

The agenda for a meeting of the Rules Committee generally will be posted 7-10 days before the date of the meeting. At the discretion of the Chair, items may be deleted from or added to the agenda.

AGENDA FOR
RULES COMMITTEE MEETING

November 13, 2009

Judiciary Education and Conference Center
Training Rooms 5 & 6
2011-D Commerce Park Drive
Annapolis, Maryland
9:30 a.m.

- | | | |
|---------|---|------------------------|
| Item 1. | Case Management System Presentation
by the Chief Judge of the District
Court of Maryland | Chief Judge
Clyburn |
| Item 2. | Reconsideration of proposed New Rule
9-205.2 (Parenting Coordination) and

Amendments to:

Rule 16-204 (Family Division and
Support Services)
Rule 17-101 (Applicability) | Ms. Ogletree |
| Item 3. | Reconsideration of proposed Rules
changes pertaining to mediation in
family law actions

Amendments to:

Rule 9-205 (Mediation of Child
Custody and Visitation Disputes)
Rule 17-101 (Applicability)
Rule 17-103 (General Procedures and
Requirements)
Rule 17-104 (Qualifications and
Selection of Mediators)
Rule 17-109 (Mediation Confidentiality) | Ms. Ogletree |

Item 4. Consideration of Rules changes proposed
by the Probate/Fiduciary Subcommittee

Mr. Sykes

Amendments to:

Rule 6-153 (Admission of Copy of
Executed Will)

Rule 6-402 (Form of Inventory)

Rule 6-403 (Appraisal)

Rule 6-405 (Application to Fix Inheritance
Tax on Non-Probate Assets)

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT,
AND CHILD CUSTODY

ADD new Rule 9-205.2, as follows:

Rule 9-205.2. PARENTING COORDINATION

(a) Applicability

This Rule applies to parenting coordination in actions under this Chapter in which the court has entered a pendente lite order or judgment governing child custody or child access.

Committee note: Actions in which parenting coordination may be used include an initial action to determine custody or visitation, an action to modify an existing order or judgment as to custody or visitation, and a proceeding for constructive civil contempt by reason of noncompliance with an order or judgment governing custody or visitation.

(b) Definitions

In this Rule, the following definitions apply:

(1) Parenting Coordination

"Parenting coordination" means a process in which the parties work with a parenting coordinator to resolve disputed parenting or family issues and reduce the effects or potential effects of conflict on the parties' child. Although parenting coordination may draw upon alternative dispute resolution techniques, a parenting coordinator does not engage in arbitration, mediation, neutral case evaluation, or neutral fact-finding, and parenting coordination is not governed by the Rules

in Title 17.

(2) Parenting Coordinator

"Parenting coordinator" means an impartial provider of parenting coordination services who has the qualifications listed in section (c) of this Rule.

Committee note: A parenting coordinator, although impartial, is not required to remain neutral under all circumstances.

(c) Qualifications of Parenting Coordinator

(1) Education and Experience

A parenting coordinator shall:

(A) hold a master's or doctorate degree in psychology, law, social work, counseling, medicine, negotiation, conflict management, or a related subject area;

(B) have at least three years of related professional post-degree experience; and

(C) if applicable, hold a current license in the parenting coordinator's area of practice.

(2) Parenting Coordination Training

A parenting coordinator shall have completed:

(A) at least 40 hours of mediation training in a program meeting the requirements of Rule 17-106 (a);

(B) at least 20 hours of training in a family mediation training program meeting the requirements of Rule 17-106 (b); and

(C) at least 12 hours of training in topics related to parenting coordination, including conflict coaching, the developmental stages of children, the dynamics of high-conflict families, family violence dynamics, mediation, parenting skills,

problem-solving techniques, and the stages and effects of divorce.

Committee note: Some or all of the 12-hour training requirement may have been satisfied by graduate studies in the areas listed.

(3) Continuing Education

Unless waived by the court, every two years a parenting coordinator shall accumulate a minimum of eight hours of continuing education in the topics listed in subsection (c)(2) of this Rule and recent developments in family law.

(d) Parenting Coordinator Lists

An individual who has the qualifications listed in section (c) of this Rule and seeks appointment as a parenting coordinator shall provide the individual's curriculum vitae to the family services coordinator of each county in which the individual seeks appointment. The family support services coordinator shall maintain a list of the individuals and, upon request, make the list and the information submitted by each individual available to the court, attorneys, and parties.

(e) Appointment of Parenting Coordinator

(1) Pendente Lite and Post-Judgment Parenting Coordinators

In a high-conflict action involving custody or visitation of a child, the court may appoint a parenting coordinator in accordance with this section. A pendente lite parenting coordinator may be appointed by the court on its own initiative or on motion of a party (A) when a pendente lite custody or visitation order is entered, or at any time thereafter; (B) when an action is reopened for modification of

custody or visitation; or (C) in a proceeding for constructive civil contempt by reason or noncompliance with an order or judgment governing custody or visitation. Upon entry of a judgment granting or modifying custody or visitation, the court, with the consent of the parties, may appoint a post-judgment parenting coordinator.

Committee note: Appointment of a parenting coordinator does not affect the applicability of Rules 9-204, 9-205, or 9-205.1, nor does the appointment preclude the use of an alternative dispute resolution process under Title 17 of these Rules.

(2) Selection

A parenting coordinator shall be an individual who:

(A) has the qualifications listed in section (c) of this Rule,

(B) is willing to serve as the parenting coordinator in the action, and

(C) has entered into a written fee agreement with the parties or agrees to accept a fee not in excess of that allowed in the applicable fee schedule adopted pursuant to subsection (i) (1) of this Rule.

If the parties jointly request appointment of an individual who meets these requirements, the court shall appoint that individual.

(3) Contents of Order or Judgment

An order or judgment appointing a parenting coordinator shall include:

(A) the name, business address, and telephone number of the parenting coordinator;

(B) if there are allegations of domestic violence against a party or child, any provisions the court deems necessary to address the safety and protection of the parties, all children of the parties, and the parenting coordinator;

(C) subject to section (i) of this Rule, a provision concerning payment of the fees and expenses of the parenting coordinator;

(D) if the appointment is of a post-judgment parenting coordinator, any decision-making authority of the parenting coordinator authorized pursuant to subsection (f) (1) (H) of this Rule; and

(E) subject to subsection (e) (4) of this Rule, the term of the appointment.

