

IN THE COURT OF APPEALS OF MARYLAND

R U L E S O R D E R

This Court's Standing Committee of Rules of Practice and Procedure having submitted its One Hundred Ninety-Sixth Report to the Court, recommending the adoption of proposed new Rules 16-807, 16-808, and 16-809; proposed amendments to current Rules 1-202, 1-322, 1-333, 2-541, 2-542, 2-543, 4-102, 4-212, 4-262, 4-263, 4-346, 4-347, 4-351, 7-103, 8-201, 9-208, 9-209, 11-115, 16-208, 19-217, 19-305.5, 20-101, 20-103, 20-107, 20-108, 20-201, 20-203, and 20-503; and the proposed deletion of current Appendix: Court Interpreter Inquiry Questions and adoption of new Appendix: Court Interpreter Inquiry Questions, all as posted for comment on the website of the Maryland Judiciary; and

The Rules Committee having submitted a Supplement to the One Hundred Ninety-Sixth Report dated September 23, 2018 recommending adoption of further amendments to Rule 1-333 and Appendix: Court Interpreter Inquiry Questions and a conforming amendment to Rule 2-415, all as posted on the website of the Maryland Judiciary; and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, those proposed rules changes, together with comments received, and making certain amendments to the proposed rules changes on its own motion, it is

this 10th day of October, 2018,

ORDERED, by the Court of Appeals of Maryland, that current Appendix: Court Interpreter Inquiry Questions be, and it is hereby, rescinded; and it is further

ORDERED that new Rules 16-807, 16-808, and 16-809 and new Appendix: Court Interpreter Inquiry Questions be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that amendments to current Rules 1-202, 1-322, 1-333, 2-415, 2-541, 2-542, 2-543, 4-102, 4-212, 4-262, 4-263, 4-346, 4-351, 7-103, 8-201, 9-208, 9-209, 11-115, 16-208, 19-217, 19-305.5, 20-101, 20-103, 20-107, 20-108, 20-201, 20-203, and 20-503 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that consideration of proposed amendments to Rule 4-347 be, and it is hereby, deferred pending receipt of a supplemental report from the Rules Committee regarding Rule 4-347, which the Committee shall submit to this Court no later than November 26, 2018; and it is further

ORDERED that the Rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 1, 2019 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that a copy of this Order be posted promptly on the website of the Maryland Judiciary.

/s/ Mary Ellen Barbera

Mary Ellen Barbera

/s/ Clayton Greene, Jr.

Clayton Greene, Jr.

/s/ Sally D. Adkins

Sally D. Adkins

/s/ Robert N. McDonald

Robert N. McDonald

/s/ Shirley M. Watts

Shirley M. Watts

/s/ Michele D. Hotten

Michele D. Hotten

/s/ Joseph M. Getty

Joseph M. Getty

Filed: October 10, 2018

/s/ Suzanne C. Johnson

Acting Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal
Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document is authentic.



Suzanne C. Johnson, Acting Clerk

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 200 - CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

AMEND Rule 1-202 by adding a definition of "warrant" and by including in the definition subsections that differentiate "arrest warrants," "bench warrants," and "search warrants" from one another, and by adding a Committee note and cross reference following section (dd), as follows:

Rule 1-202. DEFINITIONS

. . .

(dd) Warrant; Arrest Warrant; Bench Warrant; Search Warrant

"Warrant" means an arrest warrant, a bench warrant, or a search warrant.

(1) "Arrest warrant" means a written order that (A) in the District Court is signed by a judge or District Court commissioner; (B) in a circuit court is signed by (i) a judge or (ii) the clerk of the court upon an order by a judge that is in writing or otherwise of record, is docketed, and expressly directs the clerk to issue the warrant; and (C) commands a peace officer to arrest the person named in the warrant.

(2) "Bench warrant" means an arrest warrant that (A) is signed by (i) a judge or (ii) the clerk of the court upon an

order by a judge that is in writing or otherwise of record, is docketed, and directs the clerk to issue the warrant, and (B) commands a peace officer to arrest the person named in the warrant.

Committee note: A bench warrant may be issued to enforce an order to appear, for a violation of probation, or on a petition for contempt.

(3) "Search warrant" means a written order signed by a judge pursuant to Code, Criminal Procedure Article, § 1-203 that commands a peace officer to search for and seize property described in the warrant.

Committee note: A clerk of the court may sign an arrest warrant or bench warrant upon an order to "issue" the warrant, provided the order conforms to this section.

Cross reference: See Wilson v. State, 345 Md. 437, 450 (1997); Nnoli v. Nnoli, 389 Md. 315, 323, n.1 (2005).

~~(dd)~~ (ee) Writ

"Writ" means a written order issued by a court and addressed to a sheriff or other person whose action the court desires to command to require performance of a specified act or to give authority to have the act done.

Source: This Rule is derived as follows:

. . .

Section (dd) is derived in part from former Rule 702 h and M.D.R. 702 m and is in part new.

Section (ee) is derived from former Rule 5 ff.

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

AMEND Rule 1-322 to permit a self-represented party confined in a certain facility to file certain pleadings and papers by a specified method under certain circumstances, to add provisions pertaining to proof of the date of filing by the specified method, to add a form Certificate of Filing by the specified method, and to add a Committee note, as follows:

Rule 1-322. FILING OF PLEADINGS, PAPERS, AND OTHER ITEMS

(a) Generally

The filing of pleadings, papers, and other items with the court shall be made by filing them with the clerk of the court, except that a judge of that court may accept the filing, in which event the judge shall note on the item the date the judge accepted it for filing and forthwith transmit the item to the office of the clerk. On the same day that an item is received in a clerk's office, the clerk shall note on it the date it was received and enter on the docket that date and any date noted on the item by a judge. The item shall be deemed filed on the ~~earlier~~ earliest of (1) the filing date noted by a judge on the item ~~or~~ (2) the date noted by the clerk on the item, or (3) the

date established under section (d) of this Rule. No item may be filed directly by electronic transmission, except (1) pursuant to an electronic filing system approved under Rule 16-203, (2) as permitted by Rule 14-209.1, (3) as provided in section (b) of this Rule, or (4) pursuant to Title 20 of these Rules.

(b) Electronic Transmission of Mandates of the U.S. Supreme Court

A Maryland court shall accept a mandate of the Supreme Court of the United States transmitted by electronic means unless the court does not have the technology to receive it in the form transmitted, in which event the clerk shall promptly so inform the Clerk of the Supreme Court and request an alternative method of transmission. The clerk of the Maryland court may request reasonable verification of the authenticity of a mandate transmitted by electronic means.

(c) Photocopies; Facsimile Copies

A photocopy or facsimile copy of a pleading or paper, once filed with the court, shall be treated as an original for all court purposes. The attorney or party filing the copy shall retain the original from which the filed copy was made for production to the court upon the request of the court or any party.

(d) Filings by Self-Represented Individuals Confined in Certain Facilities

(1) Application of section

This section applies only to self-represented individuals who (A) are confined in a correctional or other detention facility pursuant to a court order in a criminal or juvenile delinquency case, (B) have no direct access to the U.S. Postal Service or the ability to file an electronic submission under the Rules in Title 20, and (C) seek relief from a criminal conviction or their confinement by filing (i) a motion for new trial, an appeal, an application for review of sentence by a panel, a motion for modification of sentence, a petition for certiorari in the Court of Appeals, an application for leave to appeal, a motion or petition for a writ of habeas corpus or coram nobis, a motion or petition for statutory post-conviction relief, or a petition for judicial review of the denial of an inmate grievance complaint, or (ii) a paper in connection with any of those matters.

