

January 20, 2015

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Glenn T. Harrell, Jr.

The Honorable Lynne A. Battaglia

The Honorable Clayton Greene, Jr.

The Honorable Sally D. Adkins

The Honorable Robert N. McDonald,

The Honorable Shirley M. Watts

Judges

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

Your Honors:

The Rules Committee submits this Supplement to its One Hundred Eighty-Sixth Report and recommends that the Court adopt the changes to the Maryland Rules transmitted with it. The purpose of this Supplement is to deal (1) with certain comments received to the One Hundred Eighty-Sixth Report and (2) with certain circumstances and requests that have arisen since that Report was transmitted to the Court that may affect proposals in that Report. A copy of this Supplement will be posted on the Judiciary Website today.

The Supplement contains five categories of proposals. The **first category** consists of updating cross-references in Rules 1-202, 1-203, 4-212, 9-203, 15-205, 16-307, 16-308, 16-406, 16-503, 16-506, 16-608, 16-812.1, 16-813, 16-815, 16-816, 16-903, and 16-1005 to take account of the enactment of the General Provisions Article of the Code in the 2014 session of the General Assembly. These changes are in the nature of "housekeeping" amendments.¹

The **second category** consists of amendments to several of the access-to-court-records Rules currently in Title 16, Chapter 1000. Those Rules were adopted in 2004, well before the development of MDEC and before invasions of privacy and identity theft became

¹ There are several other Rules to which similar cross-reference updates are proposed, but because of other proposed amendments to them, they are included in other categories in this Supplement.

fully recognized as the threat they now present. With assistance from the Administrative Office of the Courts, judges, clerks, and representatives from the victim community, the news media, and the Maryland State Bar Association, the Committee reviewed the "access" Rules in light of issues brought to the Committee's attention and recommends amendments to Rules 16-1002 (c), 16-1003, 16-1004 (c), 16-1006, 16-1007, and 16-1008. Mostly for style reasons, current Rule 16-1008 is split into two Rules - 16-1008 and a new 16-1008.1.² Conforming amendments to Rules 16-404 and 20-109 also are in this category.

Some of these amendments are to take account of later-enacted statutes; others are largely for clarification. There are a few that have policy implications.

Rule 16-1006 is amended to shield from public inspection reports filed by guardians of the property pursuant to Rules 10-706 through 10-708, which contain sensitive financial information. The current Rule shields only guardianship records involving children.

Rule 16-1007 is amended in two respects.

(1) A new section (c) is proposed to implement a provision in Chapter 205, Acts of 2014 requiring the shielding of certain identifying information concerning victims and victim's representatives.

(2) Current section (c), which would become section (d), is amended to shield the last four digits, and thus the entirety, of social security and federal tax identification numbers. When Rule 16-1007 was adopted in 2004, the Court recognized the mischief that could be caused by providing unlimited public access to social security and tax identification numbers but, consistent with general practice at the time, believed that, by shielding the first five digits and allowing access only to the last four digits, that danger could be averted.

The Committee was recently advised, however, that it is possible to learn the first five digits of other persons' social security numbers from other sources, including on the internet, so that, by accessing the last four digits from court records, anyone can learn the entire number. In light of that information, the Rules Committee has given consideration to proposing that no part of a social security or tax identification number be placed in a court record. Whether or not that proposal, which may involve other considerations and could have only prospective effect in any event, will ultimately be transmitted to the Court, the Committee

² It may be appropriate, in light of experience that will be gained from MDEC, for the Committee to undertake a review of the access Rules in greater depth. The proposed changes in this Supplement deal principally with matters presented to the Committee.

believes, at the very least, that, unless otherwise required by law or permitted by court order, no part of a social security or tax identification number contained in a case record should be publicly accessible.³ To the extent a legitimate need for access to such numbers can be shown, there are ways for it to be provided, by court order or by directly providing it to the person needing it.

The **third category** consists of amendments to Rules 20-201, 20-202, and 20-203 and new Rule 20-204.2, all of which are MDEC Rules.

Two amendments are proposed to Rule 20-201. The first, to section (h), implements a request by Judicial Information Systems and the State Court Administrator to delete the current requirement that a proposed order transmitted electronically under MDEC be in editable form and, in its place, to add requirements that the proposed order be (1) in an electronic text format specified by the State Court Administrator and (2) filed as a separate document identified as relating to the motion or other request for court action to which the order pertains. The need for these amendments, explained in part in a proposed Committee note to Rule 20-210 (h) and in part below with respect to amendments proposed to Rule 20-203, arises from the fact that, at present, MDEC can accommodate only documents that are in non-editable pdf format. That may change in time, so, rather than mandate a particular format in the Rule, the Committee thought best, at least for the time being, to give administrative discretion to the State Court Administrator. That discretion reaches only to the electronic format of the order and not to its structure or content.

Amendments to Rule 20-201 (i) conform the requirements and procedure for the waiver of prepayment of prepaid costs in an MDEC county to those set forth in Rules 1-325 and 1-325.1, as proposed in the One Hundred Eight-Sixth Report (Category 10) and in this Supplement to that Report (Category 4). The amendments to Rule 20-202 conform that Rule to Rule 20-201.

The amendments proposed to Rule 20-203 (b) also emanate from a late-discovered problem with MDEC software pertaining to the inclusion of exhibits or other documents related to a lead document, such as a pleading or motion, in a single filing. In a nutshell, as MDEC was inaugurated in Anne Arundel County, there were two ways in which a filer could attach exhibits or related documents to a lead document. One was to click on an "Attachment" box and follow the instructions that ensued. That is what filers were directed to do in the Policies and Procedures Manual and what most of them did. A second method, which was not so obvious, was

³ "Case record" is defined in Rule 16-1001 (c). Excluded from that definition are records that constitute notice records or administrative records, as defined in Rule 16-1001.

to treat the exhibits or related documents as separate filings. Several problems arose if the filer chose the "Attachment" approach. In many instances, all of the documents were consolidated into one pdf filing. Even when the documents were transmitted as individual pdf "attachments," they were not separately coded, which made identification of and direct access to each document difficult. In order to resolve that problem, clerks were forced to spend an inordinate amount of time - upwards of 35 minutes per filing - to locate, identify, and code the "attachments."

After several meetings and conversations, it was decided that the principal solution was to eliminate the "Attachment" box from the computer screen, which the Committee was assured could and would be done, and to add more specific language to the Policies and Procedures Manual, instructing filers how to deal with exhibits and other related documents. Most of that language has been drafted and will be added to the Manual. With limited exceptions, that approach will continue to permit filers to include in one filing, denoted in the Manual as an "envelope," all exhibits and other documents related to the lead document, but those "attachments" will be separately identified and coded as part of the transmission.

There remains the problem, however, of how to deal with filings that are not in conformance with the published Policies and Procedures, which Rule 20-201 (c) requires. Three options were considered: (1) permit the clerk to reject a non-compliant filing; (2) create a procedure whereby the non-compliance would be brought to the attention of the administrative judge (or designee), who could strike the filing; and (3) allow the clerk to accept the filing, promptly send a deficiency notice to the filer that explains the nature of the non-compliance and what must be done to correct it, and provide that, until it is corrected or a judge orders otherwise, no action will be taken on the filing.

The Rules Committee proposes the third option. It avoids having the clerk reject a filing on the clerk's own discretion, which is currently allowed only for non-payment of a required fee or the lack of a required certificate; it avoids burdening a judge with routinely exercising supervisory authority over the clerk's office in this regard; and it gives the filer prompt notice of the problem and an opportunity to correct it. The proposed amendment allows a filer who believes that the filing is not non-compliant to request the administrative judge to order the clerk to withdraw the deficiency notice.

The Committee believes that (1) the clearer instructions in the Policies and Procedures Manual should eliminate most of the problem, and (2) most filers who receive a deficiency notice will promptly correct the deficiency.

Rule 20-204.2 provides the procedure for filing submissions and issuing original process in criminal cases. It was anticipated that filings in those cases would be electronic in MDEC counties, and the MDEC Rules submitted to and approved by the Court so provided. Unfortunately, just before the scheduled initial roll-out in Anne Arundel County, it was discovered that MDEC was currently incapable of accepting the electronic filing of initial charging documents, so the paper filing of those documents became necessary. The Rules Committee has been advised that this is a temporary impediment. Rule 20-204.2 provides that, upon the filing of an unserved charging document, the clerk issues a summons (unless an arrest warrant is issued) and transmits the summons electronically to the State's Attorney, who prints a copy and is responsible for having it served.

The **fourth category** consists of further amendments to Rule 1-325, new Rules 1-325.1 and 8-403, and conforming amendments to Rules 2-603, 7-103, 7-505, 8-201, 8-303, 8-505, and 10-107. Some of the issues relating to Rule 1-325 are discussed in the Committee's response to Comments received regarding that Rule. The Committee acquiesced in some of the proposals made in the Comments, which require revisions to the proposal submitted with the One Hundred Eighty-Sixth Report. Those revisions would have lengthened the Rule to the point of making it too long and somewhat cumbersome. For ease of reading and for clarification, the Committee now proposes splitting the Rule into two - Rule 1-325 dealing with the waiver of prepaid costs in one court, and Rule 1-325.1 dealing with waiver when, in an appeal setting, costs in both the trial court and the appellate court are involved. The provisions of current Rule 1-325 (b) are transferred to new Rule 8-403 and new section (d) of Rule 7-103.

The **fifth category**, adding a provision to Rule 1-333, implements a recommendation from the Court Interpreter Program of the Administrative Office of the Courts that the Registry of Interpreters for the Deaf and the National Association of the Deaf be recognized as certifying agencies for sign language interpreters.

For the further guidance of the Court and the public, following the proposed new Rules and the proposed amendments to some of the existing Rules is a Reporter's note describing in further detail the reasons for the proposals. *We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and 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,

Alan M. Wilner
Chair

AWM:cdc

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS

CHAPTER 200 - CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

AMEND Rule 1-202 to conform an internal reference to revised Code provisions, as follows:

Rule 1-202. DEFINITIONS

. . .

(r) Newspaper of General Circulation

"Newspaper of general circulation" means a newspaper as defined in Code, ~~Article 1, §28~~ General Provisions Article, §1-113.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 1-202 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS

CHAPTER 200 - CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

AMEND Rule 1-203 to conform an internal reference to revised Code provisions, as follows:

Rule 1-203. TIME

(a) Computation of Time After an Act, Event, or Default

In computing any period of time prescribed by these rules, by rule or order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not included. If the period of time allowed is more than seven days, intermediate Saturdays, Sundays, and holidays are counted; but if the period of time allowed is seven days or less, intermediate Saturdays, Sundays, and holidays are not counted. The last day of the period so computed is included unless:

(1) it is a Saturday, Sunday, or holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or holiday; or

(2) the act to be done is the filing of a paper in court and the office of the clerk of that court on the last day of the period is not open, or is closed for a part of the day, in which event the period runs until the end of the next day that is not a Saturday, Sunday, holiday, or a day on which the office is not

open during its regular hours.

Committee note: This section supersedes Code, ~~Article 1, §36~~
General Provisions Article, §1-302 to the extent of any
inconsistency.

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

. . .

