RULE 10-112. PETITION FOR GUARDIANSHIP OF ALLEGED DISABLED  
PERSON

A petition for guardianship of an alleged disabled person  
shall be substantially in the following form:

. . .

ADDITIONAL INSTRUCTIONS

1. The required exhibits are as follows:
  - (a) A copy of any instrument nominating a guardian;
  - (b) A copy of any power of attorney (including a durable power of attorney for health care) which the alleged disabled person has given to someone;
  - (c) Signed and verified certificates of two health care professionals who have examined or evaluated the alleged disabled person. The health care professionals shall be either two physicians licensed to practice medicine in the United States ~~who have examined the alleged disabled person,~~ or of one

such licensed physician, who has examined the alleged disabled person, and one licensed psychologist, ~~or~~ licensed certified social worker-clinical, or nurse practitioner who has seen and evaluated the alleged disabled person. An examination or evaluation by at least one of the health care professionals must have occurred within 21 days before the filing of the petition (see Code, Estates and Trusts Article, § 13-303 and § 1-102 (a) and (b)).

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

. . .

REPORTER'S NOTE

Chapter 568, 2020 Laws of Maryland (SB 576) adds nurse practitioners to the list of health care professionals who may examine an alleged disabled person and sign a certificate to required to accompany a petition for guardianship in addition to a physician. The amendments to Rule 10-112 conform the "Additional Instructions," for completion of a "Petition for Guardianship of Alleged Disabled Person" to the new statutory requirements.

MARYLAND RULES OF PROCEDURE  
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES  
CHAPTER 300 - GUARDIAN OF PROPERTY

AMEND Rule 10-301 by amending the Committee note following subsection (d) (1), as follows:

Rule 10-301. PETITION FOR APPOINTMENT OF A GUARDIAN OF PROPERTY

. . .

(d) Required Exhibits

The petitioner shall attach to the petition as exhibits a copy of any instrument nominating a guardian and documentation in full compliance with at least one of the following:

- (1) the certificates required by Rule 10-202;

Committee note: Rule 10-202 (a) (2) requires that a certificate of a licensed physician, licensed psychologist, ~~or~~ licensed certified social worker-clinical, or nurse practitioner be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the offices of the clerks of the circuit courts.

. . .

REPORTER'S NOTE

The amendment to Rule 10-301 is a conforming amendment necessitated by proposed changes to Rule 10-202 in light of Chapter 568, 2020 Laws of Maryland (SB 576).

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

AMEND Rule 3-731 to require the filing of a motion before modifying, rescinding, or extending a peace order, to provide for an automatic extension under certain circumstances, and to make stylistic changes, as follows:

Rule 3-731. PEACE ORDERS

(a) Generally

Proceedings for a peace order are governed by Code, Courts Article, Title 3, Subtitle 15.

(b) Form of Petition

A petition for relief under ~~that~~ the statute shall be in substantially the following form:

. . .

(c) Modification; Rescission; Extension

Upon the filing of a motion, a judge may modify, rescind, or extend a peace order. Modification, rescission, and extension of peace orders are governed by Code, Courts and Judicial Proceedings Article, § 3-1506 (a). If a motion to extend a final peace order is filed before the original expiration date of the peace order, and the hearing is not held by that date, the peace order shall be automatically extended

until the hearing is held. The motion shall be presented to a judge forthwith.

Committee note: Although Code, Courts and Judicial Proceedings Article, § 3-1506 (a) automatically extends a peace order under certain circumstances, judges are encouraged to issue an order even when the automatic extension is applicable.

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 3-731 address the modification, rescission, and extension of peace orders. A proposed restructuring also separates the Rule into sections.

Pursuant to Chapter 134, 2020 Laws of Maryland (HB 250), effective October 1, 2020, a final peace order is automatically extended if a motion to extend is filed and a hearing is not held before the original expiration date of the order. A proposed amendment to the Rule provides for this new method of extension.

Logistical concerns were expressed by members of the Family/Domestic Subcommittee about the implementation of this statute. One possible solution to address some of the concerns would be to include language in the peace order indicating that, if a motion to extend is filed before the expiration date of the order, the peace order will be automatically extended until a hearing is held on the motion. A proposed Committee note also recognizes that, even if an automatic extension applies, the issuance of a judge's order to extend a peace order remains the best practice.

MARYLAND RULES OF PROCEDURE  
TITLE 9 - FAMILY LAW ACTIONS  
CHAPTER 300 - DOMESTIC VIOLENCE

AMEND Rule 9-308 to require the filing of a motion before modifying, rescinding, or extending a protective order and to provide for an automatic extension under certain circumstances, as follows:

Rule 9-308. MODIFICATION; RESCISSION; EXTENSION

~~Only~~ Upon the filing of a motion, a judge may modify, rescind, or extend a protective order. Modification, rescission, and extension of protective orders are governed by Code, Family Law Article, § 4-507 (a). If a motion to extend a final protective order is filed before the original expiration date of the protective order, and the hearing is not held by that date, the protective order shall be automatically extended until the hearing is held. The motion shall be presented to a judge forthwith.

Committee note: Although Code, Family Law Article, § 4-507 (a) automatically extends a protective order under certain circumstances, judges are encouraged to issue an order even when the automatic extension is applicable.

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 9-308 clarify that a motion must be filed to extend, modify, or rescind a protective order.

Pursuant to Chapter 134, 2020 Laws of Maryland (HB 250), effective October 1, 2020, a protective order is automatically extended if a motion to extend is filed and a hearing is not held before the original expiration date of the protective order. A proposed amendment to the Rule provides for this new method of extension.

Concern was expressed about the implementation of this statute by members of the Family/Domestic Subcommittee. One possible solution to address some concerns would be to include language in the protective order indicating that, if a motion to extend is filed before the expiration date of the order, the protective order will be automatically extended until a hearing is held on the motion. A proposed Committee note also recognizes that, even if an automatic extension applies, the issuance of a judge's order to extend a protective order remains the best practice.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 200 - DIVORCE, ANNULMENT AND ALIMONY

AMEND Rule 9-206 to update a reference in subsection (a)(1) to Code, Family Law Article § 12-201, to add the shared physical custody adjustment to Worksheet B, to conform line references in Worksheet B, to conform line references in Worksheet C, and to make stylistic changes, as follows:

Rule 9-206. CHILD SUPPORT GUIDELINES

(a) Definitions

The following definitions apply in this Rule:

(1) Shared Physical Custody

"Shared physical custody" has the meaning stated in Code, Family Law Article, §12-201 ~~(i)~~ (n).

(2) Worksheet

"Worksheet" means a document to compute child support under the guidelines set forth in Code, Family Law Article, Title 12, Subtitle 2.

(b) Filing of Worksheet

In an action involving the establishment or modification of child support, each party shall file a worksheet in the form set forth in section (c) or (d) of this Rule. Unless the court



directs otherwise, the worksheet shall be filed not later than the date of the hearing on the issue of child support.

Cross reference: See Code, Family Law Article, §12-203 (a) and *Walsh v. Walsh*, 333 Md. 492 (1994).

. . .

(d) Shared Physical Custody

In cases of shared physical custody, the worksheet shall be in substantially the following form:

_____	In the
v.	Circuit Court for _____
_____	No. _____

**WORKSHEET B - CHILD SUPPORT OBLIGATION: SHARED PHYSICAL CUSTODY**

Name of Child	Date of Birth	Name of Child	Date of Birth
Name of Child	Date of Birth	Name of Child	Date of Birth
Name of Child	Date of Birth	Name of Child	Date of Birth

  

	Parent 1	Parent 2	Combined
1. MONTHLY ACTUAL INCOME (Before taxes) (Code, Family Law Article, §12-201 (b))	\$	\$	/////
a. Minus preexisting child support payment actually paid	-	-	/////
b. Minus alimony actually paid	-	-	/////
c. Plus/minus alimony awarded in this case	+/-	+/-	/////
2. MONTHLY ADJUSTED ACTUAL INCOME	\$	\$	\$
3. <del>PERCENTAGE</del> SHARE OF INCOME (Divide each parent's income on Line 2 by the combined income on Line 2.)	%	%	/////
4. BASIC CHILD SUPPORT OBLIGATION (Apply Line 2 Combined Income to Child Support Schedule.)	/////	/////	\$
5. ADJUSTED BASIC CHILD SUPPORT OBLIGATION (Multiply Line 4 by 1.5)	/////	/////	\$

6. OVERNIGHTS with each parent (must total 365) 365

7. PERCENTAGE WITH EACH PARENT ////////  
 (Divide Line 6 ~~divided~~ by 365)    A    %    B    %    ////////

STOP HERE IF Line 7 is less than ~~35~~ ////////  
 25% for either parent. Shared ////////  
 Physical custody does not apply. ////////  
 (Use Worksheet A, ~~instead.~~) ////////

8. EACH PARENT'S ~~THEORETICAL SHARE~~ ////////  
 OF ADJUSTED BASIC CHILD SUPPORT ////////  
 OBLIGATION (Multiply Line 5 by ////////  
 Line 3 for each parent.)            A\$            B\$            ////////

9. THEORETICAL BASIC CHILD SUPPORT ////////  
 OBLIGATION FOR TIME WITH OTHER ////////  
 PARENT (Multiply Line 8A by ////////  
 Line 7B; ~~and~~ put answer on Line ////////  
 9 A.) (Multiply Line 8B by Line ////////  
 7A; and put answer on Line 9B.)    A\$            B\$            ////////

10. SHARED PHYSICAL CUSTODY ////////  
ADJUSTMENT (If Line 7 for a A\$            B\$             
parent is more than 25%, but ////////  
less than 30%, multiply that  
parent's Line 9 by the amount  
below:

<u># of overnights</u>	<u>amount</u>
• <u>92-94</u>	<u>.10</u>
• <u>95-98</u>	<u>.08</u>
• <u>99-102</u>	<u>.06</u>
• <u>103-105</u>	<u>.04</u>
• <u>106-109</u>	<u>.02</u>



e. Additional Expenses (Code, Family Law Article, §12-204 (i))	/////	/////	
	/////	/////	
	/////	/////	+
<hr/>			
<u>12</u> 14. NET ADJUSTMENT FROM WORKSHEET C. Enter amount from Line 1, WORKSHEET C, if applicable. If not, continue to Line <del>13</del> <u>15</u> .			/////
			/////
			/////
	\$	\$	/////
<hr/>			
<u>13</u> 15. NET BASIC CHILD SUPPORT OBLIGATION (From Line <del>10</del> <u>12</u> , WORKSHEET B)			/////
			/////
	\$	\$	/////
<hr/>			
<u>14</u> 16. RECOMMENDED CHILD SUPPORT ORDER (If the same parent owes money under Lines <u>12</u> 14 and <u>13</u> 15, add these two figures to obtain the amount owed by that parent. If one parent owes money under Line <u>12</u> 14 and the other owes money under Line <u>13</u> 15, subtract the lesser amount from the greater amount <del>to obtain the</del> <del>difference</del> . The parent owing the greater of the two amounts on Lines <u>12</u> 14 and <u>13</u> 15 will owe that difference as the child support obligation. Note: amount owed in a shared custody arrangement may not exceed the amount that would be owed if the obligor parent were a non-custodial parent. See WORKSHEET A).			/////
			/////
			/////
			/////
			/////
			/////
			/////
			/////
			/////
			/////
			/////
	\$	\$	/////

Comments or special adjustments, such as any adjustment for certain third party benefits paid to or for the child of an obligor who is disabled, retired, or receiving benefits as a result of a compensable claim (see Code, Family Law Article, §12-204 (j)):

---

PREPARED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

---

**INSTRUCTIONS FOR WORKSHEET C:** Use Worksheet C ONLY if any of the Expenses listed in Lines ~~11~~ 13 a, 11 b, 11 c, 11 d, or 11 e is ~~directly paid out~~ or received by the parents in a different proportion than the percentage share of income entered on Line 3 of Worksheet B. Example: ~~If one~~ One parent pays ~~all~~ 100% of the day care, or parents split education/medical costs 50/50 and Line 3 is other than 50/50. If there is more than one ~~11~~ 13 e expense, ~~the~~ make calculations on Lines i and j below ~~must~~ be made for each expense.

**WORKSHEET C - FOR ADJUSTMENTS, LINE 12, WORKSHEET B**

	Parent 1	Parent 2
<p>a. <del>Total amount of direct payments</del> <u>Payments</u> made for Line <del>11</del> <u>13 a</u> expenses multiplied by each parent's percentage of income (Line 3, WORKSHEET B) (Proportionate share)</p>	\$	\$

<p>b. <del>The excess</del> <u>Excess amount of direct</u> payments made by the parent who pays more than the amount <del>calculated</del> in Line a, above.  (<del>The difference between</del> <u>Subtract</u> <u>proportionate share from</u> amount paid <u>and proportionate share</u>)</p>	\$	\$
--	----	----

<p>c. Total amount of direct payments made for Line <del>11</del> <u>13 b</u> expenses multiplied by each parent's percentage of income (Line 3, WORKSHEET B)</p>	\$	\$
---	----	----

<p>d. The excess amount of direct payments made by the parent who pays more than the amount calculated in Line c, above.</p>	\$	\$
--	----	----

e. Total amount of direct payments made

for Line ~~11~~ 13 c expenses multiplied  
by each parent's percentage of income  
(Line 3, WORKSHEET B) \$ \$

---

f. The excess amount of direct  
payments made by the parent who  
pays more than  
the amount calculated in Line e, above. \$ \$

---

g. Total amount of direct payments  
made for Line ~~11~~ 13 d expenses  
multiplied by each parent's  
percentage of income  
(Line 3, WORKSHEET B) \$ \$

---

h. The excess amount of direct payments  
made by the parent who pays more  
than the amount calculated in Line  
g, above. \$ \$

---

i. Total amount of direct payments  
made for Line ~~11~~ 13 e expenses  
multiplied by each parent's  
percentage of income  
(Line 3, WORKSHEET B) \$ \$

---

j. The excess amount of direct payments  
made by the parent who pays more  
than the amount calculated in Line  
i, above. \$ \$

---

k. For each parent, add Lines b, d,  
f, h, and j \$ \$

---

l. Subtract lesser amount from  
greater amount in Line k, above.  
Place the answer on this Line  
under the amount  
in Line k.

Also enter this answer on  
Line ~~12~~ 14 of WORKSHEET  
B, in the same parent's

Column.

§

§

Source: This Rule is new.

REPORTER'S NOTE

Chapters 142/143, 2020 Laws of Maryland (HB 269/SB 579), effective October 1, 2020, created the shared physical custody adjustment to be used when calculating child support in cases where one parent has overnights for more than 25%, but less than 30% of the year. Proposed amendments to the shared physical custody worksheet (Worksheet B) incorporate the new adjustment.

An amendment to subsection (a) (1) updates a reference to Code, Family Law Article § 12-201 for the definition of shared physical custody. Conforming amendments correcting line references in Worksheet B and Worksheet C also are made.

Additional amendments will be required at a later date to conform the Rule to Chapter 383, 2020 Laws of Maryland (HB 946), which takes effect on October 1, 2021.



MARYLAND RULES OF PROCEDURE  
TITLE 5 - EVIDENCE  
CHAPTER 600 - WITNESSES

AMEND Rule 5-611 (a) to include a cross-reference to the Court Dog and Child Witness Program, as follows:

Rule 5-611. MODE AND ORDER OF INTERROGATION AND PRESENTATION:  
CONTROL BY COURT; SCOPE OF CROSS-EXAMINATION; LEADING QUESTIONS

(a) Control by Court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

Cross reference: For the Court Dog and Child Witness Program, see Code, Courts Article, § 9-501.

. . .

REPORTER'S NOTE

Chapters 161/162, 2020 Laws of Maryland (HB 311/SB 101), effective October 1, 2020, create a Court Dog and Child Witness Program in the circuit court of each participating county. Pursuant to the statute, the program aims to provide a facility or therapy dog to child witnesses in any circuit court proceeding or other court process, including meetings and interviews. A cross reference is proposed to highlight the

program in relation to the court's control of the mode and interrogation of witnesses.

MARYLAND RULES OF PROCEDURE  
TITLE 5 - EVIDENCE  
CHAPTER 600 - WITNESSES

AMEND Rule 5-615 (c) to include a cross-reference to the Court Dog and Child Witness Program, as follows:

Rule 5-615. EXCLUSION OF WITNESSES

. . .

(c) Permissive Non-Exclusion. The court may permit a child witness's parents or another person having a supportive relationship with the child to remain in court during the child's testimony.

Cross reference: For the Court Dog and Child Witness Program, see Code, Courts Article, § 9-501.

REPORTER'S NOTE

Chapters 161/162, 2020 Laws of Maryland (HB 311/SB 101), effective October 1, 2020, create a Court Dog and Child Witness Program in the circuit court of each participating county. Pursuant to the statute, the program aims to provide a facility or therapy dog to child witnesses in any circuit court proceeding or other court process, including meetings and interviews. A cross reference is proposed to highlight the program in relation to permissive non-exclusion of witnesses during a child's testimony.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

ADD new Rule 6-423, as follows:

Rule 6-423. ADMINISTRATION AFTER CLOSING OF ESTATE - NEWLY  
DISCOVERED SMALL CHECK

(a) When New Appointment Not Necessary

Except as provided in section (d) of this Rule, if a check payable to a decedent or the estate of a decedent for a sum not exceeding \$1,000 is discovered after an estate has been closed and the appointment of the personal representative has terminated pursuant to Rule 6-421, the court, on a verified petition made by an interested person, may enter an order authorizing the interested person to indorse and deposit the check into the interested person's bank account for the limited purpose of distributing the funds in accordance with the will or, if the decedent died intestate, in accordance with Code, Estates and Trusts Title 3, Subtitle 1.

(b) Petition

A petition pursuant to this Rule shall be filed in the jurisdiction where the decedent's estate was administered and

include the estate number, a brief description of the check, the interest of the person filing the petition, the names and addresses of the interested persons, a statement that the conditions in section (d) do not apply to the requested order, and a brief statement of the anticipated distribution of the funds.

(c) Exceptions

Unless a hearing is requested by an interested person, the court may enter an order under this Rule without a hearing.

(d) Conditions

The court may not enter an order under this Rule if:

- (1) the estate of the decedent was insolvent when it closed,
- (2) the value of the discovered check increases the value of the estate above the value that qualifies under Code, Estates and Trusts, § 5-601 for administration of a small estate, or
- (3) any additional fees and inheritance taxes due as a result of the newly discovered check are not paid with the filing of the petition.

(e) Distribution

The distribution of funds by an interested person under this Rule shall be made within 60 days after the court's order authorizing the distribution.

(f) Effect of Order

An order issued under this Rule does not require the court to reopen the estate.

Cross reference: Code, Estates and Trusts Article, § 10-104.

REPORTER'S NOTE

Chapter 239, 2020 Laws of Maryland (HB 543) allows for the distribution of a check discovered after an estate has been closed without reopening it. Proposed new Rule 6-423 outlines the process for interested persons to indorse, deposit, and distribute funds from checks made out to the decedent or his or her estate, valued at \$1,000 or less, which are discovered after an estate has been closed and the appointment of the personal representative has been terminated.

Proponents of the bill testified that when an estate is closed and the decedent's bank account has been closed, there are limited options for dealing with a newly-discovered check, which may come from a refund or class action settlement payment. In the case of smaller checks, the cost of reopening the estate often exceeds the value of the check.

The bill provides that a court may enter an order authorizing an interested person to indorse and deposit the check in their personal account for the limited purpose of distributing funds in accordance with the will or, if the decedent died intestate, with the Estates and Trusts article. The court is prohibited from entering the order if the estate was insolvent when it was closed, the value of the discovered check increases the value of the estate above the value for a small estate, or additional fees and inheritance taxes due have not been paid.

Rule 6-423 requires the petition to include similar information mandated by Rule 6-422, Administration After Final Account - Newly Discovered Property, but removes the provision about requesting a new personal representative and adds a requirement that the petition state that the exceptions in section (d) of this Rule do not apply.