(4) Term of Appointment

Subject to the removal and resignation provisions of section (h) of this Rule:

(A) the service of an individual appointed as a pendente lite parenting coordinator terminates with the entry of a judgment that resolves all issues of child custody, visitation, and access; and

(B) the term of service of an individual appointed as a post-judgment parenting coordinator shall not exceed two years, unless the parties and the parenting coordinator consent to an extension for a specified period of time.

If the court does not appoint as a post-judgment parenting coordinator an individual who had served as a pendente lite

parenting coordinator in the action, the court shall send a notice by ordinary mail to each party, any attorney for the child, and the pendente lite parenting coordinator, informing them of the termination of the appointment.

(f) Provision of Services by the Parenting Coordinator

(1) Permitted

As appropriate, a parenting coordinator may:

(A) work with the parties to develop an agreed-upon, structured plan for complying with the custody and visitation order in the action;

(B) assist the parties in amicably resolving disputes regarding compliance with the order;

(C) educate the parties about making and implementing decisions that are in the best interest of the child;

(D) develop guidelines with the parties for appropriate communication between them;

(E) suggest resources to assist the parties;

(F) assist the parties in modifying patterns of behavior and in developing parenting strategies to manage and reduce opportunities for conflict between them and reduce the impact of any conflict upon their child;

(G) in response to a subpoena issued at the request of a party or an attorney for a child of the parties, produce documents and testify in the action as a fact witness; and

(H) if the parties have agreed in writing or on the record that a post-judgment parenting coordinator may decide post-

judgment disputes by making minor, temporary modifications to child access provisions ordered by the court, and the judgment or post-judgment order of the court authorizes such decision-making, make decisions as authorized.

(2) Not Permitted

A parenting coordinator may not:

(A) require from the parties or the attorney for the child release of any confidential information that is not included in the court record;

Committee note: A parenting coordinator may ask the parties and the attorney for the child for the release of confidential information that is not in the court record, but neither the parenting coordinator nor the court may require release of such information to the parenting coordinator.

(B) except as permitted by subsection (f)(1)(G) of this Rule, communicate orally or in writing with the court or any court personnel regarding the substance of the action;

Committee note: This subsection does not prohibit communications with respect to routine administrative matters; collection of fees, including submission of records of the number of contacts with each party and the duration of each contact; or resignation. Nothing in the subsection affects the duty to report child abuse or neglect under any provision of federal or State law or the right of the parenting coordinator to defend against allegations of misconduct or negligence.

(C) testify in the action as a court witness or as an expert witness; or

Cross reference: See Rule 5-614 as to court witnesses and Rule 5-702 as to expert witnesses.

(D) except for decision-making by a post-judgment parenting coordinator authorized pursuant to subsection (f)(1)(H) of this Rule, make parenting decisions on behalf of the parties.

(g) Access to Case Records; Disclosure

(1) Access to Case Records

The parenting coordinator shall have access to all case records in the proceeding. If a document or any information contained in a case record is not open to public inspection under the Rules in Title 16, Chapter 1000, the parenting coordinator shall maintain the confidentiality of the document or information.

Cross reference: See Rule 16-1001 for the definition of "case record."

(2) Disclosure of Information by Parenting Coordinator

Subject to subsection (g) (1) of this Rule, communications with and information provided to the parenting coordinator are not confidential and may be disclosed in any judicial, administrative, or other proceeding.

(h) Removal or Resignation of Parenting Coordinator

(1) Removal

The court may remove a parenting coordinator:

(A) on motion of a party, if good cause is shown, or

(B) on a finding that the appointment is not in the best interest of the child.

(2) Resignation

A parenting coordinator may resign at any time by sending by first-class mail to each party and any attorney for the child a notice that states the effective date of the resignation and contains a statement that the parties may request the appointment of another parenting coordinator. The notice

shall be sent at least 15 days before the effective date of the resignation. Promptly after mailing the notice, the parenting coordinator shall file a copy of it with the court.

(i) Fees

(1) Fee Schedules

Subject to the approval of the Chief Judge of the Court of Appeals, the circuit administrative judge of each circuit court may develop and adopt maximum fee schedules for parenting coordinators. In developing the fee schedules, the circuit administrative judge shall take into account the availability of qualified individuals willing to provide parenting coordination services and the ability of litigants to pay for those services. Except as agreed by the parties, an individual designated by the court to serve as a parenting coordinator in an action may not charge or accept a fee for parenting coordination services in that action in excess of the fee allowed by the applicable schedule. Violation of this subsection shall be cause for removal from all lists maintained pursuant to section (d) of this Rule and the Rules in Title 17.

(2) Designation by Court

Subject to subsection (i)(1) of this Rule and any fee agreement between the parties and the parenting coordinator, the court shall designate how and by whom the parenting coordinator shall be paid. If the court finds that the parties have the financial means to pay the fees and expenses of the parenting coordinator, the court shall allocate the fees and expenses of

the parenting coordinator between the parties and may enter an order against either or both parties for the reasonable fees and expenses.

Committee note: If a qualified parenting coordinator is an attorney and provides parenting coordination services *pro bono*, the number of *pro bono* hours provided may be reported in the appropriate part of the *pro bono* reporting form that the attorney is required to file annually in accordance with Rule 16-903.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 9-205.2 is based upon a request from the Conference of Circuit Judges for a Statewide Rule that authorizes and guides the practice of parenting coordination. Parenting coordination, as described in subsection (b)(1), is "a process in which the parties work with a parenting coordinator to resolve disputed parenting or family issues and reduce the effects or potential effects of conflict on the parties' child."

Section (a) provides for the applicability of the Rule. Under the Rule, the court may appoint a parenting coordinator in actions in which there is a *pendente lite* order or judgment that governs child custody or child access. A Committee note cites examples of actions in which parenting coordination may be used.

Section (b) contains definitions of "parenting coordination" and "parenting coordinator," and distinguishes the process of parenting coordination from the processes governed by the Rules in Title 17. A Committee note explains that, although a parenting coordinator must be impartial, there may be circumstances under which the parenting coordinator need not remain neutral.

Section (c) sets out the qualifications that a parenting coordinator must have. The requirements are in the areas of education, experience, licensing (if applicable), mediation training, parenting coordination training, and continuing education.