REPORTER'S NOTE

A proposed amendment to Rule 1-203 conforms an internal
reference to Code references contained in the recently enacted
General Provisions Article.

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

AMEND Rule 4-212 to conform an internal reference to revised Code provisions, as follows:

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

. . .

(d) Warrant - Issuance; Inspection

. . .

(3) Inspection of the Warrant and Charging Document

Unless otherwise ordered by the court, files and records of the court pertaining to a warrant issued pursuant to subsection (d) (1) or (d) (2) of this Rule and the charging document upon which the warrant was issued shall not be open to inspection until either (A) the warrant has been served and a return of service has been filed in compliance with section (g) of this Rule or (B) 90 days have elapsed since the warrant was issued. Thereafter, unless sealed pursuant to Rule 4-201 (d), the files and records shall be open to inspection.

Committee note: This subsection does not preclude the release of otherwise available statistical information concerning unserved arrest warrants nor does it prohibit a State's Attorney or peace officer from releasing information pertaining to an unserved arrest warrant and charging document.

Cross reference: See Rule 4-201 concerning charging documents. See Code, ~~State Government Article, §10-616 (q)~~ General

Provisions Article, §4-316, which governs inspection of court records pertaining to an arrest warrant.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 4-212 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

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

AMEND Rule 9-203 to conform an internal reference to revised Code provisions, 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)~~ General Provisions Article, §4-328 and §4-336. 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.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 9-203 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE
TITLE 15 - OTHER SPECIAL PROCEEDINGS
CHAPTER 200 - CONTEMPT

AMEND Rule 15-205 to conform an internal reference to revised Code provisions, as follows:

Rule 15-205. CONSTRUCTIVE CRIMINAL CONTEMPT; COMMENCEMENT;
PROSECUTION

. . .

(b) Who May Institute

(1) The court may initiate a proceeding for constructive criminal contempt by filing an order directing the issuance of a summons or warrant pursuant to Rule 4-212.

(2) The State's Attorney may initiate a proceeding for constructive criminal contempt committed against a trial court sitting within the county in which the State's Attorney holds office by filing a petition with that court.

(3) The Attorney General may initiate a proceeding for constructive criminal contempt committed (A) against the Court of Appeals or the Court of Special Appeals, or (B) against a trial court when the Attorney General is exercising the authority vested in the Attorney General by Maryland Constitution, Art. V, §3, by filing a petition with the court against which the contempt was allegedly committed.

(4) The State Prosecutor may initiate a proceeding for

constructive criminal contempt committed against a court when the State Prosecutor is exercising the authority vested in the State Prosecutor by Code, ~~State Government Article, §9-1201 et seq.~~ Criminal Procedure Article, Title 14, by filing a petition with the court against which the contempt was allegedly committed.

(5) The court or any person with actual knowledge of the facts constituting a constructive criminal contempt may request the State's Attorney, the Attorney General, or the State Prosecutor, as appropriate, to file a petition.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 15-205 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 300 - CIRCUIT COURT CLERKS' OFFICES

AMEND Rule 16-307 to conform an internal reference to revised Code provisions, as follows:

Rule 16-307. ELECTRONIC FILING OF PLEADINGS, PAPERS AND REAL PROPERTY INSTRUMENTS

. . .

b. Submission of Plan

A County Administrative Judge may submit to the State Court Administrator a detailed plan for a pilot project for the electronic filing of pleadings and papers or of real property instruments. In developing the plan, the County Administrative Judge shall consult with the Clerk of the Circuit Court, appropriate vendors, the State Court Administrator, and any other judges, court clerks, members of the bar, vendors of electronic filing systems, and interested persons that the County Administrative Judge chooses to ensure that: (1) the proposed electronic filing system is compatible with the data processing systems, operational systems, and electronic filing systems used or expected to be used by the judiciary; (2) the installation and use of the proposed system does not create an undue financial or operational burden on the court; (3) the proposed system is reasonably available for use at a reasonable cost, or an

efficient and compatible system of manual filing will be maintained; (4) the proposed system is effective, secure and not likely to break down; (5) the proposed system makes appropriate provision for the protection of privacy and for public access to public records; and (6) the court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden. The State Court Administrator shall review the plan and make a recommendation to the Court of Appeals with respect to it.

Cross reference: For the definition of "public record," see Code, ~~State Government Article, §10-611~~ General Provisions Article, §4-101 (h).

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-307 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 300 - CIRCUIT COURT CLERKS' OFFICES

AMEND Rule 16-308 to conform an internal reference to revised Code provisions, as follows:

Rule 16-308. COURT INFORMATION SYSTEM

. . .

c. Inspection of Criminal History Record Information Contained in Court Records of Public Judicial Proceedings

Unless expunged, sealed, marked confidential or otherwise prohibited by statute, court rule or order, criminal history record information contained in court records of public judicial proceedings is subject to inspection by any person at the times and under conditions as the clerk of a court reasonably determines necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of his office.

Cross reference: See Code, Courts Article, §§2-203 and 13-101 (d) and (f), Criminal Procedure Article, §§10-201, 10-214, 10-217, and ~~State Government Article, §§10-612 through 10-619~~ General Provisions Article, Title 4.

Cross reference: For definition of court records see Rule 4-502 (d).

Committee note: This Rule does not contemplate the reporting of parking violations.

Source: This Rule is derived from former Rule 1218.

REPORTER'S NOTE

A proposed amendment to Rule 16-308 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 400 - ATTORNEYS, OFFICERS OF COURT AND OTHER PERSONS

AMEND Rule 16-406 to conform an internal reference to revised Code provisions, as follows:

Rule 16-406. ACCESS TO ELECTRONIC AUDIO AND AUDIO-VIDEO RECORDINGS OF PROCEEDINGS IN THE CIRCUIT COURT

a. Control - In General

Electronic audio and audio-video recordings made pursuant to Rules 16-404 and 16-405 are under the control of the court having custody of them. Access to and copying of those recordings are subject to the provisions of this Rule and Rule 16-405 d.

Cross reference: Code, ~~State Government Article, §10-615~~ General Provisions Article, §4-301.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-406 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 500 - COURT ADMINISTRATION - DISTRICT COURT

AMEND Rule 16-503 to conform an internal reference to revised Code provisions, as follows:

Rule 16-503. COURT INFORMATION SYSTEM

a. Reporting and Transmittal of Criminal History Record Information

1. The District Court of Maryland shall transmit to the Central Repository of Criminal History Record Information of the Department of Public Safety and Correctional Services the data elements of criminal history record information on offenses agreed to by the Secretary of the Department of Public Safety and Correctional Services and the Chief Judge of the Court of Appeals or his designee for purposes of completing a criminal history record maintained by the Central Repository of Criminal History Record Information.

2. Transmittal of Reports of Dispositions

When a defendant has been charged by citation and a conviction is entered by reason of his payment of a fine or forfeiture of collateral before trial, the conviction is not a reportable event under Code, Criminal Procedure Article, §10-215 (a) (10).

b. Inspection of Criminal History Record Information Contained
in Court Records of Public Judicial Proceedings

Unless expunged, sealed, marked confidential or otherwise prohibited by statute, court rule or order, criminal history record information contained in court records of public judicial proceedings is subject to inspection by any person at the times and under conditions as the clerk of a court reasonably determines necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of his office.

Cross reference: See Code, Courts Article, §§2-203 and 13-101 (d) and (f), Code, Criminal Procedure Article, §§10-201, 10-214, and 10-217, and Code, ~~State Government Article, §§10-612 through 10-619~~ General Provisions Article, Title 4. For definition of court records, see Rule 4-502 (d).

Source: This Rule is former M.D.R. 1218.

REPORTER'S NOTE

A proposed amendment to Rule 16-503 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 500 - COURT ADMINISTRATION - DISTRICT COURT

AMEND Rule 16-506 to conform an internal reference to revised Code provisions, as follows:

Rule 16-506. ELECTRONIC FILING OF PLEADINGS AND PAPERS

. . .

(b) Submission of Plan

The Chief Judge of the District Court may submit to the Court of Appeals for approval a detailed plan for a pilot project for the electronic filing of pleadings and papers. In developing the plan, the Chief Judge shall consult with the District Administrative Judge and the District Administrative Clerk of each district included in the plan, the District Court Chief Clerk, appropriate vendors, the State Court Administrator, and any other judges, court clerks, members of the bar, vendors of electronic filing systems, and interested persons that the Chief Judge chooses to ensure that: (1) the proposed electronic filing system is compatible with the data processing systems, operational systems, and electronic filing systems used or expected to be used by the judiciary; (2) the installation and use of the proposed system does not create an undue financial or operational burden on the District Court; (3) the proposed system is reasonably available for use at a reasonable cost or an

efficient and compatible system of manual filing will be maintained; (4) the proposed system is effective, secure, and not likely to break down; (5) the proposed system makes appropriate provision for the protection of privacy and for public access to public records; and (6) the court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden. The State Court Administrator shall review the plan and make a recommendation to the Court of Appeals with respect to it.

Cross reference: For the definition of "public record," see Code, ~~State Government Article, §10-611~~ General Provisions Article, §4-101 (h).

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-506 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 600 - ATTORNEY TRUST ACCOUNTS

AMEND Rule 16-608 to conform an internal reference to revised Code provisions, as follows:

Rule 16-608. INTEREST ON FUNDS IN ATTORNEY TRUST ACCOUNTS

. . .

b. Duty to Report IOLTA Participation

. . .

(5) Enforcement

. . .

(I) Confidentiality

Except as provided in subsection b 5 (H) of this Rule, IOLTA Compliance Reports, whether in paper or electronic form, are confidential and are not subject to inspection or disclosure under Code, ~~State Government Article, §10-615 (2) (iii)~~ General Provisions Article, §4-301. The Administrative Office of the Courts shall not release the Reports to any person or agency, except as provided in this Rule or upon order of the Court of Appeals. Nonidentifying information and data contained in a lawyer's IOLTA Compliance Report are not confidential.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-608 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

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

AMEND Rule 16-812.1 to conform internal references to revised Code provisions, as follows:

Rule 16-812.1. JUDICIAL ETHICS COMMITTEE

(a) Definitions

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

(1) Committee

"Committee" means the Judicial Ethics Committee.

(2) Ethics Provision

"Ethics provision" means:

(A) a provision of Code, ~~State Government Article, Title 15, Subtitle 5 or 6~~ General Provisions Article, §5-501 et seq. or §5-601 et seq.;

(B) as to a judge, also a provision of the Maryland Code of Judicial Conduct; and

(C) as to a judicial appointee as defined in Rule 16-814, also a provision of the Maryland Code of Conduct for Judicial Appointees.

(3) State Official in Judicial Branch

"State official in the Judicial Branch" means an

individual who is in the Judicial Branch and is a State official, as defined in Code, ~~State Government Article, §15-102~~ General Provisions Article, §5-101 (11).

. . .

