

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its One Hundred Fifty-Seventh Report to the Court of Appeals, transmitting thereby proposed new Rules 9-205.1 (Appointment of Child's Counsel) and 16-804.1 (Judicial Inquiry Board); new Forms 9-102.1, 9-102.2, 9-102.3, 9-102.4, 9-102.5, 9-102.6, 9-102.7, 9-102.8, 9-102.9, and 9-102.10; and new Appendix: Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access and proposed amendments to Rules 1-101, 1-104, 1-202, 2-126, 2-201, 2-341, 2-504, 2-532, 2-533, 2-534, 2-535, 2-641, 2-644, 2-645, 2-652, 3-126, 3-201, 3-641, 3-644, 4-214, 4-217, 4-261, 4-342, 4-343, 4-345, 4-347 4-642, 5-615, 7-112, 8-423, 8-605.1, 9-101, 9-102, 9-103, 9-104, 9-105, 9-106, 9-107, 9-108, 9-109, 9-110, 9-111, 9-112, 9-113, 9-203, 14-206, 16-109, 16-803, 16-804, 16-805, 16-806, 16-808, 16-811, 16-819 (d), 16-819 (e), 16-903, 16-1002, and 16-1006; Appendix: Maryland Code of Conduct for Court Interpreters; and Appendix: Maryland Lawyers' Rules of Professional Conduct, Preamble and Scope and the Comments to Rules 1.7, 1.14, and 2.1.

The Committee's One Hundred Fifty-Seventh Report and the proposed new rules, new forms, and amendments are set forth below.

Interested persons are asked to consider the Committee's Report and proposed rules changes and to forward on or before

February 19, 2007 any written comments they may wish to make to:

Sandra F. Haines, Esq.
Reporter, Rules Committee
2011-D Commerce Park Drive
Annapolis, Maryland 21401

ALEXANDER L. CUMMINGS
Clerk
Court of Appeals of Maryland

December 19, 2006

ONE HUNDRED FIFTY-SEVENTH REPORT
OF THE
STANDING COMMITTEE ON RULES
OF PRACTICE AND PROCEDURE

The Honorable Robert M. Bell,
Chief Judge

The Honorable Irma S. Raker
The Honorable Alan M. Wilner
The Honorable Dale R. Cathell
The Honorable Glenn T. Harrell, Jr.
The Honorable Lynne A. Battaglia
The Honorable Clayton Greene, Jr.,
Judges

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

Your Honors:

The Rules Committee submits this, its One Hundred Fifty-Seventh Report, and recommends that the Court adopt the proposed Rules changes transmitted with this Report. The proposed changes fall into eight categories. Following is a brief description of the principal proposals in each category.

In **Category One** are proposed amendments to fourteen Rules in Titles 2 and 3. A Committee note that refers to the definition of "process" set forth in Rule 1-202 is proposed to be added to Rules 2-126 and 3-126 to reduce the number of requests for orders of default that are being made without a return of service of process having been made. With respect to filing papers in an action in the name of "John Doe," a cross-reference to *Doe v. Shady Grove Hospital*, 89 Md. App. 351 (1991) is proposed to be added to Rules 2-201 and 3-201. Proposed amendments to Rule 2-

341 provide that an amendment to a pleading without leave of court must be filed no later than the date set forth in the scheduling order entered pursuant to Rule 2-504 or, in actions in which there is no scheduling order, no later than 30 days before a scheduled trial date.

Proposed amendments to Rule 2-504 modify the required contents of a scheduling order by requiring that the order contain a date by which any additional parties must be joined and a date by which amendments to pleadings are allowed as of right. The amendments also require that the deadline for filing a dispositive motion be a date that is no earlier than 15 days after the date by which all discovery must be completed, that the scheduling order controls the subsequent course of the action, and that the court shall modify the scheduling order to prevent injustice. Lastly, in conjunction with the proposed Rules changes set forth in Category Five of this Report, the appointment of counsel for a child in an action involving child custody or child access is proposed to be added to the permitted contents of a scheduling order that are set forth in subsection (b) (2) of the Rule.

Proposed to be added to Rules 2-532, 2-533, 2-534, and 2-535 are "saving" provisions for prematurely filed post-judgment motions, similar to the "saving" provision set forth in Rule 8-602 (d). Also in Category One, in light of Chapter 534, Laws of 2006 (SB 726), are proposed amendments to Rules 2-641, 3-641, 2-644, and 3-644 that add to each Rule a cross reference concerning execution of a judgment against the property of a corporation, joint stock company, association, limited liability company, or limited liability limited partnership for the amount of fines or costs awarded against it in a criminal proceeding.

Category Two comprises proposed changes to seven Rules in Title 4 and a related amendment to Rule 16-819 (d). In light of Chapter 586, Laws of 2006 (HB 833), cross references concerning surety insurers who fail to resolve or satisfy bond forfeitures are proposed to be added following subsections (d) (1) and (d) (2) of Rule 4-217. A proposed amendment to Rule 4-261 allows a deposition in an action in the District Court under the same circumstances under which a deposition in an action in a circuit court may be taken. Cross references following Rules 4-342 (g) and 4-345 (e) concerning the commitment of a defendant who has a drug or alcohol dependency to a treatment program in the Department of Health and Mental Hygiene are proposed to be added in light of Chapter 338, Laws of 2006 (HB 656). Proposed amendments to Rule 4-343 clarify the capital sentencing form with respect to mitigating circumstances and make stylistic changes to the form. In light of Chapter 353, Laws of 2006 (HB 795), a cross reference concerning procedures to be followed by the court when a defendant may be incompetent to stand trial in a violation

of probation proceeding is proposed to be added following Rule 4-347 (e) (1). Proposed amendments to Rules 4-642 and 16-819 allow an interpreter to be present during grand jury proceedings under certain circumstances and add provisions concerning the appointment, oath, and compensation of the interpreter.

Category Three includes a proposed amendment to Rule 7-112 that allows an appellant to dismiss an appeal at any time before the commencement of trial, and a proposed amendment to Rule 8-423 that expressly provides for the reduction of the amount of a supersedeas bond if the court makes specific findings justifying the amount.

The proposals set forth in **Category Four** update the Rules in Title 9, Chapter 100 to conform them to Chapter 464, Acts of 2005 (SB 710), which reorganized and revised the law pertaining to adoptions and guardianships that terminate parental rights. New Forms 9-102.1 through 9-102.10 for consents and attorney affidavits are proposed to follow Title 9. Also included in Category Four is a conforming amendment to Rule 1-101. For the Court's reference, as an appendix to this Report, is an unmarked copy of Title 9, Chapter 100, showing the Rules as they would appear if the recommended changes are adopted.

Based largely on provisions in the *Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases*, approved and adopted by the Conference of Circuit Judges, **Category Five** consists of proposed new Rule 9-205.1 (Appointment of Child's Counsel), proposed new Appendix: Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, and proposed amendments to Appendix: Maryland Lawyers' Rules of Professional Conduct. The proposals contain procedures for the appointment of child's counsel in custody and child access litigation and clarify the roles of child's best interest attorney, child's advocate attorney, and child's privilege attorney. In conjunction with the Guidelines, the Maryland Lawyers' Rules of Professional Conduct are proposed to be amended by conforming language in the Preamble and Scope to the terminology used in the Introduction and Scope of the Guidelines and by adding commentary concerning conflicts of interest and a reference to the Guidelines in the Comments to Rules 1.7 and 1.14, respectively.

In **Category Six** are proposals relating to the Commission on Judicial Disabilities - proposed new Rule 16-804.1 and amendments to Rules 16-803, 16-804, 16-805, 16-806, and 16-808. The creation of a Judicial Inquiry Board and procedures governing its operation are intended to decrease the Commission's involvement in the investigatory process as well as to facilitate early

resolution of complaints under the standards of Rule 16-807. Additionally, the proposed changes include an amendment to Rule 16-804 (e) that allows the Commission to transact business, other than a hearing on charges held pursuant to Rule 16-808 (i), by telephone or video conferencing.

Category Seven contains proposed amendments to other Rules in Title 16, together with related amendments to Rule 9-203 and the Maryland Code of Conduct for Court Interpreters. Proposed amendments to Rule 16-109 clarify the Rule, update the technological aspects of it, and add a new section that delineates the roles of the presiding judge and the administrative judge in making decisions concerning extended coverage. Proposed amendments to Rules 16-811 and 16-903 replace "rescission" terminology with the concept of restoration of the lawyer to good standing upon compliance with the requirements of the applicable Rule. Additionally, the amendments to Rule 16-811 eliminate "decertification" terminology from the Rule and replace it with a "temporary suspension" of the noncompliant lawyer who, upon being served with a copy of the temporary suspension order, must comply with the requirements of Rule 16-760 (c). Amendments to Rule 16-819 (e) and Canon 11 of the Maryland Code of Conduct for Court Interpreters are proposed to facilitate the prompt removal of an interpreter from a proceeding when a problem with the interpreter arises in the middle of a hearing or trial and to modify provisions pertaining to removal of an interpreter from the list of court interpreters maintained by the Administrative Office of the Courts. Proposed amendments to Rules 16-1002, 9-203, and 16-1006 clarify when a court record that otherwise is not subject to public inspection, including a financial statement filed pursuant to Rule 9-202, becomes open to inspection upon its use as an exhibit.

In **Category Eight** there are nine miscellaneous proposed changes. Rule 1-104 is proposed to be amended by the addition of a Committee note concerning a request that an unreported opinion be designated for reporting. Rule 16-805.1 is proposed to be amended by the addition of a cross reference to Rule 1-104. Rule 14-206 is proposed to be amended to set at \$25,000 the initially required bond in a sale of property to foreclose a lien when the property is sold to the lienholder or the lienholder's designee; if the property is sold to someone else, the initially required bond amount would be the sale price as set forth in the report of sale. A proposed amendment would also allow the lienholder to designate in a writing filed in the proceeding a person to take title on the lienholder's behalf, without the necessity of a motion to substitute purchaser. Maryland Lawyers' Rules of Professional Conduct, Comment 5 of Rule 2.1 is proposed to be amended to encourage informed discourse between a lawyer and client whenever, in the opinion of the lawyer, alternative dispute resolution may be an appropriate option in lieu of

litigation. The proposed amendments to Rules 1-202, 2-645, 2-652, 4-214, and 5-615 are "housekeeping" only.

For the guidance of the Court and the public, following each proposed rules change is a Reporter's Note describing the reasons for the proposal and any changes that would be effected in current law or practice. We caution that these Reporter's Notes were prepared initially for the benefit of the Rules Committee; they are not part of the Rules and have not been debated or approved by the Committee; and they are not to be regarded as any kind of official comment or interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,

Joseph F. Murphy, Jr.
Chairperson

Linda M. Schuett
Vice Chairperson

JFM/LMS:cdc

MARYLAND RULES OF PROCEDURE

TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT

CHAPTER 100 - COMMENCEMENT OF ACTION AND PROCESS

AMEND Rule 2-126 to add a Committee note following section (e) and to make a certain stylistic change, as follows:

Rule 2-126. PROCESS - RETURN

. . .

(e) Return to Include Process

A return shall include a copy of the process if served ~~and~~
or the original process if not served.

Committee note: Rule 1-202 defines "process" as "any written order issued by a court to secure compliance with its commands or to require action by any person and includes a summons, subpoena, an order of publication, a commission or other writ."

. . .

REPORTER'S NOTE

Proposed amendments to Rules 2-126 and 3-126 add a Committee note that contains the definition of "process" set forth in Rule 1-202. The Rule change is proposed in response to correspondence from Hon. Dana M. Levitz, who has noticed that requests for orders of default are being made without a return of service of process having been made.

MARYLAND RULES OF PROCEDURE

TITLE 3 - CIVIL PROCEDURE--DISTRICT COURT

CHAPTER 100 - COMMENCEMENT OF ACTION AND PROCESS

AMEND Rule 3-126 to add a Committee note following section (e) and to make a certain stylistic change, as follows:

Rule 3-126. PROCESS - RETURN

. . .

(e) Return to Include Process

A return shall include a copy of the process if served ~~and~~
or the original process if not served.

Committee note: Rule 1-202 defines "process" as "any written order issued by a court to secure compliance with its commands or to require action by any person and includes a summons, subpoena, an order of publication, a commission or other writ."

. . .

REPORTER'S NOTE

See the Reporter's note to the proposed amendment to Rule 2-126.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 200 - PARTIES

AMEND Rule 2-201 to add a cross reference at the end of the Rule, as follows:

Rule 2-201. REAL PARTY IN INTEREST

Every action shall be prosecuted in the name of the real party in interest, except that an executor, administrator, personal representative, guardian, bailee, trustee of an express trust, person with whom or in whose name a contract has been made for the benefit of another, receiver, trustee of a bankrupt, assignee for the benefit of creditors, or a person authorized by statute or rule may bring an action without joining the persons for whom the action is brought. When a statute so provides, an action for the use or benefit of another shall be brought in the name of the State of Maryland. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for joinder or substitution of the real party in interest. The joinder or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

Cross reference: As to filing papers in an action in the name of "John Doe," see *Doe v. Shady Grove Hospital*, 89 Md. App. 351 (1991).

Source: This Rule is derived from former Rule 203 a, b, and c and the 1966 version of Fed. R. Civ. P. 17 (a).

REPORTER'S NOTE

A judge of the Court of Appeals requested that the Rules Committee study whether the Rules should be amended by the addition of a general "John Doe" rule concerning the right of a party to proceed anonymously. The "John Doe" issue was discussed in *Doe v. Shady Grove Hospital*, 89 Md. App. 351 (1991). In that case, the Court of Special Appeals held that papers filed in an action may be filed in the name of "John Doe" if protecting the confidentiality of a party's identity serves a compelling government interest or provides a necessary right to privacy. After its review of *Doe* and procedures in other jurisdictions, and given the infrequency of this type of filing, the Committee recommends that Rules 2-201 and 3-201 be amended by the addition of a cross reference to the *Doe* case at the end of each Rule.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 200 - PARTIES

AMEND Rule 3-201 to add a cross reference at the end of the Rule, as follows:

Rule 3-201. REAL PARTY IN INTEREST

Every action shall be prosecuted in the name of the real party in interest, except that an executor, administrator, personal representative, guardian, bailee, trustee of an express trust, person with whom or in whose name a contract has been made for the benefit of another, receiver, trustee of a bankrupt, assignee for the benefit of creditors, or a person authorized by statute or rule may bring an action without joining the persons for whom the action is brought. When a statute so provides, an action for the use or benefit of another shall be brought in the name of the State of Maryland. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for joinder or substitution of the real party in interest. The joinder or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

Cross reference: As to filing papers in an action in the name of "John Doe," see *Doe v. Shady Grove Hospital*, 89 Md. App. 351 (1991).

Source: This Rule is derived from former M.D.R. 203 and the 1966 version of the Fed. R. Civ. P. 17 (a).

REPORTER'S NOTE

See the Reporter's note to the proposed amendment to Rule 2-201.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 2-341 to provide that if there is a scheduling order that sets a date for filing an amendment to a pleading without leave of court, the date is that set forth in the scheduling order; to allow an amendment to a pleading without leave of court no later than 30 days before a scheduled trial date in an action in which there is no scheduling order; and to add a case reference to the Committee note that follows section (b), as follows:

Rule 2-341. AMENDMENT OF PLEADINGS

(a) ~~Prior to 15 Days of Trial Date~~ Without Leave of Court

A party may file an amendment to a pleading ~~at any time prior to~~ without leave of court by the date set forth in a scheduling order or, if there is no scheduling order, 60 no later than 30 days of before a scheduled trial date. Within 15 days after service of an amendment, any other party to the action may file a motion to strike setting forth reasons why the court should not allow the amendment. If an amendment introduces new facts or varies the case in a material respect, an adverse party who wishes to contest new facts or allegations shall file a new or additional answer to the amendment within the time remaining to answer the original pleading or within 15 days after service

of the amendment, whichever is later. If no new or additional answer is filed within the time allowed, the answer previously filed shall be treated as the answer to the amendment.

(b) ~~Within 15 days of Trial Date and Thereafter~~ With Leave of Court

~~Within 15 days of a scheduled trial date or after trial has commenced, a~~ A party may file an amendment to a pleading after the dates set forth in section (a) of this Rule only ~~by written consent of the adverse party or by~~ with leave of court. If the amendment introduces new facts or varies the case in a material respect, the new facts or allegations shall be treated as having been denied by the adverse party. The court shall not grant a continuance or mistrial unless the ends of justice so require.

Committee note: ~~By leave of court, the~~ The court may grant leave to amend the amount sought in a demand for a money judgment after a jury verdict is returned. See *Falcinelli v. Cardascia*, 339 Md. 414 (1995).

. . .

Source: This Rule is derived as follows:

Section (a) is derived in part from former Rule 320 and is in part new.

Section (b) is new and is derived in part from former Rule 320 e.

Section (c) is derived from sections a 2, 3, 4, b 1 and d 5 of former Rule 320 and former Rule 379.

Section (d) is new.

Section (e) is derived from the 2001 version of L.R. 103 (6) (c) of the Rules of the United States District Court for the District of Maryland.

REPORTER'S NOTE

The Honorable Thomas P. Smith, of the Circuit Court for Prince George's County, observed that often there is an inconsistency between Rule 2-341 and the scheduling orders issued pursuant to Rule 2-504. The scheduling orders provide that any amendments to pleadings must be filed by a date certain, but Rule 2-341 allows amendments to pleadings to be filed at any time.

Sections (a) and (b) of Rule 2-341 are proposed to be re-structured as to amendments without leave of court (section (a)) and amendments with leave of court (section (b)). Amendments without leave of court must be filed by the date set forth in the scheduling order or, if there is none, no later than 30 days before a scheduled trial date. Amendments filed after those dates require leave of court.

The Committee believes that 60 days before trial, the time the current Rule allows for amendments without leave of court in an action in which there is no scheduling order, is unnecessarily long. An action without a scheduling order generally is less complex than an action with a scheduling order, and the Committee recommends that the 60-day provision currently in section (a) be reduced to 30 days before a scheduled trial date.

Additionally, the Committee recommends that a reference to *Falcinelli v. Cardascia*, 339 Md. 414 (1995) be added to the Committee note that follows section (b).

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-504 to require that the date by which all dispositive motions must be filed be no earlier than 15 days after the date by which all discovery must be completed, to transfer the contents of subsection (b) (2) (C) to subsection (b) (1), to add to subsection (b) (1) a date by which amendments to pleadings are allowed as of right, to add to the permitted contents of a scheduling order an order appointing child counsel under certain circumstances, to provide that the scheduling order controls the subsequent course of the action, and to require a modification of a scheduling order to prevent injustice, as follows:

Rule 2-504. SCHEDULING ORDER

(a) Order Required

(1) Unless otherwise ordered by the County Administrative Judge for one or more specified categories of actions, the court shall enter a scheduling order in every civil action, whether or not the court orders a scheduling conference pursuant to Rule 2-504.1.

(2) The County Administrative Judge shall prescribe the general format of scheduling orders to be entered pursuant to this Rule. A copy of the prescribed format shall be furnished to

the Chief Judge of the Court of Appeals.

(3) Unless the court orders a scheduling conference pursuant to Rule 2-504.1, the scheduling order shall be entered as soon as practicable, but no later than 30 days after an answer is filed by any defendant. If the court orders a scheduling conference, the scheduling order shall be entered promptly after conclusion of the conference.

(b) Contents of Scheduling Order

(1) Required

A scheduling order shall contain:

(A) an assignment of the action to an appropriate scheduling category of a differentiated case management system established pursuant to Rule 16-202;

(B) one or more dates by which each party shall identify each person whom the party expects to call as an expert witness at trial, including all information specified in Rule 2-402 (f) (1);

(C) one or more dates by which each party shall file the notice required by Rule 2-504.3 (b) concerning computer-generated evidence;

(D) a date by which all discovery must be completed;

(E) a date by which all dispositive motions must be filed, which shall be no earlier than 15 days after the date by which all discovery must be completed;

(F) a date by which any additional parties must be joined;

(G) a date by which amendments to the pleadings are allowed

as of right; and

~~(F)~~ (H) any other matter resolved at a scheduling conference held pursuant to Rule 2-504.1.

(2) Permitted

A scheduling order may also contain:

(A) any limitations on discovery otherwise permitted under these rules, including reasonable limitations on the number of interrogatories, depositions, and other forms of discovery;

(B) the resolution of any disputes existing between the parties relating to discovery;

~~(C) a date by which any additional parties must be joined;~~

~~(D)~~ (C) a specific referral to or direction to pursue an available and appropriate form of alternative dispute resolution, including a requirement that individuals with authority to settle be present or readily available for consultation during the alternative dispute resolution proceeding, provided that the referral or direction conforms to the limitations of Rule 2-504.1 (e);

~~(E)~~ (D) an order designating or providing for the designation of a neutral expert to be called as the court's witness;

(E) in an action involving child custody or child access, an order appointing child's counsel in accordance with Rule 9-205.1;

(F) a further scheduling conference or pretrial conference date; and

(G) any other matter pertinent to the management of the action.

(c) Modification of Order

The scheduling order controls the subsequent course of the action but shall be modified by the court to prevent injustice.

Cross reference: See Rule 5-706 for authority of the court to appoint expert witnesses.

Source: This Rule is new.

REPORTER'S NOTE

The Rules Committee has been advised that at least one jurisdiction incorporates in its scheduling order a requirement that all dispositive motions must be filed prior to the date by which all discovery must be completed. Because the grounds for a dispositive motion may not be apparent until after discovery has been completed, the Committee recommends that Rule 2-504 (b) (1) (E) be modified by the addition of the phrase, "which shall be no earlier than 15 days after the date by which all discovery must be completed."

In conjunction with proposed amendments to Rule 2-341, the Committee recommends certain other amendments to Rule 2-504. Current subsection (b) (2) (C) is proposed to be transferred to subsection (b) (1), becoming new subsection (b) (1) (F), so that inclusion of a date by which additional parties must be joined is a required, rather than a permitted, component of each scheduling order. A new subsection (b) (1) (G) is proposed to be added, requiring in each scheduling order a date by which amendments to pleadings are allowed as of right. Proposed new section (c) provides that the scheduling order controls the subsequent course of the action and that the court shall modify a scheduling order to prevent injustice.

In conjunction with proposed new *Appendix to the Maryland Rules: Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access* and proposed new Rule 9-205.1 (Appointment of Child's Counsel), proposed new subsection (b) (2) (E) adds to the permitted contents of a scheduling order an order appointing child's counsel in accordance with Rule 9-205.1.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-532 to allow certain prematurely filed motions,
as follows:

Rule 2-532. MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT

. . .

(b) Time for Filing

The motion shall be filed within ten days after entry of judgment on the verdict or, if no verdict is returned, within ten days after the discharge of the jury. If the court reserves ruling on a motion for judgment made at the close of all the evidence, that motion becomes a motion for judgment notwithstanding the verdict if the verdict is against the moving party or if no verdict is returned. A motion for judgment notwithstanding the verdict filed after the announcement or signing by the trial court of a judgment or the return of a verdict but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

Cross reference: See Rule 8-205 requiring notice to the Clerk of the Court of Special Appeals of information not disclosed in an information report regarding the filing of a motion under this Rule, or its withdrawal or disposition.

. . .

REPORTER'S NOTE

Footnote 18 in *Tierco v. Williams*, 381 Md. 378, 400 (2004) suggests that a "saving" provision for prematurely filed post-judgment motions may not be necessary, because the courts have treated the timeliness of post-judgment motions differently than the timeliness of appeals. However, in the (unreported) case of *Black v. Black* in the Court of Special Appeals of Maryland, No.30, September Term 2004, filed August 10, 2005, that Court held that Rule 2-533 and Rule 2-534 motions filed after a judgment was signed by the judge but two days before the judgment was docketed did not stay the time for filing a notice of appeal, and thus the notice of appeal filed 39 days after the judgment was docketed was not timely filed. Amendments to Rules 2-532, 2-533, 2-534, and 2-535 are proposed to provide greater uniformity in the treatment of prematurely filed post-judgment motions by adding to the four Rules "saving" provisions similar to the "saving" provision set forth in Rule 8-602 (d).

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-533 to allow certain prematurely filed motions,
as follows:

Rule 2-533. MOTION FOR NEW TRIAL

(a) Time for Filing

Any party may file a motion for new trial within ten days after entry of judgment. A party whose verdict has been set aside on a motion for judgment notwithstanding the verdict or a party whose judgment has been amended on a motion to amend the judgment may file a motion for new trial within ten days after entry of the judgment notwithstanding the verdict or the amended judgment. A motion for new trial filed after the announcement or signing by the trial court of a judgment or the return of a verdict but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

Cross reference: See Rule 8-205 requiring notice to the Clerk of the Court of Special Appeals of information not disclosed in an information report regarding the filing of a motion under this Rule, or its withdrawal or disposition.

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed amendment to Rule 2-532.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-534 to allow certain prematurely filed motions,
as follows:

Rule 2-534. MOTION TO ALTER OR AMEND A JUDGMENT -- COURT
DECISION

In an action decided by the court, on motion of any party filed within ten days after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment may be joined with a motion for new trial. A motion to alter or amend a judgment filed after the announcement or signing by the trial court of a judgment but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

Cross reference: See Rule 8-205 requiring notice to the Clerk of the Court of Special Appeals of information not disclosed in an information report regarding the filing of a motion under this Rule, or its withdrawal or disposition.

Source: This Rule is derived from the 1963 version of Fed. R. Civ. P. 52 (b) and the 1966 version of Fed. R. Civ. P. 59 (a).

REPORTER'S NOTE

See the Reporter's Note to the proposed amendment to Rule 2-532.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-535 to allow certain prematurely filed motions,
as follows:

Rule 2-535. REVISORY POWER

(a) Generally

On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it could have taken under Rule 2-534. A motion filed after the announcement or signing by the trial court of a judgment or the return of a verdict but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

. . .

REPORTER'S NOTE

See the Reporter's Note to the proposed amendment to Rule 2-532.

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

AMEND Rule 2-641 to add a cross reference at the end of the Rule, as follows:

Rule 2-641. WRIT OF EXECUTION - ISSUANCE AND CONTENT

. . .

(c) Transmittal to Sheriff; Bond

Upon issuing a writ of execution or receiving one from the clerk of another county, the clerk shall deliver the writ and instructions to the sheriff. The sheriff shall endorse on the writ the exact hour and date of its receipt and shall maintain a record of actions taken pursuant to it. If the instructions direct the sheriff to remove the property from the premises where found or to exclude others from access to or use of the property, the sheriff may require the judgment creditor to file with the sheriff a bond with security approved by the sheriff for the payment of any expenses that may be incurred by the sheriff in complying with the writ.

Cross reference: For execution of a judgment against the property of a corporation, joint stock company, association, limited liability company, limited liability partnership, or limited liability limited partnership for the amount of fines or costs awarded against it in a criminal proceeding, see Code, Criminal Procedure Article, §4-203.

. . .

REPORTER'S NOTE

Chapter 534, Laws of 2006 (SB 736) amends the law permitting the execution on a judgment against a corporation, defined to include a joint stock company and an association, for fines and costs. The amendment applies the law also to a limited liability company, which is defined in the amendment to include a limited liability partnership and a limited liability limited partnership. The Rules Committee recommends that a cross reference to the statute be added at the end of Rules 2-641, 2-644, 3-641, and 3-644 to put all of these entities on notice that their property may be executed upon civilly after a criminal judgment is issued against them.

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

AMEND Rule 3-641 to add a cross reference at the end of the Rule, as follows:

Rule 3-641. WRIT OF EXECUTION - ISSUANCE AND CONTENT

. . .

(c) Transmittal to Sheriff; Bond

Upon issuing a writ of execution or receiving one from the clerk of another county, the clerk shall deliver the writ and instructions to the sheriff. The sheriff shall endorse on the writ the exact hour and date of its receipt and shall maintain a record of actions taken pursuant to it. If the instructions direct the sheriff to remove the property from the premises where found or to exclude others from access to or use of the property, the sheriff may require the judgment creditor to file with the sheriff a bond with security approved by the sheriff for the payment of any expenses that may be incurred by the sheriff in complying with the writ.

Cross reference: For execution of a judgment against the property of a corporation, joint stock company, association, limited liability company, limited liability partnership, or limited liability limited partnership for the amount of fines or costs awarded against it in a criminal proceeding, see Code, Criminal Procedure Article, §4-203.

. . .

REPORTER'S NOTE

See the Reporter's note to the proposed amendment to Rule 2-641.

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

AMEND Rule 2-644 to add a cross reference at the end of the Rule, as follows:

Rule 2-644. SALE OF PROPERTY UNDER LEVY

. . .

(g) Report to the Court

The sheriff shall file a report stating the property sold, the purchasers, the amount of the proceeds, and the distribution of the proceeds.

Cross reference: For sale of the property of a corporation, joint stock company, association, limited liability company, limited liability partnership, or limited liability limited partnership on an execution of a judgment against it for the amount of fines or costs awarded against it in a criminal proceeding, see Code, Criminal Procedure Article, §4-203.

. . .

REPORTER'S NOTE

See the Reporter's note to the proposed amendment to Rule 2-641.

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

AMEND Rule 3-644 to add a cross reference at the end of the Rule, as follows:

Rule 3-644. SALE OF PROPERTY UNDER LEVY

. . .

(g) Report to the Court

The sheriff shall file a report stating the property sold, the purchasers, the amount of the proceeds, and the distribution of the proceeds.

Cross reference: For sale of the property of a corporation, joint stock company, association, limited liability company, limited liability partnership, or limited liability limited partnership on an execution of a judgment against it for the amount of fines or costs awarded against it in a criminal proceeding, see Code, Criminal Procedure Article, §4-203.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to the proposed amendment to Rule 2-641.

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

AMEND Rule 4-217 to add a cross reference after subsections (d) (1) and (d) (2), as follows:

Rule 4-217. BAIL BONDS

. . .

(d) Qualification of Surety

(1) In General

The Chief Clerk of the District Court shall maintain a list containing: (A) the names of all surety insurers who are in default, and have been for a period of 60 days or more, in the payment of any bail bond forfeited in any court in the State, (B) the names of all bail bondsmen authorized to write bail bonds in this State, and (C) the limit for any one bond specified in the bail bondsman's general power of attorney on file with the Chief Clerk of the District Court.

Cross reference: For penalties imposed on surety insurers in default, see Code, Insurance Article, §21-103 (a).

(2) Surety Insurer

No bail bond shall be accepted if the surety on the bond is on the current list maintained by the Chief Clerk of the District Court of those in default. No bail bond executed by a surety insurer directly may be accepted unless accompanied by an affidavit reciting that the surety insurer is authorized by the

Insurance Commissioner of Maryland to write bail bonds in this State.

Cross reference: For the obligation of the District Court Clerk to notify the Insurance Commissioner concerning a surety insurer who fails to resolve or satisfy bond forfeitures, see Code, Insurance Article, §21-103 (b).

(3) Bail Bondsman

No bail bond executed by a bail bondsman may be accepted unless the bondsman's name appears on the most recent list maintained by the Chief Clerk of the District Court, the bail bond is within the limit specified in the bondsman's general power of attorney as shown on the list or in a special power of attorney filed with the bond, and the bail bond is accompanied by an affidavit reciting that the bail bondsman:

(A) is duly licensed in the jurisdiction in which the charges are pending, if that jurisdiction licenses bail bondsmen;

(B) is authorized to engage the surety insurer as surety on the bail bond pursuant to a valid general or special power of attorney; and

(C) holds a valid license as an insurance broker or agent in this State, and that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

Cross reference: Code, Criminal Procedure Article, §5-203 and Rule 16-817 (Appointment of Bail Bond Commissioner - Licensing and Regulation of Bail Bondsmen).

. . .

REPORTER'S NOTE

Chapter 586, Laws of 2006 (HB 833) provides that a surety insurer that is removed by the District Court from the list of eligible surety insurers because of failure to timely resolve or satisfy one or more bail bond forfeitures is subject to certain penalties. It also requires the District Court clerk to notify the Insurance Commissioner in writing of the name of any surety insurer who fails to resolve or satisfy all bond forfeitures in default by the District Court deadline. The Rules Committee recommends that a cross reference to the new statute be added after subsections (d)(1) and (d)(2).

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

AMEND Rule 4-261 to allow a deposition in an action in the District Court under the same circumstances under which a deposition in a circuit court may be taken, as follows:

Rule 4-261. DEPOSITIONS

(a) ~~Availability in District Court~~

~~In District Court a deposition may be taken only with the consent of the State and the defendant and upon order of court.~~

~~(b) Availability in Circuit Court~~

~~In a circuit court the~~ The parties may agree, without an order of court, to take a deposition of a witness, subject to the right of the witness to move for a protective order under section ~~(g)~~ (f) of this Rule. Without agreement, the court, on motion of a party, may order that the testimony of a witness be taken by deposition if the court is satisfied that the witness may be unable to attend a trial or hearing, that the testimony may be material, and that the taking of the deposition is necessary to prevent a failure of justice.

~~(c)~~ (b) Contents of Order for Deposition

An order for a deposition shall state the name and address of each witness to be examined and the time, date, and place of examination. It shall also designate any documents, recordings,

photographs, or other tangible things, not privileged, that are to be produced at the time of the deposition. An order for a deposition shall include such other matters as the court may order, including any applicable provision of section ~~(g)~~ (f) of this Rule.

~~(d)~~ (c) Subpoena

Upon entry by the court of an order for a deposition or upon request pursuant to stipulation entered into under section ~~(b)~~ (a) of this Rule, the clerk of the court shall issue a subpoena commanding the witness to appear at the time, date, and place designated and to produce at the deposition any documents, recordings, photographs, or other tangible things designated in the order of court or in the stipulation.

~~(e)~~ (d) How Taken

. . .

~~(f)~~ (e) Presence of the Defendant

. . .

~~(g)~~ (f) Protective Order

. . .

~~(h)~~ (g) Use

. . .

~~(i)~~ (h) Joint Defendants

. . .

Source: This Rule is derived as follows:

~~Section (a) is new.~~

Section ~~(b)~~ (a) is derived from former Rule 740 a and j.

Section ~~(c)~~ (b) is derived from former Rule 740 c.

Section ~~(d)~~ (c) is derived from former Rule 740 d.
Section ~~(e)~~ (d) is derived from former Rule 740 e.
Section ~~(f)~~ (e) is derived from former Rule 740 f.
Section ~~(g)~~ (f) is derived from former Rule 740 g.
Section ~~(h)~~ (g) is derived from former Rule 740 h.
Section ~~(i)~~ (h) is derived from former Rule 740 i.

REPORTER'S NOTE

The proposed amendments to Rule 4-261 allow a deposition in the District Court under the same circumstances under which a deposition is allowed in a circuit court, i.e., either by agreement of the parties or by order of court if the court is satisfied that a witness whose testimony may be material may be unable to attend a trial or hearing and that the taking of a deposition is necessary to prevent a failure of justice. Depositions in circuit court criminal actions are rare, and the Rules Committee believes that they will occur with even less frequency in the District Court. However, in circumstances such as the impending military deployment overseas of a key witness, the ability to preserve the witness's testimony for trial should not depend upon the agreement of the opposing party.

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

AMEND Rule 4-342 to add a cross reference after section (g),
as follows:

Rule 4-342. SENTENCING - PROCEDURE IN NON-CAPITAL CASES

. . .

(g) Reasons

The court ordinarily shall state on the record its reasons
for the sentence imposed.

Cross reference: For factors related to drug and alcohol abuse
treatment to be considered by the court in determining an
appropriate sentence, see Code, Criminal Procedure Article,
§6-231. For procedures to commit a defendant who has a drug or
alcohol dependency to a treatment program in the Department of
Health and Mental Hygiene as a condition of release after
conviction, see Code, Health General Article, §8-507.

. . .

REPORTER'S NOTE

Prior law did not allow a court to commit a defendant with a
drug or alcohol dependency to a treatment program in the
Department of Health and Mental Hygiene if a sentence of
incarceration was in effect or a detainer was lodged. Chapter
338, Laws of 2006 (HB 656) modified Code, Health General Article,
§8-507 to allow commitment as a condition of release after
conviction or at any time the defendant voluntarily agrees to
participate in treatment; however, the court may not order that
the defendant be delivered for treatment until any detainer based
on an untried indictment, information, warrant, or complaint for
the defendant has been removed and any sentence of incarceration
for the defendant is no longer in effect. The Rules Committee
recommends that a cross reference to the modified statute be
added to Rule 4-342. Because the law allows the commitment even
if the defendant did not timely file a motion for modification

under Rule 4-345, or the defendant timely filed the motion but the motion was denied, the Committee recommends the addition of a Committee note to Rule 4-345 explaining this variation from the procedures in that Rule.

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

AMEND Rule 4-345 to add a Committee note after subsection (e) (2), as follows:

Rule 4-345. SENTENCING -- REVISORY POWER OF COURT

. . .

(e) Modification Upon Motion

(1) Generally

Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, the court has revisory power over the sentence except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not increase the sentence.

Cross reference: Rule 7-112 (b).

(2) Notice to Victims

The State's Attorney shall give notice to each victim and victim's representative who has filed a Crime Victim Notification Request form pursuant to Code, Criminal Procedure Article, §11-104 or who has submitted a written request to the State's Attorney to be notified of subsequent proceedings as provided

under Code, Criminal Procedure Article, §11-503 that states (A) that a motion to modify or reduce a sentence has been filed; (B) that the motion has been denied without a hearing or the date, time, and location of the hearing; and (C) if a hearing is to be held, that each victim or victim's representative may attend and testify.

Committee note: The court may commit a defendant who is found to have a drug or alcohol dependency to a treatment program in the Department of Health and Mental Hygiene at any time if the defendant voluntarily agrees to participate in the treatment, even if the defendant did not timely file a motion for modification, or if the defendant timely filed a motion for modification that was denied. See Code, Health General Article, §8-507.

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 4-342.

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

AMEND Rule 4-343 (h) to clarify the capital sentencing form with respect to determinations as to mitigating circumstances and to make stylistic changes, as follows:

Rule 4-343. SENTENCING - PROCEDURE IN CAPITAL CASES

. . .

