

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

April 13, 2018
(Friday)

Judiciary Education and Conference Center
Rooms UL4 & 5
2011 Commerce Park Drive
Annapolis, Maryland
9:30 a.m.

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|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Item 1. | Consideration of proposed amendments to Rules 4-262 (Discovery in District Court) and 4-263 (Discovery in Circuit Court) | Mr. Marcus |
| Item 2. | Consideration of proposed amendments to Rule 4-212 (Issuance, Service, and Execution of Summons or Warrant) | Mr. Marcus |
| Item 3. | Consideration of proposed amendments to:

Rule 4-346 (Probation)
Rule 4-351 (Commitment Record)
Rule 11-115 (Disposition Hearing) | Mr. Marcus |
| Item 4. | Consideration of proposed amendments to:

Rule 20-101 (Definitions)
Rule 20-107 (Electronic Signatures)
Rule 20-108 (Delegation of Authority to File)
Rule 20-201 (Requirements for Electronic Filing)
Rule 20-203 (Review of Clerk; Striking of Submission; Deficiency Notice; Correction; Enforcement)
Rule 20-503 (Archival of Records) | Judge Wilner |

- Item 5. Consideration of proposed amendments to: Judge Wilner
Rule 7-103 (Method of Securing Appellate
Review)
Rule 8-201 (Method of Securing Review -
Court of Special Appeals)
- Item 6. Consideration of proposed amendments to Judge Wilner
Rule 10-108 (Orders)

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-262 by adding a Committee note following subsection (d) (2) (C) (ii), as follows:

Rule 4-262. DISCOVERY IN DISTRICT COURT

. . .

(d) Disclosure by the State's Attorney

. . .

(2) On Request

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

. . .

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

All relevant material or information regarding:

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

(ii) pretrial identification of the defendant by a State's witness;

Committee note: In addition to disclosure of a pretrial identification of a defendant by a State's witness, in some cases, disclosure of a pretrial identification of a co-defendant

by a State's witness may also be required. See *Green v. State*, 456 Md. 97 (2017).

(D) Reports or Statements of Experts

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

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

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

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

(E) Evidence for Use at Trial

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

(F) Property of the Defendant

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

. . .

REPORTER'S NOTE

Rule 4-262 (d) (2) (C) (ii) requires a prosecutor to disclose, upon written request of the defense during discovery, a pretrial identification of the defendant by a State's witness; however, under circumstances such as those found in *Green v. State*, 456 Md. 97 (2017), a prosecutor also is required to disclose, upon written request of the defense during discovery, a pretrial identification of a co-defendant by a State's witness.

In *Green*, the Court held that under the specific facts of the case, "a pretrial identification of a co-defendant is relevant information regarding pretrial identification of the defendant where the pretrial identification of the co-defendant is effectively the equivalent of a pretrial identification of the defendant." 456 Md. at 161-62. In light of that holding, a Committee note to *Green* is proposed to be added following subsection (d) (2) (C) (ii).

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSE
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-263 by adding a Committee note following subsection (d)(7), as follows:

Rule 4-263. DISCOVERY IN CIRCUIT COURT

. . .

(d) Disclosure by the State's Attorney

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

. . .

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

All relevant material or information regarding:

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

(B) pretrial identification of the defendant by a State's witness;

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

(8) Reports or Statements of Experts

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

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

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

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

(9) Evidence for Use at Trial

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

(10) Property of the Defendant

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

. . .

REPORTER'S NOTE

Rule 4-263 (d)(7)(B) requires a prosecutor to disclose, during discovery, a pretrial identification of a defendant by a State's witness; however, under circumstances such as those found in Green v. State, 456 Md. 97 (2017), a prosecutor also is required to disclose, during discovery, a pretrial identification of a co-defendant by a State's witness.

In Green, the Court held that under the specific facts of the case, "a pretrial identification of a co-defendant is relevant information regarding pretrial identification of the defendant where the pretrial identification of the co-defendant is effectively the equivalent of a pretrial identification of the defendant." 456 Md. at 161-62. In light of that holding, a Committee note to Green is proposed to be added following subsection (d)(7).

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-212 by removing the phrase "the court" and replacing it with the phrase "a judge," and by requiring that a judge's order to issue an arrest warrant be made in writing or on the record, as follows:

Rule 4-212. ISSUANCE, SERVICE, AND EXECUTION OF SUMMONS OR
WARRANT

. . .

(d) Warrant - Issuance; Inspection

. . .

(2) In the Circuit Court

Upon the request of the State's Attorney, ~~the court~~ a judge may order, in writing or on the record, issuance of a warrant for the arrest of a defendant, other than a corporation, if an information has been filed against the defendant and the circuit court or the District Court has made a finding that there is probable cause to believe that the defendant committed the offense charged in the charging document or if an indictment has been filed against the defendant; and (A) the defendant has not been processed and released pursuant to Rule 4-216, 4-216.1,

or 4-216.2, or (B) the court finds there is a substantial likelihood that the defendant will not respond to a summons. A copy of the charging document shall be attached to the warrant. Unless the court finds that there is a substantial likelihood that the defendant will not respond to a criminal summons, the court shall not order issuance of a warrant for a defendant who has been processed and released pursuant to Rule 4-216, 4-216.1, or 4-216.2 if the circuit court charging document is based on the same alleged acts or transactions. When the defendant has been processed and released pursuant to Rule 4-216, 4-216.1, or 4-216.2, the issuance of a warrant for violation of conditions of release is governed by Rule 4-217.

