

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its Two Hundred and Twenty-First Report to the Supreme Court of Maryland, recommending proposed new Rules 1-342, 6-109, and 11-420.2, amendments to current Rules 1-332, 2-341, 3-633, 3-634, 4-242, 5-609, 5-702, 6-108, 6-122, 6-202, 6-316, 6-416, 6-454, 7-112, 8-303, 8-511, 9-103, 9-109, 9-111, 10-112, 16-101, 16-912, 16-934, 18-102.3, 18-103.9, 18-202.3, 20-101, 20-109, and 21-301, and amendments to current Forms 9-102.1, 9-102.2, 9-102.3, 9-102.4, 9-102.5, 9-102.6, 9-102.7, 9-102.8, 9-102.9, and 11-309.

The Committee's Two Hundred and Twenty-First Report and the proposed Rules changes are set forth below.

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before March 4, 2024 any written comments they may wish to make to rules@mdcourts.gov or:

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**THE SUPREME COURT OF MARYLAND
STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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February 2, 2024

The Honorable Matthew J. Fader,
Chief Justice

The Honorable Shirley M. Watts
The Honorable Michele D. Hotten
The Honorable Brynja M. Booth
The Honorable Jonathan Biran
The Honorable Steven B. Gould
The Honorable Angela M. Eaves,
Justices

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

Your Honors:

The Rules Committee submits this, its Two Hundred and Twenty-First Report, and recommends that the Court adopt several new Rules and the amendments to existing Rules and Forms submitted with this Report. There are ten categories of proposed changes. Proposals in Categories One, Two, and Five relate to problems identified and recommendations made in the Report of the Rules Review Subcommittee of the Maryland Committee on Equal Justice, which was referred to the Rules Committee by the Judicial Council in March of 2023.

CATEGORY ONE deals with accommodations for persons with disabilities (Rule 1-332). The current Rule is tied to accommodations under the Americans with Disabilities Act (ADA). The Committee proposes amendments that would address and provide accommodations for **persons with disabilities** in light of any applicable State or Federal law, and not just accommodations under the ADA. See proposed new sections (b)(1), (b)(3), (d), and (e).

CATEGORY TWO deals with the problem of bias – actual and implicit bias – through proposed new Rule 1-342 and amendments to Rules 18-102.3 and 18-202.3. These provisions are in the nature of reminders to judicial personnel of the need to be aware of how participants in judicial proceedings and members of the public may construe the manner in which judicial

statements or decisions are expressed and enforced, so judicial personnel can avoid making statements or taking actions that others may feel indicate a bias that is not intended. See, in particular, the Comments added to Rules 18-102.3 and 18-202.3.

CATEGORY THREE deals with small claims actions and post-judgment discovery through amendments to Rules 3-633, 3-634, and 7-112. The amendments to Rules 3-633 and 3-634 implement Chapter 709 of the 2023 Laws of Maryland that prohibits the District Court from ordering an individual involved in a small claim money judgment action to appear for examination in aid of execution or to answer interrogatories. The new statute applies only to actions in the District Court. The proposed amendment to Rule 7-112 applies the prohibition against discovery to post-judgment discovery in de novo appeals to the circuit court. The Committee regards that as a harmonizing provision.

CATEGORY FOUR, which deals with pleas, adds a new section (f) to Rule 4-242 to implement 2023 Laws of Maryland, Chapters 710 and 711 that create a new type of plea that is coupled with an agreement between the defendant and the State.

CATEGORY FIVE provides amendments to Rules 5-609, 5-702, and 21-301 that deal with the admission of evidence. Rule 5-609 deals with impeachment by evidence of conviction of a crime. Two amendments are proposed. An amendment to section (a) precludes impeachment by a conviction for possession or distribution of a controlled dangerous substance. An amendment to section (b) reduces the time bar for impeachment from 15 years to 10 years. That makes the provision compatible with Federal Rule of Evidence 609.

Three amendments are proposed to Rule 5-702, which deals with testimony by expert witnesses. The test for admissibility is whether that testimony will assist the trier of fact to understand the other evidence or determine a fact in issue. The first amendment requires that determination to be made by a preponderance of the evidence. The second requires the court, in determining whether a sufficient factual basis exists to support the expert's opinion, to base that determination on whether the opinion has an adequate supply of facts or data and reflects a reliable application of reliable principles and methods to the facts of the case. The third amendment adds a cross-reference.

Other than the cross-reference, those amendments make the Rule more consistent with Federal Rule 702.

One amendment is proposed to Rule 21-301, which deals with remote electronic participation in criminal and delinquency proceedings. It allows pretrial hearings involving Rule 5-702 to be conducted remotely where the proposed expert witness is the sole participant to appear remotely. As

explained in the Reporter's note, the issue here may involve *Daubert* proceedings. Rule 21-201, which deals with civil proceedings, permits expert witnesses to testify remotely under certain circumstances. The amendment to Rule 21-301 extends that ability to criminal proceedings.

CATEGORY SIX deals with domestic partnerships, which, with some exceptions, are, by statute, treated as the equivalent of a marriage. *See* 2023 Laws of Maryland, Chapter 647. Proposed are amendments to Rules 6-108, 6-122, 6-202, 6-316, 10-112, and 16-912 and a new Rule 6-109.

In Rule 6-108, a new section (c) is added to require the Registers of Wills to accept for filing declarations of domestic partnership and declarations of termination of such partnerships that comply with the requirements of Code, Estates and Trusts Article, § 2-214. Conforming amendments are proposed to Rules 6-122, 6-202, 6-316, and 10-112.

An amendment to Rule 16-912 requires a custodian to deny inspection of the portion of a declaration of domestic partnership or of termination of such a partnership that contains the home address of either domestic partner. New Rule 6-109 deals with relationships established under domestic partnership laws in other States.

CATEGORY SEVEN consists of amendments to Rules 8-303 and 8-511, both being appellate Rules. The amendments to Rule 8-303, referred by the Chief Justice, permit a waiver of costs when the petitioner attests in writing or the court determines that the petitioner is (1) not represented by an attorney, and (2) by court order, is confined in a correctional or detention facility governed by Code, Health-General Article, Title 10. That is followed by an explanatory Committee note.

The amendment to Rule 8-511 requires a person requesting permission to file an amicus brief to attach to the person's motion the brief the person intends to file. If the motion is granted, the requisite number of paper copies of the brief must be filed.

CATEGORY EIGHT deals with adoptions and guardianships and consists of amendments to Rules 9-103, 9-109, and 9-111 and Forms 9-102.1, 9-102.2, 9-102.3, 9-102.4, 9-102.5, 9-102.6, 9-102.7, 9-102.8, 9-102.9, and 11-309.

As noted in **Category Six**, Chapter 647 of the 2023 Laws of Maryland, with certain exceptions, treats registered domestic partnerships as the equivalent of a marriage. **Category Six** deals with the impact of the statute on Rules in Title 6 of the Maryland Rules, which govern probate proceedings. The statute also affects proceedings under Title 9, Chapter 100 of the Maryland Rules, which deal with guardianships and adoptions, and conforming amendments are proposed to Rules 9-103 and 9-111 and Forms 9-102.2 and

9-102.3. Other amendments requiring additional information in a petition regarding any termination of parental rights, the health of the child, and whether the Federal Indian Child Welfare Act applies also are added to those Rules and others.

Rule 9-109 is amended to clarify whose presence is required or permitted at a final adoption hearing. That is explained in the Reporter's note to the Rule.

CATEGORY NINE proposes the adoption of new Rule 11-420.2, intended to implement 2023 Maryland Laws, Chapters 686 and 687, which prohibit a child from being prosecuted criminally or being the subject of a delinquency petition if the alleged offense was committed as a direct result of the child being a victim of sex trafficking or human trafficking.

FINALLY, CATEGORY TEN proposes amendments to Rules 2-341, 6-416, 16-934, 20-109 and housekeeping amendments to Rules 6-454, 16-101, 18-103.9, and 20-101.

Current Rule 2-341 precludes a party from filing an amendment to a pleading without leave of court less than 30 days before a scheduled **trial** date. An amendment is proposed to preclude a party from filing an amendment to a pleading less than **15** days before a scheduled motions hearing concerning that pleading without leave of court and for good cause shown.

The Committee proposes to delete from Rule 6-416 a mandated consent to compensation form. The intent is to substitute a form approved by the Register of Wills Association with the assistance of the Attorney General's Office, which could be amended more easily than a form that is mandated by Rule.

Rule 16-934 deals with the inspection of case records. Its purpose is to authorize a court, under certain circumstances, to permit inspection of a case record not otherwise subject to inspection or to deny inspection of a case record that otherwise would be subject to inspection. The proposed amendment is to require, in the former situation, service on each identifiable person who is a subject of the case record.

Rule 20-109 deals with access to electronic records in MDEC actions. In order to resolve an existing problem and others like it that may well surface, the Committee recommends an amendment that, in an action in which a business entity established under any State or Federal law is a party, would allow the business entity to designate in writing a registered user who would have remote access to all case records in the action but not be able to file in the action.

The amendments to Rules 6-454, 16-101, 18-103.9, and 20-101 are conforming ones.

For the further guidance of the Court and the public, following the proposed new Rules and the proposed amendments to each existing Rule is a Reporter's note describing in further detail the reasons for the proposals. We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully Submitted,

/ s /

Alan M. Wilner
Chair

AMW:sdm

cc: Gregory Hilton, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 300 – GENERAL PROVISIONS

AMEND Rule 1-332 by updating the name of the Rule; by adding new section (a) addressing the application of the Rule; by re-lettering current section (a) as section (b); by adding new subsection (b)(1) defining “accommodation” and new subsection (b)(3) defining “person with a disability”; by renumbering current subsections (a)(1) and (a)(2) as (b)(2) and (b)(4), respectively; by re-lettering current section (b) as section (c) and updating the tagline; by adding and deleting language from section (c) concerning a request for accommodation; by adding a Committee note after section (c); by adding new section (d) addressing the determination of a request for accommodation; by adding new subsection (d)(1) about the authority to determine a request; by adding a Committee note after subsection (d)(1); by adding new subsection (d)(2) listing the general factors in determining a request; by adding a Committee note after subsection (d)(2); by renumbering current section (b)(2) as new subsection (d)(3), updating the tagline, and adding language to the subsection regarding appointment of a sign language interpreter; by deleting current subsection (b)(3); by adding new subsection (d)(4) concerning administrative decisions; by adding new subsection (b)(5) addressing notification of a determination; by adding new section (e) requiring submission of an annual report to the State Court Administrator and publication of certain data on the Judiciary website; and by making stylistic changes, as follows:

Rule 1-332. ~~ACCOMMODATION UNDER THE AMERICANS WITH~~
~~DISABILITIES ACT~~ ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

(a) Application

This Rule applies to accommodations for persons with disabilities.

(b) Definitions

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

(1) Accommodation

“Accommodation” means a measure necessary to make a court service, program, or activity, when viewed in its entirety, as accessible as practicable to and usable by a person with a disability. An accommodation may include:

(A) a reasonable modification in policy, practice, or procedure consistent with Maryland and federal law;

(B) a reasonable modification to a deadline or time limit that does not alter a statutory deadline or a statute of limitations;

(C) remote participation by a party or witness in accordance with Title 21 of these Rules; and

(D) as necessary and practicable, an auxiliary aid or service, including equipment, a non-personal device, materials in an alternative format, a qualified interpreter, or a reader that is made available without charge.

(1)(2) ADA

“ADA” means the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

(3) Person with a Disability

“Person with a disability” means an individual with a mental or physical disability, including a sensory disability, as defined by the Americans with Disabilities Act, 42 U.S.C. § 12101 et. seq.

~~(2)~~(4) Victim

“Victim” includes a victim's representative as defined in Code, Criminal Procedure Article, § 11-104.

~~(b)~~(c) Accommodation Under the ADA Request for Accommodation

~~(1)~~ Notification of Need for Accommodation

~~A person~~ An attorney, party, witness, victim, juror, prospective juror, or other individual with court business requesting an accommodation under the ADA or other applicable Maryland or federal law for an attorney, a party, a witness, a victim, a juror, or a prospective juror shall notify the court promptly. To the extent practicable, a request for an accommodation shall be (1) presented on a form approved by ~~administrative order of the Supreme Court~~ the State Court Administrator, posted on the Judiciary website, and available from the clerk of the court, and on the Judiciary website and (2) submitted not less than 30 days before the proceeding for which the accommodation is requested.

Committee note: If a request for accommodation is made less than 30 days before the proceeding for which the accommodation is requested, the court may consider the reasons for the request and any other requests for accommodations as circumstances require.

(d) Determination of Request

(1) Authority to Determine

The court shall determine an accommodation request that involves the rescheduling of a case, motion before the court, or other matter that involves the administration of court proceedings or the substantive rights of litigants.

The court may designate an ADA coordinator or other administrative individual to determine other requests.

Committee note: Accommodation decisions that can be handled administratively include requests that involve facilities, furniture, and other accommodations that can be provided without the court's intervention.

(2) Factors – Generally

In determining whether to grant an accommodation and what accommodation to grant, the court or the court's administrative designee shall:

(A) consider the provisions of the ADA and applicable Federal regulations adopted under (i) the ADA; (ii) Code, State Government Article, §§ 10-301 through 10-305; (iii) Code, Courts Article, § 9-114; (iv) Code, Criminal Procedure Article, §§ 1-202 and 3-103; and (v) other applicable Maryland and federal law;

(B) give primary consideration to the accommodation requested;

(C) consider whether an accommodation would cause substantial prejudice to a party or unduly burden the court; and

(D) make the determination on an individual and case-specific basis, with due regard to the nature of the disability and the feasibility of the requested accommodation.

Committee note: In considering accommodations for a person with a disability, the primary focus shall be on accommodations that enable the individual to participate in or qualify for a service or activity, and not on the extent of the individual's impairment.

(2)(3) Request for Sign Language Interpreter

The If the accommodation requested is the provision of a sign language interpreter, the court shall determine whether a sign language interpreter is needed in accordance with the requirements of the ADA; Code, Courts Article, § 9-114; and Code, Criminal Procedure Article, §§ 1-202 and 3-103. If the request is granted, the court shall appoint a sign language interpreter in accordance with Rule 1-333 (c).

(3) Provision of Accommodation

The court shall provide an accommodation if one is required under the ADA. If the accommodation is the provision of a sign language interpreter, the court shall appoint one in accordance with Rule 1-333 (c).

(4) Administrative Decisions

An ADA coordinator may respond to a request for accommodation if the request can be handled administratively.

(5) Notification of Determination

The court or its administrative designee promptly shall notify the requestor of the accommodation determination. If a requested accommodation is denied, the court or its administrative designee shall specify the reason for the denial.

(e) Publication of Data on Accommodation Requests

Each court shall submit an annual report to the State Court Administrator containing data on the number and types of accommodation requests submitted and the types of accommodations granted, without identifying information and in a manner that protects the identities of those requesting accommodations. The State Court Administrator shall publish a compilation of the data on the Judiciary website.

Source: This Rule is new.

REPORTER'S NOTE

Amendments to Rule 1-332 were recently suggested in the Report and Recommendations of the Maryland Committee on Equal Justice Rules Review Subcommittee (the "EJC Report"). The EJC Report endorses the amendments proposed to Rule 1-332 by the Court Access & Community Relations Committee. Before the Judicial Council approved the EJC Report for dissemination in March 2023, the Court Access & Community Relations Committee's proposed amendments had been considered by the General Court Administration Subcommittee of the Rules Committee at two Subcommittee meetings. After the Judicial Council's approval of the EJC Report, the Subcommittee again reviewed the proposed amendments, as well as the discussion in the EJC Report. Although several stylistic and substantive modifications were made, the proposed amendments to Rule 1-332 approved by the Rules Committee maintain many of the changes requested by the Court Access & Community Relations Committee.

The Rule is renamed to more broadly address accommodations for persons with disabilities instead of only accommodations under the Americans with Disabilities Act ("the ADA"). New section (a) addresses the broader application, noting that the Rule applies to accommodations for persons with disabilities.

Rule 1-332 (b) contains relevant definitions. New subsection (b)(1) defines "accommodation" and includes examples of accommodations to provide further guidance to courts and administrators. The proposed amendments from the Court Access & Community Relations Committee included, as an example of a possible accommodation in subsection (b)(1), representation by

counsel for an unrepresented party. The Rules Committee declined to include this portion of the definition.

New subsection (b)(3) defines the phrase “person with a disability.” Former subsections (a)(1) and (a)(2) are renumbered as subsections (b)(2) and (b)(4), respectively.

Former section (b) is re-lettered as section (c) and the tagline is updated to refer more broadly to a request for accommodation. The language of the section is also updated to clarify who may file a request for accommodation and to indicate that an accommodation may also be requested under Maryland or federal law in addition to the ADA. To the extent practicable, the request is to be made on a form that the State Court Administrator has approved. Approval of the form by administrative order of the Supreme Court no longer is required.

A new Committee note after section (c) encourages consideration of the reasons for a request for accommodation, even if the request is submitted less than 30 days before the proceeding.

New section (d) addresses how accommodation requests are determined. Although the court must determine requests that involve the administration of court proceedings or the substantive rights of parties, subsection (d)(1) permits an ADA coordinator or other administrative individual to determine other requests. A Committee note after the subsection provides examples of accommodation decisions that can be handled administratively.

New subsection (d)(2) sets forth the factors that are considered when determining whether to grant a request for accommodation. A Committee note following the subsection highlights that consideration of a request for accommodation should focus on the impact of the accommodation and not on the extent of the individual’s impairment.

Current subsection (d)(2) is renumbered as subsection (d)(3) and the tagline is updated for clarity. Additional language, derived from current subsection (b)(3), clarifies that appointments of sign language interpreters are made in accordance with Rule 1-333 (c). Current subsection (b)(3) is proposed to be deleted.

New subsection (d)(4) explains that an ADA coordinator may respond to accommodation requests that can be handled administratively. New subsection (d)(5) requires the requestor to be notified promptly of the accommodation decision and provided with a reason for any denial.

New section (e) provides for the collection and publication of data about requests for accommodations in the courts. The section requires each court to submit an annual report to the State Court Administrator with data on the

number and types of accommodation requests submitted and granted, excluding any identifying information. A compilation of the data is to be published on the Judiciary website.

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 300 – GENERAL PROVISIONS

ADD new Rule 1-342, as follows:

Rule 1-342. FAIRNESS; RECOGNITION OF POTENTIAL BIAS

Judges, magistrates, clerks, and other judicial personnel shall remain mindful of whether their decisions or the manner in which decisions are made, expressed, or enforced could reasonably be perceived as reflecting an impermissible actual or implicit bias on the part of the person making, expressing, or enforcing the decision and, if so, take all lawful and reasonable steps to avoid the basis for such a perception.