(2) Generally

A pleading or paper filed under this section shall be deemed to have been filed on the date that the pleading or paper, in mailable form and with proper postage affixed, was deposited by the individual into a receptacle designated by the facility for outgoing mail or personally delivered to an employee of the facility authorized by the facility to collect such mail. The clerk shall record the date a filing was received

by the clerk, docket the filing, and make a note for the court of any discernable filing date as defined in subsection (d)(3).

(3) Proof of Date of Filing

The date of filing may be proved by (A) a date stamp affixed by the facility to the pleading, paper, or envelope containing the pleading or paper, or (B) a Certificate of Filing attached to or included with the pleading or paper, substantially in the form provided in subsection (d)(4) of this Rule that, in the event of a dispute, the court finds to be credible.

(4) Certificate of Filing

A Certificate of Filing shall be substantially in the following form:

CERTIFICATE OF FILING

I, _____, certify that (1) I am
(name)
involuntarily confined in _____;
(name of facility)

(2) I have no direct access to the U.S. Postal Service or to a permitted means of electronically filing the attached pleading or paper; (3) on _____ at approximately
(date)

_____ I personally [] deposited the attached
(time)
pleading or paper for mailing in a receptacle designated by the facility for outgoing mail or [] delivered it to an employee

of the facility authorized by the facility to collect outgoing mail; and (4) the item was in mailable form and had the correct postage on it.

I solemnly affirm this _____ day of _____, 20____ under the penalty of perjury and upon personal knowledge that the foregoing statements are true.

(Signature)

Committee note: This section recognizes that individuals who are confined in a correctional or detention facility usually have no direct access to the U.S. Postal Service and may be dependent on the facility to deliver outgoing mail to the Postal Service on behalf of the confined individual. The best the individual in that situation can do is to deposit the item in a mail collection receptacle provided by the facility or, if that be the practice of the facility, deliver it to an employee of the facility authorized by the facility to collect outgoing mail. The section also recognizes that the facility may not actually collect the mail on the day it is deposited and may not affix a date-stamp showing when the mail was collected. Proving the date that the item was actually deposited in the facility's mailbox may therefore be difficult, other than by an affidavit from the filer, which may not always be credible. In the event of any question or dispute, the court can consider, in addition to the affidavit and for such relevance it may have, the U.S.P.S post mark on the envelope, any internal date stamp applied by the facility, any written policy of the facility regarding outgoing mail from confined individuals that had been communicated to those individuals, and other relevant and reliable evidence.

Cross reference: See Rule 1-301 (d), requiring that court papers be legible and of permanent quality.

Source: This Rule is derived in part from the 1980 version of Fed. R. Civ. P. 5 (e) and Rule 102 1 d of the Rules of the United States District Court for the District of Maryland and is in part new.

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

AMEND Rule 1-333 by deleting the definition of "interpreter eligible for certification"; by replacing the definition of "non-certified interpreters" with a definition of "non-registry interpreter"; in subsection (a)(4), by adding language referring to an interpreter who has not completed the Maryland Judiciary's Orientation Program and is not listed on the Court Interpreter Registry; in subsection (a)(6), by adding a definition of "qualified interpreter" that incorporates the provisions of the deleted term "interpreter eligible for certification," with stylistic changes; in subsection (a)(7), by adding a new definition of the term "registry"; in subsection (c)(1), by revising terminology to refer to qualified, registry, and non-registry interpreters; in subsection (c)(2)(A), by adding the language "except as provided in subsection (c)(2)(B) of this Rule," and by adding language referring to the interpreter's skills and qualifications, to any potential conflicts or other ethical issues, and to the court permitting parties to participate in the inquiry; by adding a subsection (c)(2)(B) allowing the court to dispense with a certain inquiry if the interpreter is a court-employed staff interpreter; in the

Committee note after subsection (c) (2) (B), by deleting the references to promulgation by the Maryland Judicial Conference Advisory Committee on Interpreters and to publication of the inquiry questions in a certain Report and by adding the word "included"; in subsection (c) (3) (A), by deleting language referring to appointment by the court, to swearing or affirming under the penalty of perjury, and to subscribing an oath and by adding the language "take an oath"; by adding a new subsection (c) (3) (B) and a Committee note following it pertaining to oaths by court-employed staff interpreters; and by making stylistic changes, 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;

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.

(2) Individual Who Needs an Interpreter

"Individual who needs an interpreter" means a party, attorney, witness, or victim who is deaf or unable adequately to understand or express himself or herself in spoken or written English and a juror or prospective juror who is deaf.

(3) Interpreter

"Interpreter" means an adult who has the ability to render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written and without explanation.

~~(4) Interpreter Eligible for Certification~~

~~"Interpreter eligible for certification" means an interpreter who is not a certified interpreter but who:~~

~~(A) has submitted to the Maryland Administrative Office of the Courts a completed Maryland State Judiciary Information Form~~

~~for Spoken and Sign Language Court Interpreters and a statement swearing or affirming compliance with the Maryland Code of Conduct for Court Interpreters;~~

~~(B) has successfully completed the Maryland Judiciary's orientation workshop on court interpreting; and~~

~~(C) does not have, in a state or federal court of record, a pending criminal charge or conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than six months unless the interpreter has been pardoned or the conviction has been overturned or expunged in accordance with law.~~

~~(5)(4) Non-certified Interpreters Non-Registry Interpreter~~

~~"Non-certified Non-registry interpreter" means an interpreter other than a certified interpreter or an interpreter eligible for certification who has not completed the Maryland Judiciary's orientation program and is not listed on the Court Interpreter Registry.~~

~~(6)(5) Proceeding~~

~~"Proceeding" means (A) any trial, hearing, argument on appeal, or other matter held in open court in an action, and (B) an event not conducted in open court that is in connection with an action and is in a category of events for which the court is required by Administrative Order of the Chief Judge of the Court of Appeals to provide an interpreter for an individual who needs~~

an interpreter.

(6) Qualified Interpreter

"Qualified Interpreter" means an interpreter who is not a certified interpreter but who:

(A) has submitted to the Maryland Administrative Office of the Courts a completed Maryland State Judiciary Information Form for Spoken and Sign Language Court Interpreters and an oath that the interpreter will comply with the Maryland Code of Conduct for Court Interpreters;

(B) has successfully completed the Maryland Judiciary's orientation workshop on court interpreting; and

(C) does not have, in a state or federal court of record, a pending criminal charge or conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than six months unless the interpreter has been pardoned or the conviction has been overturned or expunged in accordance with law.

(7) Registry

"Registry" means the Court Interpreter Registry, a listing of certified and qualified interpreters who have fulfilled the requirements necessary to receive assignments under the Maryland Court Interpreter Program.

~~(7)~~(8) Victim

"Victim" includes a victim's representative as defined

in Code, Criminal Procedure Article, §11-104.