MARYLAND RULES OF PROCEDURE  
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES  
CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 6-107 by rewording a cross reference, as follows:

Rule 6-107. EXTENSION OF TIME

(a) By Request to Register or Court

The court or the register, upon written request, may extend to a specified date the time for filing an inventory (Rule 6-402), an information report (Rule 6-404), an application to fix inheritance tax on non-probate assets (Rule 6-405), or an account (Rule 6-417). The request may be made ex parte.

(b) By Petition

Except as otherwise provided in this section, when these rules, an order of court, or other law require or allow an act to be done at or within a specified time, the court, upon petition filed pursuant to Rule 6-122 and for good cause shown, may extend the time to a specified date. The court may not extend the time for filing a claim, a caveat, or a notice of appeal or for taking any other action where expressly prohibited by rule or statute.

Cross reference: Code, Estates and Trusts Article, §§ 5-304 and 5-406. For extension of time to elect ~~statutory~~ to take a spousal elective share, see Rule 6-411. For extension of time to file a final report and make distribution in a modified administration, see Rule 6-456.

REPORTER'S NOTE

The proposed amendment to Rule 6-107 makes a conforming change to the cross reference following section (b). Chapter 435, 2019 Laws of Maryland (HB 99), which is effective October 1, 2020, exclusively uses the term "elective share."



MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-411 by changing the title of the Rule, by changing references from "statutory share" to "elective share," by specifying where an election shall be filed, by adding a reference to the code section in the form of election, by altering forms to allow for an unrepresented party to provide contact information, by adding subsection (a)(2) to allow a specifically authorized guardian or agent to make the election with certain notice requirements, by allowing the guardian or agent to petition for an extension of time, by adding cross references, and by making stylistic changes, as follows:

Rule 6-411. ELECTION TO TAKE ~~STATUTORY~~ ELECTIVE SHARE

(a) Form of Election

(1) By Surviving Spouse

A surviving spouse may elect to take a ~~statutory~~ an elective share by the timely filing of an election in the court in which the personal representative of the decedent was appointed. If the election is filed prior to the appointment of the personal representative, the spouse may file with the

register in the county in which the decedent was domiciled or in any county in which the decedent resided on the date of the decedent's death or in which real property or a leasehold interest in real property of the decedent is located.

The election shall be substantially in the following form:

[CAPTION]

ELECTION TO TAKE ~~STATUTORY~~ ELECTIVE SHARE OF ESTATE

I, \_\_\_\_\_,  
surviving spouse of \_\_\_\_\_,  
late of the County (City) of \_\_\_\_\_,  
~~renounce all provisions of my spouse's will pertaining to myself~~  
and elect to take my ~~statutory~~ elective share of the decedent's  
estate subject to election under § 3-403 of the Estates and  
Trusts Article of the Annotated Code of Maryland.

Witness:

\_\_\_\_\_

\_\_\_\_\_  
Surviving Spouse

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney

If There is No Attorney:

\_\_\_\_\_  
Address

\_\_\_\_\_  
Surviving Spouse's Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Surviving Spouse's  
Telephone Number

\_\_\_\_\_  
Facsimile Number

\_\_\_\_\_  
Surviving Spouse's

Facsimile Number

E-mail Address

Surviving Spouse's  
E-mail Address

Cross reference: Code, Estates and Trusts Article, ~~§ 3-203~~ § 3-408.

(2) By the Guardian or Agent

(A) Subject to subsection (B), a specifically authorized guardian or agent of the surviving spouse may exercise the right of the surviving spouse to elect to take an elective share by timely filing the election substantially in the following form:

[CAPTION]

ELECTION TO TAKE ELECTIVE SHARE OF ESTATE

I, \_\_\_\_\_, in my capacity as the specifically authorized guardian or agent of \_\_\_\_\_, surviving spouse of \_\_\_\_\_, late of the County (City) of \_\_\_\_\_, elect to take the surviving spouse's elective share of the decedent's estate subject to election under § 3-403 of the Estates and Trusts Article of the Annotated Code of Maryland.

Witness:

\_\_\_\_\_

Guardian/Agent Signature

Date: \_\_\_\_\_

\_\_\_\_\_

If There is No Attorney:

Attorney

\_\_\_\_\_  
Address

\_\_\_\_\_  
Guardian or Agent's Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Guardian or Agent's  
Telephone Number

\_\_\_\_\_  
Facsimile Number

\_\_\_\_\_  
Guardian or Agent's  
Facsimile Number

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Guardian or Agent's  
E-mail Address

Cross reference: Code, Estates and Trusts Article, § 3-405 (b).

(B) Prior to or concurrent with the filing of an election pursuant to subsection (a) (2) (A) of this Rule, the guardian or agent promptly shall deliver notice of the election to (i) all interested persons in the decedent's estate and (ii) all persons who would inherit from the surviving spouse if the surviving spouse died intestate and unmarried at the time the election is made.

(C) An exercise of a right of election by a guardian or agent is valid unless (i) within 30 days after delivery of notice under subsection (a) (2) (B) a person with standing makes an objection in the court in which the election was filed and (ii) following a hearing the court finds that the election is not in the best interests of the surviving spouse.

Cross reference: Code, Estates and Trusts Article, § 3-405 (c).

(b) Time Limitation for Making Election

An election to take ~~a statutory~~ an elective share shall be filed within the later of nine months after the date of the decedent's death or six months after the date of the first appointment of a personal representative ~~under a will~~, unless extended pursuant to this Rule.

Cross reference: Code, Estates and Trusts Article, § 3-407.

(c) Extension of Time for Making Election

Within the period for making an election, the surviving spouse or the specifically authorized guardian or agent of the surviving spouse may file with the court a petition for an extension of time. The petitioner shall deliver or mail a copy of the petition to the personal representative. For good cause shown, the court may grant extensions not to exceed three months at a time, provided each petition for extension is filed before the expiration of the period originally prescribed or before the expiration of any period extended by a previous order. The court may rule on the petition without a hearing or, if time permits, with a hearing.

If an extension is granted without a hearing, the register shall serve notice on the personal representative and such other persons as the court may direct. The notice shall be in the following form:

[CAPTION]

NOTICE OF EXTENSION OF TIME  
TO ELECT ~~STATUTORY~~ ELECTIVE SHARE

On the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, an extension  
(month) (year)

of time to elect ~~a statutory~~ an elective share of the estate was granted to \_\_\_\_\_, the decedent's surviving spouse or specifically authorized guardian or agent of the surviving spouse. The extension expires on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(month) (year)

If you believe there is good cause to object to the extension, within 20 days after service of this notice you may file with the court, in writing, a petition to shorten the time for filing an election. A copy of the petition shall be served on the surviving spouse or specifically authorized guardian or agent of the surviving spouse.

---

Register of Wills

(d) Withdrawal

The surviving spouse or the specifically authorized guardian or agent of the surviving spouse may file with the register a withdrawal of the election at any time before the

expiration of the time, or any extension thereof granted by the court, for filing an election.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 6-411 implement Chapter 435, 2019 Laws of Maryland (HB 99), which is effective October 1, 2020.

The Code exclusively uses the term "elective share," rather than "statutory share," and Rule 6-411 has been amended to conform terminology to the law. The form in subsection (a)(1) is amended to comply with the statute and modified to allow for a pro se surviving spouse to provide contact information. New subsection (a)(2)(A) creates a process for a specifically authorized guardian or agent to make the election and includes a form modeled after (a)(1). Subsections (a)(2)(B) and (a)(2)(C) incorporate the notice and objection procedure from the Code. Sections (c) and (d) are amended to allow a guardian or agent to petition for an extension or to withdraw the election.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-413 by changing the title of the Rule, by adding new subsection (a) (2), by adding a cross-reference after subsection (a) (2), by adding new section (d) providing for a certain notice to the trustee of a certain revocable trust, by adding to section (f) notice to the trustee of a certain revocable trust of disallowance of a claim, and by allowing a certain trustee to file a petition pursuant to section (g), as follows:

RULE 6-413. CLAIM AGAINST ~~ESTATE~~ DECEDENT - PROCEDURE

(a) Presentation of Claim

(1) A claimant may make a claim against the estate, within the time allowed for presenting claims, ~~(1)(A)~~ by serving it on the personal representative, ~~(2)(B)~~ by filing it with the register and serving a copy on the personal representative, or ~~(3)(C)~~ by filing suit. If the claim is filed prior to the appointment of the personal representative, the claimant may file the claim with the register in the county in which the decedent was domiciled or in any county in which the decedent resided on the date of the decedent's death or in which real



property or a leasehold interest in real property of the decedent is located.

(2) Except in a small estate proceeding, a claim properly presented under this Rule preserves a claim against property of a trust that was revocable at the death of the decedent-settlor, subject to disallowance pursuant to section (f).

Cross reference: See Code, Estates and Trusts Article, § 14.5-508 (b)(1) for preservation of claims against revocable trust property.

(b) Content of Claim

A claim against the decedent's estate shall indicate (1) the basis of the claim, (2) the name and address of the claimant, (3) the amount claimed, (4) if the claim is not yet due, the date when it will become due, (5) if the claim is contingent, the nature of the contingency, and (6) if the claim is secured, a description of the security. Unless the claim is made by filing suit, it shall be verified.

(c) Form of Claim

A claim against a decedent's estate may be filed or made substantially in the following form:

In the Estate of: \_\_\_\_\_ Estate No. \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

CLAIM AGAINST DECEDENT'S ESTATE

The claimant certifies that there is due and owing by the decedent in accordance with the attached statement of account or other basis for the claim the sum of \$\_\_\_\_\_.

I solemnly affirm under the penalties of perjury that the contents of the foregoing claim are true to the best of my knowledge, information, and belief.

_____ Name of Claimant	_____ Signature of claimant or person authorized to make verifications on behalf of claimant
---------------------------	---

_____ Name and Title of Person Signing Claim	_____ Address
	_____ _____ Telephone Number

CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_ day of \_\_\_\_\_ (month),  
\_\_\_\_ (year), I [ ] delivered or [ ] mailed, first class,  
postage prepaid, a copy of the foregoing Claim to the personal  
representative,

\_\_\_\_\_  
(name and address)

\_\_\_\_\_  
Signature of Claimant

Instructions:

1. This form may be filed with the Register of Wills upon payment of the filing fee provided by law. A copy must also be sent to the personal representative by the claimant.
2. If a claim is not yet due, indicate the date when it will become due. If a claim is contingent, indicate the nature of the contingency. If a claim is secured, describe the security.

(d) Notice to Trustee of Revocable Trust

(1) If the personal representative has knowledge of the existence of a revocable trust for which the decedent was settlor, the personal representative shall notify the trustee of the existence of a claim.

(2) Prior to allowance of a claim in whole or in part, the personal representative shall notify the trustee of the intended allowance. A trustee who wishes to dispute the allowance shall petition the court to intervene within 20 days after receipt of the notice.

~~(d)~~ (e) Disallowance of Claim or Petition for Determination of Validity

If the claim or any part thereof is not to be allowed, the personal representative shall either disallow the claim in whole or in part in the manner provided by section ~~(e)~~ (f) of this Rule, or petition the court for determination of the validity of the claim.

~~(e)~~ (f) Form of Disallowance of Claim

Upon disallowing a claim the personal representative shall file with the register and mail to the claimant and the trustee of each revocable trust known to the personal representative for which the decedent was settlor a notice in the following form:

[CAPTION]

NOTICE OF DISALLOWANCE

Your claim has been allowed in the amount of \$\_\_\_\_\_ and disallowed in the amount of \$\_\_\_\_\_. Your claim in the amount disallowed will be forever barred against the estate and any revocable trust of the decedent-settlor unless within 60 days after the mailing of this notice you file a petition for allowance of the disallowed amount in the Orphans' Court or a suit against the personal representative. If your claim has not been filed timely pursuant to the Code, Estates and Trusts Article, § 8-103, your claim will not be paid and it is forever barred.

\_\_\_\_\_  
Personal Representative

CERTIFICATE OF SERVICE

I certify that the disallowance of claim was mailed, postage prepaid, this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year), to \_\_\_\_\_, claimant, at \_\_\_\_\_.

\_\_\_\_\_  
Personal Representative/Attorney

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

~~(f)~~ (g) Claimant's Petition

(1) No Action Taken

If no action has been taken by the personal representative disallowing the claim in whole or in part, the claimant or trustee of a revocable trust of the decedent-settlor may petition the court for determination of the validity of the claim.

(2) After Disallowance

A claimant whose claim has been disallowed in whole or in part may file with the court a petition for allowance within 60 days after mailing of the notice of disallowance.

~~(g)~~ (h) Hearing

Upon the filing of a petition by the personal representative or a claimant, the court shall hold a hearing on

the petition after notice to the personal representative, the claimant, and such other persons as the court may direct.

~~(h)~~ (i) Notice to Register of Suit

If suit is filed against the personal representative by a claimant whose claim is disallowed in whole or in part, the personal representative shall notify the register in writing of the pendency of the suit within ten days after being served with the complaint.

. . .

REPORTER'S NOTE

Chapter 100, 2015 Laws of Maryland (HB 666) added to Code, Estates and Trusts Article, § 14.5-508 provisions to protect the property, trustee, and beneficiaries of a trust that was revocable at the time of the death of the settlor from claims of creditors not presented within the time periods in § 8-103 or within six months of publication of notice by the trustee if a proceeding for a regular or modified estate has not been commenced. The law was designed to allow trustees to avail themselves of the same protections afforded to personal representatives rather than subject them to limitations periods of anywhere from three to twelve years.

Proposed amendments to Rule 6-413 seek to clarify the process for personal representatives, trustees, and creditors where an estate other than a small estate is open and a creditor wishes to preserve the creditor's claim against the decedent-settlor's trust property.

New subsection (a)(2) states that a properly presented claim under the Rule preserves a claim against trust property. A cross reference to the Code section is added after subsection (a)(2).

New section (d) requires notice of a claim to the trustee and notice prior to the allowance of a claim, in whole or in part. Subsection (d)(2) allows the trustee to intervene to dispute the validity of the claim.

Re-lettered section (f) is amended to require the personal representative to mail notice of disallowance to the trustee. The Committee is advised that often the representative and trustee are the same individual; however, if there is a third-party trustee, the added notice provisions ensure that the trustee is alerted to the claim.

The notice of disallowance form in section (f) informs the creditor that claims against the estate and any revocable trust property will be barred unless the creditor acts within the specified time. Subsection (g)(1) allows the creditor or trustee to petition the court to determine the validity of a claim if the personal representative does not act.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-416 by adding new subsection (a) (1) (A) to describe the general contents of a petition for compensation, by requiring that a petition state anticipated or previously allowed fees in connection with an elective share, by adding new subsection (a) (1) (B) to describe the contents of a petition for additional fees and commissions in connection with an elective share, by adding a Committee note after subsection (a) (1) (B) stating that such compensation is presumed reasonable under certain circumstances, by adding new subsection (b) (1) (A) to describe the procedure for obtaining payment of compensation by consent, by specifying that payment of additional compensation in connection with an elective share may be obtained by consent in certain circumstances, by altering the form in subsection (b) (2) (B) to delineate compensation for regular estate administration and for additional compensation in connection with an elective share, and by making stylistic changes, as follows:

RULE 6-416. ATTORNEY'S FEES OR PERSONAL REPRESENTATIVE'S COMMISSIONS



(a) Subject to Court Approval

(1) Contents of Petition

(A) Generally

When a petition for the allowance of attorney's fees or personal representative's commissions is required, it shall be verified and shall state in reasonable detail the basis for the current request and ~~(A)~~ (i) the amount of all fees or commissions previously allowed, ~~(B)~~ (ii) the amount of fees or commissions that the petitioner reasonably estimates will be requested in the future, ~~(C)~~ (iii) the amount of fees or commissions currently requested, (iv) any additional fees or commissions anticipated or previously allowed in connection with an election by or on behalf of a surviving spouse to take an elective share, and ~~(E)~~ (v) that the notice required by subsection (a) (3) of this Rule has been given.

(B) Compensation in Connection with an Elective Share

When a petition for the allowance of additional attorney's fees or personal representative's commissions in connection with an election by or on behalf of a surviving spouse to take an elective share under Code, Estates and Trusts Article, § 7-603(b) is required, it shall be verified and shall state in reasonable detail the basis for the current request and (i) the amount of all fees or commissions previously allowed, (ii) the amount of fees or commissions that the petitioner

reasonably estimates will be requested in the future, (iii) the amount of fees or commissions currently requested, (iv) the amount of fees or commissions under this subsection consented to by all interested persons, and (v) that the notice required by subsection (a) (3) of this Rule has been given. A petition under this subsection may be combined with a petition under subsection (a) (1) (A) of this Rule.

Committee note: Code, Estates and Trusts Article, § 7-603 (b) (2) states that the amount of compensation or attorney's fees consented to by all interested persons is presumed to be reasonable.

(2) Filing - Separate or Joint Petitions

Petitions for attorney's fees and personal representative's commissions shall be filed with the court and may be filed as separate or joint petitions.

(3) Notice

The personal representative shall serve on each unpaid creditor who has filed a claim and on each interested person a copy of the petition accompanied by a notice in the following form:

NOTICE OF PETITION FOR ATTORNEY'S FEES OR PERSONAL REPRESENTATIVE'S COMMISSIONS

You are hereby notified that a petition for allowance of attorney's fees or personal representative's commissions has been filed. You have 20 days after service of the petition

within which to file written exceptions and to request a hearing.

(4) Allowance by Court

Upon the filing of a petition, the court, by order, shall allow attorney's fees or personal representative's commissions as it considers appropriate, subject to any exceptions.

(5) Exception

An exception shall be filed with the court within 20 days after service of the petition and notice and shall include the grounds therefor in reasonable detail. A copy of the exception shall be served on the personal representative.

(6) Disposition

If timely exceptions are not filed, the order of the court allowing the attorney's fees or personal representative's commissions becomes final. Upon the filing of timely exceptions, the court shall set the matter for hearing and notify the personal representative and other persons that the court deems appropriate of the date, time, place, and purpose of the hearing.

(b) Payment of Attorney's Fees and Personal Representative's Commissions Without Court Approval

(1) Payment of Contingency Fee for Services Other Than Estate Administration

Payment of attorney's fees may be made without court approval if:

(A) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or by a previous personal representative;

(B) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the current personal representative of the decedent's estate provided that the personal representative is not acting as the retained attorney and is not a member of the attorney's firm;

(C) the fee does not exceed the terms of the contingency fee agreement;

(D) a copy of the contingency fee agreement is on file with the register of wills; and

(E) the attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate.

(2) Consent in Lieu of Court Approval

(A) Procedure

Upon the filing of a completed Consent to Compensation for Personal Representative and/or Attorney form substantially in the form set forth in subsection (b) (2) (B) of this Rule,  
~~Payment~~ payment of attorney's fees and personal representative's commissions may be made without court approval if the combined

sum of all payments of attorney's fees and personal representative's commissions authorized under Code, Estates and Trusts Article, § 7-603(a) does not exceed the amounts provided in Code, Estates and Trusts Article, § 7-601; and. In addition, attorney's fees and personal representative's commissions authorized under Code, Estates and Trusts Article, § 7-603(b) may be included in the Consent form and paid without court approval if the total combined sum of all payments of attorney's fees and personal representative's commissions authorized under Code, Estates and Trusts Article, §§ 7-603(a) and 7-603(b) does not exceed the amounts provided in Code, Estates and Trusts Article, § 7-601.

(B) Form of Consent

~~a written~~ The consent stating the amounts of the payments shall be signed by (i) each creditor who has filed a claim that is still open and (ii) all interested persons, ~~is~~ and filed with the register substantially in the following form:

BEFORE THE REGISTER OF WILLS FOR \_\_\_\_\_, MARYLAND  
 IN THE ESTATE OF: \_\_\_\_\_ Estate No. \_\_\_\_\_

CONSENT TO COMPENSATION FOR  
 PERSONAL REPRESENTATIVE AND/OR ATTORNEY

I understand that the law, Estates and Trusts Article, § 7-601, provides a formula to establish the maximum total commissions to be paid for personal representative's

commissions. If the total compensation for personal representative's commissions and attorney's fees being requested falls within the maximum allowable commissions, and the request is consented to by all unpaid creditors who have filed claims and all interested persons, this payment need not be subject to review or approval by the Court. A creditor or an interested party may, but is not required to, consent to these fees.