(i) Duties

In addition to its other duties imposed by law, the Committee:

(1) shall give advice, as provided in this Rule, with respect to the application or interpretation of the Maryland Code of Judicial Conduct and the Maryland Code of Conduct for Judicial Appointees;

(2) is designated as the body to give advice with respect to the application or interpretation of any provision of Code, ~~State Government Article, Title 15, Subtitles 5 and 6~~ General Provisions Article, §5-501 et seq. and §5-601 et seq., to a State official in the Judicial Branch;

(3) shall review timely appeals from the State Court Administrator's decision not to extend, under Rule 16-815 or 16-816, the period for filing a financial disclosure statement;

(4) shall determine, under Rule 16-815 f or Rule 16-816 g, whether to allow a judge or judicial appointee to correct a deficiency as to a financial disclosure statement or to refer the matter, as to a judge, to the Commission on Judicial Disabilities or, as to a judicial appointee, to the State Ethics Commission; and

(5) shall submit to the Court of Appeals recommendations for

necessary or desirable changes in any ethics provision.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-812.1 conforms internal references to Code references contained in the recently enacted General Provisions Article.

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

AMEND Rule 16-813 to conform internal references to revised Code provisions, as follows:

Rule 16-813. MARYLAND CODE OF JUDICIAL CONDUCT

. . .

GENERAL PROVISIONS, DEFINITIONS, AND PREAMBLE

. . .

B. DEFINITIONS

. . .

B-103 - Gift

(a) Except as provided in paragraph (b), "**gift**" means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration.

(b) "**Gift**" does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with:

- (1) the Election Law Article of the Maryland Code; or
- (2) any other Maryland law regulating the conduct of elections or the receipt of political contributions. See Rule 3.13.

Source: This definition is derived from Code, ~~State Government Article, §15-102 (p)~~ General Provisions Article, §5-101 (p).

. . .

B-109 - Member of judge's or candidate's household

"Member of [judge's] [candidate's] household" means:

(a) if sharing the judge's or candidate's legal residence, the judge's or candidate's spouse, **domestic partner**, child, ward, financially dependent parent, or other financially dependent relative; or

(b) the judge's or candidate's spouse, child, ward, parent, or other relative, over whose financial affairs the judge or candidate has legal or actual control. See Rule 3.13.

Source: This definition is derived from Maryland Code, ~~State Government Article, §15-102 (z)~~ General Provisions Article, §5-101 (z).

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-813 conforms internal references to Code references contained in the recently enacted General Provisions Article.

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

AMEND Rule 16-815 to conform internal references to revised Code provisions, as follows:

Rule 16-815. FINANCIAL DISCLOSURE STATEMENT

. . .

d. If a judge or other person who files a certificate of candidacy for nomination for an election to an elected judgeship has filed a statement pursuant to ~~§15-610 (b) of the State Government Article, Annotated Code of Maryland Code, General Provisions Article, §5-610,~~ the person need not file for the same period of time the statement required by paragraph c of this Rule.

e. The State Court Administrator is designated as the person to receive statements from the State Administrative Board of Election Laws pursuant to ~~§15-610 (b) of the State Government Article Code, General Provisions Article, §5-610.~~

f. Extension of Time for Filing

1. Except when the judge or former judge is required to file a statement pursuant to ~~§15-610 (b) of the State Government Article, Annotated Code of Maryland Code, General Provisions Article, §5-610,~~ a judge or former judge may apply to the State Court Administrator for an extension of time for filing the

statement. The application shall be submitted prior to the deadline for filing the statement, and shall set forth in detail the reasons an extension is requested and the date upon which a completed statement will be filed.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-815 conforms internal references to Code references contained in the recently enacted General Provisions Article.

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

AMEND Rule 16-816 to conform internal references to revised Code provisions, as follows:

Rule 16-816. FINANCIAL DISCLOSURE STATEMENT - JUDICIAL APPOINTEES

. . .

d. If a judicial appointee who files a certificate of candidacy for nomination for an elected office has filed a statement pursuant to ~~§15-605 or §15-610 (b) of the State Government Article, Annotated Code of Maryland~~ Code, General Provisions Article, §5-605 or §5-610 (b), the judicial appointee need not file for the same period of time the statement required by paragraph c of this Rule.

e. The State Court Administrator is designated as the person to receive statements from the State Administrative Board of Election Laws pursuant to ~~§15-610 (b) of the State Government Article~~ Code, General Provisions Article, §5-610 (b).

f. (i) Except when the judicial appointee is required to file a statement pursuant to ~~§15-605 or §15-610 (b) of the State Government Article, Annotated Code of Maryland~~ Code, General Provisions Article, §5-605 or §5-610 (b), a judicial appointee may apply to the State Court Administrator for an extension of

time for filing the judicial appointee's statement. The application shall be submitted prior to the deadline for filing the statement, and shall set forth in detail the reasons an extension is requested and the date upon which a completed statement will be filed.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-816 conforms internal references to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 900 - PRO BONO LEGAL SERVICE

AMEND Rule 16-903 to conform an internal reference to revised Code provisions, as follows:

Rule 16-903. REPORTING PRO BONO LEGAL SERVICE

. . .

(g) Confidentiality

Pro Bono Legal Service Reports are confidential and are not subject to inspection or disclosure under Code, ~~State Government Article, §10-615 (2) (iii)~~ General Provisions Article, §4-301. The Administrative Office of the Courts shall not release the Reports to any person or agency, except upon order of the Court of Appeals. Nonidentifying information and data contained in a lawyer's Pro Bono Legal Service Report are not confidential.

. . .

REPORTER'S NOTE

A proposed amendment to Rule 16-903 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1005 to conform an internal reference to revised Code provisions, as follows:

Rule 16-1005. CASE RECORDS - REQUIRED DENIAL OF INSPECTION - IN GENERAL

. . .

(b) Unless inspection is otherwise permitted by the Rules in this Chapter, a custodian shall deny inspection of a case record or any part of a case record if inspection would be contrary to a statute enacted by the Maryland General Assembly, other than the Maryland Public Information Act ~~(Code, State Government Article, §§10-611 through 10-626)~~ (Code, General Provisions Article, Title 4), that expressly or by necessary implication applies to a court record.

Committee note: Subsection (a)(5) allows a court to seal a record or otherwise preclude its disclosure. So long as a court record is under seal or subject to an order precluding or limiting disclosure, it may not be disclosed except in conformance with the order. The authority to seal a court record must be exercised in conformance with the general policy of these Rules and with supervening standards enunciated in decisions of the United States Supreme Court and the Maryland Court of Appeals.

Source: This Rule is new.

REPORTER'S NOTE

A proposed amendment to Rule 16-1005 conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 900 - ACCESS TO COURT RECORDS

AMEND Rule 16-1008 to change the title of the Rule; to delete subsection (a) (1); to change subsection (a) (2) to section (a); to delete language from and add language referring to certain Rules and to other applicable law to section (a); to change subsection (a) (3) (A) to sections (b) and (c) and to add taglines for those sections; to delete language from sections (b) and (c); to change section (b) to section (d) and add language providing for a certain future date; to change section (c) to section (e); to add new subsections (e) (1) and (e) (2); to change the word "application" in subsections (e) (1) and (e) (2) to the word "request;" to delete language from and add language pertaining to procedures for access to court records to subsection (e) (2); to add a new subsection (e) (3) pertaining to procedures for access to court records after access has been denied; to add a new subsection (e) (4) pertaining to referral to the Technology Oversight Board after access has been denied; to add a new subsection (e) (5) pertaining to a recommendation by the Technology Oversight Board for approval of a request for access; to add a new subsection (e) (6) providing for the ability to resubmit a request for access after a denial by the Technology Oversight Board; and to make stylistic changes, as follows:

Rule 16-1008. ~~ELECTRONIC RECORDS AND RETRIEVAL~~ CONVERSION OF PAPER RECORDS

(a) In General

~~(1) Subject to the conditions stated in this Rule, a court record that is kept in electronic form is open to inspection to the same extent that the record would be open to inspection in paper form.~~

~~(2) Subject to the other provisions of this Rule, the Rules in this Title and Title 20, and any other to other applicable law, or any and to administrative orders of the Chief Judge of the Court of Appeals, a custodian, court, or other judicial agency, for the purpose of providing public access to court records in electronic form, is authorized but not required:~~

~~(A) (1) to convert paper court records into electronic court records;~~

~~(B) (2) to create new electronic records, databases, programs, or computer systems;~~

~~(C) to provide computer terminals or other equipment for use by the public;~~

~~(D) (3) to create the ability to inspect or copy court records through remote access; or~~

~~(E) (4) to convert, supplement, modify, or replace an existing electronic storage or retrieval system.~~

~~(3) (A) (b) Limiting Access to Court Records~~

~~Subject to the other provisions of this Rule, a A~~

custodian may limit access to court records in electronic form to the manner, form, and program that the electronic system used by the custodian, without modification, is capable of providing.

(c) Facilitating Access to Court Records

~~Subject to the Rules in Title 20, if~~ If a custodian, court, or other judicial agency converts paper court records into electronic court records or otherwise creates new electronic records, databases, or computer systems, it shall, to the extent practicable, design those records, databases, or systems to facilitate access to court records that are open to inspection under the Rules in this Chapter.

~~(B) (i) Subject to subsection (a) (3) (B) (ii) of this Rule and except for identifying information relating to law enforcement officers, other public officials or employees acting in their official capacity, and expert witnesses, a custodian shall prevent remote access to the name, address, telephone number, date of birth, e-mail address, and place of employment of a victim or nonparty witness in (1) a criminal action, (2) a juvenile delinquency action under Title 3, Subtitle 8A of the Courts Article, (3) an action under Title 4, Subtitle 5 of the Family Law Article (domestic violence), or (4) an action under Title 3, Subtitle 15 of the Courts Article (peace order).~~

~~(ii) A person who files or otherwise causes to be placed in a court record identifying information relating to a witness shall give the custodian written or electronic notice as to whether or not the identifying information is not subject to~~

~~remote access under Rule 1-322.1, Rule 20-201, or subsection (a) (3) (B) (i) of this Rule. Except as may be provided by federal law, in the absence of such notice, a custodian is not liable for allowing remote access to the information.~~

~~(4) Subject to subsection (a) (3) (B) of this Rule, the Rules in Title 20, and procedures and conditions established by administrative order of the Chief Judge of the Court of Appeals, a person may view and copy electronic court records that are open to inspection under the Rules in this Chapter:~~

~~(A) at computer terminals that a court or other judicial agency makes available for public use at the court or other judicial agency; or~~

~~(B) by remote access that the court or other judicial agency makes available through dial-up modem, web site access, or other technology.~~

~~(b) (d) Current Programs Providing Electronic Access to Databases~~

Any electronic access to a database of court records that is provided by a court or other judicial agency and is in effect on ~~October 1, 2004~~ [the date these changes take effect] may continue in effect, subject to review by the Technology Oversight Board for consistency with the Rules in this Chapter. After review, the Board may make or direct any changes that it concludes are necessary to make the electronic access consistent with the Rules in this Chapter.

~~(c)~~ (e) New Requests for Electronic Access to or Information from Databases

(1) A person who desires to obtain electronic access to or information from a database of court records to which electronic access is not then immediately and automatically available shall submit to the Office of Communications and Public Affairs a written ~~application~~ request that describes the court records to which access is desired and the proposed method of achieving that access.