. . .

REPORTER'S NOTE

After being contacted by some concerned clerks, the State Court Administrator requested that the Criminal Rules Subcommittee review language in Rule 4-212 relating to the issuance of arrest warrants. Specifically, the Administrator requested clarification of the phrase "the court" and the propriety of clerks signing warrants once a judge has ordered issuance of the warrants.

The Criminal Rules Subcommittee recommends that the phrase "a judge" be substituted for the phrase "the court" and that the language "in writing or on the record" be added to specify how an order to issue a warrant may be executed.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-346 by adding a new section (c) pertaining to the delivery of probation orders, judgments of restitution, and victim notifications to the Division of Parole and Probation, as follows:

Rule 4-346. PROBATION

(a) Manner of Imposing

When placing a defendant on probation, the court shall advise the defendant of the conditions and duration of probation and the possible consequences of a violation of any of the conditions. The court also shall file and furnish to the defendant a written order stating the conditions and duration of probation.

(b) Modification of Probation Order

During the period of probation, on motion of the defendant or of any person charged with supervising the defendant while on probation or on its own initiative, the court, after giving the defendant an opportunity to be heard, may modify, clarify, or terminate any condition of probation, change its duration, or impose additional conditions.

(c) Delivery or Transmittal to the Division of Parole and Probation

The clerk shall deliver or transmit a copy of any probation order, the details or a copy of any order or judgment of restitution, and the details or a copy of any request for victim notification to the Division of Parole and Probation.

Cross reference: For orders of probation or parole recommending that a defendant reside in or travel to another state as a condition of probation or parole, see the Interstate Compact for Adult Offender Supervision, Code, Correctional Services Article, §6-201 et seq. For evaluation as to the need for drug or alcohol treatment before probation is ordered in cases involving operating a motor vehicle or vessel while under the influence of or impaired by drugs or alcohol, see Code, Criminal Procedure Article, §6-220. For victim notification procedures, see Code, Criminal Procedure Article, §11-104 (f). For procedures concerning compliance with restitution judgments, see Code, Criminal Procedure Article, §11-607.

Source: This Rule is in part derived from former Rule 775 and M.D.R. 775 and in part new.

REPORTER'S NOTE

An attorney advised the Criminal Rules Subcommittee that at times, victim notification forms and orders of restitution are not reaching the individuals who need the information in order to provide notice to victims or to collect restitution, including the Division of Parole and Probation.

To address these issues, amendments to three Rules are proposed, including Rule 4-346. The proposed amendment to Rule 4-346 requires the clerk to transmit or deliver to the Division of Parole and Probation a copy of any probation order, any order or judgment of restitution, and any request for victim notification.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-351 by adding the language "or transmit" to section (a), by correcting a cross reference after subsection (a)(6), and by adding a new subsection (a)(7) pertaining to delivery to the custodial officer of any request for victim notification, as follows:

Rule 4-351. COMMITMENT RECORD

(a) Content

When a person is convicted of an offense and sentenced to imprisonment, the clerk shall deliver or transmit to the officer into whose custody the defendant has been placed a commitment record containing:

- (1) The name and date of birth of the defendant;
- (2) The docket reference of the action and the name of the sentencing judge;
- (3) The offense and each count for which the defendant was sentenced;
- (4) The sentence for each count, the date the sentence was imposed, the date from which the sentence runs, and any credit allowed to the defendant by law;

(5) A statement whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of the preceding term or to any other outstanding or unserved sentence; ~~and~~

(6) the details or a copy of any order or judgment of restitution; and

(7) the details or a copy of any request for victim notification.

Cross reference: See Code, Criminal Procedure Article, §6-216 (c) concerning Maryland Sentencing Guidelines Worksheets prepared by a court. See Code, Criminal Procedure Article, §11-104 ~~(f)~~ (g) for notification procedures for victims. See Code, Criminal Procedure Article, §11-607 for procedures concerning compliance with restitution judgments.

(b) Effect of Error

An omission or error in the commitment record or other failure to comply with this Rule does not invalidate imprisonment after conviction.

Source: This Rule is derived from former Rule 777 and M.D.R. 777.

REPORTER'S NOTE

An attorney advised the Criminal Rules Subcommittee that at times, victim notification forms and orders of restitution are not reaching the individuals who need the information in order to provide notice to victims or to collect restitution, including correctional officers and detention centers.

To address these issues, amendments to three Rules are proposed, including Rule 4-351. The proposed amendment to Rule 4-351 requires the clerk to transmit or deliver to the officer

into whose custody a defendant has been placed the details or a copy of any request for victim notification.

In addition, the language "or transmit" is proposed to be added to section (a), and a citation in the cross reference following subsection (a)(6) has been updated.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

AMEND Rule 11-115 by adding a new section (e) requiring the delivery or transmittal of the details or a copy of any order or judgment of restitution and any request for victim notification to the custodial agency, as follows:

Rule 11-115. DISPOSITION HEARING

. . .

(e) Delivery or Transmittal of Documents to Custodial Agency

Along with any commitment or probation order, the clerk shall deliver or transmit the details or a copy of any order or judgment of restitution and any request for victim notification to the agency having custody of or supervision over the child.

Source: This Rule is former Rule 915.

REPORTER'S NOTE

An attorney advised the Criminal Rules Subcommittee that at times, victim notification forms and orders of restitution are not reaching the individuals who need the information in order to provide notice to victims or to collect restitution, including the agencies that have custody of or supervision over a child.