The formula sets total compensation at 9% of the first \$20,000 of the adjusted estate subject to administration PLUS 3.6% of the excess over \$20,000. Based on this formula, the adjusted estate subject to administration known at this time is \_\_\_\_\_. The total allowable statutory maximum commission based on the adjusted estate subject to administration known at this time is \_\_\_\_\_, LESS any personal representative's commissions and attorney's fees previously approved as required by law and paid. To date, \$ \_\_\_\_\_ in personal representative's commissions and \$ \_\_\_\_\_ in attorney's fees have been paid.

IF ALL REQUIRED CONSENTS ARE NOT OBTAINED, A PETITION SHALL BE FILED, AND THE COURT SHALL DETERMINE THE AMOUNT TO BE PAID.

Cross reference: See 90 Op. Att'y. Gen. 145 (2005).

Total combined fees being requested are \$ \_\_\_\_\_, including  
\$ \_\_\_\_\_ under Code, Estates and Trusts Article, § 7-603(a)

and \$ \_\_\_\_\_ under Code, Estates and Trusts Article § 7-  
603(b), to be paid as follows:

Amount	To	Name of Personal Representative/Attorney
_____		_____
_____		_____
_____		_____
_____		_____

I have read this entire form and I hereby consent to the payment of personal representative and/or attorney's fees in the above amount.

Date	Signature	Name (Typed or Printed)
_____		_____
_____		_____
_____		_____
_____		_____
_____		_____

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Facsimile Number

\_\_\_\_\_

Email Address

Committee note: Nothing in this Rule is intended to relax requirements for approval and authorization of previous payments.

(3) Designation of Payment

When rendering an account pursuant to Rule 6-417 or a final report under modified administration pursuant to Rule 6-455, the personal representative shall designate any payment made under this section as an expense.

Cross reference: Code, Estates and Trusts Article, §§ 7-502, 7-601, 7-602, 7-603, and 7-604.

REPORTER'S NOTE

Proposed amendments to Rule 6-416 implement Chapter 435, 2019 Laws of Maryland (HB 99), which permits a petition for attorney's fees or personal representative's commissions to seek additional fees or commissions in connection with an election to take an elective share by or on behalf of a surviving spouse.

Subsection (a)(1) is restructured to create new subsection (a)(1)(A), which contains the current required contents of a petition for the allowance of fees and commissions. The subsection is reorganized and a reference to additional fees and commissions anticipated in connection with the elective share election is added to the requirements.

New subsection (a)(1)(B) outlines the required contents of a petition for the allowance of the additional fees, which mirrors the requirements in (a)(1)(A) but also asks the petitioner to state the amount of the additional fees and commissions to which the interested persons have consented. A Committee note following subsection (a)(1)(B) highlights the presumption in the statute that consented-to compensation is reasonable. A petition under subsection (a)(1)(B) may be combined with a petition under subsection (a)(1)(A).



Subsection (b) (2) is amended to add subsection (b) (2) (A), outlining the procedure for payment of attorney's fees and personal representative's commissions that are consented to by interested persons and creditors and that do not exceed the statutory maximums in Code, Estates and Trusts Article, § 7-601. The subsection specifies that the consent process can include additional fees and commissions related to the elective share so long as the combined payments of all fees and commissions do not exceed the statutory maximums.

Subsection (b) (2) (B) is restyled to describe the form of consent, and the form is amended to include references to compensation under Code, Estates and Trusts Article, §§ 7-603(a) and 7-603(b).

MARYLAND RULES OF PROCEDURE  
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES  
CHAPTER 400 - ADMINISTRATION OF ESTATES

ADD New Rule 6-418, as follows:

Rule 6-418. STATEMENT AND CERTIFICATION OF ELECTIVE SHARE

(a) Statement of Elective Share

(1) On final payment, the personal representative of the decedent, the trustee of any revocable trust of the decedent, or the person responsible for filing the estate tax return, as appropriate, shall file with the register a signed statement verified by the surviving spouse stating the value of the elective share and that the elective share has been paid in full.

(2) The statement of the elective share shall be served on each person entitled to request a certification under section (b) prior to filing.

(3) On request of the surviving spouse, personal representative, trustee of any revocable trust of the decedent, or the person responsible for filing the estate tax return, the register shall redact the value of the elective share.

(b) Certification of Accuracy

(1) The surviving spouse, the personal representative of the decedent, the trustee of any revocable trust of the decedent, the person responsible for filing the estate tax return, any payor of any portion of the elective share, and any other person having an interest in the assets from which the elective share has been paid may request that the register certify in writing the accuracy of the calculation and payment of the portion of the augmented estate subject to election.

(2) A request for certification shall be filed no more than 30 days from the date of service of the statement of the elective share.

(3) If a certification is requested, the register may request in writing information and documentation the register deems necessary to verify the calculation and payment.

Cross reference: Code, Estates and Trusts Article, § 3-412.

REPORTER'S NOTE

Proposed new Rule 6-418 implements Chapter 435, 2019 Laws of Maryland (HB 99) and establishes the process for filing a statement of the elective share after it has been paid and for an interested party to seek certification of accuracy of the calculation and payment, pursuant to Code, Estates and Trusts Article, § 3-412.

Subsection (a) (1) states the requirement from the statute. Subsection (a) (2) requires the filer to serve the statement on individuals who are entitled to request certification of

accuracy of calculation and payment of the elective share. Once the statement is served, individuals authorized by the statute have 30 days to request the register certify the accuracy of the calculation and payment of the elective share. Attorneys, including one involved in the drafting of the legislation, advised that there should be a time period to request certification and suggested 30 days.

If certification is requested, subsection (b)(3) permits the register to make written requests for information and documentation. The statute does not specify how the register can request the necessary information, and attorneys recommended specifying that the request be in writing.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 - ADMINISTRATION OF ESTATES

AMEND Rule 6-434 by restyling section (a) to refer to transmitting issues on petition, by adding new section (b) to allow for transmission of elective share issues, by clarifying a reference to the orphans' court in section (c), and by making stylistic changes as follows:

RULE 6-434. TRANSMITTING ISSUES

(a) ~~Petition~~ Transmitting on Petition

In any proceeding, the orphans' court, upon petition by a person with standing, may transmit contested issues of fact within its jurisdiction for trial to the circuit court of the county in which the orphans' court is located.

(1) Contents

The petition shall set forth separately each issue to be transmitted. Each issue shall present a single, definite, and material question of fact.

~~(b)~~ (2) Response

A response may include objections to the issues set forth in the petition and offer additional issues.

(b) Transmitting Elective Share Issues

In a proceeding where the surviving spouse has made an election under Code, Estates and Trusts Article, § 3-403, the court, on its own initiative, may transmit issues of fact relating to the value or sources of payment of an elective share for trial to the circuit court of the county in which the election is filed.

Cross reference: Code, Estates and Trusts Article, § 3-413.

(c) Framing of Issues

The orphans' court, by order, shall frame the issues to be transmitted and transmit them to the appropriate circuit court. The order may designate the plaintiff and defendant for purposes of trial in the circuit court.

(d) Amendment, Modification or Supplementation of Issues

Upon petition, the orphans' court may amend, supplement or modify issues previously transmitted to a circuit court. If the change is made within 15 days of a scheduled trial date, leave of the circuit court must be obtained.

Cross reference: Code, Estates and Trusts Article, § 2-105.

Committee note: See Nugent v. Wright, 277 Md. 615 (1976) (issues of law are impermissible). See also Hill v. Lewis, 21 Md. App. 121 (1974). Section (d) changes the rule set forth in Pegg v. Warford, 4 Md. 385 (1853), and recently reaffirmed in Kao v. Hsia, 309 Md. 366 (1987).

REPORTER'S NOTE

Proposed amendments to Rule 6-434 implement Chapter 435, 2019 Laws of Maryland (HB 99). Code, Estates and Trusts Article, § 3-413 permits an orphans' court, on its own initiative, to transmit issues of fact relating to the elective share to the appropriate circuit for trial. New section (b) provides for this power in addition to section (a), which allows for transmission of issues on petition of a party.

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

AMEND Rule 16-915 to indicate that the State may request shielding of certain information, to add a section addressing shielding of information for witnesses, and to re-letter subsequent sections, as follows:

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

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

. . .

(c) The address, telephone number, and e-mail address of a victim or victim's representative in a criminal action, juvenile delinquency action, or an action under Code, Family Law Article, Title 4, Subtitle 5, who has requested, or the State has requested, that such information be shielded. Such a request may be made at any time, including in a victim notification



request form filed with the clerk or a request or petition filed under Rule 16-934.

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

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

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

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

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

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

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

REPORTER'S NOTE

On October 1, 2020, Chapter 539, 2020 Laws of Maryland (SB 213) became effective. The new legislation adds to Code, Criminal Procedure Article, § 11-205 by noting that, upon request, the address or telephone number of a victim, victim's representative, or witness to a domestically related crime may be withheld before the trial or an adjudicatory hearing, unless a judge finds good cause to release the information. The previous version of § 11-205 referred only to cases involving felonies or delinquent acts that would be felonies if committed by an adult.

The revisions to § 11-205 prompted consideration of Code, Criminal Procedure Article, § 11-301 and review of the access Rules regarding withholding the telephone number and address of certain persons. Code, Criminal Procedure Article, § 11-301 also addresses withholding the address or phone number of a victim or witness during a criminal trial or a juvenile delinquency adjudicatory hearing if such shielding is requested by the State, the victim, or the witness. Rules 16-915 and 16-934 reference shielding the contact information for a victim, a victim's representative, or a witness.

Rule 16-915 concerns the denial of inspection of specific information in a case record. Proposed amendments to Rule 16-915 aim to make the Rule's language consistent with the withholding of information permitted by Code, Criminal Procedure Article, § 11-205 and § 11-301.

In section (c), the proposed amendment clarifies that the State, not just the victim or the victim's representative, may request that the address, telephone number, and e-mail address of a victim or victim's representative in a criminal action, juvenile delinquency action, or an action under Code, Family Law Article, Title 4, Subtitle 5, be shielded.

Proposed new section (d) provides for the potential shielding of witnesses' information as permitted by the Criminal Procedure Article.

Current sections (d), (e), (f), and (g) are re-lettered as (e), (f), (g), and (h), respectively.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-108 to conform a Committee note after subsection (a) (2) to amendments to Rule 16-915, as follows:

Rule 10-108. ORDERS

(a) Order Appointing Guardian

. . .

(2) Confidential Information

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

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

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

. . .

REPORTER'S NOTE

An amendment to the cross reference after subsection (a) (2) is proposed to conform with the re-lettering of sections in Rule 16-915.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 1300 - STRUCTURED SETTLEMENT TRANSFERS

AMEND Rule 15-1302 to conform a cross reference after subsection (c) (1) (F) to amendments to Rule 16-915, as follows:

Rule 15-1302. PETITION FOR APPROVAL

. . .

(c) Contents of Petition

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

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

(A) a copy of the structured settlement agreement;

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

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

(D) a copy of the transfer agreement;

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

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

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

(G) an affidavit by the independent professional advisor selected by the payee, in conformance with Rule 15-1304;

(H) a copy of any complaint that was pending when the structured settlement was established; and

(I) proof of the petitioner's current registration with the Office of the Attorney General as a structured settlement transferee or a copy of a pending application for registration as specified in Code, Courts Article, § 5-1107, if the Office of the Attorney General has not acted within the time specified in Code, Courts Article, Title 5, Subtitle 11.

. . .

REPORTER'S NOTE

An amendment to the cross reference after subsection (c) (1) (F) is proposed to correct a reference to Rule 16-915 and to account for the re-lettering of sections in Rule 16-915.

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURT ADMINISTRATION  
CHAPTER 900 - ACCESS TO JUDICIAL RECORDS  
DIVISION 4. RESOLUTION OF DISPUTES

AMEND Rule 16-934 to include juvenile delinquency proceedings in section (h), as follows:

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

. . .

(h) Request to Shield Certain Information

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

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

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

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

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

REPORTER'S NOTE`

As noted in the Reporter's note to Rule 16-915, Chapter 539, 2020 Laws of Maryland (SB 213) became effective on October 1, 2020. The new legislation prompted review of the Criminal Procedure Article and the access Rules regarding the withholding of the telephone number and address of a victim, victim's representative or witness.

Rule 16-934 addresses the shielding of information upon request. A proposed amendment to section (h) adds that requests to shield the address or telephone number of a victim, victim's representative or witness may be filed in a juvenile delinquency adjudicatory hearing, as provided for in the Criminal Procedure Article.



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-217 by requiring certain information be included in a motion for special admission, by requiring the attorney to be admitted to disclose certain previous special admissions and unique identifying numbers provided by Judiciary units, and by requiring a record of attorneys granted or denied special admission be maintained in the Attorney Information System, as follows:

RULE 19-217. SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEYS PRO HAC VICE

(a) Motion for Special Admission

(1) Generally

A member of the Bar of this State who (A) is an attorney of record in an action pending (i) in any court of this State, or (ii) before an administrative agency of this State or any of its political subdivisions, or (B) is representing a client in an arbitration taking place in this State that involves the application of Maryland law, may move that an attorney who is a member in good standing of the Bar of another state be admitted

to practice in this State for the limited purpose of appearing and participating in the action as co-counsel with the movant.

Committee note: "Special admission" is a term equivalent to "admission pro hac vice." It should not be confused with "special authorization" permitted by Rules 19-218 and 19-219.

(2) Where Filed

(A) If the action is pending in a court, the motion shall be filed in that court.

(B) If the action is pending before an administrative agency, the motion shall be filed in the circuit court for the county in which the principal office of the agency is located or in any other circuit court in which an action for judicial review of the decision of the agency may be filed.

(C) If the matter is pending before an arbitrator or arbitration panel, the motion shall be filed in the circuit court for the county in which the arbitration hearing is to be held or in any other circuit court in which an action to review an arbitral award entered by the arbitrator or panel may be filed.

(3) Other Requirements

The motion shall be in writing and shall include the following:

(A) the full name, address, telephone number, and email address of the attorney to be specially admitted; and

(B) the movant's certification that copies of the motion have been served on the agency or the arbitrator or arbitration panel, and all parties of record.

[(C) The motion shall be substantially in the form provided in Appendix 19-A, Form A.1.]

Cross reference: See Appendix 19-A following Title 19, Chapter 200 of these Rules for Forms 19-A.1 and 19-A.2, providing the form of a motion and order for the Special Admission of an out-of-state attorney.

(b) Certification by Out-of-State Attorney

The attorney whose special admission is moved shall certify in writing:

(1) the number of times the attorney has been specially admitted during the ~~twelve months~~ five years immediately preceding the filing of the motion and the courts that granted admission, and

(2) each unique identifying number previously issued to the attorney by the Attorney Information System, Client Protection Fund, or Maryland Judicial Information Systems (JIS) for use with Maryland Electronic Courts (MDEC).

The certification [shall be substantially in the form provided in Appendix 19-A, Form A.1 and] may be filed as a separate paper or may be included in the motion under an appropriate heading.

(c) Order

The court by order may admit specially or deny the special admission of an attorney. In either case, the clerk shall forward a copy of the order to the State Court Administrator, who shall maintain a ~~docket~~ record of all attorneys granted or denied special admission in the Attorney Information System. When the order grants or denies the special admission of an attorney in an action pending before an administrative agency, the clerk also shall forward a copy of the order to the agency.

(d) Limitations on Out-of-State Attorney's Practice

An attorney specially admitted pursuant to this Rule may act only as co-counsel for a party represented by an attorney of record in the action who is admitted to practice in this State. The specially admitted attorney may participate in the court or administrative proceedings only when accompanied by the Maryland attorney, unless the latter's presence is waived by the judge or administrative hearing officer presiding over the action. An attorney specially admitted is subject to the Maryland Attorneys' Rules of Professional Conduct during the pendency of the action or arbitration.

Cross reference: See Code, Business Occupations and Professions Article, § 10-215.

Committee note: This Rule is not intended to permit extensive or systematic practice by attorneys not admitted in Maryland. Because specialized expertise or other special circumstances may be important in a particular case, however, the Committee has

not recommended a numerical limitation on the number of special admissions to be allowed any out-of-state attorney.

Source: This Rule is derived from former Rule 19-214 (2018).

REPORTER'S NOTE

Proposed amendments to Rule 19-217 expand on the required information that must be provided about an attorney seeking special admission. New processes within the Judiciary require attorneys to have an attorney number assigned through the Attorney Information System prior to obtaining an MDEC account.

The attorney number for admitted attorneys is now assigned on admission as a unique identifier by the Court of Appeals through the AIS rather than the Client Protection Fund. Judicial Information Systems will now require specially admitted attorneys who do not have an AIS number yet to obtain one, and it remains their unique identifier for future admissions in Maryland. Attorneys previously admitted for limited purposes may have been assigned an alphanumeric identifier for using MDEC prior to the creation of AIS.

Proposed amendments to subsection (a)(3) outline the contact information the moving attorney must provide for the out-of-state attorney. New subsection (a)(3)(C) provides the option to require the motion for special admission be in the form provided in the appendix.

Proposed amendments to section (b) require the out-of-state attorney seeking admission to report previous admissions in the last five years, previously twelve months, and the Maryland court where they were admitted. New subsection (b)(2) calls for the out-of-state attorney to provide unique identifying numbers previously assigned by the Maryland Judiciary through AIS, CPF, or JIS.

Section (c) now requires the State Court Administrator to maintain a record of all attorneys granted or denied special admission in AIS.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Form 19-A.1. by removing the address line from the existing form, by requiring that the moving attorney provide contact information for an out-of-state attorney seeking special admission, by correcting a statutory reference, and by requiring the disclosure of certain previous special admissions and previously issued unique identifying numbers assigned to an out-of-state attorney, as follows:

FORM 19-A.1. MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY UNDER RULE 19-217

(Caption)

MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY

UNDER RULE 19-217

I, ....., attorney of record in this case, move that the court admit, ..... of (name)

....., an (address)

out-of-state attorney who is a member in good standing of the Bar of ....., for the limited purpose of appearing and participating in this case as co-counsel with me.

Out-of-State Attorney Information:

.....  
(Full Name)

.....  
(Address)

.....  
(Telephone)

.....  
(Email Address)

Unless the court has granted a motion for reduction or waiver, the \$100.00 fee required by Code, Courts and Judicial Proceedings Article, § 7-202 ~~(e)~~(f) is included with this motion.

I [ ] do [ ] do not request that my presence be waived under Rule 19-217 (d).

.....  
Signature of Moving Attorney

.....  
Name

.....

Address

.....

Telephone

.....

Email Address

Attorney for .....

CERTIFICATE AS TO SPECIAL ADMISSIONS

I, ....., certify on this ..... day of ....., ....., that during the preceding ~~twelve months~~ five years, I have been specially admitted in the State of Maryland ..... times by the following courts:-

<u>Date</u>	<u>Court</u>
.....	.....
.....	.....
.....	.....

I have previously been issued the following unique identifying numbers by the Maryland Judiciary:

Attorney Information System .....

Client Protection Fund .....

Maryland Electronic Courts (MDEC).....



.....  
Signature of Out-of-State Attorney

.....  
Name

.....  
Address

.....  
Telephone

.....  
Email Address

(Certificate of Service)

Source: This Form is derived from former Form RGAB-14/M (2016).

REPORTER'S NOTE

The proposed amendments to Form 19-A.1. conform it to Rule 19-217, which requires additional information about an attorney seeking special admission.

The amended motion form requires contact information for the out-of-state attorney seeking special admission. The amended certification by the out-of-state attorney requires disclosure of admissions in Maryland in the last five years and previously issued unique identifying numbers.