(b) Spoken Language Interpreters

(1) Applicability

This section applies to spoken language interpreters. It does not apply to sign language interpreters.

Cross reference: For the procedure to request a sign language interpreter, see Rule 1-332.

(2) Application for the Appointment of an Interpreter

An individual who needs an interpreter shall file an application for the appointment of an interpreter. To the extent practicable, the application shall be filed not later than 30 days before the proceeding for which the interpreter is requested on a form approved by the State Court Administrator and available from the clerk of the court and on the Judiciary website. If a timely and complete application is filed, the court shall appoint an interpreter free of charge in court proceedings in accordance with section (c) of this Rule.

(3) When Additional Application Not Required

(A) Party

If a party who is an individual who needs an interpreter includes on the application a request for an interpreter for all proceedings in the action, the court shall provide an interpreter for each proceeding without requiring a separate application prior to each proceeding.

Committee note: A nonparty who may qualify as an individual who needs an interpreter must timely file an application for each proceeding for which an interpreter is requested.

(B) Continued or Postponed Proceedings

Subject to subsection (b) (5) of this Rule, if an individual who needs an interpreter filed a timely application and the proceeding for which the interpreter was requested is continued or postponed, the court shall provide an interpreter for the continued or postponed proceeding without requiring the individual to file an additional application.

(4) Where Timely Application Not Filed

If an application is filed, but not timely filed pursuant to subsection (b) (2) of this Rule, or an individual who may qualify as an individual who needs an interpreter appears at a proceeding without having filed an application, the court shall make a diligent effort to secure the appointment of an interpreter and may either appoint an interpreter pursuant to section (c) of this Rule or determine the need for an interpreter as follows:

(A) Examination on the Record

To determine whether an interpreter is needed, the court, on request or on its own initiative, shall examine a party, attorney, witness, or victim on the record. The court shall appoint an interpreter if the court determines that:

(i) the party does not understand English well enough to participate fully in the proceedings and to assist the party's attorney, or

(ii) the party, attorney, witness, or victim does not speak English well enough to readily understand or communicate the spoken English language.

(B) Scope of Examination

The court's examination of the party, witness, or victim should include questions relating to:

(i) identification;

(ii) active vocabulary in vernacular English; and

(iii) the court proceedings.

Committee note: Examples of matters relating to identification are: name, address, birth date, age, and place of birth. Examples of questions that elicit active vocabulary in vernacular English are: How did you come to court today? What kind of work do you do? Where did you go to school? What was the highest grade you completed? What do you see in the courtroom? Examples of questions relating to the proceedings are: What do you understand this case to be about? What is the purpose of what we are doing here in court? What can you tell me about the rights of the parties to a court case? What are the responsibilities of a court witness? Questions should be phrased to avoid "yes or no" replies.

(5) Notice When Interpreter Is Not Needed

If an individual who needs an interpreter will not be present at a proceeding for which an interpreter had been requested, including a proceeding that had been continued or postponed, the individual, the individual's attorney, or the

party or attorney who subpoenaed or otherwise requested the appearance of the individual shall notify the court as far in advance as practicable that an interpreter is not needed for that proceeding.

(c) Selection and Appointment of Interpreters

(1) Certified Interpreter Required; Exceptions

When the court determines that an interpreter is needed, the court shall make a diligent effort to obtain the services of a certified interpreter. If a certified interpreter is not available, the court shall make a diligent effort to obtain the services of ~~an~~ a qualified interpreter ~~eligible for certification~~. The court may appoint a ~~non-certified non-~~ registry interpreter only if ~~neither a certified interpreter nor an interpreter eligible for certification~~ a registry interpreter is not available. An individual related by blood or marriage to a party or to the individual who needs an interpreter may not act as an interpreter.

Committee note: The court should be cautious about appointing a ~~non-certified non-registry~~ registry interpreter and should consider carefully the seriousness of the case and the availability of resources before doing so.

(2) Inquiry of Prospective Interpreter

(A) Except as provided in subsection (c) (2) (B) of this Rule, Before before appointing an interpreter under this Rule, the court shall conduct an appropriate inquiry of the

prospective interpreter on the record with respect to the interpreter's skills and qualifications and any potential conflicts or other ethical issues. The court may permit the parties to participate in that inquiry.

(B) If the interpreter is a court-employed staff interpreter, the court may dispense with any inquiry regarding the interpreter's skills and qualifications.

Committee note: The court should use the Court Interpreter Inquiry Questions ~~promulgated by the Maryland Judicial Conference Advisory Committee on Interpreters and published, together with suggested responses, in the October 20, 1998 Report of the Advisory Committee.~~ The questions and suggested responses are reprinted included as an Appendix to these Rules.

(3) Oath

(A) Generally

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

(B) Court-employed Staff Interpreters

Upon employment, a court-employed staff interpreter

shall make the prescribed oaths in writing and file them with the clerk of each court in which the interpreter will serve and with the Administrative Office of the Courts. The oath shall be applicable to all proceedings in which the interpreter is called to serve and need not be repeated on each occasion.

Committee note: Court-employed staff interpreters often are in and out of court, substituting for other court-employed staff interpreters, and the need for an oath may be overlooked. The intent of subsection (c)(3)(B) is to assure that each applicable prescribed oath has been made.

(4) Multiple Interpreters in the Same Language

At the request of a party or on its own initiative, the court may appoint more than one interpreter in the same language to ensure the accuracy of the interpretation or to preserve confidentiality if:

(A) the proceedings are expected to exceed three hours;

(B) the proceedings include complex issues and terminology or other such challenges; or

(C) an opposing party requires an interpreter in the same language.

Committee note: To ensure accurate interpretation, an interpreter should be granted reasonable rest periods at frequent intervals.

(d) Removal From Proceeding

A court interpreter may be removed from a proceeding by a judge or judicial appointee within the meaning of Rule 18-200.3

(a) (1), who shall then notify the Maryland Administrative Office of the Courts that the action was taken.

(e) Compensation of Court Interpreters

Compensation for interpreters shall be in accordance with a schedule adopted by the State Court Administrator consistent with Code, Criminal Procedure Article, §§ 1-202 and 3-103 and Code, Courts Article, § 9-114.

Committee note: Code, Courts Article, § 9-114 provides for the appointment of interpreters for certain parties and witnesses, generally. Code, Criminal Procedure Article, §§ 1-202 and 3-103 provide for the appointment of interpreters for certain defendants in criminal proceedings and proceedings under Title 3 of that Article.

Source: This Rule is derived from former Rule 16-819 (2014).

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 400 - DISCOVERY

AMEND Rule 2-415 (g) to correct an internal reference, as follows:

Rule 2-415. DEPOSITION - PROCEDURE

. . .

(g) Interpreter

If the deponent is an individual who needs an interpreter, as defined in Rule 1-333 (a) ~~(1)~~ (2), the party who issued the notice of deposition is responsible for obtaining an interpreter at that party's expense. The interpreter shall meet the requirements of Rule 1-333 (c) (1).

. . .