Section (d), in conjunction with a proposed amendment to Rule 16-204 (a)(3), requires the family support services coordinator for each county to maintain a list of individuals who wish to be appointed to provide parenting coordination services in the county and have the qualifications listed in section (c).

Section (e) sets out the process for appointment of a parenting coordinator.

Under subsection (e) (1), if there is pending before the court an action involving custody or visitation of a child and an order or judgment governing custody or visitation has been entered, the court may appoint a *pendente lite* parenting coordinator. A *pendente lite* parenting coordinator may be appointed on motion of a party or on the court's own initiative. Consent of the parties to the appointment of a *pendente lite* parenting coordinator is not required. When the court enters judgment in the action, a post-judgment parenting coordinator may be appointed, but only if the parties consent to the appointment.

Under subsection (e) (2), an individual appointed to serve as a parenting coordinator must have the qualifications listed in section (c), be willing to serve in the action, and either have entered into a written fee agreement with the parties or be willing to accept a fee not in excess of the fee allowed under the applicable fee schedule adopted pursuant to subsection (i) (1). The parties, by consent, may select any individual who meets these requirements. If there is no consent and the appointment is to be of a *pendente lite* parenting coordinator, the court may select any individual who meets the requirements.

Subsection (e) (3) lists the required contents of an order or judgment appointing a parenting coordinator. In addition to the identity of the parenting coordinator, the contents of the order must include a provision concerning fees and expenses, the term of the appointment, and, if domestic violence is alleged, appropriate provisions for the safety of the parenting coordinator, the parties, and all children of the parties. If a post-judgment parenting coordinator is to be allowed to make decisions in accordance with subsection (f) (1) (H), the order or judgment must include that decision-making authority. The court may not authorize decision making by a *pendente lite* parenting coordinator.

Pursuant to subsection (e) (4), the term of service of a *pendente lite* parenting coordinator ends upon entry of a judgment that resolves all child access issues. The term of service of a post-judgment parenting coordinator is for a specified period, not to exceed two years, unless the parties and the parenting coordinator agree to an extension. Subsection (e) (4) also contains a provision requiring notice to the parties, the parenting coordinator, and any attorney for the child regarding the termination of the appointment of a *pendente lite* parenting coordinator who is not appointed to serve as a post-judgment parenting coordinator.

Subsections (f) (1) (A) through (F) contain a list of services that the parenting coordinator may provide to assist the parties in reducing conflict between them and complying with the court's order regarding custody and visitation.

Subsections (f) (1) (G) and (f) (2) (B) and (C) set out the role of the parenting coordinator vis-a-vis the appointing court. The parenting coordinator is not an investigator or custody evaluator for the court, and may not be called to testify as a court witness. The parenting coordinator may be subpoenaed by either party, or by the attorney for the child, to produce documents and testify as a fact witness. The parenting coordinator may not be called by anyone to testify as an expert witness in the action.

Subsections (f) (1) (H) and (f) (2) (D) pertain to the decision-making authority of a parenting coordinator. A *pendente lite* parenting coordinator has no decision-making authority. A post-judgment parenting coordinator may be given the authority to decide upon minor, temporary modifications to the child access provisions ordered by the court, if the parties have agreed in writing or on the record to allow the parenting coordinator to make those decisions and the court authorizes the decision making in a judgment or post-judgment order.

Subsection (f) (2) (A) prohibits the parenting coordinator and the court from requiring the release of confidential information that is not included in the court record. The parenting coordinator may ask the parties and the attorney for the child for access to that information. Each party and the attorney for the child may provide, or refuse to provide, any of the requested access or information. Pursuant to subsection (g) (1), however, the parenting coordinator's access to case records in the action is equal to that of the judge who entered the order or judgment governing child custody or child access. The parenting coordinator has access to all of the case records. This includes access to case record information that is sealed or shielded from inspection by the public. The parenting coordinator is required to maintain the confidentiality of all documents and information contained in case records that are not open to public inspection. Except for confidential case records, subsection (g) (2) provides that communications with and information provided to the parenting coordinator are not confidential.

Subsection (h) (1) allows the court to remove a parenting coordinator on a finding that the appointment is not in the best interest of the child or, for good cause shown, upon motion of a party.

Subsection (h) (2) provides a mechanism by which the parenting coordinator may resign the appointment.

Borrowing language from Rule 17-108, subsection (i)(1) provides for the development and adoption of fee schedules. Unless the parties and the parenting coordinator agree otherwise, a court-appointed parenting coordinator may not charge or accept a fee in excess of the amount allowed by the applicable schedule. Violation of the subsection is cause for removal from all lists maintained pursuant to section (d) and the Rules in Title 17.

Subsection (i)(2) allows the court to allocate the fees and expenses of the parenting coordinator between the parties and enter an order for payment. To encourage the provision of parenting coordination services *pro bono*, a Committee note following subsection (i)(2) observes that if a qualified parenting coordinator is an attorney, the number of hours of parenting coordination services provided *pro bono* may be reported in the appropriate part of the attorney's annual *pro bono* reporting form.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 200 - THE CALENDAR - ASSIGNMENT AND DISPOSITION
OF MOTIONS AND CASES

AMEND Rule 16-204 by adding a new subsection (a) (3) (G) pertaining to information regarding parenting coordination services, as follows:

Rule 16-204. FAMILY DIVISION AND SUPPORT SERVICES

(a) Family Division

(1) Established

In each county having more than seven resident judges of the circuit court authorized by law, there shall be a family division in the circuit court.

(2) Actions Assigned

In a court that has a family division, the following categories of actions and matters shall be assigned to that division:

(A) dissolution of marriage, including divorce, annulment, and property distribution;

(B) child custody and visitation, including proceedings governed by the Maryland Uniform Child Custody Jurisdiction Act, Code, Family Law Article, Title 9, Subtitle 2, and the Parental Kidnapping Prevention Act, 28 U.S.C. §1738A;

(C) alimony, spousal support, and child support, including proceedings under the Maryland Uniform Interstate Family Support

Act;

(D) establishment and termination of the parent-child relationship, including paternity, adoption, guardianship that terminates parental rights, and emancipation;

(E) criminal nonsupport and desertion, including proceedings under Code, Family Law Article, Title 10, Subtitle 2 and Code, Family Law Article, Title 13;

(F) name changes;

(G) guardianship of minors and disabled persons under Code, Estates and Trusts Article, Title 13;

(H) involuntary admission to state facilities and emergency evaluations under Code, Health General Article, Title 10, Subtitle 6;

(I) family legal-medical issues, including decisions on the withholding or withdrawal of life-sustaining medical procedures;

(J) actions involving domestic violence under Code, Family Law Article, Title 4, Subtitle 5;

(K) juvenile causes under Code, Courts Article, Title 3, Subtitles 8 and 8A;

(L) matters assigned to the family division by the County Administrative Judge that are related to actions in the family division and appropriate for assignment to the family division;
and

(M) civil and criminal contempt arising out of any of the categories of actions and matters set forth in subsection

(a) (2) (A) through (a) (2) (L) of this Rule.