In addition, a statutory reference to Code, Courts Article, § 7-202 (e) is updated to § 7-202 (f).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Form 19-A.2. by adding a reference to certain unique identifying numbers assigned to out-of-state attorneys and by requiring a judge's name to be typed, as follows:

FORM 19-A.2. ORDER

ORDER

It is this ..... day of ....., ....., by the ..... Court for ....., Maryland, ORDERED that

[ ] .....  
Name

.....  
Address

.....  
Telephone

.....  
Email Address

.....  
Attorney Number/

Client Protection Fund ID

.....  
Maryland Electronic Courts (MDEC) ID

is admitted specially for the limited purpose of appearing and participating in this case as co-counsel for .....

The presence of the Maryland attorney [ ] is [ ] is not waived.

[ ] The Special Admission of

[ ] .....  
Name

.....  
Address

.....  
Telephone

.....  
Email Address

.....  
Attorney Number/  
Client Protection Fund ID

.....  
Maryland Electronic Courts (MDEC) ID

is denied for the following reasons: .....

.....  
and the Clerk shall return any fee paid for the Special Admission.

It is further ORDERED, that the Clerk forward a true copy of the Motion and of this Order to the State Court Administrator.

.....  
Name of Judge (Typed)

.....  
(Signature) Judge

Source: This Form is derived from former Form RGAB-14/O (2016).

REPORTER'S NOTE

Proposed amendments to Form 19-A.2. conform it to Rule 19-217 by including reference to previously issued unique identifying numbers provided by the Judiciary or its units to an out-of-state attorney. Additionally, the judge's name is required to be typed on the order so that the State Court Administrator's Office can record the information.

MARYLAND RULES OF PROCEDURE  
TITLE 1 - GENERAL PROVISIONS  
CHAPTER 300 - GENERAL PROVISIONS

AMEND Rule 1-311 (a) by altering a reference to the identifying number attorney-filers must include in a signature, as follows:

RULE 1-311. SIGNING OF PLEADINGS AND OTHER PAPERS

(a) Requirement

Every pleading and paper of a party represented by an attorney shall be signed by at least one attorney who has been admitted to practice law in this State and who complies with Rule 1-312. Every pleading and paper of a party who is not represented by an attorney shall be signed by the party. Every pleading or paper filed shall contain (1) the signer's address, telephone number, facsimile number, if any, and e-mail address, if any, and (2) if the pleading or paper is signed by an attorney pursuant to Rule 20-107, the attorney's ~~Client Protection Fund ID number~~ identifying Attorney Number registered with the Attorney Information System.

Committee note: The requirement that a pleading contain a facsimile number, if any, and e-mail address, if any, does not alter the filing or service rules or time periods triggered by

the entry of a judgment. See *Blundon v. Taylor*, 364 Md. 1 (2001).

. . .

REPORTER'S NOTE

The proposed amendment to Rule 1-311 (a) updates the reference to the identifying number an attorney must include in his or her electronic signature. The unique identifying number now is assigned by the Court of Appeals through the Attorney Information System rather than by the Client Protection Fund. The CPF number assigned to previously admitted attorneys now is referred to as their Attorney Number.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-107 by altering reference to the identifying number attorney-filers must include in a signature, as follows:

RULE 20-107. MDEC SIGNATURES

(a) Signature by Filer; Additional Information Below

Signature

Subject to sections (b), (c), and (d) of this Rule, when a filer is required to sign a submission, the submission shall:

(1) include the filer's signature on the submission, and

(2) provide the following information below the filer's signature: the filer's address, e-mail address, and telephone number and, if the filer is an attorney, the ~~attorney's Client Protection Fund ID number~~ attorney's identifying Attorney Number registered with the Attorney Information System. That

information shall not be regarded as part of the signature. A signature on an electronically filed submission constitutes and has the same force and effect as a signature required under Rule 1-311.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 20-107 updates the reference to the identifying number an attorney must include in his or her electronic signature. The unique identifying number now is assigned by the Court of Appeals through the Attorney Information System, not the Client Protection Fund. The CPF number assigned to previously admitted attorneys is now referred to as their Attorney Number.



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-202 (b) by clarifying that the withdrawal of a character questionnaire constitutes a withdrawal of an application for admission, as follows:

RULE 19-202. APPLICATION FOR ADMISSION

. . .

(b) Withdrawal of Application

At any time, an applicant may withdraw an application by filing with the Board written notice of withdrawal. Where an individual has filed a character questionnaire pursuant to Rule 19-205 (c) without then filing a Notice of Intent, withdrawal of the character questionnaire pursuant to Rule 19-205 (f) shall constitute withdrawal of the application. No fees will be refunded.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 19-202 (b) clarifies that a character questionnaire filed then later withdrawn pursuant to Rule 19-205 (f) constitutes withdrawal of an application,

whether a notice of intent has been filed pursuant to Rule 19-206 or 19-207.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-205 by adding new section (f), as follows:

RULE 19-205. CHARACTER QUESTIONNAIRE

(a) Who May File

An individual who meets the requirements of Rule 19-201(a)(1) may commence an application for admission to the Bar of this State by filing with the Board a completed Character Questionnaire and the prescribed fee.

Cross reference: See Rule 19-206 (Notice of Intent to Take the UBE in Maryland) and Rule 19-207 (Notice of Intent to Transfer a Qualifying UBE Score).

(b) Form of Questionnaire

(1) Generally

The character questionnaire shall be on a form prescribed by the Board and shall be answered under oath. The questionnaire shall elicit the information the Board considers appropriate concerning the applicant's character, education, and eligibility to become an applicant and (A) require the applicant to provide the applicant's Social Security number, and (B) include an authorization to release confidential information

pertaining to the applicant's character and fitness for the practice of law to a Character Committee, the Board, and the Court.

(2) Pre-legal education

The character questionnaire shall be accompanied by satisfactory evidence that the applicant meets the pre-legal education requirements of Rule 19-201 (a) (1).

(c) Time for Filing

The character questionnaire shall be filed prior to or contemporaneously with any Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206 or any Notice of Intent to Transfer a Qualifying UBE Score pursuant to Rule 19-207.

(d) Preliminary Determination of Eligibility

On receipt of a character questionnaire, the Board shall determine whether the applicant is eligible to file a character questionnaire pursuant to section (a) of this Rule. If the Board concludes that the requirements have been met, it shall forward the character questionnaire to a Character Committee. If the Board concludes that the requirements have not been met, it shall promptly notify the applicant in writing.

(e) Updated Character Questionnaire

If a character questionnaire has been pending for more than three years since the date of the applicant's most recent character questionnaire or updated character questionnaire, the

applicant shall file with the Board an updated character questionnaire contemporaneously with filing any Notice of Intent to Take the UBE in Maryland or any Notice to Transfer a Qualifying UBE Score. The updated character questionnaire shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

(f) Withdrawal of Character Questionnaire

At any time, an applicant may withdraw a character questionnaire by filing with the Board written notice of withdrawal. Withdrawing a character questionnaire shall result in withdrawal of the application for admission under Rule 19-202

(b). No fees will be refunded.

Source: This Rule is new in part and derived from former Rule 19-202 (2018) in part.

REPORTER'S NOTE

The proposed new section (f) to Rule 19-205 explains the effect of the withdrawal of a character questionnaire. An application for admission consists of a notice of intent pursuant to either Rule 19-206 or 19-207 and a character questionnaire.

The proposed amendment to Rule 19-202 (b) clarifies that the withdrawal of a character questionnaire, which can be filed contemporaneously to the notice of intent, constitutes withdrawal of an application. The proposed amendment to Rule 19-205 re-states this concept.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-206 by clarifying the prerequisites for filing a notice of intent in subsection (a)(3), by adding certain requirements to the filing procedure in section (a), by correcting an internal reference in section (b) and a cross reference following section (b), and by making stylistic changes, as follows:

RULE 19-206. NOTICE OF INTENT TO TAKE THE UBE IN MARYLAND

(a) Filing

An applicant may file a Notice of Intent to Take the UBE in Maryland if the applicant:

(1) meets the pre-legal educational requirements of Rule 19-201 (a) (1);

(2) unless the requirements of Rule 19-201 (a) (2) have been waived pursuant to Rule 19-201 (b), meets the legal education requirements of Rule 19-201 (a) (2), or will meet those requirements before the first day of taking the UBE in Maryland; and

(3) contemporaneously files, or has previously filed, a completed character questionnaire pursuant to Rule 19-205 that has not been withdrawn pursuant to Rule ~~19-202 (b)~~ 19-205 (f), and the applicant has not withdrawn or been denied admission pursuant to Rule 19-203, or rejected pursuant to Rule 19-204.

The Notice of Intent shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

(b) Request for Test Accommodation

An applicant who seeks a test accommodation under the ADA for the bar examination shall indicate that request on the Notice of Intent to Take the UBE in Maryland, and shall file with the Board an "Accommodation Request" on a form prescribed by the Board, together with the supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline stated in section ~~(e)~~(d) of this Rule for filing the Notice of Intent to Take the UBE in Maryland. The Board may reject an accommodation request that is (1) substantially incomplete or (2) filed untimely. The Board shall notify the applicant in writing of the basis of the rejection and shall provide the applicant an opportunity to correct any deficiencies in the accommodation request before the filing deadline for the current examination or, if the current deadline

has passed, before the filing deadline for the next administration of the examination.

Committee note: An applicant who may need a test accommodation is encouraged to file an Accommodation Request as early as possible.

Cross reference: See Rule ~~19-205~~ 19-208 for the procedure to appeal a denial of a request for a test accommodation.

. . .

Source: This Rule is derived from former Rule 19-204 (2018).

REPORTER'S NOTE

Proposed amendments to Rule 19-206 (a)(3) clarify the prerequisites for filing a notice of intent, which can only be filed if the applicant has contemporaneously or previously filed a character questionnaire which has not been withdrawn and their application has not been denied pursuant to the character review process. The amendment references new Rule 19-205 (f), which states the effect of the withdrawal of a character questionnaire. A requirement that the filing be made under oath, in the form prescribed, and accompanied by the prescribed fee makes the Rule consistent with Rule 19-207 and Rule 19-102 (h).

Procedures pertaining to the appeal of a denial of a request for a test accommodation, formerly in Rule 19-205, have been transferred to Rule 19-208. Proposed amendments to Rule 19-206 correct an internal reference in section (b) and update the cross reference following section (b) to reflect the new location of the procedures for appeal.



MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-207 by clarifying the prerequisites for filing a notice of intent in subsection (a)(3), by adding new section (c) pertaining to time for filing, and by making stylistic changes, as follows:

RULE 19-207. NOTICE OF INTENT TO TRANSFER A QUALIFYING UBE SCORE

(a) Filing

Beginning on July 1, 2019, an applicant may file a Notice of Intent to Transfer a Qualifying UBE Score if the applicant:

(1) meets the pre-legal educational requirements of Rule 19-201 (a)(1) to become admitted to the Maryland Bar~~;~~;

(2) unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), meets the legal education requirements of Rule 19-201 (a)(2)~~;~~;

(3) contemporaneously files or has previously filed a completed character questionnaire pursuant to Rule 19-205 that has not been withdrawn pursuant to Rule ~~19-202 (b)~~ 19-205 (f),

and the applicant has not withdrawn or been ~~or~~ denied admission pursuant to Rule 19-204~~7~~; and

(4) has achieved a qualifying UBE score in another UBE State.

The Notice of Intent shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

(b) Verification of Legal Education

The applicant shall cause the Board to receive an official transcript that reflects the date of the award to the applicant of a qualifying law degree under Rule 19-201 (a) prior to or contemporaneously with filing the Notice of Intent to Transfer a Qualifying UBE Score, unless the official transcript already is on file with the Board or the applicant has received a waiver under Rule 19-201 (b).

(c) Time for Filing

An applicant who intends to apply for admission by transferring a qualifying UBE score shall file the Notice of Intent to Transfer a Qualifying UBE Score no later than the last day that the transferred score constitutes a qualifying UBE score as defined by Board Rule.

Source: This Rule is new.

REPORTER'S NOTE

The proposed amendment to Rule 19-207 (a) (3) clarifies the prerequisites for filing a Notice of Intent, which can only be filed if the applicant has contemporaneously or previously filed a character questionnaire which has not been withdrawn and their application has not been denied pursuant to the character review process. The amendment references proposed new section (f) of Rule 19-205, which states the effect of the withdrawal of a character questionnaire.

Proposed new section (c) clarifies that the time for filing a Notice of Intent to Transfer a Qualifying UBE Score expires when the score no longer constitutes a qualifying UBE Score as defined by Board Rule.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-210 by adding a reference to Rule 19-206, as follows:

RULE 19-210. RE-EXAMINATION AFTER FAILURE

(a) Notice of Intent to Take Another Scheduled UBE in Maryland

An unsuccessful applicant may file another Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206. The Notice of Intent shall be on the form prescribed by the Board and shall be accompanied by the required examination fee.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 19-210 clarifies that the Rule 19-206 prerequisites for filing a notice of intent apply to a re-examination application. Amendments to Rule 19-206 explain the character questionnaire requirements which must be met contemporaneously to or prior to filing a notice of intent.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-215 (c) by correcting a reference to Rule 19-216, as follows:

RULE 19-215. ELIGIBILITY OF OUT-OF-STATE ATTORNEY FOR ADMISSION WITHOUT EXAMINATION

. . .

(c) Practitioner of Law

(1) Subject to subsections (c) (2) and (3) of this Rule, a practitioner of law is an individual who has regularly engaged in the authorized practice of law:

(A) in a state;

(B) as the principal means of earning a livelihood; and

(C) whose professional experience and responsibilities have been sufficient to satisfy the Board that the individual should be admitted under this Rule and Rule ~~19-213~~ 19-216.

(2) As evidence of the requisite professional experience, for purposes of subsection (c) (1) (C) of this Rule, the Board may consider, among other things:

(A) the extent of the individual's experience in the practice of law;

(B) the individual's professional duties and responsibilities, the extent of contacts with and responsibility to clients or other beneficiaries of the individual's professional skills, the extent of professional contacts with practicing attorneys and judges, and the individual's professional reputation among those attorneys and judges; and

(C) any professional articles or treatises that the individual has written.

(3) The Board may consider, as the equivalent of practice of law in a state, practice outside the United States if the Board concludes that the nature of the practice makes it the functional equivalent of practice within a state.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 19-215 (c) corrects a reference to the process for admission of out-of-state attorneys. The applicant must have sufficient professional experience to be admitted under Rules 19-215 and 19-216.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-216 by correcting subsection numbering in section (a), as follows:

RULE 19-216. ADMISSION OF OUT-OF-STATE ATTORNEY WITHOUT EXAMINATION - PROCEDURE

(a) Petition

(1) Beginning on July 1, 2019, an individual eligible pursuant to Rule 19-215 may file with the Board a petition under oath on a form prescribed by the Board. The petition shall be accompanied by (A) the fees required by the Board and the costs assessed for the character and fitness investigation and report by the National Conference of Bar Examiners, and (B) the supporting documents and information required by the Board as to the petitioner's professional experience and character and fitness to practice law in Maryland.

(2) The petitioner shall list (A) each state in which the petitioner has been admitted to the Bar and whether each admission was by examination, by diploma privilege or on motion; and (B) the additional facts showing that the petitioner meets

the requirements of section (a) (3) of Rule 19-215 or should be qualified under section (e) of Rule 19-215.

~~(4)~~(3) The petitioner shall be under a continuing obligation to report to the Board any material change in information previously furnished.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 19-216 (a) corrects the numbering to remove a blank subsection.



MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

DIVISION 2. LIMITATIONS ON ACCESS

AMEND Rule 16-913 by adding a new section (i) pertaining to notes, memoranda, and minutes of meetings of certain entities and by adding a Committee note after section (i), as follows:

Rule 16-913. ACCESS TO ADMINISTRATIVE RECORDS

(a) Records Pertaining to Jurors

(1) A custodian shall deny inspection of an administrative record used by a jury commissioner in the jury selection process, except (i) as otherwise ordered by a trial judge in connection with a challenge under Code, Courts Article, §§ 8-408 and 8-409; or (ii) as provided in subsections (a)(2) and (a)(3) of this Rule.

(2) Upon request, the trial judge may authorize a custodian to disclose the names and zip codes of the sworn jurors contained on a jury list after the jury has been impaneled and sworn.

Cross reference: See Rule 4-312 (d).

(3) After a source pool of qualified jurors has been emptied and re-created in accordance with Code, Courts Article, § 8-207,

and after every individual selected to serve as a juror from that pool has completed the individual's service, a trial judge, upon request, shall disclose the name, zip code, age, gender, education, occupation, marital status, and spouse's occupation of each person whose name was selected from that pool and placed on a jury list, unless, in the interest of justice, the trial judge determines that this information should remain confidential in whole or in part.

(4) A jury commissioner may provide jury lists to the Health Care Alternative Dispute Resolution Office as required by that Office in carrying out its duties, subject to any regulations of that office to ensure against improper dissemination of juror data.

Cross reference: See Rule 4-312 (d).

(5) At intervals acceptable to the jury commissioner, a jury commissioner shall provide to the State Board of Elections and State Motor Vehicle Administration data about prospective, qualified, or sworn jurors needed to correct erroneous or obsolete information, such as that related to a death or change of address, subject to the Board's and Administration's adoption of regulations to ensure against improper dissemination of juror data.

(b) Personnel Records – Generally

(1) Not Open to Inspection

Except as otherwise permitted by the PIA or by this Rule, a custodian shall deny to a person, other than the person who is the subject of the record, inspection of the personnel records of an employee of the court, other judicial agency, or special judicial unit, or of an individual who has applied for employment with the court, other judicial agency, or special judicial unit.

(2) Open to Inspection

The following records or information are not subject to this exclusion and, unless sealed or otherwise shielded pursuant to the Maryland Rules or other law, shall be open to inspection:

(A) the full name of the individual;

(B) the date of the application for employment and the position for which application was made;

(C) the date employment commenced;

(D) the name, location, and telephone number of the court, other judicial agency, or special judicial unit to which the individual has been assigned;

(E) the current and previous job titles and salaries of the individual during employment by the court, other judicial agency, or special judicial unit;

(F) the name of the individual's current supervisor;

(G) the amount of monetary compensation paid to the individual by the court, other judicial agency, or special

judicial unit and a description of any health, insurance, or other fringe benefit that the individual is entitled to receive from the court or judicial agency;

(H) unless disclosure is prohibited by law, other information authorized by the individual to be released; and

(I) a record that has become a case record.

Committee note: Although a judicial record that has become a case record is not subject to the exclusion under section (d) of this Rule, it may be subject to sealing or shielding under other Maryland Rules or law.

(c) Personnel Records – Retirement

Unless inspection is permitted under the PIA or the record has become a case record, a custodian shall deny inspection of a retirement record of an employee of the court, other judicial agency, or special judicial unit.

(d) Administrative Record Prepared by or for a Judge or Other Judicial Personnel

A custodian shall deny inspection of an administrative record that is:

- (1) prepared by or for a judge or other judicial personnel;
- (2) either (A) purely administrative in nature but not a local rule, policy, or directive that governs the operation of the court or (B) a draft of a document intended for consideration by the author or others and not intended to be final in its existing form; and

(3) not filed with the clerk and not required to be filed with the clerk.

Cross reference: For judicial or other professional work product, see Rule 16-911 (d).

(e) Educational and Training Materials

A custodian shall deny inspection of judicial records prepared by, for, or on behalf of a unit of the Maryland Judiciary for use in the education and training of Maryland judges, magistrates, clerks, and other judicial personnel.

(f) Procurement Records

Inspection of judicial records in the form of procurement documents shall be governed exclusively by the Procurement Policy of the Judiciary approved by the Chief Judge of the Court of Appeals and posted on the Judiciary website. This Rule applies whether the procurement is funded by the federal, State, or local government.

(g) Interagency and Intra-agency Memoranda

A custodian may deny inspection of all or any part of an interagency or intra-agency letter or memorandum that would not be available by law to a private party in litigation with the custodian or the unit in which the custodian works.

(h) Problem-Solving Court Program Records

A custodian shall deny inspection of all or any part of a judicial record maintained in connection with a participant in a

problem-solving court program operating pursuant to Rule 16-207 that is not contained in a case record.