(h) Form of Written Findings and Determinations

Except as otherwise provided in section (i) of this Rule, the findings and determinations shall be made in writing in the following form:

(CAPTION)

FINDINGS AND SENTENCING DETERMINATION

VICTIM: [Name of murder victim]

Section I

Based upon the evidence, we unanimously find that each of the following statements marked "~~proven~~ proved" has been ~~proven~~ proved BEYOND A REASONABLE DOUBT and that each of those statements marked "not ~~proven~~ proved" has not been ~~proven~~ proved BEYOND A REASONABLE DOUBT.

1. The defendant was a principal in the first degree to the murder.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

2. The defendant engaged or employed another person to commit the murder and the murder was committed under an agreement or contract for remuneration or the promise of remuneration.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

3. The victim was a law enforcement officer who, while in the performance of the officer's duties, was murdered by one or more persons, and the defendant was a principal in the second degree who: (A) willfully, deliberately, and with premeditation intended the death of the law enforcement officer; (B) was a major participant in the murder; and (C) was actually present at the time and place of the murder.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

(If one or more of the above are marked "proven proved," proceed to Section II. If all are marked "not proven proved," proceed to Section VI and enter "Imprisonment for Life.")

Section II

Based upon the evidence, we unanimously find that the following statement, if marked "proven proved," has been proven proved BY A PREPONDERANCE OF THE EVIDENCE or that, if marked "not proven proved," it has not been proven proved BY A PREPONDERANCE OF THE EVIDENCE.

At the time the murder was committed, the defendant was mentally retarded.

proven not
proved proven
 proved

(If the above statement is marked "proven proved," proceed to Section VI and enter "Imprisonment for Life." If it is marked "not proven proved," complete Section III.)

Section III

Based upon the evidence, we unanimously find that each of the following aggravating circumstances that is marked "proven proved" has been proven proved BEYOND A REASONABLE DOUBT and we unanimously find that each of the aggravating circumstances marked "not proven proved" has not been proven proved BEYOND A REASONABLE DOUBT.

1. The victim was a law enforcement officer who, while in the performance of the officer's duties, was murdered by one or more persons.

proven not
proved proven
 proved

2. The defendant committed the murder at a time when confined in a correctional facility.

proven not
proved proven
 proved

3. The defendant committed the murder in furtherance of an escape from or an attempt to escape from or evade the lawful

custody, arrest, or detention of or by an officer or guard of a correctional facility or by a law enforcement officer.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

4. The victim was taken or attempted to be taken in the course of a kidnapping or abduction or an attempt to kidnap or abduct.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

5. The victim was a child abducted in violation of Code, Criminal Law Article, §3-503 (a) (1).

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

6. The defendant committed the murder under an agreement or contract for remuneration or the promise of remuneration to commit the murder.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

7. The defendant engaged or employed another person to commit the murder and the murder was committed under an agreement or contract for remuneration or the promise of remuneration.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

8. At the time of the murder, the defendant was under the sentence of death or imprisonment for life.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

9. The defendant committed more than one offense of murder in the first degree arising out of the same incident.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

10. The defendant committed the murder while committing or attempting to commit a carjacking, armed carjacking, robbery, under Code, Criminal Law Article, §3-402 or §3-403, arson in the first degree, rape in the first degree, or sexual offense in the first degree.

<u>proven</u>	<u>not</u>
<u>proved</u>	<u>proven</u>
	<u>proved</u>

(If one or more of the above are marked "proven proved," complete Section IV. If all of the above are marked "not proven proved," do not complete Sections IV and V and proceed to Section VI and enter "Imprisonment for Life.")

Section IV

~~Based upon the evidence~~ From our consideration of the facts and circumstances of this case, we make the following determinations as to mitigating circumstances:

1. The defendant has not previously (i) been found guilty of a crime of violence; (ii) entered a plea of guilty or nolo

contendere to a charge of a crime of violence; or (iii) been granted probation before judgment for a crime of violence.

(As used in the preceding paragraph, "crime of violence" means abduction, arson in the first degree, carjacking, armed carjacking, escape in the first degree, kidnapping, mayhem, murder, robbery under Code, Criminal Law Article, §3-402 or §3-403, rape in the first or second degree, sexual offense in the first or second degree, manslaughter other than involuntary manslaughter, an attempt to commit any of these offenses, or the use of a handgun in the commission of a felony or another crime of violence.)

(Mark only one.)

- (a) We unanimously find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance exists.
- (b) We unanimously find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance exists.

2. The victim was a participant in the defendant's conduct or consented to the act which caused the victim's death.

(Mark only one.)

[] (a) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance exists.

[] (b) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance does not exist.

[] (c) After a reasonable period of deliberation, one or more
of us, but fewer than all 12, find ~~by a preponderance~~
~~of the evidence~~ that it is more likely than not that
the above circumstance exists.

3. The defendant acted under substantial duress, domination,
or provocation of another person, even though not so substantial
as to constitute a complete defense to the prosecution.

(Mark only one.)

[] (a) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance exists.

[] (b) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance does not exist.

[] (c) After a reasonable period of deliberation, one or more
of us, but fewer than all 12, find ~~by a preponderance~~
~~of the evidence~~ that it is more likely than not that
the above circumstance exists.

4. The murder was committed while the capacity of the
defendant to appreciate the criminality of his or her conduct or

to conform his or her conduct to the requirements of law was substantially impaired as a result of mental incapacity, mental disorder, or emotional disturbance.

(Mark only one.)

- (a) We unanimously find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance exists.
- (b) We unanimously find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance exists.

5. The defendant was of a youthful age at the time of the murder.

(Mark only one.)

- (a) We unanimously find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance exists.
- (b) We unanimously find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find ~~by a preponderance~~

~~of the evidence that it is more likely than not~~ that
the above circumstance exists.

6. The act of the defendant was not the sole proximate cause
of the victim's death.

(Mark only one.)

(a) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance exists.

(b) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance does not exist.

(c) After a reasonable period of deliberation, one or more
of us, but fewer than all 12, find ~~by a preponderance~~
~~of the evidence~~ that it is more likely than not that
the above circumstance exists.

7. It is unlikely that the defendant will engage in further
criminal activity that would constitute a continuing threat to
society.

(Mark only one.)

(a) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance exists.

(b) We unanimously find ~~by a preponderance of the evidence~~
that it is more likely than not that the above
circumstance does not exist.

(c) After a reasonable period of deliberation, one or more

of us, but fewer than all 12, find ~~by a preponderance of the evidence~~ that it is more likely than not that the above circumstance exists.

8. (a) We unanimously find ~~by a preponderance of the evidence~~ that it is more likely than not that the following additional mitigating circumstances exist:

(Use reverse side if necessary)

(b) One or more of us, but fewer than all 12, find ~~by a preponderance of the evidence~~ that it is more likely than not that the following additional mitigating circumstances exist:

(Use reverse side if necessary)

(If the jury unanimously determines in Section IV that no mitigating circumstances exist, do not complete Section V. Proceed to Section VI and enter "Death." If the jury or any juror determines that one or more mitigating circumstances exist, complete Section V.)

Section V

Each individual juror ~~shall weigh~~ has weighed the aggravating circumstances found unanimously to exist against any mitigating circumstances found unanimously to exist, as well as against any mitigating circumstance found by that individual juror to exist.

We unanimously find that the State has ~~proven~~ proved BY A PREPONDERANCE OF THE EVIDENCE that the aggravating circumstances marked "~~proven~~ proved" in Section III outweigh the mitigating circumstances in Section IV.

yes no

Section VI

Enter the determination of sentence either "Imprisonment for Life" or "Death" according to the following instructions:

1. If all of the answers in Section I are marked "not ~~proven~~ proved," enter "Imprisonment for Life."
2. If the answer in Section II is marked "~~proven~~ proved," enter "Imprisonment for Life."
3. If all of the answers in Section III are marked "not ~~proven~~ proved," enter "Imprisonment for Life."
4. If Section IV was completed and the jury unanimously determined that no mitigating circumstance exists, enter "Death."
5. If Section V was completed and marked "no," enter "Imprisonment for Life."
6. If Section V was completed and marked "yes," enter "Death."

We unanimously determine the sentence to be _____.

Section VII

If "Imprisonment for Life" is entered in Section VI, answer the following question:

Based upon the evidence, does the jury unanimously determine that the sentence of imprisonment for life previously entered shall be without the possibility of parole?

_____ yes _____ no

Foreman Foreperson

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Juror 12

or,

JUDGE

. . .

REPORTER'S NOTE

In footnote 5 of *Conyers v. State*, 354 Md. 132 (1999), the Court of Appeals observed that a phrase such as "facts or circumstances" might be more appropriate in certain parts of the capital sentencing form than the word "evidence," because the judge or jury considers more than evidence in determining mitigating circumstances. The Pattern Jury Instructions Committee recommends substituting the language "that it is more likely than not" in place of the language "by a preponderance of the evidence." This leaves in a burden of proof standard, yet avoids the use of the word "evidence." The proposed amendments to Rule 4-343 make this change throughout the form and, in Section IV of the form, replace the introductory phrase, "Based upon the evidence," with the phrase, "From our consideration of the facts and circumstances of this case."

In addition, a proposed stylistic amendment to the form conforms it to modern usage and to the Maryland Criminal Pattern Jury Instructions by replacing the word "proven" with "proved." Another stylistic change corrects a future tense directive in Section V by making it a past tense affirmative statement that the jury "has weighed" the aggravating circumstances against the mitigating circumstances. An additional stylistic change substitutes the word "foreperson" for the former word "foreman," to reflect the Judiciary's policy to use gender neutral words where practicable.

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

AMEND Rule 4-347 to add a cross reference after subsection (e) (1), as follows:

Rule 4-347. PROCEEDINGS FOR REVOCATION OF PROBATION

. . .

(e) Hearing

(1) Generally

The court shall hold a hearing to determine whether a violation has occurred and, if so, whether the probation should be revoked. The hearing shall be scheduled so as to afford the defendant a reasonable opportunity to prepare a defense to the charges. Whenever practicable, the hearing shall be held before the sentencing judge or, if the sentence was imposed by a Review Panel pursuant to Rule 4-344, before one of the judges who was on the panel. With the consent of the parties and the sentencing judge, the hearing may be held before any other judge. The provisions of Rule 4-242 do not apply to an admission of violation of conditions of probation.

Cross reference: See *State v. Peterson*, 315 Md. 73 (1989), construing the third sentence of this subsection. For procedures to be followed by the court when a defendant may be incompetent to stand trial in a violation of probation proceeding, see Code, Criminal Procedure Article, §3-104.

(2) Conduct of Hearing

The court may conduct the revocation hearing in an informal manner and, in the interest of justice, may decline to require strict application of the rules in Title 5, except those relating to the competency of witnesses. The defendant shall be given the opportunity to admit or deny the alleged violations, to testify, to present witnesses, and to cross-examine the witnesses testifying against the defendant. If the defendant is found to be in violation of any condition of probation, the court shall (A) specify the condition violated and (B) afford the defendant the opportunity, personally and through counsel, to make a statement and to present information in mitigation of punishment.

Cross reference: See *Hersch and Cleary v. State*, 317 Md. 200 (1989), setting forth certain requirements with respect to admissions of probation violations, and *State v. Fuller*, 308 Md. 547 (1987), regarding the application of the right to confrontation in probation revocation proceedings. For factors related to drug and alcohol abuse treatment to be considered by the court in determining an appropriate sentence, see Code, Criminal Procedure Article, §6-231.

Source: This Rule is new.

REPORTER'S NOTE

Chapter 353, Laws of 2006 (HB 795), which amended Code, Criminal Procedure Article, §3-104, requires a court to determine whether a defendant is competent to stand trial in a violation of probation proceeding if the defendant appears to be incompetent. The Rules Committee recommends that a cross reference to the amended statute be placed after subsection (e)(1) of Rule 4-347.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 600 - CRIMINAL INVESTIGATIONS AND
MISCELLANEOUS PROVISIONS

AMEND Rule 4-642 to state who may be present during grand jury proceedings and to add provisions concerning the appointment, oath, and compensation of an interpreter in a grand jury proceeding, as follows:

Rule 4-642. SECRECY

(a) Court Records

Files and records of the court pertaining to criminal investigations shall be sealed and shall be open to inspection only by order of the court.

(b) Hearings

Hearings before the court relating to the conduct of criminal investigations shall be on the record and shall be conducted out of the presence of all persons except those whose presence is necessary.

(c) Grand Jury - Who May be Present

(1) While the Grand Jury is in Session

The following persons may be present while the grand jury is in session: one or more attorneys for the State; the witness being questioned; any stenographer appointed pursuant to Code, Courts Article, §2-503; and, when needed, interpreters, so

long as an audio recording is made if the interpreter is present for a witness.

(2) During Deliberations and Voting

No person other than the jurors, and any interpreter needed to assist a hearing-impaired or speech-impaired juror, may be present while the grand jury is deliberating or voting.

(3) Appointment, Oath, and Compensation of Interpreter

If the State's Attorney requests that an interpreter be appointed for a witness or juror in a grand jury proceeding, the court shall appoint an interpreter. Before acting as an interpreter in a grand jury proceeding, the interpreter shall make oath as provided in Rule 16-819 (d) (3). Compensation for the interpreter shall be in accordance with Code, Courts Article, §9-114.

~~(c)~~ (d) Motion for Disclosure

Unless disclosure of matters occurring before the grand jury is permitted by law without court authorization, a motion for disclosure of such matters shall be filed in the circuit court where the grand jury convened. If the moving party is a State's Attorney who is seeking disclosure for enforcement of the criminal law of a state or the criminal law of the United States, the hearing shall be ex parte. In all other cases, the moving party shall serve a copy of the motion upon the State's Attorney, the parties to the judicial proceeding if disclosure is sought in connection with such a proceeding, and such other persons as the court may direct. The court shall conduct a hearing if requested

within 15 days after service of the motion.

Source: This Rule is new.

REPORTER'S NOTE

New subsections (c) (1) and (c) (2) proposed to be added to Rule 4-642 are patterned after Fed. R. Crim. P. 6 (d). Proposed new subsection (c) (3) adds to the Rule provisions concerning the appointment of an interpreter to serve in a grand jury proceeding, the oath that the interpreter must take, and compensation for the interpreter.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-819 (d) (3) to require that an interpreter who serves in a grand jury proceeding take an oath of secrecy, as follows:

Rule 16-819. COURT INTERPRETERS

. . .

(d) Selection and Appointment of Interpreters

. . .

(3) Oath

Upon appointment by the court and before acting as an interpreter in the proceeding, the interpreter shall solemnly swear or affirm under the penalties of perjury to interpret accurately, completely, and impartially and to refrain from knowingly disclosing confidential or privileged information obtained while serving in the proceeding. If the interpreter is to serve in a grand jury proceeding, the interpreter also shall take and subscribe an oath that the interpreter will keep secret all matters and things occurring before the grand jury.

. . .

REPORTER'S NOTE

Rule 16-819 (d) (3) is proposed to be amended to add an oath of secrecy for interpreters in grand jury proceedings. The

language of the proposed amendment is patterned after Code, Courts Article, §2-503 (b) (1), which requires that stenographers for grand juries take an oath of secrecy.

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 7-112 to provide that an appellant may dismiss an appeal at any time before the commencement of trial, as follows:

Rule 7-112. APPEALS HEARD DE NOVO

. . .

(f) ~~Withdrawal~~ Dismissal of Appeal; Entry of Judgment

(1) An appellant may dismiss an appeal at any time before the commencement of trial. The court shall dismiss ~~An an~~ appeal shall be considered withdrawn if the appellant files a notice withdrawing the appeal or if the appellant fails to appear as required for trial or any other proceeding on the appeal.

(2) Upon ~~a withdrawal of the~~ dismissal of an appeal, ~~the~~ circuit court shall dismiss the appeal, and the clerk shall promptly return the file to the District Court. Any statement of satisfaction shall be docketed in the District Court.

(3) On motion filed in the circuit court within 30 days after entry of a judgment dismissing an appeal, the circuit court, for good cause shown, may reinstate the appeal upon the terms it finds proper. On motion of any party filed more than 30 days after entry of a judgment dismissing an appeal, the court may reinstate the appeal only upon a finding of fraud, mistake, or

irregularity. If the appeal is reinstated, the circuit court shall notify the District Court of the reinstatement and request the District Court to return the file.

(4) If the appeal of a defendant in a criminal case who was sentenced to a term of confinement and released pending appeal pursuant to Rule 4-349 ~~withdraws the appeal~~ is dismissed, the circuit court shall (A) issue a warrant directing that the defendant be taken into custody and brought before a judge or commissioner of the District Court or (B) enter an order that requires the defendant to appear before a judge or commissioner. The warrant or order shall identify the District Court case by name and number and shall provide that the purpose of the appearance is the entry of a commitment that conforms to the judgment of the District Court.

. . .

REPORTER'S NOTE

In *Gonzales v. State*, 388 Md. 63 (2005), the Court of Appeals pointed out that Rule 7-112 (f) does not set a time deadline as to when an appeal may be withdrawn and asked the Rules Committee to review this gap in the Rule. The Committee recommends that Rule 7-112 be amended to allow an appellant to dismiss an appeal "at any time before the commencement of trial." The proposed change provides a definitive time frame and is consistent with the time jeopardy attaches in cases in which the possibility of double jeopardy may exist.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 400 - PRELIMINARY PROCEDURES

AMEND Rule 8-423 to delete the word "ordinary" from section (b) and to provide that the court may reduce the amount of a supersedeas bond under certain circumstances, as follows:

Rule 8-423. SUPERSEDEAS BOND

(a) Condition of Bond

~~A~~ Subject to section (b) of this Rule, a supersedeas bond shall be conditioned upon the satisfaction in full of (1) the judgment from which the appeal is taken, together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, or (2) any modified judgment and costs, interest, and damages entered or awarded on appeal.

(b) Amount of Bond

Unless the parties otherwise agree, the amount of the bond shall be as follows:

(1) Money Judgment Not Otherwise Secured

When the judgment is for the recovery of money not otherwise secured, the amount of the bond ~~ordinarily~~ shall be the sum that will cover the whole amount of the judgment remaining unsatisfied plus interest and costs, except that the court, after

taking into consideration all relevant factors, may reduce the amount of the bond upon making specific findings justifying the amount.

Cross reference: Rule 1-402 (d); *O'Donnell v. McGann*, 310 Md. 342, ~~529 A.2d 372~~ (1987).

(2) Disposition of Property

When the judgment determines the disposition of the property in controversy (as in real actions, replevin, and actions to foreclose mortgages,) or when the property, or the proceeds of its sale, is in the custody of the lower court or the sheriff, the amount of the bond shall be the sum that will secure the amount recovered for the use and detention of the property, interest, costs, and damages for delay.

(3) Other Cases

In any other case, the amount of the bond shall be fixed by the lower court.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 1018 a.

Section (b) is derived from former Rule 1018 b and 1020 a.

REPORTER'S NOTE

The Rules Committee considered the request of Dennis McCoy, Esq., that a supersedeas bond limit of \$25 million be added to the Rules to ensure that a defendant's right to appeal is fully protected. The Committee believes that establishment of a supersedeas bond limit in a specific dollar amount is a matter for the legislature to determine.

The Rules Committee recommends that Rule 8-423 be amended to expressly provide that after taking into account all relevant factors and upon making specific findings, a court may reduce the amount of the supersedeas bond below the amount that would cover the whole amount of the judgment remaining unsatisfied plus interest and costs. The Committee considered including in the

Rule a list of factors that the court must consider prior to setting a reduced bond amount, such as the factors set forth in Iowa Code, §625A.9 and Rule 62 of the Utah Rules of Civil Procedure, but declined to include such a list because the relevant factors are case-specific.

MARYLAND RULES OF PROCEDURE

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MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-101 by adding new section (a), "Applicability," and by revising the applicable definitions as follows:

Rule 9-101. APPLICABILITY; DEFINITIONS

(a) Applicability

~~The words "child placement agency," "disability," "father," and "guardianship" as used in Rules 9-101 through 9-113 have the meanings stated in Code, Family Law Article, §5-301. In addition, the word "parent" includes the biological mother, a "natural father" as defined in Code, Family Law Article, §5-310, the biological father or one claiming to be the biological father who does not meet the criteria of §5-310, and a person who is a child's parent by reason of a previous adoption. The Rules in this Chapter apply to proceedings under Code, Family Law Article, Title 5, Subtitles 3 (Guardianship to and Adoption through Local Department), 3A (Private Agency Guardianship and Adoption), and 3B (Independent Adoption).~~

Committee note: ~~This Rule does~~ The Rules in this Chapter do not apply to the guardianship of persons and property of minors and disabled persons governed by Code, Estates and Trusts Article, §13-101 et seq.

(b) Definitions

The terms used in this Chapter that are defined in Code,

Family Law Article, Titles 1 and 5 shall have the meanings stated in those Titles. In addition, in this Chapter, the following definitions apply except as expressly otherwise provided or as necessary implication requires.

(1) Independent Adoption

"Independent Adoption" means an adoption under Code, Family Law Article, Title 5, Subtitle 3B.

(2) Private Agency Adoption

"Private Agency Adoption" means an adoption under Code, Family Law Article, Title 5, Subtitle 3A.

(3) Private Agency Guardianship

"Private Agency Guardianship" means a guardianship under Code, Family Law Article, Title 5, Subtitle 3A.

(4) Public Agency Adoption after TPR

"Public Agency Adoption after TPR" means an adoption under Code, Family Law Article, Title 5, Subtitle 3A after termination of parental rights.

(5) Public Agency Adoption without Prior TPR

"Public Agency Adoption without Prior TRP" means an adoption under Code, Family Law Article, Title 5, Subtitle 3A without prior termination of parental rights.

(6) Public Agency Guardianship

"Public Agency Guardianship" means a guardianship under Code, Family Law Article, Title 5, Subtitle 3A.

Source: This Rule is in part derived from former Rule D71 and is in part new.

REPORTER'S NOTE

Chapter 464 (SB 710), Acts of 2005, reorganized and revised the law pertaining to guardianships that terminate parental rights and adoptions. The new law is divided into three subtitles of Code, Family Law Article: Subtitle 3, Guardianships to and Adoptions through Local Department; Subtitle 3A, Private Agency Adoption and Guardianship; and Subtitle 3B, Independent Adoption.

Section (a) is new. It states the actions to which the Chapter is applicable.

The proposed amendments to section (b) refer to the definitions in Code, Family Law Article, Titles 1 and 5 in lieu of the list of definitions previously in the Rule and add definitions that use the terminology of the new statute.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-102 by deleting language from section (a), by updating the cross reference after section (a), by adding a new section (b) pertaining to certain forms, by relettering the Rule, by replacing the language in subsection (c) (1) with references to certain Code provisions, by conforming the provisions pertaining to revocation of a consent to statutory changes, by adding a new subsection (c) (1) (C) pertaining to notice, by deleting and adding language to subsection (c) (1) (D) pertaining to scheduling an immediate hearing upon revocation of a consent, and by deleting all forms from the Rule, as follows:

Rule 9-102. ~~CONSENTS; REQUESTS FOR ATTORNEY OR COUNSELING~~
REVOCAION OF CONSENT

(a) Consents Generally Required

Except when otherwise permitted, ~~by Code, Family Law Article, §5-312, §5-313, or §5-313.1,~~ a judgment of adoption or guardianship may not be entered without the consents prescribed by Code, Family Law Article, ~~§5-311 or §5-317 (c) (2).~~

Cross reference: ~~See Code, Family Law Article, §5-314 for provisions governing the validity of consents. For provisions governing the authority to grant guardianships or adoptions and the validity of consents, see Code, Family Law Article, §§5-320 and 5-321 as to a Public Agency Guardianship, 5-338 and 5-339 as to a Public Agency Adoption without Prior TPR, 5-350 and 5-351 as~~

to a Public Agency Adoption after TPR, 5-3A-18 and 5-3A-19 as to a Private Agency Guardianship, 5-3A-34 as to a Private Agency Adoption; and 5-3B-19 and 5-3B-20 as to an Independent Adoption.

(b) Form of Consents, Affidavits of Attorneys, and Disclosure Vetoes

(1) Consent of Parent

The consent of a parent to a guardianship or to an adoption shall be substantially in the applicable form set forth at the end of this Title as Form 9-102.1 (Consent of Parent to a Public Agency Guardianship), Form 9-102.2 (Consent of Parent to a Private Agency Guardianship), Form 9-102.3 (Consent of Parent to a Public Agency Adoption without Prior TPR), Form 9-102.4 (Consent of Parent to an Independent Adoption with Termination of Parental Rights), or Form 9-102.5 (Consent of Parent to an Independent Adoption without Termination of Parental Rights).

(2) Consent of Child to Adoption

The consent of a child to an adoption shall be substantially in the applicable form set forth at the end of this Title as Form 9-102.6 (Consent of Child to a Public Agency Adoption or Private Agency Adoption) or Form 9-102.7 (Consent of Child to an Independent Adoption).

(3) Attorney Affidavit

When required, the affidavit by an attorney as to the validity of the consent of a parent or child to a guardianship or adoption shall be substantially in the applicable form set forth at the end of this Title as Form 9-102.8 (Attorney Affidavit as to Consent of a Parent to a Public Agency Guardianship or Private

Agency Guardianship), Form 9-102.9 (Attorney Affidavit as to Consent of a Parent to Adoption), or Form 9-102.10 (Attorney Affidavit as to Consent of a Child to Adoption).

Cross reference: See Rule 9-106 (c).

(4) Disclosure Vetoes

The disclosure vetoes that are required to be attached to the consent forms may be found on the website of the Maryland Department of Human Resources.

~~(b)~~ (c) Revocation of Consent

(1) Time for ~~Revoking~~ Revocation of Consent

~~An individual to be adopted may revoke his or her consent at any time before entry of a judgment of adoption. Any other person or agency executing a required consent to an adoption or guardianship may revoke the consent within 30 days after the consent is signed.~~

(A) By Parent

The time for revocation of consent by a parent is as provided in Code, Family Law Article, §5-321 (Public Agency Guardianship), §5-339 (Public Agency Adoption without Prior TPR), §5-3A-19 (Private Agency Guardianship), and §5-3B-20 (Independent Adoption).

(B) By Adoptee

The time for revocation of consent by an adoptee is as provided in Code, Family Law Article, §5-339 (Public Agency Adoption without Prior TPR), §5-351 (Public Agency Adoption after TPR), §5-3A-34 (Private Agency Adoption), and §5-3B-20

(Independent Adoption).

(C) By Public or Private Agency or Guardian

The time for revocation of consent by a public or private agency or guardian is as provided in Code, Family Law Article, §5-339 (Public Agency Adoption without Prior TPR), §5-351 (Public Agency Adoption after TPR), and §5-3A-34 (Private Agency Adoption).

(2) Procedure for ~~Revoking~~ Revocation of Consents

(A) By Parent - Delivery to Clerk

~~An individual~~ A parent may revoke a consent to an adoption or guardianship only by a signed writing actually delivered by mail or in person to the clerk of the circuit court designated in the consent to receive the revocation. If the revocation is delivered to an agent of a public or private agency, the agent shall deliver the revocation promptly to the court.

(B) By Agency, Guardian, or Adoptee

An agency, ~~entitled to~~ guardian, or adoptee may revoke a consent to an adoption ~~may do so~~ (A) by (i) in person or through counsel on the record at the a hearing required by Rule 9-109 or ~~(B) (ii)~~ in a writing signed by the executive head of the agency, the guardian, or the adoptee and filed with the court. If the revocation is delivered to an agent of a public or private agency, the agent shall deliver the revocation promptly to the court.

Cross reference: Rule 9-112.

(C) Notice

The court shall send to all parties, including the person who revoked the consent, a copy of the revocation and notice of a hearing scheduled pursuant to subsection (c) (2) (D) of this Rule.

~~(3) (D) Action by Court Hearing Upon Revocation of Consent~~

~~If a consent is revoked pursuant to this Rule, the court shall (A) schedule a hearing within three days to determine the status of the petition and temporary custody of the child, (B) determine the immediate custody of the child pending that hearing, and (C) send to all parties and all persons who previously consented to the adoption or guardianship, including the person who revoked the consent, a copy of the revocation, notice of the immediate custody determination, and notice of the scheduled hearing. This subsection does not apply to actions governed by Code, Family Law Article, §5-312, §5-313, or §5-313.1~~
schedule an immediate hearing to determine the status of the petition and, if necessary, temporary custody of the child.

~~Cross reference: Code, Family Law Article, §§5-311 and 5-317.~~

~~(c) Form of Consent of Parent to Adoption~~

~~The consent of a parent to an adoption shall be in substantially the following form.~~

~~CONSENT TO ADOPTION/GUARDIANSHIP~~

~~OR~~

~~REQUEST FOR ATTORNEY OR COUNSELING~~

~~1. Name.~~

~~My name is _____.~~

~~2. Age and Competence.~~

~~My date of birth is _____ and I am capable of understanding what this consent means.~~

~~3. Status as Parent. **Check all that apply.**~~

~~(a) I am [] the mother [] the father (or) [] alleged to be the father of _____, born on _____, _____ at _____ (name of hospital or address of birthplace) in _____ (city, state, and county of birth).~~

~~(b) I was married to the mother of the child [] at the time of conception [] at the time the child was born.~~

~~4. **RIGHT TO ATTORNEY.**~~

~~I understand that:~~

~~(a) The court will appoint an attorney for me if I am under 18 years of age or if, because of a disability, I am incapable of consenting to the adoption/guardianship or of effectively participating in the adoption/guardianship proceeding.~~

~~(b) Even if I am not entitled to a court-appointed attorney, I am entitled to consult an attorney chosen by me. If this is a consent to an adoption, the adoptive parents may agree to pay all or part of the attorney's fees on my behalf and, if this is an independent adoption (that is, where an agency is not involved), the court may order the adoptive parents to do so.~~

~~(c) If I choose to seek the appointment or advice of an attorney, I cannot now consent to the adoption/guardianship and this Consent Form will be ineffective as a consent.~~

~~**Check one of the following statements:**~~

~~I do not want an attorney.~~

~~I already have an attorney whose name, address, and~~

~~telephone number are _____~~

~~_____.~~

~~(Name) _____ (Address) _____ (Telephone Number) _____~~

~~I want an attorney.~~

~~**5. OPTION OF ADOPTION COUNSELING.**~~

~~I understand that, if this is an independent adoption, I have the option of receiving adoption counseling and guidance for which a court may require the adoptive parents to pay. I also understand that if I choose to seek such counseling or guidance, I cannot now consent to the adoption and this Consent Form will be ineffective as a consent to adoption.~~

~~**Check one of the following statements:**~~

~~I do not want adoption counseling and guidance.~~

~~I am already receiving or have received adoption counseling and guidance.~~

~~I want adoption counseling and guidance.~~

~~**[IF A REQUEST IS MADE FOR AN ATTORNEY OR FOR YOU CHECKED THAT YOU WANT ADOPTION COUNSELING AND GUIDANCE, SIGN HERE AND DO NOT COMPLETE THE REST OF THIS FORM]**~~

~~_____~~
~~(Date)~~

~~_____~~
~~(Signature)~~

~~_____~~
~~(Address)~~

~~_____~~
~~(Telephone Number)~~

~~6. **COMPENSATION.**~~

~~I understand that by Maryland law I am not allowed to receive compensation of any kind for the placement of my child, except that reasonable and customary charges or fees for hospital or medical or legal services may be paid on my behalf.~~

~~7. **ACCESS TO BIRTH AND ADOPTION RECORDS.**~~

~~I understand that when my child is at least 21 years old, my child or I or my child's other biological parent may apply to the Secretary of Health and Mental Hygiene for access to certain birth and adoption records. If I do not want information about me to be disclosed, I have the right to prevent disclosure by filing a disclosure veto. I acknowledge receiving a copy of the Maryland Code, Family Law Article, Title 5, Subtitle 3A and a form that I may use if I want to file a disclosure veto.~~

~~_____~~
~~(Initials)~~

~~(This paragraph applies to adoptions finalized on or after January 1, 2000.)~~

~~8. **ADOPTION SEARCH, CONTACT, AND REUNION SERVICES.**~~

~~I understand that when my child is at least 21 years old, my~~

~~child or I or my child's other biological parent may apply to the Director of the Social Services Administration of the Department of Human Resources for adoption search, contact, and reunion services. By my initials, I acknowledge receiving a copy of the Maryland Code, Family Law Article, Title 5, Subtitle 4B.~~

~~(Initials)~~

~~9. EFFECT OF CONSENT.~~

~~I UNDERSTAND THAT, BY SIGNING THIS CONSENT, I AGREE TO THE CONTENTS OF IT, AND THAT, UNLESS THIS IS A STEPPARENT ADOPTION IN WHICH MY (HUSBAND) (WIFE) IS PROPOSING TO ADOPT MY CHILD, I AM GIVING UP ALL RIGHTS, DUTIES, AND OBLIGATIONS WITH RESPECT TO MY CHILD AND ALL RIGHTS TO PARTICIPATE IN ANY PROCEEDING FOR ADOPTION OR GUARDIANSHIP OF MY CHILD.~~

~~10. RIGHT TO REVOKE CONSENT - LIMITATIONS.~~

~~I understand that the only way in which I can revoke this consent is by delivering my revocation to the following person:~~

~~Clerk of the Circuit Court for _____
(Name of County)~~

~~Attention: Adoption Clerk~~

~~(Address and Telephone Number of Court)~~

~~**in writing** no later than _____,~~

~~which is 30 days from the date I sign this consent, that my consent is revoked. The revocation must be signed by me and~~

~~should contain my printed name and address and, to the extent known, the name, sex, and date of birth of my child.~~

~~I understand that revocation by telephone or other oral conversation or by writing to anyone other than the person named above will not constitute a valid revocation. I understand that I may deliver my written revocation by mail or in person, but if it is not received by the clerk by the date stated above, it will not constitute a valid revocation.~~

~~11. **CONSENT.**~~

~~Having read carefully all of the above statements **(check one of the following statements):**~~

~~I freely, voluntarily, and unequivocally consent to the adoption of my child by _____ and _____ or the person or persons whose name(s) is/are unknown to me, but known to the court. I further consent that the prospective adoptive parents may have immediate and temporary custody of my child.~~

~~I freely, voluntarily, and unequivocally consent to a judgment appointing _____ as the guardian of my child, with the right of the guardian to consent to adoption or long term care short of adoption.~~

~~12. **WAIVER OF NOTICE OF ADOPTION OR GUARDIANSHIP**~~

~~**PROCEEDING.**~~

~~I understand that, based on this Consent, a petition for adoption or guardianship will be filed in court and that I have~~

~~the right to be notified when the petition is filed and of further proceedings concerning the guardianship or adoption. I also understand that I may waive my right to notice.~~

~~**Check one of the following statements:**~~

~~I waive notice of all proceedings concerning the adoption or guardianship, including entry of judgment. I understand that a court representative may nonetheless contact me in connection with these proceedings.~~

~~I want to receive notice of the filing of the petition but waive notice of all further proceedings concerning the adoption or guardianship. I understand that notice will be sent to the address given by me on this form unless I advise the clerk of the court stated in Paragraph 10 of this Consent, in writing, of a change in my address.~~

~~I want to receive notice of the filing of the petition and of further proceedings concerning the adoption or guardianship until my parental rights have been terminated. I understand that notice will be sent to the address given by me on this form unless I advise the clerk of the court stated in Paragraph 10 of this Consent, in writing, of a change in my address.~~

~~13. I acknowledge that I have read this Consent or have had it read to me, that I understand it, and that I have received a copy of the signed Consent to keep. I further acknowledge that no one has persuaded me to sign this consent or any other form or paper regarding this adoption or guardianship against my will.~~

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

~~(Date)~~

~~(Signature)~~

~~(Address)~~

~~(Telephone Number)~~

~~(d) Form of Consent of Person to be Adopted~~

~~The consent of a person to be adopted shall be in substantially the following form.~~

~~CONSENT TO ADOPTION~~

~~OR~~

~~REQUEST FOR ATTORNEY~~

~~1. Name.~~

~~My name is _____.~~

~~2. Age and Place of Birth.~~

~~(a) I am at least 10 years old. My date of birth is _____~~

~~_____.~~

~~(b) I was born at _____~~

~~(name of hospital or address of birthplace)~~

~~in _____.~~

~~(city, state, and county of birth)~~

~~3. Right to Attorney.~~

~~I understand that:~~

~~(a) The court will appoint an attorney for me if (i) because of a disability, I am incapable of consenting to the adoption or of effectively participating in the adoption proceeding or (ii) my adoption or guardianship would involuntarily terminate the parental rights of at least one of my parents.~~

~~(b) Even if the court is not required to appoint an attorney for me, if I am under 18 years of age the court may nevertheless appoint an attorney for me.~~

~~(c) If I choose to seek the appointment or advice of an attorney, I cannot now consent to the adoption and this Consent Form will be ineffective as a consent.~~

~~**Check one of the following statements:**~~

~~I do not want an attorney.~~

~~I already have an attorney whose name, address, and~~

~~telephone number are _____~~

~~_____

(Name) (Address) (Telephone Number)~~

~~I want an attorney.~~

~~**{IF A REQUEST IS MADE FOR AN ATTORNEY, SIGN HERE AND DO NOT COMPLETE THE REST OF THIS FORM}**~~

~~_____

(Date)~~

~~_____

(Signature)~~

~~_____

(Address)~~

~~_____

(Telephone Number)~~

~~4. Access to Birth and Adoption Records.~~

~~I understand that when I am at least 21 years old, my biological parents or I may apply to the Secretary of Health and Mental Hygiene for access to certain birth and adoption records. If I do not want information about me to be disclosed, I have the right to prevent disclosure by filing a disclosure veto when I am at least 20 years old. I acknowledge receiving a copy of the Maryland Code, Family Law Article, Title 5, Subtitle 3A and a form that I may use if I want to file a disclosure veto.~~

~~_____

(Initials)~~

~~(This paragraph applies to adoptions finalized on or after January 1, 2000.)~~

~~5. Adoption Search, Contact, and Reunion Services.~~

~~I understand that when I am at least 21 years old, my biological parents or I may apply to the Director of the Social Services Administration of the Department of Human Resources for adoption search, contact, and reunion services. I acknowledge receiving a copy of the Maryland Code, Family Law Article, Title 5, Subtitle 4B.~~

~~_____

(Initials)~~

~~6. Effect of Consent and Adoption~~

~~I understand that, by signing this Consent, I agree to the contents of it. I also understand that, if a court enters a judgment of adoption, I will become the child of the persons who~~

~~adopt me and I will no longer be the legal child of any parent whose parental relationship to me is terminated by the judgment.~~

~~7. Right to Revoke Consent - Limitations~~

~~I understand that the only way in which I can revoke this Consent is by delivering my revocation to the following person:~~

~~Clerk of the Circuit Court for _____
(Name of County)~~

~~Attention: Adoption Clerk~~

~~_____
(Address and Telephone Number of Court)~~

~~in writing, prior to entry of a judgment of adoption by a court, that my consent is revoked. The revocation must be signed by me and should contain my printed name, address, sex, date of birth, and the names of my parents or guardian.~~

~~I understand that revocation by telephone or other oral conversation or by writing to anyone other than the person named above will not constitute a valid revocation. I understand that I may deliver my written revocation by mail or in person, but if it is not received by the clerk prior to entry of a judgment of adoption by a court, it will not constitute a valid revocation.~~

~~8. Consent~~

~~Having read carefully all of the above statements, I freely, voluntarily, and unequivocally consent to being adopted by~~

~~_____ and _____~~

~~and (if applicable) I consent to the change of my name to~~

~~9. Waiver of Notice of Adoption Proceeding~~

~~I understand that, based on this Consent, a petition for adoption will be filed in court and that I have the right to be notified when the petition is filed and of further proceedings concerning the adoption. I also understand that I may waive my right to notice.~~

~~**Check one of the following statements:**~~

~~I waive notice of all proceedings concerning the adoption, including entry of judgment. I understand that a court representative may nonetheless contact me in connection with these proceedings.~~

~~I want to receive notice of the filing of the petition but waive notice of all further proceedings concerning the adoption. I understand that notice will be sent to the address given by me on this form unless I advise the clerk of the court stated in Paragraph 7 of this Consent, in writing, of a change in my address.~~

~~I want to receive notice of the filing of the petition and of further proceedings concerning the adoption. I understand that notice will be sent to the address given by me on this form unless I advise the clerk of the court stated in Paragraph 7 of this Consent, in writing, of a change in my address.~~

~~10. I acknowledge that I have read this Consent or have~~

~~had it read to me in a language that I understand, that I understand it, and that I have received a copy of the signed Consent to keep. I further acknowledge that no one has persuaded me to sign this consent or any other form or paper regarding this adoption against my will.~~

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

~~(Date)~~ _____
~~(Signature)~~

~~(Address)~~

~~(Telephone Number)~~

Source: This Rule is derived in part from former Rule D73 and is in part new.