Committee note: The jurisdiction of the circuit courts, the District Court, and the Orphan's Court is not affected by this section. For example, the District Court has concurrent jurisdiction with the circuit court over proceedings under Code, Family Law Article, Title 4, Subtitle 5.

(3) Family Support Services

Subject to the availability of funds, the following family support services shall be available through the family division for use when appropriate in a particular action:

(A) mediation in custody and visitation matters;

(B) custody investigations;

(C) trained personnel to respond to emergencies;

(D) mental health evaluations and evaluations for alcohol and drug abuse;

(E) information services, including procedural assistance to pro se litigants;

Committee note: This subsection is not intended to interfere with existing projects that provide assistance to pro se litigants.

(F) information regarding lawyer referral services;

(G) information regarding parenting coordination services;

~~(G)~~ (H) parenting seminars; and

~~(H)~~ (I) any additional family support services for which funding is provided.

Committee note: Examples of additional family support services that may be provided include general mediation programs, case managers, and family follow-up services.

(4) Responsibilities of the County Administrative Judge

The County Administrative Judge of the Circuit Court for each county having a family division shall:

(A) allocate sufficient available judicial resources to the family division so that actions are heard expeditiously in accordance with applicable law and the case management plan required by Rule 16-202 b;

Committee note: This Rule neither requires nor prohibits the assignment of one or more judges to hear family division cases on a full-time basis. Rather, it allows each County Administrative Judge the flexibility to determine how that county's judicial assignments are to be made so that actions in the family division are heard expeditiously. Additional matters for county-by-county determination include whether and to what extent masters, special masters, and examiners are used to assist in the resolution of family division cases. Nothing in this Rule affects the authority of a circuit court judge to act on any matter within the jurisdiction of the circuit court.

(B) provide in the case management plan required by Rule 16-202 b criteria for:

(i) requiring parties in an action assigned to the family division to attend a scheduling conference in accordance with Rule 2-504.1 (a) (1) and

(ii) identifying those actions in the family division that are appropriate for assignment to a specific judge who shall be responsible for the entire case unless the County Administrative Judge subsequently decides to reassign it;

Cross reference: For rules concerning the referral of matters to masters as of course, see Rules 2-541 and 9-208.

(C) appoint a family support services coordinator whose responsibilities include:

(i) compiling, maintaining, and providing lists of available public and private family support services,

(ii) coordinating and monitoring referrals in actions assigned to the family division, and

(iii) reporting to the County Administrative Judge concerning the need for additional family support services or the modification of existing services; and

(D) prepare and submit to the Chief Judge of the Court of Appeals, no later than October 15 of each year, a written report that includes a description of family support services needed by the court's family division, a fiscal note that estimates the cost of those services for the following fiscal year, and, whenever practicable, an estimate of the fiscal needs of the Clerk of the Circuit Court for the county pertaining to the family division.

(b) Circuit Courts Without a Family Division

(1) Applicability

This section applies to circuit courts for counties having less than eight resident judges of the circuit court authorized by law.

(2) Family Support Services

Subject to availability of funds, the family support services listed in subsection (a) (3) of this Rule shall be available through the court for use when appropriate in cases in the categories listed in subsection (a) (2) of this Rule.

(3) Family Support Services Coordinator

The County Administrative Judge shall appoint a full-time or part-time family support services coordinator whose responsibilities shall be substantially as set forth in subsection (a) (4) (C) of this Rule.

(4) Report to the Chief Judge of the Court of Appeals

The County Administrative Judge shall prepare and submit to the Chief Judge of the Court of Appeals, no later than October 15 of each year, a written report that includes a description of the family support services needed by the court, a fiscal note that estimates the cost of those services for the following fiscal year, and, whenever practicable, an estimate of the fiscal needs of the Clerk of the Circuit Court for the county pertaining to family support services.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 9-205.2.

MARYLAND RULES OF PROCEDURE
TITLE 17 - ALTERNATIVE DISPUTE RESOLUTION
CHAPTER 100 - PROCEEDINGS IN CIRCUIT COURT

AMEND Rule 17-101 (b) to add a reference to parenting coordinators, as follows:

Rule 17-101. APPLICABILITY

. . .

(b) Rules Governing Qualifications and Selection

The rules governing the qualifications and selection of a person designated to conduct court-ordered alternative dispute resolution proceedings apply only to a person designated by the court in the absence of an agreement by the parties. They do not apply to a master, examiner, ~~or~~ auditor, or parenting coordinator appointed under Rules 2-541, 2-542, ~~or~~ 2-543, 9-205.2.

. . .

REPORTER'S NOTE

New Rule 9-205.2 is a self-contained Rule pertaining to parenting coordination. The second sentence of Rule 9-205.2 (b)(1) reads, "Although parenting coordination may draw upon alternative dispute resolution techniques, a parenting coordinator does not engage in arbitration, mediation, neutral case evaluation, or neutral fact-finding, and parenting coordination is not governed by the Rules in Title 17." The proposed amendment to Rule 17-101 (b) excludes a parenting coordinator appointed under Rule 9-205.2 from the applicability of the Rules in Title 17 that govern the qualifications and selection fo a person designated by the court to conduct alternative dispute resolution proceedings.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 200 - DIVORCE, ANNULMENT AND ALIMONY

AMEND Rule 9-205 to add a new section (c) concerning selection of a mediator, to clarify relettered subsection (d) (2), to add a Committee note following subsection (d) (2), and to delete a cross reference, as follows:

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

(a) Scope of Rule

This Rule applies to any case under this Chapter in which the custody of or visitation with a minor child is an issue, including an initial action to determine custody or visitation, an action to modify an existing order or judgment as to custody or visitation, and a petition for contempt by reason of non-compliance with an order or judgment governing custody or visitation.