To address these issues, amendments to three Rules are proposed, including Rule 11-115. The proposed amendment to Rule 11-115 requires the clerk to deliver or transmit to the agency having custody of or supervision over a child the details or a copy of any order or judgment of restitution and any request for victim notification.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-101 by deleting definitions of "digital signature," "facsimile signature," and "typographical signature"; by revising the definition of "signature"; and by adding a Committee note and cross reference following the definition of "signature," as follows:

Rule 20-101. DEFINITIONS

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

(a) Appellate Court

"Appellate court" means the Court of Appeals or the Court of Special Appeals, whichever the context requires.

(b) Business Day

"Business day" means a day that the clerk's office is open for the transaction of business. For the purpose of the Rules in this Title, a "business day" begins at 12:00.00 a.m. and ends at 11:59.59 p.m.

(c) Clerk

"Clerk" means the Clerk of the Court of Appeals, the Court of Special Appeals, or a circuit court, an administrative clerk of the District Court, and authorized assistant clerks in those offices.

(d) Concluded

An action is "concluded" when

- (1) final judgment has been entered in the action;
- (2) there are no motions, other requests for relief, or charges pending; and
- (3) the time for appeal has expired or, if an appeal or an application for leave to appeal was filed, all appellate proceedings have ended.

Committee note: This definition applies only to the Rules in Title 20 and is not to be confused with the term "closed" that is used for other administrative purposes.

~~(e) Digital Signature~~

~~"Digital signature" means a secure electronic signature inserted using a process approved by the State Court Administrator that uniquely identifies the signer and ensures authenticity of the signature and that the signed document has not been altered or repudiated.~~

~~(f) Facsimile Signature~~

~~"Facsimile signature" means a scanned image or other visual representation of the signer's handwritten signature,~~

~~other than a digital signature, together with the signer's typed name.~~

~~(g)~~ (e) Filer

"Filer" means a person who is accessing the MDEC system for the purpose of filing a submission.

Committee note: The internal processing of documents filed by registered users, on the one hand, and those transmitted by judges, judicial appointees, clerks, and judicial personnel, on the other, is different. The latter are entered directly into the MDEC electronic case management system, whereas the former are subject to clerk review under Rule 20-203. For purposes of these Rules, however, the term "filer" encompasses both groups.

~~(h)~~ (f) Hand-Signed or Handwritten Signature

"Hand-signed or handwritten signature" means the signer's original genuine signature on a paper document.

~~(i)~~ (g) Hyperlink

"Hyperlink" means an electronic link embedded in an electronic document that enables a reader to view the linked document.

~~(j)~~ (h) Judge

"Judge" means a judge of the Court of Appeals, Court of Special Appeals, a circuit court, or the District Court of Maryland and includes a senior judge when designated to sit in one of those courts.

~~(k)~~ (i) Judicial Appointee

"Judicial appointee" means a judicial appointee, as defined in Rule 18-200.3.

~~(l)~~ (j) Judicial Personnel

"Judicial personnel" means an employee of the Maryland Judiciary, even if paid by a county, who is employed in a category approved for access to the MDEC system by the State Court Administrator;

~~(m)~~ (k) MDEC or MDEC System

"MDEC" or "MDEC system" means the system of electronic filing and case management established by the Court of Appeals.

Committee note: "MDEC" is an acronym for Maryland Electronic Courts. The MDEC system has two components. (1) The electronic filing system permits users to file submissions electronically through a primary electronic service provider (PESP) subject to clerk review under Rule 20-203. The PESP transmits registered users' submissions directly into the MDEC electronic filing system and collects, accounts for, and transmits any fees payable for the submission. The PESP also accepts submissions from approved secondary electronic service providers (SESP) that filers may use as an intermediary. (2) The second component - the electronic case management system - accepts submissions filed through the PESP, maintains the official electronic record in an MDEC county, and performs other case management functions.

~~(n)~~ (l) MDEC Action

"MDEC action" means an action to which this Title is made applicable by Rule 20-102.

~~(o)~~ (m) MDEC County

"MDEC County" means a county in which, pursuant to an administrative order of the Chief Judge of the Court of Appeals posted on the Judiciary website, MDEC has been implemented.

~~(p)~~ (n) MDEC Start Date

"MDEC Start Date" means the date specified in an administrative order of the Chief Judge of the Court of Appeals posted on the Judiciary website from and after which a county first becomes an MDEC County.

~~(e)~~ (o) MDEC System Outage

(1) For registered users other than judges, judicial appointees, clerks, and judicial personnel, "MDEC system outage" means the inability of the primary electronic service provider (PESP) to receive submissions by means of the MDEC electronic filing system.

(2) For judges, judicial appointees, clerks, and judicial personnel, "MDEC system outage" means the inability of the MDEC electronic filing system or the MDEC electronic case management system to receive electronic submissions.

~~(r)~~ (p) Redact

"Redact" means to exclude information from a document accessible to the public.

~~(s)~~ (q) Registered User

"Registered user" means an individual authorized to use the MDEC system by the State Court Administrator pursuant to Rule 20-104.

~~(t)~~ (r) Restricted Information

"Restricted information" means information (1) prohibited by Rule or other law from being included in a court record, (2)

required by Rule or other law to be redacted from a court record, (3) placed under seal by a court order, or (4) otherwise required to be excluded from the court record by court order.

