

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

June 20, 2019
(Thursday)

Judiciary Education and Conference Center
Rooms UL 4 & 5
2011 Commerce Park Drive
Annapolis, Maryland
9:30 a.m.

- Item 1. Consideration of proposed amendments to: Reporter
Rule 16-907 (Case Records - Required Denial
of Inspection - Certain
Categories)
- Item 2. Consideration of proposed amendments to: Reporter
Rule 10-110 (Combination of Guardianship
Petitions)
Rule 10-111 (Petition for Guardianship of
Minor)
- Item 3. Consideration of proposed amendments to: Judge Eaves
Rule 9-203 (Financial Statements)
- Item 4. Consideration of proposed amendments to: Mr. Sullivan
Rule 2-645 (Garnishment of Property -
Generally)
Rule 3-645 (Garnishment of Property -
Generally)
-

Item 5. Consideration of proposed new Rule: Judge Mosley

Rule 3-623 (Recording of Foreign
Judgments)

Consideration of proposed amendments to:

Rule 3-632 (Stay of Enforcement)

AGENDA ITEM 1

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

AMEND Rule 16-907 by exempting from section (f) certain docket entries and orders; by including in section (f) all other papers and submissions filed in guardianship actions and proceedings under Title 10, Chapters 200, 300, 400, or 700 of the Maryland Rules; and by adding a Committee note, as follows:

Rule ~~16-907~~ 16-913. CASE RECORDS - REQUIRED DENIAL OF INSPECTION
- CERTAIN CATEGORIES

. . . .
(f) Except for docket entries and orders entered under Rule 10-108, Papers papers and submissions filed by a fiduciary or a guardian of the property of a minor or disabled person pursuant to in guardianship actions or proceedings under Title 10, Chapter 200, 300, 400, or 700 of the Maryland Rules that include financial information regarding the minor or disabled person.

Committee note: Most filings in guardianship actions are likely to be permeated with financial, medical, or psychological information regarding the minor or disabled person that ordinarily would be sealed or shielded under other Rules. Rather than require custodians to pore through those documents to redact that kind of information, this Rule shields the documents themselves subject to Rule 16-912, which permits the court, on a motion and for good cause, to permit inspection of case records that otherwise are not subject to inspection. There may be circumstances in which that should be allowed. The

Rule 16-907
For 6/20/19 RC

guardian, of course, will have access to the case records and may need to share some of them with third persons in order to perform his or her duties, and this Rule is not intended to impede the guardian from doing so. Public access to the docket entries and to orders entered under Rule 10-108 will allow others to be informed of the guardianship and to seek additional access pursuant to Rule 16-912.

. . .

Source: This Rule is derived from former Rule 16-1006 (2016).

REPORTER'S NOTE

Amendments to Rule 16-907 are proposed in conjunction with amendments to Rules in Title 10 that were approved by the Rules Committee at its April 2019 meeting.

AGENDA ITEM 2

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANSHIPS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-110 by adding a requirement that a separate petition be filed for each alleged disabled person as to whom a guardianship is sought and by adding a Committee note, as follows:

Rule 10-110. COMBINATION OF GUARDIANSHIP PETITIONS

A petition for the appointment of a guardian of the person of a minor or alleged disabled person may also include a request for the appointment of a guardian of the person's property, and vice versa. If guardianship of more than one alleged disabled person is sought, a separate petition shall be filed for each alleged disabled person.

Committee note: If appropriate, a petition may include a request for guardianship of more than one minor.

Source: This Rule is derived in part from former Rule R71 a, and is in part new.

REPORTER'S NOTE

The Department of Juvenile and Family Services of the Administrative Office of the Courts had been advised by the Court Operations Department that guardianship petitions naming more than one minor or more than one alleged disabled person are being filed, and that this practice causes docketing, indexing, and case management problems, especially in MDEC counties when the court reports guardianship case information to the FBI for

use in the National Instant Criminal Background Check System (NICS). Based upon this advisement, the Rules Committee, at its April 2019 meeting, approved amendments to Rules 10-110, 10-111, and 10-112.

The NICS is a national system that checks available records on persons who may be disqualified from receiving firearms. See <https://www.fbi.gov/services/cjis/nics/about-nics>. The NICS provides information to Federal Firearms Licensees on whether the transfer of a firearm would violate 18 U.S.C. § 922(g) or (n). Pursuant to 18 U.S.C. §922(g)(4), it is unlawful for any person "who has been adjudicated as a mental defective or who has been committed to a mental institution" to possess any firearm or ammunition.

In MDEC counties, only the first name listed in the guardianship case caption appears in the case information report provided to the FBI. To address this problem, a proposed amendment to Rule 10-110 requires the filing of a separate petition for each alleged disabled person as to whom a guardianship is sought. A conforming amendment to the Instructions at the top of the form petition in Rule 10-112 also is proposed.