REPORTER'S NOTE

Rule 9-102 is proposed to be amended to conform it to current practice and to the new statute. Forms for consents and affidavits of attorneys have been updated, deleted from the Rule, and placed to follow Title 9.

Provisions pertaining to revocation of a consent have been revised to conform to statutory changes. The existing provision requiring a hearing within three days following a revocation is proposed to be amended to require an "immediate" hearing.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-103 by changing the titling of a case in section (a); by adding the word "effectively" to subsection (b) (1) (K); by updating a statutory reference in subsection (b) (1) (P); by modifying subsection (b) (2) (A) (vi) to delete language pertaining to a "pre-placement report" and to add language pertaining to an "adoption home study," "criminal background reports," and "child abuse clearances;" by adding language pertaining to "affidavits of translators or attorneys" and an expanded cross reference to subsection (b) (2) (A) (viii); by adding a new subsection (b) (2) (A) (ix) pertaining to proof of guardianship or relinquishment of parental rights; by adding a cross reference after subsection (b) (2) (A) (ix); by adding a new cross reference after subsection (b) (2) (A) (x); by adding language to subsection (b) (2) (A) (xi) pertaining to retraction of language in adoption agreements; by adding a cross reference after subsection (b) (2) (A) (xi); by adding the phrase "if applicable" to subsection (b) (2) (A) (xiii); by adding subsection (b) (2) (A) (xiv) pertaining to a notice of filing; by adding the phrase "if applicable" to subsection (b) (2) (B) (i); by adding a cross reference after subsection (b) (2) (B) (i); by updating the cross reference after subsection (b) (2) (B) (iii), by deleting language

in subsection (b) (2) (B) (iv) and adding references to certain Code sections; by adding a new subsection (b) (2) (B) (v) pertaining to an affidavit of counsel; by updating the cross reference after subsection (b) (2) (B) (v); by updating the cross reference after section (c); by deleting section (e); and by relettering certain sections and subsections; as follows:

Rule 9-103. PETITION

(a) Titling of Case

~~Except as otherwise provided in Rule 9-105, a proceeding shall be titled, "In the matter of the Petition of _____~~

~~_____~~

~~(name of petitioner(s))~~

~~for the Adoption of [a Minor] [an Adult], " or "In the matter of the Petition of _____~~

~~_____~~

~~(name of petitioner(s))~~

~~for Guardianship with Right to Consent to Adoption or Long-Term Care Short of Adoption," as the case may be.~~

A proceeding shall be titled "In re Adoption/Guardianship of _____ (first name and first initial of last name of prospective adoptee or ward)."

(b) Petition for Adoption

(1) Contents

A petition for adoption shall be signed and verified by each petitioner and shall contain the following information:

(A) The name, address, age, business or employment, and employer of each petitioner;

(B) The name, sex, and date and place of birth of the person to be adopted;

(C) The name, address, and age of each parent of the person to be adopted;

(D) Any relationship of the person to be adopted to each petitioner;

(E) The name, address, and age of each child of each petitioner;

(F) A statement of how the person to be adopted was located (including names and addresses of all intermediaries or surrogates), attaching a copy of all advertisements used to locate the person, and a copy of any surrogacy contract;

Committee note: If the text of an advertisement was used verbatim more than once, the requirement that a copy of all advertisements be attached to the petition may be satisfied by attaching a single copy of the advertisement, together with a list of the publications in which the advertisement appeared and the dates on which it appeared.

(G) If the person to be adopted is a minor, the names and addresses of all persons who have had legal or physical care, custody, or control of the minor since the minor's birth and the period of time during which each of those persons has had care, custody, or control, but it is not necessary to identify the names and addresses of foster parents, other than a petitioner, who have taken care of the minor only while the minor has been committed to the custody of a child placement agency;

(H) If the person to be adopted is a minor who has been transported from another state to this State for purposes of placement for adoption, a statement of whether there has been compliance with the Interstate Compact on the Placement of Children (ICPC);

(I) If applicable, the reason why the spouse of the petitioner is not joining in the petition;

(J) If there is a guardian with the right to consent to adoption for the person to be adopted, the name and address of the guardian and a reference to the proceeding in which the guardian was appointed;

(K) Facts known to each petitioner that may indicate that a party has a disability that makes the party incapable of consenting or participating effectively in the proceedings, or, if no such facts are known to the petitioner, a statement to that effect;

(L) Facts known to each petitioner that may entitle the person to be adopted or a parent of that person to the appointment of an attorney by the court;

(M) If a petitioner desires to change the name of the person to be adopted, the name that is desired;

(N) As to each petitioner, a statement whether the petitioner has ever been convicted of a crime other than a minor traffic violation and, if so, the offense and the date and place of the conviction;

(O) That the petitioner is not aware that any required

consent has been revoked; and

(P) If placement pending final action on the petition is sought in accordance with Code, Family Law Article, ~~§5-507 (c)~~ §5-3B-12, a request that the court approve the proposed placement.

(2) Exhibits

(A) The following documents shall accompany the petition as exhibits:

(i) A certified copy of the birth certificate or "proof of live birth" of the person to be adopted;

(ii) A certified copy of the marriage certificate of each married petitioner;

(iii) A certified copy of all judgments of divorce of each petitioner;

(iv) A certified copy of any death certificate of a person whose consent would be required if that person were living;

(v) A certified copy of all orders concerning temporary custody or guardianship of the person to be adopted;

(vi) A copy of any ~~pre-placement report~~ existing adoption home study by a licensed child placement agency concerning a petitioner, criminal background reports, or child abuse clearances;

(vii) A document evidencing the annual income of each petitioner;

(viii) The original of all consents to the adoption, any

required affidavits of translators or attorneys, and, if available, a copy of any written statement by the consenting person indicating a desire to revoke the consent, whether or not that statement constitutes a valid revocation;

Cross reference: See Code, Family Law Article, ~~§§5-311~~ §§5-331, 5-338, and 5-339 as to a Public Agency Adoption without Prior TPR; 5-350 and 5-351 as to a Public Agency Adoption after TPR; 5-3A-34 and 5-3A-35 as to a Private Agency Adoption; and 5-3B-20 and 5-3B-21 as to an Independent Adoption.

(ix) If applicable, proof of guardianship or relinquishment of parental rights granted by an administrative, executive, or judicial body of a state or other jurisdiction; a certification that the guardianship or relinquishment was granted in compliance with the jurisdiction's laws; and any appropriate translation of documents required to allow the child to enter the United States;

Cross reference: See Code, Family Law Article, §§5-305 and 5-331 as to a Public Agency Adoption without Prior TPR; 5-305 and 5-345 as to a Public Agency Adoption after TPR; 5-3A-05 as to a Private Agency Adoption; and 5-3B-05 and 5-3B-20 as to an Independent Adoption.

~~(ix)~~ (x) If a parent of the person to be adopted cannot be identified or located, an affidavit of each petitioner and the other parent describing the attempts to identify and locate the unknown or missing parent;

Cross reference: See Code, Family Law Article, §§5-331 and 5-334 as to a Public Agency Adoption without Prior TPR and 5-3B-15 as to an Independent Adoption.

~~(x)~~ (xi) A copy of any agreement between a parent of the person to be adopted and a petitioner relating to the proposed adoption with any required redaction;

Cross reference: See Code, Family Law Article, §§5-308 and 5-331 as to a Public Agency Adoption without Prior TPR; 5-308 and 5-345 as to a Public Agency Adoption after TPR; 5-3A-08 as to a Private Agency Adoption; and 5-3B-07 as to an Independent Adoption.

~~(xi)~~ (xii) If the adoption is subject to the Interstate Compact on the Placement of Children, the appropriate ICPC approval forms; ~~and~~

Cross reference: Code, Family Law Article, §5-601.

~~(xii)~~ (xiii) A brief statement of the health of each petitioner signed by a physician or other health care provider if applicable; and

(xiv) If required, a notice of filing as prescribed by Code, Family Law Article:

(1) §5-313 in a Public Agency Guardianship;

(2) §5-331 in a Public Agency Adoption without Prior TPR; or

(3) §5-345 in a Public Agency Adoption after TPR.

(B) The following documents shall be filed before a judgment of adoption is entered:

(i) Any post-placement report relating to the adoption, if applicable;

Cross reference: See Code, Family Law Article, §§5-337 as to a Public Agency Adoption without Prior TPR; 5-349 as to a Public Agency Adoption after TPR; 5-3A-31 and 5-3A-34 as to a Private Agency Adoption; and 5-3B-16 as to an Independent Adoption.

(ii) A brief statement of the health of the child by a physician or other health care provider;

(iii) If required by law, an accounting of all payments and disbursements of any money or item of value made by or on

behalf of each petitioner in connection with the adoption;

Cross reference: See Code, Family Law Article, ~~§5-327 (c)~~ §5-3B-24 as to an Independent Adoption.

(iv) An affidavit of counsel for a parent, if any, for a minor parent or parent under a disability attesting to the voluntariness of the parent's consent, required by Code, Family Law Article:

(1) §5-307 in a Public Agency Guardianship;

(2) §§5-307 and 5-339 in a Public Agency Adoption

Before TPR;

(3) §§5-3A-07 and 5-3A-35 in a Private Agency Adoption;

or

(4) §§5-3B-06 and 5-3B-20 in an Independent Adoption.

(v) An affidavit of counsel for a child, if the child is represented.

Cross reference: See Code, Family Law Article, ~~§5-314 (b)~~ §§5-337 as to a Public Agency Adoption without Prior TPR; 5-349 as to a Public Agency Adoption after TPR; 5-3A-31 and 5-3A-34 as to a Private Agency Adoption; and 5-3B-16 as to an Independent Adoption.

~~(v)~~ (vi) If the adoption is subject to the Interstate Compact on the Placement of Children, the required post-placement form;

~~(vi)~~ (vii) A proposed judgment of adoption; and

~~(vii)~~ (viii) A Department of Health and Mental Hygiene Certificate of Adoption Form.

Cross reference: Code, Health-General Article, §4-211 (f).

(c) Petition for Guardianship

A petition for guardianship shall state all facts required by subsection (b) (1) of this Rule, to the extent that the requirements are applicable and known to the petitioner. It shall be accompanied by all documents required to be filed as exhibits by subsection (b) (2) of this Rule, to the extent the documents are applicable. The petition shall also state the license number of the child placement agency.

Cross reference: See Code, Family Law Article, ~~§5-317 (b)~~ §§5-313 as to a Public Agency Guardianship and 5-3A-13 as to a Private Agency Guardianship.

(d) If Facts Unknown or Documents Unavailable

If a fact required by subsection (b) (1) or section (c) of this Rule is unknown to a petitioner or if a document required by subsection (b) (2) or section (c) is unavailable, the petitioner shall so state and give the reason in the petition or in a subsequent affidavit. If a document required to be submitted with the petition becomes available after the petition is filed, the petitioner shall file it as soon as it becomes available.

~~(e) Judgment from Foreign Country~~

~~When a judgment of adoption or guardianship is sought pursuant to Code, Family Law Article, §5-313.1, an exemplified copy of the judgment granted by the foreign jurisdiction shall be filed with the petition.~~

~~Committee note: For exemplification procedure, see Federal Rule of Civil Procedure 44 (a) (2).~~

~~(f)~~ (e) Disclosure of Facts Known to Child Placement Agency

If any fact required by subsection (b) (1) of this Rule to

be stated is known to a child placement agency and the agency declines to disclose it to a petitioner, the agency shall disclose the fact to the court in writing at the time the petition is filed.

Source: This Rule is derived in part from former Rule D72, in part from former Rule D80, and is in part new.

REPORTER'S NOTE

Section (a) has been changed to be consistent with the caption of appellate cases set out in Rule 8-122.

Subsection (b)(2) contains changes to the list of exhibits that include replacing the copy of a pre-placement report with a copy of any existing adoption home study, criminal background reports, or child abuse clearances; the addition of an affidavit of a translator of any consent signed in any language other than English; the addition of proof of guardianship or relinquishment of parental rights granted by an official body of a state or other jurisdiction with language suggested by the Committee that includes any appropriate translation of documents; a notice of filing with reference to the appropriate sections of the statute; and an expansion of the affidavit of counsel to include counsel for a parent and a child, with references to the appropriate statute. Cross references to the statute have been added. These changes conform to the new statute.

Section (c) has updated cross references.

Section (d) has not been changed.

Section (e) has been deleted.

Section (f) has been relettered (e) and has not otherwise been changed.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-104 by deleting the text of the existing Rule, by adding a new section (a) referring to certain Code sections, and by adding a new section (b) pertaining to a status conference, as follows:

Rule 9-104. NOTICE ~~TO CONSENTING PERSONS~~ OF FILING OF PETITION;
STATUS CONFERENCE

~~(a) Upon the filing of a petition for adoption or guardianship, the court shall send a notice of the filing to each person whose parental rights have not previously been terminated and who, pursuant to Rule 9-102, has consented to the adoption or guardianship but has requested notice of the filing of the petition. If the person has also requested notice of further proceedings concerning the adoption or guardianship, the court shall send notice of any hearing to be held prior to the entry of a judgment terminating that person's parental rights and of the entry of any judgment terminating those parental rights.~~

~~(b) Notice under this Rule shall be sent by first class mail to the address given on the consent form unless the person has, in writing, provided a new address.~~

~~(c) The sending of notice pursuant to this Rule does not~~

~~affect the consent signed by the person or give the person any standing to participate in the action.~~

(a) Notice of Filing of Petition

Notice of the filing of a petition for guardianship or adoption shall be given as required by Code, Family Law Article:

- (1) §5-315 in a Public Agency Guardianship;
- (2) §5-333 in a Public Agency Adoption without Prior TPR;
- (3) §5-346 in a Public Agency Adoption after TPR;
- (4) §5-3A-14 in a Private Agency Guardianship;
- (5) §5-3A-30 in a Private Agency Adoption; and
- (6) §5-3B-14 in an Independent Adoption.

(b) Status Conference

In a public agency guardianship or adoption, at the time the notice of filing is sent, the court shall schedule a status conference no later than 60 days after the filing of the petition.

Source: This Rule is new.

REPORTER'S NOTE

The title of the Rule has been changed. Notice requirements are contained in the statute, which is referenced in Rule 9-104 (a), rather than the Rule repeating what the statute provides. Section (b) was added at the request of practitioners in Child in Need of Assistance cases to give the court the opportunity to see how the public agency is progressing in the guardianship or adoption.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-105 by deleting language from and adding language to section (a) referring to certain Code provisions; by deleting existing subsection (a)(2); by deleting existing section (b) and adding a new section (b) pertaining to the appointment of an attorney for a disabled party; by adding a cross reference after section (b); by deleting existing section (c); by relettering certain sections; by modifying the service provisions in relettered section (c) to refer to certain Code provisions; by adding to relettered subsection (c)(3) language that includes a reference to attaching a copy of the petition in certain proceedings; by deleting existing section (f); by revising the form of the show cause order to clarify it and conform it to statutory changes; by making stylistic changes to the notice of objection/request for appointment of attorney form and conforming it to statutory changes; and by adding a new section (g) referring to certain Code provisions for the form of notice for service by publication and posting, as follows:

Rule 9-105. SHOW CAUSE ORDER; DISABILITY OF A PARTY; OTHER NOTICE

(a) Requirement for Show Cause Order

~~(1) Generally~~

~~Promptly Upon~~ upon the filing of a petition for adoption or guardianship, the court shall ~~enter~~ issue a show cause order in substantially the form set forth in section ~~(h)~~ (e) of this Rule ~~unless all parties entitled to service of the show cause order under section (b) of this Rule have consented to the adoption or guardianship~~ when required by Code, Family Law Article:

- (1) §5-316 in a Public Agency Guardianship;
- (2) §5-334 in a Public Agency Adoption without Prior TPR;
- (3) §5-3A-15 in a Private Agency Guardianship; or
- (4) §5-3B-15 in an Independent Adoption.

If the petition seeks adoption of a minor, the show cause order shall not divulge the name of the petitioner. If the petition seeks appointment of a guardian, the show cause order shall state the name of the child placement agency seeking guardianship.

~~(2) (b) Determination of Disability of a~~ Appointment of Attorney for Disabled Party

~~If the petition alleges facts that indicate that a party has a disability, the court shall (A) appoint an attorney for the party if the party is not represented, (B) set a prompt hearing to determine whether the party has a disability that makes the party incapable of consenting or participating in the proceeding, and (C) cause subpoenas to be issued and served upon the petitioner and the party requiring their attendance at the hearing.~~

- (1) If the parties agree that a party who is not represented

has a disability that makes the party incapable of consenting or participating effectively in the proceeding, the court shall appoint an attorney who shall represent the disabled party throughout the proceeding.

(2) If there is a dispute as to whether a party who is not represented has a disability that makes the party incapable of consenting or participating effectively in the proceeding, the court shall:

(A) hold a hearing promptly to resolve the dispute;

(B) appoint an attorney to represent the alleged disabled party at that hearing;

(C) provide notice of that hearing to all parties; and

(D) if the court finds at the hearing that the party has such a disability, appoint an attorney who shall represent the disabled party throughout the proceeding.

Cross reference: See Code, Family Law Article, §§5-307 as to a Public Agency Guardianship; 5-307 as to a Public Agency Adoption without Prior TPR; 5-3A-07 as to a Private Agency Guardianship; and 5-3B-06 as to an Independent Adoption. For eligibility of an individual for representation by the Office of the Public Defender, see Code, Family Law Article, §5-307 and Code, Article 27A, §4.

~~(b) Persons to be Served~~

~~(1) In Adoption Proceeding~~

~~(A) Subject to paragraphs (1) (B), (1) (C), (1) (D), and (1) (E) of this section, if the petition seeks adoption, the show cause order shall be served on (i) the person to be adopted, if the person is 10 years old or older; (ii) the parents of the person to be adopted; and (iii) any other person the court~~

~~directs to be served.~~

~~(B) If the parental rights of the parents of the person to be adopted have been terminated by a judgment of guardianship with the right to consent to adoption, service shall be on the guardian instead of the parents.~~

~~(C) If an attorney has been appointed to represent a parent or the person to be adopted, service shall be on the attorney instead of the parent or person to be adopted.~~

~~Cross reference: See Rule 9-106 (a) concerning appointment of attorney.~~

~~(D) If a person to be adopted has been adjudicated to be a child in need of assistance in a prior juvenile proceeding and the court is satisfied by affidavit or testimony that the petitioner has made reasonable good faith efforts to serve the show cause order on the person's parent by both certified mail and private process at the addresses specified in Code, Family Law Article, §5-322 (b) and at any other address actually known to the petitioner as one where the parent may be found, the court shall order notice to that parent by publication pursuant to section (c) of this Rule.~~

~~(E) The show cause order need not be served on a person who has executed a written consent pursuant to Rule 9-102.~~

~~(2) In a Guardianship Proceeding~~

~~(A) Subject to paragraphs (2) (B), (2) (C), and (2) (D) of this section, if the petition seeks guardianship, the show cause order shall be served on (i) the parents of the person for whom a~~

~~guardian is to be appointed and (ii) any other person that the court directs to be served.~~

~~(B) If an attorney has been appointed to represent a parent or the person for whom a guardian is to be appointed, service shall be on the attorney instead of the parent or person for whom a guardian is to be appointed.~~

~~(C) If a person for whom a guardian is to be appointed has been adjudicated to be a child in need of assistance in a prior juvenile proceeding and the court is satisfied by affidavit or testimony that the petitioner has made reasonable good faith efforts to serve the show cause order on the person's parent by both certified mail and private process at the addresses specified in Code, Family Law Article, §5-322 (b) and at any other address actually known to the petitioner as one where the parent may be found, the court shall order notice to that parent by publication pursuant to section (c) of this Rule.~~

~~(D) The show cause order need not be served on a person who has executed a written consent pursuant to Rule 9-102.~~

~~(c) Method of Service~~

~~Except as otherwise provided in this Rule, the show cause order shall be served in the manner provided by Rule 2-121. If the court is satisfied by affidavit or testimony that the petitioner or a parent, after reasonable efforts made in good faith, has been unable to ascertain the identity or whereabouts of a parent entitled to service under section (b) of this Rule, the court may order, as to that parent, that the show cause order~~

~~be published at least one time in one or more newspapers of general circulation published in the county in which the petition is filed and, if different, in the county of that parent's last known address. When a show cause order is published, unless the court orders otherwise, the show cause order shall identify the individual who is the subject of the proceeding only as "a child born to" followed by the name of any known parent of the child and shall set forth the month, year, county, and state of the child's birth, to the extent known.~~

~~Cross reference: See Code, Family Law Article, §5-322 (e), setting forth the efforts necessary to support a finding that a reasonable, good faith effort has been made by a local department of social services to locate a parent.~~

(c) Service of Show Cause Order

(1) Method of Service

The show cause order shall be served on those persons and in the manner required by Code, Family Law Article:

(A) §5-316 in a Public Agency Guardianship;

(B) §5-334 in a Public Agency Adoption without Prior TPR;

(C) §5-3A-15 in a Private Agency Guardianship; or

(D) §5-3B-15 in an Independent Adoption.

~~(d)~~ (2) Time for Service

Unless the court orders otherwise, a show cause order ~~that is served in the manner provided by Rule 2-121~~ shall be served within 90 days after the date it is issued. If service is not made within that period, a new show cause order shall be issued at the request of the petitioner.

~~(e)~~ (3) Notice of Objection

A show cause order ~~served pursuant to Rule 2-121~~ shall be ~~accompanied by~~ served with two copies of a pre-captioned notice of objection form in substantially the form set forth in section ~~(i)~~ (f) of this Rule. In a public agency guardianship or adoption, a copy of the petition shall be attached.

~~(f)~~ ~~Additional Notice in a Guardianship~~

~~The petitioner in an action for guardianship of a child who has been adjudicated a child in need of assistance in a prior juvenile proceeding shall also send a copy of the petition and show cause order by first class mail to each attorney who represented a parent and to the attorney who represented the child in the juvenile proceeding.~~

~~(g)~~ (d) Notice of Change of Name

If the person to be adopted is an adult and the petitioner desires to change the name of the person to be adopted to a surname other than that of the petitioner, notice of a proposed change of name shall also be given in the manner provided in Rule 15-901.

~~(h)~~ (e) Form of Show Cause Order

Except as provided in section (g) of this Rule, The the show cause order shall be ~~in~~ substantially in the following form:

IMPORTANT

THIS IS A COURT ORDER. IF YOU DO NOT UNDERSTAND WHAT THE ORDER SAYS, HAVE SOMEONE EXPLAIN IT TO YOU. YOUR RIGHT TO AN ATTORNEY IS EXPLAINED IN PARAGRAPH 3 OF THIS ORDER. **IF YOU DO NOT MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN PARAGRAPH 2 OF THIS ORDER, YOU HAVE AGREED TO A TERMINATION OF YOUR PARENTAL RIGHTS.**

~~IN THE MATTER OF A PETITION~~ _____ ~~IN THE~~

FOR _____ CIRCUIT COURT
~~(Adoption/Guardianship)~~ _____ FOR

OF _____
~~(Name of Individual who is~~ _____ ~~(County)~~
~~the Subject of the Proceeding)~~

~~(Docket Reference)~~

(Note to Drafter of Show Cause Order: For the form of the caption of the Show Cause Order, see Rule 9-103 (a).)

SHOW CAUSE ORDER

TO:

(Name of Person to be Served)

(Address, including County)

(Relationship of person served to individual who is the subject of the proceeding)

You are hereby notified that:

1. Filing of Petition.

A petition has been filed for _____
(Adoption/Guardianship)
of _____ who
(Name of individual who is the subject of the proceeding)
was born at _____ on _____.
(Birthplace) (Date of Birth)
(If the petition is for guardianship, include the following
sentence: The petition was filed by _____
_____.
(Name of child placement agency seeking guardianship)

2. Right to Object; Time for Objecting

~~(A. This portion should be included when the show cause order
is to be served pursuant to Rule 2-121.)~~

If you wish to object to the _____,
(Adoption/Guardianship)
you must file a notice of objection with the clerk of the court
at _____
(Address of Courthouse)

within _____ days after this Order is served on you. For
your convenience, a form notice of objection is attached to this
Order.

~~(B. This portion should be included when the show cause order
is to be published or posted.)~~

~~If you wish to object to the _____
(adoption/guardianship)
you must file a notice of objection with the clerk of the court
on or before _____ at _____.
(date) (address of courthouse)~~

WHETHER THE PETITION REQUESTS ADOPTION OR GUARDIANSHIP, IF YOU DO NOT MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED ABOVE, YOU HAVE AGREED TO ~~A~~ THE TERMINATION OF YOUR PARENTAL RIGHTS.

3. Right to an Attorney

(a) You have the right to ~~consult~~ speak with an attorney and obtain independent legal advice.

(b) An attorney may already have been appointed for you ~~based on statements in the petition~~. If you have been notified that an attorney has been appointed ~~and has already contacted~~ for you, you should ~~consult~~ speak immediately with that attorney.

(c) If an attorney has not already contacted you, you may be entitled to have the court appoint an attorney for you if:

~~(1) you are the person to be adopted and:~~

~~(A) you are at least ten years old but are not yet 18;~~
~~or~~

~~(B) you are at least ten years old and have a disability that makes you incapable of consenting to the adoption or of participating effectively in the proceeding.~~

~~(2) you are the person to be adopted or the person for whom a guardian is sought and the proceeding involves the involuntary termination of the parental rights of your parents.~~

~~(3) you are a parent of the person to be adopted or for whom a guardian is sought and:~~

~~(A) you are under 18 years of age; or~~

~~(B) because of a disability, you are incapable of~~

~~consenting to the adoption or guardianship or of participating effectively in the proceeding; or~~

~~(C) you object to the adoption and cannot afford to hire an attorney because you are indigent.~~

(Note to Drafter of Show Cause Order: Include only those of the following paragraphs that are applicable to the type of guardianship or adoption proceeding that has been filed.)

[In a Public Agency Adoption:]

(1) You are the person to be adopted.

[In a Private Agency Adoption:]

(1) You are the person to be adopted **and**

(A) you are at least 10 years old but are not yet 18; or

(B) you have a disability that makes you unable to participate effectively in the adoption case.

[In an Independent Adoption:]

(1) You are the person to be adopted **and**

(A) you are at least 10 years old; **and**

(B) you have a disability that makes you unable to participate effectively in the adoption case.

[In a Public Agency Guardianship or Adoption without Prior TPR:]

(2) you are a parent of the person to be adopted or for whom a guardian is sought **and:**

(A) you are under 18 years of age; or

(B) you have a disability that makes you unable to

participate effectively in the case; or

(C) you object to the guardianship or adoption and cannot afford to hire an attorney because you are indigent.

[In a Private Agency Guardianship:]

(2) you are a parent of the person for whom a guardian is sought; and

(A) you are under 18 years of age; or

(B) you have a disability that makes you unable to participate effectively in the case.

[In an Independent Adoption:]

(2) you are a parent of the person to be adopted; and

(A) you are under 18 years of age; or

(B) you have a disability that makes you unable to participate effectively in the case.

IF YOU BELIEVE YOU ARE ENTITLED TO HAVE THE COURT APPOINT AN ATTORNEY FOR YOU AND YOU WANT AN ATTORNEY, YOU MUST NOTIFY THE COURT BEFORE THE TIME YOUR NOTICE OF OBJECTION MUST BE FILED. HOWEVER, EVEN IF YOU HAVE OR WANT TO HAVE AN ATTORNEY, YOU MUST STILL FILE THE NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN PARAGRAPH 2 OF THIS ORDER. IF YOU DO NOT MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED, YOU HAVE AGREED TO A THE TERMINATION OF YOUR PARENTAL RIGHTS.

For your convenience, a request for appointment of an

attorney is printed on the notice of objection form attached to this Order. ~~(Omit the last sentence from a published or posted show cause order.)~~

(d) ~~If you are a parent of the person to be adopted, you~~ You are entitled to consult an attorney chosen by you, even if you are not entitled to an attorney appointed by the court. If you employ an attorney, you may be responsible for any fees and costs charged by that attorney unless ~~this is an adoption proceeding and the adoptive parents agree to pay, or~~ the court orders ~~them~~ another party to pay all or part of those fees or expenses.

(e) If you wish further information concerning appointment of an attorney by the court or concerning adoption counseling and guidance, you may contact

(Name of Court Official)

(Address)

(Telephone Number)

4. Option to Receive Adoption Counseling

If this is an adoption proceeding, you also may have the option to receive adoption counseling and guidance. You may have to pay for that service unless ~~the adoptive parents agree~~ another party agrees to pay or the court orders ~~them~~ another party to pay all or part of those charges.

Date of issue: _____

(Judge)

~~(i)~~ (f) Form of Notice of Objection

The notice of objection shall be ~~in~~ substantially **in** the following form:

~~IN THE MATTER OF A PETITION~~ _____ ~~IN THE~~
~~FOR~~ _____ ~~CIRCUIT COURT FOR~~
~~(Adoption/Guardianship)~~
~~OF~~ _____
~~(Name of individual who is~~ _____ ~~(County)~~
~~the subject of the proceeding)~~

~~(Docket Reference)~~

(Note to Drafter of the Notice of Objection/Request for Appointment of Attorney: For the caption of the form, see Rule 9-103 (a).)

NOTICE OF OBJECTION/REQUEST FOR APPOINTMENT OF ATTORNEY

(Instructions to the person served with the show cause order:

IF YOU WISH TO OBJECT, YOU MUST MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN THE SHOW CAUSE ORDER. You may use this form to do so. You need only sign this form, print or type your name, address, and telephone number underneath your signature, and mail or deliver it to the court at the address shown in paragraph 2 of the show cause order. **IF THE COURT HAS NOT RECEIVED YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN PARAGRAPH 2 OF**

THE SHOW CAUSE ORDER, YOU HAVE AGREED TO A THE TERMINATION OF YOUR PARENTAL RIGHTS. If you wish to state your reasons, you may state them on this sheet.)

1. I object to the _____ of the
(Adoption/Guardianship)
above-named individual. My reasons for objecting are as follows:

2. I do/do not want the Court to appoint an attorney to
(Circle one)
represent me. If I circled that I do want the court to appoint
an attorney for me, I believe that I am entitled to a court-
appointed attorney because:

(Check appropriate box or boxes)

~~I am the person to be adopted and:
 I am at least ten years old but am not yet 18; or
 I am at least ten years old and I have a
disability that makes me incapable of consenting to the adoption
or of participating effectively in the proceeding; or
 the proceeding involves the involuntary termination
of the parental rights of my parents.~~

~~I am a parent of the person to be adopted or for whom a
guardian is sought and:~~

~~I am under 18 years of age; or~~

~~[] because of a disability, I am incapable of consenting to the adoption or guardianship or of participating effectively in the proceeding; or~~

~~[] I object to the adoption or guardianship and cannot afford to hire an attorney because I am indigent.~~

(Note to Drafter of the Notice of Objection/Request for Appointment of Attorney: Include only those of the following paragraphs which are applicable to the type of guardianship or adoption proceeding that has been filed.)

[In a Public Agency Adoption:]

[] I am the person to be adopted.

[In a Private Agency Adoption:]

[] I am the person to be adopted **and**

[] I am at least 10 years old but are not yet 18.

[] I have a disability that makes me unable to participate effectively in the adoption case.

[In an Independent Adoption:]

[] I am the person to be adopted **and**

[] I am at least 10 years old, and I have a disability that makes me unable to participate effectively in the adoption case.

[In a Public Agency Guardianship or Adoption without Prior TPR:]

[] I am the parent of the person to be adopted or placed under guardianship **and:**

[] I am under 18 years of age.

[] I have a disability that makes me unable to participate effectively in the case.

[] I object to the guardianship or adoption and cannot afford to hire an attorney because I am indigent.

[In a Private Agency Guardianship:]

[] I am the parent of the person to be placed under guardianship and:

[] I am under 18 year of age.

[] I have a disability that makes me unable to participate effectively in the case.

[In an Independent Adoption:]

[] I am the parent of the person to be adopted and:

[] I am under 18 years of age.

[] I have a disability that makes me unable to participate effectively in the case.

(Signature)

(Name, printed or typed)

(Address)

(Telephone Number)

(g) Form of Notice for Service by Publication and Posting

The notice for service by publication and posting shall

be in the form required by Code, Family Law Article:

- (1) §5-316 in a Public Agency Guardianship;
- (2) §5-334 in a Public Agency Adoption without Prior TPR;
- (3) §5-3A-15 in a Private Agency Guardianship; or
- (4) §5-3B-15 in an Independent Adoption.

~~Committee note: See Rule 9-103 (a). The caption of the petition designated in the show cause order is different from the caption of the case record referred to in Rule 9-103, which is kept by the clerk. The caption in the show cause order preserves the anonymity of the prospective adoptive parents. The caption in the case record preserves the anonymity of the adoptee.~~

Source: This Rule is in part derived from former Rule D74 and is in part new.

REPORTER'S NOTE

Section (a) has references to the new statute added.

Section (b) has been restyled and has new language providing when an attorney will be appointed for an unrepresented party with a disability or an alleged disability, a change suggested to conform to practice. It also has cross references to the new statute added to it.

Section (c) has been rewritten to refer to conform to the new statute. Language requiring that a copy of the petition shall be attached in a public agency guardianship or adoption has been added to conform to the statute.

Former section (f) has been deleted, because it has been superseded by the statute.

Existing section (g) has been relettered (d), with no changes.

Existing section (h) has been relettered (e). Language has been added referring to Rule 9-103 concerning captioning of the show cause order. Language has been added to the show cause order to clarify which of the disabilities of the parent listed in the statute would apply.

Section (i) has been relettered (f). Added to the section is a new reference to Rule 9-103 concerning the caption of the

Notice of Objection/Request for Attorney form. Language has been added to the section of the form pertaining to the parent to clarify which of the disabilities listed in the statute would apply.

Section (g), Form of Notice for Service by Publication and Posting, is new and refers to the new statute.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-106 by deleting section (a) and replacing it with references to certain Code provisions pertaining to appointment of an attorney; by adding a new section (b) and cross references after section (b) pertaining to payment of attorneys' fees; by adding a new section (c) pertaining to an affidavit of attorney; by deleting the text of existing section (b), relettering the section (d), and replacing the text of the section with references to certain Code provisions and new language pertaining to investigations; by deleting existing section (c); and by relettering the Rule, as follows:

Rule 9-106. APPOINTMENT OF ATTORNEY - ATTORNEY AFFIDAVIT - INVESTIGATION

(a) Appointment of Attorney

~~The court shall appoint an attorney for any person entitled to the appointment pursuant to Code, Family Law Article, §5-323. The court may appoint an attorney for a minor who is not otherwise entitled by statute to a court-appointed attorney. If the petition shows that a person is entitled to a court-appointed attorney, the court shall appoint an attorney for that person promptly after the filing of the petition.~~

The court shall appoint an attorney for a party when required by Code, Family Law Article:

- (1) §5-307 in a Public Agency Guardianship;
- (2) §5-307 in a Public Agency Adoption without Prior TPR;
- (3) §5-307 in a Public Agency Adoption after TPR;
- (4) §5-3A-07 in a Private Agency Guardianship;
- (5) §5-3A-07 in a Private Agency Adoption; or
- (6) §5-3B-6 in an Independent Adoption.