(b) Duty of Court

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

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

(B) a properly qualified mediator is available to mediate the dispute.

(2) If a party or a child represents to the court in good

faith that there is a genuine issue of physical or sexual abuse of the party or child, and that, as a result, mediation would be inappropriate, the court shall not order mediation.

(3) If the court concludes that mediation is appropriate and feasible, it shall enter an order requiring the parties to mediate the custody or visitation dispute and designating a mediator in accordance with section (c) of this Rule. The order may stay some or all further proceedings in the action pending the mediation on terms and conditions set forth in the order.

Cross reference: With respect to subsection (b) (2) of this Rule, see Rule 1-341 and Rules 3.1 and 3.3 of the Maryland Lawyers' Rules of Professional Conduct.

(c) Selection of Mediator

(1) In an order referring an action to mediation pursuant to this Rule, the court may tentatively designate any person qualified under the Rules in Title 17 to conduct the mediation. The order shall be accompanied by a copy of the appropriate list maintained pursuant to Rule 17-103 and shall state that the parties may substitute another qualified person, whether or not the person's name is on the list, to conduct the mediation by filing with the court no later than 15 days after service of the order a stipulation substantially in the following form:

[Caption of Case]

Selection of Mediator by Stipulation

We agree to attend mediation proceedings pursuant to Rule 9-205 conducted by _____

(Name, address, and telephone number of mediator)

and we have made payment arrangements with the mediator.

(Signature of Plaintiff)

(Signature of Defendant)

(Signature of Plaintiff's
Attorney, if any)

(Signature of Defendant's
Attorney, if any)

I, _____,
(Name of Mediator)

agree to conduct mediation proceedings in the above-captioned
case in accordance with Rule 9-205 (d), (e), (f), and (g).

I solemnly declare and affirm under the penalties of perjury
that I have the qualifications prescribed by Rule 17-104 (a) and
(b).

(Signature of Mediator)

(2) If the stipulation is timely filed, the court shall enter
an order designating the person selected by the parties to
conduct the mediation, unless the court determines that the
person does not have the qualifications prescribed by Rule 17-104
(a) and (b). If no stipulation selecting a qualified mediator is
timely filed, the referral shall be to the person who had been
tentatively designated.

~~(c)~~ (d) Scope of Mediation

(1) The court's initial order may not require the parties to attend more than two mediation sessions. For good cause shown and upon the recommendation of the mediator, the court may order up to two additional mediation sessions. The parties may agree to further mediation.

(2) Mediation under this Rule shall be limited to the issues of custody, ~~and visitation, and child access unless the parties agree otherwise in writing.~~

Committee note: If the parties agree, and the mediator has the qualifications prescribed by Rule 17-104 (c), the parties may request that the court also designate the mediator to assist the parties in resolving marital property issues. This Rule and the Rules in Title 17 apply only to court-ordered alternative dispute resolution proceedings. Nothing in the Rules prohibits the parties from selecting any individual, regardless of qualifications, to assist them in the resolution of issues.

~~(d)~~ (e) If Agreement

If the parties agree on some or all of the disputed issues, the mediator may assist the parties in making a record of the points of agreement. The mediator shall provide copies of any memorandum of points of agreement to the parties and their attorneys for review and signature. If the memorandum is signed by the parties as submitted or as modified by the parties, a copy of the signed memorandum shall be sent to the mediator, who shall submit it to the court.

Committee note: It is permissible for a mediator to make a brief record of points of agreement reached by the parties during the mediation and assist the parties in articulating those points in the form of a written memorandum, so that they are clear and accurately reflect the agreements reached. Mediators should act only as scribes recording the parties' points of agreement, and not as drafters creating legal memoranda.

~~(e)~~ (f) If No Agreement

If no agreement is reached or the mediator determines that mediation is inappropriate, the mediator shall so advise the court but shall not state the reasons. If the court does not order mediation or the case is returned to the court after mediation without an agreement as to all issues in the case, the

court promptly shall schedule the case for hearing on any *pendente lite* or other appropriate relief not covered by a mediation agreement.

~~(f)~~ (g) Confidentiality

Confidentiality of mediation communications under this Rule is governed by Rule 17-109.

Cross reference: For the definition of "mediation communication," see Rule 17-102 (e).

~~(g)~~ (h) Costs

Payment of the compensation, fees, and costs of a mediator may be compelled by order of court and assessed among the parties as the court may direct. In the order for mediation, the court may waive payment of the compensation, fees, and costs.

~~Cross reference: For the qualifications and selection of mediators, see Rule 17-104.~~

Source: This Rule is derived in part from former Rule S73A and is in part new.

REPORTER'S NOTE

Proposed amendments to Rule 9-205 address the issue of whether the parties in child access litigation may, under the Rule, select a mediator of their choice in lieu of a mediator selected by the court.

Based loosely upon the procedure set forth in Rule 17-103 (c) (4), new section (c) allows the court to tentatively designate a mediator who is qualified under the Rules in Title 17, and allows the parties by agreement to substitute another qualified person for the court's initial selection.

The parties may select another mediator who is on the list maintained pursuant to Rule 17-103 or a mediator who is not on the list, provided the person has the qualifications prescribed by Rule 17-104 (a) and (b). The person selected must agree to comply with Rule 9-205 (d), (e), (f), and (g) and affirm that he or she has the qualifications prescribed by Rule 17-104 (a) and (b).

New section (c) differs from Rule 17-103 (c) (4) in that: (1) the parties may not opt out of mediation altogether; (2) the court's order must provide to the parties specific information about their right to select someone else to conduct the mediation, including the form of stipulation to be filed and a copy of the list of mediators that the court maintains pursuant to Rule 17-103; (3) the time by which the stipulation must be filed is not later than 15 days [rather than 30 days] after service of the order; and (4) if the parties select their own mediator, they must select a person who has the applicable qualifications under Rule 17-104, regardless of whether the person is on the list maintained pursuant to Rule 17-103.

If the parties select their own mediator, fee arrangements are as agreed to by the parties and the mediator; Rules 9-205 (h) and 17-108 do not apply.