(2) The Office of Communications and Public Affairs shall review the ~~application~~ request and may consult the Judicial Information Systems. Without undue delay and, unless impracticable, within 30 days after receipt of the ~~application~~ request, the Office of Communications and Public Affairs shall take one of the following actions:

(A) ~~The Office of Communications and Public Affairs~~ It shall approve ~~the application if it determines that the application does not request access to court records not subject to inspection under the Rules in this Chapter or Title 20 and will not impose a significant fiscal, personnel, or operational burden on any court or judicial agency. The approval may be conditioned on the applicant's paying or reimbursing the court or agency for any additional expense that may be incurred in implementing the application.~~ a request that seeks access to court records subject to inspection under the Rules in this Chapter or Title 20 and will not directly or indirectly impose

significant fiscal or operational burdens on any court or judicial agency;

~~(B) If the Office of Communications and Public Affairs is unable to make the findings provided for in subsection (c)(2)(A) of this Rule, it shall inform the applicant and:~~

~~(i) deny the application;~~

~~(ii) offer to confer with the applicant about amendments to the application that would meet the concerns of the Office of Communications and Public Affairs; or~~

~~(iii) if the applicant requests, refer the application to the Technology Oversight Board for its review. It shall conditionally approve a request that seeks access to court records subject to inspection under the Rules in this Chapter or Title 20 but will directly or indirectly impose significant and reasonably calculable fiscal or operational burdens on a court or judicial agency on condition of the requestor's prepayment in full of all additional expenses reasonably incurred as a result of the approval.~~

~~(C) If the application is referred to the Technology Oversight Board, the Board shall determine whether approval of the application would be likely to permit access to court records or information not subject to inspection under the Rules in this Chapter, create any undue burden on a court, other judicial agency, or the judicial system as a whole, or create undue disparity in the ability of other courts or judicial agencies to provide equivalent access to court records. In making those~~

~~determinations, the Board shall consider, to the extent relevant:~~
It shall deny the request and state the reason for the denial if:

(i) the request would impose significant and reasonably calculable operational burdens on a court or judicial agency that cannot be overcome merely by prepayment of additional expenses under subsection (e) (2) (B) of this Rule or any other practicable condition;

(ii) the requester fails or refuses to satisfy a condition imposed under subsection (e) (2) (B) of this Rule;

(iii) the request seeks access to court records not subject to inspection under the Rules in this Chapter or Title 20; or

(iv) the request directly or indirectly imposes a significant but not reasonably calculable fiscal or operational burden on any court or judicial agency.

(3) Upon receipt of a denial, the requester may ask for a conference with the Office of Communications and Public Affairs to address any basis for denial. If, after a conference the matter is not resolved, the requester may ask for referral of the request or any proposed but rejected amendment to the request to the Technology Oversight Board for its review.

(4) Upon referral to the Technology Oversight Board, the Board shall consider each of the Office of Communications and Public Affairs' stated grounds for denial of the request and any previously proposed but rejected amendment thereof, and also consider, to the extent relevant thereto:

~~(i)~~ (A) whether the data processing system, operational system, electronic filing system, or manual or electronic storage and retrieval system used by or planned for the court or judicial agency that maintains the records can currently provide the access requested in the manner requested and in conformance with Rules 16-1001 through 16-1007, and, if not, ~~what~~ any changes or effort ~~would be~~ required to ~~make~~ enable those systems ~~capable of providing to provide~~ that access;

~~(ii)~~ (B) whether any changes to the data processing, operational electronic filing, or storage or retrieval systems used by or planned for other courts or judicial agencies in the State ~~that~~ would be required in order to avoid undue disparity in the ability of those courts or agencies to provide equivalent access to court records maintained by them;

~~(iii)~~ (C) any other fiscal, personnel, or operational impact of the proposed program on the court or judicial agency or on the State judicial system as a whole;

~~(iv)~~ (D) whether there is a substantial possibility that information retrieved through the program may be used for any fraudulent or other unlawful purpose or may result in the dissemination of inaccurate or misleading information concerning court records or individuals who are the subject of court records and, if so, whether there are any safeguards to prevent misuse of disseminated information and the dissemination of inaccurate or misleading information; and

~~(v)~~ (E) any other consideration that the Technology

Oversight Board finds relevant.

~~(D) (5) If, upon~~ Upon consideration of the factors set forth in subsection ~~(c)(2)(C)~~ (e)(4) of this Rule, and without undue delay, the Technology Oversight Board ~~concludes that the proposal would create (i) an undue fiscal, personnel, or operational burden on a court, other judicial agency, or the judicial system as a whole, or (ii) an undue disparity in the ability of other courts or judicial agencies to provide equivalent access to judicial records, the Board shall inform the Office of Communications and Public Affairs and the applicant in writing of its conclusions. The Office of Communications and Public Affairs and the applicant may then discuss amendments to the application to meet the concerns of the Board, including changes in the scope or method of the requested access and arrangements to bear directly or reimburse the appropriate agency for any expense that may be incurred in providing the requested access and meeting other conditions that may be attached to approval of the application. The applicant may amend the application to reflect any agreed changes. The application, as amended, shall be submitted to the Technology Oversight Board for further consideration.~~ shall inform the Office of Communications and Public Affairs and the requester that the request should be:

(A) approved, because it complies with the requirements of subsection (e)(2)(A) of this Rule;

(B) conditionally approved, because it complies with the requirements of subsection (e)(2)(B) of this Rule and the

requester has agreed to comply with the conditions established by the Board; or

(C) denied under subsection (e) (2) (C) of this Rule.

(6) Upon receiving a denial by the Board, the requester is not barred from resubmitting to the Office of Communications and Public Affairs an amended request that addresses the Board's stated grounds for denial.

Source: This Rule is ~~new~~ derived from former Rule 16-1008 (2013).

REPORTER'S NOTE

The Technology Oversight Board requested that Rule 16-1008 be amended to address advances in technology and to streamline the handling of the many requests that the Board receives for electronic records and data. Once the Board's proposed changes were incorporated into Rule 16-1008, it became clear that, with the changes in procedures for the Board to address the requests for electronic records and data, the Rule had become very lengthy. As a matter of style, it was divided into two Rules, Rule 16-1008 addressing conversion of paper records and the Board's procedures for handling requests for electronic access to or information from databases, and Rule 16-1008.1 addressing access to electronic records.

Conforming amendments to Rules 16-1003 and 20-109 also are proposed.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 900 - ACCESS TO COURT RECORDS

ADD new Rule 16-1008.1, as follows:

Rule 16-1008.1. ACCESS TO ELECTRONIC RECORDS

(a) In General

Subject to the other Rules in this Title and in Title 20 and other applicable law, a court record that is kept in electronic form is open to inspection to the same extent that the record would be open to inspection in paper form.

(b) Denial of Access

(1) Restricted Information

A custodian shall take reasonable steps to prevent access to restricted information, as defined in Rule 20-101 (s), that the custodian is on notice is included in a court record.

(2) Certain Identifying Information

(A) In General

Except as provided in subsection (b) (2) (B) of this Rule, a custodian shall prevent remote access to the name, address, telephone number, date of birth, e-mail address, and place of employment of a victim or nonparty witness in:

(i) a criminal action,

(ii) a juvenile delinquency action under Code, Courts Article, Title 3, Subtitle 8A,

(iii) an action under Code, Family Law Article, Title 4, Subtitle 5 (domestic violence), or

(iv) an action under Code, Courts Article, Title 3, Subtitle 15 (peace order).

(B) Exception

Identifying information relating to law enforcement officers, other public officials or employees acting in their official capacity, and expert witnesses, may be remotely accessible.

(C) Notice to Custodian

A person who places in a court record identifying information relating to a witness shall give the custodian written or electronic notice that such information is included in the record, where in the record that information is contained, and whether that information is not subject to remote access under this Rule, Rule 1-322.1, Rule 20-201, or other applicable law. Except as federal law may otherwise provide, in the absence of such notice a custodian is not liable for allowing remote access to the information.

(c) Availability of Computer Terminals

Clerks shall make available computer terminals at convenient places in the courthouses that the public may use free of charge in order to access court records and parts of court records that are open to inspection, including court records as to which remote access is otherwise prohibited. To the extent authorized by administrative order of the Chief Judge of the

Court of Appeals, computer terminals may be made available at other facilities for that purpose.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 16-1008.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1002 (c) (1) to delete the word "attached" and add the words "submitted in support of or in opposition" and to change the tagline of section (c), as follows:

Rule 16-1002. GENERAL POLICY

(a) Presumption of Openness

Court records maintained by a court or by another judicial agency are presumed to be open to the public for inspection. Except as otherwise provided by or pursuant to the Rules in this Chapter, the custodian of a court record shall permit a person, upon personal appearance in the office of the custodian during normal business hours, to inspect the record.

(b) Protection of Records

To protect court records and prevent unnecessary interference with the official business and duties of the custodian and other court personnel,

(1) a clerk is not required to permit in-person inspection of a case record filed with the clerk for docketing in a judicial action or a notice record filed for recording and indexing until the document has been docketed or recorded and indexed; and

(2) the Chief Judge of the Court of Appeals, by administrative order, a copy of which shall be filed with and

maintained by the clerk of each court, may adopt procedures and conditions, not inconsistent with the Rules in this Chapter, governing the timely production, inspection, and copying of court records.

Committee note: It is anticipated that, by Administrative Order, entered pursuant to section (b) of this Rule, the Chief Judge of the Court of Appeals will direct that, if the clerk does not permit inspection of a notice record prior to recording and indexing of the record, (1) persons filing a notice record for recording and indexing include a separate legible copy of those pages of the document necessary to identify the parties to the transaction and the property that is the subject of the transaction and (2) the clerk date stamp that copy and maintain it in a separate book that is subject to inspection by the public.

(c) Exhibit ~~Attached~~ Pertaining to a 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 consists of an exhibit (1) ~~attached~~ submitted in support of or in opposition 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.

(d) Fees

(1) In this Rule, "reasonable fee" means a fee that bears a reasonable relationship to the actual or estimated costs incurred or likely to be incurred in providing the requested access.

(2) Unless otherwise expressly permitted by the Rules in this

Chapter, a custodian may not charge a fee for providing access to a court record that can be made available for inspection, in paper form or by electronic access, with the expenditure of less than two hours of effort by the custodian or other judicial employee.

(3) A custodian may charge a reasonable fee if two hours or more of effort is required to provide the requested access.

(4) The custodian may charge a reasonable fee for making or supervising the making of a copy or printout of a court record.

(5) The custodian may waive a fee if, after consideration of the ability of the person requesting access to pay the fee and other relevant factors, the custodian determines that the waiver is in the public interest.

(e) New Court Records

(1) Except as expressly required by other law and subject to Rule 16-1008, neither a custodian nor a court or other judicial agency is required by the Rules in this Chapter to index, compile, re-format, program, or reorganize existing court records or other documents or information to create a new court record not necessary to be maintained in the ordinary course of business. The removal, deletion, or redaction from a court record of information not subject to inspection under the Rules in this Chapter in order to make the court record subject to inspection does not create a new record within the meaning of this Rule.

(2) If a custodian, court, or other judicial agency (A)

indexes, compiles, re-formats, programs, or reorganizes existing court records or other documents or information to create a new court record, or (B) comes into possession of a new court record created by another from the indexing, compilation, re-formatting, programming, or reorganization of other court records, documents, or information, and there is no basis under the Rules in this Chapter to deny inspection of that new court record or some part of that court record, the new court record or a part for which there is no basis to deny inspection shall be subject to inspection.