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

AMEND Rule 2-541 to delete provisions relating to the appointment, compensation, fees, and costs of magistrates that have been transferred to Rule 16-807, as follows:

Rule 2-541. MAGISTRATES

(a) Appointment - Compensation

~~(1) Standing Magistrate~~

~~A majority of the judges of the circuit court of a county may appoint a full time or part time standing magistrate and shall prescribe the compensation, fees, and costs of the magistrate.~~

~~(2) Special Magistrate~~

~~The court may appoint a special magistrate for a particular action and shall prescribe the compensation, fees, and costs of the special magistrate and assess them among the parties. The order of appointment may specify or limit the powers of a special magistrate and may contain special directions.~~

~~(3) Officer of the Court~~

~~A magistrate serves at the pleasure of the appointing court and is an officer of the court in which the referred matter is pending.~~

The appointment and compensation of standing and special magistrates shall be governed by Rule 16-807.

(b) Referral of Cases

. . .

~~(i) Costs~~

~~Payment of the compensation, fees, and costs of a magistrate, to the extent not covered by State or county funds, may be compelled by order of court. The costs of any transcript may be included in the costs of the action and assessed among the parties as the court may direct.~~

Source: This Rule is derived as follows:
Section (a) is ~~derived from former Rule 596 b~~ new.
Section (b) is derived in part from former Rule 596 c.
Section (c) is derived in part from former Rule 596 d.
Subsections (6) and (7) are new but are consistent with former Rule 596 f 1 and g 2.
Section (d) is in part new and in part derived from former Rule 596 e.
Section (e) is derived from former Rule 596 f.
Section (f) is new.
Section (g) is derived from former Rule 596 h 1, 2, 3, 4 and 7 except that subsection 3 (b) of section h of the former Rule is replaced.
Section (h) is derived from former Rule 596 h 5 and 6.
~~Section (i) is derived from former Rule 596 h 8 and i.~~

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

AMEND Rule 2-542 to delete provisions relating to the appointment, compensation, fees, and costs of examiners that have been transferred to Rule 16-808; to prohibit referral to an examiner of a matter referable to a standing magistrate under Rule 9-208; and to make stylistic changes as follows:

Rule 2-542. EXAMINERS

(a) Appointment - Compensation

~~(1) Standing Examiner~~

~~A majority of the judges of the circuit court of a county may appoint a standing examiner and shall prescribe the compensation, fees, and costs of the examiner.~~

~~(2) Special Examiner~~

~~The court may appoint a special examiner for a particular action and shall prescribe the compensation, fees, and costs of the special examiner and assess them among the parties. The order of appointment may specify or limit the powers of a special examiner and may contain special directions.~~

~~(3) Officer of the Court~~

~~An examiner serves at the pleasure of the appointing court and is an officer of the court in which the referred matter is pending.~~

The appointment and compensation of examiners shall be governed by Rule 16-808.

(b) Referral by Order

On motion of any party or on its own initiative, the court may refer to an examiner, for the purpose of taking of evidence, issues in proceedings held in execution of judgment pursuant to Rule 2-633 and in uncontested proceedings not other than proceedings triable of right before a jury or referable to a standing magistrate under Rule 9-208 and proceedings held in aid of execution of judgment pursuant to Rule 2-633. The order of reference may prescribe the manner in which the examination is to be conducted and may set time limits for the completion of the taking of evidence and the submission of the record of the examination.

. . .

~~(i) Costs~~

~~Payment of the compensation, fees, and costs of an examiner, to the extent not covered by State or county funds, may be compelled by order of court. The costs of the transcript may be included in the costs of the action and assessed among the parties as the court may direct.~~

Source: This Rule is derived as follows:
Section (a) is ~~derived from former Rules 580 a and b and 596 b~~
new.
Section (b) is new.
Section (c) is derived in part from former Rules 580 c and 596
d.
Subsection (5) is new but is consistent with former Rule 580 e.
Section (d)
Subsection (1) is derived from former Rule 580 d.
Subsection (2) is derived from former Rule 596 e 1.
Subsection (3) is derived from former Rule 580 l 1 and 2.
Subsection (4) is new and replaces former Rule 580 f 2.
Subsection (5) is derived from former Rule 580 g 1.
Section (e) is new and replaces former Rule 580 o.
Section (f) is in part new, in part derived from former Rule 580
m 1 and n, and in part replaces section k and subsection f 2 of
former Rule 580.
Section (g) is new.
Section (h) is new.
~~Section (i) is derived from former Rules 580 g and 596 h 8.~~

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

AMEND Rule 2-543 to delete provisions relating to the appointment, compensation, fees, and costs of auditors that have been transferred to Rule 16-809, as follows:

Rule 2-543. AUDITORS

(a) Appointment - Compensation

~~(1) Standing Auditor~~

~~A majority of the judges of the circuit court of a county may appoint a standing auditor and shall prescribe the compensation, fees, and costs of the auditor.~~

~~(2) Special Auditor~~

~~The court may appoint a special auditor for a particular action and shall prescribe the compensation, fees, and costs of the special auditor and assess them among the parties. The order of appointment may specify or limit the powers of a special auditor and may contain special directions.~~

~~(3) Officer of the Court~~

~~An auditor serves at the pleasure of the appointing court and is an officer of the court in which the referred matter is pending.~~

The appointment and compensation of auditors shall be governed by Rule 16-809.

(b) Referral by Order

. . .

~~(i) Costs~~

~~Payment of the compensation, fees, and costs of an auditor may be compelled by order of court. The costs of any transcript may be included in the costs of the action and assessed among the parties as the court may direct.~~

Source: This Rule is derived as follows:

Section (a) ~~is derived from Rule 596 b and replaces former Rule 595 a and b~~ new.

Section (b) is new.

Section (c) is in part new and in part derived from former Rules 595 a and e and 596 d.

Section (d)

Subsection (1) is in part derived from former Rule 595 d and in part new.

Subsection (2) is derived from former Rule 596 e 1.

Subsection (3) is in part derived from Rule 596 e 2 and in part new.

Section (e) is new and replaces former Rule 595 g 2.

Section (f) is derived from former Rule 596 g 3.

Section (g) is derived from former Rule 596 h 1, 2, 3(c) and (d), and 4.

Section (h) is derived from former Rule 596 h 5 and 6.

~~Section (i) is derived from former Rules 595 h and 596 h 8.~~

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 100 - GENERAL

AMEND Rule 4-102 by deleting section (n), as follows:

Rule 4-102. DEFINITIONS

. . .

~~(n) Warrant~~

~~"Warrant" means a written order by a judicial officer commanding a peace officer to arrest the person named in it or to search for and seize property as described in it.~~

Source: This Rule is derived as follows:

. . .

~~Section (n) is derived from former Rule 702 h and M.D.R.702 m.~~

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

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

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

. . .

(d) Warrant - Issuance; Inspection

. . .

(2) In the Circuit Court

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

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

. . .

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

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

Rule 4-262. DISCOVERY IN DISTRICT COURT

. . .

(d) Disclosure by the State's Attorney

. . .

(2) On Request

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

. . .

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

All relevant material or information regarding:

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

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

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

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

(D) Reports or Statements of Experts

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

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

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

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

(E) Evidence for Use at Trial

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

(F) Property of the Defendant

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

. . .

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSE

CHAPTER 200 - PRETRIAL PROCEDURES

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

Rule 4-263. DISCOVERY IN CIRCUIT COURT

. . .

(d) Disclosure by the State's Attorney

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

. . .