If a stipulation is timely filed, the court must designate the person selected by the parties, if the person is qualified. Otherwise, the mediation will be conducted by the person who originally had been tentatively designated.

Relettered subsection (d) (2) is clarified by the addition of a specific reference to "child access," the deletion of the phrase "unless the parties agree otherwise in writing," and a Committee note following the subsection.

In light of new section (c), the cross reference at the end of Rule 9-205 is deleted as unnecessary.

MARYLAND RULES OF PROCEDURE
TITLE 17 - ALTERNATIVE DISPUTE RESOLUTION
CHAPTER 100 - PROCEEDINGS IN CIRCUIT COURT

AMEND Rule 17-101 to add a cross reference following section (b), as follows:

Rule 17-101. APPLICABILITY

(a) Generally

The rules in this Chapter apply to all civil actions in circuit court except (1) they do not apply to actions or orders to enforce a contractual agreement to submit a dispute to alternative dispute resolution and (2) other than Rule 17-104, they do not apply to health care malpractice claims.

Committee note: Alternative dispute resolution proceedings in a health care malpractice claim are governed by Code, Courts Article, §3-2A-06C.

(b) Rules Governing Qualifications and Selection

The rules governing the qualifications and selection of a person designated to conduct court-ordered alternative dispute resolution proceedings apply only to a person designated by the court in the absence of an agreement by the parties. They do not apply to a master, examiner, or auditor appointed under Rules 2-541, 2-542, or 2-543.

Cross reference: For prohibition of a waiver of the prescribed qualifications of a mediator designated by the court with respect to child access or marital property issues, see Rule 17-104 (a) (2).

Source: This Rule is new.

REPORTER'S NOTE

A cross reference following section (b) is proposed to be added to Rule 17-101 to highlight the proposed new prohibition of a waiver by agreement of the prescribed qualifications of mediators designated by the court with respect to child access or marital property issues.

MARYLAND RULES OF PROCEDURE
TITLE 17 - ALTERNATIVE DISPUTE RESOLUTION
CHAPTER 100 - PROCEEDINGS IN CIRCUIT COURT

AMEND Rule 17-103 to add a cross reference following section (b), as follows:

Rule 17-103. GENERAL PROCEDURES AND REQUIREMENTS

(a) In General

A court may not require a party or the party's attorney to participate in an alternative dispute resolution proceeding except in accordance with this Rule.

(b) Minimum Qualifications Required for Court Designees

A court may not require a party or the party's attorney to participate in an alternative dispute resolution proceeding conducted by a person designated by the court unless (1) that person possesses the minimum qualifications prescribed in the applicable rules in this Chapter, or (2) the parties agree to participate in the process conducted by that person.

Cross reference: For prohibition of a waiver of the prescribed qualifications of a mediator designated by the court with respect to child access or marital property issues, see Rule 17-104 (a) (2).

(c) Procedure

(1) Inapplicable to Child Access Disputes

This section does not apply to proceedings under Rule 9-205.

(2) Objection

If the court enters an order or determines to enter an order referring a matter to an alternative dispute resolution process, the court shall give the parties a reasonable opportunity (A) to object to the referral, (B) to offer an alternative proposal, and (C) to agree on a person to conduct the proceeding. The court may provide that opportunity before the order is entered or upon request of a party filed within 30 days after the order is entered.

(3) Ruling on Objection

The court shall give fair consideration to an objection to a referral and to any alternative proposed by a party. The court may not require an objecting party or the attorney of an objecting party to participate in an alternative dispute resolution proceeding other than a non-fee-for-service settlement conference.

(4) Designation of Person to Conduct Procedure

In an order referring an action to an alternative dispute resolution proceeding, the court may tentatively designate any person qualified under these rules to conduct the proceeding. The order shall set a reasonable time within which the parties may inform the court that (A) they have agreed on another person to conduct the proceeding, and (B) that person is willing and able to conduct the proceeding. If, within the time allowed by the court, the parties inform the court of their agreement on another person willing and able to conduct the proceeding, the court shall designate that person. Otherwise,

the referral shall be to the person designated in the order. In making a designation when there is no agreement by the parties, the court is not required to choose at random or in any particular order from among the qualified persons. Although the court should endeavor to use the services of as many qualified persons as possible, the court may consider whether, in light of the issues and circumstances presented by the action or the parties, special training, background, experience, expertise, or temperament may be helpful and may designate a person possessing those special qualifications.

Source: This Rule is new.

REPORTER'S NOTE

A cross reference following section (b) is proposed to be added to Rule 17-103 to highlight the proposed new prohibition of a waiver by agreement of the prescribed qualifications of mediators designated by the court with respect to child access or marital property issues.

MARYLAND RULES OF PROCEDURE

TITLE 17 - ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 100 - PROCEEDINGS IN CIRCUIT COURT

AMEND Rule 17-104 to add a new subsection (a) (1) (G) pertaining to removal from the approved list of any county, to add a new subsection (a) (2) that prohibits waiver of the prescribed qualifications under certain circumstances, to add a cross reference following section (b), and to reorganize the Rule, as follows:

Rule 17-104. QUALIFICATIONS AND SELECTION OF MEDIATORS

(a) Qualifications in General - All Court-Designated Mediators

(1) Generally

Except as otherwise provided in subsection (a) (2) of this Rule, To to be designated by the court as a mediator, other than by agreement of the parties, a person must:

~~(1)~~ (A) unless waived by the court, be at least 21 years old and have at least a bachelor's degree from an accredited college or university;

Committee note: This subsection permits a waiver because the quality of a mediator's skill is not necessarily measured by age or formal education.

~~(2)~~ (B) have completed at least 40 hours of mediation training in a program meeting the requirements of Rule 17-106;

~~(3)~~ (C) complete in every two-year period eight hours of continuing mediation-related education in one or more of the topics set forth in Rule 17-106;

~~(4)~~ (D) abide by any standards adopted by the Court of Appeals;

~~(5)~~ (E) submit to periodic monitoring of court-ordered mediations by a qualified mediator designated by the county administrative judge; ~~and~~

~~(6)~~ (F) comply with procedures and requirements prescribed in the court's case management plan filed under Rule 16-202 b. relating to diligence, quality assurance, and a willingness to accept a reasonable number of referrals on a reduced-fee or pro bono basis upon request by the court; ~~and~~

(G) unless reinstated, not have been removed for good cause from the approved list of any county after notice and an opportunity to be heard in accordance with Rule 17-107 (a) (4).