(f) Access by Judicial Employees, Parties, and Counsel of Record

The Rules in this Chapter address access to court records by the public at large. The Rules do not limit access to court records by judicial officials or employees in the performance of their official duties, or to a case record by a party or counsel of record in the action.

Source: This Rule is new.

REPORTER'S NOTE

The Rules Committee recommends replacing the word "attached" in Rule 16-1002 (c)(1) with the words "submitted in support of or in opposition." The proposed revision addresses a gap that currently exists in Rule 16-1002 (c). Rule 2-311 (c) requires a party to attach to a written motion or response to the motion any exhibit that the party wishes the court to consider in ruling on the motion. Rule 16-1002 does not currently refer to a court record that consists of an exhibit attached to a response to a motion. The Committee proposes to add to Rule 16-1002 language to clarify that all exhibits pertaining to motions that have been ruled upon by the court are within the ambit of subsection (c)(1).

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1003 (a) to change an internal reference, as follows:

Rule 16-1003. COPIES

(a) Except as otherwise expressly provided by law, a person who is entitled to inspect a court record is entitled to have a copy or printout of the court record. The copy or printout may be in paper form or, subject to Rule 16-1008 ~~(a)(3)~~ (b), in electronic form.

(b) To the extent practicable, a copy or printout in paper form shall be made where the court record is kept and while the court record is in the custody of the custodian.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 16-1008.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1004 to conform an internal reference in subsection (b) (1) to revised Code provisions, to add a cross reference after subsection (b) (2) (D), to change the language of section (c), and to add a Committee note after section (c), as follows:

Rule 16-1004. ACCESS TO NOTICE, ADMINISTRATIVE, AND BUSINESS LICENSE RECORDS

(a) Notice Records

A custodian may not deny inspection of a notice record that has been recorded and indexed by the clerk.

(b) Administrative and Business License Records

(1) Except as otherwise provided by the Rules in this Chapter, the right to inspect administrative and business license records is governed by the applicable provisions of Code, State Government Article, §§10-611 through 10-626 General Provisions Article, Title 4.

(2) (A) A custodian shall deny inspection of an administrative record used by the jury commissioner in the jury selection process, except (i) as a trial judge orders in connection with a challenge under Code, Courts Article, §§8-408 and 8-409; and (ii) as provided in (B) and (C) of this

subsection.

(B) Upon request, a custodian shall disclose the names and zip codes of the sworn jurors contained on a jury list after the jury has been impaneled and sworn, unless otherwise ordered by the trial judge.

Cross reference: See Rule 4-312 (d).

(C) After a source pool of qualified jurors has been emptied and re-created in accordance with Code, Courts Article, §8-207, and after every person selected to serve as a juror from that pool has completed the person's service, a trial judge shall, upon request, disclose the name, zip code, age, sex, education, occupation, and spouse's occupation of each person whose name was selected from that pool and placed on a jury list, unless, in the interest of justice, the trial judge determines that this information remain confidential in whole or in part.

(D) A jury commissioner may provide jury lists to the Health Care Alternative Dispute Resolution Office as required by that Office in carrying out its duties, subject to that Office adopting regulations to ensure against improper dissemination of juror data.

Cross reference: See Rule 4-312 (d).

(E) At intervals acceptable to the jury commissioner, a jury commissioner shall provide the State Board of Elections and State Motor Vehicle Administration with data about prospective, qualified, or sworn jurors needed to correct erroneous or obsolete information, such as that related to a death or change

of address, subject to the Board's and Administration's adoption of regulations to ensure against improper dissemination of juror data.

(c) Personnel Records - Generally

Except as otherwise permitted by the Maryland Public Information Act or by this Rule, a custodian shall deny to a person other than the person who is the subject of the record inspection of the personnel records of an employee of the court or other judicial agency or of an individual who has applied for employment with the court or other judicial agency. ~~Except as otherwise required by law, the~~ The following records or information are not subject to this exclusion and, unless sealed or otherwise shielded pursuant to the Maryland Rules or other law, shall be open to inspection:

- (1) The full name of the individual;
- (2) The date of the application for employment and the position for which application was made;
- (3) The date employment commenced;
- (4) The name, location, and telephone number of the court or judicial agency to which the individual has been assigned;
- (5) The current and previous job titles and salaries of the individual during employment by the court or judicial agency;
- (6) The name of the individual's current supervisor;
- (7) The amount of monetary compensation paid to the individual by the court or judicial agency and a description of any health, insurance, or other fringe benefit that the

individual is entitled to receive from the court or judicial agency;

(8) Unless disclosure is prohibited by law, other information authorized by the individual to be released; and

(9) A record that has become a case record.

Committee note: Although a court record that has become a case record is not subject to the exclusion under section (c) of this Rule, it may be subject to sealing or shielding under other Maryland Rules or law.

(d) Personnel Records - Retirement

Unless inspection is permitted under the Maryland Public Information Act or the record has become a case record, a custodian shall deny inspection of a retirement record of an employee of the court or other judicial agency.

(e) Certain Administrative Records

A custodian shall deny inspection of the following administrative records:

(1) Judicial work product, including drafts of documents, notes, and memoranda prepared by a judge or other court personnel at the direction of a judge and intended for use in the preparation of a decision, order, or opinion;

(2) An administrative record that is:

(A) prepared by or for a judge or other judicial personnel;

(B) either (i) purely administrative in nature but not a local rule, policy, or directive that governs the operation of the court or (ii) a draft of a document intended for consideration by the author or others and not intended to be

final in its existing form; and

(C) not filed with the clerk and not required to be filed with the clerk.

Source: This Rule is new.

REPORTER'S NOTE

The Rules Committee proposes several changes to Rule 16-1004. The first, in subsection (b)(1), conforms an internal reference to Code references contained in the recently enacted General Provisions Article. Another change is the addition of a cross reference to Rule 4-312 (d) after subsection (b)(2)(D). Rule 4-312 (d) allows a judge to modify a court order restricting or allowing disclosure of juror information at any time, which could impact jury lists provided by the jury commissioner to the Health Care Alternative Dispute Resolution Office pursuant to subsection (b)(2)(D) of Rule 16-1004.

A third change to Rule 16-1004 is a rewriting of the stem language before the list of personnel records and information open to inspection in section (c). The current wording of this language is somewhat unclear as to whether the phrase "except as otherwise provided by law" applies to both the phrase "the following records or information are not subject to this exclusion" as well as to the phrase "and shall be open to inspection." To eliminate any ambiguity, the Committee recommends redrafting the language by eliminating the "except" clause and adding language before the last phrase to indicate personnel records or information are open to inspection unless sealed or otherwise shielded pursuant to the Maryland Rules or other law.

The Committee also recommends adding a Committee note after section (c) that clarifies that case records may be subject to sealing or shielding under other Maryland Rules or law.

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 (d) pertaining to case records required to be shielded pursuant to certain statutes, to add a new section (f) pertaining to certain papers filed by a guardian of the property of a disabled adult, to conform an internal reference in subsection (h) (3) (B) to revised Code provisions, and to make stylistic changes, 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:

(a) All case records filed in the following actions involving children:

(1) Actions filed under Title 9, Chapter 100 of the Maryland Rules for:

(A) Adoption;

(B) Guardianship; or

(C) To revoke a consent to adoption or guardianship for which there is no pending adoption or guardianship proceeding in that county.

(2) Delinquency, child in need of assistance, and child in need of supervision actions in Juvenile Court, except that, if a

hearing is open to the public pursuant to Code, Courts Article, §3-8A-13 (f), the name of the respondent and the date, time, and location of the hearing are open to inspection.

(b) The following case records pertaining to a marriage license:

(1) A certificate of a physician or certified nurse practitioner filed pursuant to Code, Family Law Article, §2-301, attesting to the pregnancy of a child under 18 years of age who has applied for a marriage license.

(2) Until a license becomes effective, the fact that an application for a license has been made, except to the parent or guardian of a party to be married.

Cross reference: See Code, Family Law Article, §2-402 (f).

(c) Case records pertaining to petitions for relief from abuse filed pursuant to Code, Family Law Article, §4-504, which shall be sealed until the earlier of 48 hours after the petition is filed or the court acts on the petition.

(d) Case records required to be shielded pursuant to Code, Courts Article, §3-1510 or Code, Family Law Article, §4-512.

~~(d)~~ (e) In any action or proceeding, a record created or maintained by an agency concerning child abuse or neglect that is required by statute to be kept confidential.

Committee note: Statutes that require child abuse or neglect records to be kept confidential include Code, Human Services Article, §§1-202 and 1-203 and Code, Family Law Article, §5-707.

(f) The following papers filed by a guardian of the property of a disabled adult:

(1) the annual fiduciary account filed pursuant to Rule 10-706, and

(2) the inventory and information report filed pursuant to Rule 10-707.

~~(e)~~ (g) The following case records in actions or proceedings involving attorneys or judges:

(1) Records and proceedings in attorney grievance matters declared confidential by Rule 16-723 (b).

(2) Case records with respect to an investigative subpoena issued by Bar Counsel pursuant to Rule 16-732;

(3) Subject to the provisions of Rule 19 (b), (c), and (d) of the Rules Governing Admission to the Bar, case records relating to bar admission proceedings before the Accommodations Review Committee and its panels, a Character Committee, the State Board of Law Examiners, and the Court of Appeals.

(4) Case records consisting of IOLTA Compliance Reports filed by an attorney pursuant to Rule 16-608 and Pro Bono Legal Service Reports filed by an attorney pursuant to Rule 16-903.

(5) Case records relating to a motion filed with respect to a subpoena issued by Investigative Counsel for the Commission on Judicial Disabilities pursuant to Rule 16-806.

~~(f)~~ (h) The following case records in criminal actions or proceedings:

(1) A case record that has been ordered expunged pursuant to Rule 4-508.

(2) The following case records pertaining to search warrants:

(A) The warrant, application, and supporting affidavit, prior to execution of the warrant and the filing of the records with the clerk.

(B) Executed search warrants and all papers attached thereto filed pursuant to Rule 4-601.

(3) The following case records pertaining to an arrest warrant:

(A) A case record pertaining to an arrest warrant issued under Rule 4-212 (d) and the charging document upon which the warrant was issued until the conditions set forth in Rule 4-212 (d) (3) are satisfied.

(B) Except as otherwise provided in Code, ~~State Government Article, §10-616 (q)~~ General Provisions Article, §4-316, a case record pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation and the charging document upon which the arrest warrant was issued.

(4) A case record maintained under Code, Courts Article, §9-106, of the refusal of a person to testify in a criminal action against the person's spouse.

(5) A presentence investigation report prepared pursuant to Code, Correctional Services Article, §6-112.

(6) A case record pertaining to a criminal investigation by (A) a grand jury, (B) a State's Attorney pursuant to Code, Criminal Procedure Article, §15-108, or (C) the State Prosecutor pursuant to Code, Criminal Procedure Article, §14-110.

Committee note: Although this Rule shields only case records

pertaining to a criminal investigation, there may be other laws that shield other kinds of court records pertaining to such investigations. This Rule is not intended to affect the operation or effectiveness of any such other law.