(b) Payment of Attorney's Fees

Even if the prospective adoptee is not entitled to a court-appointed attorney, the person is entitled to consult an attorney chosen by that person. The adoptive parents or agency may agree to pay all or part of the attorney's fees on behalf of the person, or the court may order the adoptive parents or agency to do so.

Cross reference: See Code, Family Law Article, §§5-309 as to a Public Agency Guardianship; 5-309 as to a Public Agency Adoption without Prior TPR; 5-3A-09 as to a Private Agency Guardianship; and 5-3B-08 as to an Independent Adoption. See *In Re Adoption No. A91-71A*, 334 Md. 538 (1994).

(c) Affidavit of Attorney

- (1) With a Parental Consent

The attorney shall file an affidavit in the applicable form set forth at the end of this Title with a consent signed by a parent when required by Code, Family Law Article:

- (A) §5-321 in a Public Agency Guardianship;
- (B) §5-339 in a Public Agency Adoption without Prior TPR;
- (C) §5-3A-19 in a Private Agency Guardianship; or

(D) §5-3B-21 in an Independent Adoption.

(2) With a Consent of a Prospective Adoptee

The attorney shall file an affidavit in the applicable form set forth at the end of this Title with a consent signed by a prospective adoptee if the adoptee is represented and

(A) is a minor; or

(B) has a disability that makes the prospective adoptee incapable of effectively participating in a case.

Cross reference: See Rule 9-102 (c) (3).

~~(b) (d) Investigation by Court~~

~~If the proceeding is contested, the court shall order an investigation of the facts of the case and if the proceeding is uncontested, the court may order an investigation. The court may designate any person or agency to conduct the investigation. That person or agency shall report the findings of the investigation to the court in writing and, also, if requested by the court, the recommendation of the person or agency.~~

(1) Optional

The court may order an investigation as provided by Code, Family Law Article:

(A) §5-317 in a Public Agency Guardianship;

(B) §5-3A-16 in a Private Agency Guardianship; or

(C) §5-3B-16 in an Independent Adoption.

(2) Mandatory

The court shall order an investigation in a nonconsensual Independent Adoption as provided in Code, Family

Law Article, §5-3B-16.

(3) Recommendation of Investigator

If requested by the court, the report of any investigation may include the recommendation of the investigator.

(4) In Writing

The report of any investigation shall be submitted to the court in writing and filed among the records of the proceeding.

~~(c) Reports~~

~~The reports of any investigation shall be filed among the records of the proceeding.~~

Source: This Rule is ~~derived from former Rule D75~~ new.

REPORTER'S NOTE

Section (a) references the new statute.

Sections (b), (c), and (d) are new and were added to conform to the new statute.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-107 by deleting language from subsection (b)(4) and replacing it with new language that conforms to statutory changes, by changing the words "the petitioner" to the words "all parties" in section (c), and by changing the words "the petitioner" to the words "any party" in sections (d) and (e), as follows:

Rule 9-107. OBJECTION

(a) In General

Any person having a right to participate in a proceeding for adoption or guardianship may file a notice of objection to the adoption or guardianship. The notice may include a statement of the reasons for the objection and a request for the appointment of an attorney.

Cross reference: See Rule 9-105 for Form of Notice of Objection.

(b) Time for Filing Objection

(1) In General

Except as provided by subsections (b)(2) and (b)(3) of this Rule, any notice of objection to an adoption or guardianship shall be filed within 30 days after the show cause order is served.

(2) Service Outside of the State

If the show cause order is served outside the State but within the United States, the time for filing a notice of objection shall be within 60 days after service.

(3) Service Outside of the United States

If the show cause order is served outside the United States, the time for filing a notice of objection shall be within 90 days after service.

(4) Service by Publication ~~or Posting~~ in a Newspaper and on Website

~~If the show cause order is served by publication or posting, the time for filing a notice of objection shall be the date stated in the show cause order, which shall be not earlier than 30 days after the posting or first publication of the show cause order.~~ If the court orders service by publication, the deadline for filing a notice of objection shall be not less than thirty (30) days from the later of (A) the date that the notice is published in a newspaper or (B) the last day that the notice is published on the Maryland Department of Human Resources website.

(c) Service

The clerk shall serve a copy of any notice of objection on ~~the petitioner~~ all parties in the manner provided by Rule 1-321.

(d) Response

Within ~~ten~~ 10 days after being served with a notice of objection, ~~the petitioner~~ any party may file a response

challenging the standing of the person to file the notice or the timeliness of the filing of notice ~~of objection~~.

(e) Hearing

If ~~the petitioner~~ any party files a response, the court shall hold a hearing promptly on the issues raised in the response.

(f) Access to Records

If the court determines that the person filing the notice of objection has standing to do so and that the notice is timely filed, it shall enter an order permitting the person to inspect the papers filed in the proceeding subject to reasonable conditions imposed in the order.

Source: This Rule is derived in part from former Rule D76 and is in part new.

REPORTER'S NOTE

Rule 9-107 contains a change in subsection (b)(4) conforming the procedure for publication to that required by the new statute and adding in a time limit similar to the one provided for in Rule 2-321 to conform the procedure to similar procedures in other Rules. Sections (c), (d), and (e) have been modified to broaden the scope of the Rule by replacing the word "petitioner" with the word "party" or "parties."

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-108 by adding a new cross reference, as follows:

Rule 9-108. TEMPORARY CUSTODY

The court may make an award of temporary custody of a minor prior to a hearing.

Cross reference: See Code, Family Law Article, §5-3B-12.

Source: This Rule is derived from former Rule D78 (d).

REPORTER'S NOTE

A cross reference to the statute has been added to Rule 9-108.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-109 by adding references to certain Code provisions to subsection (a) (1); by making optional the holding of a hearing in a consensual public or private agency guardianship; by adding a cross reference after subsection (a) (2); by deleting section (b); by adding a new subsection (b) (2) referring to certain Code provisions; by changing the words "in order" to the word "filed" in subsection (b) (3) (D); by revising subsection (b) (3) (F) to apply only to a nonconsensual independent adoption, including a reference to certain Code provisions; and by adding a cross reference after subsection (b) (3) (I), as follows:

Rule 9-109. HEARING ON MERITS

(a) Requirement

(1) Generally

The court shall hold a hearing and make findings on the record on the merits in of a ~~contested~~ guardianship ~~action and in every or~~ adoption ~~action prior to entering a judgment of adoption or guardianship.~~ petition as provided by Code, Family Law Article:

(A) §5-318 in a nonconsensual Public Agency Guardianship;

(B) §5-335 in a Public Agency Adoption without Prior TPR;

(C) §5-347 in a Public Agency Adoption after TPR;

(D) §5-3A-32 in a Private Agency Adoption; or

(E) §5-3B-17 in an Independent Adoption.

(2) Guardianship

The court may hold a hearing on the merits ~~in any~~
~~guardianship action. The hearing shall be on the record. of a~~
consensual Public or Private Agency Guardianship petition.

Cross reference: See Code, Family Law Article, §5-318 as to
Public Agency Guardianship.

~~(b) Guardianship~~

~~When the court holds a hearing in a guardianship action,~~
~~it shall make the findings required by Code, Family Law Article,~~
~~§5-313 on the record.~~

~~(c) (b) Adoption~~

(1) Persons Present at Hearing

Unless excused for good cause shown, each petitioner and
the person to be adopted shall be present at the hearing on the
merits in an adoption action. The hearing shall be conducted out
of the presence of all persons other than the petitioners, the
person to be adopted, and those persons whose presence the court
deems necessary or desirable.

Committee note: Social policy against public disclosure of
adoption proceedings compels all hearings to be as private as
possible. This Rule leaves to the discretion of the trial court
the extent to which this consideration must be relaxed in the
interest of fair trial.

(2) Considerations

In ruling on a petition for adoption, the court shall make the considerations required by Code, Family Law Article:

(A) §5-337 in a Public Agency Adoption without Prior TPR;

(B) §5-349 in a Public Agency Adoption after TPR;

(C) §5-3A-34 in a Private Agency Adoption; or

(D) §5-3B-19 in an Independent Adoption.

~~(2)~~ (3) Findings by the Court

In an adoption action, the court shall determine on the record whether:

(A) Necessary consents have been filed;

(B) Any required consents have been revoked;

Cross reference: Rules 9-111 (b) and 9-112 (a).

(C) Appropriate notices have been served;

(D) Any investigative reports ~~are in order~~ have been filed;

(E) All questioned or disputed issues have been resolved;

(F) ~~In a contested case a nonconsensual independent adoption, where adoption will terminate a parent's rights, the parents are unfit or extraordinary circumstances exist whether the findings required by Code, Family Law Article, §5-3B-21 have been met;~~

(G) The adoptive parents are fit and proper to be the parents of the person to be adopted;

(H) The best interests of the person to be adopted will be served by the adoption; and

(I) Other appropriate matters have been resolved.

Cross reference: See Code, Family Law Article, §§5-337 as to a

Public Agency Adoption without Prior TPR; 5-349 as to a Public Agency Adoption after TPR; 5-3A-34 as to a Private Agency Adoption; and 5-3B-19, 5-3B-22, and 5-3B-23 as to an Independent Adoption.

Source: This Rule is in part derived from former Rule D77 and is in part new.

REPORTER'S NOTE

Section (a) has been changed to refer to the new statute.

Existing section (b) has been deleted, and the remaining sections have been relettered.

Subsection (c) (1) is relettered (b) (1) and has not otherwise been changed. Subsection (b) (2) is new and refers to the statute.

Subsection (c) (2) is relettered (b) (3) and amended to conform to the new statute. A cross reference to the new statute has been added after the subsection.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-110 by updating the cross reference at the end of the Rule and to make a stylistic change, as follows:

Rule 9-110. ACCOUNTING REPORT

(a) Duty to File

In an independent adoption other than an adoption by a stepparent or relative of the person to be adopted, each petitioner shall file an accounting report before the entry of a final judgment of adoption.

(b) Contents

The accounting report shall include:

- (1) a statement of all payments and disbursements of money or ~~any item~~ anything of value, including benefits in kind, made by or on behalf of any petitioner in connection with the adoption;
- (2) the approximate date the payment or disbursement was made or the benefit was provided;
- (3) the name of the payee and the beneficiary; and
- (4) the amount of the payment or disbursement or the reasonable value of the benefit provided.

The court may require the production of documentation to substantiate the accounting report.

Cross reference: See Code, Family Law Article, ~~§§5-321 and 5-327~~
(c) §5-3B-24 as to an Independent Adoption.

Source: This Rule is new.

REPORTER'S NOTE

Rule 9-110 has not been changed, except for an updated cross reference and a stylistic change.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-111 by deleting language from section (a) and adding language referring to certain Code provisions, by deleting the words "natural or biological" from section (e), and by updating statutory references in the Committee note at the end of the Rule, as follows:

Rule 9-111. JUDGMENT OF ADOPTION OR GUARDIANSHIP

(a) Time

The court may not enter a judgment of adoption or guardianship before the ~~later of (1) 30 days after the birth of the child or (2) expiration of the time for revoking all required consents.~~ time set forth in Code, Family Law Article:

(A) §5-319 in a Public Agency Guardianship;

(B) §5-336 in a Public Agency Adoption without Prior TPR;

(C) §5-348 in a Public Agency Adoption after TPR;

(D) §5-3A-17 in a Private Agency Guardianship;

(E) §5-3A-33 in a Private Agency Adoption; or

(F) §5-3B-18 in a Independent Adoption.

(b) Information from Other Court

If a required consent indicates that any revocation of the consent must be filed in a court other than the trial court, the

trial court may not enter a judgment of adoption or guardianship until it has obtained from the other court a copy of all papers filed in connection with the consent or an affidavit of the clerk of the other court that no papers were filed in connection with the consent.

(c) Supplemental Report

Before entering a judgment of adoption or guardianship, the court may require a supplemental written report from the investigating officer or agency.

(d) Change of Name

If the name of the person adopted is changed, the judgment of adoption shall state the new name of the person adopted and the names of the adopting parents.

(e) Spouse of Parent

If the adopting parent is the spouse of a ~~natural or biological~~ parent of the person to be adopted, the judgment shall specifically state whether and to what extent the parental rights of the ~~natural or biological~~ parent are affected.

Committee note: Any attempt to set aside a judgment of adoption by reason of a procedural defect shall be filed with the court within one year following entry of the judgment. See Code, Family Law Article, ~~§5-325~~ §§5-342 as to a Public Agency Adoption without Prior TPR; 5-353 as to a Public Agency Adoption after TPR; 5-3A-37 as to a Private Agency Adoption; and 5-3B-26 as to an Independent Adoption.

An adoptive relationship created by a judgment of adoption in another jurisdiction shall be given full faith and credit by the courts of this State. See Code, Family Law Article, ~~§5-326~~ §§5-305 as to a Public Agency Adoption without Prior TPR; 5-305 as to a Public Agency Adoption after TPR; 5-3A-05 as to a Private Agency Adoption; and 5-3B-04 as to an Independent Adoption.

For the legal effect of adoption ~~of an adult~~, see Code, Family Law Article, ~~§5-308~~ §§5-341 as to a Public Agency Adoption without Prior TPR; 5-352 as to a Public Agency Adoption after TPR; 5-3A-36 as to a Private Agency Adoption; and 5-3B-35 as to an Independent Adoption.

Source: This Rule is derived in part from former Rule D79 and is in part new.

REPORTER'S NOTE

Section (a) of Rule 9-111 has been changed to include references to the new statute. In addition, the words "natural or biological" have been deleted from section (e) to conform to the language of the statute.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING

PARENTAL RIGHTS

AMEND Rule 9-112 by adding a sentence at the end of section (b) providing for the clerk to notify each person entitled to notice of the finalization of the adoption, as follows:

Rule 9-112. COURT RECORDS

(a) Dockets

The clerk shall keep separate dockets for (1) adoption and guardianship proceedings and (2) revocations of consent to adoption or guardianship for which there are no pending adoption or guardianship proceedings in that county. These dockets are not open to inspection by any person, including the parents, except upon order of court. If the index to a docket is kept apart from the docket itself, the index is open to inspection.

(b) Sealing of Records

All pleadings and other papers in adoption and guardianship proceedings shall be sealed when they are filed and are not open to inspection by any person, including the parents, except upon an order of court. If a final decree of adoption was entered before June 1, 1947 and the record is not already sealed, the record may be sealed only on motion of a party. The clerk shall notify each person entitled to notice that the adoption has been finalized.

Cross reference: See Code, Health-General Article, §4-211, concerning the amendment and replacement of birth certificates following adoption and the requirement that the clerk transmit to the Department of Health and Mental Hygiene a report of adoption or revocation of adoption.

Source: This Rule is derived from former Rule D80 a and c.

REPORTER'S NOTE

At the request of a clerk, Rule 9-112 has a new sentence added to section (b) to clarify that the clerk is to notify anyone entitled to notice that the adoption has been finalized.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

AMEND Rule 9-113 by changing the name of the Rule, by deleting the tagline to section (a), by deleting language from section (a) and adding to the section language providing for an affirmation to the court of reasonable efforts to compile a prospective adoptee's and the adoptee's parents' medical and mental health records, by deleting section (b), and by updating the cross reference at the end of the Rule, as follows:

Rule 9-113. MEDICAL AND MENTAL HEALTH HISTORY

~~(a) Duty to Provide~~

Except in an adoption by a stepparent or relative, the person authorized to place a minor child for adoption shall ~~compile~~ affirm to the court that the person has made reasonable efforts to compile a medical history of the child, file it with the court, and make ~~it~~ available to a prospective adoptive parent ~~and to the adoptive parent~~ (1) all of the prospective adoptee's medical and mental health records that the person has or (2) a comprehensive medical and mental health history of the prospective adoptee and the prospective adoptee's parents, except that the records of the parents shall contain no identifying information unless identifying information was previously

exchanged by agreement.

~~(b) Contents~~

~~The medical history shall contain to the extent obtainable:~~

- ~~(1) current physical and mental health status of the child;~~
- ~~(2) the prenatal history of the child;~~
- ~~(3) the birth history of the child;~~
- ~~(4) the health history of both biological parents; and~~
- ~~(5) the family health history of both biological parents.~~

Cross reference: See Code, Family Law Article, §§~~5-328~~ 5-356 as to a Public Agency Adoption without Prior TPR; 5-356 as to a Public Agency Adoption after TPR; and 5-3A-39 as to a Private Agency Adoption.

Source: This Rule is new.

REPORTER'S NOTE

Rule 9-113 changes the word "compile" to the language "affirm to the court that the person has made reasonable efforts to compile" and the language "a medical history of the child" to "(1) all of the prospective adoptee's medical and mental health records that the person has or (2) a comprehensive medical and mental health history of the prospective adoptee and the prospective adoptee's parents" to conform to the language of the new statute. The Committee has added a provision to protect the parent's identity when the records are made available, so that the Rule is consistent with the Health Insurance Portability and Accountability, Act of 1996. The Committee deleted the provision that listed the contents of the medical history, because it was too limited.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

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MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.1, as follows:

Form 9-102.1. CONSENT OF PARENT TO A PUBLIC AGENCY GUARDIANSHIP

**CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO
CONSENT TO ADOPTION OF _____ TO THE
_____ DEPARTMENT OF SOCIAL SERVICES**

INSTRUCTIONS

These instructions and attached consent form may be used only in cases where the child is a Child in Need of Assistance. Code, Family Law Article, Title 5, Subtitle 3, Part II.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide

whether or not to consent.

If you are unable to afford a lawyer, you may be eligible for a lawyer through the Office of the Public Defender. You should contact the Office of the Public Defender, and ask for a lawyer to represent you in a D.S.S. (Department of Social Services) guardianship case.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the guardianship. You should contact the Office of the Public Defender, or let the Juvenile Court know that you need to have a lawyer appointed for you.

Even if you do not have the right to have the court appoint a lawyer for you or to be represented through the Office of the Public Defender, you have the right to speak with a lawyer you choose before you decide whether to consent.

C. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after the adoption, the adoptive parents do not do what they agreed to do, it will not affect your consent to the guardianship or the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

D. Conditional Consent

If you decide to sign the consent form, you will have two choices:

(1) you can consent to the guardianship and the adoption of your child by a family approved by D.S.S.; or

(2) you can consent to the guardianship only if the child is adopted into a specific family. This is called a "conditional consent." If you sign a conditional consent, and the family whose name is on the consent cannot adopt the child, your consent will no longer be valid. The court will try to locate you to find out if you want to sign a new consent. If you do not sign a

new consent, the court can have a trial to decide whether or not your parental rights should be ended (terminated) and whether or not guardianship with the right to consent to adoption should be granted to D.S.S., even without your consent.

E. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, AND THE GUARDIANSHIP IS GRANTED, YOU WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD.

If you have a post-adoption agreement, you will keep only the rights the agreement gives you. Violation of the agreement will not affect your consent or the adoption.

After you sign the consent form, the person or agency to whom you give the form must file it in the Juvenile Court promptly. If a guardianship case has been filed, it will be filed in the guardianship case. If a guardianship case has not been filed, it will be filed in the child's CINA (Child in Need of Assistance) case. When it is filed, a copy of the filed consent form will be sent to you at the address you list at the end of the consent form. It is your responsibility to let the court know if your address changes.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent **within 30 days after the date that it is filed in Juvenile Court**. The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Juvenile Clerk, Circuit Court for _____, at
_____ (Address).

The written and signed revocation statement must be sent to the court, not to your social worker or lawyer. You may deliver your written revocation of consent in person or by mail. If it is not received by the Juvenile Clerk's office **within 30 days after the date the consent form was filed in court**, it will be too late, and you will not be able to withdraw the consent or stop the guardianship from being granted.

G. Further Notice of Guardianship and Adoption Proceedings

A petition for guardianship with the right to consent to

adoption has been or will be filed in _____
Juvenile Court. If you sign the consent form, your written
consent form will also be filed in the Juvenile Court. You have
the right to be notified when the petition is filed, about any
hearings before or after guardianship is granted, if and when
guardianship is granted, and if and when the child is adopted.
Any notices will be sent to the address given by you on the
consent form, unless you write to the Juvenile Clerk at
_____ (court's address) and give
the clerk your new address. You may waive (give up) your right
to notice if you wish to do so. Even if you give up your right
to notice, someone from the court may contact you if further
information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive
money or compensation of any kind for the placement for adoption
of your child or for your agreement to the adoptive parent having
custody of your child, except that reasonable and customary
charges or fees for adoption counseling, hospital, legal, or
medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your
child's other parent, or you may apply to the Maryland Secretary
of the Department of Health and Mental Hygiene for access to
certain birth and adoption records. If you do not want
information about you to be disclosed (given) to that person, you
have the right to prevent disclosure by filing a **disclosure veto**.
Attached to this document is a copy of the form that you may use
if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your
child's other parent or siblings, or you may apply to the
Director of the Social Services Administration of the Maryland
Department of Human Resources for adoption search, contact, and
reunion services.

K. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for
membership in an Indian tribe, as defined by federal law, you
have special legal rights under the Indian Child Welfare Act.
You should not sign this consent form if you believe this may
apply to you. You should tell the person requesting the consent
or the court that you believe that your child's case should be

handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents and D.S.S. to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION OF

TO

DEPARTMENT OF SOCIAL SERVICES

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____, in _____.
(date) (name of hospital or address of birthplace) (city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

- (b) I was married to the mother of the child
[] at the time of conception of the child
[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I already have spoken with a lawyer whose name and telephone number are _____.
I have read the instructions in front of this form, and I am ready to consent to the guardianship with the right to consent to adoption.

OR

- [] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the guardianship with the right to consent to adoption.

C. Consent

Check **one** of the following statements:

- [] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____ Department of Social Services to be the guardian of my child, with the right of the guardian to consent to adoption.

OR

- [] I voluntarily and of my own free will consent to the

ending (termination) of my parental rights and to the appointment of _____ Department of Social Services, to be the guardian of my child as long as my child is adopted by _____.

D. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the guardianship case, any reviews after guardianship is granted, or when my child is adopted.

OR

I give up (waive) the right to any further notice of the guardianship case or any reviews after guardianship is granted, but I want to be notified when my child is adopted.

OR

I want to be notified about anything that happens in the guardianship case, any reviews after guardianship is granted, and when my child is adopted.

E. Revocation Rights

I understand that if I change my mind and no longer consent to the guardianship with the right to consent to adoption, I have the right to revoke this consent **within 30 days after it is filed in Juvenile Court.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation** to the Juvenile Clerk, Circuit Court for _____ at _____.

F. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND GUARDIANSHIP IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

G. Oath and Signature

I have read carefully and understand the instructions at the front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.2, as follows:

Form 9-102.2. CONSENT OF PARENT TO A PRIVATE AGENCY GUARDIANSHIP

**CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT
TO ADOPTION OF _____ TO
_____, A LICENSED PRIVATE
ADOPTION AGENCY**

INSTRUCTIONS

*These instructions and attached consent form may be used only in cases where the child is being placed for adoption with the assistance of a licensed **private** adoption agency. Code, Family Law Article, Title 5, Subtitle 3A.*

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the guardianship.

Even if you are not required to have a lawyer, you have the right to speak with a lawyer you choose before you decide whether to consent.

You can ask the court to require the agency seeking guardianship of your child to pay the costs of the lawyer. The judge does not have to grant that request but may do so.

C. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after adoption, the adoptive parents do not do what they agreed to do, it will not affect your consent to the guardianship or the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

D. Conditional Consent

If you decide to sign the consent form, you will have two choices:

(1) you can consent to the guardianship and the adoption of your child by a family approved by the adoption agency; or

(2) you can consent to the guardianship only if the child is adopted into a specific family. This is called a "conditional consent." If you sign a conditional consent, and the family whose name is on the consent cannot adopt the child, your consent will no longer be valid. The adoption agency will try to locate you to find out if you want to sign a new consent. If your parental rights have not been taken away (guardianship has not yet been granted), and you do not sign a new consent, the court will end the guardianship case. If your parental rights have

been taken away (guardianship has been granted), and you do not sign a new consent, the court will decide whether it is in the child's best interests to continue the guardianship.

E. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, AND GUARDIANSHIP IS GRANTED, YOU WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD.

If you have a post-adoption agreement, you will keep only the rights the agreement gives you. Violation of the agreement will not affect your consent or the adoption.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent **within 30 days after the date that you sign the consent form**. The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Adoption Clerk, Circuit Court for _____ at _____.
(Address)

The revocation must be sent to the court, not to the lawyers, or the agency, or the people adopting the child. You may deliver your written revocation of consent in person or by mail. If it is not **received** by the Adoption Clerk's office within 30 days after the date you signed the consent form, it will be too late, and you will not be able to withdraw the consent or stop the guardianship from being granted.

If you sign the consent form, and then revoke your consent, and then decide to consent to the guardianship again, you will not be able to revoke your second consent if you give your second consent in court within one year of your revocation of this consent.

G. Further Notice of Guardianship and Adoption Proceedings

A petition for guardianship with the right to consent to adoption has been or will be filed in _____ Circuit Court. If you sign the consent form, your written consent form will also be filed in the Circuit Court. You have the right to be notified when the petition is filed, about any hearings, if and when the guardianship is granted, and when the child is adopted. You also have the right to be notified if

there is a delay in your child's adoption because:

1. The adoption agency does not place your child with an adoptive family within 270 days of being appointed the guardian of your child;
2. The adoption agency does not place your child with an adoptive family within 180 days of the disruption of a prior adoptive placement; or
3. The adoption is not completed within 2 years after your child's placement with the adoptive family.

Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents and adoption agency to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed

consent form.

CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION OF

_____ TO _____,

A LICENSED PRIVATE ADOPTION AGENCY

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____,
(date) (name of hospital or address of birthplace)
in _____.
(city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

- (b) I was married to the mother of the child
[] at the time of conception of the child
[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I already have spoken with a lawyer whose name and telephone number are _____.
I have read the instructions at the front of this form, and I am ready to consent to the guardianship with the right to consent to adoption.

OR

- [] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the guardianship with the right to consent to adoption.

C. Consent

Check **one** of the following:

- [] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____, a licensed private adoption agency, to be the guardian of my child, with the right of the guardian to consent to adoption.

OR

[] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____, a licensed private adoption agency, to be the guardian of my child as long as my child is adopted by _____.

D. Notice

Check **one** of the following:

[] I give up (waive) the right to any further notice of the guardianship case, any delays in the adoption of my child, or when my child is adopted.

OR

[] I give up (waive) the right to any further notice of the guardianship case or any delays in the adoption of my child, but I want to be notified when my child is adopted.

OR

[] I want to be notified about anything that happens in the guardianship case, any delays in the adoption of my child, and when my child is adopted.

E. Revocation Rights

I understand that if I change my mind and no longer consent to the guardianship with the right to consent to adoption, I have the right to revoke this consent **within 30 days after I sign this consent form.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation** to the Adoption Clerk, Circuit Court for _____

at _____.

F. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND GUARDIANSHIP IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

G. Oath and Signature

I have read carefully and understand the instructions at the front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.3, as follows:

Form 9-102.3. CONSENT OF PARENT TO A PUBLIC AGENCY ADOPTION
WITHOUT PRIOR TPR

CONSENT OF PARENT TO ADOPTION OF _____

Adoption of CINA without Prior Termination of Parental Rights

INSTRUCTIONS

*These instructions and attached consent form may be used only in cases where the child is a Child in Need of Assistance and the petitioner is seeking to adopt the child **without** prior termination of parental rights. Code, Family Law Article, Title 5, Subtitle 3, Part III.*

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent. If you are unable to afford a lawyer, you may be eligible for a lawyer through the Office of the Public Defender. You should contact the Office of the Public Defender, and ask for a lawyer to represent you in a D.S.S. (Department of Social Services) case.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the adoption. You should contact the Office of the Public Defender, or let the Juvenile Court know you need to have a lawyer appointed for you.

Even if you do not have the right to have the court appoint a lawyer for you or to be represented through the Office of the Public Defender, you have the right to speak with a lawyer you choose before you decide whether to consent.

C. Right to Adoption Counseling

You have the right to receive adoption counseling and guidance. The court may require D.S.S. or the adoptive parents to pay for the adoption counseling and guidance but does not have to do so. If you want adoption counseling or guidance, you should not complete this consent form until after you have gotten adoption counseling or guidance.

D. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after the adoption, the adoptive parents do not do what they agreed to do, it will not affect the adoption or your consent to the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

E. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, AND ADOPTION IS GRANTED, YOU WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD. If you have a post-adoption agreement, you will keep only

the rights the agreement gives you. Violation of the agreement will not affect your consent or the adoption.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent. If the adoption case is already filed in court, you must revoke your consent **within 30 days after the date that you sign the consent form**. If the adoption case has not been filed in court, you must revoke your consent **within 30 days after the adoption petition is filed**. The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Juvenile Clerk, Circuit Court for _____ at
_____ (Address).

The revocation must be sent to the court, not to your social worker, lawyer, or the people adopting the child. You may deliver your written revocation of consent in person or by mail. If it is not **received** by the Juvenile Clerk's office within the later of 30 days after the date you sign the consent form or 30 days after the date the adoption petition is filed, it will be too late, and you will not be able to withdraw the consent or stop the adoption from being granted.

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for _____. If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Juvenile Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary

charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER OR GET ADOPTION COUNSELING BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understood them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT OF PARENT TO ADOPTION OF _____

Adoption of CINA without PRIOR Termination of Parental Rights

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____, in _____.
(date) (name of hospital or address of birthplace) (city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

the mother of the child

the father of the child

alleged to be the father of the child

(b) I was married to the mother of the child

at the time of conception of the child

at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

[] I already have spoken with a lawyer whose name and telephone number are _____.

I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

[] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the adoption.

C. Right to Counseling and Guidance

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

[] I have already spoken with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

[] I do not want to speak with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

D. Consent

I voluntarily and of my own free will consent to the ending (termination) of my rights as parent to and to the adoption of my child, _____, by a person(s) known to me as _____.

E. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the adoption case.

OR

I want to be notified when the adoption case is filed, of any hearings, and if and when my child is adopted.

F. Revocation Rights

I understand that if I change my mind and no longer consent to the adoption, I have the right to revoke this consent **within the later of 30 days after I sign this form or 30 days after the adoption case is filed in court.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation statement** to the Juvenile Clerk, Circuit Court for _____ at _____.

G. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND ADOPTION IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

H. Oath and Signature

I have read carefully and understand the instructions in front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.4, as follows:

Form 9-102.4. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION WITH
TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Independent Adoption with Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are being terminated. It should not be used for a parent who is retaining parental rights, for example, a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of

this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the adoption.

Even if you are not required to have a lawyer, you have the right to speak with a lawyer you choose before you decide whether to consent.

You can ask the court to require the people adopting your child to pay the costs of the lawyer. The judge does not have to grant that request but may do so.

C. Right to Adoption Counseling

You have the right to receive adoption counseling and guidance. The court may require the adoptive parents to pay for the adoption counseling and guidance but does not have to do so. If you want adoption counseling or guidance, you should not complete this consent form until after you have gotten adoption counseling or guidance.

D. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after the adoption, the adoptive parents do not do what they agreed to do, it will not affect the adoption or your consent to the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

E. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, AND ADOPTION IS GRANTED, YOU WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD. If you have a post-adoption agreement, you will keep only

the rights the agreement gives you. Violation of the agreement will not affect your consent or the adoption.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent **within 30 days after the date that you sign the consent form**. The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Adoption Clerk, Circuit Court for _____, at
_____ (Address).

The revocation must be sent to the court, not to the lawyers or the people adopting the child. You may deliver your written revocation of consent in person or by mail. If it is not **received** by the Adoption Clerk's office within 30 days after the date you signed the consent form, it will be too late, and you will not be able to withdraw the consent or stop the adoption from being granted.

If you sign this consent form, and then revoke your consent, and then decide to consent to the adoption again, you will not be able to revoke your second consent if you give your second consent in court within one year of your revocation of this consent.

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for _____. If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption

of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER OR GET ADOPTION COUNSELING BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT TO INDEPENDENT ADOPTION OF

WITH TERMINATION OF PARENTAL RIGHTS

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____, in _____.
(date) (name of hospital or address of birthplace)
(city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

- (b) I was married to the mother of the child
[] at the time of conception of the child
[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I already have spoken with a lawyer whose name and
telephone number are _____

_____. I
have read the instructions at the front of this form, and I am
ready to consent to the adoption.

OR

- [] I am at least 18 years old and am able to understand
this document. I have read the instructions at the
front of this form, and I do not want to speak with a
lawyer before I consent to the adoption.

C. Right to Counseling and Guidance

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I have already spoken with a counselor. I have read
the instructions at the front of this form, and I am
ready to consent to the adoption.

OR

- [] I do not want to speak with a counselor. I have read
the instructions at the front of this form, and I am
ready to consent to the adoption.

D. Consent

I voluntarily and of my own free will consent to the ending (termination) of my rights as parent to and to the adoption of my child, _____, by person(s) known to me as _____.

I also agree that such person(s) shall have temporary custody of the child until the completion of the adoption.

E. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the adoption case.

OR

I want to be notified when the adoption case is filed, of any hearings and if and when my child is adopted.

F. Revocation Rights

I understand that if I change my mind and no longer consent to the adoption, I have the right to revoke this consent **within 30 days after the date that I signed this consent form.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation** to the Adoption Clerk, Circuit Court for _____ at _____.

G. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND ADOPTION IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER

ANY WRITTEN POST-ADOPTION AGREEMENT.

H. Oath and Signature

I have read carefully and understand the instructions in front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS
CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.5, as follows:

Form 9-102.5. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION
WITHOUT TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____
Independent Adoption without Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are not being terminated. It should be used for a parent who is retaining parental rights, for example, a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the adoption.

Even if you are not required to have a lawyer, you have the right to speak with a lawyer you choose before you decide whether to consent.

C. Right to Adoption Counseling

You have the right to receive adoption counseling and guidance. If you want adoption counseling or guidance, you should not complete this consent form until after you have gotten adoption counseling or guidance.

D. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, YOU WILL NOT BE GIVING UP ANY RIGHTS OR RESPONSIBILITIES RELATING TO THE CHILD.

E. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent **within 30 days after the date that you sign the consent form.** The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Adoption Clerk, Circuit Court for _____, at

(Address).

The revocation must be sent to the court, not to the lawyers or the people adopting the child. You may deliver your written revocation of consent in person or by mail. If it is not **received** by the Adoption Clerk's office within 30 days after the date you signed the consent form, it will be too late, and you will not be able to withdraw the consent or stop the adoption from being granted.

If you sign this consent form, and then revoke your consent, and then decide to consent to the adoption again, you will not be able to revoke your second consent if you give your second consent in court within one year of your revocation of this consent.

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for _____. If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**.

Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER OR GET ADOPTION COUNSELING BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

**CONSENT TO INDEPENDENT ADOPTION
WITHOUT TERMINATION OF PARENTAL RIGHTS**

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____,
(name of hospital or address of birthplace)
in _____.
(city, state, and county of birth)

5. Status as Parent. Check all that apply.

(a) I am

the mother of the child

the father of the child

alleged to be the father of the child

(b) I was married to the mother of the child

at the time of conception of the child

at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

I already have spoken with a lawyer whose name and telephone number are _____
_____. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the adoption.

C. Right to Counseling and Guidance

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

I have already spoken with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

I do not want to speak with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

D. Consent

I voluntarily and of my own free will consent to the adoption of my child, _____, by

_____.

E. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the adoption case.

OR

I want to be notified when the adoption case is filed, of any hearings, and if and when my child is adopted.

F. Revocation Rights

I understand that if I change my mind and no longer consent to the adoption, I have the right to revoke this consent **within 30 days after the date that I signed this consent form.** I understand that the only way that I can revoke this consent is by giving a signed written revocation statement to the Adoption Clerk, Circuit Court for _____ at _____.

G. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, I WILL NOT BE GIVING UP ANY RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD.

H. Oath and Signature

I have read carefully and understand the instructions at the front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THE CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.6, as follows:

Form 9-102.6. CONSENT OF CHILD TO A PUBLIC AGENCY ADOPTION OR
PRIVATE AGENCY ADOPTION

CONSENT OF _____ TO ADOPTION
(Name of Child)

INSTRUCTIONS

This consent form may be completed only after being reviewed with an attorney and should be completed only by a child who is in the custody of or under the guardianship of the Department of Social Services or under the guardianship of a private child placement agency. Code, Family Law Article, Title 5, Subtitle 3 or 3A.

1. I understand English, or this consent form has been translated into _____, a language that I understand.

2. My name is _____.

3. My date of birth is _____. I am _____ years old.

4. I understand that _____ have asked to adopt me.

5. I have a lawyer whose name and telephone number are _____. I have met with my lawyer who has gone over this consent form with me and

explained to me what it means to be adopted.

6. I understand that if I agree to be adopted, and I am adopted, _____ will become my parents, and I will become their child.

7. I understand that I do not have to agree to be adopted. If I do not agree, the judge cannot approve the adoption. If the adoption is not approved, and I am not adopted by someone else, a judge will decide where I will live.

8. I voluntarily and of my own free will agree to being adopted by _____. I understand that if they are not able to complete the adoption, this consent form will no longer be valid and can no longer be used.

9. I understand that if I change my mind and do not want to be adopted, I must tell my lawyer, my social worker, or the judge immediately. I will have to sign a written statement or tell the judge in court that I do not want to be adopted **before** the adoption order is signed by a judge. This is called a revocation of consent.

10. I understand that when I am at least 21 years old, my birth parents or I may apply to the Secretary of the Maryland Department of Health and Mental Hygiene to get certain birth and adoption records. If I do not want information about me to be given to my birth parents, I have the right to file a form called a "disclosure veto." I have been given a form that I may use if I want to file a disclosure veto.

11. I understand that when I am at least 21 years old, my birth parents, my siblings, or I may apply to the Director of the

Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

12. I have read this consent form or have had it read and explained to me in a language that I understand. I understand the meaning of this consent form.

13. I have not been promised anything in return for agreeing to be adopted.

14. I have signed this consent form of my own free will.

15. I understand that I will be given a copy of this signed consent form.

I solemnly affirm under the penalties of perjury that the contents of this consent to adoption form are true to the best of my knowledge, information, and belief.