As approved by the Committee in April, the amendments to Rule 10-110 also had included the requirement of a separate petition for each minor as to whom a guardianship is sought. The Court Operations Department advises that circuit courts would like to retain the flexibility of permitting requests for guardianships of minor siblings to be made in a single petition in an appropriate case involving the same underlying facts and interested persons. Litigants would not be required to pay multiple filing fees, and guardianship of all of the siblings could be heard on a single day. Reconsideration of the previously approved amendments to Rules 10-110 and 10-111 therefore is requested so that separate petitions for each minor would not be required.

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

AMEND Rule 10-111 by replacing the Note at the top of the form petition with Instructions to clarify which form petition shall be used if a guardianship of a minor is sought; by making stylistic changes to sections 5, 6, and 8; and by adding the word "ADDITIONAL" to the heading of the Instructions at the bottom of the form, as follows:

Rule 10-111. PETITION FOR GUARDIANSHIP OF MINOR

A petition for guardianship of a minor shall be in substantially the following form:

[CAPTION]

In the Matter of

(Name of minor)

In the _____ Court for

(County)

(docket reference)

PETITION FOR GUARDIANSHIP OF MINOR

~~Note: This form is to be used where the only ground for the petition is minority.~~

INSTRUCTIONS

(1) Use this form of petition when a guardianship of a minor is sought, even if the minor also is disabled.

(2) If the subject of the petition is not a minor, use the form petition set forth in Rule 10-112.

(3) If the petition is to be filed in the Circuit Court for Baltimore City, use "Baltimore City" as the name of the county.

[] Guardianship of Person [] Guardianship of Property [] Guardianship of Person and Property

The petitioner, _____, _____ whose address is
(name) (age)

_____, and whose telephone number is

_____, represents to the court that:

1. The minor _____, age _____,
born on the _____ day of _____,
(month) (year)

a [] male or [] female child of _____

and _____, resides at

_____. A birth certificate of the
minor is attached.

2. If the minor does not reside in the county in
which this petition is filed, state the place in this county
where the minor is currently located _____

NOTE: For purposes of this Form, "county" includes Baltimore

City.

3. The relationship of petitioner to the minor is _____

_____.

4. The minor

[] is a beneficiary of the Veterans Administration and the guardian may expect to receive benefits from that Administration.

[] is not a beneficiary of the Veterans Administration.

5. Complete Section 5- if the petitioner is asking the court to appoint the petitioner as the guardian.

(Check only one of the following boxes)

[] I have not been convicted of a crime listed in Code, Estates and Trusts Article, §11-114.

[] I was convicted of such a crime, namely _____

_____.

The conviction occurred in _____,
(year)

in the _____, but
(Name of court)

the following good cause exists for me to be appointed as guardian: _____

_____.

6. Complete Section 6- if the petitioner is asking

the court to appoint an individual other than the petitioner as the guardian.

6 a. Prospective Guardian of the Person (Complete section 6 a- if seeking guardianship of the person.)

The name of the prospective guardian of the person is _____

and that individual's age is _____. The relationship of that individual to the minor is _____.

(Check only one of the following boxes)

[] _____ has not been convicted of a crime (Name of prospective guardian)

listed in Code, Estates and Trusts Article, §11-114.

[] _____ was convicted of such a crime, (Name of prospective guardian)

namely _____.

The conviction occurred in _____ in the _____ (year)

_____, but the (Name of court)

following good cause exists for the individual to be appointed as guardian: _____

6 b. Prospective Guardian of the Property (Complete section 6 b- if the prospective guardian of the property is different from the prospective guardian of the person or if guardianship of the person is not sought.)

The name of the prospective guardian of the property is

_____ and that individual's age is _____. The relationship of that individual to the minor is _____.

(Check only one of the following boxes)

_____ has not been convicted of a crime
(Name of prospective guardian)

listed in Code, Estates and Trusts Article, §11-114.

_____ was convicted of such a crime,
(Name of prospective guardian)

namely _____.

The conviction occurred in _____ in the _____
(year)

_____, but the
(Name of court)

following good cause exists for the individual to be appointed as guardian: _____

7. State the name and address of any additional person on whom service shall be made on behalf of the minor, including a minor who is at least ten years of age: _____

8. The following is a list of the names, addresses,

telephone numbers, and e-mail addresses, if known, of all interested persons (see Code, Estates and Trusts Article, §13-101 (k)).

List of Interested Persons

	Name	Address	Telephone Number	E-mail Address (if known)
Parents:	_____	_____	_____	_____
	_____	_____	_____	_____
Siblings:	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
Any Other Heirs at Law:	_____	_____	_____	_____
Guardian (if appointed):	_____	_____	_____	_____
Any Person Holding a Power of Attorney of the Minor:	_____	_____	_____	_____
Minor's Attorney:	_____	_____	_____	_____

Any Other Person

~~Having~~ Who Has Assumed
Responsibility for
the Minor: _____

Any Government
Agency Paying
Benefits to or for
the Minor: _____

Any Person Having an
Interest in the Property
of the Minor: _____

All Other Persons
Exercising Control over
the Minor or the Minor's
Property: _____

A Person or Agency
Eligible to Serve as
Guardian of the Person
of the Minor: _____

9. The names and addresses of the persons with whom the
minor resided over the past five years, and the approximate
dates of the minor's residence with each person are, as follows:

<u>Names</u>	<u>Addresses</u>	<u>Approximate Dates</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. Guardianship is sought for the following reason(s):

Rule 10-111 - Post 4/12/19 RC
For reconsideration 6/20/19 RC

11. If this Petition is for Guardianship of the Property, the following is the list of all the property in which the minor has any interest including an absolute interest, a joint interest, or an interest less than absolute (e.g. trust, life estate).