Committee note: Problem-solving court programs often provide for professionals in various fields working with a judge or other judicial official as a team to deal with participants in the program. That may result in the judge or other judicial official coming into possession of documents that identify the participant and contain sensitive information about the participant – health information, school records, drug testing, psychological evaluations. Some of that information may ultimately end up as a case record, and, if it does, public inspection will be determined by the Rules governing access to case records. To the extent the information does not become a case record but is used in private discussions among the therapy team, it will be shielded under this Rule, even though it also may be shielded under other Rules as well. Subsection (h) does not apply to judicial records regarding the creation, governance, or evaluation of problem-solving court programs that do not identify participants.

(i) Notes, Memoranda, and Minutes of Meetings of Committees, Subcommittees, or Work Groups Not Public Bodies

A custodian shall deny inspection of notes, memoranda, and minutes of a meeting of a judicial committee, subcommittee, or work group that is not a public body as defined in Code, General Provisions Article, § 3-101.

Committee note: There exist committees, subcommittees, or work groups that are sub-units within a larger judicial entity that constitutes a public body as defined in Code, General Provisions Article, § 3-101. The predominant function of those committees, subcommittees, and work groups is to investigate issues within their jurisdiction and develop recommendations for the parent entity to consider. The committees, subcommittees, and work groups are not “public bodies” subject to the Open Meetings Law, as they do not meet the definition of that term in Code, General Provisions Article, § 3-101(h). See, in particular, § 3-101(h)(3)(ix). They therefore are permitted, as a matter of judicial policy, to hold meetings not open to the public and are not required to keep minutes of their meetings. It is not

uncommon, however, for a committee, subcommittee, or work group member or staff person to keep notes of what occurred at meetings of those committees, subcommittees, or work groups and to circulate them to their members. Those notes, whether or not designated as minutes, represent the author's perception of what was discussed or what occurred and are in the nature both of the author's work product and an intra-agency memorandum. Section (i) of this Rule clarifies that those notes or memoranda, whether or not in the form of minutes, are not required to be open to public inspection. Any recommendations or decisions of the committee, subcommittee, or work group submitted to and considered by the parent body will be reflected in the minutes of the parent body, subject to any exceptions allowed in these Rules.

Source: This Rule is derived in part from former Rule 16-905 (2019) and in part from Code, General Provisions Article, § 4-344, and in part is new. See also *Stromberg Metal Works, Inc. v. University of Maryland*, 382 Md. 151, 163 (2004).

REPORTER'S NOTE

Rule 16-913 is proposed to be amended by the addition of new section (i), together with a Committee note following section (i), to clarify that notes, memoranda, and minutes of a meeting of a judicial committee, subcommittee, or work group that is not a public body are not subject to public inspection.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND 4-262 by adding to subsection (d)(2)(C)(ii) a requirement that the State's Attorney, upon written request, disclose specific information to the defense regarding pretrial identifications involving participation by law enforcement agency personnel, as follows:

Rule 4-262. DISCOVERY IN DISTRICT COURT

(a) Applicability

This Rule governs discovery and inspection in the District Court. Discovery is available in the District Court in actions that are punishable by imprisonment.

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

. . .

(d) Disclosure by the State's Attorney

(1) Without Request

Without the necessity of a request, the State's Attorney shall provide to the defense all material or information in any



form, whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged and all material or information in any form, whether or not admissible, that tends to impeach a State's witness.

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

(2) On Request

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

(A) Statements of Defendant and Co-defendant

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

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

As to each State's witness the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony: (i) the name of the witness; (ii) except as provided under Code, Criminal Procedure Article, § 11-205 or Rule 16-1009 (b), the address and, if known to the State's Attorney, the telephone number of the witness, and (iii) the

statements of the witness relating to the offense charged that are in a writing signed or adopted by the witness or are in a police or investigative report;

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

All relevant material or information regarding:

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

(ii) pretrial identification of the defendant by a State's witness including, if the pretrial identification involved participation by personnel from a law enforcement agency, (i) a copy of or an electronic link to the written policies relating to eyewitness identification required by Code, Public Safety Article, §§ 3-506 and 3-506.1, and (ii) documents or other evidence indicating compliance or non-compliance with the requirements of Code, Public Safety Article, §§ 3-506 and 3-506.1;

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

(D) Reports or Statements of Experts

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

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

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

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

. . .

REPORTER'S NOTE

The proposed amendment to Rule 4-262 adds certain information about pretrial eyewitness identifications to the list of disclosures that are required to be provided to the defense by the State's Attorney upon written request in the district court.

In 2014, the legislature amended Code, Public Safety Article, § 3-506 and added § 3-506.1, expanding the statutory requirements for each law enforcement agency's identification procedures in the State. The Code requires that the agencies either adopt the Maryland Police Training and Standards Commission's Eyewitness Identification Model Policy or adopt a written policy satisfying the requirements set forth in § 3-506.1.

Rule 4-262 (d) (2) (C) (ii) requires a State's Attorney to provide, on written request, all relevant material or information regarding a pretrial identification of the defendant by a State's witness. The proposed amendment to Rule 4-262 incorporates the requirements of Code, Public Safety Article, §§ 3-506 & 3-506.1 into the discovery rule, requiring a State's

Attorney to provide a copy of the eyewitness identification policy and evidence relating to compliance or non-compliance with procedural requirements for pretrial eyewitness identifications. The proposed amendment raises awareness of the statutory requirements associated with pretrial identifications involving participation by law enforcement agency personnel and ensures that complete information concerning the identification is disclosed to the defense when requested.

A corresponding amendment is proposed to Rule 4-263 concerning discovery in the circuit courts.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-263 by adding a cross reference after subsection (d) (6) (B), by adding to subsection (d) (7) (B) a requirement that the State's Attorney disclose certain information to the defense regarding pretrial identifications involving participation by law enforcement agency personnel, and by adding a Committee note after section (n), as follows:

Rule 4-263. DISCOVERY IN CIRCUIT COURT

(a) Applicability

This Rule governs discovery and inspection in a circuit court.

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

. . .

(d) Disclosure by the State's Attorney

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

(1) Statements

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

(2) Criminal Record

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

(3) State's Witnesses

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

(4) Prior Conduct

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

(5) Exculpatory Information

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

(6) Impeachment Information

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

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

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

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

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

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

(E) a medical or psychiatric condition or addiction of the witness that may impair the witness's ability to testify truthfully or accurately, but the State's Attorney is not required to inquire into a witness's medical, psychiatric, or

addiction history or status unless the State's Attorney has information that reasonably would lead to a belief that an inquiry would result in discovering a condition that may impair the witness's ability to testify truthfully or accurately;

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

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

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

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

All relevant material or information regarding:

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

(B) pretrial identification of the defendant by a State's witness including, if the pretrial identification involved participation by personnel from a law enforcement agency, (i) a copy of or an electronic link to the written policies relating to eyewitness identification required by Code, Public Safety Article, §§ 3-506 and 3-506.1, and (ii) documents or other evidence indicating compliance or non-compliance with the



requirements of Code, Public Safety Article, §§ 3-506 and 3-506.1;

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

(8) Reports or Statements of Experts

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

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

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

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

(9) Evidence for Use at Trial

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

(10) Property of the Defendant

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

. . .

(n) Sanctions

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

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

. . .

REPORTER'S NOTE

A proposed amendment to Rule 4-263 (d)(7)(B) adds certain information about pretrial eyewitness identifications to the list of disclosures that are required to be provided to the defense by the State's Attorney in a circuit court.

In 2014, the legislature amended Code, Public Safety Article, § 3-506 and added § 3-506.1, expanding the statutory requirements for each law enforcement agency's identification procedures in the State. The Code requires that the agencies either adopt the Maryland Police Training and Standards Commission's Eyewitness Identification Model Policy or adopt a written policy satisfying the requirements set forth in § 3-506.1.

Rule 4-263 (d)(7)(B) requires a State's Attorney to provide all relevant material or information regarding a pretrial identification of the defendant by a State's witness. The proposed amendment to Rule 4-263 incorporates the requirements of Code, Public Safety Article §§ 3-506 and 3-506.1 into the discovery rule, requiring a State's Attorney to provide a copy of the required eyewitness identification policy and evidence relating to compliance or non-compliance with procedural requirements for pretrial eyewitness identifications. The proposed amendment raises awareness of the statutory requirements associated with pretrial identifications involving participation by law enforcement agency personnel and ensures that complete information concerning the identification is disclosed to the defense.

A corresponding amendment is proposed to Rule 4-262 concerning discovery in the District Court.

Two additional amendments to Rule 4-263 are proposed in light of Chapter 282, 2020 Laws of Maryland (HB 637), which added Code, Courts and Judicial Proceedings Article, § 10-924. The new statute concerns requirements for recording, reporting, and disclosing information obtained from an in-custody witness by a State's Attorney. Section 10-924 requires, pursuant to Rule 4-263, the disclosure of any benefits received or expected to be received by an in-custody witness in exchange for providing testimony.

A cross reference after subsection (d)(6)(B) directs the reader to Code, Courts Article, § 10-924 for the requirement to

disclose a "benefit" to an "in-custody witness," as those terms are defined in the statute.

A Committee note after section (n) highlights the statutory entitlement to a hearing to ensure that the State's Attorney has disclosed all material and information required by law pertaining to an in-custody witness whose testimony is sought to be admitted.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-325 to add new section (e) requiring the court, upon request, to instruct a jury as to consideration of certain evidence if pretrial eyewitness identification evidence is admitted, to make conforming amendments to subsequent sections, and to add a cross reference after section (e), as follows:

Rule 4-325. INSTRUCTIONS TO THE JURY

(a) When Given

The court shall give instructions to the jury at the conclusion of all the evidence and before closing arguments and may supplement them at a later time when appropriate. In its discretion the court may also give opening and interim instructions.

(b) Written Requests

The parties may file written requests for instructions at or before the close of the evidence and shall do so at any time fixed by the court.

(c) How Given

The court may, and at the request of any party shall, instruct the jury as to the applicable law and the extent to which the instructions are binding. The court may give its instructions orally or, with the consent of the parties, in writing instead of orally. The court need not grant a requested instruction if the matter is fairly covered by instructions actually given.

(d) Reference to Evidence

In instructing the jury, the court may refer to or summarize the evidence in order to present clearly the issues to be decided. In that event, the court shall instruct the jury that it is the sole judge of the facts, the weight of the evidence, and the credibility of the witnesses.

(e) Eyewitness Identification

If pretrial eyewitness identification evidence obtained with the participation of personnel from a law enforcement agency has been admitted, the court, upon request, shall instruct the jury, as relevant, that, in considering the reliability of the identification, the jury shall consider evidence of:

(1) whether there was compliance with the requirements of Code, Public Safety Article, §§ 3-506 and 3-506.1; and

(2) evidence of any other factor that reasonably may bear on the reliability of the identification.

Cross reference: For a Maryland Pattern Jury Instruction pertaining to identification of a defendant, generally, regardless of participation by personnel from a law enforcement agency, see MPJI-CR 3:30.

~~(e)~~ (f) Objection

No party may assign as error the giving or the failure to give an instruction unless the party objects on the record promptly after the court instructs the jury, stating distinctly the matter to which the party objects and the grounds of the objection. Upon request of any party, the court shall receive objections out of the hearing of the jury. An appellate court, on its own initiative or on the suggestion of a party, may however take cognizance of any plain error in the instructions, material to the rights of the defendant, despite a failure to object.

~~(f)~~ (g) Argument

Nothing in this Rule precludes any party from arguing that the law applicable to the case is different from the law described in the instructions of the court stated not to be binding.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 757 d.

Section (b) is derived from former Rule 757 a.

Section (c) is derived from former Rule 757 b.

Section (d) is derived from former Rule 757 c.

Section (e) is new.

Section ~~(e)~~ (f) is derived from former Rule 757 f and h.

Section ~~(f)~~ (g) is derived from former Rule 757 g.

REPORTER'S NOTE

Proposed amendments to Rule 4-325 add new section (e) requiring trial courts, upon request, to instruct the jury, as relevant, about different factors to consider when evaluating the reliability of pretrial eyewitness identification evidence obtained with the participation of personnel from a law enforcement agency. Legal and scientific developments have demonstrated the potential for wrongful convictions involving eyewitness testimony.

Eyewitness identification procedures by personnel from a law enforcement agency have been addressed by the legislature in Code, Public Safety Article, §§ 3-506 & 3-506.1. § 3-506 requires each law enforcement agency in the State to develop written policies in compliance with the United States Department of Justice Standards regarding accurate eyewitness identifications. Each law enforcement agency must also adopt and implement appropriate identification procedures. § 3-506.1 addresses several system variables that may impact eyewitness identifications.

Proposed new subsection (e)(1) directs a trial court, when requested, to instruct the jury to consider compliance with the requirements of these Code sections when pretrial eyewitness identification evidence obtained with the participation of personnel from a law enforcement agency has been admitted. Subsection (e)(2) serves as a catchall provision for consideration of any other factors that may reasonably impact the reliability of the identification.

A cross reference to MPJI-CR 3:30 of the Maryland Pattern Jury Instructions follows section (e).

Conforming amendments to the remainder of the Rule update the subsequent sections and the listed sources.



MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 600 - WITNESSES

Add new Rule 5-617, as follows:

Rule 5-617. PRETRIAL EYEWITNESS IDENTIFICATION EVIDENCE

(a) Applicability

This Rule applies to evidence of an eyewitness identification obtained pretrial with the participation by personnel from a law enforcement agency that is offered over objection in a criminal case. Upon request of a party, this Rule may be applied in a civil case if relevant and appropriate to do so.

(b) Code Requirements

In determining whether eyewitness identification evidence is admissible, the court shall consider whether there was compliance with the requirements of Code, Public Safety Article, §§ 3-506 and 3-506.1.

Cross reference: See *Small v. State*, 464 Md. 68 (2019).

Source: This Rule is new.

REPORTER'S NOTE

Jurisdictions throughout the country have acknowledged emerging concerns and developing science associated with eyewitness identifications, requiring consideration of both system and estimator variables. See *State v. Henderson*, 27 A.3d 872 (N.J. 2011); see also *State v. Harris*, 191 A.3d 119 (Conn. 2018); *Commonwealth v. Gomes*, 22 N.E.3d 897 (Mass. 2015); *State v. Lawson*, 291 P. 3d 673 (Or. 2012). The Court recently addressed the appropriate criteria for assessing whether admission of the State's eyewitness identification evidence in a criminal matter violates due process of law due to the unreliability of the evidence. In *Small v. State*, 464 Md. 68 (2019), the Court confirmed observance of the criteria to assess eyewitness identification evidence set forth in *Manson v. Brathwaite*, 432 U.S. 98 (1977), *Neil v. Biggers*, 409 U.S. 188 (1972), and *Jones v. State*, 310 Md. 569 (1987). A Concurring Opinion, however, expressed concerns about the accuracy and reliability of the current criteria, suggesting that the Rules Committee "craft and propose rules of procedure that bring scientific rigor to the assessment of an eyewitness identification that a defendant has challenged as unduly suggestive and, ultimately, unreliable." 464 Md. at 117.

Proposed new Rule 5-617 addresses the admissibility of evidence of an eyewitness identification obtained pretrial with the participation of personnel from a law enforcement agency. Section (a) states the applicability of the Rule.

Section (b) requires the trial court to consider compliance with certain Code requirements when assessing the admissibility of the eyewitness identification evidence. In 2014, the legislature amended Code, Public Safety Article, § 3-506 and added § 3-506.1, codifying specific requirements for each law enforcement agency's identification procedures in the State. The Code requires that the agencies either adopt the Maryland Police Training and Standards Commission's Eyewitness Identification Model Policy or adopt a written policy satisfying the requirements set forth in § 3-506.1. The legislature did not include a remedy for violation of the requirements within the statute, in effect leaving decisions about an appropriate remedy to individual trial judges. Proposed section (b) requires the trial court to consider the Code sections when determining admissibility of the eyewitness identification evidence to which the new Rule applies.

A cross reference to *Small v. State*, 464 Md. 68 (2019) is included at the end of the Rule.

MARYLAND RULES OF PROCEDURE  
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT  
CHAPTER 600 - JUDGMENT

AMEND Rule 2-644 by updating the reference to Rule 14-305,  
as follows:

Rule 2-644. SALE OF PROPERTY UNDER LEVY

. . .

(d) Transfer of Real Property Following Sale

The procedure following the sale of an interest in real property shall be as prescribed by Rule 14-305, except that (1) the provision of Rule 14-305 ~~(f)~~(g) for referral to an auditor does not apply and (2) the court may not ratify the sale until the judgment creditor has filed a copy of the public assessment record for the real property kept by the supervisor of assessments in accordance with Code, Tax-Property Article, § 2-211. After ratification of the sale by the court, the sheriff shall execute and deliver to the purchaser a deed conveying the debtor's interest in the property, and if the interests of the debtor included the right to possession, the sheriff shall place

the purchaser in possession of the property. It shall not be necessary for the debtor to execute the deed.

. . .

REPORTER'S NOTE

Proposed conforming amendments to Rule 2-644 alter a reference to Rule 14-305 in light of proposed amendments to that Rule impacting lettering.

MARYLAND RULES OF PROCEDURE

TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT

CHAPTER 700 - CLAIMS FOR ATTORNEYS' FEES AND RELATED EXPENSES

AMEND Rule 2-704 by allowing the court to order the deferment of presentation of evidence in subsection (d)(1), as follows:

**RULE 2-704. ATTORNEYS' FEES ALLOWED BY CONTRACT AS AN ELEMENT OF DAMAGES**

(a) Scope of Rule

This Rule applies to a claim for attorneys' fees in an action in a circuit court that are allowed by a contract as an element of damages for breach of that contract. It does not apply to a claim for an award of attorneys' fees to the prevailing party pursuant to a fee-shifting provision in a contract.

Cross reference: See Rule 2-705 for the procedure where a contract provides for an award of attorneys' fees to a prevailing party in the litigation.

(b) Pleading

A party who seeks attorneys' fees from another party pursuant to this Rule shall include a claim for such fees in the party's initial pleading or, if the grounds for such a claim arise after the initial pleading is filed, in an amended pleading filed promptly after the grounds for the claim arise.

(c) Scheduling Conference and Order

If a claim for attorneys' fees is made pursuant to this Rule, unless the court orders otherwise, the court shall conduct a scheduling conference in conformance with Rule 2-703 (c).

Committee note: Unlike a claim under Rule 2-703 based on fee-shifting permitted by law, where attorneys' fees are an element of damages for breach of a contractual obligation, any award must be included in the judgment entered on the breach of contract claim. In complex cases, however, where the evidence regarding attorneys' fees is likely to be extensive, it may be expedient to defer the presentation of such evidence and resolution of that claim until after a verdict or finding by the court establishing an entitlement to an award. See section (d) of this Rule. In that event, the admonition in the Committee note to Rule 2-703 (c) is especially critical--that, although the verdict or findings on the underlying cause of action should be docketed, no judgment should be entered thereon until the claim for attorneys' fees is resolved and can be included in the judgment.

(d) Presentation of Evidence

(1) Generally

~~Evidence~~ Unless the court orders otherwise, evidence in support of or in opposition to a claim for attorneys' fees under this Rule shall be presented in the party's case-in-chief and shall focus on the standards set forth in Rule 2-703 (f) (3) or subsection (e) (4) of this Rule, as applicable.

(2) Judgment by Confession

If the party seeking attorneys' fees has requested judgment by confession pursuant to Rule 2-611, evidence establishing entitlement to such fees and the reasonableness of the amount requested shall be included in the affidavit required by Rule 2-611 (a). If judgment by confession is not entered or is stricken and the action proceeds to trial, the evidence may be submitted at trial in accordance with this Rule.

(e) Determination of Award

(1) If No Award Permitted

If a verdict returned by a jury or findings made by the court do not permit an award of attorneys' fees, the court shall include in its judgment on the underlying cause of action a denial of such an award.