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.7, as follows:

Form 9-102.7. CONSENT OF CHILD TO AN INDEPENDENT ADOPTION

CONSENT OF _____ TO INDEPENDENT ADOPTION
(Name of Child)

INSTRUCTIONS

This consent form should be completed only by a child who is being adopted in an independent adoption that is not being arranged by an adoption or child placement agency. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the form and agree to being adopted. If you do not understand the instructions or the consent form, you should not sign it. If you have a disability that makes it hard for you to understand this form, do not complete this consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign this consent form.

B. Right to Speak with a Lawyer

If you have a disability that makes it hard for you to understand this consent form, **do not complete this form** because you must have a lawyer before you may complete this form and agree to be adopted.

Even if you do not have a problem understanding this consent form, you have the right to speak with a lawyer before you agree to be adopted. If you want to speak with a lawyer, do not complete this form until you have spoken with a lawyer.

C. What Happens if You Sign the Consent Form

If you sign the consent form, the people who want to adopt you will file an adoption case in the Circuit Court for _____ . There probably will be a court hearing about your adoption. During that hearing, the judge probably will ask you if you want to be adopted. The judge will make the final decision about your adoption.

D. Right to Revoke Consent

If you sign this consent form and then change your mind and decide that you do not want to be adopted, you may take back or "revoke" your consent. However, **you must revoke your consent before the judge signs the adoption order**, and you must revoke it either in writing or in court in front of the judge. If you decide you do not want to be adopted, you should write the judge at _____ Circuit Court at _____ (address) immediately, or tell the judge before or at the beginning of your adoption hearing.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT OF _____ TO INDEPENDENT ADOPTION
(Name of Child)

Use a pen to fill out this form. If you decide to sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be your parent or the person who is adopting you. You must fill in all the blanks, sign the form, and print your name, address, and telephone number, and the witness must sign and print the witness' name, address, and telephone number in the blanks on the last page.

1. I understand English, or this consent form has been translated into _____, a language that I understand.

2. My name is _____.

3. My date of birth is _____. I am _____ years old.

4. I understand that _____ have asked to adopt me.

5. Check **one**:

I have a lawyer whose name and telephone number are _____.

I have met with my lawyer who has gone over this consent form with me and explained to me what it means to be adopted. I want to agree to be adopted.

OR

I do not have a lawyer. I have read the instructions in the front of this form, and I understand this consent form. I do not want to speak with a lawyer before I complete this form

and agree to be adopted.

6. I understand that if I agree to be adopted, and I am adopted, _____ will become my parents, and I will become their child.

7. I understand that if I agree to be adopted, and I am adopted, _____ will no longer be my parents.

8. I understand that I do not have to agree to be adopted. If I do not agree, the court cannot approve the adoption.

9. I voluntarily and of my own free will agree to being adopted by _____. I understand that if they are not able to complete the adoption, this consent form will no longer be valid and can no longer be used.

10. I understand that if I change my mind and do not want to be adopted, I must tell the judge immediately. I will have to sign a written statement or tell the judge in court that I do not want to be adopted **before** the adoption order is signed.

11. I understand that when I am at least 21 years old, my birth parents or I may apply to the Secretary of the Maryland Department of Health and Mental Hygiene to get certain birth and adoption records. If I do not want information about me to be given to my birth parents, I have the right to file a form called a "disclosure veto." I have been given a form that I may use if I want to file a disclosure veto.

12. I understand that when I am at least 21 years old, my birth parents, my siblings, or I may apply to the Director of the Social Services Administration of the Maryland Department of

Human Resources for adoption search, contact, and reunion services.

13. I have read this consent form or have had it read and explained to me in a language that I understand. I understand the meaning of this consent form.

14. I have not been promised anything in return for agreeing to be adopted.

15. I have signed this consent form of my own free will.

16. I understand that I will be given a copy of this signed consent form.

I solemnly affirm under the penalties of perjury that the contents of this consent to adoption form are true to the best of my knowledge, information, and belief.

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.8, as follows:

Form 9-102.8. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO A
PUBLIC AGENCY GUARDIANSHIP OR PRIVATE AGENCY GUARDIANSHIP

Affidavit by Attorney as to Consent of
_____ (parent) to Guardianship
with the Right to Consent to Adoption ("Guardianship")
by _____ (agency) of _____ (child)

1. I am the attorney representing _____,
a parent of _____, the child who is the
subject of the consent.

2. The parent, at the time of the signing of the consent,
was ___ years old. The parent's date of birth is _____.

3. (Check one of the following)

[] The parent is not disabled or is disabled but the
disability does not affect the parent's ability to
understand the meaning of the consent to
guardianship.

OR

[] The parent is a minor or has a disability that
could affect the parent's ability to understand
the meaning of the consent to guardianship. The

disability is _____
_____.

Despite the parent's age or disability, I believe that the parent understood the meaning of consenting to guardianship. The following additional steps were taken to ensure that the parent understood the meaning of the consent form prior to signing it: _____
_____.

4. The parent understands English, or the consent form that the parent signed was translated into _____, a language that the parent understands.

5. I have explained to the parent that _____ (agency) has filed or plans to file a case to ask the court to grant it guardianship of the child with the right to consent to adoption by:

Check one of the following:

a family approved by the agency.

OR

_____ (name by which parent knows adoptive parent).

6. I reviewed the consent form thoroughly with the parent, and I believe that the parent desires to consent to the guardianship and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

I solemnly affirm under the penalties of perjury that the contents of this certification are true to the best of my

knowledge, information, and belief.

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.9, as follows:

Form 9-102.9. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO
ADOPTION

Affidavit by Attorney as to Consent of

_____ (parent)

to Adoption of _____

1. I am the attorney representing _____
_____, a parent of _____,
the child who is the subject of the consent.

2. The parent, at the time of the signing of the consent,
was _____ years old. The parent's date of birth is
_____.

3. (Check one of the following)

The parent is not disabled or is disabled but
the disability does not affect the parent's
ability to understand the meaning of the consent
to adoption.

The parent is a minor or has a disability that
could affect the parent's ability to understand
the meaning of the consent to adoption. The
disability is _____

Despite the parent's age or disability, I believe that the parent understood the meaning of consenting to adoption. The following additional steps were taken to ensure that the parent understood the meaning of the consent form prior to signing it: _____
_____.

4. The parent understands English, or the consent form that the parent signed was translated into _____, a language that the parent understands.

5. I have explained to the parent that _____ (name by which parent knows adoptive parent) has filed or plans to file a case to ask the court to permit that person to adopt the parent's child.

6. I reviewed the consent form thoroughly with the parent, and I believe that the parent desires to consent to the adoption and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

ADD new Form 9-102.10, as follows:

Form 9-102.10. ATTORNEY AFFIDAVIT AS TO CONSENT OF A CHILD TO
ADOPTION

Affidavit by Attorney as to Consent of

_____ **(Child) to Adoption**

1. I am the attorney representing _____,
the individual who is the subject of this adoption proceeding
("the child").

2. The child, at the time of the signing of the consent
form, was _____ years old. The child's date of birth is
_____. To the best of my knowledge,
the child is not an Indian child subject to the provisions of the
Indian Child Welfare Act.

3. (Check one of the following)

[] The child is not disabled or is disabled, but the
disability would not affect the child's ability
to understand the meaning of consenting to
adoption.

OR

[] The child has a disability that could affect the child's ability to understand the meaning of consenting to adoption. The disability is

_____.

Despite the child's disability, I believe that the child understands the meaning of the consenting to adoption. The following additional steps were taken to ensure that the child understood the meaning of the consent form prior to signing it: _____

_____.

4. The child understands English, or the consent that the child signed has been translated into _____, a language that the child understands.

5. I have explained to the child that _____ have asked the court to be permitted to adopt the child, that the child has the right to decide whether or not the child wants to be adopted, and the possible options if the adoption is not approved.

6. I reviewed the consent form thoroughly with the child, and I believe that the child agrees to the adoption and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

I solemnly affirm under the penalties of perjury that the contents of this certification are true to the best of my

knowledge, information, and belief.

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-101 to conform to the proposed revisions to the Rules in Title 9, Chapter 100, as follows:

Rule 1-101. APPLICABILITY

. . .

(i) Title 9

Title 9 applies to ~~adoptions, guardianships with the right to consent to adoption proceedings under Code, Family Law Article, Title 5, Subtitles 3 (Guardianship to and Adoption through Local Department), 3A (Private Agency Guardianship and Adoption), and 3B (Independent Adoption)~~ and proceedings relating to divorce, annulment, alimony, child support, and child custody and visitation.

(j) Title 10

Title 10 applies to fiduciary matters in the courts of this State, except for matters relating to the settlement of decedents' estates governed by Title 6 of these Rules and guardianships ~~with the right to consent to adoption~~ governed by Title 9 of these Rules.

. . .

REPORTER'S NOTE

Rule 1-101 is proposed to be amended to cite the various sections of the new statute pertaining to guardianships that

terminate parental rights and adoptions and to conform the Rule to the proposed amendments to the Rules in Title 9, Chapter 100.

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

ADD new Rule 9-205.1, as follows:

Rule 9-205.1. APPOINTMENT OF CHILD'S COUNSEL

(a) Applicability

This Rule applies to the appointment of child's counsel in actions involving child custody or child access.

Cross reference: See Code, Family Law Article, §1-202 and the *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access*.

(b) Factors

In determining whether to appoint child's counsel, the court should consider the nature of the potential evidence to be presented, other available methods of obtaining information, including social service investigations and evaluations by mental health professionals, and available resources for payment. Appointment may be most appropriate in cases involving the following factors, allegations, or concerns:

- (1) request of one or both parties;
- (2) high level of conflict;
- (3) inappropriate adult influence or manipulation;
- (4) past or current child abuse or neglect;

(5) past or current mental health problems of the child or party;

(6) special physical, educational, or mental health needs of the child that require investigation or advocacy;

(7) actual or threatened family violence;

(8) alcohol or other substance abuse;

(9) consideration of terminating or suspending parenting time or awarding custody or visitation to a non-parent;

(10) relocation that substantially reduces the child's time with a parent, sibling, or both; or

(11) any other factor that the court considers relevant.

Committee note: A court should provide for adequate and effective child's counsel in all cases in which an appointment is warranted, regardless of the economic status of the parties. The court should make the appointment as soon as practicable after it determines that the appointment is warranted. A court should appoint only lawyers who have agreed to serve in child custody and child access cases in the assigned role and have been trained in accordance with Guideline 4 of the *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access*. In making appointments, the court should fairly and equitably distribute cases among all qualified attorneys, taking into account the attorney's availability and caseload. Before asking an attorney to provide representation *pro bono publico* to a child, the court should consider the number of other similar cases the attorney has recently accepted on a *pro bono* basis from the court.

(c) Appointment Order

(1) Content

An order appointing child's counsel shall:

(A) specify whether the attorney is to serve as a Child's Best Interest Attorney, Child's Advocate Attorney, or Child's Privilege Attorney;

(B) authorize the appointed attorney to have reasonable access to the child and to all otherwise privileged or confidential information about the child, without the necessity of any further order of court or the execution of a release;

(C) permit the attorney to participate in discovery under Title 2 of these Rules as though the child were a party;

(D) provide that the service and notice provisions in Title 1 of these Rules apply as though the child were a party;

(E) state any other duties or responsibilities required by the court;

(F) state when the appointment terminates; and

(G) unless the attorney has agreed to serve *pro bono publico*, include provisions concerning compensation for the attorney.

Committee note: The court should write an appointment order in plain language, understandable to non-lawyers.

(2) Copies to Parties and Counsel

The court shall send a copy of the order appointing counsel to each attorney of record and to each party, whether or not represented by an attorney.

Cross reference: As to the attorney's compensation, see Guideline 6 of the *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access*.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 9-205.1 contains provisions concerning the appointment of child's counsel based on provisions in the *Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases* approved and adopted by the Conference of Circuit Judges at its September 19, 2005 meeting.

MARYLAND RULES OF PROCEDURE

APPENDIX: MARYLAND GUIDELINES FOR PRACTICE FOR COURT-APPOINTED
LAWYERS REPRESENTING CHILDREN IN CASES INVOLVING
CHILD CUSTODY OR CHILD ACCESS

ADD new Appendix: Maryland Guidelines for Practice for
Court-Appointed Lawyers Representing Children in Cases Involving
Child Custody or Child Access, as follows:

**APPENDIX: MARYLAND GUIDELINES FOR PRACTICE FOR COURT-APPOINTED
LAWYERS REPRESENTING CHILDREN IN CASES INVOLVING
CHILD CUSTODY OR CHILD ACCESS**

INTRODUCTION AND SCOPE

These Guidelines are intended to promote good practice and consistency in the appointment and performance of lawyers for children in cases involving child custody and child access decisions. However, the failure to follow a Guideline does not itself give rise to a cause of action against a lawyer nor does it create any presumption that a legal duty has been breached. These Guidelines apply to divorce, custody, visitation, domestic violence, and other civil cases where the court may be called upon to decide issues relating to child custody or access. Nothing contained in the Guidelines is intended to modify, amend, or alter the fiduciary duty that an attorney owes to a client pursuant to the Maryland Lawyers' Rules of Professional Conduct.

These Guidelines do not apply to Child In Need of Assistance ("CINA"), Termination of Parental Rights ("TPR"), or adoption cases. The appointment and performance of attorneys appointed to represent children in those cases is addressed by the *Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings*.

1. DEFINITIONS

A court that appoints counsel for a minor child in a case involving child custody or child access issues should clearly indicate in the appointment order, and in all communications with the attorney, the parties, and other counsel, the role expected

of child's counsel. The terminology and roles used should be in accordance with the definitions in Guidelines 1.1 - 1.3.

1.1. CHILD'S BEST INTEREST ATTORNEY

"Child's Best Interest Attorney" means a lawyer appointed by a court for the purpose of protecting a child's best interests, without being bound by the child's directives or objectives. This term replaces the term "*guardian ad litem*." The Child's Best Interest Attorney makes an independent assessment of what is in the child's best interest and advocates for that before the court, even if it requires the disclosure of confidential information. The best interest attorney should ensure that the child's position is made a part of the record whether or not different from the position that the attorney advocates.

1.2. CHILD'S ADVOCATE ATTORNEY

"Child's Advocate Attorney" means a lawyer appointed by a court to provide independent legal counsel for a child. This term replaces the less specific phrase, "child's attorney." A Child's Advocate Attorney owes the child the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client. A Child's Advocate Attorney should be appointed when the child is need of a voice in court, such as in relocation cases, when there are allegations of child abuse, or where the child is sufficiently mature and sees his or her interests as distinct from the interests of the child's parents.

1.3. CHILD'S PRIVILEGE ATTORNEY

"Child's Privilege Attorney" means a lawyer appointed by a court in a case involving child custody or child access to decide whether to assert or waive, on behalf of a minor child, any privilege that the child if an adult would be entitled to assert or waive. This term replaces the term "*Nagle v. Hooks Attorney*." (*Nagle v. Hooks*, 296 Md. 123 (1983)). The court may combine the roles of Child's Privilege Attorney with either of the other two roles.

2. RESPONSIBILITIES

2.1. DETERMINING CONSIDERED JUDGMENT

The attorney should determine whether the child has considered judgment. To determine whether the child has

considered judgment, the attorney should focus on the child's decision-making process, rather than the child's decision. The attorney should determine whether the child can understand the risks and benefits of the child's legal position and whether the child can reasonably communicate the child's wishes. The attorney should consider the following factors when determining whether the child has considered judgment:

- (1) the child's developmental stage:
 - (a) cognitive ability,
 - (b) socialization, and
 - (c) emotional and mental development;
- (2) the child's expression of a relevant position:
 - (a) ability to communicate with the attorney, and
 - (b) ability to articulate reasons for the legal position; and
- (3) relevant and available reports, such as reports from social workers, psychiatrists, psychologists, and schools.

A child may be capable of considered judgment even though the child has a significant cognitive or emotional disability.

In determining considered judgment, the attorney may seek guidance from professionals, family members, school officials, and other concerned persons. The attorney also should determine whether any evaluations are needed and request them when appropriate.

An attorney should be sensitive to cultural, racial, ethnic, or economic differences between the attorney and the child.

2.2. CHILD'S BEST INTEREST ATTORNEY

A Child's Best Interest Attorney advances a position that the attorney believes is in the child's best interest. Even if the attorney advocates a position different from the child's wishes, the attorney should ensure that the child's position is made a part of the record. A Child's Best Interest Attorney may perform the following duties in exercising the attorney's obligation to the client and the court, as appropriate:

- (a) Meet with and interview the child, and advise the child of the scope of the representation.
- (b) Investigate the relative abilities of the parties in

their roles as parents or custodians.

(c) Visit the child in each home.

(d) Conduct individual interviews with parents, other parties, and collateral witnesses.

(e) Observe the child's interactions with each parent and each other party, individually.

(f) Review educational, medical, dental, psychiatric, psychological, or other records.

(g) Interview school personnel, childcare providers, healthcare providers, and mental health professionals involved with the child or family.

(h) File and respond to pleadings and motions.

(i) Participate in discovery.

(j) Participate in settlement negotiations.

(k) Participate in the trial, including calling witnesses and presenting evidence and argument, as appropriate.

(l) If the child is to meet with the judge or testify, prepare the child, familiarizing the child with the places, people, procedures, and questioning that the child will be exposed to, and seek to minimize any harm to the child from the process.

(m) Inform the child in a developmentally appropriate manner when the representation is ending.

A Child's Best Interest Attorney shall not testify at trial or file a report with the court.

2.3. CHILD'S ADVOCATE ATTORNEY

If a Child's Advocate Attorney determines that the child has considered judgment, the attorney advances the child's wishes and desires in the pending matter. If a Child's Advocate Attorney determines that the child does not have considered judgment, the Child's Advocate Attorney should petition the court to (1) alter the attorney's role to permit the attorney to serve as a Child's Best Interest Attorney or (2) appoint a separate Child's Best Interest Attorney. A Child's Advocate Attorney may perform the following duties in exercising the attorney's obligation to the child and the court, as appropriate:

(a) Meet with and interview the child, and advise the child of the scope of the representation.

(b) Investigate the relative abilities of the parties in their role as parents or custodians.

(c) Visit the child in each home.

(d) Conduct individual interviews with parents, other parties, and collateral witnesses.

(e) Observe the child's interactions with each parent and each other party, individually.

(f) Review educational, medical, dental, psychiatric, psychological, or other records.

(g) Interview school personnel, childcare providers, healthcare providers, and mental health professionals involved with the child or family.

(h) File and respond to pleadings and motions.

(i) Participate in discovery.

(j) Participate in settlement negotiations.

(k) Participate in the trial, including calling witnesses and presenting evidence and argument, as appropriate.

(l) If the child is to meet with the judge or testify, prepare the child, familiarizing the child with the places, people, procedures, and questioning that the child will be exposed to, and seek to minimize any harm to the child from the process.

(m) Inform the child in a developmentally appropriate manner when the representation ends.

A Child's Advocate Attorney shall not testify at trial or file a report with the court.

2.4. CHILD'S PRIVILEGE ATTORNEY

A Child's Privilege Attorney notifies the court and the parties of the attorney's decision to waive or assert the child's privilege by (1) filing a document with the court prior to the hearing or trial at which the privilege is to be asserted or

waived or (2) placing the waiver or assertion of privilege on the record at a pretrial proceeding or the trial.

A Child's Privilege Attorney may perform the following duties in exercising the attorney's obligation to the child and the court, as appropriate:

(a) Meet with and interview the child, and advise the child of the scope of the representation.

(b) Interview any witnesses necessary to assist the attorney in determining whether to assert or waive the privilege.

(c) Review educational, medical, dental, psychiatric, psychological, or other records.

3. CONFLICTS OF INTEREST

An attorney who has been appointed to represent two or more children should remain alert to the possibility of a conflict that could require the attorney to decline representation or withdraw from representing all of the children.

If a conflict of interest develops, the attorney should bring the conflict to the attention of the court as soon as possible, in a manner that does not compromise either client's interests.

4. TRAINING AND CONTINUING EDUCATION

Unless waived by the court, an attorney appointed as a Child's Best Interest Attorney, Child's Advocate Attorney, or Child's Privilege Attorney should have completed at least six hours of training that includes the following topics:

(a) applicable representation guidelines and standards;

(b) children's development, needs, and abilities at different stages;

(c) effectively communicating with children;

(d) preparing and presenting a child's viewpoint, including child testimony and alternatives to direct testimony;

(e) recognizing, evaluating, and understanding evidence of child abuse and neglect;

(f) family dynamics and dysfunction, domestic violence, and substance abuse;

(g) recognizing the limitations of attorney expertise and the need for other professional expertise, which may include professionals who can provide information on evaluation, consultation, and testimony on mental health, substance abuse, education, special needs, or other issues; and

(h) available resources for children and families in child custody and child access disputes.

Each court should require attorneys seeking appointments as child counsel to maintain their knowledge of current law and complete a specific amount of additional training over a defined interval.

5. QUALIFICATIONS

An attorney appointed to serve as a Child's Best Interest Attorney, Child's Advocate Attorney, or Child's Privilege Attorney should, as a minimum:

(a) be a member of the Maryland Bar in good standing, with experience in family law, or have been approved to represent children through a *pro bono* program approved by the bench; and

(b) unless waived by the court, have successfully completed the six hours of training specified in Guideline 4.

In addition, courts should seek to appoint attorneys who:

(a) are willing to take at least one *pro bono* appointment as child counsel per year, and

(b) have at least three years of family law experience or other relevant experience. In evaluating relevant experience, the court may consider the attorney's experience in social work, education, child development, mental health, healthcare, or other related fields.

6. COMPENSATION

6.1. COMPENSATION STRUCTURE

Each court should develop a compensation structure for the three roles of child counsel: Child's Best Interest Attorneys, Child's Advocate Attorneys, and Child's Privilege Attorneys.

6.2. COMPENSATION MECHANISM

Each court should take steps to ensure that child counsel are compensated adequately and in a timely fashion, unless the attorney has been asked to serve *pro bono publico*. Courts may use the following mechanisms to ensure attorney compensation:

(a) Require one or more of the parties to deposit a significant retainer amount or a fixed fee determined by the court into an attorney escrow account or the court's registry.

(b) If a party qualifies for a fee waiver, compensate child counsel out of available funds. See Guideline 6.3.

(c) Enter a judgment for any unpaid fees.

6.3. FEE WAIVERS

Each court should prepare its budget to ensure that it has sufficient funds to cover the expense of counsel fees for children when the parties are not able to pay the full fees, or the court should develop a *pro bono publico* component to its program to provide counsel for children.

Each court should apply the same fee waiver procedure, forms, and standard for the appointment of child counsel that are set forth in the *Guidelines for Grant Recipients* for all family services funded by the Family Division/Family Services Program Grants. If a fee waiver is granted, the court should apply a cap on compensation that is appropriate to the role for which child counsel is appointed.

REPORTER'S NOTE

The Rules Committee recommends that *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access* be added as an Appendix to the Maryland Rules, in a manner similar to the addition of Appendix: *Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings* (the "CINA Guidelines").

The proposed new Guidelines for child's counsel in custody and child access cases are based upon the *Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases* that were approved and adopted by the Conference of Circuit Judges at its September 19, 2005 meeting.

As with the CINA Guidelines, the Committee has substituted the word "Guideline" for "Standard" wherever it appeared in the original document. Although neither set of Guidelines is part of the Maryland Lawyers' Rules of Professional Conduct, both are referenced in Comment 1 to Rule 1.14 (Client with Diminished Capacity) of those Rules.

In the "Introduction and Scope" section of the proposed new Guidelines, the second and fourth sentences of the first paragraph have been added by the Committee. The second sentence is derived from the first sentence of paragraph 20 of the Preamble and Scope portion of the Maryland Lawyers' Rules of Professional Conduct, with the word "does" replacing the word "should" in both places that it appears. The fourth sentence is borrowed *verbatim* from the penultimate sentence of the "Statement of the Issue" portion of the CINA Guidelines.

In paragraph 2.1, Determining Considered Judgment, the list of factors that the attorney should consider is borrowed *verbatim* from CINA Guidelines B1 a and b.

In Paragraph 3, a statement concerning conflicts of interest for Child's Best Interest Attorneys appointed to represent siblings has been transferred to the Commentary following Rule 1.7 of the Maryland Lawyers' Rules of Professional Conduct.

Although the word "should" is used throughout the Guidelines, the Committee recommends the use of the words "shall not" with respect to the issue of whether a Child's Best Interest Attorney or Child's Advocate Attorney may testify at trial or file a report with the court.

Provisions concerning the appointment of child's counsel have been included in a separate Rule, proposed new Rule 9-205.1. Because the child who is the subject of a child custody or child access dispute is not a party to the action, additional provisions in Rule 9-205.1 implement the service, notice, and discovery portions of the Guidelines. Specifically, the proposed new Rule requires that an order appointing child's counsel specify the role of the attorney, permit the attorney to participate in discovery under Title 2 of the Rules as though the child were a party, and provide that the service and notice provisions of Title 1 apply as though the child were a party.

Rule 2-504 is proposed to be amended to permit a scheduling order to include appointment of child's counsel in accordance with proposed new Rule 9-205.1.

MARYLAND RULES OF PROCEDURE

APPENDIX: THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT

AMEND the Maryland Lawyers' Rules of Professional Conduct to substitute the word "does" for the word "should" twice in the first sentence of Paragraph 20 of the Preamble and Scope, to add to the Comment to Rule 1.7 a new Paragraph 29.1 concerning the representation of minor siblings by a court-appointed Child's Best Interest Attorney, and to add to the Comment to Rule 1.14 a reference to the *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access*, as follows:

THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT

Preamble: A Lawyer's Responsibilities.

. . .

Scope.

. . .

[20] Violation of a Rule ~~should~~ does not itself give rise to a cause of action against a lawyer nor ~~should~~ does it create any presumption ~~in such a case~~ that a legal duty has been breached. In addition, violation of a Rule does not necessarily warrant any other non-disciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies.

They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, in some circumstances, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct. Nothing in this Preamble and Scope is intended to detract from the holdings of the Court of Appeals in *Post v. Bregman*, 349 Md. 142 (1998) and *Son v. Margolius, Mallios, Davis, Rider & Tomar*, 349 Md. 441 (1998).

. . .

Rule 1.7. CONFLICT OF INTEREST: GENERAL RULE

. . .

COMMENT

. . .

Special Considerations in Common Representation

[29] In considering whether to represent multiple clients in the same matter, a lawyer should be mindful that if the common representation fails because the potentially adverse interests cannot be reconciled, the result can be additional cost, embarrassment and recrimination. Ordinarily, the lawyer will be forced to withdraw from representing all of the clients if the common representation fails. In some situations, the risk of failure is so great that multiple representation is plainly impossible. For example, a lawyer cannot undertake common

representation of clients where contentious litigation or negotiations between them are imminent or contemplated. Moreover, because the lawyer is required to be impartial between commonly represented clients, representation of multiple clients is improper when it is unlikely that impartiality can be maintained. Generally, if the relationship between the parties has already assumed antagonism, the possibility that the clients' interests can be adequately served by common representation is not very good. Other relevant factors are whether the lawyer subsequently will represent both parties on a continuing basis and whether the situation involves creating or terminating a relationship between the parties.

[29.1] Rule 1.7 may not apply to an attorney appointed by a court to serve as a Child's Best Interest Attorney in the same way that it applies to other attorneys. For example, because the Child's Best Interest Attorney is not bound to advocate a client's objective, siblings with conflicting views may not pose a conflict of interest for a Child's Best Interest Attorney, provided that the attorney determines the siblings' best interests to be consistent. A Child's Best Interest Attorney should advocate for the children's best interests and ensure that each child's position is made a part of the record, even if that position is different from the position that the attorney advocates. See Md. Rule 9-205.1 and Appendix to the Maryland Rules: Maryland Guidelines for Practice for Court-appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access.

[30] A particularly important factor in determining the appropriateness of common representation is the effect on client-lawyer confidentiality and the attorney-client privilege. With regard to the attorney-client privilege, the prevailing rule is that, as between commonly represented clients, the privilege does not attach. Hence, it must be assumed that if litigation eventuates between the clients, the privilege will not protect any such communications, and the clients should be so advised.

. . .

Rule 1.14. CLIENT WITH DIMINISHED CAPACITY

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished

whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator, or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6 (a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

COMMENT

[1] The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. When the client is a minor or suffers from a diminished mental capacity, however, maintaining the ordinary client-lawyer relationship may not be possible in all respects. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, to an increasing extent the law recognizes intermediate degrees of competence. Indeed, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being. For example, it is recognized that some persons of advanced age can be quite capable of handling routine financial matters while needing special legal protection concerning major transactions. In addition, children as young as

five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. Consideration of and, when appropriate, deference to these opinions are especially important in cases involving children in Child In Need of Assistance (CINA) and related Termination of Parental Rights (TPR) and adoption proceedings. With respect to these categories of cases, the Maryland Foster Care Court Improvement Project has prepared *Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings*. The Guidelines are included in an Appendix to the Maryland Rules. Also included in an Appendix to the Maryland Rules are *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access*, developed by the Maryland Judicial Conference Committee on Family Law.

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REPORTER'S NOTE

The proposed amendment to Paragraph 20 of the Preamble and Scope of the Maryland Lawyers' Rules of Professional Conduct conforms it to the terminology used in the Introduction and Scope of the new *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access*, proposed to be added as an Appendix to the Maryland Rules.

New Comment Paragraph 29.1, proposed to be added to Rule 1.7, is transferred from the *Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases* that was approved by the Conference of Circuit Judges. Added to the Paragraph are the phrase, "provided the attorney determines the siblings' best interests to be consistent," and a reference to proposed new Rule 9-205.1 (Appointment of Child's Counsel) and proposed new Appendix to the Maryland Rules: *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody of Child Access*.

In Comment Paragraph 1 to Rule 1.7, following the reference to the *Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings*, the Committee recommends the addition of a reference to the proposed new Appendix to the Maryland Rules: *Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access*.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-803 to add a definition of "Board," as follows:

Rule 16-803. COMMISSION ON JUDICIAL DISABILITIES - DEFINITIONS

The following definitions apply in Rules 16-804 through 16-810 except as expressly otherwise provided or as necessary implication requires:

(a) Address of Record

"Address of record" means a judge's current home address or another address designated by the judge.

Cross reference: See Rule 16-810 (a)(1) concerning confidentiality of a judge's home address.

(b) Board

"Board" means the Judicial Inquiry Board appointed pursuant to Rule 16-804.1.

~~(b)~~ (c) Charges

"Charges" means the charges filed with the Commission by Investigative Counsel pursuant to Rule 16-808.

~~(c)~~ (d) Commission

"Commission" means the Commission on Judicial Disabilities.

~~(d)~~ (e) Commission Record

"Commission record" means all documents pertaining to the judge who is the subject of charges that are filed with the Commission or made available to any member of the Commission.

~~(e)~~ (f) Complainant

"Complainant" means a person who has filed a complaint.

~~(f)~~ (g) Complaint

"Complaint" means a communication alleging that a judge has a disability or has committed sanctionable conduct.

~~(g)~~ (h) Disability

"Disability" means a mental or physical disability that seriously interferes with the performance of a judge's duties and is, or is likely to become, permanent.

~~(h)~~ (i) Formal Complaint

"Formal Complaint" means a written communication under affidavit signed by the complainant, alleging facts indicating that a judge has a disability or has committed sanctionable conduct.

Committee note: The complainant may comply with the affidavit requirement of this section by signing a statement in the following form: "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." It is not required that the complainant appear before a notary public.

~~(i)~~ (j) Judge

"Judge" means a judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court, and a retired judge during any period that the retired judge has been approved to sit.

Cross reference: See Md. Const., Art. 4, §3A and Code, Courts Article, §1-302.

~~(j)~~ (k) Sanctionable Conduct

(1) "Sanctionable conduct" means misconduct while in office, the persistent failure by a judge to perform the duties of the judge's office, or conduct prejudicial to the proper administration of justice. A judge's violation of any of the provisions of the Maryland Code of Judicial Conduct promulgated by Rule 16-813 may constitute sanctionable conduct.

(2) Unless the conduct is occasioned by fraud or corrupt motive or raises a substantial question as to the judge's fitness for office, "sanctionable conduct" does not include:

(A) making an erroneous finding of fact, reaching an incorrect legal conclusion, or misapplying the law; or

(B) failure to decide matters in a timely fashion unless such failure is habitual.

Committee note: Sanctionable conduct does not include a judge's making wrong decisions - even very wrong decisions - in particular cases.

Cross reference: Md. Const., Art. IV, §4B (b) (1).

For powers of the Commission in regard to any investigation or proceeding under §4B of Article IV of the Constitution, see Code, Courts Article, §§13-401 to 13-403.

Source: This Rule is in part derived from former Rule 1227 (adopted 1995) and is in part new.

REPORTER'S NOTE

See the Reporter's note to proposed new Rule 16-804.1.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-804 to allow telephone and video conferencing under certain circumstances, as follows:

Rule 16-804. COMMISSION

. . .

(e) Quorum

The presence of a majority of the members of the Commission constitutes a quorum for the transaction of business, provided that at least one judge, one lawyer, and one public member are present. At a hearing on charges held pursuant to Rule 16-808 (i), a Commission member is present only if the member is physically present in person. Under all other circumstances, a member may be present in person or by telephone or video conferencing. Other than adjournment of a meeting for lack of a quorum, no action may be taken by the Commission without the concurrence of a majority of members of the Commission.

. . .

REPORTER'S NOTE

The Honorable Sally D. Adkins, Chair of the Commission on Judicial Disabilities, requested a modification to Rule 16-804 to provide for telephone and video conferencing for the Commission. This will facilitate more participation by members who may have problems driving to meetings in distant locations or attending meetings in bad weather.

Under the proposed amendment, except for a hearing on charges held pursuant to Rule 16-808 (i), a member of the Commission may be present at a meeting in person or by telephone or video conferencing. At a hearing on charges, a Commission member is present only if the member is "physically present in person." The phrase "physically present in person" is borrowed from terminology used in Rule 4-231.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-804.1, as follows:

Rule 16-804.1. JUDICIAL INQUIRY BOARD

(a) Creation and Composition

The Commission shall appoint a Judicial Inquiry Board consisting of two judges, two attorneys, and three public members who are not attorneys or judges. No member of the Commission may serve on the Board.

(b) Compensation

A member of the Board may not receive compensation for serving in that capacity but is entitled to reimbursement for expenses reasonably incurred in the performance of official duties in accordance with standard State travel regulations.

(c) Chair

The Chair of the Commission shall designate a member of the Board who is a lawyer or judge to serve as Chair of the Board.

(d) Removal

The Commission by majority vote may remove or replace members of the Board at any time.

(e) Quorum

The presence of a majority of the members of the Board constitutes a quorum for the transaction of business, so long as at least one judge, one lawyer, and one public member are present. A member of the Board may be present in person or by telephone or video conferencing. Other than adjournment of a meeting for lack of a quorum, no action may be taken by the Board without the concurrence of a majority of members of the Board.

(f) Powers and Duties

The powers and duties of the Board are set forth in Rules 16-805 and 16-806.

(g) Record

The Executive Secretary of the Commission shall attend the Board meetings and keep a record in the form that the Commission requires.

Source: This Rule is new.

REPORTER'S NOTE

The Honorable Sally D. Adkins, Chair of the Commission on Judicial Disabilities, requested that the Rules Committee consider modifying the Commission's review process to include a preliminary assessment of complaints and Investigative Counsel's reports and recommendations by a separate Board whose members are appointed by the Commission. The purpose of the Board is to decrease Commission involvement in the investigatory process and facilitate early resolution of complaints under the standards of Rule 16-807. The Rules Committee recommends amending Rules 16-803, 16-805, 16-806, and 16-808, as well as adding new Rule 16-804.1 pertaining to the "Judicial Inquiry Board," to set out the operating procedures for the Board. The Committee believes that the proposed new procedures will help the Commission avoid situations in which there may be an appearance of impropriety. See, e.g., *Board of Pharmacy v. Spencer*, 150 Md. App. 138 (2003), *rev'd in part on other grounds*, 380 Md. 515 (2004).

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-805 to transfer to section (d) the substance of the Committee note that follows section (d); to allow an inquiry to include obtaining additional information from potential witnesses; to allow the Chair of the Commission to authorize Investigative Counsel to issue a subpoena during a preliminary investigation; to allow a complaint to be dismissed during a preliminary investigation under certain circumstances without notifying the judge that a preliminary investigation had been undertaken; to specify duties, powers, and procedures of the Judicial Inquiry Board; to provide for procedures by the Commission concerning the report and recommendation of the Board; to allow the Commission to consider the report and recommendation of Investigative Counsel under certain circumstances; to correct internal references; and to make stylistic changes; as follows:

Rule 16-805. COMPLAINTS; PRELIMINARY INVESTIGATIONS

(a) Complaints

All complaints against a judge shall be sent to Investigative Counsel. Upon receiving a complaint that does not qualify as a formal complaint but indicates that a judge may have a disability or have committed sanctionable conduct, Investigative Counsel shall, if possible: (1) inform the

complainant of the right to file a formal complaint; (2) inform the complainant that a formal complaint must be supported by affidavit and provide the complainant with the appropriate form of affidavit; and (3) inform the complainant that unless a formal complaint is filed within 30 days after the date of the notice, Investigative Counsel is not required to take action, and the complaint may be dismissed.

(b) Formal Complaints

Investigative Counsel shall number and open a file on each formal complaint received and promptly in writing (1) acknowledge receipt of the complaint and (2) explain to the complainant the procedure for investigating and processing the complaint.

(c) Dismissal by Investigative Counsel

If Investigative Counsel concludes that the complaint does not allege facts that, if true, would constitute a disability or sanctionable conduct and that there are no reasonable grounds for a preliminary investigation, Investigative Counsel shall dismiss the complaint. If a complainant does not file a formal complaint within the time stated in section (a) of this Rule, Investigative Counsel may dismiss the complaint. Upon dismissing a complaint, Investigative Counsel shall notify the complainant and the Commission that the complaint has been dismissed. If the judge has learned of the complaint and has requested notification, Investigative Counsel shall also notify the judge that the complaint has been dismissed.