<u>Property</u>	<u>Location</u>	<u>Value</u>	<u>Trustee, Custodian, Agent, etc.</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

12. The petitioner's interest in the property of the minor listed in 11. is _____

13. (a) All other proceedings regarding the minor (including any proceedings in juvenile court) are, as follows:

(b) All proceedings regarding the petitioner and prospective guardian filed in this court or any other court are, as follows:

14. All exhibits required by the Instructions below are attached.

WHEREFORE, Petitioner requests that this court issue an order to direct all interested persons to show cause why a guardian of the [] person [] property [] person and property of the minor should not be appointed, and (if applicable) _____
(Name of prospective guardian)

should not be appointed as the guardian.

Attorney's Signature

Petitioner's Name

Attorney's Name

Address

Telephone Number

E-mail Address

Petitioner solemnly affirms under the penalties of perjury that the contents of this document are true to the best of Petitioner's knowledge, information, and belief.

Petitioner's Name

Petitioner's Signature

ADDITIONAL INSTRUCTIONS

1. The required exhibits are as follows:

- (a) A copy of any instrument nominating a guardian [Code, Estates and Trusts Article, §13-701 and Maryland Rule 10-301 (d)];
- (b) If the petition is for the appointment of a guardian for a minor who is a beneficiary of the Department of Veterans Affairs, a certificate of the Administrator or the Administrator's authorized representative, setting forth the age of the minor as shown by the records of the Veterans Administration, and the fact that appointment of a guardian is a condition precedent to the payment of any moneys due the minor from the Veterans Administration shall be prima facie evidence of the necessity for the appointment [Code, Estates and Trusts Article, §13-802 and Maryland Rule 10-301 (d)].

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

Source: This Rule is new.

REPORTER'S NOTE

A proposed amendment to Rule 10-111 replaces the Note at the top of the form with Instructions that clarify that a guardianship petition pertaining to a minor, including a minor who is disabled, must be filed using the form set forth in Rule 10-111, and not the form set forth in Rule 10-112.

Rule 10-111

Also, the following stylistic changes are made to sections 5, 6, and 8, and the heading of the Instructions at the bottom of the form. In sections 5 and 6, periods following section numbers are deleted in four places. In section 8, the language "Having" is replaced with "Who Has." The word "ADDITIONAL" is added to the heading of the Instructions at the bottom of the form because the former Note at the top has been replaced with Instructions.

At its April 2019 meeting, the Rules Committee had approved the addition of the sentence to the Instructions at the top of the form:

"If guardianship of more than one minor is sought, a separate petition must be filed for each minor."

To conform to the proposed revised amendments to Rule 10-110, the sentence is removed from the Instructions. All other proposed amendments to Rule 10-111 remain as previously approved.

AGENDA ITEM 3

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

AMEND Rule 9-203 (b) by revising the definition of
"Extraordinary Medical Expenses," as follows:

Rule 9-203. FINANCIAL STATEMENTS

. . .

(b) Financial Statement--Child Support Guidelines

If the establishment or modification of child support in accordance with the guidelines set forth in Code, Family Law Article, §§ 12-201--12-204 is the only support issue in the action and no party claims an amount of support outside of the guidelines, the financial statement required by section (f) of Rule 9-202 shall be in substantially the following form:

[caption of case]

FINANCIAL STATEMENT

(Child Support Guidelines)

I, _____, state that:

My name

I am the _____

~~State Relationship (for example, mother, father, aunt, grandfather, guardian, etc.)~~

of the minor child(ren), including children who have not attained the age of 19 years, are not married or self-supporting, and are enrolled in secondary school:

_____ Name	_____ Date of Birth	_____ Name	_____ Date of Birth
_____ Name	_____ Date of Birth	_____ Name	_____ Date of Birth
_____ Name	_____ Date of Birth	_____ Name	_____ Date of Birth

The following is a list of my income and expenses (see below*):

See definitions on other side before filling out.

Total monthly income (before taxes) _____ \$

Child support I am paying for my other child(ren) each month _____

Alimony I am paying each month to _____
(Name of Person(s))

Alimony I am receiving each month from _____
(Name of Person(s))

For the child or children listed above:

- The monthly health insurance premium
- Work-related monthly child care expenses
- Extraordinary monthly medical expenses
- School and transportation expenses

* To figure the monthly amount of expenses, weekly expenses should be multiplied by 4.3 and yearly expenses should be divided by 12. If you do not pay the same amount each month for any of the categories listed, figure what your average monthly expense is.