~~(g)~~ (i) A transcript, tape recording, audio, video, or digital recording of any court proceeding that was closed to the public pursuant to rule or order of court.

~~(h)~~ (j) Backup audio recordings made by any means, computer disks, and notes of a court reporter that are in the possession of the court reporter and have not been filed with the clerk.

~~(i)~~ (k) The following case records containing medical information:

(1) A case record, other than an autopsy report of a medical examiner, that (A) consists of a medical or psychological report or record from a hospital, physician, psychologist, or other professional health care provider, and (B) contains medical or psychological information about an individual.

(2) A case record pertaining to the testing of an individual for HIV that is declared confidential under Code, Health-General Article, §18-338.1 or §18-338.2.

(3) A case record that consists of information, documents, or records of a child fatality review team, to the extent they are declared confidential by Code, Health-General Article, §5-709.

(4) A case record that contains a report by a physician or institution concerning whether an individual has an infectious disease, declared confidential under Code, Health-General Article, §18-201 or §18-202.

(5) A case record that contains information concerning the consultation, examination, or treatment of a developmentally disabled person, declared confidential by Code, Health-General Article, §7-1003.

(6) A case record relating to a petition for an emergency evaluation made under Code, Health-General Article, §10-622 and declared confidential under Code, Health-General Article, §10-630.

~~(j)~~ (l) A case record that consists of the federal or Maryland income tax return of an individual.

~~(k)~~ (m) A case record that:

(1) a court has ordered sealed or not subject to inspection, except in conformance with the order; or

(2) in accordance with Rule 16-1009 (b), is the subject of a motion to preclude or limit inspection.

~~(l)~~ (n) As provided in Rule 9-203 (d), a case record that consists of a financial statement filed pursuant to Rule 9-202.

Source: This Rule is new.

REPORTER'S NOTE

The Rules Committee proposes the addition of a new section (d) to Rule 16-1006 to require the clerk to deny inspection of case records that are required to be shielded pursuant to Code, Courts Article, §3-1510 or Code, Family Law Article, §4-512.

Another proposed addition to Rule 16-1006 is a new section (f), which adds papers that must be filed by a guardian of the property of a disabled adult as another category of documents required to be shielded. The papers include the annual fiduciary account filed pursuant to Rule 10-706 as well as the inventory and information report filed pursuant to Rule 10-707. A circuit court judge had pointed out that these documents may contain

personal financial information that could be used for identity theft, so they need to be shielded from public access.

The proposed change in subsection (h) (3) (B) conforms an internal reference to Code references contained in the recently enacted General Provisions Article.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1007 to conform an internal reference in section (b) to revised Code provisions, to add a new section (c) pertaining to certain personal information of a victim or victims' representative, to delete from section (d) a certain exclusion, and to make stylistic changes, as follows:

Rule 16-1007. REQUIRED DENIAL OF INSPECTION - SPECIFIC INFORMATION IN CASE RECORDS

Except as otherwise provided by law, the Rules in this Chapter, or court order, a custodian shall deny inspection of a case record or a part of a case record that would reveal:

(a) The name, address, telephone number, e-mail address, or place of employment of a person who reports the abuse of a vulnerable adult pursuant to Code, Family Law Article, §14-302.

(b) Except as provided in Code, ~~State Government Article, §10-617~~ (e) General Provisions Article, §4-331, the home address or telephone number of an employee of the State or a political subdivision of the State.

(c) The address, telephone number, and e-mail address of a victim or victim's representative in a criminal action, juvenile delinquency action, or an action under Code, Family Law Article, Title 4, Subtitle 5, who has requested that such information be

shielded. Such a request may be made at any time, including in a victim notification request form filed with the clerk or a request or motion filed under Rule 16-1009.

~~(c)~~ (d) Any part of the social security or Federal Identification Number of an individual, ~~other than the last four digits.~~

~~(d)~~ (e) Information about a person who has received a copy of a sex offender's or sexual predator's registration statement.

Cross reference: See Rule 16-1009 (b) (2) concerning information shielded upon a request authorized by Code, Courts Article, Title 3, Subtitle 15 (peace orders) or Code, Family Law Article, Title 4, Subtitle 5 (domestic violence) and in criminal actions.

Source: This Rule is new.

REPORTER'S NOTE

The Rules Committee proposes a change in section (b) of Rule 16-1007 to conform an internal reference to Code references contained in the recently enacted General Provisions Article.

The Committee recommends adding a new section (c) to Rule 16-1007 that would shield personal information of victims or victims' representatives who have requested that this information be shielded pursuant to various statutes including Code, Criminal Procedure Article, §11-104 and Code, Family Law Article, §4-519 et seq.

The Committee also proposes deleting the language "other than the last four digits" from section (d) of the Rule. Because of the ease of electronically accessing the first five digits of Social Security numbers, allowing access to the last four digits provides easy access to someone's full social security number, which could lead to identity theft.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 400 - ATTORNEYS, OFFICERS OF COURT AND OTHER PERSONS

AMEND Rule 16-404 to update an internal reference, as follows:

Rule 16-404. ADMINISTRATION OF COURT REPORTERS

a. Applicability

Section b of this Rule applies to court reporters in the circuit courts and the District Court. Sections c, d, and e apply in the circuit courts only.

b. Establishment of regulations and standards

The Chief Judge of the Court of Appeals shall prescribe regulations and standards regarding court reporters and the system of reporting in the courts of the State. The regulations and standards may include:

(1) the selection, qualifications, and responsibilities of court reporters;

(2) procedures and regulations;

(3) preparation, typing, and format of transcripts;

(4) charges for transcripts and copies;

(5) preservation and maintenance of reporting notes and records, however recorded;

(6) equipment and supplies utilized in reporting; and

(7) procedures for filing and maintaining administrative

records and reports.

Cross reference: Rule 16-504.

c. Number of Court Reporters - Supervisory Court Reporter

Each circuit court shall have the number of court reporters recommended by the County Administrative Judge and approved by the Chief Judge of the Court of Appeals. In a county with more than one court reporter, the County Administrative Judge shall designate one as supervisory court reporter, who shall serve at the pleasure of the County Administrative Judge. The Chief Judge of the Court of Appeals shall prescribe the duties of the supervisory court reporter.

d. Supervision of Court Reporters

Subject to the general supervision of the Chief Judge of the Court of Appeals, the County Administrative Judge shall have the supervisory responsibility for the court reporters in that county. The County Administrative Judge may delegate supervisory responsibility to the supervisory court reporter, including the assignment of court reporters.

e. Methods of Reporting - Proceedings to be Recorded

Each court reporter assigned to record a proceeding shall record verbatim by shorthand, stenotype, mechanical, or electronic audio recording methods, electronic word or text processing methods, or any combination of these methods, and shall maintain that record subject to regulations and standards prescribed by the Chief Judge of the Court of Appeals, except that a court reporter need not record an audio or audiovisual

recording offered or used at a hearing or trial. All proceedings held in open court, including opening statements, closing arguments, and hearings on motions, shall be recorded in their entirety, unless the court and the parties agree otherwise.

Cross reference: See Rules 2-516 and 4-322. See also Rule 16-1006 ~~(g)~~ (j), which provides that backup audio recordings made by any means, computer disks, and notes of a court reporter that have not been filed with the clerk or are not part of the official court record are not ordinarily subject to public inspection.

Source: This Rule is derived from former Rule 1224.

REPORTER'S NOTE

A proposed amendment to the cross reference that follows section e of Rule 16-404 conforms the cross reference to the relettering of Rule 16-1006.

MARYLAND RULES OF PROCEDURE
TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-109 (e) (1) to clarify it and to change an internal reference, as follows:

Rule 20-109. ACCESS TO ELECTRONIC COURT RECORDS

. . .

(e) Public Access

(1) Names of Litigants and Docket Entries

Members of the public shall have free access, including remote access, to unshielded docket information made available pursuant to Rule ~~16-1008 (a) (4)~~ 16-1008.1 (c).

(2) Unshielded Documents

Subject to any protective order issued by the court, members of the public shall have free access to unshielded case records and unshielded parts of case records from computer terminals that the court makes available for that purpose. Each clerk's office shall provide a reasonable number of terminals for use by the public. The terminals shall not permit the user to download, alter, or forward the information, but the user is entitled to a copy of or printout of a case record in accordance with Rules 16-1002 (d) (4) and 16-1003.

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 16-1008.

MARYLAND RULES OF PROCEDURE
TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-201 to modify certain provisions in section (h) pertaining to the filing of proposed orders, to add a Committee note following section (h), and to add to section (i) certain provisions concerning requests for the waiver of prepayment of fees and the docketing of submissions in MDEC, as follows:

Rule 20-201. REQUIREMENTS FOR ELECTRONIC FILING

. . .

(h) Proposed Orders

A proposed order to be signed by a judge or judicial appointee shall be ~~in an editable text form specified by the State Court Administrator~~ (1) in an electronic text format specified by the State Court Administrator and (2) filed as a separate document identified as relating to the motion or other request for court action to which the order pertains.

Committee note: As originally adopted, section (h) of this Rule required that a proposed order be submitted in "an editable text form." Because at the time of initial implementation, the MDEC system could only accept pdf documents, amendments to section (h) were made in 2015 to give the State Court Administrator the flexibility to specify the electronic format of the proposed order. The filer should consult the MDEC policies and procedures posted on the Judiciary website for any changes to the required format.

(i) Fee

(1) Generally

A submission shall be accompanied, in a manner allowed by the published policies and procedures adopted by the State Court Administrator, by any fee required to be paid in connection with the filing.

(2) Waiver - Civil Action

(A) A filer in a civil action who (i) desires to file electronically a submission that requires a prepaid fee, (ii) has not previously obtained and had docketed a waiver of prepayment of the fee, and (iii) seeks a waiver of such prepayment, shall file a request for a waiver pursuant to Rule 1-325 or Rule 1-325.1, as applicable.

(B) The request shall be accompanied by (i) the documents required by Rule 1-325 or Rule 1-325.1, as applicable, (ii) the submission for which a waiver of the prepaid fee is requested, and (iii) if applicable, a proposed order granting the request.

(C) No fee shall be charged for the filing of the waiver request.

(D) The clerk shall docket the request for waiver ~~but not the submission requiring a prepaid fee and shall transmit the request, with the accompanying documents, to a judge.~~ If the clerk waives prepayment of the prepaid fee pursuant to Rule 1-325 (d) or the applicable provision of Rule 1-325.1, the clerk also shall docket the attached submission. If prepayment is not waived by the clerk, the clerk and the court shall proceed in accordance with Rule 1-325 (e) or Rule 1-325.1 (c), as

applicable.

~~(E) If the judge waives prepayment in full, the clerk shall docket the submission.~~

~~(F) If the judge denies the waiver in whole or in part, the clerk shall notify the filer but shall not docket the submission until the fee or non-waived part of the fee, is paid.~~

(3) Waiver - Criminal Action

A fee waiver in a criminal action is governed by Rule 7-103 (c) (2), 8-201 (b) (2), or 8-303 (a) (2), as applicable.

Source: This Rule is new.

REPORTER'S NOTE

Amendments to Rule 20-201 (h) are proposed for the reasons stated in the proposed Committee note following section (h).