(d) Inquiry

Upon receiving information from any source indicating that a judge may have a disability or may have committed sanctionable conduct, Investigative Counsel may open a file and make an inquiry. An inquiry may include obtaining additional information from the complainant and any potential witnesses, reviewing public records, obtaining transcripts of court proceedings, and communicating informally with the judge. Following the inquiry, Investigative Counsel shall (1) close the file and dismiss any complaint in conformity with section ~~(b)~~ (c) of this Rule or (2) proceed as if a formal complaint had been filed and undertake a preliminary investigation in accordance with section ~~(d)~~ (e) of this Rule.

~~Committee note: An inquiry may include obtaining additional information from the complainant, reviewing public records, obtaining transcripts of court proceedings, and communicating informally with the judge.~~

(e) Preliminary Investigation

(1) If a complaint is not dismissed in accordance with section (c) or (d) of this Rule, Investigative Counsel shall conduct a preliminary investigation to determine whether there are reasonable grounds to believe that the judge may have a disability or may have committed sanctionable conduct. Investigative Counsel shall promptly inform the Board or Commission that the preliminary investigation is being undertaken.

(2) Upon application by Investigative Counsel and for good cause, the Chair of the Commission may authorize Investigative

Counsel to issue a subpoena to obtain evidence during a preliminary investigation.

(3) During a preliminary investigation, Investigative Counsel may recommend to the Board or Commission that the complaint be dismissed without notifying the judge that a preliminary investigation has been undertaken.

~~(3)~~ (4) Unless directed otherwise by the Board or Commission for good cause, Investigative Counsel shall notify the judge before the conclusion of the preliminary investigation (A) that Investigative Counsel has undertaken a preliminary investigation into whether the judge has a disability or has committed sanctionable conduct; (B) whether the preliminary investigation was undertaken on Investigative Counsel's initiative or on a complaint; (C) if the investigation was undertaken on a complaint, of the name of the person who filed the complaint and the contents of the complaint; (D) of the nature of the disability or sanctionable conduct under investigation; and (E) of the judge's rights under subsection ~~(e)(4)~~ (e)(5) of this Rule. The notice shall be given by first class mail or by certified mail requesting "Restricted Delivery - show to whom, date, address of delivery" addressed to the judge at the judge's address of record.

~~(4)~~ (5) Except when Investigative Counsel has recommended that the complaint be dismissed without notifying the judge and the Board or Commission has accepted the recommendation, Before before the conclusion of the preliminary investigation,

Investigative Counsel shall afford the judge a reasonable opportunity to present, in person or in writing, such information as the judge chooses.

~~(5)~~ (6) Investigative Counsel shall complete a preliminary investigation within 90 days after the investigation is commenced. Upon application by Investigative Counsel within the 90-day period and for good cause, the ~~Commission~~ Board shall extend the time for completing the preliminary investigation for an additional 30-day period. For failure to comply with the time requirements of this section, the Commission may dismiss any complaint and terminate the investigation.

(f) Recommendation by Investigative Counsel

~~Within the time for completing~~ Upon completion of a preliminary investigation, Investigative Counsel shall report to the Board the results of the investigation in the form that the Commission requires. The report shall include one of the following recommendations: (1) dismissal of any complaint and termination of the investigation, with or without a warning, (2) ~~the offer of~~ entering into a private reprimand or a deferred discipline agreement, (3) authorization of a further investigation, or (4) the filing of charges.

(g) Monitoring and Review by Board

The Board shall monitor investigations by, and review the reports and recommendations of, Investigative Counsel.

(h) Authorization of Further Investigation

The Board may authorize a further investigation to be conducted pursuant to Rule 16-806.

(i) Informal Meeting with Judge

The Board may meet informally with the judge for the purpose of discussing an appropriate disposition.

(j) Board's Report to Commission

(1) Contents

Upon receiving Investigative Counsel's final report and recommendation concerning a further investigation or a preliminary investigation if no further investigation was conducted and subject to subsection (j)(2) of this Rule, the Board shall submit to the Commission a report that includes one of the following recommendations: (A) dismissal of any complaint and termination of the investigation with or without a warning; (B) entering into a private reprimand or deferred discipline agreement; or (C) upon a determination of probable cause, the filing of charges, unless the Board determines that there is a basis for private disposition under the standards of Rule 16-807. The Board may not recommend a dismissal with a warning, a private reprimand, or a deferred discipline agreement unless the respondent judge has consented to this remedy.

(2) Limitation on Contents of Report

The information transmitted by the Board to the Commission shall be limited to a proffer of evidence that the Board has determined would be likely to be admitted at a plenary hearing. The Chair of the Board may consult with the Chair of

the Commission in making the determination as to what information is transmitted to the Commission.

(3) Time for Submission of Report

Unless the time is extended by the Chair of the Commission, the Board shall transmit the report to the Commission within 45 days after the date the Board receives Investigative Counsel's report and recommendation. Upon written request by the Chair of the Board, the Chair of the Commission may grant one 30-day extension of time for transmission of the report. If the Board does not issue its report within the time allowed, the Chair of the Commission and Investigative Counsel shall conform the report and recommendation of Investigative Counsel to the requirements of subsection (j)(2) of this Rule and refer the matter to the Commission, which may proceed, using the report and recommendation of Investigative Counsel.

(4) Copy to Investigative Counsel and Judge

Upon receiving the report and recommendation, the Commission promptly shall transmit a copy of it to Investigative Counsel and to the judge.

(k) Filing of Objections

Investigative Counsel and the judge shall file with the Commission any objections to the report and recommendation within 15 days of the date the Commission transmitted the report and recommendation unless Investigative Counsel, the judge, and the Chair of the Commission agree to an extension of the time for filing an objection.

(1) Action by Commission

The Commission shall review the report and recommendation and any timely filed objections. Upon written request by the judge, with a copy provided to Investigative Counsel, the Commission may permit the judge to appear before the Commission on terms and conditions established by the Commission. Unless the Commission authorizes further investigation in accordance with Rule 16-806, disposition by the Commission shall be in accordance with Rule 16-807 or 16-808 (a), as appropriate.

Source: This Rule is derived from former Rule 1227B.

REPORTER'S NOTE

See the Reporter's Note to Rule 16-804.1.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-806 to make certain functions of the Commission coextensive with the Board and to allow the Chair of the Commission to authorize Investigative Counsel to issue subpoenas under certain circumstances, as follows:

Rule 16-806. FURTHER INVESTIGATION

(a) Notice to Judge

Upon approval of a further investigation by the Board or Commission, Investigative Counsel promptly shall notify the judge (1) that the Board or Commission has authorized the further investigation, (2) of the specific nature of the disability or sanctionable conduct under investigation, and (3) that the judge may file a written response within 30 days of the date on the notice. The notice shall be given (1) by first class mail to the judge's address of record, or (2) if previously authorized by the judge, by first class mail to an attorney designated by the judge. The Board or Commission, for good cause, may defer the giving of notice, but notice must be given not less than 30 days before Investigative Counsel makes a recommendation as to disposition.

(b) Subpoenas

(1) Upon application by Investigative Counsel and for good cause, the Chair of the Commission may authorize Investigative Counsel to issue a subpoena to compel the attendance of witnesses and the production of documents or other tangible things at a time and place specified in the subpoena. Promptly after service of the subpoena and in addition to any other notice required by law, Investigative Counsel shall provide to the judge under investigation notice of the service of the subpoena. The notice to the judge shall be sent by first class mail to the judge's address of record or, if previously authorized by the judge, by first class mail to an attorney designated by the judge.

(2) The judge or the person served with the subpoena may file a motion for a protective order pursuant to Rule 2-510 (e). The motion shall be filed in the circuit court for the county in which the subpoena was served or, if the judge under investigation is a judge serving on that circuit court, another circuit court designated by the Commission. The court may enter any order permitted by Rule 2-510 (e). Upon a failure to comply with a subpoena issued pursuant to this Rule, the court, on motion of Investigative Counsel, may compel compliance with the subpoena.

(3) To the extent practicable, a subpoena shall not divulge the name of the judge under investigation. Files and records of the court pertaining to any motion filed with respect to a subpoena shall be sealed and shall be open to inspection only upon order of the Court of Appeals. Hearings before the circuit

court on any motion shall be on the record and shall be conducted out of the presence of all persons except those whose presence is necessary.

Cross reference: See Code, Courts Article, §§13-401 - 403.

(c) Completion

Investigative Counsel shall complete a further investigation within 60 days after it is authorized by the Board or Commission. Upon application by Investigative Counsel made within the 60-day period and served by first class mail upon the judge or counsel of record, the Commission, for good cause, may extend the time for completing the further investigation for a specified reasonable time. The Commission may dismiss the complaint and terminate the investigation for failure to comply with the time requirements of this section.

(d) Recommendation by Investigative Counsel

Within the time for completing a further investigation, Investigative Counsel shall report the results of the investigation to the Board or the Commission in the form that the Commission requires. The report shall include one of the following recommendations: (1) dismissal of any complaint and termination of the investigation, with or without a warning, (2) ~~the offer of~~ entering into a private reprimand or a deferred discipline agreement, or (3) the filing of charges.

Source: This Rule is derived from former Rule 1227C.

REPORTER'S NOTE

See the Reporter's Note to Rule 16-804.1.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-808 to conform it to the proposed amendments to Rule 16-805, as follows:

Rule 16-808. PROCEEDINGS BEFORE COMMISSION

(a) Charges

After considering the report and recommendation of the Board or Investigative Counsel submitted pursuant to Rule 16-805 (j), and upon a finding by the Commission of probable cause to believe that a judge has a disability or has committed sanctionable conduct, the Commission may direct Investigative Counsel to initiate proceedings against the judge by filing with the Commission charges that the judge has a disability or has committed sanctionable conduct. The charges shall (1) state the nature of the alleged disability or sanctionable conduct, including each Canon of Judicial Conduct allegedly violated by the judge, (2) allege the specific facts upon which the charges are based, and (3) state that the judge has the right to file a written response to the charges within 30 days after service of the charges.

. . .

REPORTER'S NOTE

See the Reporter's note to proposed new Rule 16-804.1.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE,
JUDICIAL DUTIES, ETC.

AMEND Rule 16-109 to restate subsection b 1, to add a Committee note following subsection b 1, to add language to subsection b 3 concerning camera-equipped cellular phones and other similar devices, to add jury rooms to the list of locations to which subsection b 3 is applicable, to add a new subsection b 7 (iii) pertaining to the testimony of child victims, to add a cross reference following subsection c 1, to add a new section d pertaining to certain actions by the presiding judge and the local administrative judge, to revise section f concerning restrictions on extended coverage, to reorganize and renumber the provisions in section g, and to add a Committee note following section g, as follows:

Rule 16-109. PHOTOGRAPHING, RECORDING, BROADCASTING OR
TELEVISIONING IN COURTHOUSES

a. Definitions.

1. "Extended coverage" means any recording or broadcasting of proceedings by the use of television, radio, photographic, or recording equipment by:

- (i) the news media, or
- (ii) ~~by~~ persons engaged in the preparation of educational films or recordings with the written approval of the presiding judge.

2. "Local administrative judge" means the county administrative judge in the Circuit Court and the district administrative judge in the District Court.

3. "Party" means a named litigant of record who has appeared in the proceeding.

4. "Proceeding" means any trial, hearing, motion, argument on appeal or other matter held in open court which the public is entitled to attend.

5. "Presiding judge" means a trial judge designated to preside over a proceeding which is, or is intended to be, the subject of extended coverage. Where action of a presiding judge is required by this rule, and no trial judge has been designated to preside over the proceeding, "presiding judge" means the local administrative judge. "Presiding judge" in an appellate court means the Chief Judge of that Court, or the senior judge of a panel of which the Chief Judge is not a member.

b. General Provisions.

1. Unless prohibited by law or this Rule, extended coverage of proceedings in the trial and appellate courts of this State is permitted ~~unless prohibited or limited~~ in accordance with this Rule.

Committee note: Code, Criminal Procedure Article, §1-201 prohibits extended coverage of criminal proceedings in a trial court or before a grand jury.

2. Outside a courtroom but within a courthouse or other facility extended coverage is prohibited of persons present for a judicial or grand jury proceeding, or where extended coverage is

so close to a judicial or grand jury proceeding that it is likely to interfere with the proceeding or its dignity and decorum.

3. Possession of cameras and recording[s] or transmitting equipment, including camera-equipped cellular phones or similar handheld devices capable of capturing images, is prohibited in all courtrooms, jury rooms, and adjacent hallways except when required for extended coverage permitted by this rule or for media coverage not prohibited by this rule.

4. Nothing in this rule is intended to restrict in any way the present rights of the media to report proceedings.

5. Extended coverage shall be conducted so as not to interfere with the right of any person to a fair and impartial trial, and so as not to interfere with the dignity and decorum which must attend the proceedings.

6. No proceeding shall be delayed or continued to allow for extended coverage, nor shall the requirements of extended coverage in any way affect legitimate motions for continuance or challenges to the judge.

7. This rule does not apply to:

(i) The use of electronic or photographic equipment approved by the court for the perpetuation of a court record;

(ii) Investiture or ceremonial proceedings, provided, however, that the local administrative judge of a trial court and the Chief Judge of an appellate court shall have complete discretion to regulate the presence and use of cameras, recorders, and broadcasting equipment at the proceedings; or

(iii) The use of electronic or photographic equipment approved by the court to take the testimony of a child victim under Code, Criminal Procedure Article, §11-303.

c. Request for Extended Coverage.

1. All requests for extended coverage shall be made in writing to the clerk of the court at which the proceeding is to be held at least five days before the proceeding is scheduled to begin and shall specifically identify the proceeding to be covered. For good cause a court may honor a request which does not comply with the requirements of this subsection. The clerk shall promptly give notice of a request to all parties to the proceeding.

Cross reference: For the computation of time before a day, act, or event, see Rule 1-203 (b).

2. Where proceedings are continued other than for normal or routine recesses, weekends, or holidays, it is the responsibility of the media to make a separate request for later extended coverage.

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

d. Action on Request.

The presiding judge shall grant or deny a request for extended coverage before the commencement of the proceeding. If the request is granted, the presiding judge shall promptly notify the local administrative judge who shall make whatever arrangements are necessary to accommodate the entry into and presence in the courthouse of the persons conducting the extended coverage and their equipment.

~~d.~~ e. Consent to Extended Coverage.

1. Extended coverage shall not be permitted in any proceeding in a trial court unless all parties to the proceeding have filed their written consent in the record, except that consent need not be obtained from a party which is a federal, state, or local government, or an agency or subdivision thereof or an individual sued or suing in his official governmental capacity.

2. Consent once given may not be withdrawn, but any party may at any time move for termination or limitation of extended coverage in accordance with this rule.

3. Consent of the parties is not required for extended coverage in appellate courts, but any party may at any time move for termination or limitation of extended coverage in accordance with this rule.

~~e.~~ f. Restrictions on Extended Coverage.

~~1. Extended coverage of the testimony of a witness who is a victim in a criminal case shall be terminated or limited in accordance with the request or objection of the witness.~~

~~2. 1. Extended coverage of all or any portion of a proceeding may be prohibited, terminated or limited, on the presiding judge's own ~~motion~~ initiative or on the request of a party, witness, or juror in the proceedings, where the judge finds a reasonable probability of unfairness, danger to a person, undue embarrassment, or hindrance of proper law enforcement would result if such action were not taken. In cases involving police informants, undercover agents, relocated witnesses, and minors, and in evidentiary suppression hearings, divorce and custody~~

~~proceedings, and cases involving trade secrets, a presumption of validity attends the request. This list of requests which enjoy the presumption is not exclusive, and the judge may in the exercise of his discretion find cause in comparable situations. Within the guidelines set forth in this subsection, the judge is granted broad discretion in determining whether that there is good cause for termination, prohibition, or limitation of extended coverage. There is a presumption that good cause exists in cases involving custody, divorce, minors, relocated witnesses, and trade secrets.~~

Committee note: Examples of good cause include unfairness, danger to a person, undue embarrassment, or hindrance of proper law enforcement.

~~3.~~ 2. Extended coverage is not permitted of any proceeding which is by law closed to the public, or which may be closed to the public and has been closed by the judge.

~~4.~~ 3. Extended coverage in the judicial area of a courthouse or other facility is limited to proceedings in the courtroom in the presence of the presiding judge.

~~5.~~ 4. There shall be no audio coverage of private conferences, bench conferences, and conferences at counsel tables.

~~f.~~ g. Standards of Conduct and Technology.

~~8.~~ 1. Television or movie camera equipment shall be positioned outside the rail of the courtroom, or if there is no rail, in the area reserved for spectators, at a location approved in advance by the presiding judge. Wherever possible, recording and broadcasting equipment which is not a component part of a

television camera shall be located outside the courtroom in an area approved in advance by the presiding judge.

~~9.~~ 2. A still camera photographer shall be positioned outside the rail of the courtroom or if there is no rail, in the area reserved for spectators, at a location approved in advance by the presiding judge. The still camera photographer shall not photograph from any other place, and shall not engage in any movement or assume any body position that would be likely to attract attention or be distracting. Unless positioned in or beyond the last row of spectators' seats, or in an aisle to the outside of the spectators' seating area, the still photographer shall remain seated while photographing.

~~10.~~ 3. Broadcast media representatives shall not move about the courtroom while proceedings are in session, and microphones and recording equipment once positioned shall not be moved during the pendency of the proceeding.

~~11.~~ 4. Not more than one ~~portable~~ television camera, operated by not more than one person, shall be permitted in any trial court proceeding. Not more than two stationary television cameras, operated by not more than one person each, shall be permitted in any appellate court proceeding.

~~2.~~ 5. Not more than one still photographer, utilizing not more than two still cameras with not more than two lenses for each camera and related equipment approved by the presiding judge shall be permitted in any proceeding in a trial or appellate court.

~~3.~~ 6. Not more than one audio system for broadcast purposes shall be permitted in any proceeding in a trial or appellate court. Audio pickup shall be accomplished from existing audio systems, except that if no technically suitable audio system exists, unobtrusive microphones and related wiring shall be located in places designated in advance by the presiding judge. Microphones located at the judge's bench and at counsel tables shall be equipped with temporary cutoff switches. A directional microphone may be mounted on the television or film camera, but no parabolic or similar microphones shall be used.

~~4.~~ 7. Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the presiding judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding judge shall exclude all contesting media personnel from extended coverage.

~~5.~~ 8. Only television, movie, and audio equipment that does not produce light or distracting sound shall be employed. No artificial lighting device of any kind shall be employed in connection with the television and movie cameras.

~~6.~~ 9. Only still camera equipment that does not produce distracting sound shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed in connection with a still camera.

~~7.~~ 10. It shall be the affirmative duty of media personnel to demonstrate to the presiding judge adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light criteria enunciated herein. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceedings.

11. Photographic or audio equipment shall not be placed in or removed from the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess. Neither film magazines nor still camera film or lenses shall be changed within a courtroom except during a recess in the proceeding.

12. With the concurrence of the presiding judge, and before the commencement of a proceeding or during a recess, modifications and additions may be made in light sources existing in the courtroom provided such modifications or additions are installed and maintained without public expense.

Committee note: Nothing in this Rule prohibits a judge from granting a reasonable request to use court-owned or court-controlled electronic or photographic equipment or materials.

Source: This Rule is derived from former Rule 1209.

REPORTER'S NOTE

Rule 16-109 is proposed to be amended to reflect several policy recommendations of the Rules Committee.

Subsection b 1 is proposed to be restated so that it expressly includes the concept that extended coverage may be prohibited "by law." A cross reference is proposed to be added following subsection b 1 to highlight the statutory provision that prohibits extended coverage of criminal trials and grand jury proceedings. A reference to an exception in that statute for the videotaping of certain child witnesses is added to subsection b 7 for completeness.

New language is proposed to be added to subsection b 3 to take account of camera-equipped cellular phones and similar technology. As a practical matter, this may impose additional burdens on courthouse security and bailiffs; but it is important to make clear that these devices are prohibited. Jury rooms are added to the list of locations where devices that capture images are prohibited.

With respect to the use of the phrase, "at least five days before ..." in subsection c 1, a cross reference to Rule 1-203 (b) is proposed to be added following that subsection.

Under proposed new section d, the presiding judge decides whether extended coverage will be permitted and controls what happens in the courtroom during a covered proceeding, and the local administrative judge makes whatever decisions and arrangements are necessary to get the media personnel and their equipment from the door of the courthouse to the door of the courtroom involved.

Certain references in section f, Restrictions on Extended Coverage, are proposed for deletion because they appear to refer to criminal proceedings, extended coverage of which is prohibited by Code, Criminal Procedure Article, §1-201.

The proposed reorganization and renumbering of the provisions in section g is stylistic.

Professor Frederic I. Lederer of the Courtroom 21 Project at the William and Mary School of Law, who had been asked to review the Rule, pointed out that the Rule did not address court-owned or court-controlled electronic or photographic equipment or materials. The Committee recommends the addition of a Committee note after section g to fill this gap.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-811 to delete provisions pertaining to decertification and add provisions pertaining to temporary suspension, as follows:

Rule 16-811. CLIENT PROTECTION FUND OF THE BAR OF MARYLAND

. . .

f. Enforcement.

1. List by Trustees of Unpaid Assessments.

As soon as practical after January 1, but no later than February 15 of each calendar year, the trustees shall prepare, certify, and file with the Court of Appeals a list showing:

- (i) the name and account number, as it appears on their records, of each lawyer who, to the best of their information, is engaged in the practice of law and without valid reason or justification has failed or refused to pay (a) one or more annual assessments, (b) penalties for late payment, (c) any charge for a dishonored check, or (d) reimbursement of publication charges; and
- (ii) the amount due from that lawyer to the Fund.

2. Notice of Default by Trustees.

(i) The trustees shall give notice of delinquency promptly to each lawyer on the list by first class mail addressed to the lawyer at the lawyer's last address appearing on the records of the trustees. The notice shall state the amount of the obligation to the Fund, that payment is overdue, and that failure to pay the amount to the Fund within 30 days following the date of the notice will result in the entry of an order by the Court of Appeals prohibiting the lawyer from practicing law in the State.

(ii) The mailing by the trustees of the notice of default shall constitute service.

3. Additional Discretionary Notice.

In addition to the mailed notice, the trustees may give any additional notice to the lawyers on the delinquency list as the trustees in their discretion deem desirable. Additional notice may include publication in one or more newspapers selected by the trustees; telephone, facsimile, or other transmission to the named lawyers; dissemination to local bar associations or other professional associations; posting in State court houses; or any other means deemed appropriate by the trustees. Additional notice may be statewide, regional, local, or personal to a named lawyer as the trustees may direct.

4. Certification of Default by Trustees; Order of ~~Decertification~~ Temporary Suspension by the Court of Appeals.

(i) Promptly after expiration of the deadline date stated in the mailed notice, the trustees shall submit to the Court of Appeals a proposed ~~Decertification~~ Temporary Suspension Order stating the names and account numbers of those lawyers whose accounts remain unpaid. The trustees also shall furnish additional information from their records or give further notice as the Court of Appeals may direct. The Court of Appeals, on being satisfied that the trustees have given the required notice to the lawyers remaining in default, shall enter a ~~Decertification~~ Temporary Suspension Order prohibiting each of them from practicing law in the State. The trustees shall mail by first class mail a copy of the ~~Decertification~~ Temporary Suspension Order to each lawyer named in the order at the lawyer's last address as it appears on the records of the

trustees. The mailing of the copy shall constitute service of the order.

(ii) A lawyer who ~~practices law after having been served~~ has been served with a copy of the ~~Decertification~~ a Temporary Suspension Order ~~may~~ and has not been restored to good standing may not practice law and shall comply with the requirements of Rule 16-760 (c). ~~be proceeded against for contempt of court in~~ In accordance with the provisions of Title 15, Chapter 200 (Contempt) and any other applicable provision of law or as the Court of Appeals shall direct, an action for contempt of court may be brought against a lawyer who practices law in violation of a Temporary Suspension Order.

(iii) Upon written request from any Maryland lawyer, judge, or litigant to confirm whether a Maryland lawyer named in the request has been ~~decertified~~ temporarily suspended and has not been ~~reinstated~~ restored to good standing, the trustees shall furnish confirmation promptly by informal means and, if requested, by written confirmation. On receiving confirmation by the trustees that a Maryland lawyer attempting to practice law has been and remains ~~decertified~~ temporarily suspended, a Maryland judge shall not permit the lawyer to practice law in the State until the ~~lawyer's default has been cured~~ Court of Appeals enters an order that terminates the Temporary Suspension Order and restores the lawyer to good standing.

5. Payment.

Upon payment in cash or by certified or bank official's check to the Fund by a lawyer of all amounts due by the lawyer, including all related costs that the Court of Appeals or the trustees may prescribe from time to time, the trustees shall remove the lawyer's name from their list of delinquent lawyers and, if a ~~Decertification~~ Temporary Suspension Order has been entered, request the Court of Appeals to ~~rescind its Decertification Order as to that lawyer~~ enter an order that terminates the temporary suspension and restores the lawyer to good standing. If requested by a lawyer affected by the action, the trustees shall furnish confirmation promptly.

6. Bad Check; Interim ~~Decertification~~ Temporary Suspension Order.

(i) If a check payable to the Fund is dishonored, the treasurer of the Fund shall notify the lawyer immediately by the quickest available means. Within 7 business days following the date of the notice, the lawyer shall pay to the treasurer of the Fund, in cash or by certified or bank official's check, the full amount of the dishonored check plus any additional charge that the trustees in their discretion shall prescribe from time to time.

(ii) The treasurer of the Fund promptly (but not more often than once each calendar quarter) shall prepare and submit to the Court of Appeals a proposed interim ~~Decertification~~ Temporary Suspension Order stating the name and account number of each lawyer who remains in default of payment for a dishonored check

and related charges. The Court of Appeals shall enter an interim ~~Decertification~~ Temporary Suspension Order prohibiting the practice of law in the State by each lawyer as to whom it is satisfied that the treasurer has made reasonable and good faith efforts to give notice concerning the dishonored check. The treasurer shall mail by first class mail a copy of the interim ~~Decertification~~ Temporary Suspension Order to each lawyer named in the order at the lawyer's last address as it appears on the records of the trustees, and the mailing of the copy shall constitute service of the order.

7. Notices to Clerks.

The Clerk of the Court of Appeals shall send a copy of ~~a~~ each ~~Decertification~~ Temporary Suspension Order and ~~rescission~~ order that terminates a temporary suspension and restores the lawyer to good standing entered pursuant to this Rule to the Clerk of the Court of Special Appeals, the clerk of each circuit court, the Chief Clerk of the District Court, and the Register of Wills for each county.

. . .

REPORTER'S NOTE

At the request of Chief Judge Bell, the Rules Committee has considered amendments to Rules 16-811 and 16-903 with respect to the use of the phrase, "rescind its Decertification Order," in the two Rules.

The Committee proposes amendments to Rule 16-811 that eliminate the "decertification" terminology in the Rule and replace it with a "temporary suspension" of the lawyer's right to practice law. "Rescission" language in the Rule is replaced by the phrase, "order that terminates the temporary suspension and

restores the lawyer to good standing." An amendment to subsection f. 4. (ii) of the Rule makes clear that, like a lawyer who is suspended under the Rules in Title 16, Chapter 700, a lawyer who is temporarily suspended under Rule 16-811 is not authorized to practice law and must comply with the requirements of Rule 16-760 (c).

In considering whether Rule 16-903 also should use "temporary suspension" terminology, members of the Committee noted that there is a qualitative difference between a lawyer's failure to pay the Client Protection Fund assessment and a lawyer's failure to file a *pro bono* reporting form. Payment of the Client Protection Fund assessment, which provides the necessary funding to reimburse losses caused by defalcations of lawyers, is a condition precedent to practicing law; filing a *pro bono* reporting form, which assists in measuring attainment of the aspirational goals set forth in Rule 6.1 of the Maryland Lawyers' Rules of Professional Conduct, is not a condition precedent to practicing law. The Committee recommends that rather than incorporating the full panoply of "temporary suspension" ramifications into Rule 16-903, the term "decertification" be retained in Rule 16-903 and that the terminology of "rescinding [a] Decertification Order" be deleted and replaced by the phrase, "enter an order that recertifies the lawyer and restores the lawyer to good standing."

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 900 - PRO BONO LEGAL SERVICE

AMEND Rule 16-903 to change certain terminology, as follows:

Rule 16-903. REPORTING PRO BONO LEGAL SERVICE

. . .

(e) Enforcement

(1) Notice of Default

As soon as practicable after May 1 of each year, the Administrative Office of the Courts shall give notice of the failure to file a report to each defaulting lawyer. The notice shall (A) state that the lawyer has not filed the Pro Bono Legal Service Report for the previous calendar year, (B) state that continued failure to file the Report may result in the entry of an order by the Court of Appeals prohibiting the lawyer from practicing law in the State, and (C) be sent by first class mail. The mailing of the notice of default shall constitute service.

(2) Additional Discretionary Notice of Default

In addition to the mailed notice, the Administrative Office of the Courts may give additional notice to defaulting lawyers by any of the means enumerated in Rule 16-811 g 3.

(3) List of Defaulting Lawyers

As soon as practicable after July 1 of each year but no later than August 1, the Administrative Office of the Courts

shall prepare, certify, and file with the Court of Appeals a list that includes the name and address of each lawyer engaged in the practice of law who has failed to file the Pro Bono Legal Service Report for the previous year.

(4) Certification of Default; Order of Decertification

The Administrative Office of the Courts shall submit with the list a proposed Decertification Order stating the names and addresses of those lawyers who have failed to file their Pro Bono Legal Service Reports for the specified calendar year. At the request of the Court of Appeals, the Administrative Office of the Courts also shall furnish additional information from its records or give further notice to the defaulting lawyers. If satisfied that the Administrative Office of the Courts has given the required notice to each lawyer named on the proposed Decertification Order, the Court of Appeals shall enter a Decertification Order prohibiting each of them from practicing law in the State.

(5) Mailing of Decertification Order

The Administrative Office of the Courts shall mail by first class mail a copy of the Decertification Order to each lawyer named in the Order. The mailing of the copy of the Decertification Order shall constitute service.

(6) ~~Rescission~~ Recertification; Restoration to Good Standing

If a lawyer files the outstanding Pro Bono Legal Service Report, the Administrative Office of the Courts shall request the Court of Appeals to enter an order ~~rescinding its Decertification~~

~~Order as to that~~ recertifies the lawyer and restores the lawyer to good standing. Upon entry of ~~a Rescission Order~~ an order that recertifies the lawyer and restores the lawyer to good standing, the Administrative Office of the Courts promptly shall furnish confirmation to the lawyer.

(7) Notices to Clerks

The Clerk of the Court of Appeals shall send a copy of each Decertification Order and ~~Rescission Order~~ order that recertifies a lawyer and restores the lawyer to good standing entered pursuant to this Rule to the Clerk of the Court of Special Appeals, the Clerk of each circuit court, the Chief Clerk of the District Court, and the Register of Wills for each county.

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 16-811.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-819 (e) to delete language pertaining to good cause and to require a judge or judicial appointee who removes an interpreter from a proceeding to notify the Administrative Office of the Courts, as follows:

Rule 16-819. COURT INTERPRETERS

. . .

(e) Removal from Proceeding

A court interpreter may be removed from a proceeding ~~for~~ good cause. ~~Good cause for removal includes:~~

- ~~(1) failing to interpret adequately;~~
- ~~(2) knowingly interpreting falsely;~~
- ~~(3) knowingly disclosing confidential or privileged information obtained while serving in a proceeding; or~~
- ~~(4) failing to follow applicable laws, rules of court, or the Maryland Code of Conduct for Court Interpreters in the Appendix to these Rules.~~ by a judge or judicial appointee within the meaning of Rule 16-814 (e) (1), who shall then notify the Administrative Office of the Courts that the action was taken.

. . .

REPORTER'S NOTE

At the request of the Administrative Office of the Courts ("AOC"), the Rules Committee recommends that Rule 16-819 (e) be amended by deleting the "good cause" standard from the section and replacing it with language stating that after a judge or judicial appointee removes an interpreter from a proceeding, the judge or judicial appointee must then report the removal to the AOC.

The proposed Rule change allows a judge or judicial appointee, in his or her discretion, to take prompt action to remove an interpreter from a proceeding when a problem with the interpreter arises in the middle of a hearing or trial. Under the proposed amended Rule, it is unnecessary to delay or interrupt the proceeding for the purpose of making a "good cause" determination as to removal of the interpreter from the proceeding. The requirement that the removal be reported to the AOC allows the AOC to track instances of problems with an interpreter that may indicate that the interpreter should be removed from the list of court interpreters.

MARYLAND RULES OF PROCEDURE
APPENDIX: MARYLAND CODE OF CONDUCT
FOR COURT INTERPRETERS

AMEND Canon 11 of the Maryland Code of Conduct for Court Interpreters to delete language pertaining to a hearing, to allow an interpreter a reasonable opportunity to respond following a notification that the Administrative Office of the Courts intends to remove the interpreter from the list of court interpreters, to delete language pertaining to good cause, to delete references to disciplinary action other than removal from the list, and to delete the Commentary to the Canon, as follows:

APPENDIX: MARYLAND CODE OF CONDUCT FOR COURT INTERPRETERS

. . .

Canon 11

Compliance

After notice and ~~an~~ a reasonable opportunity ~~for a hearing to respond,~~ the Administrative Office of the Courts may ~~discipline~~ remove an interpreter, ~~by actions such as public or private reprimand or suspension or removal from a list of court interpreters, for inadequate performance or other good cause~~ from the list of court interpreters.

Commentary

~~The following are examples of good cause for disciplining an interpreter:~~

~~Knowingly making false interpretation while serving in an official capacity;~~

~~Knowingly disclosing confidential or privileged information obtained while serving in an official capacity;~~

~~Failing to follow the standards prescribed by law and the ethics of the interpreter profession.~~

REPORTER'S NOTE

The proposed amendments to Canon 11 of the Maryland Code of Conduct for Court Interpreters delete from the Canon language (1) pertaining to good cause, (2) referring to disciplinary action other than removal from the list of court interpreters, and (3) providing for a hearing. The proposed revised Canon allows the Administrative Office of the Courts ("AOC") to remove an interpreter from the list after giving the interpreter notice of the proposed removal and an opportunity to respond. The AOC has recommended that the Canon be amended to make clear that an interpreter serves at-will, and that an interpreter whom the AOC intends to remove from the list does not necessarily receive a full hearing prior to removal, but is entitled to submit a written response to the proposed action.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGE, AND ATTORNEYS
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1002 to clarify that section (c) applies to certain court exhibits, as follows:

Rule 16-1002. GENERAL POLICY

. . .

(c) ~~Records Admitted or Considered as Evidence~~ Exhibit Attached to Motion or Marked for Identification

Unless a judicial action is not open to the public or the court expressly orders otherwise, a court record that ~~has been admitted into evidence in a judicial action or that a court has considered as evidence or relied upon for purposes of deciding a motion is~~ consists of an exhibit (1) attached to a motion that has been ruled upon by the court or (2) marked for identification at trial, whether or not offered in evidence, and if offered, whether or not admitted, is subject to inspection, notwithstanding that the record otherwise would not have been subject to inspection under the Rules in this Chapter.

Cross reference: Rule 2-516.

. . .

REPORTER'S NOTE

In its final report, the Access Rules Implementation Committee appointed by Chief Judge Bell suggested a need for clarification of Rule 16-1002 (c). The Rules Committee

recommends an amendment to section (c) that clarifies when an exhibit becomes open to public inspection. Under the proposed amendment, an exhibit attached to a motion upon which the court has ruled and an exhibit marked for identification at trial are subject to public inspection, unless the judicial action is closed to the public or the court expressly orders otherwise.

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

AMEND Rule 9-203 to provide that a financial statement becomes open to public inspection under certain circumstances, to allow a party at any time to make a motion to seal a financial statement, and to add a cross reference, as follows:

Rule 9-203. FINANCIAL STATEMENTS

. . .

(d) Inspection of Financial Statements

Except as provided in this section, inspection of a financial statement filed pursuant to the Rules in this Chapter is governed by Code, State Government Article, §10-617 (a) and (f). A financial statement is open to inspection if it is an exhibit (1) attached to a motion that has been ruled upon by the court or (2) marked for identification at trial, whether or not offered in evidence, and if offered, whether or not admitted. A party who does not want the financial statement open to public inspection pursuant to this section may make a motion at any time to have it sealed.

Cross reference: See Rule 16-1002 (c) and Rule 16-1009.

. . .

REPORTER'S NOTE

In its final report, the Access Rules Implementation Committee appointed by Chief Judge Bell suggested a need for further action with respect to financial statements required in family law actions pursuant to Rule 9-202. The Rules Committee recommends that Rule 9-203 (d) be amended to provide that a financial statement becomes open to public inspection when it is attached to a motion that has been ruled upon by the court or when the statement has been marked for identification at trial. Until either of these events occurs, inspection of the financial statement is governed by Code, State Government Article, §10-617 (a) and (f), which does not permit inspection of public records containing information about the finances of an individual. The Committee also recommends adding language to section (d) that allows a party who wants continued confidentiality of a financial statement to make a motion to seal it.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1006 to add a new section (k) concerning certain financial statements, as follows:

Rule 16-1006. REQUIRED DENIAL OF INSPECTION - CERTAIN CATEGORIES OF CASE RECORDS

Except as otherwise provided by law, court order, or the Rules in this Chapter, the custodian shall deny inspection of:

. . .

(k) As provided in Rule 9-203 (d), a case record that consists of a financial statement filed pursuant to Rule 9-202.

. . .

REPORTER'S NOTE

See the Reporter's Note to Rule 9-203 (d).

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-104 to add a Committee note, as follows:

Rule 1-104. UNREPORTED OPINIONS

. . .

(b) Citation

An unreported opinion of either Court may be cited in either Court for any purpose other than as precedent within the rule of stare decisis or as persuasive authority. In any other court, an unreported opinion of either Court may be cited only (1) when relevant under the doctrine of the law of the case, res judicata, or collateral estoppel, (2) in a criminal action or related proceeding involving the same defendant, or (3) in a disciplinary action involving the same respondent. A party who cites an unreported opinion shall attach a copy of it to the pleading, brief, or paper in which it is cited.