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

Date

Signature

Total Monthly Income: Include income from all sources including self-employment, rent, royalties, business income, salaries, wages, commissions, bonuses, dividends, pensions, interest, trusts, annuities, social security benefits, workers compensation, unemployment benefits, disability benefits, alimony or maintenance received, tips, income from side jobs, severance pay, capital gains, gifts, prizes, lottery winnings, etc. Do not report benefits from means-tested public assistance programs, such as food stamps or AFDC.

Extraordinary Medical Expenses: Uninsured expenses ~~over \$100 for a single illness or condition~~ in excess of \$250 in a calendar year for medical treatment, including orthodontia, dental treatment, vision care, asthma treatment, physical therapy, treatment for any chronic health problems, and professional counseling or psychiatric therapy for diagnosed mental disorders.

Child Care Expenses: Actual child care expenses incurred on behalf of a child due to employment or job search of either parent with amount to be determined by actual experience or the level required to provide quality care from a licensed source.

School and Transportation Expenses: Any expenses for attending a special or private elementary or secondary school to meet the particular needs of the child and expenses for transportation of the child between the homes of the parents.

. . .

Source: This Rule is new.

REPORTER'S NOTE

The proposed amendment to Rule 9-203 (b) revises the definition of "Extraordinary Medical Expenses" to conform to Chapter 436, 2019 Laws of Maryland (HB 742).

AGENDA ITEM 4

MARYLAND RULES OF PROCEDURE

TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT

CHAPTER 600 - JUDGMENT

AMEND Rule 2-645 by adding language to subsection (c) (2) requiring a writ of garnishment of property to direct the garnishee to hold the property of each judgment debtor in its possession, subject to further proceedings or to termination of the writ; by adding subsection (c) (6) requiring that the writ of garnishment notify the judgment debtor that the garnishee may file a notice of intent to terminate the garnishment 120 days or more after the garnishee files an answer, if no further filings concerning the writ of garnishment are made with the court; by making stylistic changes to section (k); and by adding subsection (k) (2) establishing a process by which a garnishee may terminate a writ of garnishment, as follows:

Rule 2-645. GARNISHMENT OF PROPERTY—GENERALLY

(a) Availability

Subject to the provisions of Rule 2-645.1, this Rule governs garnishment of any property of the judgment debtor, other than wages subject to Rule 2-646 and a partnership interest subject to a charging order, in the hands of a third

person for the purpose of satisfying a money judgment. Property

Rule 2-645

Approved by Judgments S.C. 6/5/19

For 6/20/19 R.C.

includes any debt owed to the judgment debtor, whether immediately payable or unmatured.

(b) Issuance of Writ

The judgment creditor may obtain issuance of a writ of garnishment by filing in the same action in which the judgment was entered a request that contains (1) the caption of the action, (2) the amount owed under the judgment, (3) the name and last known address of each judgment debtor with respect to whom a writ is requested, and (4) the name and address of the garnishee. Upon the filing of the request, the clerk shall issue a writ of garnishment directed to the garnishee.

(c) Content

The writ of garnishment shall:

(1) contain the information in the request, the name and address of the person requesting the writ, and the date of issue,

(2) direct the garnishee to hold, subject to further proceedings or to termination of the writ, the property of each judgment debtor in the possession of the garnishee at the time of service of the writ and all property of each debtor that may come into the garnishee's possession after service of the writ,

(3) notify the garnishee of the time within which the answer must be filed and that the failure to do so may result in judgment by default against the garnishee,

(4) notify the judgment debtor and garnishee that federal and state exemptions may be available,

(5) notify the judgment debtor of the right to contest the garnishment by filing a motion asserting a defense or objection, and

(6) notify the judgment debtor that, if the garnishee files an answer pursuant to section (e) of this Rule and no further filings concerning the writ of garnishment are made with the court within 120 days following the filing of the answer, the garnishee may file a notice of intent to terminate the writ of garnishment pursuant to subsection (k) (2) of this Rule.

Committee note: A writ of garnishment may direct a garnishee to hold the property of more than one judgment debtor if the name and address of each judgment debtor whose property is sought to be attached is stated in the writ.

(d) Service

The writ shall be served on the garnishee in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction and may be served in or outside the county. Promptly after service upon the garnishee, the person making service shall mail a copy of the writ to the judgment

Rule 2-645

Approved by Judgments S.C. 6/5/19

For 6/20/19 R.C.

debtor's last known address. Proof of service and mailing shall be filed as provided in Rule 2-126. Subsequent pleadings and papers shall be served on the creditor, debtor, and garnishee in the manner provided by Rule 1-321.