Committee note: Judges, magistrates, clerks, and other judicial personnel must make decisions – both large and small - that affect the rights or status or perceived rights or status of diverse individuals and organizations. In addition to being consistent with what the law permits or requires, those decisions and the manner in which they are expressed or enforced must not be based upon or reflect impermissible actual or implicit bias on the part of the person making, expressing, or enforcing the decision.

Source: This Rule is new.

REPORTER'S NOTE

In March 2023, the Judicial Council approved for dissemination the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee (hereinafter “the EJC Report”). The Subcommittee was tasked with identifying instances in the Rules which “reflect, perpetuate, or fail to correct systemic biases.”

One recommendation from the EJC Report was that the Rules Committee consider adding Committee notes to Title 4 of the Rules to remind judges of the risks of implicit bias. The EJC Report explained, “The goal is not to direct judges to make racially informed decisions, but to ensure that judges understand and take account of the potential role of race in their applications of the rules, thus minimizing implicit and systemic bias.” The recommendation to consider adding Committee notes to Title 4 was made in tandem with a recommendation that the Education Committee of the Judicial Council consider modifications to the New Trial Judge Orientation Program to help judges recognize and compensate for implicit and systemic bias.

Upon review of the recommendation, the Rules Committee determined that the risks of implicit bias may impact more than criminal causes. Instead of adding multiple Committee notes throughout Title 4, the Committee recommends the addition of new Rule 1-342 to Title 1 and amendments to Rules 18-102.3 in Title 18 to ensure a broader application of the principles set forth in the EJC Report.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING THE PERFORMANCE OF JUDICIAL DUTIES

AMEND Rule 18-102.3 by adding language to Comment [2] and by making a stylistic change to Comment [4], as follows:

Rule 18-102.3. BIAS, PREJUDICE, AND HARASSMENT

(a) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(b) In the performance of judicial duties, a judge shall not, by words or conduct, manifest bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. A judge shall require attorneys in proceedings before the court, court staff, court officials, and others subject to the judge's direction and control to refrain from similar conduct.

(c) The restrictions of section (b) of this Rule do not preclude judges or attorneys from making legitimate references to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

COMMENT

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] A judge must avoid conduct that may reasonably be perceived as prejudiced or biased. A judge must make decisions – both large and small –

that affect the rights or status or perceived rights or status of diverse individuals and organizations. In making a decision, a judge always must remain mindful of whether the decision, or the manner in which it is made, expressed, or enforced, could reasonably be perceived as reflecting an impermissible actual or implicit bias on the part of the judge and, if so, take all lawful and reasonable steps to avoid the basis for such a perception. Examples of manifestations of bias or prejudice include epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and attorneys in the proceeding, jurors, the media, and others an appearance of bias or prejudice.

[3] Harassment, as referred to in section (b) of this Rule, is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes sexual advances, requests for sexual favors, conduct of a sexual nature through the use of electronic communication that alarms or seriously annoys another, and other unwelcome verbal or physical conduct of a sexual nature ~~that is unwelcome~~.

Source: This Rule is derived from former Rule 2.3 of Rule 16-813 (2016).

REPORTER'S NOTE

Amendments to Rule 18-102.3 are proposed based on the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee. For further details, see the Reporter's note to proposed new Rule 1-342.

Proposed amendments to Comment [2] in Rule 18-102.3 remind judges that they must remain mindful of whether a decision, or the manner in which the decision is made, expressed, or enforced, could reasonably be perceived as reflecting an impermissible actual or implicit bias on the part of the judge. The new language also indicates that judges should take all lawful and reasonable steps to avoid the basis for any perception of such bias.

An amendment to Comment [4] is stylistic, only.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING THE PERFORMANCE OF A JUDICIAL APPOINTEE’S

DUTIES

AMEND Rule 18-202.3 by adding language to Comment [2] and by making a stylistic change to Comment [4], as follows:

Rule 18-202.3. BIAS, PREJUDICE, AND HARASSMENT

(a) A judicial appointee shall perform the duties of the position, including administrative duties, without bias or prejudice.

(b) In the performance of the judicial appointee's duties, a judicial appointee shall not, by words or conduct, manifest bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

A judicial appointee shall require attorneys in proceedings before the judicial appointee, court staff, court officials, and others subject to the judicial appointee's direction and control to refrain from similar conduct.

(c) The restrictions of section (b) of this Rule do not preclude judicial appointees or attorneys from making legitimate references to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

COMMENT

[1] A judicial appointee who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] A judicial appointee must avoid conduct that may reasonably be perceived as prejudiced or biased. A judicial appointee must make decisions – both large and small – that affect the rights or status or perceived rights or status of diverse individuals and organizations. In making a decision, a judicial appointee always must remain mindful of whether the decision, or the manner in which it is made, expressed, or enforced, could reasonably be perceived as reflecting an impermissible actual or implicit bias on the part of the judicial appointee and, if so, take all lawful and reasonable steps to avoid the basis for such a perception. Examples of manifestations of bias or prejudice include epithets, slurs, demeaning nicknames, negative stereotyping, attempted humor based upon stereotypes, threatening, intimidating, or hostile acts, suggestions of connections between race, ethnicity, or nationality and crime, and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and attorneys in the proceeding, the media, and others an appearance of bias or prejudice.

[3] Harassment, as referred to in section (b) of this Rule, is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes sexual advances, requests for sexual favors, conduct of a sexual nature through the use of electronic communication that alarms or seriously annoys another, and other unwelcome verbal or physical conduct of a sexual nature ~~that is unwelcome~~.

Source: This Rule is derived from former Rule 2.3 of Rule 16-814 (2016).

REPORTER'S NOTE

Amendments to Rule 18-202.3 are proposed based on the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee. For further details, see the Reporter's note to proposed new Rule 1-342.

Proposed amendments to Comment [2] in Rule 18-202.3 remind judicial appointees that they must remain mindful of whether a decision, or the

manner in which the decision is made, expressed, or enforced, could reasonably be perceived as reflecting an impermissible actual or implicit bias on the part of the judicial appointee. The new language also indicates that judicial appointees should take all lawful and reasonable steps to avoid the basis for any perception of such bias.

An amendment to Comment [4] is stylistic, only.

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

AMEND Rule 3-633 by adding a provision to section (a) prohibiting discovery in aid of execution in money judgments arising out of small claim actions and by adding a cross reference following section (a), as follows:

Rule 3-633. DISCOVERY IN AID OF ENFORCEMENT

(a) Methods

~~Except~~ Unless a money judgment arises out of a small claim action against an individual and except as otherwise provided in Rule 3-634, a judgment creditor may obtain discovery to aid enforcement of a money judgment (1) by use of interrogatories pursuant to Rule 3-421, and (2) by examination before a judge or an examiner as provided in section (b) of this Rule.

Committee note: The discovery permitted by this Rule is in addition to the discovery permitted before the entry of judgment, and the limitations set forth in Rule 3-421(b) apply separately to each. Thus, leave of court is not required under Rule 3-421 to serve one set of not more than 15 interrogatories on a judgment debtor solely because interrogatories were served upon that party before the entry of judgment.

Cross reference: See Code, Courts Article, § 11-704, prohibiting the District Court from ordering an individual to (1) appear for examination or (2) answer interrogatories in aid of execution of a money judgment arising out of a small claim action.

(b) Examination before a Judge or an Examiner

(1) Generally

Subject to section (c) of this Rule, on request of a judgment creditor filed no earlier than 30 days after entry of a money judgment, the court where the judgment was entered or recorded shall issue an order requiring the appearance for examination under oath before a judge or person authorized by the Chief Judge of the Court to serve as an examiner of (A) the judgment debtor, or (B) any other person who may have property of the judgment debtor, be indebted for a sum certain to the judgment debtor, or have knowledge of any concealment, fraudulent transfer, or withholding of any assets belonging to the judgment debtor.

(2) Order

(A) The order shall specify when, where, and before whom the examination will be held and that failure to appear may result in (i) the issuance of a body attachment directing a law enforcement officer to take the person served into custody and bring that person before the court and (ii) the person served being held in contempt of court.

Cross reference: See Rule 1-361.

(B) The order shall be served upon the judgment debtor or other person in the manner provided by Rule 3-121, but no body attachment shall issue in the event of a non-appearance absent a determination by the court that (i) the person to whom the order was directed was personally served with the order in the manner described in Rule 3-121 (a)(1) or (3), or (ii) that person has been evading service willfully, as shown by a particularized affidavit based on personal knowledge of a person with firsthand knowledge.

(3) Sequestration

The judge or examiner may sequester persons to be examined, with the exception of the judgment debtor.

Cross reference: Code, Courts Article, §§ 6-411 and 9-119.

(c) Subsequent Examinations

After an examination of a person has been held pursuant to section (b) of this Rule, a judgment creditor may obtain additional examinations of the person in accordance with this section. On request of the judgment creditor, if more than one year has elapsed since the most recent examination of the person, the court shall order a subsequent appearance for examination of the person. If less than one year has elapsed since the most recent examination of the person, the court may require a showing of good cause.

Source: This Rule is derived as follows:

Section (a) is derived from former M.D.R. 627.

Section (b) is in part new and in part derived from former M.D.R. 628 b.

Section (c) is new.

REPORTER'S NOTE

Chapter 709, 2023 Laws of Maryland (HB 127) adds § 11-704 to the Courts Article.

The new provision, pertaining to money judgments arising out of small claim actions, prohibits the District Court of Maryland from ordering an individual to (1) appear for examination in aid of execution or (2) answer interrogatories in aid of execution.

Section (a) of Rule 3-633 is proposed to be amended to conform to the new statutory provision. A cross reference to the new Code provision is proposed to be added after section (a).

Conforming and harmonizing amendments to Rules 3-634 and 7-112 also are proposed.

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

AMEND Rule 3-634 by adding provisions to subsections (a)(1) and (a)(2) exempting money judgments obtained in connection with small claim actions from the Rule, as follows:

Rule 3-634. JUDGMENT DEBTOR FACT INFORMATION SHEET

(a) Entry of Money Judgment Against an Individual

(1) Notice by Clerk

Upon entry of a money judgment against an individual, unless the money judgment arises out of a small claim action, the clerk shall provide or send to the judgment debtor a Notice substantially in the following form:

NOTICE

You may receive a form from the plaintiff or the plaintiff's attorney requesting information under oath about you, your employment, and your assets, liabilities, income, and expenses. You do not have to complete and return that form, but if you fail to do so within the time allowed, you may be summoned to appear and undergo an examination under oath before a judge or examiner regarding those matters. If you fully complete and return the completed Fact Information Sheet within the time allowed, you will not be subject to discovery in aid of enforcement for at least one year from the entry of

the judgment against you, unless the judgment creditor has been granted leave of court for good cause shown.

Committee note: This Notice may accompany or be included in the copy of the judgment that the clerk sends to the judgment debtor pursuant to Rule 1-324.

(2) Request by Judgment Creditor

Subject to section (c) of this Rule, no earlier than 10 days after entry of a money judgment not arising out of a small claim action, a judgment creditor may obtain discovery in aid of enforcement of a money judgment against an individual by sending to the judgment debtor a Fact Information Sheet substantially in the form approved by the State Court Administrator. The judgment creditor may not modify the approved form to request additional information, but may delete from the form categories of information sought. The Fact Information Sheet shall include a request that the judgment debtor complete the document and return the completed document to the judgment creditor at the address stated in the Form no later than 30 days after the date the form was mailed or otherwise delivered to the judgment debtor.

(b) Fact Information Sheet

(1) Content

The Fact Information Sheet may elicit information pertaining to the income, expenses, assets, and liabilities of the judgment debtor, shall be under oath, and shall include:

(A) An advisement that: (i) the judgment debtor is not required to complete and return the form, but if the debtor fails to do so within the time specified, the debtor may be summoned to appear and undergo an examination before a

judge or examiner regarding the debtor's income, expenses, assets, and liabilities; and (ii) if the judgment debtor fully completes and returns the completed Fact Information Sheet within the time allowed, the debtor will not be subject to discovery in aid of enforcement for at least one year from the entry of the judgment against the debtor unless the judgment creditor has been granted leave of court for good cause shown; and

(B) Information about web-based and in-person resources available to assist self-represented judgment debtors with completion of the Fact Information Sheet and other post-judgment matters.

(2) Posting

The form and content of the Fact Information Sheet approved by the State Court Administrator shall be posted on the Judiciary website.

(3) If the form requests, and the judgment debtor supplies, the judgment debtor's Social Security Number, financial account information, or tax return copies, the judgment creditor shall keep that information confidential and not disclose it to any other person except to the extent necessary to pursue collection efforts authorized by law to collect the judgment or any other judgment against the same individual owed to that judgment creditor.

(c) Other Discovery in Aid of Enforcement

If a judgment debtor who is an individual fully completes a Fact Information Sheet and transmits the completed document to the judgment creditor within the time specified in the Fact Information Sheet, the judgment

creditor may not obtain discovery in aid of enforcement by any method listed in Rule 3-633 (a) unless:

- (1) at least one year has elapsed after entry of the judgment, or
- (2) if less than one year has elapsed, the judgment creditor, for good cause shown, has been granted leave of court to obtain the discovery.

Source: This Rule is new.

REPORTER'S NOTE

Chapter 709, 2023 Laws of Maryland (HB 127) adds § 11-704 to the Courts Article.

The new provision, pertaining to money judgments arising out of small claim actions, prohibits the District Court of Maryland from ordering an individual to (1) appear for examination in aid of execution or (2) answer interrogatories in aid of execution.

The statutory change necessitated revisions to section (a) of Rule 3-633.

Amendments to subsections (a)(1) and (a)(2) of Rule 3-634 are proposed to provide that Rule 3-634 no longer applies to money judgments arising out of small claim actions and to harmonize Rule 3-634 with the proposed revisions to Rule 3-633.

MARYLAND RULES OF PROCEDURE

TITLE 7 – APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT

CHAPTER 100 – APPEALS FROM THE DISTRICT COURT TO THE CIRCUIT
COURT

AMEND Rule 7-112 by adding a provision to subsection (d)(2) prohibiting discovery in aid of execution in money judgments arising out of small claim actions, as follows:

Rule 7-112. APPEALS HEARD DE NOVO

...

(d) Procedure in Circuit Court

(1) The form and sufficiency of pleadings and the capacity requirements in an appeal to be heard de novo are governed by the rules applicable in the District Court. A charging document may be amended pursuant to Rule 4-204.

(2) If the action in the District Court was tried under Rule 3-701, there shall be no pretrial discovery under Chapter 400 of Title 2, the circuit court shall conduct the trial de novo in an informal manner, and there shall be no post-judgment discovery under Chapter 600 of Title 2. Title 5 of these rules does not apply to the proceedings.

(3) Except as otherwise provided in this section, the appeal shall proceed in accordance with the rules governing cases instituted in the circuit court.

Cross reference: See Rule 2-327 concerning the waiver of a jury trial on appeal from certain judgments entered in the District Court in civil actions.

...

REPORTER'S NOTE

Chapter 709, 2023 Laws of Maryland (HB 127) adds § 11-704 to the Courts Article.

The new provision, pertaining to money judgments arising out of small claim actions, prohibits the District Court of Maryland from ordering an individual to (1) appear for examination in aid of execution or (2) answer interrogatories in aid of execution.

The statutory change necessitated revisions to section (a) of Rule 3-633.

An amendment is proposed to subsection (d)(2) of Rule 7-112 to provide that post-judgment discovery for a small claim money judgment also is prohibited when the judgment arises out of a circuit court de novo appeal.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-242 by adding new section (f) regarding not guilty pleas pursuant to Code, Criminal Procedure Article, § 6-220(c); by re-lettering subsequent sections; and by correcting a reference in re-lettered section (g), as follows:

Rule 4-242. PLEAS

(a) Permitted Pleas

A defendant may plead not guilty, guilty, or, with the consent of the court, nolo contendere. In addition to any of these pleas, the defendant may enter a plea of not criminally responsible by reason of insanity.

Committee note: It has become common in some courts for defendants to enter a plea of not guilty but, in lieu of a normal trial, to proceed either on an agreed statement of ultimate fact to be read into the record or on a statement of proffered evidence to which the defendant stipulates, the purpose being to avoid the need for the formal presentation of evidence but to allow the defendant to argue the sufficiency of the agreed facts or evidence and to appeal from a judgment of conviction. That kind of procedure is permissible only if there is no material dispute in the statement of facts or evidence. See *Bishop v. State*, 417 Md. 1 (2010); *Harrison v. State*, 382 Md. 477 (2004); *Morris v. State*, 418 Md. 194 (2011). Parties to a criminal action in a circuit court who seek to avoid a formal trial but to allow the defendant to appeal from specific adverse rulings are encouraged to proceed by way of a conditional plea of guilty pursuant to section (d) of this Rule, to the extent that section is applicable.

(b) Method of Pleading

(1) Manner

A defendant may plead not guilty personally or by counsel on the record in open court or in writing. A defendant may plead guilty or nolo contendere personally on the record in open court, except that a corporate defendant may plead guilty or nolo contendere by counsel or a corporate officer. A defendant may enter a plea of not criminally responsible by reason of insanity personally or by counsel and the plea shall be in writing.

(2) Time in the District Court

In District Court the defendant shall initially plead at or before the time the action is called for trial.

(3) Time in Circuit Court

In circuit court the defendant shall initially plead within 15 days after the earlier of the appearance of counsel or the first appearance of the defendant before the circuit court pursuant to Rule 4-213 (c). If a motion, demand for particulars, or other paper is filed that requires a ruling by the court or compliance by a party before the defendant pleads, the time for pleading shall be extended, without special order, to 15 days after the ruling by the court or the compliance by a party. A plea of not criminally responsible by reason of insanity shall be entered at the time the defendant initially pleads, unless good cause is shown.

(4) Failure or Refusal to Plead

If the defendant fails or refuses to plead as required by this section, the clerk or the court shall enter a plea of not guilty.

Cross reference: See *Treece v. State*, 313 Md. 665 (1988), concerning the right of a defendant to decide whether to interpose the defense of insanity.

(c) Plea of Guilty

The court may not accept a plea of guilty, including a conditional plea of guilty, until after an examination of the defendant on the record in open court conducted by the court, the State's Attorney, the attorney for the defendant, or any combination thereof the court determines and announces on the record that (1) the defendant is pleading voluntarily, with understanding of the nature of the charge and the consequences of the plea; and (2) there is a factual basis for the plea. In addition, before accepting the plea, the court shall comply with section ~~(f)~~(g) of this Rule. The court may accept the plea of guilty even though the defendant does not admit guilt. Upon refusal to accept a plea of guilty, the court shall enter a plea of not guilty.