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

All relevant material or information regarding:

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

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

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

(8) Reports or Statements of Experts

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

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

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

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

(9) Evidence for Use at Trial

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

(10) Property of the Defendant

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

. . .

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

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

Rule 4-346. PROBATION

(a) Manner of Imposing

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

(b) Modification of Probation Order

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

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

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

Rule 4-351. COMMITMENT RECORD

(a) Content

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

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

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

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

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

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

(b) Effect of Error

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

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

MARYLAND RULES OF PROCEDURE

TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT

CHAPTER 100 - APPEALS FROM THE DISTRICT COURT

TO THE CIRCUIT COURT

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

Rule 7-103. METHOD OF SECURING APPELLATE REVIEW

(a) By Notice of Appeal

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

(b) District Court Costs

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

Cross reference: Rule 7-113 (b).

(c) Filing Fee

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

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

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

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

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

(e) Transmittal of Record

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

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

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

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

(a) By Notice of Appeal

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

(b) Filing Fees

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

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

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

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

(c) Transmittal of Record

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

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

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

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT,
AND CHILD CUSTODY

AMEND Rule 9-208 by adding the word "standing" to the title of the Rule and to subsection (a)(1), by adding language to subsection (a)(1) to clarify that the court may direct that a matter be heard by a judge, by correcting an internal reference in the Committee note following subsection (a)(1) and adding clarifying language to the Committee note, by deleting section (j) and the Committee note following section (j), as follows:

Rule 9-208. REFERRAL OF MATTERS TO STANDING MAGISTRATES

(a) Referral

(1) As of Course

If a court has a full-time or part-time standing magistrate for domestic relations matters and a hearing has been requested or is required by law, the following matters arising under this Chapter shall be referred to the standing magistrate as of course, unless, in a specific case, the court directs ~~otherwise in a specific case~~ that the matter be heard by a judge:

(A) uncontested divorce, annulment, or alimony;

(B) alimony pendente lite;

(C) child support pendente lite;

(D) support of dependents;

(E) preliminary or pendente lite possession or use of the family home or family-use personal property;

(F) subject to Rule 9-205, pendente lite custody of or visitation with children or modification of an existing order or judgment as to custody or visitation;

(G) subject to Rule 9-205 as to child access disputes, constructive civil contempt by reason of noncompliance with an order or judgment relating to custody of or visitation with a minor child, the payment of alimony or support, or the possession or use of the family home or family-use personal property, following service of a show cause order upon the person alleged to be in contempt;

(H) modification of an existing order or judgment as to the payment of alimony or support or as to the possession or use of the family home or family-use personal property;

(I) counsel fees and assessment of court costs in any matter referred to a magistrate under this Rule;

(J) stay of an earnings withholding order; and

(K) such other matters arising under this Chapter and set forth in the court's case management plan filed pursuant to Rule

16-302 (b).

Cross reference: See Rule 16-807.

Committee note: Examples of matters that a court may include in its case management plan for referral to a standing magistrate under subsection ~~(a)(1)(J)~~ (a)(1)(K) of this Rule include scheduling conferences, settlement conferences, uncontested matters in addition to the uncontested matters listed in subsection (a)(1)(A) of this Rule, and the application of methods of alternative dispute resolution.

(2) By Order on Agreement of the Parties

By agreement of the parties, any other matter or issue arising under this Chapter may be referred to the magistrate by order of the court.

(b) Powers

. . .

~~(j) Costs~~

~~The court, by order, may assess among the parties the compensation, fees, and costs of the magistrate and of any transcript.~~

~~Committee note: Compensation of a magistrate paid by the State or a county is not assessed as costs.~~

Cross reference: See, Code, Family Law Article, §10-131, prescribing certain time limits when a stay of an earnings withholding order is requested.

Source: This Rule is derived in part from Rule 2-541 and former Rule S74A and is in part new.

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

AMEND Rule 9-209 by deleting references to examiners, by deleting the last sentence of the Rule, and by deleting an obsolete cross reference, as follows:

Rule 9-209. TESTIMONY

A judgment granting a divorce, an annulment, or alimony may be entered only upon testimony in person before ~~an examiner or a~~ magistrate or in open court. In an uncontested case, testimony shall be taken before ~~an examiner or a~~ magistrate unless the court directs otherwise. ~~Testimony of a corroborating witness shall be oral unless otherwise ordered by the court for good cause.~~

Cross reference: For the requirement of oral testimony by the plaintiff in a divorce action, see Code, Family Law Article, § 1-203 (c). ~~For the requirement of corroboration, see Code, Family Law Article, § 7-101(b).~~ For default procedures, see Rule 2-613.

Source: This Rule is derived from former Rules S73 and S75 a.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

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

Rule 11-115. DISPOSITION HEARING

. . .

e. Delivery or Transmittal of Documents to Custodial Agency

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

Source: This Rule is derived from former Rule 915. Section e is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 200 - GENERAL PROVISIONS - CIRCUIT AND DISTRICT COURTS

AMEND Rule 16-208(b) (2) (D) to add language clarifying that electronic devices may not be brought into a jury deliberation room after deliberations have begun, as follows:

RULE 16-208. CELL PHONES; OTHER ELECTRONIC DEVICES; CAMERAS

. . .

(b) Possession and Use of Electronic Devices

(1) Generally

Subject to inspection by court security personnel and the restrictions and prohibitions set forth in section (b) of this Rule, a person may (A) bring an electronic device into a court facility and (B) use the electronic device for the purpose of sending and receiving phone calls and electronic messages and for any other lawful purpose not otherwise prohibited.

(2) Restrictions and Prohibitions

(A) Rule 5-615 Order

An electronic device may not be used to facilitate or achieve a violation of an order entered pursuant to Rule 5-615

(d).

(B) Photographs and Video

Except as permitted in accordance with this Rule, Rules 16-502, 16-503, 16-504, or 16-603, or as expressly permitted by the Local Administrative Judge, a person may not (i) take or record a photograph, video, or other visual image in a court facility, or (ii) transmit a photograph, video, or other visual image from or within a court facility.

Committee note: The prohibition set forth in subsection (b)(2)(B) of this Rule includes still photography and moving visual images. It is anticipated that permission will be granted for the taking of photographs at ceremonial functions.

(C) Interference with Court Proceedings or Work

An electronic device shall not be used in a manner that interferes with court proceedings or the work of court personnel.

Committee note: An example of a use prohibited by subsection (b)(2)(C) of this Rule is a loud conversation on a cell phone near a court employee's work station or in a hall way near the door to a courtroom.

(D) Jury Deliberation Room

An electronic device may not be brought into a jury deliberation room after deliberations have begun.

(E) Courtroom

(i) Except with the express permission of the presiding judge or as otherwise permitted by this Rule, Rules 16-502, 16-503, 16-504, or 16-603, all electronic devices inside a courtroom shall remain off and no electronic device may be used

to receive, transmit, or record sound, visual images, data, or other information.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

ADD new Rule 16-807, as follows:

Rule 16-807. APPOINTMENT, COMPENSATION, DUTIES OF MAGISTRATES

(a) Standing Magistrates

(1) Application of Section

Section (a) of this Rule applies to standing magistrates identified as such by the State Court Administrator.