(e) Answer of Garnishee

The garnishee shall file an answer within the time provided by Rule 2-321. The answer shall admit or deny that the garnishee is indebted to the judgment debtor or has possession of property of the judgment debtor and shall specify the amount and nature of any debt and describe any property. The garnishee may assert any defense that the garnishee may have to the garnishment, as well as any defense that the judgment debtor could assert. After answering, the garnishee may pay any garnished indebtedness into court and may deliver to the sheriff any garnished property, which shall then be treated as if levied upon by the sheriff. A garnishee who has filed an answer admitting indebtedness to the judgment debtor or possession of property of the judgment debtor is not required to file an amended answer solely because of an increase in the garnishee's indebtedness to the judgment debtor or the garnishee's receipt of additional property of the debtor.

(f) When No Answer Filed

If the garnishee fails to file a timely answer, the judgment creditor may proceed pursuant to Rule 2-613 for a judgment by default against the garnishee.

(g) When Answer Filed

If the garnishee files a timely answer, the matters set forth in the answer shall be treated as established for the purpose of the garnishment proceeding unless the judgment creditor files a reply contesting the answer within 30 days after its service. If a timely reply is not filed, the court may enter judgment upon request of the judgment creditor, the judgment debtor, or the garnishee. If a timely reply is filed to the answer of the garnishee, the matter shall proceed as if it were an original action between the judgment creditor as plaintiff and the garnishee as defendant and shall be governed by the rules applicable to civil actions.

(h) Interrogatories to Garnishee

The judgment creditor may serve interrogatories directed to the garnishee pursuant to Rule 2-421. The interrogatories shall contain a notice to the garnishee that, unless answers are served within 30 days after service of the interrogatories or within the time for filing an answer to the writ, whichever is later, the garnishee may be held in contempt of court. The interrogatories shall also inform the garnishee that the

Rule 2-645

Approved by Judgments S.C. 6/5/19

For 6/20/19 R.C.

garnishee must file a notice with the court pursuant to Rule 2-401 (d) at the time the answers are served. If the garnishee fails to serve timely answers to interrogatories, the court, upon petition of the judgment creditor and proof of service of the interrogatories, may enter an order in compliance with Rule 15-206 treating the failure to answer as a contempt and may require the garnishee to pay reasonable attorney's fees and costs.

(i) Release of Property; Claim by Third Person

Before entry of judgment, the judgment debtor may seek release of the garnished property in accordance with Rule 2-643, except that a motion under Rule 2-643 (d) shall be filed within 30 days after service of the writ of garnishment on the garnishee. Before entry of judgment, a third person claimant of the garnished property may proceed in accordance with Rule 2-643 (e).

(j) Judgment

The judgment against the garnishee shall be for the amount admitted plus any amount that has come into the hands of the garnishee after service of the writ and before the judgment is entered, but not to exceed the amount owed under the creditor's judgment against the debtor and enforcement costs.

(k) Termination of Writ

Rule 2-645

Approved by Judgments S.C. 6/5/19

For 6/20/19 R.C.

(1) Upon Entry of Judgment

Upon entry of a judgment against the garnishee pursuant to section (j) of this Rule, the writ of garnishment and the lien created by the writ shall terminate and the garnishee shall be under no obligation to hold any additional property of the debtor that may come into its possession after the judgment was entered.

(2) By the Garnishee

If the garnishee has filed an answer and no further filing concerning the writ of garnishment is made within 120 days after the filing of the answer, the garnishee may file, at any time 120 days or more after the filing of the answer, a notice of intent to terminate the writ of garnishment. The notice shall (A) contain a statement that a party may object to termination of the writ by filing a response within 30 days after service of the notice and (B) be served on the judgment debtor and the judgment creditor. If no response is filed within 30 days after service of the notice, the garnishee may file a termination of the garnishment, which shall release the garnishee from any further obligation to hold any property of the debtor.

Committee note: The methods of termination of a writ of garnishment provided in section (k) of this Rule are not exclusive. Section (k) does not preclude a garnishee or other

Rule 2-645

Approved by Judgments S.C. 6/5/19

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party from filing a motion to seek an order of court terminating a writ of garnishment on any other appropriate basis.

(1) Statement of Satisfaction

Upon satisfaction by the garnishee of a judgment entered against it pursuant to section (j) of this Rule, the judgment creditor shall file a statement of satisfaction setting forth the amount paid. If the judgment creditor fails to file the statement of satisfaction, the garnishee may proceed under Rule 2-626.

Source: This Rule is derived as follows:

Section (a) is new but is consistent with former Rules G47 a and G50 a.

Section (b) is new.

Section (c) is new.

Section (d) is in part derived from former Rules F6 c and 104 a (4) and is in part new.

Section (e) is in part new and in part derived from former Rule G52 a and b.

Section (f) is new.

Section (g) is new.

Section (h) is derived from former Rule G56.

Section (i) is new.

Section (j) is new.

Section (k) is new.

Section (l) is new.