(d) Conditional Plea of Guilty

(1) Scope of Section

This section applies only to an offense charged by indictment or criminal information and set for trial in a circuit court or that is scheduled for trial in a circuit court pursuant to a prayer for jury trial entered in the District Court.

Committee note: Section (d) of this Rule does not apply to appeals from the District Court.

(2) Entry of Plea; Requirements

With the consent of the court and the State, a defendant may enter a conditional plea of guilty. The plea shall be in writing and, as part of it, the defendant may reserve the right to appeal one or more issues specified in the plea that (A) were raised by and determined adversely to the defendant, and,

(B) if determined in the defendant's favor would have been dispositive of the case. The right to appeal under this subsection is limited to those pretrial issues litigated in the circuit court and set forth in writing in the plea.

Committee note: This Rule does not affect any right to file an application for leave to appeal under Code, Courts Article, § 12-302 (e)(2).

(3) Withdrawal of Plea

A defendant who prevails on appeal with respect to an issue reserved in the plea may withdraw the plea.

Cross reference: Code, Courts Article, § 12-302.

(e) Plea of Nolo Contendere

A defendant may plead nolo contendere only with the consent of court. The court may require the defendant or counsel to provide information it deems necessary to enable it to determine whether or not it will consent. The court may not accept the plea until after an examination of the defendant on the record in open court conducted by the court, the State's Attorney, the attorney for the defendant, or any combination thereof, the court determines and announces on the record that the defendant is pleading voluntarily with understanding of the nature of the charge and the consequences of the plea. In addition, before accepting the plea, the court shall comply with section ~~(f)~~(g) of this Rule. Following the acceptance of a plea of nolo contendere, the court shall proceed to disposition as on a plea of guilty, but without finding a verdict of guilty. If the court refuses to accept a plea of nolo contendere, it shall call upon the defendant to plead anew.

(f) Plea of Not Guilty with Agreement Entered under Code, Criminal Procedure Article, § 6-220(c)

(1) Entry of Plea; Requirements for Agreement

With the consent of the State, a defendant may enter a plea of not guilty coupled with an agreement entered into under Code, Criminal Procedure Article, § 6-220(c). The agreement shall (A) comply with the requirements of Code, Criminal Procedure Article, § 6-220(c)(3), (B) be consented to in writing by the defendant, and (C) be placed on the record at the time the plea is entered.

(2) Required Findings on the Record

The court may not accept the plea until, after an examination of the defendant on the record in open court conducted by the court, the State's Attorney, the attorney for the defendant, or any combination thereof, the court determines and announces on the record that (A) the defendant is pleading voluntarily with understanding of the nature of the charge and the consequences of the plea and (B) that the best interest of the defendant and the public welfare would be served by entry of the plea and agreement.

(g) Collateral Consequences of Certain Pleas

Before the court accepts a plea of not guilty on an agreed statement of facts or on stipulated evidence, a plea of guilty, a conditional plea of guilty, or a plea of nolo contendere, the court, the State's Attorney, the attorney for the defendant, or any combination thereof shall advise the defendant (1) that by entering the plea, if the defendant is not a United States citizen, the defendant

may face additional consequences of deportation, detention, or ineligibility for citizenship, (2) that by entering a plea to the offenses set out in Code, Criminal Procedure Article, § 11-701, the defendant will have to register with the defendant's supervising authority as defined in Code, Criminal Procedure Article, § 11-701 ~~(p)~~(n), and (3) that the defendant should consult with defense counsel if the defendant is represented and needs additional information concerning the potential consequences of the plea. The omission of advice concerning the collateral consequences of a plea does not itself mandate that the plea be declared invalid.

Committee note: In determining whether to accept the plea, the court should not question defendants about their citizenship or immigration status. Rather, the court should ensure that all defendants are advised in accordance with this section.

Cross reference: For the obligation of the defendant's attorney to correctly advise the defendant about the potential immigration consequences of a plea, see *Padilla v. Kentucky*, 559 U.S.356 (2010) and *State v. Prado*, 448 Md. 664 (2016).

~~(g)~~(h) Plea to a Degree

A defendant may plead not guilty to one degree and plead guilty to another degree of an offense which, by law, may be divided into degrees.

~~(h)~~(i) Withdrawal of Plea

At any time before sentencing, the court may permit a defendant to withdraw a plea of guilty, a conditional plea of guilty, or a plea of nolo contendere when the withdrawal serves the interest of justice. After the imposition of sentence, on motion of a defendant filed within ten days, the court may set aside the judgment and permit the defendant to withdraw a plea

of guilty, a conditional plea of guilty, or a plea of nolo contendere if the defendant establishes that the provisions of section (c), (d), or (e) of this Rule were not complied with or there was a violation of a plea agreement entered into pursuant to Rule 4-243. The court shall hold a hearing on any timely motion to withdraw a plea of guilty, a conditional plea of guilty, or a plea of nolo contendere.

Committee note: The entry of a plea waives objections to venue and may waive technical defects in the charging document. See, e.g., Rule 4-202 (b) and *Kisner v. State*, 209 Md. 524 (1956).

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 731 a and M.D.R. 731 a.

Section (b)

Subsection (1) is derived from former Rule 731 b 1 and M.D.R. 731 b 1.

Subsection (2) is new.

Subsection (3) is derived from former Rule 731 b 2.

Subsection (4) is derived from former Rule 731 b 3 and M.D.R. 731 b 2.

Section (c) is derived from former Rule 731 c and M.D.R. 731 c.

Section (d) is new.

Section (d) is new.

Section (e) is derived from former Rule 731 d and M.D.R. 731 d.

Section (f) is new.

Section (g) is new.

Section ~~(g)~~(h) is derived from former Rule 731 e.

Section ~~(h)~~(i) is derived from former Rule 731 f and M.D.R. 731 e.

REPORTER'S NOTE

The Rules Committee recently considered Chapters 710/711, 2023 Laws of Maryland (HB 193/SB 211). The new legislation added new section (c) to Code, Criminal Procedure Article, § 6-220, providing that, if a defendant pleads not guilty, the court may place a defendant on probation before judgment if the defendant enters into an agreement with the State's consent and the court finds facts justifying a finding of guilt beyond a reasonable doubt. New subsection (c)(1) clarifies, "The consent of a defendant to and the receipt by the defendant of a disposition under this paragraph shall be considered a probation before judgment for all other purposes under State law."

§ 6-220 creates a new type of not guilty plea that is coupled with an appropriate agreement with the State, requires certain findings, and must be placed on the record. Accordingly, proposed new section (f) sets forth the requirements for the entry of a not guilty plea coupled with an agreement pursuant to § 6-220.

Subsequent sections are re-lettered accordingly and internal references are updated. A reference to Code, Criminal Procedure Article, § 11-701 is corrected in re-lettered section (g).

MARYLAND RULES OF PROCEDURE

TITLE 5 – EVIDENCE

CHAPTER 600 - WITNESSES

AMEND Rule 5-609 by adding language excluding certain convictions from section (a) and by changing the time limit in section (b) from 15 to 10 years, as follows:

Rule 5-609. IMPEACHMENT BY EVIDENCE OF CONVICTION OF CRIME

(a) Generally

For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted if elicited from the witness or established by public record during examination of the witness, but only if (1) the crime was an infamous crime or other crime relevant to the witness's credibility, ~~and~~ (2) the court determines that the probative value of admitting this evidence outweighs the danger of unfair prejudice to the witness or the objecting party, and (3) the conviction was for a crime other than possession or distribution of a controlled dangerous substance.

Cross reference: Code, Courts Article, § 10-905.

Committee note: The requirement that the conviction, when offered for purposes of impeachment, be brought out during examination of the witness is for the protection of the witness. It does not apply to impeachment by evidence of prior conviction of a hearsay declarant who does not testify.

(b) Time Limit

Evidence of a conviction is not admissible under this Rule if a period of more than ~~15~~ 10 years has elapsed since the date of the conviction, except as to a conviction for perjury for which no time limit applies.

(c) Other Limitations

Evidence of a conviction otherwise admissible under section (a) of this Rule shall be excluded if:

- (1) the conviction has been reversed or vacated;
- (2) the conviction has been the subject of a pardon; or
- (3) an appeal or application for leave to appeal from the judgment of conviction is pending, or the time for noting an appeal or filing an application for leave to appeal has not expired.

(d) Effect of Plea of Nolo Contendere

For purposes of this Rule, “conviction” includes a plea of nolo contendere followed by a sentence, whether or not the sentence is suspended.

Committee note: See Code, Courts Article, § 3-8A-23 for the effect of juvenile adjudications and for restrictions on their admissibility as evidence generally. Evidence of these adjudications may be admissible under the Confrontation Clause to show bias; see *Davis v. Alaska*, 415 U.S. 308 (1974).

Source: This Rule is derived from F.R.Ev. 609 and Rule 1-502.

REPORTER’S NOTE

In March 2023, the Judicial Council approved for dissemination the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee (hereinafter “the EJC Report”). As explained in the *Letter from the Chair* in the EJC Report, the Subcommittee was tasked with identifying instances in the Rules which “reflect, perpetuate, or fail to correct systemic biases.”

One recommendation from the EJC Report concerns the use of a prior conviction as impeachment evidence pursuant to Rule 5-609. The EJC Report suggests that “members of historically underrepresented or mistreated communities are disproportionately likely to have prior criminal convictions” and that “Rule 5-609 magnifies the effect of this disparity by authorizing the use of prior convictions to impeach the credibility of witnesses.” The EJC Report notes that concerns have been raised about using such evidence for impeachment, including the reliability of conclusions based on one conviction without understanding the underlying circumstances surrounding the conviction. The EJC Report recommends that the Rules Committee consider whether to amend Rule 5-609.

Proposed new language in section (a) excludes the use of certain convictions for the purpose of attacking credibility. Specifically, convictions for possession or distribution of controlled dangerous substances would not be admissible for purposes of attacking credibility, making it clear that these drug felonies are not considered infamous crimes for impeachment purposes.

A proposed amendment to section (b) shortens the time during which convictions may be used pursuant to the Rule from 15 years to 10 years. This proposed change mirrors the language of current Federal Rule of Evidence 609.

MARYLAND RULES OF PROCEDURE

TITLE 5 – EVIDENCE

CHAPTER 700 – OPINIONS AND EXPERT TESTIMONY

AMEND Rule 5-702 by adding a provision establishing a preponderance of the evidence standard, by adding a provision to section (3) listing the two sub-factors of the “sufficient factual basis prong” referenced by the Supreme Court, and by making stylistic changes, as follows:

Rule 5-702. TESTIMONY BY EXPERTS

Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine by a preponderance of the evidence:

- (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education,
- (2) the appropriateness of the expert testimony on the particular subject, and
- (3) whether a sufficient factual basis exists to support the expert testimony based on whether the expert’s opinion:
 - (A) has an adequate supply of facts or data; and
 - (B) reflects a reliable application of reliable principles and methods to the facts of the case.

RULE 5-702

Cross reference: See *Rochkind v. Stevenson*, 471 Md. 1 (2020), and *Katz, Abosch, Windersheim, Gershman & Freedman, P.A., et al. v. Parkway Neuroscience and Spine Institute, LLC*, 485 Md. 335 (2023).

Source: This Rule is new.

REPORTER'S NOTE

Rule 5-702 is proposed to be amended to bring the Rule into closer alignment with the recent amendments to Federal Rule 702 and with the standard set forth in the majority opinion of *Katz, Abosch, Windersheim, Gershman & Freedman, P.A., et al. v. Parkway Neuroscience and Spine Institute, LLC*, 485 Md. 335 (2023).

MARYLAND RULES OF PROCEDURE

TITLE 21 - REMOTE ELECTRONIC PARTICIPATION IN

JUDICIAL PROCEEDINGS

CHAPTER 300 – CRIMINAL AND DELINQUENCY PROCEEDINGS

AMEND Rule 21-301 by adding new subsection (a)(9) pertaining to remote pretrial hearings involving Rule 5-702, by renumbering subsequent subsections, and by updating an internal reference, as follows:

Rule 21-301. PERMISSIBLE REMOTE ELECTRONIC PARTICIPATION IN
CRIMINAL AND DELINQUENCY PROCEEDINGS

(a) Proceedings Presumptively Appropriate for Remote Electronic Participation

Subject to the conditions in this Title, any other reasonable conditions the court may impose in a particular proceeding, and resolution of any objection made pursuant to section (b) of this Rule, the court, on motion or on its own initiative, may permit or require one, some, or all participants to participate by means of remote electronic participation in all or any part of the following types of criminal and delinquency proceedings:

(1) appearances pursuant to bench warrants;

(2) bail reviews;

(3) expungement hearings;

(4) hearings concerning non-incarcerable traffic citations for which the law permits, but does not require, that the defendant appear;

Cross reference: See Code, Transportation Article, § 16-303(h).

- (5) hearings concerning parking citations;
- (6) initial appearances for detained defendants;
- (7) juvenile detention hearings where the respondent already is detained;
- (8) motions hearings not involving the presentation of evidence;
- (9) pretrial hearings involving Rule 5-702 where the proposed expert witness

is the sole participant to appear remotely;

~~(9)~~(10) proceedings in which remote electronic participation is authorized by specific law;

Cross reference: See Code, Criminal Procedure Article, § 11-303.

~~(10)~~(11) proceedings involving Rule 4-271 (a)(1) or the application of *State v. Hicks*, 285 Md. 310 (1979) or its progeny, other than a motion to dismiss that involves the presentation of evidence; and

~~(11)~~(12) with the knowing and voluntary consent of the defendant pursuant to subsection (c)(2) of this Rule:

(A) discharge-of-counsel hearings;

(B) plea agreements not likely to result in incarceration or where the defendant already is incarcerated;

(C) sentencings; and

(D) three-judge panel sentencing reviews.

(b) Objection by a Party

Upon objection by a party in writing or on the record, the court, before requiring remote electronic participation in any proceeding, shall make findings in writing or on the record that (1) remote electronic participation is not likely

to cause substantial prejudice to a party or adversely affect the fairness of the proceeding and (2) no party lacks the ability to participate by remote electronic participation in the proceeding.

(c) Other Criminal and Delinquency Proceedings by Consent

(1) Generally

Subject to the conditions in this Title and any other reasonable conditions the court may impose in a particular case, one, some, or all participants may participate by remote electronic participation in all or any part of any other proceeding in which the presiding judicial officer and all parties consent to remote electronic participation.

(2) Consent by Defendant or Respondent

The court may not accept the consent of a defendant or respondent to waive an in-person proceeding pursuant to subsections ~~(a)(11)~~(a)(12) or (c)(1) of this Rule unless, after an examination of the defendant or respondent in person or by remote electronic participation on the record in open court conducted by the court, the State's Attorney, the attorney for the defendant or respondent, or any combination thereof, the court determines and announces on the record that the consent is made knowingly and voluntarily. The consent of a defendant or respondent pursuant to this subsection is effective only for the specified proceeding and not for any subsequent proceedings.

(d) Conditions of Remote Electronic Participation by Witness

Unless otherwise ordered by the court, conditions of remote electronic participation in criminal and delinquency proceedings shall include ensuring that a witness:

(1) is alone in a secure room when testifying, and, upon request, shares the surroundings to demonstrate compliance;

Committee note: Subsection (d)(1) of this Rule aims to mirror the separation between a witness and an attorney for the witness while the witness is providing testimony. This subsection does not prohibit remote electronic participation in a proceeding by an attorney for a witness. Nothing in this Rule shall preclude accommodations for a child witness or a witness who otherwise needs assistance when testifying.

(2) is not being coached in any way;

(3) is not referring to any documents, notes, or other materials while testifying, unless permitted by the court;

(4) is not exchanging text messages, e-mail, or in any way communicating with any third parties while testifying;

(5) is not recording the proceeding; and

(6) is not using any electronic devices other than a device necessary to facilitate the remote electronic participation.

Committee note: Section (d) of this Rule is not intended to limit any other reasonable conditions that the court may impose for remote electronic participation or to preclude the court from authorizing an accommodation under the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq. and Rule 1-332.

The Rules Committee endorses two caveats stated in the March 9, 2022 Report of the Judicial Council's Joint Subcommittee on Post-COVID Judicial Operations:

(1) Remote proceedings generally are not recommended when the finder of fact needs to assess the credibility of evidence but may be appropriate when the parties consent or the case needs to be heard on an expedited basis and

remote proceedings will facilitate the participation of individuals who would have difficulty attending in person; and

(2) Where a judicial officer has discretion to hold or decline to hold a remote proceeding, the judicial officer should consider (i) the preference of the parties, (ii) whether the proceeding will involve contested evidence, (iii) whether the finder of fact will need to assess witness credibility, (iv) the availability of participants who will be affected by the decision, (v) possible coaching or intimidation of witnesses appearing remotely, (vi) access by witnesses to technology and connectivity that would allow participation, (vii) the length and complexity of the proceeding, (viii) the burden on the parties and the court, (ix) whether remote participation will cause substantial prejudice to a party or affect the fairness of the proceeding, (x) a defendant's or juvenile respondent's right of confrontation, and (xi) any other factors the judicial officer considers relevant.

Source: This Rule is derived in part from recommendations made in the March 9, 2022 Report of the Judicial Council's Joint Subcommittee on Post-COVID Judicial Operations and from former Rules 2-802 and 2-803 (2023), and is in part new.

REPORTER'S NOTE

In March 2023, the Judicial Council approved for dissemination the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee (hereinafter “the EJC Report”). As explained in the *Letter from the Chair* in the EJC Report, the Subcommittee was tasked with identifying instances in the Rules which “reflect, perpetuate, or fail to correct systemic biases.”

The EJC Report noted that Maryland has adopted the standard set forth in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and the EJC Report included a recommendation about permitting remote *Daubert* hearings: “[I]t should be noted that the courts’ experience during the COVID pandemic has shown that it is entirely possible to conduct a pretrial evidentiary hearing remotely. A *Daubert* hearing that does not require the experts to physically travel to a Maryland courthouse prior to trial is a *Daubert* hearing that is less expensive for the parties.” The EJC Report asked the Rules Committee to “consider an amendment to [former] Maryland Rule 2-803, concerning remote hearings, to make it easier for a remote *Daubert* hearing to take place over the objection of a party.”

By Rules Order entered April 21, 2023, the Supreme Court of Maryland rescinded Title 2, Chapter 800 of the Rules. In the same Rules Order, the Supreme Court adopted new Title 21, Remote Electronic Participation in Judicial Proceedings. A large portion of new Title 21 incorporates the former provisions of Title 2, Chapter 800, with additional changes. New Rules 21-201 and 21-301 were derived, in part, from former Rule 2-803. The recommendation of the EJC Report was therefore referred to the Evidence Subcommittee to consider whether amendments are needed to Title 21 to further address remote *Daubert* hearings.