Cross reference: See Code, Courts Article, §2-501(e)(2), directing that the Administrative Office of the Courts shall identify the standing circuit court magistrates.

(2) Appointment; Compensation

A majority of the judges of the circuit court of a county may appoint full-time and part-time standing magistrates, provided that there is included in the State budget for the Judicial Branch an appropriation of an amount necessary to pay the salary and benefits of each magistrate. The salary and benefits of a standing magistrate may not be assessed as costs against a party to an action.

Cross reference: See Code, Courts Article, §2-501(e)(1) and (5), requiring that a standing circuit court magistrate hired on or after July 1, 2002, be a State employee and that the salary and benefits of the magistrate be included in the State budget. Magistrates who were in office at the time were given the option to remain as county employees, and some did so.

(3) Duties; Procedures

The duties of a standing magistrate and the procedures relating to matters referred to a standing magistrate shall be as set forth in the Maryland Rules or by other State law.

Cross reference: See Rules 2-541, 9-208, and 11-111.

Committee note: Magistrates have authority only over matters properly referred to them by the court. Their function is to conduct a hearing (unless one is waived), take evidence, and, based on the evidence, file a report with the court containing proposed findings of fact, conclusions of law, and a recommended disposition of the matter referred.

(b) Special Magistrates

(1) Appointment; Compensation

The circuit court of a county may appoint a special magistrate for a particular action, except proceedings on matters referable to a standing magistrate under Rule 9-208 or Rule 11-111. Unless the compensation of a special magistrate is paid with public funds, the court (A) shall prescribe the compensation of the special magistrate, (B) may tax the compensation as costs, and (C) may assess the costs among the parties.

Cross reference: See Code, Courts Article, § 2-102(b)(4) and (c) and § 2-501(b).

(2) Duties

The order of appointment of a special magistrate shall specify the powers and duties of the magistrate and may contain

special directions. Those powers, duties, and directions shall be consistent with the traditional function of magistrates.

Cross reference: See Committee note to subsection (a)(3) of this Rule.

(c) Officer of the Court; Tenure

A magistrate is an officer of the court in which the referred action is pending and serves at the pleasure of the court.

(d) Transcript

The costs of any transcript required to be prepared in connection with the referral of a matter to a magistrate may be included in the costs of the action and assessed among the parties as the court may direct.

Source: This Rule is derived in part from the 2018 version of Rules 2-541 (a) and (i) and 9-208 (j) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

ADD new Rule 16-808, as follows:

Rule 16-808. APPOINTMENT, COMPENSATION, DUTIES OF EXAMINERS

(a) Standing Examiners

(1) Appointment; Compensation

A majority of the judges of the circuit court of a county may appoint full-time and part-time standing examiners. The compensation of an examiner who is an employee of the court shall be as determined in the appropriate budget and may not be assessed as costs against a party to an action. Otherwise, the court shall prescribe the compensation, fees, and costs of the examiner and may assess them among the parties.

Cross reference: See Code, Courts Article, §2-501 (b) (1) requiring that each employee of a circuit court, including examiners, is entitled to compensation "as provided in the appropriate budget."

(2) Duties

The duties of a standing examiner shall be as set forth in the Maryland Rules or by other State law.

Cross reference: See Rule 2-542.

Committee note: Examiners have authority only over matters properly referred to them by the court. Their function is solely to take testimony and report that testimony to the court. Unlike magistrates, they do not make proposed findings of fact

or conclusions of law and do not recommend a disposition of the matter referred. See *Nnoli v. Nnoli*, 101 Md. App. 243, 261, n.5 (1994)

(b) Special Examiners

(1) Appointment; Compensation

The circuit court of a county may appoint a special examiner to take testimony in a particular action. Unless the compensation of a special examiner is paid with public funds, the court (A) shall prescribe the compensation of the special examiner, (B) may tax the compensation as costs, and (C) may assess the costs among the parties.

(2) Powers and Duties

The order of appointment of a special examiner shall specify the powers and duties of the special examiner and may contain special directions. Those powers, duties, and directions shall be consistent with and limited to the traditional role of examiners.

Cross reference: See the Committee note to subsection (a)(2) of this Rule.

(c) Officer of the Court; Tenure

An examiner is an officer of the court in which the referred action is pending and serves at the pleasure of the court.

(d) Transcript

The cost of any transcript required to be prepared in

connection with the referral of a matter to an examiner may be included in the costs of the action and assessed among the parties as the court may direct.

Source: This Rule is derived in part from the 2018 version of Rule 2-542 (a) and (i) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

ADD new Rule 16-809, as follows:

Rule 16-809. APPOINTMENT, COMPENSATION, DUTIES OF AUDITORS

(a) Standing Auditors

(1) Appointment; Compensation

A majority of the judges of the circuit court of a county may appoint standing auditors. The compensation of an auditor who is an employee of the court shall be as determined in the appropriate budget and may not be assessed as costs against a party to the action. Otherwise, subject to Code, Courts Article, § 2-102 (b) (1), the court shall prescribe the compensation, fees, and costs of the auditor and may assess them among the parties.

Cross references: Code, Courts Article, § 2-501(b) (1) provides that each employee of a circuit court, including auditors, is entitled to compensation as provided in the appropriate budget.

(2) Duties

The duties of a standing auditor and the procedures relating to matters referred to a standing auditor shall be as set forth in the Maryland Rules or by other State law.

Cross reference: See Rules 2-543, 13-502, 14-305.

Committee note: Auditors have been described as "the calculator

and accountant of the court, and when any calculations or statements are required, all the pleadings, exhibits and proofs are referred to him [or her], so that he [or she] be enabled to investigate and put the whole matter in proper order, for the action of the court." *German Luth. Church v. Heise*, 44 Md. 453, 64-65 (1876).

Cross reference: Section 2-102 (b) provides that a special auditor is entitled to reasonable compensation as set by the court but not less than \$15 for stating an account and that the fee may be taxed as costs or paid by the county.

(b) Special Auditor

(1) Appointment; Compensation

The circuit court of a county may appoint a special auditor for a particular action. Unless the special auditor is paid with public funds, the court shall prescribe the compensation, fees, and costs of the auditor and assess them against the parties.

(2) Powers and Duties

The order of appointment may specify or limit the powers of a special auditor and may contain special directions. Those powers shall be consistent with the traditional role of auditors.

Cross reference: See the Committee Note to subsection (a)(2) of this Rule.

(c) Officer of the Court; Tenure

An auditor is an officer of the court in which the referred action is pending and serves at the pleasure of the court.

(d) Transcript

The cost of any transcript required to be prepared in connection with the referral of a matter to an auditor may be included in the costs of the action and assessed among the parties as the court may direct.

Source: This Rule is derived in part from the 2018 version of Rule 2-543 (a) and (i) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

AMEND Rule 19-217 by revising the definition of "supervising attorney" in subsection (a)(4), as follows:

Rule 19-217. LEGAL ASSISTANCE BY LAW STUDENTS

(a) Definitions

As used in this Rule, the following terms have the following meanings:

(1) Law School

"Law school" means a law school that meets the requirements of Rule 19-201 (a)(2).

(2) Clinical Program

"Clinical program" means a law school program for credit in which a student obtains experience in the operation of the legal system by engaging in the practice of law that (A) is under the direction of a faculty member of the school and (B) has been approved by the Section Council of the Section of Legal Education and Admission to the Bar of the Maryland State Bar Association, Inc.