Committee note: A request that an unreported opinion be designated for reporting is governed by Rule 8-605.1 (b).

Source: This Rule is derived from former Rule 8-114, ~~and is which was~~ derived from former Rules 1092 c and 891 a 2.

REPORTER'S NOTE

The Rules Committee recommends adding a Committee note to Rule 1-104 to draw attention to Rule 8-605.1, which allows a party or nonparty to request that the Court of Special Appeals designate an unreported opinion to be reported before the mandate

issues. In light of this change, the Committee also recommends adding a cross reference to Rule 1-104 at the end of Rule 8-605.1.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 600 - DISPOSITION

AMEND Rule 8-605.1 to add a cross reference to Rule 1-104 and to delete an incorrect cross reference, as follows:

Rule 8-605.1. REPORTING OF OPINIONS OF THE COURT OF SPECIAL APPEALS

(a) Reporting of Opinions

The Court of Special Appeals shall designate for reporting only those opinions that are of substantial interest as precedents.

(b) Request for Reporting of Unreported Opinion

At any time before the mandate issues, the Court of Special Appeals, on its own initiative or at the request of a party or nonparty filed before the date on which the mandate is due to be issued, may designate for reporting an opinion previously designated as unreported. An unreported opinion may not be designated for reporting after the mandate has issued.

Cross reference: See Rule 1-104 ~~Rule 8-606 (f)~~.

Source: This Rule is derived as follows:
Section (a) is derived from Rule 8-113 (a).
Section (b) is new.

REPORTER'S NOTE

See the Reporter's Note to Rule 1-104 concerning the proposed addition of a cross reference to that Rule. The cross reference to Rule 8-606 (f) is proposed to be deleted because there is no section (f) in Rule 8-606.

MARYLAND RULES OF PROCEDURE
TITLE 14 - SALES OF PROPERTY

CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-206 (a) to fix the initially required bond amount at \$25,000 if the sale is to the lienholder or the lienholder's designee, to fix the initially required bond amount at the amount of the sale price if the sale is to someone other than the lienholder or the lienholder's designee, and to allow the lienholder to designate in a writing filed in the proceeding a person to take title on the lienholder's behalf, as follows:

Rule 14-206. PROCEDURE PRIOR TO SALE

(a) Bond

Before making a sale of property to foreclose a lien, the person authorized to make the sale shall file a bond to the State of Maryland conditioned upon compliance with any court order that may be entered in relation to the sale of the property or distribution of the proceeds of the sale. Unless the court orders otherwise, the amount of the bond shall be ~~the amount of the debt plus the estimated expenses of the proceeding~~ \$25,000. If the property is sold to a person other than the holder of the indebtedness or a person designated by the holder in a writing filed in the proceeding to take title on the holder's behalf, the person authorized to make the sale shall increase the amount of the bond, before the sale is ratified, to the amount of the sale

price as set forth in the report of sale. On application by a person having an interest in the property or by the person authorized to make the sale, the court may increase or decrease the amount of the bond pursuant to Rule 1-402 (d).

. . .

REPORTER'S NOTE

Jeffrey B. Fisher, Esq., a mortgage foreclosure practitioner and a member of the Foreclosure Practice Subsection of the Real Property Section of the Maryland State Bar Association, has requested that section (a) of Rule 14-206 be amended to reduce clerical work and judicial time by simplifying the bond requirement and eliminating the need to file a motion to substitute purchaser if the property is bought by the holder of the debt secured by the lien, but title will be held by a person acting on the holder's behalf. The amendment (1) fixes the initially required bond at \$25,000 unless increased or decreased by the court on the application of the person making the sale or any person having an interest in the property, making such applications unnecessary in most cases, (2) provides that the bond shall be increased to the sale price if the property is sold to a buyer who is not the holder of the debt or a person designated by the holder in a writing filed in the proceeding to take title on the holder's behalf, and (3) by providing that the holder can designate a person to take title on its behalf, eliminates the need for motions to substitute purchasers in those cases.

MARYLAND RULES OF PROCEDURE
APPENDIX: THE MARYLAND LAWYERS' RULES
OF PROFESSIONAL CONDUCT
COUNSELOR

AMEND Comment 5 to Rule 2.1 of the Maryland Lawyers' Rules of Professional Conduct by deleting language from the third sentence and by adding language concerning advising the client about one or more forms of alternative dispute resolution, as follows:

. . .

Rule 2.1. ADVISOR

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

COMMENT

. . .

Offering Advice. - [5] In general, a lawyer is not expected to give advice until asked by the client. However, when a lawyer knows that a client proposes a course of action that is likely to result in substantial adverse legal consequences to the client, the lawyer's duty to the client under Rule 1.4 may require that the lawyer offer advice if the client's course of action is related to the representation. Similarly, when a matter is likely to involve litigation, ~~it may be necessary under Rule 1.4 to inform the client of forms of dispute resolution that might constitute reasonable alternatives to litigation and in the opinion of the lawyer, one or more forms of alternative dispute resolution are reasonable alternatives to litigation, the lawyer~~

should advise the client about those reasonable alternatives. A lawyer ordinarily has no duty to initiate investigation of a client's affairs or to give advice that the client has indicated is unwanted, but a lawyer may initiate advice to a client when doing so appears to be in the client's interest.

. . .

REPORTER'S NOTE

The proposed amendment to Comment 5 to Rule 2.1 deletes from the third sentence, "it may be necessary under Rule 1.4 to inform the client of forms of dispute resolution that might constitute reasonable alternatives to litigation," and replaces it with a specific reference to "one or more forms of alternative dispute resolution" ("ADR") as reasonable alternatives to litigation about which a lawyer should advise his or her client. The amended Comment is intended to encourage informed discourse between the lawyer and client whenever ADR may be an appropriate option.

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS

CHAPTER 200 - CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

AMEND Rule 1-202 (m) to make a correction, as follows:

Rule 1-202. DEFINITIONS

. . .

(m) Judge

"Judge" means a judge of a court of this State and refers, as applicable under the circumstances, to a judge of ~~(1)~~ the court (1) to which the title, chapter, or rule applies or (2) in which the particular action or proceeding has been filed or properly could be filed.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 1-202 (m) corrects an error in the placement of "(1)."

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

AMEND Rule 2-645 to correct an internal reference, as follows:

Rule 2-645. GARNISHMENT OF PROPERTY - GENERALLY

. . .

(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 garnishee must file a notice with the court pursuant to Rule 2-401 ~~(c)~~ (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.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 2-645 corrects an internal reference to a section of Rule 2-401.

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

AMEND Rule 2-652 to correct an obsolete cross reference, as follows:

Rule 2-652. ENFORCEMENT OF ATTORNEY'S LIENS

. . .

(c) Adjudication of Rights and Lien Disputes

(1) When a Circuit Court Action has been Filed

If a lien asserted pursuant to this Rule relates to an action that has been filed in a circuit court of this State, on motion filed by the attorney, the attorney's client in the action, or any person who has received a notice pursuant to section (b) of this Rule, the court shall adjudicate the rights of the parties in relation to the lien, including the attorney's entitlement to a lien, any dispute as to the papers subject to a lien under section (a) of this Rule, and the amount of the attorney's claim.

(2) When no Circuit Court Action has been Filed

If a lien is asserted pursuant to this Rule and a related action has not been filed in a circuit court of this State, the attorney, the attorney's client, or any person who has received a notice pursuant to section (b) of this Rule may file a complaint with a circuit court to adjudicate the rights of the

parties in relation to the lien, including the attorney's entitlement to a lien, any dispute as to the papers subject to a lien under section (a) of this Rule, and the amount of the attorney's claim.

Cross reference: For venue of a complaint filed pursuant to this section, see Code, Courts and Judicial Proceedings Article, ~~§§6-201 - 204~~ §§6-201 - 203.

. . .

REPORTER'S NOTE

The proposed amendment to the cross reference following section (c) of this Rule updates a statutory reference.

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

AMEND Rule 4-214 to correct an obsolete cross reference, as follows:

Rule 4-214. DEFENSE COUNSEL

. . .

Cross reference: ~~Code (1957, 1987 Repl. Vol.), Article 10, §45 (Termination of Appearance) Code, Courts Article, §6-407 (Automatic Termination of Appearance of Attorney).~~

. . .

REPORTER'S NOTE

The proposed amendment to the cross reference following Rule 4-214 updates a statutory reference.

MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 600 - WITNESSES

AMEND Rule 5-615 to make subsection (b) (5) applicable to all crimes and delinquent acts to the extent required by statute and to add to the cross reference following subsection (b) (5), as follows:

Rule 5-615. EXCLUSION OF WITNESSES

. . .

(b) Witnesses not to be Excluded

A court shall not exclude pursuant to this Rule

- (1) a party who is a natural person,
- (2) an officer or employee of a party that is not a natural person designated as its representative by its attorney,
- (3) an expert who is to render an opinion based on testimony given at the trial,
- (4) a person whose presence is shown by a party to be essential to the presentation of the party's cause, such as an expert necessary to advise and assist counsel, or
- (5) a victim of a crime ~~of violence or the~~ or a delinquent act, including any representative of such a deceased or disabled victim, to the extent required by statute.

Cross reference: Code, Courts Article, §3-8A-13; Criminal Procedure Article, §11-102 and §11-302; Rule 4-231.

REPORTER'S NOTE

Russell Butler, Esq. pointed out that Code, Criminal Procedure Article, §11-102 provides that a victim or victim's representative who has filed a notification request form has the right to attend any proceeding in which the right to appear has been granted to a defendant and Code, Courts Article, §3-8A-13 provides that victims may attend proceedings in which a child is alleged to be in need of supervision or to have committed a delinquent act that would be a misdemeanor or felony (for good cause shown) if committed by an adult or in a peace order proceeding. To conform to these statutes, the Rules Committee recommends modifying subsection (b) (5) of Rule 5-615 and adding references to these statutes to the cross reference after subsection (b) (5) of the same Rule.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING

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MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

Rule 9-101. APPLICABILITY; DEFINITIONS

(a) Applicability

The Rules in this Chapter apply to proceedings under Code, Family Law Article, Title 5, Subtitles 3 (Guardianship to and Adoption through Local Department), 3A (Private Agency Guardianship and Adoption), and 3B (Independent Adoption).

Committee note: The Rules in this Chapter do not apply to the guardianship of persons and property of minors and disabled persons governed by Code, Estates and Trusts Article, §13-101 et seq.

(b) Definitions

The terms used in this Chapter that are defined in Code, Family Law Article, Titles 1 and 5 shall have the meanings stated in those Titles. In addition, in this Chapter, the following definitions apply except as expressly otherwise provided or as necessary implication requires.

(1) Independent Adoption

"Independent Adoption" means an adoption under Code, Family Law Article, Title 5, Subtitle 3B.

(2) Private Agency Adoption

"Private Agency Adoption" means an adoption under Code, Family Law Article, Title 5, Subtitle 3A.

(3) Private Agency Guardianship

"Private Agency Guardianship" means a guardianship under Code, Family Law Article, Title 5, Subtitle 3A.

(4) Public Agency Adoption after TPR

"Public Agency Adoption after TPR" means an adoption under Code, Family Law Article, Title 5, Subtitle 3A after termination of parental rights.

(5) Public Agency Adoption without Prior TPR

"Public Agency Adoption without Prior TRP" means an adoption under Code, Family Law Article, Title 5, Subtitle 3A without prior termination of parental rights.

(6) Public Agency Guardianship

"Public Agency Guardianship" means a guardianship under Code, Family Law Article, Title 5, Subtitle 3A.

Source: This Rule is in part derived from former Rule D71 and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

Rule 9-102. CONSENTS; REVOCATION OF CONSENT

(a) Consents Generally Required

Except when otherwise permitted, a judgment of adoption or guardianship may not be entered without the consents prescribed by Code, Family Law Article.

Cross reference: For provisions governing the authority to grant guardianships or adoptions and the validity of consents, see Code, Family Law Article, §§5-320 and 5-321 as to a Public Agency Guardianship, 5-338 and 5-339 as to a Public Agency Adoption without Prior TPR, 5-350 and 5-351 as to a Public Agency Adoption after TPR, 5-3A-18 and 5-3A-19 as to a Private Agency Guardianship, 5-3A-34 as to a Private Agency Adoption; and 5-3B-19 and 5-3B-20 as to an Independent Adoption.

(b) Form of Consents, Affidavits of Attorneys, and Disclosure Vetoes

(1) Consent of Parent

The consent of a parent to a guardianship or to an adoption shall be substantially in the applicable form set forth at the end of this Title as Form 9-102.1 (Consent of Parent to a Public Agency Guardianship), Form 9-102.2 (Consent of Parent to a Private Agency Guardianship), Form 9-102.3 (Consent of Parent to a Public Agency Adoption without Prior TPR), Form 9-102.4 (Consent of Parent to an Independent Adoption with Termination of

Parental Rights), or Form 9-102.5 (Consent of Parent to an Independent Adoption without Termination of Parental Rights).

(2) Consent of Child to Adoption

The consent of a child to an adoption shall be substantially in the applicable form set forth at the end of this Title as Form 9-102.6 (Consent of Child to a Public Agency Adoption or Private Agency Adoption) or Form 9-102.7 (Consent of Child to an Independent Adoption).

(3) Attorney Affidavit

When required, the affidavit by an attorney as to the validity of the consent of a parent or child to a guardianship or adoption shall be substantially in the applicable form set forth at the end of this Title as Form 9-102.8 (Attorney Affidavit as to Consent of a Parent to a Public Agency Guardianship or Private Agency Guardianship), Form 9-102.9 (Attorney Affidavit as to Consent of a Parent to Adoption), or Form 9-102.10 (Attorney Affidavit as to Consent of a Child to Adoption).

Cross reference: See Rule 9-106 (c).

(4) Disclosure Vetoes

The disclosure vetoes that are required to be attached to the consent forms may be found on the website of the Maryland Department of Human Resources.

(c) Revocation of Consent

(1) Time for Revocation of Consent

(A) By Parent

The time for revocation of consent by a parent is as provided in Code, Family Law Article, §5-321 (Public Agency Guardianship), §5-339 (Public Agency Adoption without Prior TPR), §5-3A-19 (Private Agency Guardianship), and §5-3B-20 (Independent Adoption).

(B) By Adoptee

The time for revocation of consent by an adoptee is as provided in Code, Family Law Article, §5-339 (Public Agency Adoption without Prior TPR), §5-351 (Public Agency Adoption after TPR), §5-3A-34 (Private Agency Adoption), and §5-3B-20 (Independent Adoption).

(C) By Public or Private Agency or Guardian

The time for revocation of consent by a public or private agency or guardian is as provided in Code, Family Law Article, §5-339 (Public Agency Adoption without Prior TPR), §5-351 (Public Agency Adoption after TPR), and §5-3A-34 (Private Agency Adoption).

(2) Procedure for Revocation of Consents

(A) By Parent - Delivery to Clerk

A parent may revoke a consent to an adoption or guardianship only by a signed writing actually delivered by mail or in person to the clerk of the circuit court designated in the consent to receive the revocation. If the revocation is delivered to an agent of a public or private agency, the agent shall deliver the revocation promptly to the court.

(B) By Agency, Guardian, or Adoptee

An agency, guardian, or adoptee may revoke consent to an adoption (i) in person or through counsel on the record at a hearing or (ii) in a writing signed by the executive head of the agency, the guardian, or the adoptee and filed with the court. If the revocation is delivered to an agent of a public or private agency, the agent shall deliver the revocation promptly to the court.

Cross reference: Rule 9-112.

(C) Notice

The court shall send to all parties, including the person who revoked the consent, a copy of the revocation and notice of a hearing scheduled pursuant to subsection (c)(2)(D) of this Rule.

(D) Court Hearing Upon Revocation of Consent

If a consent is revoked pursuant to this Rule, the court shall schedule an immediate hearing to determine the status of the petition and, if necessary, temporary custody of the child.

Source: This Rule is derived in part from former Rule D73 and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

Rule 9-103. PETITION

(a) Titling of Case

A proceeding shall be titled "In re Adoption/Guardianship of _____ (first name and first initial of last name of prospective adoptee or ward)."

(b) Petition for Adoption

(1) Contents

A petition for adoption shall be signed and verified by each petitioner and shall contain the following information:

(A) The name, address, age, business or employment, and employer of each petitioner;

(B) The name, sex, and date and place of birth of the person to be adopted;

(C) The name, address, and age of each parent of the person to be adopted;

(D) Any relationship of the person to be adopted to each petitioner;

(E) The name, address, and age of each child of each petitioner;

(F) A statement of how the person to be adopted was located (including names and addresses of all intermediaries or surrogates), attaching a copy of all advertisements used to locate the person, and a copy of any surrogacy contract;

Committee note: If the text of an advertisement was used verbatim more than once, the requirement that a copy of all advertisements be attached to the petition may be satisfied by attaching a single copy of the advertisement, together with a list of the publications in which the advertisement appeared and the dates on which it appeared.

(G) If the person to be adopted is a minor, the names and addresses of all persons who have had legal or physical care, custody, or control of the minor since the minor's birth and the period of time during which each of those persons has had care, custody, or control, but it is not necessary to identify the names and addresses of foster parents, other than a petitioner, who have taken care of the minor only while the minor has been committed to the custody of a child placement agency;

(H) If the person to be adopted is a minor who has been transported from another state to this State for purposes of placement for adoption, a statement of whether there has been compliance with the Interstate Compact on the Placement of Children (ICPC);

(I) If applicable, the reason why the spouse of the petitioner is not joining in the petition;

(J) If there is a guardian with the right to consent to adoption for the person to be adopted, the name and address of

the guardian and a reference to the proceeding in which the guardian was appointed;

(K) Facts known to each petitioner that may indicate that a party has a disability that makes the party incapable of consenting or participating effectively in the proceedings, or, if no such facts are known to the petitioner, a statement to that effect;

(L) Facts known to each petitioner that may entitle the person to be adopted or a parent of that person to the appointment of an attorney by the court;

(M) If a petitioner desires to change the name of the person to be adopted, the name that is desired;

(N) As to each petitioner, a statement whether the petitioner has ever been convicted of a crime other than a minor traffic violation and, if so, the offense and the date and place of the conviction;

(O) That the petitioner is not aware that any required consent has been revoked; and

(P) If placement pending final action on the petition is sought in accordance with Code, Family Law Article, §5-3B-12, a request that the court approve the proposed placement.

(2) Exhibits

(A) The following documents shall accompany the petition as exhibits:

(i) A certified copy of the birth certificate or "proof of live birth" of the person to be adopted;

(ii) A certified copy of the marriage certificate of each married petitioner;

(iii) A certified copy of all judgments of divorce of each petitioner;

(iv) A certified copy of any death certificate of a person whose consent would be required if that person were living;

(v) A certified copy of all orders concerning temporary custody or guardianship of the person to be adopted;

(vi) A copy of any existing adoption home study by a licensed child placement agency concerning a petitioner, criminal background reports, or child abuse clearances;

(vii) A document evidencing the annual income of each petitioner;

(viii) The original of all consents to the adoption, any required affidavits of translators or attorneys, and, if available, a copy of any written statement by the consenting person indicating a desire to revoke the consent, whether or not that statement constitutes a valid revocation;

Cross reference: See Code, Family Law Article, §§5-331, 5-338, and 5-339 as to a Public Agency Adoption without Prior TPR; 5-350 and 5-351 as to a Public Agency Adoption after TPR; 5-3A-34 and 5-3A-35 as to a Private Agency Adoption; and 5-3B-20 and 5-3B-21 as to an Independent Adoption.

(ix) If applicable, proof of guardianship or relinquishment of parental rights granted by an administrative, executive, or judicial body of a state or other jurisdiction; a certification that the guardianship or relinquishment was granted

in compliance with the jurisdiction's laws; and any appropriate translation of documents required to allow the child to enter the United States;

Cross reference: See Code, Family Law Article, §§5-305 and 5-331 as to a Public Agency Adoption without Prior TPR; 5-305 and 5-345 as to a Public Agency Adoption after TPR; 5-3A-05 as to a Private Agency Adoption; and 5-3B-05 and 5-3B-20 as to an Independent Adoption.

(x) If a parent of the person to be adopted cannot be identified or located, an affidavit of each petitioner and the other parent describing the attempts to identify and locate the unknown or missing parent;

Cross reference: See Code, Family Law Article, §§5-331 and 5-334 as to a Public Agency Adoption without Prior TPR and 5-3B-15 as to an Independent Adoption.

(xi) A copy of any agreement between a parent of the person to be adopted and a petitioner relating to the proposed adoption with any required redaction;

Cross reference: See Code, Family Law Article, §§5-308 and 5-331 as to a Public Agency Adoption without Prior TPR; 5-308 and 5-345 as to a Public Agency Adoption after TPR; 5-3A-08 as to a Private Agency Adoption; and 5-3B-07 as to an Independent Adoption.

(xii) If the adoption is subject to the Interstate Compact on the Placement of Children, the appropriate ICPC approval forms;

Cross reference: Code, Family Law Article, §5-601.

(xiii) A brief statement of the health of each petitioner signed by a physician or other health care provider if applicable; and

(xiv) If required, a notice of filing as prescribed by Code, Family Law Article:

(1) §5-313 in a Public Agency Guardianship;

(2) §5-331 in a Public Agency Adoption without Prior TPR; or

(3) §5-345 in a Public Agency Adoption after TPR.

(B) The following documents shall be filed before a judgment of adoption is entered:

(i) Any post-placement report relating to the adoption, if applicable;

Cross reference: See Code, Family Law Article, §§5-337 as to a Public Agency Adoption without Prior TPR; 5-349 as to a Public Agency Adoption after TPR; 5-3A-31 and 5-3A-34 as to a Private Agency Adoption; and 5-3B-16 as to an Independent Adoption.

(ii) A brief statement of the health of the child by a physician or other health care provider;

(iii) If required by law, an accounting of all payments and disbursements of any money or item of value made by or on behalf of each petitioner in connection with the adoption;

Cross reference: See Code, Family Law Article, §5-3B-24 as to an Independent Adoption.

(iv) An affidavit of counsel for a parent, if required by Code, Family Law Article:

(1) §5-307 in a Public Agency Guardianship;

(2) §§5-307 and 5-339 in a Public Agency Adoption Before TPR;

(3) §§5-3A-07 and 5-3A-35 in a Private Agency Adoption;

or

(4) §§5-3B-06 and 5-3B-20 in an Independent Adoption.

(v) An affidavit of counsel for a child, if the child is represented.

Cross reference: See Code, Family Law Article, §§5-337 as to a Public Agency Adoption without Prior TPR; 5-349 as to a Public Agency Adoption after TPR; 5-3A-31 and 5-3A-34 as to a Private Agency Adoption; and 5-3B-16 as to an Independent Adoption.

(vi) If the adoption is subject to the Interstate Compact on the Placement of Children, the required post-placement form;

(vii) A proposed judgment of adoption; and

(viii) A Department of Health and Mental Hygiene Certificate of Adoption Form.

Cross reference: Code, Health-General Article, §4-211 (f).

(c) Petition for Guardianship

A petition for guardianship shall state all facts required by subsection (b)(1) of this Rule, to the extent that the requirements are applicable and known to the petitioner. It shall be accompanied by all documents required to be filed as exhibits by subsection (b)(2) of this Rule, to the extent the documents are applicable. The petition shall also state the license number of the child placement agency.

Cross reference: See Code, Family Law Article, §§5-313 as to a Public Agency Guardianship and 5-3A-13 as to a Private Agency Guardianship.

(d) If Facts Unknown or Documents Unavailable

If a fact required by subsection (b)(1) or section (c) of this Rule is unknown to a petitioner or if a document required by subsection (b)(2) or section (c) is unavailable, the petitioner

shall so state and give the reason in the petition or in a subsequent affidavit. If a document required to be submitted with the petition becomes available after the petition is filed, the petitioner shall file it as soon as it becomes available.

(e) Disclosure of Facts Known to Child Placement Agency

If any fact required by subsection (b) (1) of this Rule to be stated is known to a child placement agency and the agency declines to disclose it to a petitioner, the agency shall disclose the fact to the court in writing at the time the petition is filed.

Source: This Rule is derived in part from former Rule D72, in part from former Rule D80, and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
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Rule 9-104. NOTICE OF FILING OF PETITION; STATUS CONFERENCE

(a) Notice of Filing of Petition

Notice of the filing of a petition for guardianship or adoption shall be given as required by Code, Family Law Article:

- (1) §5-315 in a Public Agency Guardianship;
- (2) §5-333 in a Public Agency Adoption without Prior TPR;
- (3) §5-346 in a Public Agency Adoption after TPR;
- (4) §5-3A-14 in a Private Agency Guardianship;
- (5) §5-3A-30 in a Private Agency Adoption; and
- (6) §5-3B-14 in an Independent Adoption.

(b) Status Conference

In a public agency guardianship or adoption, at the time the notice of filing is sent, the court shall schedule a status conference no later than 60 days after the filing of the petition.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
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Rule 9-105. SHOW CAUSE ORDER; DISABILITY OF A PARTY; OTHER
NOTICE

(a) Requirement for Show Cause Order

Promptly upon the filing of a petition for adoption or guardianship, the court shall issue a show cause order in substantially the form set forth in section (e) of this Rule when required by Code, Family Law Article:

- (1) §5-316 in a Public Agency Guardianship;
- (2) §5-334 in a Public Agency Adoption without Prior TPR;
- (3) §5-3A-15 in a Private Agency Guardianship; or
- (4) §5-3B-15 in an Independent Adoption.

If the petition seeks adoption of a minor, the show cause order shall not divulge the name of the petitioner. If the petition seeks appointment of a guardian, the show cause order shall state the name of the child placement agency seeking guardianship.

(b) Appointment of Attorney for Disabled Party

(1) If the parties agree that a party who is not represented has a disability that makes the party incapable of consenting or participating effectively in the proceeding, the

court shall appoint an attorney who shall represent the disabled party throughout the proceeding.

(2) If there is a dispute as to whether a party who is not represented has a disability that makes the party incapable of consenting or participating effectively in the proceeding, the court shall:

(A) hold a hearing promptly to resolve the dispute;

(B) appoint an attorney to represent the alleged disabled party at that hearing;

(C) provide notice of that hearing to all parties; and

(D) if the court finds at the hearing that the party has such a disability, appoint an attorney who shall represent the disabled party throughout the proceeding.

Cross reference: See Code, Family Law Article, §§5-307 as to a Public Agency Guardianship; 5-307 as to a Public Agency Adoption without Prior TPR; 5-3A-07 as to a Private Agency Guardianship; and 5-3B-06 as to an Independent Adoption. For eligibility of an individual for representation by the Office of the Public Defender, see Code, Family Law Article, §5-307 and Code, Article 27A, §4.

(c) Service of Show Cause Order

(1) Method of Service

The show cause order shall be served on those persons and in the manner required by Code, Family Law Article:

(A) §5-316 in a Public Agency Guardianship;

(B) §5-334 in a Public Agency Adoption without Prior TPR;

(C) §5-3A-15 in a Private Agency Guardianship; or

(D) §5-3B-15 in an Independent Adoption.

(2) Time for Service

Unless the court orders otherwise, a show cause order shall be served within 90 days after the date it is issued. If service is not made within that period, a new show cause order shall be issued at the request of the petitioner.

(3) Notice of Objection

A show cause order shall be served with two copies of a pre-captioned notice of objection form in substantially the form set forth in section (f) of this Rule. In a public agency guardianship or adoption, a copy of the petition shall be attached.

(d) Notice of Change of Name

If the person to be adopted is an adult and the petitioner desires to change the name of the person to be adopted to a surname other than that of the petitioner, notice of a proposed change of name shall also be given in the manner provided in Rule 15-901.

(e) Form of Show Cause Order

Except as provided in section (g) of this Rule, the show cause order shall be substantially in the following form:

IMPORTANT

THIS IS A COURT ORDER. IF YOU DO NOT UNDERSTAND WHAT THE ORDER SAYS, HAVE SOMEONE EXPLAIN IT TO YOU. YOUR RIGHT TO AN ATTORNEY IS EXPLAINED IN PARAGRAPH 3 OF THIS ORDER. **IF YOU DO NOT MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN PARAGRAPH 2 OF THIS ORDER, YOU HAVE AGREED TO A TERMINATION OF YOUR PARENTAL RIGHTS.**

(Note to Drafter of Show Cause Order: For the form of the caption of the Show Cause Order, see Rule 9-103 (a).)

SHOW CAUSE ORDER

TO:

(Name of Person to be Served)

(Address, including County)

(Relationship of person served to individual who is the subject of the proceeding)

You are hereby notified that:

- 1. Filing of Petition.

A petition has been filed for _____
(Adoption/Guardianship)

of _____ who
(Name of individual who is the subject of the proceeding)

was born at _____ on _____.
(Birthplace) (Date of Birth)

(If the petition is for guardianship, include the following sentence: The petition was filed by _____

_____) .
(Name of child placement agency seeking guardianship)

- 2. Right to Object; Time for Objecting.

If you wish to object to the _____,
(Adoption/Guardianship)

you must file a notice of objection with the clerk of the court at _____
(Address of Courthouse)

within _____ days after this Order is served on you. For your convenience, a form notice of objection is attached to this Order.

WHETHER THE PETITION REQUESTS ADOPTION OR GUARDIANSHIP, IF YOU DO NOT MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED ABOVE, YOU HAVE AGREED TO THE TERMINATION OF YOUR PARENTAL RIGHTS.

3. Right to an Attorney.

(a) You have the right to speak with an attorney and obtain independent legal advice.

(b) An attorney may already have been appointed for you. If you have been notified that an attorney has been appointed for you, you should speak immediately with that attorney.

(c) If an attorney has not already contacted you, you may be entitled to have the court appoint an attorney for you if:

(Note to Drafter of Show Cause Order: Include only those of the following paragraphs that are applicable to the type of guardianship or adoption proceeding that has been filed.)

[In a Public Agency Adoption:]

(1) You are the person to be adopted.

[In a Private Agency Adoption:]

(1) You are the person to be adopted **and**

(A) you are at least 10 years old but are not yet 18; or

(B) you have a disability that makes you unable to

participate effectively in the adoption case.

[In an Independent Adoption:]

(1) You are the person to be adopted **and**

(A) you are at least 10 years old; **and**

(B) you have a disability that makes you unable to participate effectively in the adoption case.

[In a Public Agency Guardianship or Adoption without Prior TPR:]

(2) you are a parent of the person to be adopted or for whom a guardian is sought **and:**

(A) you are under 18 years of age; or

(B) you have a disability that makes you unable to participate effectively in the case; or

(C) you object to the guardianship or adoption and cannot afford to hire an attorney because you are indigent.

[In a Private Agency Guardianship:]

(2) you are a parent of the person for whom a guardian is sought; **and**

(A) you are under 18 years of age; or

(B) you have a disability that makes you unable to participate effectively in the case.

[In an Independent Adoption:]

(2) you are a parent of the person to be adopted; **and**

(A) you are under 18 years of age; or

(B) you have a disability that makes you unable to

participate effectively in the case.

IF YOU BELIEVE YOU ARE ENTITLED TO HAVE THE COURT APPOINT AN ATTORNEY FOR YOU AND YOU WANT AN ATTORNEY, YOU MUST NOTIFY THE COURT BEFORE THE TIME YOUR NOTICE OF OBJECTION MUST BE FILED. HOWEVER, EVEN IF YOU HAVE OR WANT TO HAVE AN ATTORNEY, YOU MUST STILL FILE THE NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE **STATED IN PARAGRAPH 2 OF THIS ORDER. IF YOU DO NOT MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED, YOU HAVE AGREED TO THE TERMINATION OF YOUR PARENTAL RIGHTS.**

For your convenience, a request for appointment of an attorney is printed on the notice of objection form attached to this Order.

(d) You are entitled to consult an attorney chosen by you, even if you are not entitled to an attorney appointed by the court. If you employ an attorney, you may be responsible for any fees and costs charged by that attorney unless the court orders another party to pay all or part of those fees or expenses.

(e) If you wish further information concerning appointment of an attorney by the court or concerning adoption counseling and guidance, you may contact

(Name of Court Official)

(Address)

(Telephone Number)

4. Option to Receive Adoption Counseling

If this is an adoption proceeding, you also may have the option to receive adoption counseling and guidance. You may have to pay for that service unless another party agrees to pay or the court orders another party to pay all or part of those charges.

Date of issue: _____

(Judge)

(f) Form of Notice of Objection

The notice of objection shall be substantially in the following form:

(Note to Drafter of the Notice of Objection/Request for Appointment of Attorney: For the caption of the form, see Rule 9-103 (a).)

NOTICE OF OBJECTION/REQUEST FOR APPOINTMENT OF ATTORNEY

(Instructions to the person served with the show cause order:

IF YOU WISH TO OBJECT, YOU MUST MAKE SURE THAT THE COURT RECEIVES YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN THE SHOW CAUSE ORDER. You may use this form to do so. You need only sign this form, print or type your name, address, and telephone number underneath your signature, and mail or

deliver it to the court at the address shown in paragraph 2 of the show cause order. **IF THE COURT HAS NOT RECEIVED YOUR NOTICE OF OBJECTION ON OR BEFORE THE DEADLINE STATED IN PARAGRAPH 2 OF THE SHOW CAUSE ORDER, YOU HAVE AGREED TO THE TERMINATION OF YOUR PARENTAL RIGHTS.** If you wish to state your reasons, you may state them on this sheet.)

1. I object to the _____ of the
(Adoption/Guardianship)
above-named individual. My reasons for objecting are as follows:

2. I do/do not want the Court to appoint an attorney to
(Circle one)
represent me. If I circled that I do want the court to appoint
an attorney for me, I believe that I am entitled to a court-
appointed attorney because:

(Check appropriate box or boxes)

(Note to Drafter of the Notice of Objection/Request for Appointment of Attorney: Include only those of the following paragraphs which are applicable to the type of guardianship or adoption proceeding that has been filed.)

[In a Public Agency Adoption:]

[] I am the person to be adopted.

[In a Private Agency Adoption:]

[] I am the person to be adopted **and**

[] I am at least 10 years old but are not yet 18.

[] I have a disability that makes me unable to participate effectively in the adoption case.

[In an Independent Adoption:]

[] I am the person to be adopted **and**

[] I am at least 10 years old, and I have a disability that makes me unable to participate effectively in the adoption case.

[In a Public Agency Guardianship or Adoption without Prior TPR:]

[] I am the parent of the person to be adopted or placed under guardianship **and:**

[] I am under 18 years of age.

[] I have a disability that makes me unable to participate effectively in the case.

[] I object to the guardianship or adoption and cannot afford to hire an attorney because I am indigent.

[In a Private Agency Guardianship:]

[] I am the parent of the person to be placed under guardianship **and:**

[] I am under 18 year of age.

[] I have a disability that makes me unable to participate effectively in the case.

[In an Independent Adoption:]

[] I am the parent of the person to be adopted **and:**

[] I am under 18 years of age.

[] I have a disability that makes me unable to participate effectively in the case.

(Signature)

(Name, printed or typed)

(Address)

(Telephone Number)

(g) Form of Notice for Service by Publication and Posting

The notice for service by publication and posting shall be in the form required by Code, Family Law Article:

- (1) §5-316 in a Public Agency Guardianship;
- (2) §5-334 in a Public Agency Adoption without Prior TPR;
- (3) §5-3A-15 in a Private Agency Guardianship; or
- (4) §5-3B-15 in an Independent Adoption.

Source: This Rule is in part derived from former Rule D74 and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING
PARENTAL RIGHTS

Rule 9-106. APPOINTMENT OF ATTORNEY - ATTORNEY AFFIDAVIT -
INVESTIGATION

(a) Appointment of Attorney

The court shall appoint an attorney for a party when required by Code, Family Law Article:

- (1) §5-307 in a Public Agency Guardianship;
- (2) §5-307 in a Public Agency Adoption without Prior TPR;
- (3) §5-307 in a Public Agency Adoption after TPR;
- (4) §5-3A-07 in a Private Agency Guardianship;
- (5) §5-3A-07 in a Private Agency Adoption; or
- (6) §5-3B-6 in an Independent Adoption.

(b) Payment of Attorney's Fees

Even if the prospective adoptee is not entitled to a court-appointed attorney, the person is entitled to consult an attorney chosen by that person. The adoptive parents or agency may agree to pay all or part of the attorney's fees on behalf of the person, or the court may order the adoptive parents or agency to do so.

Cross reference: See Code, Family Law Article, §§5-309 as to a Public Agency Guardianship; 5-309 as to a Public Agency Adoption without Prior TPR; 5-3A-09 as to a Private Agency Guardianship; and 5-3B-08 as to an Independent Adoption.

(c) Affidavit of Attorney

(1) With a Parental Consent

The attorney shall file an affidavit in the applicable form set forth at the end of this Title with a consent signed by a parent when required by Code, Family Law Article:

- (A) §5-321 in a Public Agency Guardianship;
- (B) §5-339 in a Public Agency Adoption without Prior TPR;
- (C) §5-3A-19 in a Private Agency Guardianship; or
- (D) §5-3B-21 in an Independent Adoption.

(2) With a Consent of a Prospective Adoptee

The attorney shall file an affidavit in the applicable form set forth at the end of this Title with a consent signed by a prospective adoptee if the adoptee is represented and

- (A) is a minor; or
- (B) has a disability that makes the prospective adoptee incapable of effectively participating in a case.

Cross reference: See Rule 9-102 (c) (3).

(d) Investigation by Court

(1) Optional

The court may order an investigation as provided by Code, Family Law Article:

- (A) §5-317 in a Public Agency Guardianship;
- (B) §5-3A-16 in a Private Agency Guardianship; or
- (C) §5-3B-16 in an Independent Adoption.

(2) Mandatory

The court shall order an investigation in a nonconsensual Independent Adoption as provided in Code, Family Law Article, §5-3B-16.

(3) Recommendation of Investigator

If requested by the court, the report of any investigation may include the recommendation of the investigator.