Section (a) of both Rules 21-201 and 21-301 addresses proceedings appropriate for remote electronic participation in civil and criminal proceedings, respectively. Rule 21-201 already covers *Daubert* hearings in subsection (a)(1), permitting the trial court to order one, some, or all participants of a non-jury uncontested or contested evidentiary or non-evidentiary civil proceeding to participate remotely. However, Rule 21-301, pertaining to criminal proceedings, does not contain a similar provision. Instead, Rule 21-301 permits a court to order a remote proceeding for motions hearings not involving the presentation of evidence. Because *Daubert* hearings may require presentation of evidence, the Rules Committee determined that amendments were needed to Rule 21-301 to permit remote *Daubert* proceedings over the objection of a party.

The Rules Committee also determined that the benefits of a remote *Daubert* proceeding, such as decreased expenses for a litigant, are related to the remote appearance of the expert witness. New subsection (a)(9) is tailored to address hearings pursuant to Rule 5-702 when the expert witness is the sole participant to appear remotely. Rule 21-301 permits the remote appearance of other participants if appropriate consent is obtained.

To accommodate the new subsection, current subsections (a)(9) through (11) are renumbered as (a)(10) through (12), respectively. An internal reference is updated in subsection (c)(2).

MARYLAND RULES OF PROCEDURE
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES
CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 6-108 by adding new section (c) pertaining to the criteria to register and terminate a domestic partnership with a register of wills, and by making stylistic changes, as follows:

Rule 6-108. REGISTER OF WILLS—ACCEPTANCE OF PAPERS

(a) Generally

Except as otherwise provided in section (b) of this Rule, a register of wills shall not refuse to accept for filing any paper on the ground that it is not in the form mandated by a Rule in this Title.

(b) Papers Requiring Proof of Service

The register shall not accept for filing any petition or paper requiring service unless it is accompanied by (1) a signed certificate showing the date and manner of service as prescribed in Rule 6-125 or (2) a signed statement that, for reasons set forth in the statement, there is no person entitled to service. A certificate of service is prima facie proof of service.

(c) Papers Regarding Domestic Partnerships

(1) Declaration of Domestic Partnership

The register shall accept for filing any declaration of domestic partnership that complies with the requirements set forth in Code, Estates and Trusts Article, § 2-214(a)(2).

(2) Declaration of Termination

The register shall accept for filing any declaration of termination that complies with the requirements set forth in Code, Estates and Trusts Article, § 2-214(e).

~~(e)~~(d) Photocopies; Facsimile Copies

A photocopy or facsimile copy of a pleading or paper except a will or codicil, once filed with the court, shall be treated as an original for 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 or register upon the request of the court, register, or any party. No filing of a pleading or paper may be made by transmitting it directly to the court or register by electronic transmission, except pursuant to an electronic system approved under Rule 16-203.

REPORTER'S NOTE

Chapter 647, 2023 Laws of Maryland (SB 792) modified certain provisions of Code, Estates and Trusts Article so that registered domestic partnerships, in certain circumstances, have the same legal effect as marriage.

The definition of “domestic partnership” is tied to the definition contained in Code, Health-General Article, § 6-101(a), which states that a domestic partnership means “a relationship between two individuals who: (1) are at least 18 years old; (2) are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule; (3) are not married or in a civil union or domestic partnership with another individual; and (4) agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship.”

Chapter 647 establishes the requirements necessary for a domestic partnership to be registered with a register of wills and establishes the criteria necessary for a registered domestic partnership to be terminated.

To bring the Rules into harmony with the statutory revisions mentioned above, the Rules Committee proposes adding new section (c) to this Rule. Subsection (c)(1) covers the registration of eligible domestic partnerships. Subsection (c)(2) covers the termination of registered domestic partnerships. Stylistic changes are also proposed to this Rule.

Conforming amendments are proposed to Rules 6-122, 6-202, 6-316, 10-112, and 16-912.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 6-122 by adding the language “or registered domestic partner” following each instance of the word “spouse” in section (a), as follows:

Rule 6-122. PETITIONS

(a) Initial Petition

The Initial Petition shall be substantially in the following form:

IN THE ORPHANS' COURT FOR

(OR)

BEFORE THE REGISTER
OF WILLS FOR

_____, MARYLAND

IN THE ESTATE OF:

ESTATE NO:

FOR:

REGULAR
ESTATE
PETITION FOR
ADMINISTRATION

Estate value in
excess of
\$50,000. (If
spouse or
registered
domestic partner
is sole heir or

SMALL
ESTATE
PETITION FOR
ADMINISTRATION

Estate value of
\$50,000 or less.
(If spouse or
registered
domestic partner
is sole heir or
legatee,
\$100,000.)

WILL OF NO
ESTATE
Complete items 2
and 9

LIMITED
ORDERS
Complete item 2
and attach
Schedule C

legatee,
\$100,000.)
Complete and
attach Schedule
A.

Complete and
attach Schedule
B.

NOTE: For the purpose of computing whether an estate qualifies as a small estate, value is determined by the fair market value of property less debts of record secured by the property as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the secured debt. See Code, Estates and Trusts Article, § 5-601 (d).

The petition of:

_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address

Each of us states:

1. I am (a) at least 18 years of age and either a citizen of the United States or a permanent resident of the United States who is the spouse or registered domestic partner of the decedent, an ancestor of the decedent, a descendant of the decedent, or a sibling of the decedent or (b) a trust company or any other corporation authorized by law to act as a personal representative.

2. The Decedent, _____, was domiciled in _____ (county), State of _____ and died on the _____ day of _____, _____, at _____ (place of death).

3. If the decedent was not domiciled in this county at the time of death, this is the proper office in which to file this petition because:

4. I am entitled to priority of appointment as personal representative of the decedent's estate pursuant to § 5-104 of the Estates and Trusts Article, Annotated Code of Maryland because: _____

5. I am mentally competent.

6. I am not a disqualified person because of feloniously and intentionally killing, conspiring to kill, or procuring the killing of the decedent.

Committee note: Code, Estates and Trusts Article, § 11-112 provides that a disqualified person may not serve as a personal representative.

7. (Check one of the following boxes)

I have not been convicted of fraud, extortion, embezzlement, forgery, perjury, theft or any other serious crime that reflects adversely on my honesty, trustworthiness, or fitness to perform the duties of a personal representative or
 I was convicted of such a crime, namely _____, in _____ (year), but the following good cause exists for me to be appointed as personal representative _____
_____.

Committee note: Code, Estates and Trusts Article, § 5-105 provides that letters of administration may not be granted to someone who has been convicted of certain serious crimes, unless the person shows good cause for the granting of letters.

8. I am not excluded otherwise by law from serving as a personal representative.

9. I have made a diligent search for the decedent's will and to the best of my knowledge:

none exists; or
 the will dated _____ (including codicils, if any, dated _____) accompanying this petition is the last will and it came into my hands in the following manner: _____

and the names and last known addresses of the witnesses are:

10. Other proceedings, known to petitioner, regarding the decedent or the estate are as follows: _____

11. If appointed, I accept the duties of the office of personal representative and consent to personal jurisdiction in any action brought in this State against me as personal representative or arising out of the duties of the office of personal representative.

WHEREFORE, I request appointment as personal representative of the decedent's estate and the following relief as indicated:

that the will and codicils, if any, be admitted to administrative probate;
 that the will and codicils, if any, be admitted to judicial probate;
 that the will and codicils, if any, be filed only;
 that only a limited order be issued;
 that the following additional relief be granted: _____
_____.

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

_____	_____	_____
_____	Petitioner	Date
Address		
_____	_____	_____
Telephone Number	Petitioner	Date
_____	_____	_____
Facsimile Number	Telephone Number (optional)	

Email Address		

IN THE ORPHANS' COURT FOR

(OR)

BEFORE THE REGISTER
OF WILLS FOR

_____, MARYLAND

IN THE ESTATE OF:

ESTATE NO:

SCHEDULE--A
Regular Estate
Estimated Value of Estate and Unsecured Debts

Personal property (approximate value)	\$ _____
Real property (approximate value)	\$ _____
Value of property subject to:	
(a) Direct Inheritance Tax of _____ %	\$ _____
(b) Collateral Inheritance Tax of _____ %	\$ _____
Unsecured Debts (approximate amount)	\$ _____

_____	_____	_____
Attorney	Petitioner	Date
_____	_____	_____
_____	Petitioner	Date
Address		
_____	_____	_____
Telephone Number	Petitioner	Date
_____	_____	_____
Facsimile Number	Telephone Number (optional)	

Email Address		

(FOR REGISTER'S USE)

Safekeeping Wills _____ Custody Wills _____
Bond Set \$ _____ Deputy _____

IN THE ORPHANS' COURT FOR

(OR)

BEFORE THE REGISTER
OF WILLS FOR

_____, MARYLAND

IN THE ESTATE OF:

ESTATE NO:

SCHEDULE--B

Small Estate--Assets and Debts of the Decedent

1. I have made a diligent search to discover all property and debts of the decedent and set forth below are:

(a) A listing of all real and personal property owned by the decedent, individually or as tenant in common, and of any other property to which the decedent or estate would be entitled, including descriptions, values, and how the values were determined:

(b) A listing of all creditors and claimants and the amounts claimed, including secured, contingent and disputed claims:

2. Allowable funeral expenses are \$ _____; statutory family allowances are \$ _____; and expenses of administration claimed are \$ _____.

3. Attached is a List of Interested Persons.

4. After the time for filing claims has expired, subject to the statutory order of priorities, and subject to the resolution of disputed claims by the parties or the court, I shall (a) pay all proper claims made pursuant to Code, Estates and Trusts Article, § 8-104 in the order of priority set forth in Code, Estates and Trusts Article, § 8-105, expenses, and allowances not previously

paid; (b) if necessary, sell property of the estate in order to do so; and (c) distribute the remaining assets of the estate in accordance with the will or, if none, with the intestacy laws of this State.

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

_____	_____	_____
Attorney	Petitioner	Date
_____	_____	_____
_____	Petitioner	Date
Address		
_____	_____	_____
Telephone Number	Petitioner	Date
_____	_____	_____
Facsimile Number	Telephone Number (optional)	

Email Address		

IN THE ORPHANS' COURT FOR

(OR)

BEFORE THE REGISTER
OF WILLS FOR

_____, MARYLAND

IN THE ESTATE OF:

ESTATE NO:

SCHEDULE--C
Request for Limited Order

- To Locate Assets
- To Locate Will

1. I am entitled to the issuance of a limited order because I am:

- a nominated personal representative or
- a person interested in the proceedings by reason of

2. The reasons(s) a limited order should be granted are:

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief. I further acknowledge that this order may not be used to transfer assets.

_____ Attorney	_____ Petitioner	_____ Date
_____ _____ Address	_____ Petitioner	_____ Date
_____ Telephone Number	_____ Petitioner	_____ Date
_____ Facsimile Number	_____ Telephone Number (optional)	
_____ Email Address		

(b) Other Petitions

(1) Generally

Except as otherwise provided by the rules in this Title or permitted by the court, and unless made during a hearing or trial, a petition shall be in writing, shall set forth the relief or order sought, shall state the legal or factual basis for the relief requested, and shall be filed with the Register of Wills. The petitioner may serve on any interested person and shall serve on the personal representative and such persons as the court may direct a copy of the petition, together with a notice informing the person served of the right to file a response and the time for filing it.

(2) Response

Any response to the petition shall be filed within 20 days after service or within such shorter time as may be fixed by the court for good cause shown. A

copy of the response shall be served on the petitioner and the personal representative.

(3) Order of Court

The court shall rule on the petition and enter an appropriate order.

Cross reference: Code, Estates and Trusts Article, §§ 2-102 (c), 2-105, 5-201 through 5-206, and 7-402.

(c) Limited Order to Locate Assets

Upon the filing of a verified petition pursuant to Rule 6-122 (a), the Orphans' Court may issue a limited order to search for assets titled in the sole name of a decedent. The petition shall contain the name, address, and date of death of the decedent and a statement as to why the limited order is necessary.

The limited order to locate assets shall be in the following form:

IN THE ORPHANS' COURT FOR

(OR)

BEFORE THE REGISTER
OF WILLS FOR

_____, MARYLAND

IN THE ESTATE OF:

LIMITED ORDER NO.:

LIMITED ORDER TO LOCATE ASSETS

Upon the foregoing petition by a person interested in the proceedings and pursuant to Rule 6-122 (c), it is this _____ day of _____, _____ by the Orphans' Court for _____ (county), Maryland, ORDERED that:

1. The following institutions shall disclose to

_____ the assets, and the values thereof,

(Name of petitioner)

titled in the sole name of the above decedent:

(Name of financial institution) (Name of financial institution)

(Name of financial institution) (Name of financial institution)

(Name of financial institution) (Name of financial institution)

2. THIS ORDER MAY NOT BE USED TO TRANSFER ASSETS.
See Maryland Rule 6-122 (c).

(d) Limited Order to Locate Will

Upon the filing of a verified petition pursuant to Rule 6-122 (a), the Orphans' Court may issue a limited order to a financial institution to enter the safe deposit box of a decedent in the presence of the Register of Wills or the Register's authorized deputy for the sole purpose of locating the decedent's will and, if it is located, to deliver it to the Register of Wills or the authorized deputy. The limited order to locate a will shall be in the following form:

IN THE ORPHANS' COURT FOR

(OR)

BEFORE THE REGISTER
OF WILLS FOR

_____, MARYLAND

IN THE ESTATE OF:

LIMITED ORDER NO.:

LIMITED ORDER TO LOCATE WILL

RULE 6-122

Upon the foregoing Petition and pursuant to Rule 6-122 (d), it is this _____ day of _____ (month), _____ (year) by the Orphans' Court for _____ (County), Maryland, ORDERED that:

_____, located at
(Name of financial institution)

(Address)

enter the safe deposit box titled in the sole name of _____, in the presence of the Register
(Name of decedent)

of Wills _____ OR the Register's authorized deputy _____ for the sole purpose of locating the decedent's will and, if the will is located, deliver it to the Register of Wills OR the Register's authorized deputy.

JUDGE

JUDGE

JUDGE

See Maryland Rule 6-122 (d).

Committee note: This procedure is not exclusive. Banks may also rely on the procedure set forth in Code, Financial Institutions Article, 12-603.

REPORTER'S NOTE

See the Reporter's note to Rule 6-108.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 200 – SMALL ESTATE

AMEND Rule 6-202 by adding a reference to registered domestic partnerships to the list of interested persons in paragraph 1 of the instructions, as follows:

Rule 6-202. LIST OF INTERESTED PERSONS

A list of interested persons shall be filed in the following form:

[CAPTION]

LIST OF INTERESTED PERSONS

Name (and age if under 18 years)	Last Known Address including Zip code	Specify: Heir/Legatee/ Personal Representative	Relationship to Decedent
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Petitioner/Personal Representative

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Instructions:

1. Interested persons include decedent's heirs (surviving spouse, registered domestic partner, children, and other persons who would inherit if there were no will) and, if decedent died with a will, the personal representative named in the will and all legatees (persons who inherit under the will). All heirs must be listed even if decedent dies with a will.

2. This list must be filed (a) within 20 days after appointment of a personal representative under administrative probate or (b) at the time of filing a Petition for Judicial Probate or a Petition for Administration of a Small Estate.

Cross reference: Code, Estates and Trusts Article, §§ 5-403(a), 5-607, and 7-104.

REPORTER'S NOTE

See Reporter's note to Rule 6-108.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 300 – OPENING ESTATES

AMEND Rule 6-316 by adding a reference to registered domestic partnerships to the list of interested persons in paragraph 1 of the instructions, as follows:

Rule 6-316. LIST OF INTERESTED PERSONS

A list of interested persons shall be filed in the following form:

[CAPTION]

LIST OF INTERESTED PERSONS

Name (and age if under 18 years)	Last Known Address including Zip code	Specify: Heir/Legatee/ Personal Representative	Relationship to Decedent
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Petitioner/Personal Representative

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

Instructions:

1. Interested persons include decedent's heirs (surviving spouse, registered domestic partner, children, and other persons who would inherit if there were no will) and, if decedent dies with a will, the personal representative named in the will and all legatees (persons who inherit under the will). All heirs must be listed even if decedent died with a will.

2. This list must be filed (a) within 20 days after appointment of a personal representative under administrative probate or (b) at the time of filing a Petition for Judicial Probate or a Petition for Administration of a Small Estate.

Cross reference: Code, Estates and Trusts Article, §§ 5-403(a), 5-607, and 7-104.

REPORTER'S NOTE

See Reporter's note to Rule 6-108.

MARYLAND RULES OF PROCEDURE

TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 10-112 by adding a reference to registered domestic partnerships in paragraphs 8 and 8 B of the petition, as follows:

Rule 10-112. PETITION FOR GUARDIANSHIP OF ALLEGED DISABLED PERSON

A petition for guardianship of an alleged disabled person shall be substantially in the following form:

[CAPTION]

In the Matter of

In the Circuit Court for

(Name of Alleged Disabled Individual)

(County)

(docket reference)

PETITION FOR GUARDIANSHIP OF ALLEGED DISABLED PERSON

INSTRUCTIONS

(1) Use this form of petition when a guardianship of an alleged disabled person, as defined in Code, Estates & Trusts Article, § 13-101(f) and Rule 10-103 (b) is sought.

(2) If the subject of the petition is a minor including a disabled minor, use the form petition set forth in Rule 10-111.

(3) If guardianship of more than one alleged disabled person is sought, a separate petition must be filed for each alleged disabled person.

(4) If the petition is to be filed in the Circuit Court for Baltimore City, use “Baltimore City” as the name of the county.

Guardianship of Person

Guardianship of Property

Guardianship of Person and

Property

The petitioner, _____ (name), ___ (age), whose address is _____, and whose telephone number is _____, represents to the court that:

1. The alleged disabled person _____, age ___, born on the ___ day of _____ (month), _____ (year), a [] male or [] female resides at _____.

2. If the alleged disabled person does not reside in the county in which this petition is filed, state the place in this county where the alleged disabled person is currently located .

NOTE: For purposes of this Form, "county" includes Baltimore City.

3. The relationship of petitioner to the alleged disabled person is _____.

4. The alleged disabled person [] is a beneficiary of the Department of Veterans Affairs and the guardian may expect to receive benefits from that Department.

[] is not a beneficiary of the Department of veterans Affairs.

5. Complete Section 5 if the petitioner is asking the court to appoint the petitioner as the guardian.

(Check only one of the following boxes)

[] I have not been convicted of a crime listed in Code, Estates and Trusts Article, § 11-114.

[] I was convicted of such a crime, namely _____. The conviction occurred in ___ (year) in the _____ (name of court), but the following good cause exists for me to be appointed as guardian: _____.

6. Complete Section 6 if the petitioner is asking the court to appoint an individual other than the petitioner as the guardian.