Cross reference: See Rule 1-322.1 (Exclusion of Personal Identifier Information in Court Filings) and the Rules in Title 16, Chapter 900 (Access to Judicial Records).

~~(u)~~ (s) Scan

"Scan" means to convert printed text or images to an electronic format compatible with MDEC.

~~(v)~~ (t) Signature

Unless otherwise specified, "signature" means ~~any of the following: a digital signature, a facsimile signature, a handwritten signature, or a typographical signature~~ a symbol or writing that is placed on, attached to, or logically associated with a document that (1) is adopted by the signer and is intended by the signer as the signer's signature, and (2) is accompanied by the signer's typewritten name, which shall be regarded as part of the signature.

Committee note: For the purpose of electronic filing of a submission, the filer may use "/s/" for the symbol component of the filer's signature.

Cross reference: Rule 20-107.

~~(w)~~ (u) Submission

"Submission" means a pleading or other document filed in an action. "Submission" does not include an item offered or admitted into evidence in open court.

Cross reference: See Rule 20-402.

~~(x)~~ (v) Tangible Item

"Tangible item" means an item that is not required to be filed electronically. A tangible item by itself is not a submission; it may either accompany a submission or be offered in open court.

Cross reference: See Rule 20-106 (c) (2) for items not required to be filed electronically.

Committee note: Examples of tangible items include an item of physical evidence, an oversize document, and a document that cannot be legibly scanned or would otherwise be incomprehensible if converted to electronic form.

~~(y)~~ (w) Trial Court

"Trial court" means the District Court of Maryland and a circuit court, even when the circuit court is acting in an appellate capacity.

Committee note: "Trial court" does not include an orphans' court, even when, as in Harford and Montgomery Counties, a judge of the circuit court is sitting as a judge of the orphans' court.

~~(z)~~ ~~Typographical Signature~~

~~"Typographical signature" means the symbol "/s/" affixed to the signature line of a submission, together with the typed name, address, e-mail address, and telephone number of the signer.~~

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 20-101 simplify the concept of a "signature," as applied in the Rules in Title 20, and delete the definitions of "digital signature," "facsimile signature," and "typographical signature."

Under the revised definition, a "signature" contains two components: (1) a symbol adopted by the signer as the signer's signature and (2) the signer's typewritten name. Together with proposed amendments to Rules 20-107 and 20-203, the revised definition provides clearer guidance as to when a submission is subject to being stricken by a clerk because the submission lacks a signature. A Committee note following the definition states that a filer may use the symbol "/s/," which currently is part of the definition of "typographical signature," as the symbol component of the filer's signature. Also following the definition, a cross reference to Rule 20-107 is added.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-107 by changing the name of the Rule; by requiring signatures that conform to the proposed revised definition of "signature"; by requiring that certain information be included below the filer's signature and specifying that the information shall not be regarded as part of the signature; by deleting references to "digital signature," "facsimile signature," and "typographical signature"; by adding a cross reference following section (a); by adding provisions pertaining to clerks' signatures to section (b); by deleting section (c); by specifying the two methods by which a judge, judicial appointee, or clerk may sign a submission; and by making stylistic changes, as follows:

Rule 20-107. ~~ELECTRONIC~~ MDEC SIGNATURES

(a) Signature by Filer; Generally Additional Information Below Signature

~~(1)~~ Subject to sections (b), (c), and (d), ~~and (e)~~ of this Rule, when a filer is required to sign a submission, the ~~filer~~ shall ~~electronically sign the submission by inserting a (A) facsimile signature or (B) typographical signature.~~

~~(2) The filer shall insert the electronic submission shall:~~
(1) include the filer's signature on the submission, and
(2) provide the following information below the filer's
signature: ~~above the filer's typed name,~~ the filer's address, e-mail address, and telephone number and, if the filer is an attorney, the attorney's Client Protection Fund ID number. That information shall not be regarded as part of the signature. ~~An~~ electronic A signature on an electronically filed submission constitutes and has the same force and effect as a signature required under Rule 1-311.

Cross reference: For the definition of "signature" applicable to MDEC submissions, see Rule 20-101 (t).

(b) Signature by Judge, ~~or~~ Judicial Appointee, or Clerk

A judge, ~~or~~ judicial appointee, or clerk shall sign a submission ~~electronically~~ by:

(1) personally affixing the judge's, ~~or~~ judicial appointee's, or clerk's digital signature to the submission by using an electronic process approved by the State Court Administrator, or

(2) hand-signing a paper version of the submission and scanning ~~or directing an assistant to scan~~ the hand-signed submission ~~to convert the handwritten signature to a facsimile signature in preparation for electronic filing~~ into the MDEC system.

Cross reference: For delegation by an attorney, judge, or judicial appointee to file a signed submission, see Rule 20-108.

~~(e)~~ Signature by Clerk

~~When a clerk is required to sign a submission electronically, the clerk's signature shall be a digital signature or a facsimile signature.~~

~~(d)~~ (c) Multiple Signatures on a Single Document

When the signature of more than one person is required on a document, the filer shall (1) confirm that the content of the document is acceptable to all signers; (2) obtain the ~~handwritten, facsimile, typographical, or digital~~ signatures of all signers; and (3) file the document electronically, indicating the signers in the same manner as the filer's signature. Filers other than judges, judicial appointees, clerks, and judicial personnel shall retain the signed document at least until the action is concluded.