(2) Trial by Court

If the underlying cause of action is tried by the court, the court shall determine whether an award of attorneys' fees is required or permitted. If the court finds that an award is required, it shall determine the amount. If the court finds that an award is permitted but not required, it shall determine whether an award should be made and, if so, the amount thereof. In determining the amount of an award, the court shall apply the standards set forth in Rule 2-703 (f) (3) or subsection (e) (4) of this Rule, as applicable.



(3) Trial by Jury

If the underlying cause of action is tried by a jury, the jury, under appropriate instructions from the court, shall determine, as part of its verdict, whether an award of attorneys' fees should be made to a party based on a breach of the contract by another party and the amount of such an award. If an award is made, on motion by any party affected by the award, the court, applying the standards set forth in Rule 2-703 (f) (3) or subsection (e) (4) of this Rule, as applicable, shall determine whether the amount of the award is reasonable and, if not, shall modify the award accordingly. This determination does not preclude any other relief the court may grant under Rules 2-532, 2-533, or 2-535.

Committee note: This subsection preserves to the jury, in a breach of contract case where attorneys' fees are part of the alleged damages, the right to determine whether an award should be made and, if so, in what amount, but preserves to the trial court the right to determine whether the award is reasonable. Under this approach, in the event of an appeal, the appellate court will have available both the jury's and the trial court's determination of reasonableness.

(4) Limited Evidence Permitted

If the claim for an award of attorneys' fees does not exceed the lesser of 15% of the principal amount found to be due or \$4,500, the court need not require evidence on all of the factors set forth in Rule 2-703 (f) (3) if the party claiming the award produces evidence otherwise sufficient to demonstrate that

the amount claimed is reasonable and does not exceed the amount that the claiming party has agreed to pay that party's attorney.

The evidence shall include at a minimum:

(A) a detailed description of the work performed, broken down by hours or fractions thereof expended on each task;

(B) the amount or rate charged or agreed to in writing by the requesting party and the attorney; and

(C) the attorney's customary fee for similar legal services.

Committee note: Section (e) follows the approach set forth in *Monmouth Meadows v. Hamilton*, 416 Md. 325 (2010), for contractual fee-shifting cases generally. Subsection (e)(4) is intended to permit the court to excuse the need to consider all of the Rule 2-703 (f)(3) factors where the claim for attorneys' fees does not exceed the lesser of 15% of the amount due or \$4,500. Fees in those limited amounts are common in consumer transactions and have been found reasonable by the General Assembly in some of those settings. See Code, Commercial Law Article, §§ 12-307.1 (Consumer Loans) and 12-623 (Retail Installment Sales).

(f) Part of Judgment

An award of attorneys' fees shall be included in the judgment on the underlying cause of action but shall be separately stated.

Source: This Rule is new.

REPORTER'S NOTE

The proposed amendment to Rule 2-704 (d)(1) provides the court with discretion in scheduling the presentation of evidence

for an attorneys' fees award. An attorney raised the issue of an inconsistency in the Rule between section (c) and the Committee note following the section, which contemplate deferring the presentation of evidence on attorneys' fees until after the fact finder has ruled on the underlying cause of action, and subsection (d)(1), which requires the evidence be presented in the party's case-in-chief.

The amendment allows the court to order the evidence be presented at a time other than during the case-in-chief and is consistent with the Committee note following section (c).

MARYLAND RULES OF PROCEDURE  
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT  
CHAPTER 600 - JUDGMENT

AMEND Rule 3-644 by updating the reference to Rule 14-305,  
as follows:

Rule 3-644. SALE OF PROPERTY UNDER LEVY

. . .

(d) Transfer of Real Property Following Sale

The procedure following the sale of an interest in real property shall be as prescribed by Rule 14-305, except that (1) the provision of Rule 14-305 ~~(e)(4)~~ (g) for referral to an auditor does not apply and (2) the court may not ratify the sale until the judgment creditor has filed a copy of the public assessment record for the real property kept by the supervisor of assessments in accordance with Code, Tax-Property Article, § 2-211. After ratification of the sale by the court, the sheriff shall execute and deliver to the purchaser a deed conveying the debtor's interest in the property, and if the interests of the debtor included the right to possession, the sheriff shall place

the purchaser in possession of the property. It shall not be necessary for the debtor to execute the deed.

. . .

REPORTER'S NOTE

Proposed conforming amendments to Rule 3-644 alter a reference to Rule 14-305 in light of proposed amendments to that Rule impacting lettering.

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

AMEND Rule 3-722 by updating the reference to Rule 14-305,  
as follows:

Rule 3-722. RECEIVERS

. . .

(f) Procedure Following Sale

(1) Notice by Mail

Upon filing the Report of Sale, the receiver shall send a notice by first class mail and certified mail to the last known address of: the mortgagor; the present record owner of the property; and the holder of a recorded subordinate mortgage, deed of trust, or other recorded or filed subordinate interest in the property, including a judgment. The notice shall identify the property and state that the sale of the property has been completed and will be final unless cause to the contrary is shown within 30 days after the date of the notice. The receiver shall file proof of mailing with the court. This notice shall be in lieu of notice and publication by the clerk pursuant to Rule 14-305 ~~(e)~~ (d).

(2) Posting of Property

The receiver also shall cause the notice to be posted in a conspicuous place on the property and file proof of posting with the court.

(3) Exceptions to Sale

Exceptions to the sale may be filed within 30 days after the date of the mailing or posting of the notice, which ever is later. In all other respects, exceptions shall be governed by Rule 14-305 ~~(d)~~ (e).

. . .

REPORTER'S NOTE

Proposed conforming amendments to Rule 3-722 alter a reference to Rule 14-305 in light of proposed amendments to that Rule impacting lettering.

MARYLAND RULES OF PROCEDURE

TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT

CHAPTER 500 - TRIAL

AMEND Rule 3-513 to delete subsection (c)(6), as follows:

RULE 3-513. TESTIMONY TAKEN BY TELEPHONE

(a) When Testimony Taken by Telephone Allowed; Applicability

A court may allow the testimony of a witness to be taken by telephone (1) upon stipulation by the parties or (2) subject to sections (d) and (e) of this Rule, on motion of a party to the action and for good cause shown. This Rule applies only to testimony by telephone and does not preclude testimony by other remote means allowed by law or, with the approval of the court, agreed to by the parties.

Cross reference: For an example of testimony by other means allowed by law, see Code, Family Law Article, § 9.5-110.

(b) Time for Filing Motion

Unless for good cause shown the court allows the motion to be filed later, a motion to take the testimony of a witness by telephone shall be filed at least 30 days before the trial or hearing at which the testimony is to be offered.

(c) Contents of Motion



The motion shall state the witness's name and, unless excused by the court:

- (1) address and telephone number for the witness;
- (2) the subject matter of the witness's expected testimony;
- (3) the reasons why testimony taken by telephone should be allowed, including any circumstances listed in section (d) of this Rule;

- (4) the location from which the witness will testify; and
- (5) whether there will be any other individual present in the room with the witness while the witness is testifying and, if so, the reason for the individual's presence and the individual's name, if known. ~~;~~ ~~and~~

~~(6) whether transmission of the witness's testimony will be from a wired handset, a wireless handset connected to the landline, or a speaker phone.~~

(d) Good Cause

A court may find that there is good cause to allow the testimony of a witness to be taken by telephone if:

- (1) the witness is otherwise unavailable to appear because of age, infirmity, or illness;
- (2) personal appearance of the witness cannot be secured by subpoena or other reasonable means;
- (3) a personal appearance would be an undue hardship to the witness; or

(4) there are any other circumstances that constitute good cause for allowing the testimony of the witness to be taken by telephone.

Committee note: This section applies to the witness's unavailability to appear personally in court, not to the witness's unavailability to testify.

(e) When Testimony Taken by Telephone Is Prohibited

If a party objects, a court shall not allow the testimony of a witness to be taken by telephone unless the court finds that:

(1) the witness is not a party and will not be testifying as an expert;

(2) the demeanor and credibility of the witness are not likely to be critical to the outcome of the proceeding;

(3) the issue or issues about which the witness is to testify are not likely to be so determinative of the outcome of the proceeding that the opportunity for face-to-face cross-examination is needed;

(4) a deposition taken under these Rules is not a fairer way to present the testimony;

(5) the exhibits or documents about which the witness is to testify are not so voluminous that testimony by telephone is impractical;

(6) adequate facilities for taking the testimony by telephone are available;

(7) failure of the witness to appear in person is not likely to cause substantial prejudice to a party; and

(8) no other circumstance requires the personal appearance of the witness.

(f) Use of Deposition

A deposition of a witness whose testimony is received by telephone may be used by any party for any purpose for which the deposition could have been used had the witness appeared in person.

(g) Costs

Unless the court orders otherwise for good cause, all costs of testimony taken by telephone shall be paid by the movant and may not be charged to any other party.

Source: This Rule is new.

REPORTER'S NOTE

Section (c) of Rule 3-513 sets forth the content requirements of a motion to allow the testimony of a witness to be taken by phone. Subsection (c)(6), requiring the motion to include whether transmission of the witness's testimony will be from a wired handset, a wireless handset connected to the landline, or a speaker phone, does not reflect the realities of modern technology and telephone usage. The proposed amendments to Rule 3-513 delete subsection (c)(6).

MARYLAND RULES OF PROCEDURE

TITLE 4- CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-211 by adding a sentence to section (a) to provide that certain electronic data is to be regarded as the original of a citation, as follows:

RULE 4-211. FILING OF CHARGING DOCUMENT

(a) Citation

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

. . .

Source: This Rule is derived as follows:

Section (a) is derived from the last clause of M.D.R. 720 i.

Section (b) is derived from M.D.R. 720 a and b.

Section (c) is new.

Section (d) is new.

REPORTER'S NOTE

A proposed amendment to Rule 4-211 clarifies that the original citation filed in District Court may be in paper form or in the form of electronic data documenting the citation uploaded to the District Court.

MARYLAND RULES OF PROCEDURE

TITLE 4- CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-231 to update references in section (d) and to add a new section (e) pertaining to electronic proceedings in the circuit courts, as follows:

RULE 4-231. PRESENCE OF DEFENDANT

. . .

(d) Video Conferencing in District Court

In the District Court, if the Chief Judge of the District Court has approved the use of video conferencing in the county, a judicial officer may conduct an initial appearance under Rule 4-213(a) or a review of the commissioner's pretrial release determination under Rule ~~4-216.1~~ 4-216.2 with the defendant and the judicial officer at different locations, provided that:

(1) the defendant's right to counsel under Rules 4-213.1 and ~~4-216.1~~ 4-216.2 is not infringed;

(2) the video conferencing procedure and technology are approved by the Chief Judge of the District Court for use in the county; and

(3) immediately after the proceeding, all documents that are not a part of the District Court file and that would be a part of the file if the proceeding had been conducted face-to-face shall be electronically transmitted or hand-delivered to the District Court.

(e) Electronic Proceedings in Circuit Court

A circuit court may conduct an initial appearance under Rule 4-213 (c) or a review of the District Court's release determination in accordance with the procedures set forth in Rule 2-804 and the standards and requirements set forth in Rule 2-805 relating to remote electronic participation, provided that (1) the defendant's right to an attorney is not infringed, (2) the defendant's right to a qualified interpreter under Code, Criminal Procedure Article, § 1-202 is not infringed, and (3) to the extent required by law and practicable, any victim or victim's representative has been notified of the proceeding and has an opportunity to observe it.

Committee note: Except when specifically covered by this Rule, the matter of presence of the defendant during any stage of the proceedings is left to case law and the Rule is not intended to exhaust all situations.

Source: Sections (a), (b), and (c) of this Rule are derived from former Rule 724 and M.D.R. 724. ~~Section~~ Sections (d) and (e) ~~is~~ are new.

REPORTER'S NOTE

Proposed amendments to Rule 4-231 add a new section (e) pertaining to certain electronic proceedings in the circuit courts. In addition, in section (d), internal references to Rule 4-216.1 are corrected to refer to Rule 4-216.2.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-351, as follows:

RULE 4-351. COMMITMENT RECORD

. . .

(b) Effect of Error

An omission or error in the commitment record or other failure to comply with this Rule does not invalidate imprisonment after conviction. The commitment record may be corrected at any time upon motion, or, after notice to the parties and an opportunity to object, on the Court's own initiative.

Cross-reference: See *Bratt v. State*, 468 Md. 481 (2020) for a discussion of the Court's power to correct the commitment record after sentencing.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 4-351 clarify that the trial court may correct a commitment record on motion or on its own initiative after sentencing. In *Bratt v. State*, 468 Md. 481 (2020), the Court of Appeals held that Rule 4-345 was not the appropriate vehicle to correct a record to reflect time served which was not noted at the time the defendant was sentenced.



Rule 4-351 does not expressly authorize such a correction, but the Court noted that motions are currently being filed to address similar errors which do not impact the substance of the sentence.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-253 to add a cross reference after section (c), as follows:

Rule 4-253. JOINT OR SEPARATE TRIALS

. . .

(c) Prejudicial Joinder

If it appears that any party will be prejudiced by the joinder for trial of counts, charging documents, or defendants, the court may, on its own initiative or on motion of any party, order separate trials of counts, charging documents, or defendants, or grant any other relief as justice requires.

Cross reference: See *Hemming v. State*, 469 Md. 219 (2020), holding that Maryland Rule 4-253 (c) does not grant a trial court the discretion to hold a bifurcated hybrid trial procedure split between two factfinders.

. . .

REPORTER'S NOTE

On June 26, 2020, the Court of Appeals issued a decision in *Hemming v. State*, 469 Md. 219 (2020), addressing a trial court's denial of a defendant's request to hold a hybrid judge/jury trial. The Court determined that Rule 4-253 (c) does not grant

a trial court the discretion to bifurcate charges in a single trial split between two factfinders.

Consistent with the holding in *Hemming*, a proposed amendment to Rule 4-253 adds a cross reference to the recent decision after section (c), including a short description of the relevant holding.

MARYLAND RULES OF PROCEDURE

TITLE 4- CRIMINAL CAUSES

CHAPTER 600 - CRIMINAL INVESTIGATIONS AND MISCELLANEOUS

PROVISIONS

AMEND Rule 4-601.1 to retitle the Rule, to amend language in section (a), to delete references to Code, Courts Article § 10-4B-03 in sections (a) and (c), to edit the heading of section (c), and to add new section (d) clarifying that the Rule does not apply to applications for orders under Code, Courts and Judicial Proceedings, § 10-408, as follows:

RULE 4-601.1. ~~PEN REGISTERS AND TRAP AND TRACE DEVICES~~  
APPLICATION FOR LAW ENFORCEMENT COURT ORDER

(a) Application for Order

~~Application~~ Subject to section (d) of this Rule, an application for a court order under Code, Courts Article § 10-4B-03 authorized by law to be presented ex parte by a law enforcement officer to a judge may be made either presented in person or by transmission of the application to the judge by secure and reliable electronic mail that permits the judge to print the complete text of the documents. If the documents are transmitted electronically, the application and proposed order

shall be sent in an electronic text format approved by the State Court Administrator, and the judge shall retain a copy of the application.

(b) Signature on Application

The signature required on the application may be hand-signed or signed electronically.

(c) Order ~~Authorizing Installation and Use~~

A court order issued pursuant to ~~Code, Courts Article, § 10-4B-04,~~ this Rule may be hand-signed or signed electronically by the issuing judge and may be transmitted to the applicant by secure and reliable electronic mail that permits the applicant to print the complete text of the order and the signature of the judge.

(d) Wiretap Applications

This Rule does not apply to an application for an order authorizing the interception of a wire, oral, or electronic communication under Code, Courts Article, § 10-408.

Source: This Rule is new.

REPORTER'S NOTE

The Rules Committee received communication from a judge concerning Rule 4-601.1, which concerns applications for pen registers and trap and trace devices presented in person or by electronic transmission to a judge. The Committee was asked to consider broadening the Rule to address the electronic review of

all orders that law enforcement officers traditionally present in chambers, excluding requests for wiretaps.

Proposed amendments to Rule 4-601.1 clarify that applications for court orders authorized by law, not only applications for pen registers and trap and trace devices, may be presented in person or transmitted electronically to a judge, excluding applications for orders pursuant to Code, Courts and Judicial Proceedings, § 10-408.

The current title of the Rule is amended from "Pen Registers and Trap and Trace Devices" to "Application for Law Enforcement Court Order" to reflect the Rule's expanded applicability. Section (a) is modified to delete a reference to Code, Courts Article, § 10-4B-03 and to indicate that, subject to section (d), the Rule encompasses applications for court orders authorized by law to be presented *ex parte* by a law enforcement officer to a judge. Section (c) is renamed and amended to remove a reference to Code, Courts Article, § 10-4B-03. New section (d) is proposed, clarifying that the Rule does not apply to an application for an order authorizing the interception of a wire, oral, or electronic communication under Code, Courts and Judicial Proceedings, § 10-408.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 200 - SMALL ESTATE

AMEND Rule 6-209 by removing a clause in the form notice in section (a) referring to the statutory deadline for deaths occurring prior to October 1, 1992, as follows:

Rule 6-209. NOTICE OF APPOINTMENT

(a) Notice

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

(FILE IN DUPLICATE)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(name and address of attorney)

SMALL ESTATE

NOTICE OF APPOINTMENT

Estate No. \_\_\_\_\_

NOTICE TO CREDITORS

NOTICE TO UNKNOWN HEIRS

TO ALL PERSONS INTERESTED IN THE ESTATE OF \_\_\_\_\_.

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

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

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

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



(1) Six months from the date of the decedent's death, ~~except if the decedent died before October 1, 1992, nine months from the date of the decedent's death;~~ or

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Personal Representative(s)

\_\_\_\_\_

True Test Copy

Name and Address of Register  
of Wills for \_\_\_\_\_

Name of newspaper designated by personal representative

\_\_\_\_\_

. . .

REPORTER'S NOTE

A proposed amendment to Rule 6-209 updates the form for notice of appointment by removing a reference to the statutory deadline for deaths occurring prior to October 1, 1992.

MARYLAND RULES OF PROCEDURE  
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES  
CHAPTER 300 - OPENING ESTATES

AMEND Rule 6-311 by removing a clause in the form notice in section (a) referring to the statutory deadline for deaths occurring prior to October 1, 1992, as follows:

Rule 6-311. NOTICE OF APPOINTMENT

(a) Notice

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

(FILE IN DUPLICATE)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(name and address of attorney)

NOTICE OF APPOINTMENT

NOTICE TO CREDITORS

NOTICE TO UNKNOWN HEIRS

Estate No. \_\_\_\_\_

TO ALL PERSONS INTERESTED IN THE ESTATE OF \_\_\_\_\_.

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

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

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

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

(1) Six months from the date of the decedent's death, ~~except if the decedent died before October 1, 1992, nine months from the date of the decedent's death;~~ or

(2) Two months after the personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the claim will be barred unless the creditor presents the claims

within two months from the mailing or other delivery of the notice. A claim not presented or filed on or before that date, or any extension provided by law, is unenforceable thereafter. Claim forms may be obtained from the Register of Wills.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Personal Representative(s)

\_\_\_\_\_

True Test Copy

Name and Address of Register  
of Wills for \_\_\_\_\_

Name of newspaper designated by personal representative:

\_\_\_\_\_

. . .

REPORTER'S NOTE

A proposed amendment to Rule 6-311 updates the form for notice of appointment by removing a reference to the statutory deadline for deaths occurring prior to October 1, 1992.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-455 by removing a clause in the form notice in section (d) referring to deaths occurring on or after January 1, 1998 in the instructions on Supporting Schedule A, as follows:

Rule 6-455. MODIFIED ADMINISTRATION

. . .

(d) Final Report

(1) Filing

A verified final report shall be filed no later than 10 months after the date of the personal representative's appointment, unless the personal representative discovers property of the decedent after the time for filing a verified final report in which case the personal representative must file the verified report with respect to the after-discovered property within 90 days of the discovery of the property.

(2) Copies to Interested Persons

Unless an interested person waives notice of the verified final report under modified administration, the personal representative shall serve a copy of the final report on each interested person.