(4) In Writing

The report of any investigation shall be submitted to the court in writing and filed among the records of the proceeding.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
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Rule 9-107. OBJECTION

(a) In General

Any person having a right to participate in a proceeding for adoption or guardianship may file a notice of objection to the adoption or guardianship. The notice may include a statement of the reasons for the objection and a request for the appointment of an attorney.

Cross reference: See Rule 9-105 for Form of Notice of Objection.

(b) Time for Filing Objection

(1) In General

Except as provided by subsections (b) (2) and (b) (3) of this Rule, any notice of objection to an adoption or guardianship shall be filed within 30 days after the show cause order is served.

(2) Service Outside of the State

If the show cause order is served outside the State but within the United States, the time for filing a notice of objection shall be within 60 days after service.

(3) Service Outside of the United States

If the show cause order is served outside the United States, the time for filing a notice of objection shall be within 90 days after service.

(4) Service by Publication in a Newspaper and on Website

If the court orders service by publication, the deadline for filing a notice of objection shall be not less than thirty (30) days from the later of (A) the date that the notice is published in a newspaper or (B) the last day that the notice is published on the Maryland Department of Human Resources website.

(c) Service

The clerk shall serve a copy of any notice of objection on all parties in the manner provided by Rule 1-321.

(d) Response

Within 10 days after being served with a notice of objection, any party may file a response challenging the standing of the person to file the notice or the timeliness of the filing of notice.

(e) Hearing

If any party files a response, the court shall hold a hearing promptly on the issues raised in the response.

(f) Access to Records

If the court determines that the person filing the notice of objection has standing to do so and that the notice is timely filed, it shall enter an order permitting the person to inspect the papers filed in the proceeding subject to reasonable conditions imposed in the order.

Source: This Rule is derived in part from former Rule D76 and is in part new.

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Rule 9-108. TEMPORARY CUSTODY

The court may make an award of temporary custody of a minor prior to a hearing.

Cross reference: See Code, Family Law Article, §5-3B-12.

Source: This Rule is derived from former Rule D78 (d).

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Rule 9-109. HEARING ON MERITS

(a) Requirement

(1) Generally

The court shall hold a hearing and make findings on the record on the merits of a guardianship or adoption petition as provided by Code, Family Law Article:

- (A) §5-318 in a nonconsensual Public Agency Guardianship;
- (B) §5-335 in a Public Agency Adoption without Prior TPR;
- (C) §5-347 in a Public Agency Adoption after TPR;
- (D) §5-3A-32 in a Private Agency Adoption; or
- (E) §5-3B-17 in an Independent Adoption.

(2) Guardianship

The court may hold a hearing on the merits of a consensual Public or Private Agency Guardianship petition.

Cross reference: See Code, Family Law Article, §5-318 as to Public Agency Guardianship.

(b) Adoption

(1) Persons Present at Hearing

Unless excused for good cause shown, each petitioner and the person to be adopted shall be present at the hearing on the merits in an adoption action. The hearing shall be conducted out

of the presence of all persons other than the petitioners, the person to be adopted, and those persons whose presence the court deems necessary or desirable.

Committee note: Social policy against public disclosure of adoption proceedings compels all hearings to be as private as possible. This Rule leaves to the discretion of the trial court the extent to which this consideration must be relaxed in the interest of fair trial.

(2) Considerations

In ruling on a petition for adoption, the court shall make the considerations required by Code, Family Law Article:

- (A) §5-337 in a Public Agency Adoption without Prior TPR;
- (B) §5-349 in a Public Agency Adoption after TPR;
- (C) §5-3A-34 in a Private Agency Adoption; or
- (D) §5-3B-19 in an Independent Adoption.

(3) Findings by the Court

In an adoption action, the court shall determine on the record whether:

- (A) Necessary consents have been filed;
- (B) Any required consents have been revoked;

Cross reference: Rules 9-111 (b) and 9-112 (a).

- (C) Appropriate notices have been served;
- (D) Any investigative reports have been filed;
- (E) All questioned or disputed issues have been resolved;
- (F) In a nonconsensual independent adoption, whether the findings required by Code, Family Law Article, §5-3B-21 have been met;

(G) The adoptive parents are fit and proper to be the parents of the person to be adopted;

(H) The best interests of the person to be adopted will be served by the adoption; and

(I) Other appropriate matters have been resolved.

Cross reference: See Code, Family Law Article, §§5-337 as to a Public Agency Adoption without Prior TPR; 5-349 as to a Public Agency Adoption after TPR; 5-3A-34 as to a Private Agency Adoption; and 5-3B-19, 5-3B-22, and 5-3B-23 as to an Independent Adoption.

Source: This Rule is in part derived from former Rule D77 and is in part new.

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Rule 9-110. ACCOUNTING REPORT

(a) Duty to File

In an independent adoption other than an adoption by a stepparent or relative of the person to be adopted, each petitioner shall file an accounting report before the entry of a final judgment of adoption.

(b) Contents

The accounting report shall include:

- (1) a statement of all payments and disbursements of money or anything of value, including benefits in kind, made by or on behalf of any petitioner in connection with the adoption;
- (2) the approximate date the payment or disbursement was made or the benefit was provided;
- (3) the name of the payee and the beneficiary; and
- (4) the amount of the payment or disbursement or the reasonable value of the benefit provided.

The court may require the production of documentation to substantiate the accounting report.

Cross reference: See Code, Family Law Article, §5-3B-24 as to an Independent Adoption.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
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Rule 9-111. JUDGMENT OF ADOPTION OR GUARDIANSHIP

(a) Time

The court may not enter a judgment of adoption or guardianship before the time set forth in Code, Family Law Article:

- (A) §5-319 in a Public Agency Guardianship;
- (B) §5-336 in a Public Agency Adoption without Prior TPR;
- (C) §5-348 in a Public Agency Adoption after TPR;
- (D) §5-3A-17 in a Private Agency Guardianship;
- (E) §5-3A-33 in a Private Agency Adoption; or
- (F) §5-3B-18 in a Independent Adoption.

(b) Information from Other Court

If a required consent indicates that any revocation of the consent must be filed in a court other than the trial court, the trial court may not enter a judgment of adoption or guardianship until it has obtained from the other court a copy of all papers filed in connection with the consent or an affidavit of the clerk of the other court that no papers were filed in connection with the consent.

(c) Supplemental Report

Before entering a judgment of adoption or guardianship, the court may require a supplemental written report from the investigating officer or agency.

(d) Change of Name

If the name of the person adopted is changed, the judgment of adoption shall state the new name of the person adopted and the names of the adopting parents.

(e) Spouse of Parent

If the adopting parent is the spouse of a parent of the person to be adopted, the judgment shall specifically state whether and to what extent the parental rights of the parent are affected.

Committee note: Any attempt to set aside a judgment of adoption by reason of a procedural defect shall be filed with the court within one year following entry of the judgment. See Code, Family Law Article, §§5-342 as to a Public Agency Adoption without Prior TPR; 5-353 as to a Public Agency Adoption after TPR; 5-3A-37 as to a Private Agency Adoption; and 5-3B-26 as to an Independent Adoption.

An adoptive relationship created by a judgment of adoption in another jurisdiction shall be given full faith and credit by the courts of this State. See Code, Family Law Article, §§5-305 as to a Public Agency Adoption without Prior TPR; 5-305 as to a Public Agency Adoption after TPR; 5-3A-05 as to a Private Agency Adoption; and 5-3B-04 as to an Independent Adoption.

For the legal effect of adoption see Code, Family Law Article, §§5-341 as to a Public Agency Adoption without Prior TPR; 5-352 as to a Public Agency Adoption after TPR; 5-3A-36 as to a Private Agency Adoption; and 5-3B-35 as to an Independent Adoption.

Source: This Rule is derived in part from former Rule D79 and is in part new.

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Rule 9-112. COURT RECORDS

(a) Dockets

The clerk shall keep separate dockets for (1) adoption and guardianship proceedings and (2) revocations of consent to adoption or guardianship for which there are no pending adoption or guardianship proceedings in that county. These dockets are not open to inspection by any person, including the parents, except upon order of court. If the index to a docket is kept apart from the docket itself, the index is open to inspection.

(b) Sealing of Records

All pleadings and other papers in adoption and guardianship proceedings shall be sealed when they are filed and are not open to inspection by any person, including the parents, except upon an order of court. If a final decree of adoption was entered before June 1, 1947 and the record is not already sealed, the record may be sealed only on motion of a party. The clerk shall notify each person entitled to notice that the adoption has been finalized.

Cross reference: See Code, Health-General Article, §4-211, concerning the amendment and replacement of birth certificates following adoption and the requirement that the clerk transmit to

the Department of Health and Mental Hygiene a report of adoption or revocation of adoption.

Source: This Rule is derived from former Rule D80 a and c.

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PARENTAL RIGHTS

Rule 9-113. MEDICAL AND MENTAL HEALTH HISTORY

Except in an adoption by a stepparent or relative, the person authorized to place a minor child for adoption shall affirm to the court that the person has made reasonable efforts to compile and make available to a prospective adoptive parent (1) all of the prospective adoptee's medical and mental health records that the person has or (2) a comprehensive medical and mental health history of the prospective adoptee and the prospective adoptee's parents, except that the records of the parents shall contain no identifying information unless identifying information was previously exchanged by agreement.

Cross reference: See Code, Family Law Article, §§5-356 as to a Public Agency Adoption without Prior TPR; 5-356 as to a Public Agency Adoption after TPR; and 5-3A-39 as to a Private Agency Adoption.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

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MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.1. CONSENT OF PARENT TO A PUBLIC AGENCY GUARDIANSHIP

**CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO
CONSENT TO ADOPTION OF _____ TO THE
_____ DEPARTMENT OF SOCIAL SERVICES**

INSTRUCTIONS

These instructions and attached consent form may be used only in cases where the child is a Child in Need of Assistance. Code, Family Law Article, Title 5, Subtitle 3, Part II.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent.

If you are unable to afford a lawyer, you may be eligible for a lawyer through the Office of the Public Defender. You should contact the Office of the Public Defender, and ask for a lawyer to represent you in a D.S.S. (Department of Social Services) guardianship case.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the guardianship. You should contact the Office of the Public Defender, or let the Juvenile Court know that you need to have a lawyer appointed for you.

Even if you do not have the right to have the court appoint a lawyer for you or to be represented through the Office of the Public Defender, you have the right to speak with a lawyer you choose before you decide whether to consent.

C. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after the adoption, the adoptive parents do not do what they agreed to do, it will not affect your consent to the guardianship or the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

D. Conditional Consent

If you decide to sign the consent form, you will have two choices:

(1) you can consent to the guardianship and the adoption of your child by a family approved by D.S.S.; or

(2) you can consent to the guardianship only if the child is adopted into a specific family. This is called a "conditional consent." If you sign a conditional consent, and the family whose name is on the consent cannot adopt the child, your consent will no longer be valid. The court will try to locate you to find out if you want to sign a new consent. If you do not sign a new consent, the court can have a trial to decide whether or not your parental rights should be ended (terminated) and whether or

consent form will also be filed in the Juvenile Court. You have the right to be notified when the petition is filed, about any hearings before or after guardianship is granted, if and when guardianship is granted, and if and when the child is adopted. Any notices will be sent to the address given by you on the consent form, unless you write to the Juvenile Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents and D.S.S. to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION OF

TO

DEPARTMENT OF SOCIAL SERVICES

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____, in _____.
(date) (name of hospital or address of birthplace) (city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

- (b) I was married to the mother of the child
[] at the time of conception of the child
[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I already have spoken with a lawyer whose name and telephone number are _____.
I have read the instructions in front of this form, and I am ready to consent to the guardianship with the right to consent to adoption.

OR

- [] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the guardianship with the right to consent to adoption.

C. Consent

Check **one** of the following statements:

- [] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____ Department of Social Services to be the guardian of my child, with the right of the guardian to consent to adoption.

OR

- [] I voluntarily and of my own free will consent to the

ending (termination) of my parental rights and to the appointment of _____ Department of Social Services, to be the guardian of my child as long as my child is adopted by _____.

D. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the guardianship case, any reviews after guardianship is granted, or when my child is adopted.

OR

I give up (waive) the right to any further notice of the guardianship case or any reviews after guardianship is granted, but I want to be notified when my child is adopted.

OR

I want to be notified about anything that happens in the guardianship case, any reviews after guardianship is granted, and when my child is adopted.

E. Revocation Rights

I understand that if I change my mind and no longer consent to the guardianship with the right to consent to adoption, I have the right to revoke this consent **within 30 days after it is filed in Juvenile Court.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation** to the Juvenile Clerk, Circuit Court for _____ at _____.

F. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND GUARDIANSHIP IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

G. Oath and Signature

I have read carefully and understand the instructions at the front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.2. CONSENT OF PARENT TO A PRIVATE AGENCY GUARDIANSHIP

**CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT
TO ADOPTION OF _____ TO
_____, A LICENSED PRIVATE
ADOPTION AGENCY**

INSTRUCTIONS

*These instructions and attached consent form may be used only in cases where the child is being placed for adoption with the assistance of a licensed **private** adoption agency. Code, Family Law Article, Title 5, Subtitle 3A.*

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the guardianship.

Even if you are not required to have a lawyer, you have the right to speak with a lawyer you choose before you decide whether to consent.

You can ask the court to require the agency seeking guardianship of your child to pay the costs of the lawyer. The judge does not have to grant that request but may do so.

C. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after adoption, the adoptive parents do not do what they agreed to do, it will not affect your consent to the guardianship or the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

D. Conditional Consent

If you decide to sign the consent form, you will have two choices:

(1) you can consent to the guardianship and the adoption of your child by a family approved by the adoption agency; or

(2) you can consent to the guardianship only if the child is adopted into a specific family. This is called a "conditional consent." If you sign a conditional consent, and the family whose name is on the consent cannot adopt the child, your consent will no longer be valid. The adoption agency will try to locate you to find out if you want to sign a new consent. If your parental rights have not been taken away (guardianship has not yet been granted), and you do not sign a new consent, the court will end the guardianship case. If your parental rights have been taken away (guardianship has been granted), and you do not

sign a new consent, the court will decide whether it is in the child's best interests to continue the guardianship.

E. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, AND GUARDIANSHIP IS GRANTED, YOU WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD.

If you have a post-adoption agreement, you will keep only the rights the agreement gives you. Violation of the agreement will not affect your consent or the adoption.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent **within 30 days after the date that you sign the consent form**. The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Adoption Clerk, Circuit Court for _____ at _____.
(Address)

The revocation must be sent to the court, not to the lawyers, or the agency, or the people adopting the child. You may deliver your written revocation of consent in person or by mail. If it is not **received** by the Adoption Clerk's office within 30 days after the date you signed the consent form, it will be too late, and you will not be able to withdraw the consent or stop the guardianship from being granted.

If you sign the consent form, and then revoke your consent, and then decide to consent to the guardianship again, you will not be able to revoke your second consent if you give your second consent in court within one year of your revocation of this consent.

G. Further Notice of Guardianship and Adoption Proceedings

A petition for guardianship with the right to consent to adoption has been or will be filed in _____ Circuit Court. If you sign the consent form, your written consent form will also be filed in the Circuit Court. You have the right to be notified when the petition is filed, about any hearings, if and when the guardianship is granted, and when the child is adopted. You also have the right to be notified if there is a delay in your child's adoption because:

1. The adoption agency does not place your child with an adoptive family within 270 days of being appointed the guardian of your child;
2. The adoption agency does not place your child with an adoptive family within 180 days of the disruption of a prior adoptive placement; or
3. The adoption is not completed within 2 years after your child's placement with the adoptive family.

Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents and adoption agency to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION OF

_____ TO _____,

A LICENSED PRIVATE ADOPTION AGENCY

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____,
(date) (name of hospital or address of birthplace)
in _____.
(city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

- (b) I was married to the mother of the child
[] at the time of conception of the child
[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I already have spoken with a lawyer whose name and telephone number are _____.
I have read the instructions at the front of this form, and I am ready to consent to the guardianship with the right to consent to adoption.

OR

- [] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the guardianship with the right to consent to adoption.

C. Consent

Check **one** of the following:

- [] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____, a licensed private adoption agency, to be the guardian of my child, with the right of the guardian to consent to adoption.

OR

[] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____, a licensed private adoption agency, to be the guardian of my child as long as my child is adopted by _____.

D. Notice

Check **one** of the following:

[] I give up (waive) the right to any further notice of the guardianship case, any delays in the adoption of my child, or when my child is adopted.

OR

[] I give up (waive) the right to any further notice of the guardianship case or any delays in the adoption of my child, but I want to be notified when my child is adopted.

OR

[] I want to be notified about anything that happens in the guardianship case, any delays in the adoption of my child, and when my child is adopted.

E. Revocation Rights

I understand that if I change my mind and no longer consent to the guardianship with the right to consent to adoption, I have the right to revoke this consent **within 30 days after I sign this consent form.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation** to the Adoption Clerk, Circuit Court for _____

at _____.

F. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND GUARDIANSHIP IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

G. Oath and Signature

I have read carefully and understand the instructions at the front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.3. CONSENT OF PARENT TO A PUBLIC AGENCY ADOPTION
WITHOUT PRIOR TPR

CONSENT OF PARENT TO ADOPTION OF _____
Adoption of CINA without Prior Termination of Parental Rights

INSTRUCTIONS

*These instructions and attached consent form may be used only in cases where the child is a Child in Need of Assistance and the petitioner is seeking to adopt the child **without** prior termination of parental rights. Code, Family Law Article, Title 5, Subtitle 3, Part III.*

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent. If you are unable to afford a lawyer, you may be eligible for a lawyer through the Office of the Public Defender. You should contact the Office of the Public Defender, and ask for a lawyer to represent you in a D.S.S. (Department of Social Services) case.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the adoption. You should contact the Office of the Public Defender, or let the Juvenile Court know you need to have a lawyer appointed for you.

Even if you do not have the right to have the court appoint a lawyer for you or to be represented through the Office of the Public Defender, you have the right to speak with a lawyer you choose before you decide whether to consent.

C. Right to Adoption Counseling

You have the right to receive adoption counseling and guidance. The court may require D.S.S. or the adoptive parents to pay for the adoption counseling and guidance but does not have to do so. If you want adoption counseling or guidance, you should not complete this consent form until after you have gotten adoption counseling or guidance.

D. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after the adoption, the adoptive parents do not do what they agreed to do, it will not affect the adoption or your consent to the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

E. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, AND ADOPTION IS GRANTED, YOU WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD. If you have a post-adoption agreement, you will keep only the rights the agreement gives you. Violation of the agreement will not affect your consent or the adoption.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent. If the adoption case is already filed in court, you must revoke your consent **within 30 days after the date that you sign the consent form**. If the adoption case has not been filed in court, you must revoke your consent **within 30 days after the adoption petition is filed**. The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Juvenile Clerk, Circuit Court for _____ at

(Address).

The revocation must be sent to the court, not to your social worker, lawyer, or the people adopting the child. You may deliver your written revocation of consent in person or by mail. If it is not **received** by the Juvenile Clerk's office within the later of 30 days after the date you sign the consent form or 30 days after the date the adoption petition is filed, it will be too late, and you will not be able to withdraw the consent or stop the adoption from being granted.

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for _____. If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Juvenile Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER OR GET ADOPTION COUNSELING BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understood them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT OF PARENT TO ADOPTION OF _____

Adoption of CINA without PRIOR Termination of Parental Rights

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____, in _____.
(date) (name of hospital or address of birthplace) (city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

(b) I was married to the mother of the child

[] at the time of conception of the child

[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

[] I already have spoken with a lawyer whose name and telephone number are _____.

I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

[] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the adoption.

C. Right to Counseling and Guidance

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

[] I have already spoken with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

[] I do not want to speak with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

D. Consent

I voluntarily and of my own free will consent to the ending (termination) of my rights as parent to and to the adoption of my child, _____, by a person(s) known to me as _____.

E. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the adoption case.

OR

I want to be notified when the adoption case is filed, of any hearings, and if and when my child is adopted.

F. Revocation Rights

I understand that if I change my mind and no longer consent to the adoption, I have the right to revoke this consent **within the later of 30 days after I sign this form or 30 days after the adoption case is filed in court.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation statement** to the Juvenile Clerk, Circuit Court for _____ at _____.

G. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND ADOPTION IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

H. Oath and Signature

I have read carefully and understand the instructions in front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.4. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION WITH
TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Independent Adoption with Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are being terminated. It should not be used for a parent who is retaining parental rights, for example, a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the adoption.

Even if you are not required to have a lawyer, you have the right to speak with a lawyer you choose before you decide whether to consent.

You can ask the court to require the people adopting your child to pay the costs of the lawyer. The judge does not have to grant that request but may do so.

C. Right to Adoption Counseling

You have the right to receive adoption counseling and guidance. The court may require the adoptive parents to pay for the adoption counseling and guidance but does not have to do so. If you want adoption counseling or guidance, you should not complete this consent form until after you have gotten adoption counseling or guidance.

D. Post-adoption Agreement

If you have made a written agreement with the adoptive parents for future contact (known as a post-adoption agreement), a copy of that agreement must be attached to the signed consent form. If you have a post-adoption agreement, and, after the adoption, the adoptive parents do not do what they agreed to do, it will not affect the adoption or your consent to the adoption. However, if that happens, you have the right to ask a judge to make them do what they agreed to do. The judge can order you and the adoptive parents to go to mediation, order the adoptive parents to do what they agreed to do, or change the agreement if the judge decides that it is in the child's best interest.

E. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, AND ADOPTION IS GRANTED, YOU WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD. If you have a post-adoption agreement, you will keep only the rights the agreement gives you. Violation of the agreement will not affect your consent or the adoption.

F. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent **within 30 days after the date that you sign the consent form.** The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Adoption Clerk, Circuit Court for _____, at

(Address).

The revocation must be sent to the court, not to the lawyers or the people adopting the child. You may deliver your written revocation of consent in person or by mail. If it is not **received** by the Adoption Clerk's office within 30 days after the date you signed the consent form, it will be too late, and you will not be able to withdraw the consent or stop the adoption from being granted.

If you sign this consent form, and then revoke your consent, and then decide to consent to the adoption again, you will not be able to revoke your second consent if you give your second consent in court within one year of your revocation of this consent.

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for _____. If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed.

H. Compensation

Under Maryland law, you are not allowed to pay or receive money or compensation of any kind for the placement for adoption of your child or for your agreement to the adoptive parent having custody of your child, except that reasonable and customary

charges or fees for adoption counseling, hospital, legal, or medical services may be paid.

I. Access to Birth and Adoption Records

When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health and Mental Hygiene for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a **disclosure veto**. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Authorization for Access to Medical and Mental Health Records

You may be asked to sign a separate form (authorization) to allow the adoptive parents to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

M. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The

witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER OR GET ADOPTION COUNSELING BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT TO INDEPENDENT ADOPTION OF

WITH TERMINATION OF PARENTAL RIGHTS

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____, in _____.
(date) (name of hospital or address of birthplace)
(city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

- (b) I was married to the mother of the child
[] at the time of conception of the child
[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I already have spoken with a lawyer whose name and
telephone number are _____

_____. I
have read the instructions at the front of this form, and I am
ready to consent to the adoption.

OR

- [] I am at least 18 years old and am able to understand
this document. I have read the instructions at the
front of this form, and I do not want to speak with a
lawyer before I consent to the adoption.

C. Right to Counseling and Guidance

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

- [] I have already spoken with a counselor. I have read
the instructions at the front of this form, and I am
ready to consent to the adoption.

OR

- [] I do not want to speak with a counselor. I have read
the instructions at the front of this form, and I am
ready to consent to the adoption.

D. Consent

I voluntarily and of my own free will consent to the ending (termination) of my rights as parent to and to the adoption of my child, _____, by person(s) known to me as _____.

I also agree that such person(s) shall have temporary custody of the child until the completion of the adoption.

E. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the adoption case.

OR

I want to be notified when the adoption case is filed, of any hearings and if and when my child is adopted.

F. Revocation Rights

I understand that if I change my mind and no longer consent to the adoption, I have the right to revoke this consent **within 30 days after the date that I signed this consent form.** I understand that the only way that I can revoke this consent is by giving a **signed written revocation** to the Adoption Clerk, Circuit Court for _____ at _____.

G. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, AND ADOPTION IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER

ANY WRITTEN POST-ADOPTION AGREEMENT.

H. Oath and Signature

I have read carefully and understand the instructions in front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT.

IF YOU HAVE A POST-ADOPTION AGREEMENT, ATTACH A COPY TO THIS
CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.5. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION
WITHOUT TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____
Independent Adoption without Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are not being terminated. It should be used for a parent who is retaining parental rights, for example, a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the consent form. If you do not understand the instructions or the consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign the consent form. You should have this form translated for you into a language you do understand. The translated consent form is the one you should read and decide whether or not to sign. Any translation must have an affidavit attached in which the translator states that it is a true and accurate translation of this document.

B. Right to Speak with a Lawyer

You have the right to speak with a lawyer before you decide whether or not to consent.

You should not sign the consent form without a lawyer if you are under 18 years old or have a disability that makes it difficult for you to understand this document. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you are required to have a lawyer review the form with you before you can consent to the adoption.

Even if you are not required to have a lawyer, you have the right to speak with a lawyer you choose before you decide whether to consent.

C. Right to Adoption Counseling

You have the right to receive adoption counseling and guidance. If you want adoption counseling or guidance, you should not complete this consent form until after you have gotten adoption counseling or guidance.

D. Effect of Signing the Consent Form

IF YOU SIGN THE CONSENT FORM, YOU WILL NOT BE GIVING UP ANY RIGHTS OR RESPONSIBILITIES RELATING TO THE CHILD.

E. Right to Revoke Consent

If you sign the consent form and then change your mind and no longer want to consent, you have the right to revoke (cancel) the consent **within 30 days after the date that you sign the consent form.** The only way that you can revoke this consent is by giving a **signed written revocation statement** with the name, sex, and date of birth of the child (if you know it) to:

Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

J. Adoption Search, Contact, and Reunion Services

When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

K. Rights under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

L. Signature, Witness, and Copy

If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness' name, address, and telephone number in the blanks on the last page.

If you have a post-adoption agreement, you must attach a copy to the signed consent form.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER OR GET ADOPTION COUNSELING BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

**CONSENT TO INDEPENDENT ADOPTION
WITHOUT TERMINATION OF PARENTAL RIGHTS**

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____, (name of hospital or address of birthplace) in _____ (city, state, and county of birth).

5. Status as Parent. Check all that apply.

(a) I am

[] the mother of the child

[] the father of the child

[] alleged to be the father of the child

(b) I was married to the mother of the child

[] at the time of conception of the child

[] at the time the child was born.

B. Right to Speak with a Lawyer

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

I already have spoken with a lawyer whose name and telephone number are _____
_____. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the adoption.

C. Right to Counseling and Guidance

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

I have already spoken with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

OR

I do not want to speak with a counselor. I have read the instructions at the front of this form, and I am ready to consent to the adoption.

D. Consent

I voluntarily and of my own free will consent to the adoption of my child, _____, by

_____.

E. Notice

Check **one** of the following:

I give up (waive) the right to any further notice of the adoption case.

OR

I want to be notified when the adoption case is filed, of any hearings, and if and when my child is adopted.

F. Revocation Rights

I understand that if I change my mind and no longer consent to the adoption, I have the right to revoke this consent **within 30 days after the date that I signed this consent form.** I understand that the only way that I can revoke this consent is by giving a signed written revocation statement to the Adoption Clerk, Circuit Court for _____ at _____.

G. Effect of this Consent

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM, I WILL NOT BE GIVING UP ANY RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD.

H. Oath and Signature

I have read carefully and understand the instructions at the front of this consent form. I am signing this consent form voluntarily and of my own free will.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THE CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.6. CONSENT OF CHILD TO A PUBLIC AGENCY ADOPTION OR
PRIVATE AGENCY ADOPTION

CONSENT OF _____ TO ADOPTION
(Name of Child)

INSTRUCTIONS

This consent form may be completed only after being reviewed with an attorney and should be completed only by a child who is in the custody of or under the guardianship of the Department of Social Services or under the guardianship of a private child placement agency. Code, Family Law Article, Title 5, Subtitle 3 or 3A.

1. I understand English, or this consent form has been translated into _____, a language that I understand.

2. My name is _____.

3. My date of birth is _____. I am _____ years old.

4. I understand that _____ have asked to adopt me.

5. I have a lawyer whose name and telephone number are _____. I have met with my lawyer who has gone over this consent form with me and

explained to me what it means to be adopted.

6. I understand that if I agree to be adopted, and I am adopted, _____ will become my parents, and I will become their child.

7. I understand that I do not have to agree to be adopted. If I do not agree, the judge cannot approve the adoption. If the adoption is not approved, and I am not adopted by someone else, a judge will decide where I will live.

8. I voluntarily and of my own free will agree to being adopted by _____. I understand that if they are not able to complete the adoption, this consent form will no longer be valid and can no longer be used.

9. I understand that if I change my mind and do not want to be adopted, I must tell my lawyer, my social worker, or the judge immediately. I will have to sign a written statement or tell the judge in court that I do not want to be adopted **before** the adoption order is signed by a judge. This is called a revocation of consent.

10. I understand that when I am at least 21 years old, my birth parents or I may apply to the Secretary of the Maryland Department of Health and Mental Hygiene to get certain birth and adoption records. If I do not want information about me to be given to my birth parents, I have the right to file a form called a "disclosure veto." I have been given a form that I may use if I want to file a disclosure veto.

11. I understand that when I am at least 21 years old, my

birth parents, my siblings, or I may apply to the Director of the Social Services Administration of the Maryland Department of Human Resources for adoption search, contact, and reunion services.

12. I have read this consent form or have had it read and explained to me in a language that I understand. I understand the meaning of this consent form.

13. I have not been promised anything in return for agreeing to be adopted.

14. I have signed this consent form of my own free will.

15. I understand that I will be given a copy of this signed consent form.

I solemnly affirm under the penalties of perjury that the contents of this consent to adoption form are true to the best of my knowledge, information, and belief.

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.7. CONSENT OF CHILD TO AN INDEPENDENT ADOPTION

CONSENT OF _____ TO INDEPENDENT ADOPTION
(Name of Child)

INSTRUCTIONS

This consent form should be completed only by a child who is being adopted in an independent adoption that is not being arranged by an adoption or child placement agency. Code, Family Law Article, Title 5, Subtitle 3B.

The attached consent form is an important legal document. You must read all of these instructions BEFORE you sign the form and agree to being adopted. If you do not understand the instructions or the consent form, you should not sign it. If you have a disability that makes it hard for you to understand this form, do not complete this consent form unless you have a lawyer.

A. Right to Have This Information in a Language You Understand

You have the right to have these instructions and the consent form translated into a language that you understand. If you cannot read or understand English, you should not sign this consent form.

B. Right to Speak with a Lawyer

If you have a disability that makes it hard for you to understand this consent form, **do not complete this form** because you must have a lawyer before you may complete this form and agree to be adopted.

Even if you do not have a problem understanding this consent form, you have the right to speak with a lawyer before you agree to be adopted. If you want to speak with a lawyer, do not complete this form until you have spoken with a lawyer.

C. What Happens if You Sign the Consent Form

If you sign the consent form, the people who want to adopt you will file an adoption case in the Circuit Court for _____ . There probably will be a court hearing about your adoption. During that hearing, the judge probably will ask you if you want to be adopted. The judge will make the final decision about your adoption.

D. Right to Revoke Consent

If you sign this consent form and then change your mind and decide that you do not want to be adopted, you may take back or "revoke" your consent. However, **you must revoke your consent before the judge signs the adoption order**, and you must revoke it either in writing or in court in front of the judge. If you decide you do not want to be adopted, you should write the judge at _____ Circuit Court at _____ (address) immediately, or tell the judge before or at the beginning of your adoption hearing.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must also sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT OF _____ TO INDEPENDENT ADOPTION
(Name of Child)

Use a pen to fill out this form. If you decide to sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be your parent or the person who is adopting you. You must fill in all the blanks, sign the form, and print your name, address, and telephone number, and the witness must sign and print the witness' name, address, and telephone number in the blanks on the last page.

1. I understand English, or this consent form has been translated into _____, a language that I understand.

2. My name is _____.

3. My date of birth is _____. I am _____ years old.

4. I understand that _____ have asked to adopt me.

5. Check **one**:

I have a lawyer whose name and telephone number are _____.

I have met with my lawyer who has gone over this consent form with me and explained to me what it means to be adopted. I want to agree to be adopted.

OR

I do not have a lawyer. I have read the instructions in the front of this form, and I understand this consent form. I do not want to speak with a lawyer before I complete this form

and agree to be adopted.

6. I understand that if I agree to be adopted, and I am adopted, _____ will become my parents, and I will become their child.

7. I understand that if I agree to be adopted, and I am adopted, _____ will no longer be my parents.

8. I understand that I do not have to agree to be adopted. If I do not agree, the court cannot approve the adoption.

9. I voluntarily and of my own free will agree to being adopted by _____. I understand that if they are not able to complete the adoption, this consent form will no longer be valid and can no longer be used.

10. I understand that if I change my mind and do not want to be adopted, I must tell the judge immediately. I will have to sign a written statement or tell the judge in court that I do not want to be adopted **before** the adoption order is signed.

11. I understand that when I am at least 21 years old, my birth parents or I may apply to the Secretary of the Maryland Department of Health and Mental Hygiene to get certain birth and adoption records. If I do not want information about me to be given to my birth parents, I have the right to file a form called a "disclosure veto." I have been given a form that I may use if I want to file a disclosure veto.

12. I understand that when I am at least 21 years old, my birth parents, my siblings, or I may apply to the Director of the Social Services Administration of the Maryland Department of

Human Resources for adoption search, contact, and reunion services.

13. I have read this consent form or have had it read and explained to me in a language that I understand. I understand the meaning of this consent form.

14. I have not been promised anything in return for agreeing to be adopted.

15. I have signed this consent form of my own free will.

16. I understand that I will be given a copy of this signed consent form.

I solemnly affirm under the penalties of perjury that the contents of this consent to adoption form are true to the best of my knowledge, information, and belief.

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

Witness:

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

A COPY OF THE INSTRUCTIONS WITH YOUR SIGNATURE MUST BE ATTACHED TO THIS CONSENT FORM.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.8. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO A
PUBLIC AGENCY GUARDIANSHIP OR PRIVATE AGENCY GUARDIANSHIP

Affidavit by Attorney as to Consent of
_____ (parent) to Guardianship
with the Right to Consent to Adoption ("Guardianship")
by _____ (agency) of _____ (child)

1. I am the attorney representing _____,
a parent of _____, the child who is the
subject of the consent.

2. The parent, at the time of the signing of the consent,
was ___ years old. The parent's date of birth is _____.

3. (Check one of the following)

The parent is not disabled or is disabled but the
disability does not affect the parent's ability to
understand the meaning of the consent to
guardianship.

OR

The parent is a minor or has a disability that
could affect the parent's ability to understand
the meaning of the consent to guardianship. The
disability is _____

_____.

Despite the parent's age or disability, I believe that the parent understood the meaning of consenting to guardianship. The following additional steps were taken to ensure that the parent understood the meaning of the consent form prior to signing it: _____

_____.

4. The parent understands English, or the consent form that the parent signed was translated into _____, a language that the parent understands.

5. I have explained to the parent that _____ (agency) has filed or plans to file a case to ask the court to grant it guardianship of the child with the right to consent to adoption by:

Check one of the following:

a family approved by the agency.

OR

_____ (name by which parent knows adoptive parent).

6. I reviewed the consent form thoroughly with the parent, and I believe that the parent desires to consent to the guardianship and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.9. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO
ADOPTION

Affidavit by Attorney as to Consent of

_____ (parent)

to Adoption of _____

1. I am the attorney representing _____
_____, a parent of _____,
the child who is the subject of the consent.

2. The parent, at the time of the signing of the consent,
was _____ years old. The parent's date of birth is
_____.

3. (Check one of the following)

The parent is not disabled or is disabled but
the disability does not affect the parent's
ability to understand the meaning of the consent
to adoption.

The parent is a minor or has a disability that
could affect the parent's ability to understand
the meaning of the consent to adoption. The

disability is _____
_____.

Despite the parent's age or disability, I believe that the parent understood the meaning of consenting to adoption. The following additional steps were taken to ensure that the parent understood the meaning of the consent form prior to signing it: _____
_____.

4. The parent understands English, or the consent form that the parent signed was translated into _____, a language that the parent understands.

5. I have explained to the parent that _____ (name by which parent knows adoptive parent) has filed or plans to file a case to ask the court to permit that person to adopt the parent's child.

6. I reviewed the consent form thoroughly with the parent, and I believe that the parent desires to consent to the adoption and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
FORMS FOR GUARDIANSHIPS THAT TERMINATE PARENTAL
RIGHTS AND ADOPTIONS

Form 9-102.10. ATTORNEY AFFIDAVIT AS TO CONSENT OF A CHILD TO
ADOPTION

Affidavit by Attorney as to Consent of
_____ **(Child) to Adoption**

1. I am the attorney representing _____,
the individual who is the subject of this adoption proceeding
("the child").

2. The child, at the time of the signing of the consent
form, was _____ years old. The child's date of birth is
_____. To the best of my knowledge,
the child is not an Indian child subject to the provisions of the
Indian Child Welfare Act.

3. (Check one of the following)

The child is not disabled or is disabled, but the
disability would not affect the child's ability
to understand the meaning of consenting to
adoption.

OR

The child has a disability that could affect the
child's ability to understand the meaning of
consenting to adoption. The disability is

_____.

Despite the child's disability, I believe that the child understands the meaning of the consenting to adoption. The following additional steps were taken to ensure that the child understood the meaning of the consent form prior to signing it: _____

_____.

4. The child understands English, or the consent that the child signed has been translated into _____, a language that the child understands.

5. I have explained to the child that _____ have asked the court to be permitted to adopt the child, that the child has the right to decide whether or not the child wants to be adopted, and the possible options if the adoption is not approved.

6. I reviewed the consent form thoroughly with the child, and I believe that the child agrees to the adoption and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

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

(Date)

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)