

July 12, 2006

The Honorable Robert M. Bell,
Chief Judge

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

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

Re: Access to Court Records
Rules

Your Honors:

The Rules Committee submits this Letter Report to the Court, transmitting hereby amendments to Rules 16-1009 and 16-1007, proposed to be adopted on an emergency basis.

Proposed new subsection (b)(2) of Rule 16-1009 sets forth a procedure for shielding victim and witness information in compliance with requests to shield that are authorized by Code, Courts Article, §3-1503; Code, Criminal Procedure Article, §11-205; or Code, Family Law Article, §4-504, without the necessity of a motion and adversary hearing. If the request to shield is granted, the shield remains in effect until terminated or modified by a court order. The burden of proceeding as the moving party under Rule 16-1009 is shifted from the person entitled to request shielding under one of the aforementioned statutes to the person seeking inspection of the shielded information.

The proposed amendment to Rule 16-1007 adds a cross reference to proposed new subsection (b)(2) of Rule 16-1009.

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

Respectfully submitted,

Joseph F. Murphy, Jr.
Chairperson

Linda M. Schuett
Vice Chairperson

JFM/LMS:cdc

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1009 to provide for shielding upon request authorized by certain statutes and to add a certain Committee note, as follows:

Rule 16-1009. COURT ORDER DENYING OR PERMITTING INSPECTION OF CASE RECORD

. . .

(b) Preliminary Shielding upon Motion or Request

(1) Preliminary Shielding Upon Motion

Upon the filing of a motion to seal or otherwise limit inspection of a case record pursuant to section (a) of this Rule, the custodian shall deny inspection of the case record for a period not to exceed five business days, including the day the motion is filed, in order to allow the court an opportunity to determine whether a temporary order should issue.

(2) Shielding upon Request Authorized by Statute

If a request to shield information in a case record is filed by or on behalf of a person entitled to request the shielding under (A) Code, Courts Article, Title 3, Subtitle 15 (peace orders), (B) Code, Criminal Procedure Article, §11-205, or (C) Code, Family Law Article, Title 4, Subtitle 5 (domestic violence) and the request is granted, a custodian shall deny

inspection of the shielded information. The shield remains in effect until terminated or modified by order of court. If the request is denied, the person seeking to shield information may file a motion under section (a) of this Rule.

Committee note: If a court or District Court Commissioner grants a request to shield information under subsection (b)(2) of this Rule, no adversary hearing is held unless a person seeking inspection of the shielded information files a motion under section (a) of this Rule.

. . .

REPORTER'S NOTE

Amendments to Rules 16-1009 and 16-1007 are proposed to be adopted on an emergency basis.

Recently adopted amendments to Rule 16-1008, effective July 1, 2006, provide for denial of remote access to victim and witness identifying information contained in court records in electronic form. However, there are no comparable provisions applicable to paper records or electronic records in the courthouse.

The procedures set forth in current Rule 16-1009, which require a person who seeks shielding of an otherwise open record to file a motion with the court and the court to hold an adversary hearing on the motion, can be cumbersome with respect to the shielding of information in compliance with requests to shield that are authorized by Code, Courts Article, §3-1503; Code, Criminal Procedure Article, §11-205; or Code, Family Law Article, §4-504.

The procedures set forth in the proposed amendments to Rule 16-1009 provide for shielding of information authorized by statute to be shielded based on a request by or behalf of a victim or witness, without the necessity of a motion or adversary hearing. If the request to shield is granted, the shield remains in effect until terminated or modified by a court order. If the request is denied, the person who is seeking to have information shielded may file a motion under section (a) of the Rule.

A cross reference to proposed new subsection (b)(2) of Rule 16-1009 is proposed to be added to Rule 16-1007.

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

AMEND Rule 16-1007 to add a certain cross reference, 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), the home address or telephone number of an employee of the State or a political subdivision of the State.
- (c) Any part of the social security or Federal Identification Number of an individual, other than the last four digits.
- (d) 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); Code, Criminal Procedure Article, §11-205; or Code, Family Law Article, Title 4, Subtitle 5 (domestic violence).

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to the proposed amendments to Rule 16-1009.