(2) Waiver of Qualifications by Agreement; Exception

A mediator designated by the court with respect to issues concerning child access or marital property shall have the qualifications prescribed by this Rule. In all other cases, the court, by agreement of the parties, may designate a mediator who does not have the prescribed qualifications.

(b) Additional Qualifications - Child Access Disputes

To be designated by the court as a mediator with respect to issues concerning child access, the person must:

(1) have the qualifications prescribed in section (a) of this Rule;

(2) have completed at least 20 hours of training in a family mediation training program meeting the requirements of Rule

17-106; and

(3) have observed or co-mediated at least eight hours of child access mediation sessions conducted by persons approved by the county administrative judge, in addition to any observations during the training program.

Cross reference: See Rule 9-205.

~~(d)~~ (c) Additional Qualifications - Marital Property Issues

To be designated by the court as a mediator in divorce cases with marital property issues, the person must:

(1) have the qualifications prescribed in section (a) of this Rule;

(2) have completed at least 20 hours of skill-based training in mediation of marital property issues; and

(3) have observed or co-mediated at least eight hours of divorce mediation sessions involving marital property issues conducted by persons approved by the county administrative judge, in addition to any observations during the training program.

~~(e)~~ (d) Additional Qualifications - Business and Technology Case Management Program Cases

To be designated by the court as a mediator of Business and Technology Program cases, other than by agreement of the parties, the person must:

(1) have the qualifications prescribed in section (a) of this Rule;

(2) within the two-year period preceding application for approval pursuant to Rule 17-107, have completed as a mediator at

least five non-domestic circuit court mediations or five non-domestic non-circuit court mediations of comparable complexity (A) at least two of which are among the types of cases that are assigned to the Business and Technology Case Management Program or (B) have co-mediated an additional two cases from the Business and Technology Case Management Program with a mediator already approved to mediate these cases;

(3) agree to serve as co-mediator with at least two mediators each year who seek to meet the requirements of subsection (c) (2) (B) of this Rule; and

(4) agree to complete any continuing education training required by the Circuit Administrative Judge or that judge's designee.

(e) Additional Qualifications - Health Care Malpractice Claims

To be designated by the court as a mediator of health care malpractice claims, other than by agreement of the parties, the person must:

(1) have the qualifications prescribed in section (a) of this Rule;

(2) have completed as a mediator at least five non domestic circuit court mediations or five non domestic non circuit court mediations of comparable complexity;

(3) be knowledgeable about health care malpractice claims because of experience, training, or education; and

(4) agree to complete any continuing education training required by the court.

(f) Additional Qualifications - Proceedings to Foreclose Lien Instruments

To be designated by the court as a mediator in a proceeding to foreclose a lien instrument, other than by agreement of the parties, the person must:

(1) have the qualifications prescribed in section (a) of this Rule;

(2) have completed as a mediator at least five non-domestic circuit court mediations or five non-domestic non-circuit court mediations of comparable complexity;

(3) be knowledgeable about lien instruments and foreclosure proceedings because of experience, training, or education; and

(4) agree to complete any continuing education training required by the court.

Cross reference: Code, Courts Article, §3-2A-06C (c).

Source: This Rule is new.

REPORTER'S NOTE

Proposed new subsection (a)(1)(G) adds to Rule 17-104 a requirement that to qualify for designation by a court in any action, an individual must not have been removed for good cause from the approved list of mediators in any county in the State. The ineligibility applies only if the mediator was given notice and the opportunity for a hearing prior to the removal and has not been reinstated on the list.

New subsection (a)(2) allows the court, upon agreement of the parties, to designate a mediator who does not have the qualifications prescribed by the Rule; however, the court may not do so if the mediation involves issues of child access or marital property.

A purely stylistic change also is made. Sections (c) and (d) of the Rule are switched, so that the two sections pertaining to mediation in family law actions are not separated by the

section pertaining to mediation in the Business and Technology
Case Management Program.

MARYLAND RULES OF PROCEDURE
TITLE 17 - ALTERNATIVE DISPUTE RESOLUTION
CHAPTER 100 - PROCEEDINGS IN CIRCUIT COURT

AMEND Rule 17-109 to conform a cross reference to the relettering of Rule 9-205, as follows:

Rule 17-109. MEDIATION CONFIDENTIALITY

. . .

(c) Signed Document

A document signed by the parties that reduces to writing an agreement reached by the parties as a result of mediation is not confidential, unless the parties agree in writing otherwise.

Cross reference: See Rule 9-205 ~~(d)~~ (e) concerning the submission of a memorandum of the points of agreement to the court in a child access case.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 17-109 conforms the cross reference following section (c) to the proposed amendment to Rule 9-205.

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

ADD new Rule 6-153, as follows:

Rule 6-153. ADMISSION OF COPY OF EXECUTED WILL

Without being required to notify other interested persons, an interested person may file a petition for the admission of a copy of an executed will with the court at any time before administrative or judicial probate if the original executed will is alleged to be lost or destroyed; a duplicate reproduction of the original executed will, evidencing a copy of the original signatures of the decedent and the witnesses, is offered for admission; and all the heirs at law and all legatees named in the will execute a consent in the following form:

[CAPTION]

CONSENT TO PROBATE OF COPY OF EXECUTED
LAST WILL AND TESTAMENT

The undersigned _____ and
_____,
being all the heirs at law of the decedent and all the legatees
named in the will executed by the decedent on _____,
hereby consent to the probate of a copy of that executed will, it
having been determined, after an extensive search of the
decedent's personal records, that an original of the will cannot

be located. By signing this consent each of the undersigned affirms that it is his or her belief that the will executed by the decedent on _____, is the last valid will executed by the decedent and was not revoked and that the copy of the will, as submitted with the petition for its admission, represents a true and correct copy of the will.

We affirm under the penalties of perjury that the facts set forth in this consent are true and correct to the best of our knowledge, information, and belief.

Date	Signature	Print Name and Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney

Address

Telephone Number

REPORTER'S NOTE

The General Assembly enacted Chapter 37, Acts of 2009 (SB 154), which authorizes an interested person to file a petition

for admission of a copy of an executed will to probate if the original executed will is alleged to be lost or destroyed, a duplicate reproduction of the original executed will is offered for admission, and all the heirs at law and legatees named in the offered will execute a consent. The Probate/Fiduciary Subcommittee recommends adding a new Rule addressing the new statute, including the consent form set out by the legislature.