~~(e)~~ (d) Signature Under Oath, Affirmation, or With Verification

When a person is required to sign a document under oath, affirmation, or with verification, the signer shall hand-sign the document. The filer shall scan the hand-signed document, ~~converting the signer's handwritten signature to a facsimile signature,~~ and file the scanned document electronically. The filer shall retain the original hand-signed document at least

until the action is concluded or for such longer period ordered by the court. At any time prior to the conclusion of the action, the court may order the filer to produce the original hand-signed document.

~~(f)~~ (e) Verified Submissions

When a submission is verified or ~~attaches~~ the submission includes a document under oath, the ~~electronic~~ signature of the filer constitutes a certification by the filer that (1) the filer has read the entire document; (2) the filer has not altered, or authorized the alteration of, the text of the verified material; and (3) the filer has either personally filed the submission or has authorized a designated assistant to file the submission on the filer's behalf pursuant to Rule 20-108.

Cross reference: For the definition of "hand-signed," see Rule 20-101.

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 20-107 change the name of the Rule and conform its provisions to the amendments to Rule 20-101.

The terms "digital signature," "facsimile signature," and "typographical signature" are deleted from the Rule, and the term "signature" is used throughout.

Amendments to section (a) clearly separate the requirement that a filer's signature be on a submission (subsection (a)(1)) from the requirement that certain additional information be included below the filer's signature (subsection (a)(2)). The amendments include a statement that the additional information

"shall not be regarded as part of the signature." As noted in a proposed new Committee note following Rule 20-203 (c), while the absence of the accompanying information may be cause for the issuance of a deficiency notice, the absence of the information does not trigger the striking of the submission by the clerk for lack of a signature.

Provisions pertaining to signatures by clerks are moved to section (b) of Rule 20-107, and section (c) of the Rule is deleted. As amended, section (b) specifies the two methods by which a judge, judicial appointee, or clerk may sign a submission: (1) by affixing a signature using an electronic process approved by the State Court Administrator or (2) by hand-signing the submission and scanning the hand-signed submission into the MDEC system. The term "an electronic process approved by the State Court Administrator" is used in place of the deleted term "digital signature."

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-108 by deleting the word "electronically" in section (b), as follows:

Rule 20-108. DELEGATION OF AUTHORITY TO FILE

(a) Attorneys

After a submission has been signed in accordance with Rule 20-107, an attorney may authorize a paralegal, assistant, or other staff member in the attorney's office to file the signed submission electronically on behalf of the attorney. A submission filed pursuant to this delegation constitutes a filing by the attorney and the attorney's assurance that the attorney has complied with the requirements of Rule 1-311 (b) and has authorized the paralegal, assistant, or staff member to file the submission. The attorney is responsible for assuring that there is no unauthorized use of the attorney's username or password.

Cross reference: See Rule 2-311 (b) for the effect of signing pleadings and other papers.

(b) Judges and Judicial Appointees

After a submission has been signed ~~electronically~~ in accordance with Rule 20-107, a judge or judicial appointee may

authorize a secretary, administrative assistant, or law clerk to file the signed submission electronically on behalf of the judge or judicial appointee. The judge or judicial appointee who signs the submission is responsible for assuring that there is no unauthorized use of the signer's username and password.

Source: This Rule is new.

REPORTER'S NOTE

A proposed amendment to Rule 20-108 deletes the word "electronically" in section (b), conforming the Rule to proposed changes to Rule 20-101.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-201 (f) by deleting certain language, by adding a certain requirement pertaining to an initial filing or a change in e-mail address, and by adding a Committee note, as follows:

Rule 20-201. REQUIREMENTS FOR ELECTRONIC FILING

. . .

(f) Service Contact Information

~~Unless previously provided, a~~ A registered user who files a submission and who will be entitled to electronic service of subsequent submissions in the action shall include in the submission accurate information as to the e-mail address where such electronic service may be made upon the registered user. If the submission is the registered user's initial submission in an action, or if a change in the e-mail address is made, the filer also shall provide service contact information by using the "Actions" drop-down box that is part of the MDEC submission process.

Committee note: If the "Actions" drop-down box is not used to provide service contact information when an initial submission is filed in an action, the default e-mail address for subsequent notifications and service of other parties' submission in the

action will be the e-mail address that the filer used when transmitting the initial submission in the action.

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REPORTER'S NOTE

Proposed amendments to Rule 20-201 (f) and a Committee note following section (f) address a "service contact information" problem that has arisen in MDEC.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-203 by deleting the second sentence of subsection (a)(2), by clarifying procedures pertaining to certain non-compliant submissions, by providing for the refund of certain fees only upon motion and order of the court, and by adding a Committee note following section (c), as follows:

Rule 20-203. REVIEW BY CLERK; STRIKING OF SUBMISSION;
DEFICIENCY NOTICE; CORRECTION; ENFORCEMENT

(a) Time and Scope of Review

(1) Inapplicability of Section

This section does not apply to a submission filed by a judge, or, subject to Rule 20-201 (m), a judicial appointee.

(2) Review by Clerk

As soon as practicable, the clerk shall review a submission for compliance with Rule 20-106, 20-107 (a)(1), 20-201 (d), (g), and (l) and the published policies and procedures for acceptance established by the State Court Administrator. ~~Until the submission is accepted by the clerk, it remains in the clerk's queue and shall not be docketed.~~

(b) Docketing

(1) Generally

The clerk shall promptly correct errors of non-compliance that apply to the form and language of the proposed docket entry for the submission. The docket entry as described by the filer and corrected by the clerk shall become the official docket entry for the submission. If a corrected docket entry requires a different fee than the fee required for the original docket entry, the clerk shall advise the filer, electronically, if possible, or otherwise by first-class mail of the new fee and the reasons for the change. The filer may seek review of the clerk's action by filing a motion with the administrative judge having direct administrative supervision over the court.