6 a. Prospective Guardian of the Person (Complete Section 6 a if seeking guardianship of the person.)

The name of the prospective guardian of the person is _____ and that individual's age is _____. The relationship of that individual to the alleged disabled person is _____.

(Check only one of the following boxes)

[] _____ (Name of prospective guardian) has not been convicted of a crime listed in Code, Estates and Trusts Article, § 11-114.

[] _____ was convicted of such a crime, namely _____. The conviction occurred in ___ (year) in the _____ (Name of court), but the following good cause exists for the individual to be appointed as guardian: .

6 b. Prospective Guardian of the Property (Complete Section 6 b if the prospective guardian of the property is different from the prospective guardian of the person or if guardianship of the person is not sought.)

The name of the prospective guardian of the property is _____ and that individual's age is _____. The relationship of that individual to the alleged disabled person is _____.

(Check only one of the following boxes)

_____ (Name of prospective guardian) has not been convicted of a crime listed in Code, Estates and Trusts Article, § 11-114.

_____ was convicted of such a crime, namely _____. The conviction occurred in ___ (year) in the _____ (Name of court), but the following good cause exists for the individual to be appointed as guardian: _____.

7. If the alleged disabled person resides with petitioner, then state the name and address of any additional person on whom initial service shall be made: _____.

8. The following is a list of the names, addresses, telephone numbers, and e-mail addresses, if known of all interested persons (see Code, Estates and Trusts Article, § 13-101(k)):

	<u>Name</u>	<u>Address</u>	<u>Telephone Number</u>	<u>E-mail Address (if known)</u>
Person or Health Care Agent Designated in Writing by Alleged Disabled Person:	_____			
<u>Spouse or Registered Domestic Partner:</u>	_____			
Parents:	_____			
Adult Children:	_____			
Adult Grandchildren*:	_____			
Siblings*:	_____			
Any Other Heirs at Law:	_____			
Guardian (If appointed):	_____			
Any Person Holding a Power of Attorney of	_____			

the Alleged Disabled
Person:

Alleged Disabled
Person's Attorney:

A Supporter Pursuant
to a Supported
Decision-Making
Agreement:

Any Other Person
Who Has Assumed
Responsibility for the
Alleged Disabled
Person:

Any Government
Agency Paying
Benefits to or for the
Alleged Disabled
Person:

Any Person Having an
Interest in the
Property of the Alleged
Disabled Person:

All Other Persons
Exercising Control
over the Alleged
Disabled Person or the
Person's Property:

A Person or Agency
Eligible to Serve as
Guardian of the
Person of the Alleged
Disabled Person
(Choose A or B below):

A. Director of the
Local Area Agency on
Aging (if Alleged

Disabled Person is Age
65 or over): _____

B. Local Department
of Social Services (if
Alleged Disabled
Person is Under Age
65): _____

* Note: Adult grandchildren and siblings need not be listed unless there is no spouse or registered domestic partner and there are no parents or adult children.

9. The names and addresses of the persons with whom the alleged disabled person resides or has resided over the past five years and the approximate dates of the alleged disabled person's residence with each person are as follows:

<u>Name</u>	<u>Address</u>	<u>Approximate Dates</u>

10. A brief description of the alleged disability and how it affects the alleged disabled person's ability to function is as follows: _____.

11. (a) Guardianship of the Person is sought because _____ (Name of Alleged Disabled Person) cannot make or communicate responsible decisions concerning health care, food, clothing, or shelter, because of mental disability, disease, habitual drunkenness, addiction to drugs, or other addictions. State the relevant facts: _____.

(b) Describe less restrictive alternatives that have been attempted and have failed (see Code, Estates and Trusts Article, § 13-705 (b)): .

12. (a) Guardianship of the Property is sought because _____ (Name of Alleged Disabled Person) cannot manage property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs or other addictions, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance. State the relevant facts:

_____.

(b) Describe less restrictive alternatives that have been attempted and have failed (see Code, Estates and Trusts Article, § 13-201):

_____.

13. If this Petition is for Guardianship of the Property, the following is the list of all the property in which the alleged disabled person has any interest including an absolute interest, a joint interest, or an interest less than absolute (e.g. trust, life estate):

<u>Property</u>	<u>Location</u>	<u>Value</u>	<u>Sole Owner, Joint Owner (specific type), Life Tenant, Trustee, Custodian, Agent, etc.</u>
-----------------	-----------------	--------------	--

14. The petitioner's interest in the property of the alleged disabled person listed in 13. is .

15. If a guardian or conservator has been appointed for the alleged disabled person in another proceeding, the name and address of the guardian or conservator and the court that appointed the guardian or conservator are as follows:

<u>Name</u>	<u>Address</u>
<u>Court</u>	

16. All other proceedings regarding the alleged disabled person (including criminal) are as follows: .

17. All exhibits required by the Instructions below are attached.

WHEREFORE, Petitioner requests that this court issue an Order to direct all interested persons to show cause why a guardian of the [] person [] property [] person and property of the alleged disabled person should not be appointed, and (if applicable) _____ (Name of prospective guardian) should not be appointed as the guardian.

<u>Attorney's Signature</u>	<u>Petitioner</u>
<u>Attorney's Name</u>	<u>If There is No Attorney:</u>
<u>Attorney's Address</u>	<u>Petitioner's Address</u>
<u>Attorney's Telephone Number</u>	<u>Petitioner's Telephone Number</u>
<u>Attorney's E-mail Address</u>	<u>Petitioner's E-mail Address</u>

Petitioner solemnly affirms under the penalties of perjury that the contents of this document are true to the best of Petitioner's knowledge, information, and belief.

Petitioner's Name

Petitioner's Signature

ADDITIONAL INSTRUCTIONS

1. The required exhibits are as follows:

- (a) A copy of any instrument nominating a guardian;
- (b) A copy of any power of attorney (including a durable power of attorney for health care) which the alleged disabled person has given to someone;
- (c) A copy of any written supported decision-making agreement (see Code, Estates and Trusts Article, § 18-107);
- (d) Signed and verified certificates of two health care professionals who have examined or evaluated the alleged disabled person. The health care professionals shall be either two physicians licensed to practice medicine in the United States or one such licensed physician and one licensed psychologist, licensed certified social worker-clinical, or nurse practitioner . An examination or evaluation by at least one of the health care professionals must have occurred within 21 days before the filing of the petition (see Code, Estates and Trusts Article, § 13-303 and § 1-102 (a) and (b)).

2. Attach additional sheets to answer all the information requested in this petition, if necessary.

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note to Rule 6-108.

MARYLAND RULES OF PROCEDURE
TITLE 16 – COURT ADMINISTRATION
CHAPTER 800 – ACCESS TO JUDICIAL RECORDS
DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-912 by changing the title of the Rule, by adding new section (d) pertaining to domestic partnership records, and by adding a cross reference following section (d), as follows:

Rule 16-912. ACCESS TO NOTICE, SPECIAL JUDICIAL UNIT, AND LICENSE, AND DOMESTIC PARTNERSHIP RECORDS

...

(c) License Records

(1) Business License Records

Except as otherwise provided by the Rules in this Chapter, the right to inspect business license records is governed by the applicable provisions of Parts II, III, and IV of the PIA.

(2) Marriage License Records

A custodian shall deny inspection of the following records pertaining to a marriage license:

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

(B) until the license becomes effective, the fact that an application for a license has been made, except to the parent or guardian of a minor party to be married who is 15 years old or older.

Cross reference: See Code, Family Law Article, § 2-301, which lists the conditions necessary to permit a minor between 15 and 17 years old to legally marry and Code, Family Law Article, § 2-402 (e), which permits disclosure to a parent or guardian of such a minor prior to the license becoming effective.

(d) Domestic Partnership Records

A custodian shall deny inspection of the portion of a declaration of domestic partnership or declaration of termination that contains the home address of either domestic partner.

Cross reference: See Code, Estates and Trusts Article, § 2-214(d)(3).

Source: This Rule is derived from former Rule 16-905 (2019).

REPORTER'S NOTE

Chapter 647, 2023 Laws of Maryland (SB 792) modified certain provisions of Code, Estates and Trusts Article so that registered domestic partnerships, in certain circumstances, have the same legal effect as marriage.

The definition of “domestic partnership” is tied to the definition contained in Code, Health-General Article, § 6-101(a), which states that a domestic partnership means “a relationship between two individuals who: (1) are at least 18 years old; (2) are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule; (3) are not married or in a civil union or domestic partnership with another individual; and (4) agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship.”

Chapter 647 establishes the requirements necessary for a domestic partnership to be registered with a register of wills and establishes the criteria necessary for a registered domestic partnership to be terminated.

RULE 16-912

To bring the Rules into harmony with the statutory provisions mentioned above, the Rules Committee proposes adding new section (d) to this Rule. This section provides that the portions of registrations and terminations of registered domestic partnerships that contain the home address of either domestic partner are not open to public inspection. A cross reference to the relevant controlling statute is also proposed following this section.

MARYLAND RULES OF PROCEDURE
TITLE 6 – SETTLEMENT OF DECEDENTS’ ESTATES
CHAPTER 100 – GENERAL PROVISIONS

ADD new Rule 6-109, as follows:

Rule 6-109. OTHER JURISDICTIONS – LAWS OF DOMESTIC PARTNERSHIP

(a) Generally

A relationship established under the laws of domestic partnership of another jurisdiction shall be recognized as a registered domestic partnership in this State if the laws establishing the relationship are substantially similar to the requirements of Code, Estates and Trusts Article, § 2-214.

(b) Certified List

With the advice and assistance of the Attorney General, the registers of wills shall establish, update, and maintain a statewide certified list of jurisdictions with laws of domestic partnership that are substantially similar to the requirements of Code, Estates and Trusts Article, § 2-214.

Cross reference: See Code, Estates and Trusts Article, § 2-214(h) for the requirements for recognition in Maryland of a relationship other than marriage established under the laws of another jurisdiction.

REPORTER’S NOTE

Chapter 647, 2023 Laws of Maryland (SB 792) modified certain provisions of Code, Estates and Trusts Article so that registered domestic partnerships, in certain circumstances, have the same legal effect as marriage.

The statute requires, in part, that “the Register” establish, update, and maintain a certified list of jurisdictions with laws of domestic partnership that are substantially similar to Maryland’s so that those partnerships may be registered and recognized here. There was a concern that this could result in 24 different lists of “substantially similar” laws from other states, as established by each Register. The Rules Committee was informed that the Registers intend to maintain a uniform statewide list through the Register of Wills Association in consultation with the Maryland Office of the Attorney General. To account for this, the Rules Committee proposes adding new Rule 6-109 to require the majority of Registers to collaborate to maintain the single list, with the advice and assistance of the Attorney General.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE
APPELLATE COURT

CHAPTER 300 – OBTAINING REVIEW IN THE SUPREME COURT

AMEND Rule 8-303 by adding “or cross-petition” to section (a), by adding new subsection (a)(3) pertaining to petitions by unrepresented incarcerated or institutionalized petitioners, by adding a Committee note following new subsection (a)(3), and by making stylistic changes, as follows:

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

(a) Filing

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

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

(2) if the petition or cross-petition is in a criminal action, the fee has been waived by an order of court or the petitioner is represented by the Public Defender's Office; or

(3) the petitioner either attests in writing or is determined by the court to be (A) not represented by an attorney, and (B) by court order, confined in a

correctional or detention facility or a facility governed by Code, Health –
General Article, Title 10.

Committee note: An individual who is unrepresented and confined by court order in a correctional or detention facility or a mental health facility is presumed to be unable to prepay the fee for filing a petition or cross-petition for certiorari or other extraordinary relief. Nothing in this Rule prohibits the Supreme Court from later ordering the petitioner to pay the fee if the petitioner is not indigent or assessing costs at the conclusion of the proceedings.

Cross reference: Rule 1-325.

...

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 8-303 are recommended in response to a request by the Chief Justice who suggested that the Rules provide a mechanism for the Supreme Court to consider a petition for certiorari from a *pro se* incarcerated or institutionalized individual who does not pay the required fee or submit a fee waiver request. The justices recognized that such filers are likely indigent or otherwise unable to immediately make a payment to the court, but the current language in Rule 8-303 (a) requires a petition or cross-petition to either be accompanied by a fee or a waiver.

Proposed new subsection (a)(3) would permit the Supreme Court to consider a petition made by an unrepresented individual who is detained by court order based either on the filer's attestation or a determination by the court. The individual must be detained in a correctional or detention facility or in a facility governed by Title 10 (Mental Health) of the Health – General Article.

A Committee note following subsection (a)(3) points out that the court may later order the petitioner to pay the fee if the petitioner is not indigent and may assess costs at the conclusion of the proceedings.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT

AND THE APPELLATE COURT

CHAPTER 500 – RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-511 by deleting the requirement to attach copies of an amicus brief in subsection (b)(2), by deleting the cross reference following subsection (b)(2), by deleting subsection (b)(3), by re-numbering current subsection (b)(4) as subsection (b)(3), and by adding a service requirement to new subsection (b)(3), and as follows:

Rule 8-511. AMICUS CURIAE

...

(b) Motion and Brief

(1) Content of Motion

A motion requesting permission to file an amicus curiae brief shall:

(A) identify the interest of the movant;

(B) state the reasons why the amicus curiae brief is desirable;

(C) state whether the movant requested of the parties their consent to the filing of the amicus curiae brief and, if not, why not;

(D) state the issues that the movant intends to raise; and

(E) identify every person, other than the movant, its members, or its attorneys, who made a monetary or other contribution to the preparation or submission of the brief, and identify the nature of the contribution.

(2) Attachment of Brief

~~Copies of the~~ The proposed amicus curiae brief shall be attached to ~~two of~~
~~the copies of the motion filed with the Court.~~

~~Cross reference: See Rule 8-431(e) for the total number of copies of a motion required when the motion is filed in an appellate court.~~

~~(3) Service~~

~~The movant shall serve a copy of the motion and proposed brief on each party.~~

~~(4)~~(3) If Motion Granted

If the motion is granted, the brief shall be regarded as having been filed when the motion was filed. ~~Within ten days~~ Promptly after the order granting the motion is filed, the amicus curiae shall file and serve paper copies of the brief as ~~the additional number of briefs~~ required by Rule 8-502 (c).

...

Source: This Rule is derived in part from Fed.R.App.P. 29 and Sup.Ct.R. 37 and is in part new.

REPORTER'S NOTE

Proposed amendments to Rule 8-511 were suggested by an appellate practitioner to clarify the practices around copies of an amicus brief. Because appellate actions are electronically filed in MDEC, the proposed amendments require the motion and brief to be filed but do not require paper copies to be served unless the court grants the motion to accept the brief.

Subsection (b)(2) is amended to delete the requirement to attach copies of the brief to the motion. The cross reference following subsection (b)(2) is deleted. Subsection (b)(3) also is deleted. Subsection (b)(4) is re-numbered as subsection (b)(3) and amended to include the requirement to file and serve paper copies if the motion is granted.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 100 – ADOPTION; PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-103 by adding to subsection (b)(1)(F) a requirement to list the addresses of all agencies used to locate the adoptee; by deleting from subsection (b)(1)(F) the requirement to attach a copy of advertisements used to locate the person to be adopted; by deleting the Committee note following subsection (b)(1)(F); by adding “or registered domestic partner” to subsection (b)(1)(I); by adding new subsection (b)(1)(Q) pertaining to the Indian Child Welfare Act; by adding clarifying language pertaining to proof of live birth in subsection (b)(2)(A)(i); by adding new subsection (b)(2)(A)(iii) pertaining to certification of domestic partnership; by renumbering current subsection (b)(2)(A)(iii) as (b)(2)(A)(iv); by adding new subsection (b)(2)(A)(v) pertaining to a declaration of termination of domestic partnership; by adding new subsection (b)(2)(A)(vi) pertaining to a court order adjudicating parentage, establishing parental rights, or finding de facto parenthood; by renumbering current subsections (b)(2)(A)(iv) through (b)(2)(A)(xiii) as (b)(2)(A)(vii) through (b)(2)(A)(xvi), respectively; by deleting subsection (b)(2)(C)(ii) and relocating it to new subsection (b)(2)(A)(xvii); by renumbering subsection (b)(2)(A)(xiv) as subsection (b)(2)(A)(xviii); by adding a cross reference to Rule 20-106 (c)(3) following renumbered subsection (b)(2)(A)(viii); by adding a provision to renumbered subsection (b)(2)(A)(xii) pertaining to parental rights terminated by statute; by clarifying provisions pertaining to the Interstate Compact on the

Placement of Children in renumbered subsection (b)(2)(A)(xv); by updating the cross reference following subsection (b)(2)(A)(xv); by renumbering subsections (b)(2)(C)(iii) through (b)(2)(C)(viii) as (b)(2)(C)(ii) through (b)(2)(C)(vii), respectively; and by making stylistic changes, as follows:

Rule 9-103. PETITION

(a) Titling of Case

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

(b) Petition for Adoption

(1) Contents

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

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

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

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

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

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

(F) A statement of how the person to be adopted was located (including names and addresses of all agencies, intermediaries, or surrogates), attaching

~~a copy of all advertisements used to locate the person, and a copy of any~~
surrogacy contract;

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

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

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

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

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

(K) Facts known to each petitioner that may indicate that an individual has a disability that makes an individual incapable of consenting or participating

effectively in the proceedings, or, if no such facts are known to the petitioner, a statement to that effect;

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

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

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

(O) That the petitioner is not aware that any required consent has been revoked; ~~and~~

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

(Q) A statement as to whether the Federal Indian Child Welfare Act (25 U.S.C. § 1901) applies.

(2) Exhibits

(A) Except for an adoption pursuant to Code, Family Law Article, § 5-3B-27, the following documents shall accompany the petition as exhibits:

(i) A verification or proof of live birth or a certified copy of the birth certificate ~~or “proof of live birth”~~ of the person to be adopted;

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

(iii) A certified copy of the certification of domestic partnership of each petitioner who is party to a registered domestic partnership;

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

(v) A certified copy of a declaration of termination of domestic partnership of each petitioner who had been a party to a registered domestic partnership;

(vi) A certified copy of any court order adjudicating parentage, establishing parental rights, or establishing an individual as a *de facto* parent;

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

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

Cross reference: See Rule 20-106 (c)(3) regarding electronic filing of certain original documents.

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

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

~~(viii)~~(xi) The original of all consents to the adoption, any required affidavits of translators or attorneys, and, if available, a copy of any written statement by the consenting person indicating a desire to revoke the consent, whether or not that statement constitutes a valid revocation;

Cross reference: See Code, Family Law Article, §§ 5-331, 5-338, and 5-339 as to a Public Agency Adoption without Prior TPR; 5-345, 5-350, and 5-351 as to a Public Agency Adoption after TPR; 5-3A-13, 5-3A-18, and 5-3A-19 as to a Private Agency Guardianship; 5-3A-35 as to a Private Agency Adoption; and 5-3B-20 and 5-3B-21 as to an Independent Adoption.