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

AMEND Rule 6-402 by adding a new cross reference, as follows:

Rule 6-402. FORM OF INVENTORY

Within three months after appointment, the personal representative shall file with the register (1) an inventory consisting of a summary and supporting schedules in the forms set forth in this Rule and (2) any required appraisal in conformity with Rule 6-403.

(a) Form of Summary

[CAPTION]

Date of Death _____

INVENTORY

Summary

Schedule	Type of Property	Appraised Value
A	Real _____	\$ _____
B	Leasehold _____	\$ _____
C	Tangible personal _____	\$ _____
D	Corporate stocks _____	\$ _____
E	Bonds, notes, mortgages, debts due to the decedent _____	\$ _____
F	Bank accounts, savings and loan accounts,	

	cash _____	\$ _____
G	All other interests _____	\$ _____
	Total	\$ _____

I solemnly affirm under the penalties of perjury that the contents of the foregoing inventory 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.

Date: _____

Personal Representative(s)

Attorney

Address

Telephone Number

(b) Form of Supporting Schedules

Inventory of Estate of _____

Estate No. _____

SCHEDULE _____

Item No.	Description	Market Value
-------------	-------------	-----------------

Total \$ _____

Verification of appraiser other than personal representative,
if not supplied separately:

I solemnly affirm under the penalties of perjury that I
appraised the property listed on this schedule on the ____ day of
_____, _____, and that the appraisal was
(month) (year)
done impartially and to the best of my skill and judgment.

Signature of Appraiser

Name and Address

Instructions:

Pursuant to Code, Estates and Trusts Article, §7-201,

1. Describe each item in reasonable detail, and indicate its
appraised gross market value as of the date of death of the
decedent.

2. If an item is encumbered, show the type and amount of any
encumbrance in the description.

3. For real and leasehold property, give a description
sufficient to identify the property and the title reference by
liber and folio.

4. In listing tangible personal property it is not necessary to
list wearing apparel other than furs and jewelry.

Cross reference: Code, Estates and Trusts Article, §7-201 and
7-202.

REPORTER'S NOTE

The legislature enacted Chapter 405, Acts of 2009 (HB 582), which went into effect on October 1, 2009. The new law provides an alternate method for the valuation of real and leasehold property. To draw attention to this, the Probate/Fiduciary Subcommittee recommends adding a cross reference to the new law at the end of Rules 6-402 and 6-403.

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

AMEND Rule 6-403 by adding a new cross reference, as follows:

Rule 6-403. APPRAISAL

(a) Required Content

When an appraisal is required, the appraisal shall be prepared and executed by each appraiser named in the Inventory, other than the personal representative. The appraisal shall (1) describe briefly the appraiser's qualifications, (2) list in columnar form each item appraised and its market value as of the date of death of the decedent and (3) be verified substantially in the following form:

I solemnly affirm under the penalties of perjury that I appraised the property listed in this appraisal on the _____ day of _____, _____, and that the appraisal was done impartially and to the best of my skill and judgment.

Appraiser

Address

(b) Basis of Appraisal

The basis of appraisal need not be set forth in the appraisal, but, upon request of the register or order of the court, the personal representative shall produce the basis for inspection by the register.

Cross reference: Code, Estates and Trusts Article, §§2-301 through 2-303, and §7-202 (a) and (b). For valuation other than at fair market value, under certain circumstances, see Code, Estates and Trusts Article, §7-202 (c).

REPORTER'S NOTE

See the Reporter's note to Rule 6-402.

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

AMEND Rule 6-405 by adding a new cross reference, as follows:

Rule 6-405. APPLICATION TO FIX INHERITANCE TAX ON NON-PROBATE ASSETS

An application to fix inheritance taxes on non-probate assets shall be filed with the register within 90 days after decedent's death, together with any required appraisal in conformity with Rule 6-403. The application shall be in the following form:

BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND

In the matter of: File No. _____
_____, Deceased

APPLICATION TO FIX INHERITANCE TAX
ON NON-PROBATE ASSETS

The applicant represents that:

1. The decedent, a resident of _____,
(county)
died on _____,
(month) (day) (year).

2. The non-probate property subject to the inheritance tax in which the decedent and the recipient had interests, the nature of each interest (such as joint tenant, life tenant, remainderman of

life estate, trustee, beneficiary, transferee), and the market value of the property at the date of death are:

PROPERTY	NATURE OF INTERESTS	DATE AND TYPE OF INSTRUMENT	MARKET VALUE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. The name and address of the recipient of the property and the relationship to the decedent are: _____
_____.

4. Any liens, encumbrances, or expenses payable from the above property and their amounts are:

_____ \$ _____
_____ \$ _____
_____ \$ _____

5. Attached is a statement of the basis for valuation or, if required by law, an appraisal.

6. All other information necessary to fix inheritance tax is as follows: [] tax is payable from residuary estate pursuant to decedent's will; [] OTHER (describe): _____

The applicant requests the Register of Wills to fix the amount of inheritance tax due.

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

Date: _____
Applicant

Attorney

Address

Telephone Number

(FOR APPLICANT'S USE - OPTIONAL)

Value of property as above	\$ _____
Less: Liens, encumbrances, and expenses as above ..	\$ _____
Amount taxable	\$ _____
Direct Inheritance Tax due at ____%	\$ _____
Collateral Inheritance Tax due at ____%	\$ _____
Total tax due	\$ _____

Cross reference: Code, Tax-General Article, §§7-208 and 7-225 and
Code, Estates and Trusts Article, §7-202.

REPORTER'S NOTE

David Hayes, Esq., an Assistant Attorney General, pointed out that Code, Tax General Article, §7-225 pertains to appraisals of non-probate property for the purpose of determining inheritance tax. The trustees of this type of property have the

responsibility to have the property appraised. The statute incorporates by reference procedures in the Estates and Trusts Article related to appraisals. Since there are no valuation procedures set out for trustees, Mr. Hayes suggests adding a cross reference at the end of Rule 6-405 to Code, Estates and Trusts Article, §7-202, which pertains to valuation of real and leasehold property.