(3) Contents

A final report under modified administration shall be in the following form:

BEFORE THE REGISTER OF WILLS FOR \_\_\_\_\_, MARYLAND

ESTATE OF \_\_\_\_\_ Estate No. \_\_\_\_\_

Date of Death \_\_\_\_\_ Date of Appointment of Personal Representative \_\_\_\_\_

FINAL REPORT UNDER MODIFIED ADMINISTRATION

(Must be filed within 10 months after the date of appointment)

I, Personal Representative of the estate, report the following:

1. The estate continues to qualify for Modified Administration as set forth in the Election for Modified Administration on file with the Register of Wills.

2. Attached are the following Schedules and supporting attachments:

Total Schedule A: Reportable Property ..... \$ \_\_\_\_\_

Total Schedule B: Payments and Disbursements ..... \$( \_\_\_\_\_ )

Total Schedule C: Distribution of Net Reportable Property \$ \_\_\_\_\_

3. I acknowledge that:

(a) Final distributions shall be made within 12 months after the date of my appointment as personal representative, unless I discover property of the decedent after the time for making final distributions in which case I must make final distribution of the after-discovered property within 90 days of the discovery of the property.

(b) If Modified Administration is revoked, the estate shall proceed under Administrative Probate, and I will file a formal Inventory and Account, as required, until the estate is closed.

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief and that any property valued by me which I have authority as personal representative to appraise has been valued completely and correctly in accordance with law.

\_\_\_\_\_  
Attorney Signature

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Facsimile Number



\_\_\_\_\_  
E-mail Address

CERTIFICATE OF SERVICE OF FINAL REPORT UNDER MODIFIED  
ADMINISTRATION

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, I  
delivered or mailed, postage prepaid, a copy of the foregoing  
Final Report Under Modified Administration and attached  
Schedules to the following persons:

Names	Addresses
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_  
Attorney Signature

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Facsimile Number

\_\_\_\_\_  
E-mail Address

FOR REGISTER OF WILLS USE

Distributions subject to \_\_\_\_\_ Tax thereon \_\_\_\_\_ tax  
at \_\_\_\_\_ %

Exempt distributions to \_\_\_\_\_  
(Identity of the recipient)

Exempt distributions to \_\_\_\_\_  
(Identity of the recipient)

Exempt distributions to \_\_\_\_\_  
(Identity of the recipient)

Total Inheritance Tax due \_\_\_\_\_

Total Inheritance Tax paid \_\_\_\_\_

Gross Estate \_\_\_\_\_ Probate Fee & Costs  
Collected \_\_\_\_\_

FINAL REPORT UNDER MODIFIED ADMINISTRATION

SUPPORTING SCHEDULE A

REPORTABLE PROPERTY

ESTATE OF \_\_\_\_\_ Estate No. \_\_\_\_\_

<u>Item No.</u>	<u>Description</u>	<u>Basis of Valuation</u>	<u>Value</u>
-----------------	--------------------	---------------------------	--------------

TOTAL REPORTABLE PROPERTY OF THE DECEDENT \$ \_\_\_\_\_

(Carry forward to Schedule C)

---

INSTRUCTIONS

ALL REAL AND PERSONAL PROPERTY MUST BE INCLUDED AT DATE OF DEATH VALUE. THIS DOES NOT INCLUDE INCOME EARNED DURING ADMINISTRATION OR CAPITAL GAINS OR LOSSES REALIZED FROM THE SALE OF PROPERTY DURING ADMINISTRATION. ATTACHED APPRAISALS OR COPY OF REAL PROPERTY ASSESSMENTS AS REQUIRED:

1. Real and leasehold property: Fair market value must be established by a qualified appraiser. ~~For decedents dying on or after January 1, 1998, in~~ In lieu of a formal appraisal, real and leasehold property may be valued at the full cash value for property tax assessment purposes as of the most recent date of finality. This does not apply to property tax assessment purposes on the basis of its use value.

2. The personal representative may value: Debts owed to the decedent, including bonds and notes; bank accounts, building, savings and loan association shares, money and corporate stocks listed on a national or regional exchange or over the counter securities.

3. All other interests in tangible or intangible property: Fair market value must be established by a qualified appraiser.

---

ATTACH ADDITIONAL SCHEDULES AS NEEDED

FINAL REPORT UNDER MODIFIED ADMINISTRATION

SUPPORTING SCHEDULE B

Payments and Disbursements

ESTATE OF \_\_\_\_\_ Estate No. \_\_\_\_\_

<u>Item No.</u>	<u>Description</u>	<u>Basis of Valuation</u>	<u>Value</u>
-----------------	--------------------	-------------------------------	--------------

(Carry forward to Schedule C)

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INSTRUCTIONS

1. Itemize all liens against property of the estate including mortgage balances.
2. Itemize sums paid (or to be paid) within twelve months from the date of appointment for: debts of the decedent, taxes due by the decedent, funeral expenses of the decedent, family allowance, personal representative and attorney compensation, probate fee and other administration expenses of the estate.

ATTACH ADDITIONAL SCHEDULES AS NEEDED

FINAL REPORT UNDER MODIFIED ADMINISTRATION

SUPPORTING SCHEDULE C

Distributions of Net Reportable Property

1. SUMMARY OF REPORTABLE PROPERTY

Total from Schedule A .....	_____
Total from Schedule B .....	_____
Total Net Reportable Property .....	_____

(Schedule A minus Schedule B)

2. SPECIFIC BEQUESTS (If Applicable)

Name of Legatee or Heir	Distributable Share	Inheritance
	of Reportable Estate	Tax Thereon

3. DISTRIBUTION OF BALANCE OF ESTATE

Name of Legatee or Heir	Distributable Share	Inheritance
	of Reportable Estate	Tax Thereon

Total Reportable Distributions \$ \_\_\_\_\_

Inheritance Tax \$ \_\_\_\_\_

ATTACH ADDITIONAL SCHEDULES AS NEEDED

(4) Inventory and Account. The provisions of Rule 6-402

(Inventory) and Rule 6-417 (Account) do not apply.

. . . .

REPORTER'S NOTE

A proposed amendment to Rule 6-455 updates the form for a final report under modified administration by removing a reference to deaths occurring on or after January 1, 1998 in the instructions on Supporting Schedule A.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 500 - MISCELLANEOUS PROVISIONS

AMEND Rule 6-501 by removing a clause in the form notice in section (b) referring to the statutory deadline for deaths occurring prior to October 1, 1992, as follows:

Rule 6-501. APPLICATION BY FOREIGN PERSONAL REPRESENTATIVE TO SET INHERITANCE TAX

. . .

(b) Form of Notice of Appointment of Foreign Personal Representative

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(name and address of personal Representative or attorney)

NOTICE TO CREDITORS OF  
APPOINTMENT OF FOREIGN  
PERSONAL REPRESENTATIVE

NOTICE IS GIVEN that the \_\_\_\_\_ court of \_\_\_\_\_ county,  
\_\_\_\_\_(state)\_\_\_\_\_ appointed \_\_\_\_\_(name and address)\_\_\_\_\_ as the  
\_\_\_\_\_(title)\_\_\_\_\_ of the Estate of \_\_\_\_\_(name of decedent)\_\_\_\_\_ who died on  
\_\_\_\_\_(date)\_\_\_\_\_ domiciled in \_\_\_\_\_(state and country)\_\_\_\_\_.

The Maryland resident agent for service of process is  
\_\_\_\_\_ whose address is \_\_\_\_\_.

At the time of death, the decedent owned real or leasehold  
property in the following Maryland counties:

---

All persons having claims against the decedent must file their  
claims with the Register of Wills for \_\_\_\_\_  
County with a copy to the foreign personal representative on or  
before the earlier of the following dates:

(1) Six months from the date of the decedent's death, ~~except~~  
~~if the decedent died before October 1, 1992, nine months from~~  
~~the date of the decedent's death; or~~

(2) Two months after the foreign personal representative  
mails or delivers to the creditor a copy of this published  
notice or other written notice, notifying the creditor that the  
claim will be barred unless the creditor presents the claim  
within two months from the mailing or other delivery of the  
notice. Claims filed after that date or after a date extended  
by law will be barred.



\_\_\_\_\_  
\_\_\_\_\_  
Foreign Personal Representative

Name of Newspaper:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Register of Wills

Address

\_\_\_\_\_  
Date of first  
publication

Cross reference: Code, Estates and Trusts Article, §§ 5-503(b),  
5-504, and 7-103.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 6-501 updates the form for notice of appointment of foreign personal representative by removing a reference to the statutory deadline for deaths occurring prior to October 1, 1992.

MARYLAND RULES OF PROCEDURE  
TITLE 14 - SALES OF PROPERTY  
CHAPTER 300 - JUDICIAL SALES

AMEND Rule 14-305 by adding new section (c) requiring an affidavit by an auctioneer following a sale, by adding a Committee note after section (c), and by making stylistic changes, as follows:

Rule 14-305. PROCEDURE FOLLOWING SALE

(a) Report of Sale

As soon as practicable, but not more than 30 days after a sale, the person authorized to make the sale shall file with the court a complete report of the sale and an affidavit of the fairness of the sale and the truth of the report.

(b) Affidavit of Purchaser

Before a sale is ratified, unless otherwise ordered by the court for good cause, the purchaser shall file an affidavit setting forth:

(1) whether the purchaser is acting as an agent and, if so, the name of the principal;

(2) whether others are interested as principals and, if so, the names of the other principals; and

(3) that the purchaser has not directly or indirectly discouraged anyone from bidding for the property.

(c) Affidavit of Auctioneer

Within 15 days after conducting a sale, the auctioneer shall file an affidavit stating that:

(1) neither the auctioneer nor any affiliate or subsidiary of the auctioneer has paid any compensation or other consideration to any person for hiring or aiding in the hiring of the auctioneer to conduct the sale;

(2) neither the auctioneer nor any affiliate or subsidiary of the auctioneer has any direct or indirect interest in the property sold other than a lawful and agreed-upon fee for conducting the sale; and

(3) neither the auctioneer nor any affiliate or subsidiary of the auctioneer has entered into any agreement or understanding with any person to conduct or assist with the resale of the property other than a resale ordered by the court pursuant to section (f) or (h) of this Rule.

Committee note: Section (c) of this Rule does not preclude a trustee from hiring an auctioneer to provide additional services in connection with the sale. If the additional compensation is to be paid from the trust estate, a court order approving the payment is required.

~~(e)~~ (d) Sale of Interest in Real Property; Notice

Upon the filing of a report of sale of real property or chattels real pursuant to section (a) of this Rule, the clerk shall issue a notice containing a brief description sufficient to identify the property and stating that the sale will be ratified unless cause to the contrary is shown within 30 days after the date of the notice. A copy of the notice shall be published at least once a week in each of three successive weeks before the expiration of the 30-day period in one or more newspapers of general circulation in the county in which the report of sale was filed.

~~(d)~~ (e) Exceptions to Sale

(1) How Taken

A party, and, in an action to foreclose a lien, the holder of a subordinate interest in the property subject to the lien, may file exceptions to the sale. Exceptions shall be in writing, shall set forth the alleged irregularity with particularity, and shall be filed within 30 days after the date of a notice issued pursuant to section ~~(e)~~ (d) of this Rule or the filing of the report of sale if no notice is issued. Any matter not specifically set forth in the exceptions is waived unless the court finds that justice requires otherwise.

(2) Ruling on Exceptions; Hearing

The court shall determine whether to hold a hearing on the exceptions but it may not set aside a sale without a

hearing. The court shall hold a hearing if a hearing is requested and the exceptions or any response clearly show a need to take evidence. The clerk shall send a notice of the hearing to all parties and, in an action to foreclose a lien, to all persons to whom notice of the sale was given pursuant to Rule 14-206 (b).

~~(e)~~(f) Ratification

The court shall ratify the sale if (1) the time for filing exceptions pursuant to section ~~(d)~~(e) of this Rule has expired and exceptions to the report either were not filed or were filed but overruled, and (2) the court is satisfied that the sale was fairly and properly made. If the court is not satisfied that the sale was fairly and properly made, it may enter any order that it deems appropriate.

~~(f)~~(g) Referral to Auditor

Upon ratification of a sale, the court, pursuant to Rule 2-543, may refer the matter to an auditor to state an account.

~~(g)~~(h) Resale

If the purchaser defaults, the court, on application and after notice to the purchaser, may order a resale at the risk and expense of the purchaser or may take any other appropriate action.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 14-305 require an auctioneer to file an affidavit after conducting a sale to affirm that the auctioneer did not have any conflicts of interest in the sale. An attorney for an auction house suggested the amendment primarily to prevent an auctioneer from conducting the judicial sale of a property and later serving as auctioneer/broker in the resale of the property. The concern is that an auctioneer will not be incentivized to secure the highest price at the judicial sale because the commission is significantly larger at the later sale if the lender buys-in and resells.

New section (c) specifies the contents of the affidavit and requires the affidavit to be filed within 15 days after the sale is conducted. The 15-day deadline is used because subsection (e)(1) of the Rule requires that exceptions be filed within 30 days after notice of the sale, which could be immediately after the sale, and the auctioneer's affidavit may be relevant to any possible exceptions.

A Committee note following section (c) clarifies that the Rule is not intended to preclude a trustee from hiring an auctioneer to provide additional services related to the judicial sale.

Current sections (c)-(g) are re-lettered as (d)-(h), respectively, and internal references are conformed to the re-lettering.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-204, by reorganizing it, by clarifying that the provision pertaining to priority of actions applies only in cases in which there are fractional interest holders of the lien instrument being foreclosed, and making stylistic changes, as follows:

Rule 14-204. INSTITUTION OF ACTION

~~(a) Who May File~~

~~(1)~~ (a) Under Power of Sale

Subject to compliance with ~~subsection (a)(3)~~ section (c) of this Rule, any individual authorized to exercise a power of sale may institute an action to foreclose the lien.

~~(2)~~ (b) Under Assent to Decree

A secured party may file an action to foreclose the lien under an assent to a decree, except that an action to foreclose a deed of trust shall be instituted by the beneficiary of the deed of trust, any trustee appointed in the deed, or any successor trustee.

~~(3)~~ (c) Fractional Owners of Debt

(1) Minimum Fractional Interest Required

Except when the lien instrument is a deed of trust, a power of sale may not be exercised, and the court may not enter an order for a sale under an assent to a decree, unless the power is exercised or application for an order is made or consented to by the holders of 25% or more of the entire debt due under the lien instrument.

~~(b)~~ (2) Priority of Actions Involving Fractional Interests

If more than one party is authorized under these Rules to file an action to foreclose a lien, the first such party to file an action acquires the exclusive right to ~~foreclose~~ proceed on behalf of all fractional interest holders of the lien instrument being foreclosed.

Source: This Rule is derived as follows:

~~Subsection~~ Section (a)~~(1)~~ is derived from the 2008 version of former Rule 14-202 (a) (1).

~~Subsection~~ Section ~~(a)(2)~~ (b) is derived from the 2008 version of former Rule 14-202 (a) (2).

~~Subsection~~ ~~(a)(3)~~ (c) (1) is derived from the 2008 version of former Rule 14-202 (b) (1) and (c).

~~Section~~ Subsection ~~(b)~~ (c) (2) is derived from the 2008 version of former Rule 14-202 (b) (2).

REPORTER'S NOTE

In 2008, former Rules 14-202 and 14-207 were redrafted and combined to form current Rule 14-204. During the course of the 2008 revisions of these Rules, which were meant to be organizational and not substantive, Rule 14-204 was structured such that certain provisions in former Rules 14-202 and 14-207



concerning the parties that may seek to enforce a lien and the priority of enforcement actions undertaken by fractional owners of debt were no longer as clear as they had been in former Rules 14-202 and 14-207. The concepts "under power of sale," "under assent to decree," and "fractional owners of debt" were all included in one section.

This structure has left Rule 14-204 open to an interpretation in which a junior lien holder may acquire the exclusive right to foreclose by engaging in a race to the courthouse that effectively shuts out a senior lien holder. This situation was brought to the attention of Rules Committee staff by a practitioner who experienced this exact scenario.

The Property Subcommittee proposes that the three separate concepts be restored to their original status by being re-organized in Rule 14-204, so that each concept is contained in its own section.

Former section (b) of Rule 14-204 is re-lettered subsection (c)(2) to clarify that the priority of actions language applies only to cases in which there are fractional interest holders of the lien instrument being foreclosed.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 500 - INJUNCTIONS

AMEND Rule 15-504 by adding new subsection (a)(2) to require a court to make appropriate findings regarding the four factors for granting a preliminary injunction and by adding a cross reference following section (a), as follows:

Rule 15-504. TEMPORARY RESTRAINING ORDER

(a) Standard for Granting

A temporary restraining order may be granted only if (1) it clearly appears from specific facts shown by affidavit or other statement under oath that immediate, substantial, and irreparable harm will result to the party seeking the order before a full adversary hearing can be held on the propriety of a preliminary or final injunction, and (2) the court examines and makes appropriate findings regarding:

(A) the likelihood that the moving party will succeed on the merits;

(B) the balance of harm to each party if relief is or is not granted;

(C) whether the moving party will suffer irreparable injury unless the order is granted; and

(D) a determination that granting the order is not contrary to the public interest.

Cross reference: See *Fuller v. Republican Cent. Comm.*, 444 Md. 613, 635-636 (2015). For an exception pertaining to governmental parties, see *State Dep't v. Baltimore County*, 281 Md. 548, 557 (1977).

. . .

Source: This Rule is derived from former Rules BB72, 73, and 79, and the 1987 version of Fed. R. Civ. P. 65 (b).

REPORTER'S NOTE

Proposed amendments to Rule 15-504 (a) clarify the standard for granting a temporary restraining order. In *Fuller v. Republican Cent. Comm.*, 444 Md. 613 (2015), the Court of Appeals addressed the appropriate standard and held that a party seeking a temporary restraining order must show the existence of immediate, substantial, and irreparable harm, as required by Rule 15-504 (a), and satisfy the four-factor test for interlocutory injunctions enunciated in *Dep't of Transp. v. Armacost*, 299 Md. 392, 404-405 (1984).

New subsection (a)(2) lays out the four factors and requires the court to make appropriate findings as to those factors prior to granting the order.

The addition of the cross reference following section (a) highlights the *Fuller* opinion and an exception for governmental parties identified in *State Dep't v. Baltimore County*, 281 Md. 548, 557 (1977).

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE

AMEND Rule 16-109 by adding a provision pertaining to educational programs conducted during a meeting of the Judicial Conference and by adding a Committee note, as follows:

RULE 16-109. MARYLAND JUDICIAL CONFERENCE

(a) Existence; Membership; Chair; Secretariat

There is a Maryland Judicial Conference which consists of the judges of the Court of Appeals, the Court of Special Appeals, the circuit courts, and the District Court. The Chief Judge of the Court of Appeals is the Chair of the Conference. The Administrative Office of the Courts is the secretariat for the Conference.

(b) Duties

The Judicial Conference may:

(1) consider the annual report of the Judicial Council and such other business as may be presented to the Conference,

(2) discuss new and proposed legislation, proposed and adopted changes to the Maryland Rules, emerging case law, and

trends that may affect the Maryland courts, judges, or the broader legal and judicial community, and

(3) exchange ideas with respect to the improvement of the administration of justice in Maryland.

(c) Sessions

Unless otherwise ordered by the Chief Judge of the Court of Appeals, the Conference shall meet in general session periodically at the time and place designated by the Chief Judge. Each session of the Conference shall be for the number of days determined by the Chief Judge. Educational programs conducted during a meeting of the Judicial Conference shall be under the auspices of the Judiciary's educational unit created by Administrative Order.

Committee note: The current name of the Judiciary's educational unit is the Judicial College of Maryland.

Source: This Rule is derived in part from former Rule 16-802 (2016) and is in part new.