~~(ix)~~(xii) If applicable, proof of (1) termination of parental rights by statute, or (2) guardianship or relinquishment of parental rights granted by an administrative, executive, or judicial body of a state or other jurisdiction; a certification that the guardianship or relinquishment was granted in compliance with the jurisdiction's laws; and any appropriate translation of documents required to allow the child to enter the United States;

Cross reference: See Code, Family Law Article, §§ 5-305, 5-331, and 5-338 as to a Public Agency Adoption without Prior TPR; 5-305 and 5-345 as to a Public Agency Adoption after TPR; 5-3A-05, 5-3A-13, and 5-3A-18 as to a Private Agency Guardianship; 5-3A-05 as to a Private Agency Adoption; and 5-3B-04 and 5-3B-20 as to an Independent Adoption.

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

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

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

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

~~(xii)~~(xv) If the adoption is subject to the Interstate Compact on the Placement of Children, the ~~appropriate ICPC approval forms~~ form approving placement;

Cross reference: See Code, Family Law Article, ~~§ 5-601~~ § 5-604 for ICPC procedures for sending a child into the state.

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

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

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

(1) § 5-331 in a Public Agency Adoption without Prior TPR; or

(2) § 5-345 in a Public Agency Adoption after TPR.

(B) If the petition is filed pursuant to Code, Family Law Article, § 5-3B-27 by the spouse of the prospective adoptee's mother or an individual who consented to the prospective adoptee's conception by means of assisted reproduction, the following documents shall accompany the petition as exhibits:

(i) A certified copy of the petitioner's and prospective adoptee's mother's marriage certificate or evidence of the parties' shared express intent to become parents of the child by means of assisted reproduction, including a copy of any written agreement consenting to the conception of the prospective adoptee by means of assisted reproduction;

(ii) A certified copy of the prospective adoptee's birth certificate;

(iii) A statement explaining the circumstances of the prospective adoptee's conception in detail sufficient to identify any individual who may be entitled to notice or whose consent may be required under this subtitle;

(iv) The original of all consents to the adoption, any required affidavits of translators or attorneys, and, if available, a copy of any written statement by the consenting person indicating a desire to revoke the consent, whether or not that statement constitutes a valid revocation; and

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

Cross reference: Code, Family Law Article, § 5-3B-27.

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

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

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

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

~~(iii)~~(ii) If required by law, an accounting of all payments and disbursements of any money or item of value made by or on behalf of each petitioner in connection with the adoption;

Cross reference: Code, Family Law Article, § 5-3B-24 as to an Independent Adoption.

~~(iv)~~(iii) An affidavit of counsel for a parent, if required by Code, Family Law Article:

- (1) §§ 5-307 and 5-339 in a Public Agency Adoption without Prior TPR;
- (2) §§ 5-3A-07 and 5-3A-19 in a Private Agency Guardianship; or
- (3) §§ 5-3B-06 and 5-3B-21 in an Independent Adoption;

~~(v)~~(iv) An affidavit of counsel for a child, if the child is represented;

Cross reference: See Code, Family Law Article, §§ 5-307 and 5-338 as to a Public Agency Adoption without Prior TPR; 5-307 and 5-350 as to a Public Agency Adoption after TPR; 5-3A-07 and 5-3A-35 as to a Private Agency Adoption; and 5-3B-06 and 5-3B-20 as to an Independent Adoption.

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

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

~~(viii)~~(vii) A Maryland Department of Health Certificate of Adoption Form.

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

...

REPORTER'S NOTE

Proposed amendments to Rule 9-103 are recommended to clarify certain provisions and implement a recent statute.

Chapter 647, 2023 Laws of Maryland (SB 792), modified certain provisions of Code, Estates and Trusts Article so that registered domestic partnerships, in certain circumstances, have the same legal effect as marriage. Several Rules in Title 9, Chapter 100 were identified as possible locations where an individual's involvement in a registered domestic partnership may be relevant.

Rule 9-103 (b)(1)(I) is amended to add a requirement that a petitioner state why, if applicable, a registered domestic partner of the petitioner is not joining the petition. Subsection (b)(2)(A) is amended to require that a petitioner attach copies of any certification of domestic partnership or declaration of termination of domestic partnership to the petition.

In addition, a group of adoption practitioners consulted by staff provided suggestions for ways to update and clarify provisions in section (b).

Reference to copies of advertisements used to locate a prospective adoptee and the Committee note in subsection (b)(1)(F) are proposed for deletion. The Committee was informed that adoptees are often located through

online forums and other methods, not traditional advertisements, and the methods used can be described in the statement required by the subsection.

New subsection (b)(1)(Q) requires a statement as to whether the Federal Indian Child Welfare Act (“ICWA”) applies to the case. The Title 9, Chapter 100 forms for adoption proceedings instruct the filer to notify the court if ICWA is applicable. Practitioners suggested a statement in the petition would aid in compliance with the law.

Subsection (b)(2)(A)(i) is amended to clarify acceptable documentation for proof of birth.

Proposed new subsection (b)(2)(A)(vi) requires a copy of any court order adjudicating parentage, establishing parental rights, or establishing an individual as a *de facto* parent. There are several statutory and common law ways that parental rights may be established by court order. Practitioners suggested requiring documentation of that order in an adoption proceeding.

A cross reference to Rule 20-106 (c)(3) following renumbered subsection (b)(2)(A)(viii) references the electronic filing of certain original documents, such as certified copies. Rule 20-106 (c)(3) permits “original public records, such as birth certificates, that contain an official seal” to be scanned and filed electronically, so long as the original document is maintained by the filer.

An amendment to subsection (b)(2)(A)(xii) adds a new provision pertaining to termination of parental rights by statute. The Committee was informed that other states sometimes have statutes that terminate parental rights without court order.

Subsection (b)(2)(A)(xv) is amended to clarify which Interstate Compact on the Placement of Children forms are required to be attached to the petition. Practitioners reported that there are inconsistencies among clerks’ offices regarding required forms. The cross reference following the subsection is updated to cite more specifically to the statutory provision governing sending a child into the state.

The statement as to the health of the child currently located in subsection (b)(2)(C)(ii) is proposed for deletion and relocation as new subsection (b)(2)(A)(xvii).

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 100 – ADOPTION; PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-109 by clarifying the persons permitted to attend a hearing in subsection (b)(1), as follows:

Rule 9-109. HEARING ON MERITS

(a) Requirement

(1) Generally

The court shall hold a hearing and make findings on the record on the merits of a guardianship petition as provided by Code, Family Law Article:

- (A) § 5-335 in a Public Agency Adoption without Prior TPR;
- (B) § 5-347 in a Public Agency Adoption after TPR;
- (C) § 5-3A-32 in a Private Agency Adoption; or
- (D) § 5-3B-17 in an Independent Adoption.

(2) Guardianship

The court may hold a hearing on the merits of a consensual Private Agency Guardianship petition.

(b) Adoption

(1) Persons Present at Hearing

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

the petitioners, the person to be adopted, those persons whose presence is consented to by all petitioners, and those persons whose presence the court deems necessary or desirable. Notice of a hearing sent to an individual who consented to the adoption pursuant to Rule 9-102 does not entitle that individual to attend the hearing.

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

...

REPORTER'S NOTE

Proposed amendments to Rule 9-109 (b)(1) clarify who is required or permitted to attend a final adoption hearing. A clerk's office contacted the Committee regarding the interplay between this provision and the language in various adoption forms permitting an individual consenting to an adoption to receive notice of hearings involving the child. The clerk's office reported an incident where a parent who consented to an adoption appeared at a final adoption hearing and became upset when the court declined to let the parent attend.

Practitioners agreed that the notices sent to consenting individuals are confusing because they do not appear any different from notices sent to parties who are required to appear. In some cases, the petitioners do not object to the consenting parent attending the hearing and privately will arrange for the parent's presence.

Proposed amendments to subsection (b)(1) add "those persons whose presence is consented to by all petitioners" to the list of hearing attendees to allow for current practices. A sentence is also added to state that notice of a hearing sent to an individual who consented to the adoption does not entitle that individual to attend.

Conforming amendments are proposed to Forms 9-102.1 through 9-102.4 to alert the consenting individual of this provision.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 100 – ADOPTION; PRIVATE AGENCY GUARDIANSHIP

AMEND Rule 9-111 by incorporating a registered domestic partner to the provision in section (e), as follows:

Rule 9-111. JUDGMENT OF ADOPTION OR GUARDIANSHIP

(a) Time

The court may not enter a judgment of adoption or guardianship before the time set forth in Code, Family Law Article:

- (1) § 5-336 in a Public Agency Adoption without Prior TPR;
- (2) § 5-348 in a Public Agency Adoption after TPR;
- (3) § 5-3A-17 in a Private Agency Guardianship;
- (4) § 5-3A-33 in a Private Agency Adoption; or
- (5) § 5-3B-18 in an Independent Adoption.

(b) Information from Other Court

If a required consent indicates that any revocation of the consent must be filed in a court other than the trial court, the trial court may not enter a judgment of adoption or guardianship until it has obtained from the other court a copy of all papers filed in connection with the consent or an affidavit of the clerk of the other court that no papers were filed in connection with the consent.

(c) Supplemental Report

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

(d) Change of Name

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

(e) Spouse or Registered Domestic Partner of Parent

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

(f) Judgments of Adoption—Recording

The clerk shall record each judgment of adoption entered by the juvenile court pursuant to Code, Family Law Article, § 5-352 in the adoption records of the circuit court for the county where the judgment was awarded.

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

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

For the legal effect of adoption of an adult, see Code, Family Law Article, §§ 5-341 as to a Public Agency Adoption without Prior TPR; 5-352 as to a Public Agency Adoption after TPR; 5-3A-36 as to a Private Agency Adoption; and 5-3B-25 as to an Independent Adoption.

Source: This Rule is derived in part from former Rule D79 and former Rule 11-501 (g) (2021) and is in part new.

REPORTER'S NOTE

Proposed amendments to Rule 9-111 (e) implement Chapter 647, 2023 Laws of Maryland (SB 792). The bill modified certain provisions of Code, Estates and Trusts Article so that registered domestic partnerships, in certain circumstances, have the same legal effect as marriage. The Committee recommends that if an adopting parent is the registered domestic partner of a parent of the person to be adopted, the court's judgment of adoption should state whether and to what extent the parental rights of the existing parent are affected.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.1 by adding a provision pertaining to the effect of further notice in section G of the Instructions; by adding “found by a court to be the ‘de facto’ parent of the child” to question 5 in section A of the consent form; by adding new section (c) to question 5 in section A of the consent form; by adding new section D to the consent form; by re-lettering current sections D through G of the consent form as sections E through H, respectively; and by making stylistic changes, as follows:

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

**CONSENT OF PARENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT
TO ADOPTION OF _____ TO _____,
A LICENSED PRIVATE ADOPTION AGENCY**

INSTRUCTIONS

*These instructions and attached consent form may be used only in cases where the child is being placed for adoption with the assistance of a licensed **private** adoption agency. Code, Family Law Article, Title 5, Subtitle 3A.*

...

G. Further Notice of Guardianship and Adoption Proceedings

A petition for guardianship with the right to consent to adoption has been or will be filed in _____ Circuit Court. If you sign the consent form, your written consent form will also be filed in the Circuit Court. You have the right to be notified when the petition is filed, about any hearings, if and when the guardianship is granted, and when the child is adopted. You also have the right to be notified if there is a delay in your child's adoption because:

1. The adoption agency does not place your child with an adoptive family within 270 days of being appointed the guardian of your child;
2. The adoption agency does not place your child with an adoptive family within 180 days of the disruption of a prior adoptive placement; or
3. The adoption is not completed within 2 years after your child's placement with the adoptive family.

Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed. Receiving notice of a hearing does not give you the right to attend the hearing.

...

K. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

...

**CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO
ADOPTION OF**

_____ **TO** _____,

A LICENSED PRIVATE ADOPTION AGENCY

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into

_____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on

_____ at _____,
(date) (name of hospital or address of birthplace)

in _____.
(city, state, and county of birth)

5. Status as Parent. Check **all** that apply.

(a) I am

the mother of the child.

the father of the child.

alleged to be the father of the child.

found by a court to be the "de facto" parent of the child.

(b) I was married to the mother of the child

[] at the time of conception of the child.

[] at the time the child was born.

(c) I was the registered domestic partner of the parent of the child

[] at the time of conception of the child.

[] at the time the child was born.

...

D. Rights Under the Indian Child Welfare Act.

Check the following statement if it applies to you:

[] I am not a member of an Indian tribe or eligible to become a member of an Indian tribe.

OR

[] I am a member of an Indian tribe or believe I may be enrolled in a tribe. The name of the tribe is _____, located in _____.

D. E. Notice

...

E. F. Revocation Rights

...

F. G. Effect of this Consent

...

G. H. Oath and Signature

...

REPORTER'S NOTE

Proposed amendments to Forms 9-102.1, 9-102.2, 9-102.3, and 9-102.4 update certain portions of the instructions and consent forms used in adoptions and private agency guardianships. See the Reporter's notes to Rules 9-103, 9-109, and 9-111 for more information.

Language is proposed to be added to the instructions to Form 9-102.1 to inform the consenting individual that notice of a hearing sent by the court does not mean that the individual is entitled to attend the hearing.

Proposed additions to the form itself are intended to elicit additional information from the consenting individual which may be relevant to the proceeding. Question 5 in section A is amended to add options for "Status of Parent" to include *de facto* parents and registered domestic partners. New section D elicits information from the consenting individual to assist in determining whether the Indian Child Welfare Act is applicable to the proceeding. Sections D through G are re-lettered.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.2 by adding a provision pertaining to the effect of further notice in section G of the Instructions; by adding “found by a court to be the ‘de facto’ parent of the child” to question 5 in section A of the consent form; by adding new section (c) to question 5 in section A of the consent form; by adding new section E to the consent form; by re-lettering current sections E through H of the consent form as sections F through I, respectively; and by making stylistic changes, as follows:

Form 9-102.2. CONSENT OF PARENT TO A PUBLIC AGENCY ADOPTION
WITHOUT PRIOR TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Adoption of CINA without Prior Termination of Parental Rights

INSTRUCTIONS

*These instructions and attached consent form may be used only in cases where the child is a Child in Need of Assistance **and** the petitioner is seeking to adopt the child **without** prior termination of parental rights. Code, Family Law Article, Title 5, Subtitle 3, Part III.*

...

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for

_____. If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Juvenile Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed. Receiving notice of a hearing does not give you the right to attend the hearing.

...

K. Rights under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

...

CONSENT OF PARENT TO ADOPTION OF _____
Adoption of CINA without PRIOR Termination of Parental Rights

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____,
(date) (name of hospital or address of birthplace)
in _____.
(city, state, and county of birth).

5. Status as Parent. Check **all** that apply.

(a) I am

the mother of the child.

the father of the child.

alleged to be the father of the child.

found by a court to be the “de facto” parent of the child.

(b) I was married to the mother of the child

at the time of conception of the child.

at the time the child was born.

(c) I was the registered domestic partner of the parent of the child

at the time of conception of the child.

at the time the child was born.

...

E. Rights Under the Indian Child Welfare Act.

Check the following statement if it applies to you:

I am not a member of an Indian tribe or eligible to become a member of an Indian tribe.

OR

I am a member of an Indian tribe or believe I may be enrolled in a tribe. The name of the tribe is _____, located in _____.

E. F. Notice

...

F. G. Revocation Rights

...

G. H. Effect of this Consent

...

H. I. Oath and Signature

...

REPORTER'S NOTE

Proposed amendments to Forms 9-102.1, 9-102.2, 9-102.3, and 9-102.4 update certain portions of the instructions and consent forms used in adoptions and private agency guardianships. See the Reporter's notes to Rules 9-103, 9-109, and 9-111 for more information.

Language is proposed to be added to the instructions to Form 9-102.2 to inform the consenting individual that notice of a hearing sent by the court does not mean that the individual is entitled to attend the hearing.

Proposed additions to the form itself are intended to elicit additional information from the consenting individual which may be relevant to the proceeding. Question 5 in section A is amended to add options for "Status of Parent" to include *de facto* parents and registered domestic partners. New section E elicits information from the consenting individual to assist in determining whether the Indian Child Welfare Act is applicable to the proceeding. Sections E through H are re-lettered.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.3 by adding a provision pertaining to the effect of further notice in section G of the Instructions; by adding “found by a court to be the ‘de facto’ parent of the child” to question 5 in section A of the consent form; by adding new section (c) to question 5 in section A of the consent form; by adding new section E to the consent form; by re-lettering current sections E through H of the consent form as sections F through I, respectively; and by making stylistic changes, as follows:

Form 9-102.3. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION WITH TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Independent Adoption with Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are being terminated. It should not be used for a parent who is retaining parental rights, for example, a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

...

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for _____ . If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed. Receiving notice of a hearing does not give you the right to attend the hearing.

...

K. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

...

**CONSENT TO INDEPENDENT ADOPTION OF _____
WITH TERMINATION OF PARENTAL RIGHTS**

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____,
(date) (name of hospital or address of birthplace)
in _____.
(city, state, and county of birth).

5. Status as Parent. Check **all** that apply.

(a) I am

the mother of the child.

the father of the child.

alleged to be the father of the child.

found by a court to be the "de facto" parent of the child.

(b) I was married to the mother of the child

at the time of conception of the child.

at the time the child was born.

(c) I was the registered domestic partner of the parent of the child

at the time of conception of the child

at the time the child was born.

...

E. Rights Under the Indian Child Welfare Act.

Check the following statement if it applies to you:

I am not a member of an Indian tribe or eligible to become a member of an Indian tribe.

OR

I am a member of an Indian tribe or believe I may be enrolled in a tribe. The name of the tribe is _____, located in _____.

E. F. Notice

...

F. G. Revocation Rights

...

G. H. Effect of this Consent

...

H. I. Oath and Signature

...

REPORTER'S NOTE

Proposed amendments to Forms 9-102.1, 9-102.2, 9-102.3, and 9-102.4 update certain portions of the instructions and consent forms used in adoptions and private agency guardianships. See the Reporter's notes to Rules 9-103, 9-109, and 9-111 for more information.

Language is proposed to be added to the instructions to Form 9-102.3 to inform the consenting individual that notice of a hearing sent by the court does not mean that the individual is entitled to attend the hearing.