(2) Submission Signed by Judge or Judicial Appointee

The clerk shall enter on the docket each judgment, order, or other submission signed by a judge or judicial appointee.

(3) Submission Generated by Clerk

The clerk shall enter on the docket each writ, notice, or other submission generated by the clerk.

(c) Striking of Certain Non-compliant Submissions

If, upon review pursuant to section (a) of this Rule, the clerk determines that a submission, other than a submission filed by a judge or, subject to Rule 20-201 (m), by a judicial

appointee, fails to comply with the requirements of Rule 20-107 (a) (1) or Rule 20-201 (g), the clerk shall (1) make a docket entry that the submission was received, (2) strike the submission, ~~(2)~~ (3) notify the filer and all other parties of the striking and the reason for it, and ~~(3)~~ (4) enter on the docket that the submission ~~was received, that it~~ was stricken for non-compliance with the applicable section of Rule 20-107 (a) (1) or Rule 20-201 (g), and that notice pursuant to this section was sent. The filer may seek review of the clerk's action by filing a motion with the administrative judge having direct administrative supervision over the court. Any fee associated with the filing shall be refunded only on motion and order of the court.

Committee note: The clerk may strike a submission that does not contain a signature as that term is defined in Rule 2-101 (t), including the signer's typewritten name. The absence of the accompanying information required by Rule 20-107 (a) (2) is cause for a deficiency notice pursuant to section (d) of this Rule but not for striking the submission.

(d) Deficiency Notice

(1) Issuance of Notice

If, upon review, the clerk concludes that a submission is not subject to striking under section (c) of this Rule but materially violates a provision of the Rules in Title 20 or an applicable published policy or procedure established by the State Court Administrator, the clerk shall send to the filer

with a copy to the other parties a deficiency notice describing the nature of the violation.

(2) Judicial Review; Striking of Submission

The filer may file a request that the administrative judge, or a judge designated by the administrative judge, direct the clerk to withdraw the deficiency notice. Unless (A) the judge issues such an order, or (B) the deficiency is otherwise resolved within 10 days after the notice was sent, upon notification by the clerk, the court shall strike the submission.

(e) Restricted Information

(1) Shielding Upon Issuance of Deficiency Notice

If, after filing, a submission is found to contain restricted information, the clerk shall issue a deficiency notice pursuant to section (d) of this Rule and shall shield the submission from public access until the deficiency is corrected.

(2) Shielding of Unredacted Version of Submission

If, pursuant to Rule 20-201 (h) (2), a filer has filed electronically a redacted and an unredacted submission, the clerk shall docket both submissions and shield the unredacted submission from public access. Any party and any person who is the subject of the restricted information contained in the unredacted submission may file a motion to strike the unredacted

submission. Upon the filing of a motion and any timely answer, the court shall enter an appropriate order.

(3) Shielding on Motion of Party

A party aggrieved by the refusal of the clerk to shield a filing or part of a filing that contains restricted information may file a motion pursuant to Rule 16-912.

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 20-203 address the handling of certain non-compliant submissions.

The second sentence of subsection (a)(2) is deleted to assure that non-compliant submissions are not rejected at the "File and Serve" level of MDEC processing. Rather, a non-compliant submission is transmitted out of "File and Serve" into the "Odyssey" portion of the MDEC system, where the clerk proceeds to handle it in accordance with other sections of the Rule, as applicable.

Section (c) is revised and restyled to clarify the procedure for handling a submission that fails to comply with the requirements of Rule 20-107 (a)(1) or Rule 20-201 (g). A new sentence is added at the end of section (c) to provide that any fee associated with a filing that is stricken pursuant to section (c) is refundable only on motion and order of the court.

A Committee note following section (c) also is proposed. It addresses the distinction between a submission that does not contain a signature, which is subject to being stricken by a clerk, and a submission that does not contain the accompanying information required by Rule 20-107 (a)(2), which is cause for a deficiency notice but not striking.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 - MISCELLANEOUS RULES

AMEND Rule 20-503 (a) by adding the phrase, "upon the full statewide implementation of MDEC, as follows:

Rule 20-503. ARCHIVAL OF RECORDS

(a) Development of Plan

~~The~~ Upon the full statewide implementation of MDEC, the State Court Administrator shall work with the State Archivist to develop a plan for the transmission of electronic case records to the Maryland State Archives for the purpose of archiving of those records. Any plan recommended by the State Archivist and the State Court Administrator shall be presented to the Court of Appeals for approval. The plan shall not take effect until approved by the Court of Appeals after a public hearing.

(b) Contents of Plan

The plan shall provide for:

(1) the entire lifecycle of the electronic record, including creation, use, destruction, and transfer to the Maryland State Archives;

(2) the Courts' records retention and disposition schedules to define the retention period of non-permanent records and the

transfer of permanent electronic records to the Maryland State Archives;

(3) when electronic records may be transmitted to the Maryland State Archives;

(4) the categories or types of records to be transmitted or not to be transmitted;

(5) the format and manner of transmission and the format in which the records will be retained by the Maryland State Archives;

(6) the preservation of all limitations on public access to the transmitted electronic records provided for by the Rules in Title 16, Chapter 900 and Title 20 of these Rules until such time or times provided for in the plan;

(7) a method by which MDEC can retrieve and modify records transmitted to the Maryland State Archives;

(8) procedures for the expungement of records transmitted to the Maryland State Archives when ordered by a court in accordance with applicable expungement laws;

(9) procedures to ensure that the electronic records are exported for transfer to the Maryland State Archives in non-proprietary (open-source) formats that constitute a complete and accurate representation of the record as defined by the Court;
and

(10) any other matters relevant to the transmission and archiving of court records, including the tracking, verification, and authentication of transfers.