REPORTER'S NOTE

Attorneys on behalf of the Maryland Bankers Association and practitioners who engage in collection actions have advised the Judgments Subcommittee that hundreds of garnishment of property proceedings remain stagnant well after an answer to the writ of garnishment is filed by the garnishee. The writs remain unresolved because neither the judgment creditor nor the judgment debtor nor the garnishee seeks further resolution of the matter. Amendments to Rules 2-645 and 3-645 establish an

Rule 2-645

Approved by Judgments S.C. 6/5/19

For 6/20/19 R.C.

identical process, in the District Court and the circuit courts, by which a writ of garnishment of property may be terminated by the garnishee subject to the writ. The following proposed amendments have been incorporated in both Rule 2-645 and Rule 3-645:

Proposed amendments to subsection (c)(2) require that additional language be contained in a writ of garnishment of property. Specifically, the writ must direct the garnishee to hold, subject to further proceedings "or to termination of the writ," the property of each judgment debtor in the possession of the garnishee at the time of service of the writ and all property of each debtor that may come into the garnishee's possession after service of the writ.

New subsection (c)(6) requires that a writ of garnishment of property notify the judgment debtor that, if the garnishee files an answer to the writ and no further filings concerning the writ are made with the court within 120 days following the filing of the answer, the garnishee may file a notice of intent to terminate the writ of garnishment pursuant to subsection (k)(2). The proposed time period of 120 days is the same time period provided in Rule 2-643 (c)(6) for the court to order the release of property from a levy if there has been no sale of the levied property.

Current section (k) is proposed to be divided into two new subsections. Subsection (k)(1) contains the current language of section (k), which addresses termination of the writ upon entry of judgment. Subsection (k)(2) sets forth a new process by which a garnishee may terminate a writ of garnishment.

Subsection (k)(2) authorizes the garnishee to file a notice of intent to terminate the garnishment, if the garnishee has filed an answer and no further filing concerning the writ of garnishment is made within 120 days thereafter. The notice of intent to terminate the garnishment is required to contain a statement that a party may object to termination of the writ by filing a response within 30 days after service of the notice. Accordingly, the notice is required to be served upon the judgment debtor and judgment creditor.

Subsection (k)(2) further authorizes the garnishee to file a termination of the garnishment, which will release the garnishee from any further obligation to hold any property of the debtor, provided that no response to the notice is filed

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within 30 days after service of the notice. On the other hand, if a response to the garnishee's notice of intent to terminate the garnishment is filed, then the garnishee may not file a termination of the garnishment.

The proposed Committee note following section (k) makes clear that the methods of terminating a garnishment set forth in section (k) is not exclusive, and that section (k) does not preclude a garnishee or other party from filing a motion to seek an order of court terminating a writ of garnishment on any other appropriate basis.

MARYLAND RULES OF PROCEDURE

TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT

CHAPTER 600 - JUDGMENT

AMEND Rule 3-645 by adding language to subsection (c)(2) requiring a writ of garnishment of property to direct the garnishee to hold the property of each judgment debtor in its possession, subject to further proceedings or to termination of the writ; by adding subsection (c)(6) requiring that the writ of garnishment notify the judgment debtor that the garnishee may file a notice of intent to terminate the garnishment 120 days or more after the garnishee files an answer, if no further filings concerning the writ of garnishment are made with the court; by making stylistic changes to section (k); and by adding subsection (k)(2) establishing a process by which a garnishee may terminate a writ of garnishment, as follows:

Rule 3-645. GARNISHMENT OF PROPERTY—GENERALLY

(a) Availability

Subject to the provisions of Rule 3-645.1, this Rule governs garnishment of any property of the judgment debtor, other than wages subject to Rule 3-646 and a partnership interest subject to a charging order, in the hands of a third

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For 6/20/19 R.C.

person for the purpose of satisfying a money judgment. Property includes any debt owed to the judgment debtor, whether immediately payable or unmatured.

(b) Issuance of Writ

The judgment creditor may obtain issuance of a writ of garnishment by filing in the same action in which the judgment was entered a request that contains (1) the caption of the action, (2) the amount owed under the judgment, (3) the name and last known address of each judgment debtor with respect to whom a writ is requested, and (4) the name and address of the garnishee. Upon the filing of the request, the clerk shall issue a writ of garnishment directed to the garnishee.

(c) Content

The writ of garnishment shall:

(1) contain the information in the request, the name and address of the person requesting the writ, and the date of issue,

(2) direct the garnishee to hold, subject to further proceedings or to termination of the writ, the property of each judgment debtor in the possession of the garnishee at the time of service of the writ and all property of each debtor that may come into the garnishee's possession after service of the writ,

(3) notify the garnishee of the time within which the answer must be filed and that failure to do so may result in judgment by default against the garnishee,

(4) notify the judgment debtor and garnishee that federal and state exemptions may be available,

(5) notify the judgment debtor of the right to contest the garnishment by filing a motion asserting a defense or objection, and

(6) notify the judgment debtor that, if the garnishee files an answer pursuant to section (e) of this Rule and no further filings concerning the writ of garnishment are made with the court within 120 days following the filing of the answer, the garnishee may file a notice of intent to terminate the writ of garnishment pursuant to subsection (k)(2) of this Rule.

Committee note: A writ of garnishment may direct a garnishee to hold the property of more than one judgment debtor if the name and address of each judgment debtor whose property is sought to be attached is stated in the writ.