Proposed additions to the form itself are intended to elicit additional information from the consenting individual which may be relevant to the proceeding. Question 5 in section A is amended to add options for "Status of Parent" to include *de facto* parents and registered domestic partners. New section E elicits information from the consenting individual to assist in determining whether the Indian Child Welfare Act is applicable to the proceeding. Sections E through H are re-lettered.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.4 by adding a provision pertaining to the effect of further notice in section G of the Instructions; by adding “found by a court to be the ‘de facto’ parent of the child” to question 5 in section A of the consent form; by adding new section (c) to question 5 in section A of the consent form; by adding new section E to the consent form; by re-lettering current sections E through H of the consent form as sections F through I, respectively; and by making stylistic changes, as follows:

Form 9-102.4. CONSENT OF PARENT TO AN INDEPENDENT ADOPTION
WITHOUT PRIOR TERMINATION OF PARENTAL RIGHTS

CONSENT OF PARENT TO ADOPTION OF _____

Independent Adoption without Termination of Parental Rights

INSTRUCTIONS

These instructions and attached consent form may be used only in independent adoptions, not those that are arranged by an adoption agency. This form should only be used for a parent whose parental rights are not being terminated. It should be used for a parent who is retaining parental rights, for example, a custodial parent in a step-parent adoption. Code, Family Law Article, Title 5, Subtitle 3B.

...

G. Further Notice of Adoption Proceedings

A petition for adoption has been or will be filed in the Circuit Court for _____ . If you sign the consent form, your written consent will also be filed in the court. You have the right to be notified when the petition is filed, when any hearings are held before the adoption is granted, and if and when the adoption is granted. Any notices will be sent to the address given by you on the consent form, unless you write to the Adoption Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed. Receiving notice of a hearing does not give you the right to attend the hearing.

...

K. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

...

CONSENT TO INDEPENDENT ADOPTION OF _____
WITHOUT TERMINATION OF PARENTAL RIGHTS

Use a pen to fill out this form. You must complete each section.

A. Identifying Information

1. Language.

I understand English, or this consent form has been translated into _____, a language that I understand.

2. Name.

My name is _____.

3. Age.

My date of birth is _____.

4. Child.

The child who is the subject of this consent was born on _____ at _____,
(date) (name of hospital or address of birthplace)
in _____.
(city, state, and county of birth).

5. Status as Parent. Check **all** that apply.

(a) I am

the mother of the child.

the father of the child.

alleged to be the father of the child.

found by a court to be the "de facto" parent of the child.

(b) I was married to the mother of the child

at the time of conception of the child.

at the time the child was born.

(c) I was the registered domestic partner of the parent of the child

at the time of conception of the child.

at the time the child was born.

...

E. Rights Under the Indian Child Welfare Act.

Check the following statement if it applies to you:

I am not a member of an Indian tribe or eligible to become a member of an Indian tribe.

OR

I am a member of an Indian tribe or believe I may be enrolled in a tribe. The name of the tribe is _____, located in _____.

E. F. Notice

...

F. G. Revocation Rights

...

G. H. Effect of this Consent

...

H. I. Oath and Signature

...

REPORTER'S NOTE

Proposed amendments to Forms 9-102.1, 9-102.2, 9-102.3, and 9-102.4 update certain portions of the instructions and consent forms used in adoptions and private agency guardianships. See the Reporter's notes to Rules 9-103, 9-109, and 9-111 for more information.

Language is proposed to be added to the instructions to Form 9-102.4 to inform the consenting individual that notice of a hearing sent by the court does not mean that the individual is entitled to attend the hearing.

Proposed additions to the form itself are intended to elicit additional information from the consenting individual which may be relevant to the proceeding. Question 5 in section A is amended to add options for "Status of Parent" to include *de facto* parents and registered domestic partners. New section E elicits information from the consenting individual to assist in determining whether the Indian Child Welfare Act is applicable to the proceeding. Sections E through H are re-lettered.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.5 by adding a provision pertaining to federal Indian Child Welfare Act to the form as number 12 and by renumbering 12 through 15 as 13 through 16, respectively, as follows:

Form 9-102.5. CONSENT OF CHILD TO A PUBLIC AGENCY ADOPTION OR PRIVATE AGENCY ADOPTION

CONSENT OF _____ TO ADOPTION
(Name of Child)

INSTRUCTIONS

This consent form may be completed only after being reviewed with an attorney and should be completed only by a child who is in the custody of or under the guardianship of the Department of Social Services or under the guardianship of a private child placement agency. Code, Family Law Article, Title 5, Subtitle 3 or 3A.

...

12. I have not lived on an Indian Reservation, and I do not believe that I am a member of an Indian tribe or eligible to be an enrolled member of an Indian tribe.

~~12.~~ 13. I have read this consent form or have had it read and explained to me in a language that I understand. I understand the meaning of this consent form.

~~13.~~ 14. I have not been promised anything in return for agreeing to be

adopted.

~~14.~~ 15. I have signed this consent form of my own free will.

~~15.~~ 16. I understand that I will be given a copy of this signed consent form.

...

REPORTER'S NOTE

Proposed amendments to Form 9-102.5 add a statement pertaining to the applicability of the federal Indian Child Welfare Act. See the Reporter's note to Rule 9-103.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.6 by adding a new section E pertaining to the federal Indian Child Welfare Act to the Instructions; by adding new question 13 pertaining to the Indian Child Welfare Act to the form; and by renumbering questions 13 through 16 as 14 through 15, respectively, as follows:

Form 9-102.6. CONSENT OF CHILD TO AN INDEPENDENT ADOPTION

CONSENT OF _____ TO INDEPENDENT ADOPTION
(Name of Child)

INSTRUCTIONS

This consent form should be completed only by a child who is being adopted in an independent adoption that is not being arranged by an adoption or child placement agency. Code, Family Law Article, Title 5, Subtitle 3B.

...

E. Rights under the Indian Child Welfare Act

If you are a member of or are eligible for membership in an Indian tribe, as defined by federal law, you have special legal rights under the Indian Child Welfare Act. You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your case should be handled under the Indian Child Welfare Act.

...

CONSENT OF _____ TO INDEPENDENT ADOPTION
(Name of Child)

Use a pen to fill out this form. If you decide to sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older and should not be your parent or the person who is adopting you. You must fill in all the blanks, sign the form, and print your name, address, and telephone number, and the witness must sign and print the witness' name, address, and telephone number in the blanks on the last page.

...

13. Check one:

I am not a member of an Indian tribe or eligible to become a member of an Indian tribe.

OR

I am a member of an Indian tribe or believe I may be enrolled in a tribe. The name of the tribe is _____, located in _____.

~~13.~~ 14. I have read this consent form or have had it read and explained to me in a language that I understand. I understand the meaning of this consent form.

~~14.~~ 15. I have not been promised anything in return for agreeing to be adopted.

~~15.~~ 16. I have signed this consent form of my own free will.

~~16.~~ 17. I understand that I will be given a copy of this signed consent form.

...

REPORTER'S NOTE

Proposed amendments to Form 9-102.6 add instructions and a statement pertaining to the applicability of the federal Indian Child Welfare Act. See the Reporter's note to Rule 9-103.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.7 by adding a new number 5 pertaining to the federal Indian Child Welfare Act to the form and by renumbering numbers 5 and 6 as 6 and 7, respectively, as follows:

Form 9-102.7. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO A PRIVATE AGENCY GUARDIANSHIP

**Affidavit by Attorney as to Consent of _____ (parent) to Guardianship
with the Right to Consent to Adoption (“Guardianship”) by _____
(agency) of _____ (child)**

...

5. Based on my interview with the parent, the parent is not a member of an Indian tribe, is not eligible for membership in an Indian tribe, and has no immediate family member who is a member of an Indian tribe.

~~5.~~ 6. I have explained to the parent that _____ (agency) has filed or plans to file a case to ask the court to grant it guardianship of the child with the right to consent to adoption by:

Check one of the following:

a family approved by the agency.

OR

_____ (name by which parent knows adoptive parent).

~~6~~. 7. I reviewed the consent form thoroughly with the parent, and I believe that the parent desires to consent to the guardianship and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

...

REPORTER'S NOTE

Proposed amendments to Form 9-102.7 adds a statement pertaining to the applicability of the federal Indian Child Welfare Act. See the Reporter's note to Rule 9-103.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.8 by adding a new number 5 pertaining to the federal Indian Child Welfare Act to the form and by renumbering numbers 5 and 6 as 6 and 7, respectively, as follows:

Form 9-102.8. ATTORNEY AFFIDAVIT AS TO CONSENT OF A PARENT TO ADOPTION

Affidavit by Attorney as to Consent of

_____ (parent)

to Adoption of _____ (child)

...

5. Based on my interview with the parent, the parent is not a member of an Indian tribe, is not eligible for membership in an Indian tribe, and has no immediate family member who is a member of an Indian tribe.

~~5.~~ 6. I have explained to the parent that _____ (name by which parent knows adoptive parent) has filed or plans to file a case to ask the court to permit that person to adopt the parent's child.

~~6.~~ 7. I reviewed the consent form thoroughly with the parent, and I believe that the parent desires to consent to the adoption and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

...

REPORTER'S NOTE

Proposed amendments to Form 9-102.8 adds a statement pertaining to the applicability of the federal Indian Child Welfare Act. See the Reporter's note to Rule 9-103.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

FORMS FOR ADOPTIONS; PRIVATE AGENCY GUARDIANSHIPS

AMEND Form 9-102.9 by adding a new number 5 pertaining to the federal Indian Child Welfare Act to the form and by renumbering numbers 5 and 6 as 6 and 7, respectively, as follows:

Form 9-102.9. ATTORNEY AFFIDAVIT AS TO CONSENT OF A CHILD TO ADOPTION

Affidavit by Attorney as to Consent of

_____ **(child) to Adoption**

...

5. Based on my interview with the child, the child is not a member of an Indian tribe, is not eligible for membership in an Indian tribe, and is not the biological child of a member of an Indian tribe.

~~5.~~ 6. I have explained to the child that _____ have asked the court to be permitted to adopt the child, that the child has the right to decide whether or not the child wants to be adopted, and the possible options if the adoption is not approved.

~~6.~~ 7. I reviewed the consent form thoroughly with the child, and I believe that the child agrees to the adoption and has signed the consent form knowingly and voluntarily and not due to duress or coercion.

...

REPORTER'S NOTE

Proposed amendments to Form 9-102.9 add a statement pertaining to the applicability of the federal Indian Child Welfare Act. See the Reporter's note to Rule 9-103.

MARYLAND RULES OF PROCEDURE

TITLE 11 – JUVENILE CAUSES

CHAPTER 300 – GUARDIANSHIP TERMINATING PARENTAL RIGHTS

FORMS

AMEND Form 11-309 by adding a provision pertaining to the effect of further notice in section H of the Instructions; by adding “found by a court to be the ‘de facto’ parent of the child” to question 4 in section B of the consent form; by adding statements pertaining to a registered domestic partner to question 4 in section B of the consent form; by adding new section D to the consent form; by re-lettering current sections D through H of the consent form as sections E through I, respectively; and by making stylistic changes, as follows:

Form 11-309. CONSENT BY PARENT TO GUARDIANSHIP

A consent by a parent to guardianship shall be substantially in the following form:

CONSENT BY PARENT TO GUARDIANSHIP WITH THE RIGHT TO
CONSENT TO ADOPTION OF [NAME OF CHILD] BY [NAME OF
LOCAL DEPARTMENT/GUARDIAN]

INSTRUCTIONS

The attached written consent form is an important legal document. You must read all of these instructions BEFORE you decide whether to sign the consent form. If you do not understand the instructions or the

consent form, you should not sign it. If you are under 18 years old or if you have a disability that makes it difficult for you to understand, do not sign the consent form unless you have a lawyer.

...

H. Further Notice of Guardianship and Adoption Proceedings

1. A petition for guardianship with the right to consent to adoption has been or will be filed in the Juvenile Court for _____ County/Baltimore City. If you sign the consent form, it will also be filed in the Juvenile Court.

2. You have the right to be notified when the petition is filed, about any hearings before or after a guardianship is granted, and if a guardianship is granted, if and when the child is adopted. Any notices will be sent to the address given by you on the consent form, unless you write to the Juvenile Clerk at _____ (court's address) and give the clerk your new address. You may waive (give up) your right to notice if you wish to do so. Even if you give up your right to notice, someone from the court may contact you if further information is needed. Receiving notice of a hearing does not give you the right to attend the hearing. If you wish to be present at a hearing, you may contact the court and request permission to attend.

...

L. Rights Under the Indian Child Welfare Act

If you or your child are members of or are eligible for membership in an ~~American~~ Indian tribe, as defined by federal law, you have special legal rights under the Federal Indian Child Welfare Act (25 U.S.C. § 1901). You should not sign this consent form if you believe this may apply to you. You should tell the person requesting the consent or the court that you believe that your child's case should be handled under the Indian Child Welfare Act.

...

CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO
ADOPTION OR OTHER PLANNED PERMANENT LIVING ARRANGEMENT OF
_____ TO _____

Use a pen to fill out this form. You must complete each section.

A. Language of Form

1. The instructions and this consent form are in _____ (language), which is a language I can read and understand.

2. If the form is in a language other than English, attached to it is an affidavit in English of the person who translated the document from English attesting that the translation is accurate and listing ~~his or her~~ the translator's qualifications.

B. Identifying Information

1. Name

My full name is _____.

2. Age

My date of birth is _____.

3. Child's Birth Information

The child who is the subject of this consent was born on _____ (date) at _____ (name of hospital or address of birthplace) in _____ (city, state, and county, and country of birth).

4. Status as Parent

(a) I am

- the mother of the child;
- the father of the child;

alleged to be the father of the child; or
 found by a court to be the “de facto” parent
of the child.

(b) If I checked “alleged to be the father of the child” or “found by a court to be the ‘de facto’ parent of the child” (Check all that apply):

- (1) I was married to the mother of the child at the time of conception of the child.
- (2) I was married to the mother of the child at the time the child was born.
- (3) I was the registered domestic partner of the parent of the child at the time of conception of the child.
- (4) I was the registered domestic partner of the parent of the child at the time the child was born.
- ~~(5)~~ (7) I was named as the father on the child’s birth certificate.
- ~~(6)~~ (8) The child’s mother named me as the child’s father.
- ~~(7)~~ (9) I have been adjudicated by a court to be the child’s ~~father~~ parent.
- ~~(8)~~ (10) I have acknowledged myself orally or in writing to be the child’s father.
- ~~(9)~~ (11) On the basis of genetic testing, I have been have not been indicated to be the child’s biological father.
- ~~(10)~~ (12) I do not know if I am the father of the child.
- ~~(11)~~ (13) I deny that I am the father of the child.

...

D. Rights Under the Indian Child Welfare Act

Check the following statement if it applies to you:

I am not a member of an Indian tribe or eligible to become a member of an Indian tribe.

OR

[] I am a member of an Indian tribe or believe I may be enrolled in a
tribe. The name of the tribe is _____, located in
_____.

D. E. Consent

...

E. F. Further Notice

...

F. G. Right to Revoke Consent

...

G. H. Effect of this Consent

...

H. I. Oath and Signature

...

REPORTER'S NOTE

Proposed amendments to Form 11-309 update certain portions of the instructions and consent form used in public agency guardianships terminating parental rights.

Language is proposed to be added to the instructions to Form 11-309 to inform the consenting individual that notice of a hearing sent by the court does not mean that the individual is entitled to attend the hearing.

A proposed stylistic change in the instructions updates the language to conform with the terms used by federal law.

Proposed additions to the form itself are intended to elicit additional

information from the consenting individual which may be relevant to the proceeding. Question 4 in section A is amended to add options for “Status of Parent” to include *de facto* parents and registered domestic partners. New section D elicits information from the consenting individual to assist in determining whether the Indian Child Welfare Act is applicable to the proceeding. Sections D through H are re-lettered.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 400 - DELINQUENCY AND CITATION PROCEEDINGS

ADD new Rule 11-420.2, as follows:

Rule 11-420.2. SAFE HARBOR – VICTIMS OF CHILD SEX TRAFFICKING AND HUMAN TRAFFICKING

(a) Applicability

This Rule applies to a petition alleging that a child committed an act that is (1) a qualifying offense listed in Code, Criminal Procedure Article, § 8-302, (2) a violation listed in Code, Courts Article, § 3-8A-01 (dd), or (3) an offense under Code, Criminal Law Article, § 3-1102.

(b) Stay of Proceedings

If at any time after the filing of a petition described in section (a) of this Rule, but not later than entry of a disposition order pursuant to Rule 11-422, there is reason to believe that the child is a victim of sex trafficking or human trafficking, on motion or on its own initiative, the court shall stay all proceedings in the delinquency action and comply with the requirements of Code, Courts Article, § 3-8A-17.13.

Cross reference: See Code, Family Law Article, § 5-701 for the definition of “sex trafficking.” See Code, Criminal Procedure Article, § 8-302 for the definition of “victim of human trafficking.”

(c) Hearing

(1) Generally

RULE 11-420.2

Within 15 days after a stay is entered pursuant to section (b) of this Rule, the court shall hold a hearing to determine and make findings, in writing or on the record in open court, by a preponderance of the evidence:

(A) whether the child is a victim of human trafficking or sex trafficking, and

(B) if so, whether the child committed each alleged act described in section (a) of this Rule, and

(C) if so, whether each alleged act that the child committed was committed as a direct result of the child being a victim of human trafficking or sex trafficking.

(2) Extension of Time

For good cause shown, the court may extend the time for the hearing for an additional 15 days.

(d) Order

The court shall enter an order dismissing each charge required to be dismissed by Code, Courts Article, § 3-8A-17.13. For charges in the petition not dismissed, the court shall enter an order lifting the stay, and shall proceed with the delinquency action pertaining to those alleged acts.

(e) Use of Certain Evidence in Other Proceedings

Any statement made by the child or information elicited from the child (1) in connection with services provided pursuant to a referral under Code, Courts Article, § 3-8A-17.13(b)(1)(iii) or (2) at a hearing pursuant to section (c) of this Rule is inadmissible against the child in any proceeding except a hearing held pursuant to subsection (c)(1) of this Rule.

Cross reference: See Code, Family Law Article, § 5-704.4 pertaining to the Safe Harbor Regional Navigator Grant Program. See Code, Courts Article, § 3-8A-14 (d) pertaining to duties of a law enforcement officer if there is reason to believe that a child who has been detained is a victim of sex trafficking or human trafficking. See Code, Courts Article, § 3-8A-14.2 pertaining to custodial interrogation of children.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 11-420.2 implements Chapter 686/687, 2023 Laws of Maryland (SB 292/HB 297). The statute generally prohibits a minor from being prosecuted criminally or the subject of a delinquency proceeding for certain offenses if the alleged act was committed as a direct result of the child being a victim of sex trafficking or human trafficking. This “safe harbor” legislation creates new Code, Courts Article, § 3-8A-17.13 and places certain duties on the court, including requiring a stay of proceedings, referral for services, and a determination by the court as to whether (1) the child was a victim of trafficking and (2) the child’s actions were a direct result of being trafficked.