(c) Optional - Archives as Duplicate Repository

The plan may provide for immediate transmission of electronically filed case records in order that the Maryland State Archives constitute a duplicate repository of electronic court records.

Source: This Rule is new.

REPORTER'S NOTE

A proposed amendment to Rule 20-503 adds the phrase, "upon full statewide implementation of MDEC," to section (a). The larger counties and Baltimore City are among the final jurisdictions in which MDEC implementation will occur, and issues may surface in those jurisdictions that were not observed in smaller jurisdictions. After full statewide implementation of MDEC, the experience of all jurisdictions regarding records in the MDEC system can be taken into account in the formulation of the plan.

MARYLAND RULES OF PROCEDURE

TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT

CHAPTER 100 - APPEALS FROM THE DISTRICT COURT

TO THE CIRCUIT COURT

AMEND Rule 7-103 (e) by requiring the clerk to enter on the docket a statement of the fees paid and forward the filing fee to the circuit court only in a non-MDEC county, as follows:

Rule 7-103. METHOD OF SECURING APPELLATE REVIEW

(a) By Notice of Appeal

The only method of securing appellate review in the circuit court is by the filing of a notice of appeal with the clerk of the District Court within the time prescribed in Rule 7-104.

(b) District Court Costs

Unless the prepayment of prepaid costs has been waived in accordance with Rule 1-325.1, before the clerk transmits the record pursuant to section (e) of this Rule, the appellant shall pay to the clerk of the District Court the cost of preparation of a transcript, if a transcript is necessary to the appeal.

Cross reference: Rule 7-113 (b).

(c) Filing Fee

Within the time for transmitting the record under Rule 7-108, the appellant shall deposit the fee prescribed by Code, Courts Article, §7-202 with the clerk of the District Court unless:

(1) if the appeal is in a civil action, the prepayment of prepaid costs has been waived in accordance with Rule 1-325.1; or

(2) if the appeal is in a criminal action, the fee has been waived by an order of court or the appellant is represented by the Public Defender's Office.

(d) Appeals Where Public Defender Representation Denied - Payment by State

The court shall order the State to pay the court costs related to an appeal and the costs of preparing any transcript of testimony necessary in connection with the appeal in any case in which (1) the Public Defender's Office is authorized by these Rules or other law to represent a party, (2) the Public Defender has declined representation of the party, and (3) the party is unable by reason of poverty to pay those costs.

(e) Transmittal of Record

After all required fees have been paid, the clerk shall transmit the record as provided in Rules 7-108 and 7-109. ~~The filing fee shall be forwarded~~ The clerk shall enter on the docket a statement of the fees paid, and, in a non-MDEC county,

forward the filing fee with the record to the clerk of the circuit court.

Committee note: When a notice of appeal is filed, the clerk should check the docket to see if it contains the entry of a judgment in compliance with Rules 3-601 and 3-602, and if not, advise the parties and the court. This note is not intended to authorize the clerk to reject a notice of appeal or to place a mandatory duty on the clerk, or to relieve counsel of their responsibility to assure that there is an appealable order or judgment properly entered on the docket before noting an appeal.

Source: This Rule is derived from former Rule 1311, except that section (d) is derived from the 2014 version of former Rule 1-325 (b).

REPORTER'S NOTE

In an MDEC county, filing fees are processed electronically; no paper checks are forwarded with the record.

Proposed amendments to Rules 7-103 and 8-201 require that the clerk of the lower court enter on the docket a statement of the fees paid, and forward the filing fee to the appellate court only if the lower court is in a non-MDEC county, or if it is an orphans' court.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-201 (c) by requiring the clerk to enter on the docket a statement of the fees paid and forward the filing fee to the clerk of the Court of Special Appeals only if the lower court is a circuit court in a non-MDEC county or an orphans' court, as follows:

Rule 8-201. METHOD OF SECURING REVIEW - COURT OF SPECIAL APPEALS

(a) By Notice of Appeal

Except as provided in Rule 8-204, the only method of securing review by the Court of Special Appeals is by the filing of a notice of appeal within the time prescribed in Rule 8-202. The notice shall be filed with the clerk of the lower court or, in an appeal from an order or judgment of an Orphans' Court, with the register of wills. The clerk or register shall enter the notice on the docket.

(b) Filing Fees

At the time of filing a notice of appeal in a civil case, or within the time for transmitting the record under Rule 8-412

in a criminal case, an appellant shall deposit the fee prescribed pursuant to Code, Courts Article, §7-102 with the clerk of the lower court unless:

(1) if the appeal is in a civil action, the prepayment of prepaid costs has been waived in accordance with Rule 1-325.1; or

(2) if the appeal is in a criminal action, the fee has been waived by an order of court or the appellant is represented by the Public Defender's Office

(c) Transmittal of Record

After all required fees have been deposited, the clerk shall transmit the record as provided in Rules 8-412 and 8-413. ~~The fee shall be forwarded~~ The clerk shall enter on the docket a statement of the fees paid, and, if the lower court is a circuit court in a non-MDEC county or an orphans' court, forward the filing fee with the record to the Clerk of the Court of Special Appeals.