(3) Externship

"Externship" means a field placement for credit in a government or not-for-profit organization in which a law student obtains experience in the operation of the legal system by engaging in the practice of law, that (A) is under the direction of a faculty member of a law school, (B) is in compliance with the applicable American Bar Association standard for study outside the classroom, (C) has been approved by the Section Council of the Section of Legal Education and Admission to the Bar of Maryland State Bar Association, Inc., and (D) is not part of a clinical program of a law school.

(4) Supervising Attorney

"Supervising attorney" means (A) an attorney who is a member in good standing of the Bar of this State and whose service as a supervising attorney for the clinical program or externship is approved by the dean of the law school in which the law student is enrolled or by the dean's designee., or (B) an attorney who has been authorized to practice pursuant to Rule 19-215 and who certifies in writing to the Clerk of the Court of Appeals that the attorney has read and is familiar with the Maryland Attorneys' Rules of Professional Conduct, as well as the Maryland law and Rules relating to any particular area of law in which the individual intends to practice. Service as a supervising attorney for a clinical program or externship must

be approved by the dean of the law school in which the law student is enrolled or by the dean's designee.

Cross reference: See Rule 19-305.1 (5.1) for the responsibilities of a supervising attorney.

(b) Eligibility

A law student enrolled in a clinical program or externship is eligible to engage in the practice of law as provided in this Rule if the student:

(1) is enrolled in a law school;

(2) has read and is familiar with the Maryland Attorneys' Rules of Professional Conduct and the relevant Maryland Rules of Procedure; and

(3) has been certified in accordance with section (c) of this Rule.

(c) Certification

(1) Contents and Filing

The dean of the law school shall file the certification of a student with the Clerk of the Court of Appeals. The certification shall state that the student is in good academic standing and has successfully completed legal studies in the law school amounting to the equivalent of at least one-third of the

total credit hours required to complete the law school program. It also shall state its effective date and expiration date, which shall be no later than one year after the effective date.

(2) Withdrawal or Suspension

The dean may withdraw the certification at any time by mailing a notice to that effect to the Clerk of the Court of Appeals. The certification shall be suspended automatically upon the issuance of an unfavorable report of the Character Committee made in connection with the student's application for admission to the Bar. Upon any reversal of the unfavorable report, the certification shall be reinstated.

(d) Practice

In connection with a clinical program or externship, a law student for whom a certification is in effect may appear in any trial court or the Court of Special Appeals, or before any administrative agency, and may otherwise engage in the practice of law in Maryland, provided that the supervising attorney (1) is satisfied that the student is competent to perform the duties assigned, (2) assumes responsibility for the quality of the student's work, (3) directs and assists the student to the extent necessary, in the supervising attorney's professional judgment, to ensure that the student's participation is effective on behalf of the client the student represents, and

(4) accompanies the student when the student appears in court or before an administrative agency. The law student shall neither ask for nor receive personal compensation of any kind for service rendered under this Rule, but may receive academic credit pursuant to the clinical program or externship.

Source: This Rule is derived from former Rule 16 of the Rules Governing Admission to the Bar of Maryland (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

AMEND Rule 19-305.5 by adding a new section (e) pertaining to foreign attorneys and a new Comment [22], as follows:

Rule 19-305.5. UNAUTHORIZED PRACTICE OF LAW; MULTI-JURISDICTIONAL PRACTICE OF LAW (5.5)

(a) An attorney shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) An attorney who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the attorney is admitted to practice law in this jurisdiction.

(c) An attorney admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with an attorney who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the attorney, or a person the attorney is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the attorney's practice in a jurisdiction in which the attorney is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within subsections (c) (2) or (c) (3) of this Rule and arise out of or are reasonably related to the attorney's practice in a jurisdiction in which the attorney is admitted to practice.

(d) An attorney admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) are provided to the attorney's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) are services that the attorney is authorized to provide by federal law or other law of this jurisdiction.

(e) (1) In this section, "foreign attorney" means an attorney who (A) is not admitted to practice law in any United States jurisdiction, (B) is a member in good standing of a recognized legal profession in a country other than the United States and, as such, is authorized to practice law in that country, (C) is subject to effective regulation and discipline by a duly constituted professional body or a public authority of that country, and (D) has not been disbarred or suspended from the practice of law in any jurisdiction of the United States.

(2) A foreign attorney may not establish an office or other systematic and continuous presence in this State for the practice of law, or hold out to the public or otherwise represent that the attorney is admitted to practice law in this State. Any violation of this provision or any material misrepresentation regarding the requirements in subsection (e) (1) of this Rule by the foreign attorney will subject the foreign attorney to liability for the unauthorized practice of law.

(3) A foreign attorney, with respect to any matter, may
(A) act as a consultant to a Maryland attorney on the law and
practice in a country in which the foreign attorney is admitted
to practice, including principles of international law
recognized and enforced in that country and (B) in association
with a Maryland attorney who actively participates in the
matter, participate in discussions with a client of the Maryland
attorney or with other persons involved with the matter,
provided that the Maryland attorney shall remain fully
responsible to the client for all advice and other conduct by
the foreign attorney with respect to the matter.

...

[21] Sections (c) and (d) of this Rule do not authorize communications advertising legal services to prospective clients in this jurisdiction by attorneys who are admitted to practice in other jurisdictions. Rules 19-307.1 (7.1) to 19-307.5 (7.5) govern whether and how attorneys may communicate the availability of their services to prospective clients in this jurisdiction.

[22] Section (e) is not intended to permit a foreign attorney to be admitted *pro hac vice* in any proceeding, but it does not preclude the foreign attorney (1) from being present with a Maryland attorney at a judicial, administrative, or ADR proceeding to provide consultative services to the Maryland attorney during the proceeding, or (2) subject to Rule 5-702, from testifying as an expert witness.

. . .

Model Rules Comparison: Rule 19-305.5 (5.5) is substantially similar to the language of the Ethics 2000 Amendments to the ABA Model Rules of Professional Conduct, except that section (e) is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

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

Rule 20-101. DEFINITIONS

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

(a) Appellate Court

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

(b) Business Day

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

(c) Clerk

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

(d) Concluded

An action is "concluded" when

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

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

~~(e) Digital Signature~~

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

~~(f) Facsimile Signature~~

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

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

~~(g)~~ (e) Filer

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

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

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

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

~~(i)~~ (g) Hyperlink

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

~~(j)~~ (h) Judge

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(r)~~ (p) Redact

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

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

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

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

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

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

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

~~(u)~~ (s) Scan

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

~~(v)~~ (t) Signature

Unless otherwise specified, "signature" means ~~any of the following: a digital signature, a facsimile signature, a handwritten signature, or a typographical signature~~ the signer's typewritten name accompanied by a visual image of the signer's handwritten signature or by the symbol /s/.

Cross reference: Rule 20-107.

~~(w)~~ (u) Submission

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

Cross reference: See Rule 20-402.

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

"Tangible item" means an item that is not required to be filed electronically. A tangible item by itself is not a

submission; it may either accompany a submission or be offered in open court.