Amendments to section (i) conform the requirements and procedure for the waiver of prepayment of prepaid costs in an MDEC county to those set forth in proposed revised Rule 1-325 and new Rule 1-325.1.

MARYLAND RULES OF PROCEDURE
TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-202 to add a reference to Rule 20-201 (i), as follows:

Rule 20-202. EFFECTIVE DATE OF FILING

The MDEC system shall record the date and time an electronically filed submission is received by the MDEC system. Subject to Rules 20-201 (i) and 20-203, the date recorded shall be the effective date of filing and shall serve as the docket date of the submission filed.

Source: This Rule is new.

REPORTER'S NOTE

The proposed amendment to Rule 20-202 conforms the Rule to proposed changes to Rule 20-201.

MARYLAND RULES OF PROCEDURE
TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-203 (d) to change the enforcement mechanism pertaining to correction of certain deficiencies and to provide for judicial review of a deficiency determination, as follows:

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

. . .

(d) Deficiency Notice

(1) Issuance of Notice

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

(2) Correction; Enforcement

~~If the deficiency is not corrected within two business days after the date of the notice, any party may move to strike the submission~~ Unless the court orders otherwise, the court will take no further action on the submission until the deficiency is corrected or withdrawn.

(3) Judicial Review

The filer may file a request that the administrative judge, or a judge designated by the administrative judge, direct the clerk to withdraw the deficiency notice.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 20-203 (d) change the enforcement mechanism for correction of certain deficiencies from enforcement by motion of an opposing party to enforcement by the court taking no further action on the submission to which the deficiency pertains until the deficiency is corrected or withdrawn or the court orders further action on the submission notwithstanding the existence of the deficiency.

MARYLAND RULES OF PROCEDURE
TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 200 - FILING AND SERVICE

ADD new Rule 20-204.2, as follows:

Rule 20-204.2. ISSUANCE OF ORIGINAL PROCESS - CRIMINAL

(a) Definitions

The definitions in Rule 4-102 apply in this Rule, except that in this Rule "charging document" does not include a citation electronically filed with the District Court in accordance with Code, Transportation Article, §26-407.

(b) Filing of Charging Document; Issuance of Paper Warrant or Summons

A charging document shall be filed in paper form and the clerk shall scan the document into the MDEC system. In accordance with the applicable Rules in Title 4, a warrant or summons pertaining to the charging document shall be issued in paper form.

(c) Subsequent Submissions

Unless exempted by the State Court Administrator, the filing of subsequent submissions in a criminal action shall be governed by the Rules in this Title.

Source: This Rule is new.

REPORTER'S NOTE

Submissions in criminal actions currently are exempt from the requirement of e-filing in MDEC. It is anticipated that submissions in criminal actions in Anne Arundel County will be included in MDEC in 2015. Proposed new Rule 20-204.2, recommended for adoption prior to inclusion of those submissions in MDEC, addresses procedures pertaining to the filing of charging documents and issuance of original process in criminal actions.

[Showing changes from the 186th Report version
of Rule 1-325 (a) - (f)]

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 300 - GENERAL PROVISIONS

DELETE current Rule 1-325 and add new Rule 1-325, as follows:

Rule 1-325. ~~FILING FEES AND COSTS~~ — INDIGENCY WAIVER OF COSTS
DUE TO INDIGENCE - **GENERALLY**

~~(a) Generally~~

~~A person unable by reason of poverty to pay any filing fee or other court costs ordinarily required to be prepaid may file a request for an order waiving the prepayment of those costs. The person shall file with the request an affidavit verifying the facts set forth in that person's pleading, notice of appeal, application for leave to appeal or request for process, and stating the grounds for entitlement to the waiver. If the person is represented by an attorney, the request and affidavit shall be accompanied by the attorney's signed certification that the claim, appeal, application, or request for process is meritorious. The court shall review the papers presented and may require the person to supplement or explain any of the matters set forth in the papers. If the court is satisfied that the person is unable by reason of poverty to pay the filing fee or~~

~~other court costs ordinarily required to be prepaid and the claim, appeal, application, or request for process is not frivolous, it shall waive by order the prepayment of such costs.~~

~~Committee note: The term "other court costs" in section (a) of this Rule includes the compensation, fees, and costs of a master or examiner. See Rules 2-541 (i), 2-542 (i), 2-603 (e), and 9-208 (j).~~

~~(b) Appeals Where Public Defender Representation Denied~~

~~— Payment by State~~

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

(a) Scope

~~Sections (b) through (f) of This Rule apply applies only to original civil actions in a circuit court or the District Court.~~

~~Committee note: Original civil actions in a circuit court include actions governed by the Rules in Title 7, Chapter 200, 300, and 400.~~

(b) Definition

~~In this Rule, except as provided in section (g), "prepaid costs" means costs that, unless prepayment is waived pursuant to this Rule, must be paid prior to the clerk's docketing or~~

accepting for docketing a pleading or paper or taking other requested action.

Committee note: "Prepaid costs" may include a fee to file an initial complaint or a motion to reopen a case, a fee for entry of the appearance of an attorney, and any prepaid compensation, fee, or expense of a master, examiner, or family magistrate. See Rules 1-501, 2-541, 2-542, 2-603, and 9-208.

(c) No Fee for Filing Request

No filing fee shall be charged for the filing of the request for waiver of prepaid costs pursuant to section (d) or (e) of this Rule.

(d) Waiver of Prepaid Costs by Clerk

On written request, the clerk shall waive the prepayment of prepaid costs, without the need for a court order, if:

(1) the party is an individual who is represented (A) by an attorney retained through a pro bono or legal services program on a list of programs serving low income individuals that is submitted by the Maryland Legal Services Corporation to the State Court Administrator and posted on the Judiciary website, provided that an authorized agent of the program provides the clerk with a statement that (i) names the program, attorney, and party; (ii) states that the attorney is associated with the program and the party meets the financial eligibility criteria of the Corporation; and (iii) attests that the payment of filing fees is not subject to Code, Courts Article, §5-1002 (the Prisoner Litigation Act), or (B) by an attorney provided by the Maryland Legal Aid Bureau, Inc. or the Office of the Public Defender, and

(2) the attorney certifies that, to the best of the attorney's knowledge, information, and belief, there is good ground to support the claim, application, or request for process and it is not interposed for any improper purpose or delay.

Committee note: The Public Defender represents indigent individuals in a number of civil actions. See Code, Criminal Procedure Article, §16-204 (b).

Cross reference: See Rule 1-311 (b) and Rule 3.1 of the Maryland Lawyers' Rules of Professional Conduct.

(e) Waiver of Prepaid Costs by Court

(1) Request for Waiver

An individual unable by reason of poverty to pay a prepaid cost and not subject to a waiver under section (d) of this Rule may file a request for an order waiving the prepayment of the prepaid cost. The request shall be accompanied by **(A) the pleading or paper sought to be filed; ~~(A)~~ (B)** an affidavit substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the Clerks' offices; and ~~(B)~~ **(C)** if the individual is represented by an attorney, **by** the attorney's certification that, to the best of the attorney's knowledge, information, and belief, there is good ground to support the claim, application, or request for process and it is not interposed for any improper purpose or delay.

Cross reference: See Rule 1-311 (b) and Rule 3.1 of the Maryland Lawyers' Rules of Professional Conduct.

(2) Review by Court; Factors to be Considered

The court shall review the papers presented and may require the individual to supplement or explain any of the matters set forth in the papers. In determining whether to grant a prepayment waiver, the court shall consider:

(A) whether the individual has a family household income that qualifies under the client income guidelines for the Maryland Legal Services Corporation for the current year, which shall be posted on the Judiciary website; and

(B) any other factor that may be relevant to the individual's ability to pay the prepaid cost.

(3) Order; **Payment of Unwaived Prepaid Costs**

If the court finds that the party is unable by reason of poverty to pay the prepaid cost and that the pleading or paper sought to be filed does not appear, on its face, to be frivolous, it shall enter an order waiving prepayment of the prepaid cost. In its order, the court shall state the basis for granting or denying the request for waiver. **If the court denies, in whole or in part, a request for the waiver of its prepaid costs, it shall permit the party, within 10 days, to pay the unwaived prepaid cost. If, within that time, the party pays the full amount of the unwaived prepaid costs, the pleading or paper shall be deemed to have been filed on the date the request for waiver was filed. If the unwaived prepaid costs are not paid in full within the time allowed, the pleading or paper shall be deemed to have been withdrawn.**

(f) Award of Costs at Conclusion of Action

(1) Generally

At the conclusion of an action, the court and the clerk shall allocate and award costs as required or permitted by law.

Cross reference: See Rules 2-603, 3-603, 7-116, and *Mattison v. Gelber*, 202 Md. App. 44 (2011).

(2) Waiver

(A) Request

At the conclusion of an action, a party may seek a final waiver of open costs, including any **unpaid** appearance fee, by filing a request for the waiver, together with (i) an affidavit substantially in the form prescribed by subsection (e)(1)(A) of this Rule, or (ii) if the party was granted a waiver of prepayment of prepaid costs by court order pursuant to section (e) of this Rule and remains unable to pay the costs, an affidavit that recites the existence of the prior waiver and the party's continued inability to pay by reason of poverty.

(B) Determination by Court

In an action under Title 9, Chapter 200 of these Rules or Title 10 of these Rules, the court shall grant a final waiver of open costs if the requirements of Rules 2-603 (e) or 10-107 (b), as applicable, are met. In all other civil matters, the court may grant a final waiver of open costs if the party against whom the costs are assessed is unable to pay them by reason of poverty.

Source: This Rule is ~~derived as follows:~~

~~Section (a) is derived from former M.D.R. 102 and Courts
Article §7-201.~~

~~Section (b) is derived from former Rules 883 and 1083 b new.~~

[Showing changes from the 186th Report version of Rule 1-325 (g)]

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 300 - GENERAL PROVISIONS

ADD new Rule 1-325.1, as follows:

Rule 1-325.1. WAIVER OF PREPAID APPELLATE COSTS IN CIVIL ACTIONS

~~(g) Waiver of Prepaid Appellate Costs~~

~~(1) (a) Scope of Section~~

This **section Rule** applies **(1)** to **an** appeal from an order or judgment of the District Court **or an orphans' court** to a circuit court **in a civil action**, and **(2)** to **an** appeal, ~~application for leave to appeal, and petition for certiorari or other extraordinary relief as defined in subsection (b) (1) of this Rule~~ seeking review in the Court of Special Appeals or the Court of Appeals ~~from of~~ an order or judgment of a ~~circuit~~ lower court in a civil action.

~~(2) (b) Definitions~~

In this **section Rule**, the following definitions apply:

(1) Appeal

"Appeal" means an appeal, an application for leave to appeal to the Court of Special Appeals, and a petition for certiorari or other extraordinary relief filed in the Court of Appeals.

(2) Clerk

"Clerk" includes a Register of Wills.

(3) Prepaid Costs

"Prepaid costs" means (A) the fee charged by the clerk of the ~~trial lower~~ court for assembling the record, ~~including (B) the cost of the preparation of a~~ transcript in the District Court, ~~if a transcript is necessary to the appeal,~~ and (C) the filing fee charged by the clerk of the appellate court.

Cross reference: See the schedule of appellate court fees following Code, Courts Article, §7-102 and the schedule of circuit court fees following Code, Courts Article, §7-202.