Committee note: When a notice of appeal is filed, the clerk should check the docket to see if it contains the entry of a judgment in compliance with Rules 2-601 and 2-602, and if not, advise the parties and the court. This note is not intended to authorize the clerk to reject a notice of appeal, to place a mandatory duty on the clerk, or to relieve counsel of their responsibility to assure that there is an appealable order or judgment properly entered on the docket before noting an appeal.

Source: This Rule is derived from former Rule 1011 with the exception of the first sentence of (a) which is derived from former Rule 1010.

REPORTER'S NOTE

See the Reporter's note to Rule 7-103.

MARYLAND RULES OF PROCEDURE

TITLE 10- GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-108 to clarify that the authority of a guardian to act pursuant to the terms of an order of appointment is not affected by a certain directive in the order and to add language pertaining to monitoring and enforcing compliance with the directive to the Committee note following subsection (a)(1), as follows:

Rule 10-108. ORDERS

(a) Order Appointing Guardian

(1) Generally

An order appointing a guardian shall:

(A) state whether the guardianship is of the property, the person, or both;

(B) state the name, sex, and date of birth of the minor or disabled person;

(C) state the name, address, telephone number, and e-mail address, if available, of the guardian;

(D) state whether the appointment of a guardian is solely due to a physical disability, and if not, the reason for the guardianship;

(E) state (i) the amount of the guardian's bond or that a bond is waived and (ii) the date by which proof of any bond shall be filed with the court;

Cross reference: See Rule 10-702 (a), requiring the bond to be filed before the guardian commences the performance of any fiduciary duties.

(F) state the date by which any annual report of the guardian shall be filed; and

Cross reference: See Rule 10-706 (b).

(G) state the specific powers and duties of the guardian and any limitations on those powers or duties either expressly or by referring to the specific sections or subsections of an applicable statute containing those powers and duties; and

(H) except as to a public guardian, unless the guardian has already satisfied the requirement or the court orders otherwise, direct the guardian to complete an orientation program and training in conformance with the applicable *Guidelines for Court-Appointed Guardians* attached as an Appendix to the Rules in this Title. A directive in an order of appointment requiring the guardian to complete an orientation program and training does not affect the authority of the guardian to act pursuant to the other provisions of the order.

Committee note: An example of an appointment as to which waiver of the orientation and training requirements of subsection (a) (1) (H) may be appropriate is the appointment of a temporary guardian for a limited purpose or specific transaction. If an order contains a directive to complete an orientation program

and training, compliance with the directive should be monitored by the trust clerk or other person designated by the court and may be enforced by the court.

Cross reference: Code, Estates and Trusts Article, §§13-201 (b) and (c), 13-213, 13-214, 13-705 (b), 13-708, and 15-102 and Title 15, Subtitle 6 (Maryland Fiduciary Access to Digital Assets Act).

(2) Confidential Information

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

Committee note: Disclosure of identifying information to financial institutions and health care providers, for example, may be necessary to further the purposes of the guardianship. Cross reference: See Rule 16-907 (f) and (j) and Rule 16-908 (d).

(b) Letters of Guardianship

An order appointing a guardian entered under this Rule constitutes "letters of guardianship" as that term is used in Code, Estates and Trusts Article.

Cross reference: Code, Estates and Trusts Article, §§13-215 and 13-217, and 13-219.

(c) Orders Assuming Jurisdiction over a Fiduciary Estate
Other than a Guardianship

An order assuming jurisdiction over a fiduciary estate other than a guardianship shall state whether the court has assumed full jurisdiction over the estate. If it has not assumed full jurisdiction over the estate or if jurisdiction is contrary to the provisions in the instrument, the order shall state the extent of the jurisdiction assumed. The order shall state the amount of the fiduciary's bond or that the bond is waived.

(d) Modifications

The court may modify any order of a continuing nature in a guardianship or fiduciary estate upon the petition of an interested person or on its own initiative, and after notice and opportunity for hearing.

Source: This Rule is derived as follows:

Section (a) is derived in part from Code, Estates and Trusts Article, §§13-208 and 13-708 and is in part new.

Section (b) is new.

Section (c) is derived from former Rules V71 f 1 and f 2.

Section (d) is derived in part from former Rule R78 b and is in part new.

REPORTER'S NOTE

The Rules Committee has been advised that some financial institutions are questioning the authority of a guardian to act pursuant to an order of appointment when the order contains a directive requiring the guardian to complete an orientation program and training and the guardian can provide no proof that the orientation program and training have been completed.

Although the Judiciary is able to track compliance with the orientation and training requirements, it is not contemplated that certificates of compliance will be issued. Additionally, the guardian may need to perform some acts for the benefit of

the ward before the guardian has had the opportunity to complete the requirements.

The proposed amendment to Rule 10-108 (a)(1)(H) clarifies that a directive in an order of appointment requiring the guardian to complete an orientation program and training does not affect the authority of the guardian to act pursuant to the other terms of the order. A guardian who fails to complete the requirements in a timely manner may be subject to removal, but prior to any such removal, the guardian has the authority to exercise powers and perform duties for the benefit of the ward.

Language pertaining to monitoring and enforcing compliance with a directive to complete an orientation program and training is proposed to be added to the Committee note following subsection (a)(1).