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

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

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

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

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

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

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

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-103 by restyling subsection (b)(1) and adding additional language pertaining to submission deficiencies, and by adding a Committee note following section (b), as follows:

Rule 20-103. ADMINISTRATION OF MDEC

(a) General Authority of State Court Administrator

Subject to supervision by the Chief Judge of the Court of Appeals, the State Court Administrator shall be responsible for the administration of the MDEC system and shall implement the procedures established by the Rules in this Title.

(b) Policies and Procedures

(1) Authority to Adopt

The State Court Administrator shall adopt policies and procedures that are ~~(A)~~ necessary or useful for the proper and efficient implementation of the MDEC System and ~~(B)~~ consistent with ~~(i)~~ the Rules in this Title, ~~(ii)~~ other provisions in the Maryland Rules that are not superseded by the Rules in this Title, and ~~(iii)~~ other applicable law. The policies and procedures may be supplemented by:

(A) examples of deficiencies in submissions that the State Court Administrator has determined constitute a material violation of the Rules in Title 20 or an applicable policy or procedure and justify the issuance of a deficiency notice under Rule 20-203(d); and,

(B) with the approval of the Chief Judge of the Court of Appeals, ~~the policies and procedures may include~~ the approval of pilot projects and programs in one or more courts to test the fiscal and operational efficacy of those projects or programs.

Committee note: The examples of deficiencies listed by the State Court Administrator are not intended (1) to be an exclusive or exhaustive list of deficiencies justifying the issuance of a deficiency notice, or (2) to preclude a judge from determining that the submission does not materially violate a Rule in Title 20 or an applicable policy or procedure. They are intended, however, to require the clerk to issue a deficiency notice when the submission is deficient in a manner listed by the State Court Administrator. See Rule 20-201(d).

(2) Publication of Policies and Procedures

Policies and procedures adopted by the State Court Administrator that affect the use of the MDEC system by judicial personnel, attorneys, or members of the public shall be posted on the Judiciary website and, upon written request, shall be made available in paper form by the State Court Administrator.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

~~(c)~~ Signature by Clerk

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

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

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

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

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

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

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

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

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

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

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

Rule 20-108. DELEGATION OF AUTHORITY TO FILE

(a) Attorneys

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

Cross reference: See Rule 1-311 (b) for the effect of signing pleadings and other papers.

(b) Judges and Judicial Appointees

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

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

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

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

Rule 20-201. REQUIREMENTS FOR ELECTRONIC FILING

. . .

(f) Service Contact Information

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

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

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

. . .

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-203 by deleting reference to all Rules in subsection (a) (2) except Rule 20-201 (g) and deleting the second sentence of that subsection, by deleting references to Rule 20-107 (a) (1) from section (c), by clarifying procedures pertaining to certain non-compliant submissions, by extending the time to resolve a deficiency in a filing to 14 days, and by providing for the refund of certain fees only upon motion and order of the court, as follows:

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

(a) Time and Scope of Review

(1) Inapplicability of Section

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

(2) Review by Clerk

As soon as practicable, the clerk shall review a submission for compliance with Rule ~~20-106, 20-107 (a) (1), 20-201 (d), (g), and (1)~~ and the published policies and procedures for acceptance established by the State Court Administrator.

~~Until the submission is accepted by the clerk, it remains in the clerk's queue and shall not be docketed.~~

(b) Docketing

(1) Generally

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

(2) Submission Signed by Judge or Judicial Appointee

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

(3) Submission Generated by Clerk

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

(c) Striking of Certain Non-compliant Submissions

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

(d) Deficiency Notice

(1) Issuance of Notice

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

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

(2) Judicial Review; Striking of Submission

The filer may file a request that the administrative judge, or a judge designated by the administrative judge, direct the clerk to withdraw the deficiency notice. Unless (A) the judge issues such an order, or (B) the deficiency is otherwise resolved within ~~10~~ 14 days after the notice was sent, upon notification by the clerk, the court shall strike the submission.

(e) Restricted Information

(1) Shielding Upon Issuance of Deficiency Notice

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

(2) Shielding of Unredacted Version of Submission

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

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

(3) Shielding on Motion of Party

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

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 - MISCELLANEOUS RULES

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

Rule 20-503. ARCHIVAL OF RECORDS

(a) Development of Plan

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

(b) Contents of Plan

The plan shall provide for:

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

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

transfer of permanent electronic records to the Maryland State Archives;

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

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

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

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

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

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

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

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

(c) Optional - Archives as Duplicate Repository

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

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

APPENDIX: COURT INTERPRETER INQUIRY QUESTIONS

DELETE the current Appendix: Court Interpreter Inquiry Questions and ADD the new Appendix: Court Interpreter Inquiry Questions, as follows:

Court Interpreter Inquiry Questions

All spoken and sign language interpreters appointed by the court may be asked the following questions at the beginning of the hearing:

- (a) State your full name.
- (b) Are you listed on the Maryland Court Interpreter Registry?
- (c) Do you have any potential conflicts of interest in this case?
- (d) Did you have an opportunity to speak with the person for whom interpreter services are to be provided before the hearing today to make sure you understand each other?
- (e) Do you anticipate any difficulties in communicating with that person?

Interpreters who are listed on the Maryland Court Interpreter Registry, regardless of whether they are qualified interpreters or certified interpreters, have been trained and determined eligible for service, and they need not be questioned other than to establish their status on the Registry. The following questions may be used when an interpreter who is not

listed on the Registry has been assigned to serve in a court proceeding. This may include interpreters provided through an approved agency. Agency interpreters may not have received training on interpreting in a legal setting. The court also may want to question interpreters who are listed on the Registry if the court is concerned about the interpreter's skills or ability or has a concern about ethical issues.

These questions are intended to elicit from a prospective interpreter, whether sign or spoken language, the information that the court needs to determine whether an individual is a competent court interpreter and whether the individual is an appropriate interpreter for the particular case.

- (1) Where are you employed currently?

(The court needs to determine whether there is any potential conflict due to full- or part-time employment of an interpreter or assignments as an independent contractor.)

- (2) How long have you known [sign/spoken] language?

(Research indicates that it takes between 6 to 10 years of language study and use before an individual has the language skills necessary to learn the interpreting process in his or her second language.)

- (3) Where did you learn [sign/spoken language]?

(A mix of formal and informal language training is an asset.)

- (4) Can you communicate fluently in [sign/spoken language]?

- (5) What is your educational background?

(Formal education may vary dramatically among interpreters, depending on their cultural heritage. Because of the complexity of interpreting, the court is urged not to accept an interpreter on the basis of the court's examination unless the interpreter has at least a high school education or its cultural equivalent.)

- (6) What formal interpreter training have you undertaken?

(7) Are you certified? By whom? What is your certification called?

(For ASL interpreters, the court should ask whether they are certified by the Registry of Interpreters for the Deaf (RID) or by the National Association of the Deaf (NAD).)

(8) Have you spent time in a country where the spoken language is used?

(9) Are you active in any professional organization?

(10) How many times have you interpreted in court and in what kinds of situations?

(11) What process would you use to inform the Court of an error in your interpretation?

(12) Do you have, in a state or federal court of record, a pending criminal charge or criminal conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than 6 months for which you have not been pardoned or for which the charge or conviction has not been expunged?