REPORTER'S NOTE

An amendment to Rule 16-109 pertaining to educational programs conducted during a meeting of the Judicial Conference is proposed at the request of the State Court Administrator.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 700 - MISCELLANEOUS JUDICIAL UNITS

AMEND Rule 16-702 by revising provisions pertaining to the appointment of an Executive Committee, as follows:

RULE 16-702. CONFERENCE OF CIRCUIT JUDGES

(a) Existence; Membership; Terms

There is a Conference of Circuit Judges. The Conference consists of the Circuit Administrative Judge of each judicial circuit and one additional circuit court judge from each judicial circuit elected by the incumbent circuit court judges in that circuit. The elected members shall serve for a term of two years. If a vacancy occurs because an elected member resigns from the Conference, leaves judicial office, or is appointed to another judicial office, the incumbent circuit court judges in that judge's judicial circuit shall elect a replacement member to serve for the balance of the unexpired term.

(b) Chair and Vice Chair

The Conference shall elect from its members a Chair and a Vice Chair. The election shall be held every two years, but an

interim election shall be held if necessary because an incumbent chair or vice chair ceases to be a member of the Conference.

(c) Meetings; Quorum

The Conference shall meet at least four times a year. A majority of the authorized members of the Conference shall constitute a quorum.

(d) Duties

(1) Administration Policies

The Conference shall work collaboratively and in consultation with the Judicial Council in developing recommendations affecting the administration of the circuit courts, including:

(A) programs and practices that will enhance the administration of justice in the circuit courts;

(B) the level of operational and judicial resources for the circuit courts to be included in the Judiciary budget;

(C) recommending, opposing, or commenting on legislation or Rules that may affect the circuit courts; and

(D) the compensation and benefits for circuit court judges.

(2) Consultants

With the approval of the Chief Judge of the Court of Appeals, the Conference may retain consultants in matters relating to the circuit courts.

(3) Consultation With Chief Judge of the Court of Appeals.  
The Conference may nominate to the Chief Judge of the Court of Appeals circuit court judges for membership on committees and bodies of interest to the circuit courts.

(4) Majority Vote

The Conference and the Executive Committee of the Conference each shall carry out its duties pursuant to a majority vote of its authorized membership.

(e) Executive Committee

~~(1) Existence; Membership~~

~~There is an Executive Committee of the Conference. It consists of the Conference Chair and Vice Chair and the other members designated by the Conference.~~

~~(2) Authority~~

(1) Appointment; Authority

~~The Executive Committee may act with~~ The Conference may appoint an Executive Committee, which shall have the full authority of the Conference to act when the Conference is not in session. The actions of the Executive Committee shall be reported fully to the Conference at its next meeting.

~~(3)~~ (2) Quorum

A majority of the authorized membership of the Executive Committee shall constitute a quorum.

~~(4)~~ (3) Convening the Executive Committee



The Executive Committee shall convene at the call of the Conference Chair. In the absence of the Chair, the Vice Chair may convene the Executive Committee.

(f) Conference Staff

The Administrative Office of the Courts shall serve as staff to the Conference and its Executive Committee.

Source: This Rule is derived from former Rule 16-108 (2016).

REPORTER'S NOTE

An amendment to Rule 16-702 pertaining to the appointment of an Executive Committee of the Conference of Circuit Judges is proposed at the request of the State Court Administrator.

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

AMEND Rule 16-914 to correct a parenthetical reference to a subtitle of the Criminal Procedure Article, 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:

. . .

(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 pen register or trace device applied for or ordered pursuant to Rule 4-601.1, (ii) an emergency order applied for or entered pursuant to Rule 4-602, (iii) the interception of wire or oral communications applied for or ordered pursuant to Rule 4-611, or (v) 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 (~~Incompetency and Criminal Responsibility~~ 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.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 16-914 correct a parenthetical in subsection (f)(8) to provide a more accurate description of Code, Criminal Procedure Article, Title 10, Subtitle 3.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 - JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 1. GENERAL PROVISIONS

AMEND Rule 18-402 by providing that the "address of record" of a judge who is an attorney is the address the judge has designated as the judge's preferred address in Attorney Information System (AIS) and by adding a Committee note and cross reference following section (a), as follows:

RULE 18-402. DEFINITIONS

The following definitions apply in this Chapter except as otherwise expressly provided or as necessary implication requires:

(a) Address of Record

"Address of record" means ~~a judge's~~ (1) if a judge is an attorney, the address that the judge has designated as the judge's preferred address in the Attorney Information System (AIS), and (2) if the judge is not an attorney, the judge's current home address or another address designated in writing by the judge.

Committee note: All judges of the Court of Appeals, the Court of Special Appeals, the circuit courts, and the District Court

are attorneys. Some judges of the Orphans' Courts are not attorneys.

Cross reference: For the obligation of a judge who is an attorney to register with AIS and keep the registration information current, see Rule 19-802. See Rule 18-407 (a) (1) concerning confidentiality of a judge's home address.

. . .

REPORTER'S NOTE

The proposed amendment to the definition of "Address of Record" in Rule 18-402 provides that if a judge is an attorney, the judge's "address of record" is the address that the judge has designated as the judge's preferred address in the Attorney Information System (AIS). If the judge is not an attorney, the current provisions of Rule 18-402 (a) remain applicable.

A Committee note distinguishes the courts in which all judges are required to be attorneys from the Orphans' Courts in which some judges are not attorneys.

A cross reference to Rule 19-802, which requires registration with AIS and keeping the registration information current, also is proposed.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 - JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 1. GENERAL PROVISIONS

AMEND Rule 18-404 by adding lettered sections, by allowing a judge to specify an address where charges are to be served, by allowing charges to be served on the judge's attorney under certain circumstances, by specifying that service is complete upon mailing, by requiring charges to be sent to the judge via electronic mail contemporaneously where possible, by requiring subsequent documents to be served via first-class mail under certain circumstances, and by making stylistic changes, as follows:

RULE 18-404. SERVICE OF DOCUMENTS

(a) Charges

(1) Where Served

Charges filed against a judge shall be served on the judge at the address requested by the judge or at the judge's address of record ~~by certified mail, restricted delivery, and by first class mail.~~, except if the judge is represented by an



attorney who has agreed to accept service, service shall be on the judge's attorney at the attorney's business address.

(2) Method of Service

Charges shall be served by certified mail, restricted delivery, and by first-class mail. Service shall be complete upon mailing in accordance with Rule 1-321 (b). If an electronic mail address has been furnished by the judge, charges shall be contemporaneously transmitted electronically.

(b) Other Documents

Unless otherwise directed by a Rule in this Chapter or agreed to in writing between the serving party and the party to be served, all other documents to be served on the judge, Investigative Counsel, the Board, or the Commission shall be served electronically at an address furnished by each of them to the other. If an electronic mail address is not furnished or is otherwise unavailable, all other documents shall be served by first-class mail at the last known address of the judge or the judge's attorney, Investigative Counsel, the Board, or the Commission.

Cross reference: See Rule 18-422 (a) (4).

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 18-404 modify the service requirements at the request of the Commission on Judicial Disabilities. The Rule currently requires that charges be served on the judge at the judge's address of record. The amendments provide two additional options, allowing the Commission to serve charges on the judge at an address specified by the judge or, if the judge is represented by an attorney who has agreed to accept service, on the judge's attorney.

New subsection (a)(2) contains the methods of service from the current version of the Rule. Proposed amendments specify that service of the charges is complete upon mailing and require that charges be contemporaneously sent via electronic mail, if the judge has provided an email address.

New section (b) contains the current provisions for subsequent documents served in the proceeding. The Rule is amended to add that documents shall be served by first-class mail if an email address is not available.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 - JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 1. GENERAL PROVISIONS

AMEND Rule 18-407 by adding new subsection (b) (4) (C) permitting disclosure of information to Bar Counsel in certain circumstances and making stylistic changes, as follows:

RULE 18-407. CONFIDENTIALITY

(a) Generally

Except as otherwise expressly provided by these Rules, proceedings and information relating to a complaint or charges shall be open to the public or confidential and not open to the public, as follows:

(1) Judge's Address and Identifying Information

The judge's current home address and personal identifying information not otherwise public shall remain confidential at all stages of proceedings under these Rules. Any other address of record shall be open to the public if the charges and proceedings are open to the public.

(2) Complaints; Investigations; Disposition Without Charges

Except as otherwise required by Rules 18-425, 18-426, and 18-427, all proceedings under Rules 18-421, 18-428, and 18-441 shall be confidential.

(3) Upon Resignation, Voluntary Retirement, Filing of a Response, or Expiration of the Time for Filing a Response

Charges alleging sanctionable conduct and all subsequent proceedings before the Commission on those charges shall be open to the public upon the first to occur of (A) the resignation or voluntary retirement of the judge, (B) the filing of a response by the judge to the charges, or (C) expiration of the time for filing a response. Charges alleging disability or impairment and all proceedings before the Commission on them shall be confidential.

(4) Work Product, Proceedings, and Deliberations

Except to the extent admitted into evidence before the Commission, the following matters shall be confidential:

(A) Investigative Counsel's work product and, subject to Rules 18-422 (b) (3) (A), 18-424 (d) (3) and 18-433 (c), reports prepared by Investigative Counsel not submitted to the Commission;

(B) proceedings before the Board, including any peer review proceeding; (C) any materials reviewed by the Board during its proceedings that were not submitted to the Commission;

(D) deliberations of the Board and Commission; and (E) records of the Board's and Commission's deliberations.

(5) Proceedings in the Court of Appeals

Unless otherwise ordered by the Court of Appeals, the record of Commission proceedings filed with that Court and any proceedings before that Court on charges of sanctionable conduct shall be open to the public. The record of Commission proceedings filed with that Court and any proceedings before that Court on charges of disability or impairment shall be confidential. An order of retirement by the Court shall be public.

(b) Permitted Release of Information by Commission

(1) Written Waiver

The Commission may release confidential information upon receipt of a written waiver by the subject judge, except that those matters listed in subsection (a)(4) shall remain confidential notwithstanding a waiver by the judge.

(2) Explanatory Statement

The Commission may issue a brief explanatory statement necessary to correct any inaccurate or misleading information from any source about the Commission's process or procedures.

(3) To Chief Judge of Court of Appeals

(A) Upon request by the Chief Judge of the Court of Appeals, the Commission shall disclose to the Chief Judge:

(i) whether a complaint is pending against the judge who is the subject of the request; and

(ii) the disposition of each complaint that has been filed against the judge within the preceding five years.

(B) The Chief Judge may disclose this information to the incumbent judges of the Court of Appeals in connection with the exercise of any administrative matter over which the Court has jurisdiction. Each judge who receives information pursuant to subsection (b) (3) of this Rule shall maintain the applicable level of confidentiality of the information otherwise required by the Rules in this Chapter.

(4) Information Involving Criminal Activity, Health, ~~and~~ Safety, and Certain Ethical Concerns

The Commission may provide (A) information involving criminal activity, including information requested by subpoena from a grand jury, to applicable law enforcement and prosecuting officials, ~~and~~ (B) information regarding health and safety concerns to applicable health agencies and law enforcement officials, and to any individual who is the subject of or may be affected by any such health or safety concern, and (C) if the judge resigns or voluntarily retires prior to the disposition of the matter involving the subject judge, information to Bar Counsel pertaining to conduct that may constitute a violation of the Maryland Attorneys' Rules of Professional Conduct that raises a substantial question as to the judge's honesty, trustworthiness, or fitness as an attorney in other respects.

(5) Finding of Disability or Impairment

The Commission may disclose any final disposition imposed against a judge related to charges of disability or impairment to the applicable administrative judge or Chief Judge of the disabled or impaired judge's court or, if the disabled or impaired judge is a recalled senior judge, to the Court of Appeals.

(6) Nominations; Appointments; Approvals

(A) Permitted Disclosures

Upon a written application made by a judicial nominating commission, a Bar Admission authority, the President of the United States, the Governor of a state, territory, district, or possession of the United States, or a committee of the General Assembly of Maryland or of the United States Senate which asserts that the applicant is considering the nomination, appointment, confirmation, or approval of a judge or former judge, the Commission shall disclose to the applicant:

(i) Information about any completed proceedings that did not result either in dismissal of the complaint or in a conditional diversion agreement that has been satisfied; and

(ii) Whether a complaint against the judge is pending.

Committee note: A reprimand issued by the Commission is disclosed under subsection (b) (6) (A) (i). An unsatisfied conditional diversion agreement is disclosed under subsection (b) (6) (A) (ii) as a pending complaint against the judge.

(B) Restrictions

Unless the judge waives the restrictions set forth in this subsection, when the Commission furnishes information to an applicant under this section, the Commission shall furnish only one copy of the material, which shall be furnished under seal. As a condition to receiving the material, the applicant shall agree that (i) the applicant will not copy the material or permit it to be copied; (ii) when inspection of the material has been completed, the applicant will seal and return the material to the Commission; and (iii) the applicant will not disclose the contents of the material or any information contained in it to anyone other than another member of the applicant.

(C) Copy to Judge

The Commission shall send the judge a copy of all documents disclosed under this subsection.

Cross reference: For the powers of the Commission in an investigation or proceeding under Md. Const., Art. IV, § 4B, see Code, Courts Article, §§ 13-401 through 13-403.

(c) Statistical or Annual Report

The Commission may include in a publicly available statistical or annual report the number of complaints received, investigations undertaken, and dispositions made within each category of disposition during a fiscal or calendar year, provided that, if a disposition has not been made public, the



identity of the judge involved is not disclosed or readily discernible.

Source: This Rule is in part derived from former Rule 18-409 (2018) and is in part new.

REPORTER'S NOTE

Proposed amendments to Rule 18-407 allow the Commission on Judicial Disabilities to provide information to Bar Counsel about a judge who resigns or voluntarily retires prior to the resolution of a pending matter. The information must be related to conduct that may constitute a violation of the Maryland Attorneys' Rules of Professional Conduct and call into question the former judge's "honesty, trustworthiness, or fitness as an attorney." The language is borrowed from section (a) of Rule 19-308.3 (Reporting Professional Misconduct).

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 - JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 4. DISPOSITION OTHER THAN FILING OF CHARGES

AMEND Rule 18-425 by subjecting notice to the judge under section (a) to the exception in Rule 18-422 (a) (4) (F), as follows:

RULE 18-425. DISMISSAL OF COMPLAINT

(a) Without Letter of Cautionary Advice

If, after an investigation by Investigative Counsel, the Commission concludes that the evidence fails to show that the judge has a disability or impairment or has committed sanctionable conduct, it shall dismiss the complaint without a letter of cautionary advice and notify the complainant, ~~the judge,~~ the Board, and, subject to Rule 18-422 (a) (4) (F), the judge. If the Commission is unable to make that conclusion based on a recommendation by Investigative Counsel pursuant to Rule 18-422 (b) (3), it shall refer the matter to the Board for its review under Rule 18-423.

(b) With Letter of Cautionary Advice

(1) When Appropriate

If the Commission determines that any sanctionable conduct that may have been committed by the judge will be sufficiently addressed by the issuance of a letter of cautionary advice, the Commission may accompany a dismissal with such a letter.

Committee note: A letter of cautionary advice may be appropriate where the judge's conduct was (1) inappropriate and perhaps marginally sanctionable or (2) if sanctionable, was not particularly serious, was not intended to be harmful, was not repetitious, may have been the product of a momentary lapse in judgment or the judge being unaware that the conduct was not appropriate, and does not justify discipline. The letter is intended to be remedial in nature, so that the judge will be careful not to repeat that or similar conduct.

(2) Notice to Judge; Response

The Commission shall notify the judge of a proposed dismissal with cautionary advice. Within 15 days after the sending of that notice, the judge may file a written response, which, before issuing the dismissal and letter, the Commission shall consider.

(3) Confidentiality

The existence and contents of the letter are private and confidential, except that the Commission and Investigative Counsel shall retain a copy of it and any response by the judge and may consider them if relevant in any subsequent proceeding against the judge. The Commission shall notify the complainant that the complaint was brought to the judge's attention and that no public action against the judge was taken.

(4) Not a Form of Discipline

A letter of cautionary advice is not a reprimand and does not constitute a form of discipline.

Source: This Rule is derived in part from former Rule 18-406 (a) (2018) and is in part new.

REPORTER'S NOTE

A proposed amendment to Rule 18-425 clarifies that a judge who has not requested notice of the opening of a file pursuant to Rule 18-422 (a) (4) (F) is not notified of the dismissal of a complaint without a letter of cautionary advice. The Commission on Judicial Disabilities suggested the amendment to ensure that only judges who were notified that a file was opened receive notice that a complaint has been dismissed.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 - JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 6. FILING OF CHARGES; PROCEEDINGS BEFORE COMMISSION

AMEND Rule 18-437 by altering the time the Commission has to file a response to exceptions, as follows:

RULE 18-437. PROCEEDINGS IN COURT OF APPEALS

. . .

(c) Response

The Commission shall file a response within ~~15~~ 30 days after service of the exceptions in accordance with Rule 20-405. The Commission shall be represented in the Court of Appeals by its Executive Secretary or such other attorney as the Commission may appoint. A copy of the response shall be served on the judge in accordance with Rules 1-321 and 1-323.

. . .

Source: This Rule is derived in part from former Rule 18-408 (2018) and is in part new.

REPORTER'S NOTE

A proposed amendment to Rule 18-437 extends from 15 to 30 days the time for the Commission on Judicial Disabilities to respond to exceptions. The Commission requested the change because 15 days is a relatively short turnaround time and can be complicated by delayed service.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 800 - ATTORNEY INFORMATION SYSTEM

AMEND Rule 19-801 to include additional persons in the definition of "constituent agency" in section (a), as follows:

RULE 19-801. NATURE AND FUNCTIONS OF ATTORNEY INFORMATION SYSTEM (AIS)

(a) Definitions

In the Rules in this Chapter, "AIS" means the Attorney Information System, and "constituent agency" means the Court of Appeals, the Client Protection Fund, the Attorney Grievance Commission, Bar Counsel, the Commission on Judicial Disabilities, Investigative Counsel, the State Board of Law Examiners, and the Administrative Office of the Courts.

(b) Generally

(1) AIS is an electronic database maintained by the Judicial Information Systems, a unit within the Administrative Office of the Courts, that (A) centralizes certain information regarding attorneys collected by the constituent agencies pursuant to other Rules or statutes, and (B) provides a single portal for attorneys to update required information, communicate with the

constituent agencies on matters regarding their status, file certain mandated reports, and pay certain mandated fees.

(2) AIS is intended to make communications with the constituent agencies and compliance with obligations imposed on attorneys, judges, and magistrates easier and more efficient.

(c) Notices, Invoices, and Communications pursuant to Rules 19-409, 19-503, 19-605, and 19-606

Except as provided in subsection (c)(2) of this Rule:

(1) All notices, invoices, and other communications required to be sent to attorneys pursuant to Rules 19-409 (IOLTA), 19-503 (Pro Bono), 19-605 (Client Protection Fund), and 19-606 (Client Protection Fund) may be sent electronically.

(2) One initial notice of the requirements of this Rule and Rule 19-802 may be given by publication or in paper form.

(d) Availability of Attorney Information

Subject to confidentiality requirements imposed by the Maryland Rules or by statute, attorney information in the AIS database is available to the constituent agencies. The State Court Administrator shall develop and promulgate protocols necessary to assure that information that has been collected by a constituent agency and that, by law, is confidential, is not improperly shared with any other constituent agency not otherwise entitled to have access to it.

Source: This Rule is new.

REPORTER'S NOTE

Rule 19-801 describes the nature and functions of the Attorney Information System ("AIS"). With certain exceptions, all attorneys admitted to the Maryland bar or otherwise practicing law in Maryland must register with AIS and, pursuant to Rule 19-802 (e), are required to keep their information current. Information provided to AIS includes current contact information such as physical mail and electronic mail addresses.

Rule 19-801 provides that attorney information in AIS is available to constituent agencies, subject to certain confidentiality requirements. Section (a) currently states that constituent agencies include the Court of Appeals, the Client Protection Fund, the State Board of Law Examiners, and the Administrative Office of the Courts. Other persons in the Judiciary, however, also require current contact information for attorneys in order to complete their duties. Accordingly, proposed amendments to section (a) expand the list of constituent agencies to include the Attorney Grievance Commission, Bar Counsel, the Commission on Judicial Disabilities, and Investigative Counsel.