~~(3)~~ (c) Waiver

~~(A)~~ (1) Generally

Waiver of prepaid costs under this ~~section~~ Rule shall be governed generally by section (d) or (e) of Rule 1-325, as applicable, except that:

~~(i)~~ (A) the request for waiver of both the ~~trial lower~~ and appellate court costs shall be filed in the ~~trial lower~~ court with the notice of appeal;

(B) a request to waive prepayment of the fee for filing a petition for certiorari or other extraordinary relief in the Court of Appeals shall be filed in, and determined by, that Court;

~~(ii)~~ (C) waiver of the fee charged for assembling the record shall be determined in the ~~trial lower~~ court;

~~(iii)~~ (D) waiver of the appellate court filing fee shall be determined by the appellate court, but the appellate court may rely on a waiver of the fee for assembling the record ordered by the **trial lower** court;

~~(iv)~~ (E) both fees shall be waived if the appellant received a waiver of prepaid costs under **section (d) of Rule 1-325**, will be represented in the appeal by an eligible attorney under that section, and the attorney certifies that **the appeal is meritorious and that (i) to the best of the attorney's knowledge, information, and belief there is good ground to support the appeal and it is not interposed for any improper purpose or delay and (ii) the appellant remains eligible for representation in accordance with **section (d) of this Rule 1-325 (d)****; and

~~(v)~~ (F) if the appellant received a waiver of prepaid costs under section (e) of **this Rule 1-325**, the **trial lower** court and appellate courts may rely **upon on** a supplemental affidavit of the appellant attesting that the information supplied in the affidavit provided under **section (e) of this Rule 1-325 (e)** remains accurate and that there has been no material change in the appellant's financial condition or circumstances.

~~(B)~~ (2) Procedure

~~(i)~~ (A) If an appellant requests the waiver of the prepaid costs in both the **trial lower** and appellate courts, the **trial lower** court, within five days after the filing of the request,

shall act on the request for waiver of its prepaid cost and transmit to the appellate court the request for waiver of the appellate court prepaid cost **and, together with** a copy of the request and order regarding the waiver of the **trial lower** court prepaid cost.

~~(ii)~~ (B) The appellate court shall act on the request for the waiver of its prepaid cost within five business days after receipt of the request from the **trial lower** court.

~~(iii)~~ (C) If either court denies, in whole or in part, a request for the waiver of its prepaid cost, it shall permit the appellant, within 10 days, to pay the unwaived prepaid cost. If, within that time, the appellant pays the full amount of the unwaived prepaid cost, the appeal **or application** shall be deemed to have been filed on the day the request for waiver was filed in the **trial lower** court **or, as to a petition for certiorari or other extraordinary relief, in the Court of Appeals. If the unwaived prepaid costs are not paid in full within the time allowed, the appeal shall be deemed to have been withdrawn.**

Source: This Rule is new.

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

AMEND Rule 2-603 to conform with the revision of Rule 1-325,
as follows:

Rule 2-603. COSTS

. . .

(e) Waiver of Costs in Domestic Relations Cases - Indigency

In an action under Title 9, Chapter 200 of these Rules,
the court shall ~~waive~~ grant a final waiver of open costs,
including any compensation, fees, and costs of a master or
examiner if the court finds that the party against whom the costs
are assessed is unable to pay them by reason of poverty. The
party may seek the waiver at the conclusion of the case by filing
a request for a final waiver of open costs, together with (1) an
affidavit substantially in the form prescribed by Rule 1-325
(e) (1) (A), or (2) if in accordance with Rule 1-325 (a). If the
party was granted a waiver of prepayment of prepaid costs by
court order pursuant to ~~that~~ Rule 1-325 (e) and remains unable to
pay the costs, ~~the~~ an affidavit ~~required by Rule 1-325 (a) need
only~~ that recites the existence of the prior waiver and the
party's continued inability to pay.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT

CHAPTER 100 - APPEALS FROM THE DISTRICT COURT

TO THE CIRCUIT COURT

AMEND Rule 7-103 by adding a new section (d) to incorporate the provisions of current Rule 1-325 (b), by conforming it with new Rule 1-325.1, and by making stylistic changes, as follows:

Rule 7-103. METHOD OF SECURING APPELLATE REVIEW

(a) By Notice of Appeal

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

(b) District Court Costs

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

Cross reference: Rule 7-113 (b).

(c) Filing Fee

Within the time for transmitting the record under Rule 7-108, the appellant shall deposit the fee prescribed by Code,

Courts Article, §7-202 with the clerk of the District Court unless:

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

(2) if the appeal is in a criminal action, the fee has been waived by an order of court or unless the appellant is represented by (1) the Public Defender's Office, (2) an attorney assigned by Legal Aid Bureau, Inc., or (3) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting the financial eligibility criteria established by the Federal Legal Services Corporation or other appropriate governmental agency. The filing fee shall be in the form of cash or a check or money order payable to the clerk of the circuit court.

~~Cross reference: Rule 1-325.~~

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

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

~~(d)~~ (e) Transmittal of Record

After all required fees have been paid, the clerk shall

transmit the record as provided in Rules 7-108 and 7-109. The filing fee shall be forwarded with the record to the clerk of the circuit court.

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

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

MARYLAND RULES OF PROCEDURE
TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW
IN CIRCUIT COURT
CHAPTER 500 - APPEALS FROM THE ORPHANS' COURT

AMEND Rule 7-505 by conforming it with new Rule 1-325.1, as follows:

Rule 7-505. RECORD

. . .

(c) Cost of Preparation

Unless the prepayment of prepaid costs has been waived in accordance with Rule 1-325.1, The the appellant shall pay to the Register the cost of preparation of the record.

(d) Filing Fee

The appellant shall deposit with the Register of Wills the fee prescribed by Code, Courts Article, § 7-202 unless the fee has been waived by an order of court or ~~unless the appellant is represented by (1) an attorney assigned by Legal Aid Bureau, Inc. or (2) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting the financial eligibility criteria established by the Federal Legal Services Corporation or other appropriate governmental agency~~ the prepayment of prepaid costs has been waived in accordance with Rule 1-325.1. The filing fee shall be in the

form of cash or check or money order payable to the clerk of the
circuit court.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-201 by conforming it with new Rule 1-325.1 and by making stylistic changes, as follows:

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

(a) By Notice of Appeal

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

(b) Filing Fees

At the time of filing a notice of appeal in a civil case, or within the time for transmitting the record under Rule 8-412 in a criminal case, an appellant shall deposit the fee prescribed pursuant to Code, Courts Article, §7-102 with the clerk of the lower court unless:

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

(2) if the appeal is in a criminal action, the fee has been

waived by an order of court or ~~unless~~ the appellant is represented by ~~(1) the Public Defender's Office, (2) an attorney assigned by Legal Aid Bureau, Inc., or (3) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting the financial eligibility criteria established by the Federal Legal Services Corporation or other appropriate governmental agency.~~

~~Cross reference: Rule 1-325.~~

(c) Transmittal of Record

After all required fees have been deposited, the clerk shall transmit the record as provided in Rules 8-412 and 8-413. The fee shall be forwarded with the record to the Clerk of the Court of Special Appeals.

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

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

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 300 - OBTAINING APPELLATE REVIEW IN COURT OF APPEALS

AMEND Rule 8-303 by conforming it with new Rule 1-325.1 and by making stylistic changes, as follows:

Rule 8-303. PETITION FOR WRIT OF CERTIORARI - PROCEDURE

(a) Filing

A petition for a writ of certiorari, together with seven legible copies, shall be filed with the Clerk of the Court of Appeals. The petition shall be accompanied by the filing fee prescribed pursuant to Code, Courts Article, §7-102 unless:

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

(2) if the petition is in a criminal action, the fee has been waived by an order of court or ~~unless~~ the petitioner is represented by ~~(1) the Public Defender's Office, (2) an attorney assigned by Legal Aid Bureau, Inc., or (3) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting the financial eligibility criteria established by the Federal Legal Services Corporation or other appropriate governmental agency.~~

~~Cross reference: Rule 1-325.~~

. . .

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

ADD new Rule 8-403, as follows:

Rule 8-403. APPEALS WHERE PUBLIC DEFENDER REPRESENTATION DENIED
- PAYMENT BY STATE

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

Source: This Rule is derived from the 2014 version of former Rule 1-325 (b).

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-505 to conform with the deletion of current Rule 1-325 (b) and addition of new Rule 8-403, as follows:

Rule 8-505. BRIEFS - INDIGENTS

When the ~~lower~~ court has ordered that costs be paid by the State of Maryland pursuant to Rule ~~1-325 (b)~~ 8-403 or in any case in which a party to the appeal is represented by the Public Defender, that party's brief, reply brief, and other documents required to be filed by that party in the appellate court shall be reproduced under the supervision of the Public Defender.

Source: This Rule is derived from Rules 831 f and 1031 e.

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

AMEND Rule 10-107 to conform with the revision of Rule 1-325, as follows:

Rule 10-107. ASSESSMENT AND WAIVER OF FEES AND COSTS -
GUARDIANSHIPS

(a) Assessment

Upon a determination on the merits of a petition to appoint a guardian, the court may assess the filing fee and other court costs against the assets of the fiduciary estate or against the petitioner.

(b) Waiver

The court shall ~~waive~~ grant a final waiver of open costs and fees if the court finds that the person against whom the costs are assessed is unable to pay them by reason of poverty. The person may seek the waiver at the conclusion of the case by filing a request for a final waiver of open costs, together with (1) an affidavit substantially in the form prescribed by Rule 1-325 (e) (1) (A), or (2) if in accordance with Rule 1-325 (a). If the person was granted a waiver of prepayment of prepaid costs by court order pursuant to ~~that~~ Rule 1-325 (e) and remains unable to pay the costs, ~~the~~ an affidavit ~~required by Rule 1-325 (a) need only~~ that recites the existence of the prior waiver and the

person's continued inability to pay.

Source: This Rule is in part new and in part derived from Rule 2-603 (e).

[Showing changes from the 186th Report version of Rule 1-333]

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 300 - GENERAL PROVISIONS

ADD new Rule 1-333, as follows:

Rule 1-333. COURT INTERPRETERS

(a) Definitions

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

(1) Certified Interpreter

"Certified Interpreter" means an interpreter who is certified by:

(A) the Maryland Administrative Office of the Courts;

(B) any member of the Council for Language Access

Coordinators, provided that, if the interpreter was not approved by the Maryland member of the Council, the interpreter has successfully completed the orientation program required by the Maryland member of the Council; ~~or~~

Committee note: The Council for Language Access Coordinators is a unit of the National Center for State Courts.

(C) the Administrative Office of the United States Courts;

or

(D) if the interpreter is a sign language interpreter, the

**Registry of Interpreters for the Deaf or the National Association
of the Deaf.**

. . .

REPORTER'S NOTE

References to the Registry of Interpreters for the Deaf and the National Association of the Deaf are proposed to be added to new Rule 1-333, which is currently pending before the Court of Appeals as part of the 186th Report of the Rules Committee. The proposed addition acknowledges the practice of the Administrative Office of the Courts of accepting certifications by these organizations concerning the qualifications of sign language interpreters.