(d) Service

The writ shall be served on the garnishee in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction and may be served in or outside the county. Promptly after service upon the garnishee, the person making service shall mail a copy of the writ to the judgment

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debtor's last known address. Proof of service and mailing shall be filed as provided in Rule 3-126. Subsequent pleadings and papers shall be served on the creditor, debtor, and garnishee in the manner provided by Rule 1-321.

(e) Answer of Garnishee

The garnishee shall file an answer within 30 days after service of the writ. The answer shall admit or deny that the garnishee is indebted to the judgment debtor or has possession of property of the judgment debtor and shall specify the amount and nature of any debt and describe any property. The garnishee may assert any defense that the garnishee may have to the garnishment, as well as any defense that the judgment debtor could assert. After answering, the garnishee may pay any garnished indebtedness into court and may deliver to the sheriff any garnished property, which shall then be treated as if levied upon by the sheriff. A garnishee who has filed an answer admitting indebtedness to the judgment debtor or possession of property of the judgment debtor is not required to file an amended answer solely because of an increase in the garnishee's indebtedness to the judgment debtor or the garnishee's receipt of additional property of the debtor.

(f) When No Answer Filed

If the garnishee fails to file a timely answer, the judgment creditor may proceed pursuant to Rule 3-509 for a judgment by default against the garnishee.

(g) When Answer Filed

If the garnishee files a timely answer, the matters set forth in the answer shall be treated as established for the purpose of the garnishment proceeding unless the judgment creditor files a reply contesting the answer within 30 days after its service. If a timely reply is not filed, the court may enter judgment upon request of the judgment creditor, the judgment debtor, or the garnishee. If a timely reply is filed to the answer of the garnishee, the matter shall proceed as if it were an original action between the judgment creditor as plaintiff and the garnishee as defendant and shall be governed by the rules applicable to civil actions.

(h) Interrogatories to Garnishee

The judgment creditor may serve interrogatories directed to the garnishee pursuant to Rule 3-421. The interrogatories shall contain a notice to the garnishee that, unless answers are served within 30 days after service of the interrogatories or within the time for filing an answer to the writ, whichever is later, the garnishee may be held in contempt of court. The interrogatories shall also inform the garnishee that the

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garnishee must file a notice with the court pursuant to Rule 3-401 (b). If the garnishee fails to serve timely answers to interrogatories, the court, upon petition of the judgment creditor and proof of service of the interrogatories, may enter an order in compliance with Rule 15-206 treating the failure to answer as a contempt and may require the garnishee to pay reasonable attorney's fees and costs.

(i) Release of Property; Claim by Third Person

Before entry of judgment, the judgment debtor may seek release of the garnished property in accordance with Rule 3-643, except that a motion under Rule 3-643 (d) shall be filed within 30 days after service of the writ of garnishment on the garnishee. Before entry of judgment, a third person claimant of the garnished property may proceed in accordance with Rule 3-643 (e).

(j) Judgment

The judgment against the garnishee shall be for the amount admitted plus any amount that has come into the hands of the garnishee after service of the writ and before the judgment is entered, but not to exceed the amount owed under the creditor's judgment against the debtor and enforcement costs.

(k) Termination of Writ

(1) Upon Entry of Judgment

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Upon entry of a judgment against the garnishee pursuant to section (j) of this Rule, the writ of garnishment and the lien created by the writ shall terminate and the garnishee shall be under no obligation to hold any additional property of the debtor that may come into its possession after the judgment was entered.

(2) By the Garnishee

If the garnishee has filed an answer and no further filing concerning the writ of garnishment is made within 120 days after the filing of the answer, the garnishee may file, at any time 120 days or more after the filing of the answer, a notice of intent to terminate the writ of garnishment. The notice shall (A) contain a statement that a party may object to termination of the writ by filing a response within 30 days after service of the notice and (B) be served on the judgment debtor and the judgment creditor. If no response is filed within 30 days after service of the notice, the garnishee may file a termination of the garnishment, which shall release the garnishee from any further obligation to hold any property of the debtor.

Committee note: The methods of termination of a writ of garnishment provided in section (k) of this Rule are not exclusive. Section (k) does not preclude a garnishee or other party from filing a motion to seek an order of court terminating a writ of garnishment on any other appropriate basis.

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(l) Statement of Satisfaction

Upon satisfaction by the garnishee of a judgment entered against it pursuant to section (j) of this Rule, the judgment creditor shall file a statement of satisfaction setting forth the amount paid. If the judgment creditor fails to file the statement of satisfaction, the garnishee may proceed under Rule 3-626.

Source: This Rule is derived as follows:

Section (a) is new but is consistent with former M.D.R. G47 a and G50 a.

Section (b) is new.

Section (c) is new.

Section (d) is in part derived from former M.D.R. F6 c and 104 a (iii) and is in part new.

Section (e) is in part new and in part derived from former M.D.R. G52 a and b.

Section (f) is new.

Section (g) is new.

