

IN THE COURT OF APPEALS OF MARYLAND

R U L E S O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted to the Court its Two Hundred and Eighth Report transmitting thereby a proposed revision of Title 11 of the Maryland Rules of Procedure; and

This Court by Rules Order dated November 9, 2021, effective January 1, 2022, having adopted a revised Title 11, including, *inter alia*, new Rule 11-406; and

The Rules Committee, having submitted to the Court and posted for comment on the website of the Maryland Judiciary a Supplement to the Two Hundred and Eighth Report, recommending adoption, on an emergency basis, of proposed amendments to new Rule 11-406; and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, the proposed amendments to new Rule 11-406 and finding that an emergency exists with reference to the proposed rule changes, it is this 22nd day of December, 2021

ORDERED, by the Court of Appeals of Maryland, that amendments to new Rule 11-406 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that the rule changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 1, 2022 and, insofar as practicable, to all actions then pending; and it is further

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

/s/ Joseph M. Getty

Joseph M. Getty

/s/ Robert N. McDonald

Robert N. McDonald

/s/ Shirley M. Watts

Shirley M. Watts

/s/ Michele D. Hotten

Michele D. Hotten

/s/ Brynja M. Booth
Brynja M. Booth

/s/ Jonathan Biran
Jonathan Biran

/s/ Steven B. Gould
Steven B. Gould

Filed: December 22, 2021

/s/ Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

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



Suzanne C. Johnson, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

AMEND Rule 11-406 by adding new section (f) providing for review of a magistrate's continued detention, community detention, or shelter care determination and by adding a cross reference following section (f), as follows:

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

(a) Placement in Detention, Community Detention, or Shelter Care

(1) Who May Authorize

Only the court or an intake officer may authorize detention, community detention, or shelter care for a child alleged to be a delinquent child.

(2) Limitation on Place of Detention

A child alleged to be a delinquent child may not be detained in a jail or other facility for the detention of adults.

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

(b) Emergency Placement Prior to Hearing

(1) Emergency Detention

A child taken into custody may be placed in emergency detention prior to a hearing under the conditions set forth in Code, Courts Article, §3-8A-15 (b).

(2) Emergency Shelter Care

A child taken into custody may be placed in emergency shelter care prior to a hearing under the conditions set forth in Code, Courts Article, §3-8A-15 (c).

(3) Emergency Community Detention

A child may be placed in emergency community detention prior to a hearing under the conditions set forth in Code, Courts Article, §3-8A-15 (b) or (c).

(c) Continued Detention, Community Detention, or Shelter Care

(1) Who May Authorize

Only a judge or a magistrate may order continued detention, community detention, or shelter care.

(2) Basis, Conditions, and Limitations

Continued detention, community detention, and shelter care may be ordered subject to the conditions and limitations set forth in Code, Courts Article, §3-8A-15 (d) through (g).

(3) Requirement of Petition

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

petition to authorize continued detention, community detention, or shelter care.

(4) Contents of Petition

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

(A) The allegations supporting the relief sought;

(B) For continued detention based on allegations that the juvenile has committed a delinquent act, sufficient details of the alleged offense for the court to make a determination as to whether there is probable cause to believe that the juvenile committed the act, which shall include the allegations and reasons for the emergency detention; and

(C) For continued shelter care, a statement that:

(i) Continuation of the child in the child's home is contrary to the welfare of the child and removal of the child from the child's home is reasonable under the circumstances due to an alleged emergency situation and in order to provide for the safety of the child; or

(ii) Reasonable but unsuccessful efforts have been made to prevent or eliminate the need for removal from the child's home and, as appropriate, reasonable efforts are being made to return the child to the child's home.

Cross reference: See Code, Courts Article, §3-8A-15 (f) concerning the grounds for continued detention or community

detention and Code, Courts Article, §3-8A-15 (g) concerning the grounds for continued shelter care.

(d) Notice

The petitioner shall give reasonable notice, oral or written, of the time, place, and purpose of the hearing to the child and to the child's parent, guardian, or custodian, if that person can be found.

(e) Grounds for Continued Detention, Community Detention, or Shelter Care

(1) Detention or Community Detention

(A) Generally

Detention or community detention may not be continued unless, in an order entered at or after a hearing, the court finds that (i) there was probable cause for the detention or community detention and (ii) there are reasonable grounds to find either (a) that continued detention or community detention is required to protect the child or others or (b) that the child is likely to leave the jurisdiction of the court.

(B) Release on Conditions

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

(2) Shelter Care

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

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

(1) Request

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

(2) Review by Judge

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

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

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