Section (h) is derived from former M.D.R. G56.

Section (i) is new.

Section (j) is new.

Section (k) is new.

Section (l) is new.

REPORTER'S NOTE

See the Reporter's note to Rule 2-645.

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AGENDA ITEM 5

MARYLAND RULES OF PROCEDURE
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ADD new Rule 3-623, as follows:

Rule 3-623. RECORDING OF FOREIGN JUDGMENTS

(a) Generally

Subject to section (b) of this Rule, upon receiving for recordation a copy of a foreign judgment, as defined by Code, Courts Article, §11-801, that is certified or authenticated in accordance with these rules or statutes of this State, or of the United States, the clerk shall record and index the judgment. Upon recording a foreign judgment received from a person other than the clerk of the court of entry, the receiving clerk shall notify the clerk of the court of entry.

Cross reference: For the authority to file a foreign judgment in the District Court, see Code, Courts Article, §11-802 (a)(1)(ii) and (iii).

(b) Affidavit and Notice Requirements

At the time a foreign judgment is filed, the judgment creditor shall file an affidavit in compliance with Code, Courts Article, §11-803 (a). Upon receipt of the affidavit, the clerk shall mail to the judgment debtor the notice required by Code,

Courts Article, §11-803 (b) and make a docket entry notation of the mailing.

Cross reference: For enforcement of foreign judgments, see Code, Courts Article, §§ 11-801 through 11-807. For provisions governing the stay of enforcement of a judgment, see Rule 3-632.

Source: This Rule is new.

REPORTER'S NOTE

New Rule 3-623 is proposed in conjunction with proposed amendments to Rule 2-623, which governs the recording of a judgment of another court in a circuit court.

Section (a) of Rule 3-623 sets forth the procedure for recording foreign judgments filed in the District Court, as authorized by Code, Courts Article, §11-802 (a)(1)(i) and (ii).

Section (b) implements the affidavit and notice requirements for foreign judgments pursuant to Code, Courts Article, §11-803 of the Uniform Enforcement of Foreign Judgments Act.

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AMEND Rule 3-632 by adding new section (f) clarifying that a stay of enforcement of a foreign judgment is governed by Code, Courts Article, §11-804; by re-lettering current section (f) as new section (g); and by updating the source note, as follows:

Rule 3-632. STAY OF ENFORCEMENT

(a) Automatic

Except as otherwise provided in this Rule, enforcement of a money judgment is automatically stayed until the expiration of ten days after its entry.

Cross reference: For the definition of "money judgment," see Rule 1-202.

(b) Discretionary

In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay enforcement of a judgment pending the disposition of a motion for a new trial filed pursuant to Rule 3-533, a motion to alter or amend a judgment filed pursuant to Rule 3-534, or a motion to revise a judgment filed pursuant to Rule 3-535.

(c) Multiple Claims

When a court has entered a final judgment under the conditions stated in Rule 3-602, the court may stay enforcement of that judgment until the entering of a subsequent judgment and may prescribe such conditions as are necessary to secure the benefit of the judgment to the party in whose favor the judgment is entered.

(d) Pending Appeal

Except as provided in this section and in section (e) of this Rule, a stay pending appeal is governed by the procedures set forth in Rules 8-422 through 8-424. References in those rules to the Court of Special Appeals shall be regarded as references to the circuit court having jurisdiction of the appeal. If the court determines that because of the nature of the action enforcement of the judgment should not be stayed by the filing of a supersedeas bond or other security, it may enter an order denying a stay or permitting a stay only on the terms stated in the order.

(e) Injunction Pending Appeal

When an appeal is taken from an order or a judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the adverse party.

(f) Foreign Judgment

A stay of enforcement of a foreign judgment as defined in Code, Courts Article, §11-801 is governed by Code, Courts Article, §11-804.

~~(f)~~ (g) Power of Appellate Court Not Limited

The provisions of this Rule do not limit any power of an appellate court to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

Cross reference: For provisions concerning stays of judgments in municipal infraction cases, see Code, Article 23A, § 3(b)(7).

Source: This Rule is derived as follows:

Section (a) is derived from the 1961 version of Fed. R. Civ. P. 62 (a).

Section (b) is derived from the 1961 version of Fed. R. Civ. P. 62 (b).

Section (c) is derived from former M.D.R. 605 b and the 1961 version of Fed. R. Civ. P. 62 (h).

Section (d) is in part new and in part derived from former Rule 1017 e.

Section (e) is derived from the 1961 version of Fed. R. Civ. P. 62 (c).

Section (f) is new.

Section ~~(f)~~ (g) is derived from the 1961 version of Fed. R. Civ. P. 62 (g).

REPORTER'S NOTE

Amendments to Rule 3-632 are proposed in conjunction with proposed new Rule 3-623, which governs the recording of foreign

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judgments in the District Court. Proposed amendments to Rule 3-632 make clear that a stay of enforcement of a foreign judgment, as defined in Code, Courts Article, §11-801 is governed by Code, Courts Article, §11-804.