Section (a) sets forth the applicability of the Rule. It is derived from the statute.

Section (b) states when the court must stay proceedings. The statute does not specify whether the stay and required determination must occur in all delinquency matters involving one of the alleged acts – which range from misdemeanor theft and driving without a license to prostitution-related offenses – or only when the issue is generated by motion or on the court’s own initiative. Code, Courts Article, § 3-8A-14, applicable to law enforcement, requires “reason to believe” that the child is a victim of sex trafficking or human trafficking before the officer must take certain actions. Rule 11-420.2 (b) adopts the “reason to believe” language to avoid requiring the court to comply with Code, Courts Article, § 3-8A-17.13, if there is no suspicion of trafficking.

Section (c) sets forth the timing of a hearing and the required findings. It is derived from the statute.

Section (d) requires the court to enter an order as required by the statute. If any charges are not dismissed pursuant to the statute, the court lifts the stay and proceeds with the delinquency action.

RULE 11-420.2

Section (e) governs use of statements or information elicited from the child. The statute is silent on what, if any, protections should be provided to statements made by a child as part of the process of determining whether the child is a victim of trafficking and whether the eligible charges in the petition should be dismissed. The Committee was informed that the driving force behind the legislation is to encourage child victims to be candid about their situation and to provide an “off ramp” from delinquency proceedings to appropriate services. In order to accomplish this, Rule 11-420.2 (e) prohibits use of statements made by the child or information elicited from the child in connection with services provided after a referral or at the hearing to determine if the child is a trafficking victim. This provision is modeled after Rule 11-416 (b)(5), which prohibits use of statements by a child during a competency evaluation and subsequent hearing at any other proceeding.

A cross reference to statutes related to sex and human trafficking services and law enforcement obligations in cases involving juveniles suspected to be victims of trafficking follows section (e).

MARYLAND RULES

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 300 – PLEADINGS AND MOTIONS

AMEND Rule 2-341 by adding to section (a) a provision restricting the right to file an amended pleading less than 15 days before a motions hearing and by providing that an amendment to a pleading pursuant to section (b) be for good cause shown, as follows:

Rule 2-341. AMENDMENT OF PLEADINGS

(a) Without Leave of Court

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

(b) With Leave of Court

A party may file an amendment to a pleading after the dates set forth in section (a) of this Rule only with leave of court and for good cause shown. If the amendment introduces new facts or varies the case in a material respect, the new facts or allegations shall be treated as having been denied by the adverse party. The court shall not grant a continuance or mistrial unless the ends of justice so require.

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

...

REPORTER'S NOTE

A proposed amendment to Rule 2-341 (a) was suggested by a practitioner who raised the issue of parties who file an amendment to a pleading on the eve of a motions hearing after opposing counsel and the court have reviewed the pleading and prepared for the hearing. The amended pleading, according to the attorney, often serves to negate the need for the hearing.

Section (a) generally permits a party to file an amendment to a pleading without leave of court by the date set in a scheduling order or, if there is no scheduling order, 30 days before trial. The proposed amendment prohibits such amendment less than 15 days before a motions hearing concerning that pleading. After the hearing has concluded, the general timing provisions of the Rule govern further amendment of pleadings.

Section (b), which permits a party, with leave of court, to file an amended pleading even if it is not permitted by section (a), is amended to add a requirement of good cause shown.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 – ADMINISTRATION OF ESTATES

AMEND Rule 6-416 by deleting the form in subsection (b)(1)(B) and referring to a form posted on the Register of Wills form website and by making stylistic changes, as follows:

Rule 6-416. ATTORNEY'S FEES OR PERSONAL REPRESENTATIVE'S COMMISSIONS

(a) Subject to Court Approval

(1) Contents of Petition

(A) Generally

When a petition for the allowance of attorney's fees or personal representative's commissions is required, it shall be verified and shall state in reasonable detail the basis for the current request and (i) the amount of all fees or commissions previously allowed, (ii) the amount of fees or commissions that the petitioner reasonably estimates will be requested in the future, (iii) the amount of fees or commissions currently requested, (iv) any additional fees or commissions anticipated or previously allowed in connection with an election by or on behalf of a surviving spouse to take an elective share, and (v) that the notice required by subsection (a)(3) of this Rule has been given.

(B) Compensation in Connection with an Elective Share

When a petition for the allowance of additional attorney's fees or personal representative's commissions in connection with an election by or on behalf of a surviving spouse to take an elective share under Code, Estates and Trusts Article, § 7-603(b) is required, it shall be verified and shall state in reasonable detail the basis for the current request and (i) the amount of all fees or commissions previously allowed, (ii) the amount of fees or commissions that the petitioner reasonably estimates will be requested in the future, (iii) the amount of fees or commissions currently requested, (iv) the amount of fees or commissions under this subsection consented to by all interested persons, and (v) that the notice required by subsection (a)(3) of this Rule has been given. A petition under this subsection may be combined with a petition under subsection (a)(1)(A) of this Rule.

Committee note: Code, Estates and Trusts Article, § 7-603(b)(2) states that the amount of compensation or attorney's fees consented to by all interested persons is presumed to be reasonable.

(2) Filing – Separate or Joint Petitions

Petitions for attorney's fees and personal representative's commissions shall be filed with the court and may be filed as separate or joint petitions.

(3) Notice

The personal representative shall serve on each unpaid creditor who has filed a claim and on each interested person a copy of the petition accompanied by a notice in the following form:

NOTICE OF PETITION FOR ATTORNEY'S FEES OR PERSONAL
REPRESENTATIVE'S COMMISSIONS

You are hereby notified that a petition for allowance of attorney's fees or personal representative's commissions has been filed. You have 20 days after service of the petition within which to file written exceptions and to request a hearing.

(4) Allowance by Court

Upon the filing of a petition, the court, by order, shall allow attorney's fees or personal representative's commissions as it considers appropriate, subject to any exceptions.

(5) Exception

An exception shall be filed with the court within 20 days after service of the petition and notice and shall include the grounds therefor in reasonable detail. A copy of the exception shall be served on the personal representative.

(6) Disposition

If timely exceptions are not filed, the order of the court allowing the attorney's fees or personal representative's commissions becomes final. Upon the filing of timely exceptions, the court shall set the matter for hearing and notify the personal representative and other persons that the court deems appropriate of the date, time, place, and purpose of the hearing.

(b) Payment of Attorney's Fees and Personal Representative's Commissions Without Court Approval

(1) Consent in Lieu of Court Approval

(A) Procedure

Upon the filing of a completed Consent to Compensation for Personal Representative and/or Attorney form substantially in the form ~~set forth in~~ required by subsection (b)(1)(B) of this Rule, the personal representative may pay attorney's fees and personal representative's commissions without court approval if the combined sum of all payments of attorney's fees authorized under Code, Estates and Trusts Article, § 7-602(a) and personal representative's commissions authorized under Code, Estates and Trusts Article, § 7-601(a) does not exceed the amounts provided in Code, Estates and Trusts Article, § 7-601(b). Unless the Consent form is filed simultaneously with the final account or final report under modified administration, each payment consented to must be for services rendered by the attorney or personal representative prior to the date of the consent.

(B) Form of Consent

The consent stating the amounts of the payments shall be signed by (i) each creditor who has filed a claim that is still open and (ii) all interested persons, and filed with the register substantially in the ~~following~~ approved by the Registers of Wills and posted on the Register of Wills forms website.:

~~BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND~~

~~IN THE ESTATE OF: _____ Estate No. _____~~

~~CONSENT TO COMPENSATION FOR
PERSONAL REPRESENTATIVE AND/OR ATTORNEY~~

~~I understand that the law, Estates and Trusts Article, § 7-601, provides a formula to establish the maximum total commissions to be paid for personal~~

~~representative's commissions. If the total compensation for personal representative's commissions and attorney's fees being requested falls within the maximum allowable commissions, and the request is consented to by all unpaid creditors who have filed claims and all interested persons, this payment need not be subject to review or approval by the Court. A creditor or an interested party may, but is not required to, consent to these fees.~~

~~The formula sets total compensation at 9% of the first \$20,000 of the adjusted estate subject to administration PLUS 3.6% of the excess over \$20,000. Based on this formula, the adjusted estate subject to administration known at this time is _____. The total allowable statutory maximum commission based on the adjusted estate subject to administration known at this time is _____, LESS any personal representative's commissions and attorney's fees previously approved as required by law and paid. To date, \$ _____ in personal representative's commissions and \$ _____ in attorney's fees have been paid.~~

~~IF ALL REQUIRED CONSENTS ARE NOT OBTAINED, A PETITION SHALL BE FILED, AND THE COURT SHALL DETERMINE THE AMOUNT TO BE PAID.~~

~~Cross reference: See 90 Op. Att'y. Gen. 145 (2005).~~

~~Total combined commissions and fees being requested for services prior to _____, 20__ are \$ _____, to be paid as follows:~~

Amount	To	Name of Personal Representative/Attorney
_____	_____	_____
_____	_____	_____

I have read this entire form and I hereby consent to the payment of personal representative and/or attorney's fees in the above amount.

Date _____ Signature _____ Name (Typed or Printed)

Attorney _____ Personal Representative

Address _____ Personal Representative

Telephone Number

Facsimile Number

Email Address

(2) Payment of Contingency Fee for Services Other Than Estate Administration

The personal representative may pay attorney's fees without court approval if:

(A) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or by a previous personal representative;

(B) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the current personal representative of the decedent's estate provided that the personal representative is not acting as the retained attorney and is not a member of the attorney's firm;

(C) the fee does not exceed the terms of the contingency fee agreement;

(D) a copy of the contingency fee agreement is on file with the Register of Wills; and

(E) the attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate.

(3) Designation of Payment

When rendering an account pursuant to Rule 6-417 or a final report under modified administration pursuant to Rule 6-455, the personal representative shall designate any payment made under this section as an expense.

Cross reference: Code, Estates and Trusts Article, §§ 7-502, 7-601, 7-602, 7-603, and 7-604.

REPORTER'S NOTE

Proposed amendments to Rule 6-416 impact the form used for consent to compensation for a personal representative or attorneys' fees in estate proceedings. A group of attorneys, Registers of Wills, and orphans' court judges submitted a proposed revision to the consent form; however, the Committee determined that it would recommend deletion of the form from the Rule. Instead, the consent would be "filed with the register substantially in the form posted on the Register of Wills forms website."

The Committee was informed that the benefit of locating the form outside of the Rule is that it can be quickly amended without going through the sometimes-lengthy Rules Committee amendment procedure. Forms in other Titles have increasingly been removed from the Rules and are instead drafted and revised by the Forms Subcommittee in the Administrative Office of the Courts. Registers, however, are independently elected officials in each county, do not have a single administrative head, and operate under the auspices of the Comptroller of Maryland, an executive agency. Any forms removed from the Rules in Title 6 would not be subject to approval by the Rules Committee, the State Court Administrator, or, ultimately, the Supreme Court.

The Committee was informed that the Registers coordinate and standardize practices and forms through the Maryland Register of Wills Association, which has a president, bylaws, and subcommittees (including one that reacts to statutory changes and other issues that require amendments to estate forms). The Assistant Attorney General for the Registers reviews forms approved by the Association for legal sufficiency. The Registers represented to the Committee that there has not been any serious disagreement, but such disputes would be worked out or subject to a vote requiring a majority of the Registers to approve a decision.

MARYLAND RULES OF PROCEDURE
TITLE 16 – COURT ADMINISTRATION
CHAPTER 900 – ACCESS TO JUDICIAL RECORDS
DIVISION 4 – RESOLUTION OF DISPUTES

AMEND Rule 16-934 by altering the service requirements in subsection (b)(2)(B) and by making stylistic changes, as follows:

Rule 16-934. CASE RECORDS – COURT ORDER DENYING OR PERMITTING INSPECTION NOT OTHERWISE AUTHORIZED BY RULE

(a) Purpose; Scope

(1) Generally

This Rule is intended to authorize a court to permit inspection of a case record that is not otherwise subject to inspection, or to deny inspection of a case record that otherwise would be subject to inspection, if the court finds, by clear and convincing evidence, (1) a compelling reason under the particular circumstances to enter such an order, and (2) that no substantial harm will come from such an order.

(2) Exception

This Rule does not apply to, and does not authorize a court to permit inspection of, a case record where inspection would be contrary to the United States or Maryland Constitution, a Federal statute or regulation that has the force of law, a Maryland statute other than the PIA, or to a judicial record that is not subject to inspection under Rule 16-911 (c), (d), (e), or (f).

(b) Petition

(1) A party to an action in which a case record is filed, and a person who is the subject of or is specifically identified in a case record may file in the action a petition:

(A) to seal or otherwise limit inspection of a case record filed in that action that is not otherwise shielded from inspection under the Rules in this Chapter or Title 20 or other applicable law; or

(B) subject to subsection (a)(2) of this Rule, to permit inspection of a case record filed in that action that is not otherwise subject to inspection under the Rules in this Chapter or Title 20 or other applicable law.

(2) Except as provided in subsection (b)(3) of this Rule, the petition shall be filed with the court in which the case record is filed and shall be served on:

(A) all parties to the action in which the case record was filed; and

(B) if the petition is to permit inspection of a case record filed in that action that is not otherwise subject to inspection, each identifiable person who is ~~the~~ a subject of the case record.

(3) A petition to shield a judicial record pursuant to Code, Criminal Procedure Article, Title 10, Subtitle 3 shall be filed in the county where the judgment of conviction was entered and shall state that the petition is filed pursuant to this Rule and that it should be shielded. The petition shall be shielded, subject to further order of the court. Service shall be made, and proceedings shall be held as directed in that Subtitle.

(4) The petition shall be under oath and shall state with particularity the circumstances that justify an order under this Rule. Unless the court orders otherwise, the petition and any response to it shall be shielded.

...

REPORTER'S NOTE

Proposed amendments to Rule 16-934 address questions raised by the Supreme Court at its open meeting on the Two Hundred and Fourteenth Report. The Rule provides a mechanism for a party or “person who is the subject of a case record” to petition to seal or limit inspection of the record if it is not required to be shielded by law. The Rule also allows the party or subject of a record to petition to permit inspection of a case record that is not otherwise subject to inspection.

The Supreme Court asked the Rules Committee whether, when the request is to restrict access to a case record, all persons who are the subject of a record should be required to be notified pursuant to subsection (b)(2)(B). When the petition is to permit access to a record which a person otherwise expects to be shielded, the person is more likely to have an interest in knowing about – and responding to – the petition. Given that it is potentially onerous to require service on any identifiable subject of a case record if the petition seeks to shield the record from the public, the proposed amendments to subsection (b)(2)(B) require service on subjects of a case record only where the petition is to permit inspection of an otherwise shielded record.

The Supreme Court also questioned whether the subsection should read “the subject” or “a subject.” The Committee concluded that the language should be “a subject,” and recommends that change to subsection (b)(2)(B).

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 20-109 by adding a provision to section (b) pertaining to a designee of a corporation or business entity, as follows:

RULE 20-109. ACCESS TO ELECTRONIC RECORDS IN MDEC ACTIONS

(a) Generally

Except as otherwise provided in this Rule, access to judicial records in an MDEC action is governed by the Rules in Title 16, Chapter 900.

(b) Parties and Attorneys of Record

Subject to any protective order issued by the court or other law, parties to and attorneys of record for a party in an MDEC action shall have full access, including remote access, to all case records in that action. In an action where a corporation or business entity established under the law of any state or federal law is a party, the corporation or business entity may designate in writing a registered user who shall have remote access to all case records in the action but not be permitted to file in the action. An attorney for a victim or victim's representative shall have access, including remote access, to case records as provided in Rule 1-326 (d).

(c) Judges and Judicial Appointees

Judges and judicial appointees shall have full access, including remote access, to judicial records to the extent that such access is necessary to the

performance of their official duties. The Chief Justice of the Supreme Court, by Administrative Order, may further define the scope of remote access by judges and judicial appointees.

(d) Clerks and Judicial Personnel

Clerks and judicial personnel shall have full access from their respective work stations to judicial records to the extent such access is necessary to the performance of their official duties. The State Court Administrator, by written directive, may further define the scope of such access by clerks and judicial personnel.

(e) Judiciary Contractors

The State Court Administrator, by written directive, may allow appropriate access for Judiciary contractors from their respective work stations to judicial records to the extent that such access is necessary to the performance of their official duties. Before access under this section is granted to a contractor, the contractor shall sign a non-disclosure agreement on a form approved by the Chief Justice of the Supreme Court.

(f) Court-Designated ADR Practitioners

(1) Definition

In this section, “ADR practitioner” means an individual who conducts ADR under the Rules in Title 17, and includes a mediator designated pursuant to Rule 9-205.

(2) Access to Case Records

During the period of designation of a court-designated ADR practitioner in an MDEC action, and subject to any protective order issued by the court or other law, the ADR practitioner shall have full access, including remote access, to all case records in that action. In an action in the circuit court, the ADR practitioner shall file a notice of the designation with the clerk and, promptly upon completion of all services rendered pursuant to the designation, a notice that the designation is terminated. If not terminated earlier, the designation shall end when the case is closed.

Committee note: The special access provided by section (f) may be needed to assist the ADR practitioner in rendering the services anticipated by the designation but should end when no further services are anticipated.

(g) Public Access

(1) Access Through CaseSearch

Members of the public shall have free access to information posted on CaseSearch.

(2) Unshielded Documents

Subject to any protective order issued by the court, members of the public shall have free access to unshielded case records and unshielded parts of case records from computer terminals or kiosks that the courts make available for that purpose. Each court shall provide a reasonable number of terminals or kiosks for use by the public. The terminals or kiosks shall not permit the user to download, alter, or forward the information, but the user is entitled to a copy of or printout of a case record in accordance with Rule 16-904 (c).

Committee note: The intent of subsection (g)(2) of this Rule is that members of the public be able to access unshielded electronic case records in any MDEC action from a computer terminal or kiosk in any courthouse of the State, regardless of where the action was filed or is pending.

(h) Department of Juvenile Services

Subject to any protective order issued by the court, a registered user authorized by the Department of Juvenile Services to act on its behalf shall have full access, including remote access, to all case records in an MDEC action to the extent the access is (1) authorized by Code, Courts Article, § 3-8A-27 and (2) necessary to the performance of the individual's official duties on behalf of the Department.

(i) Government Agencies and Officials

Nothing in this Rule precludes the Administrative Office of the Courts from providing remote electronic access to additional information contained in case records to government agencies and officials (1) who are approved for such access by the Chief Justice of the Supreme Court, upon a recommendation by the State Court Administrator, and (2) when those agencies or officials seek such access solely in their official capacity, subject to such conditions regarding the dissemination of such information imposed by the Chief Justice.

(j) CASA Program

(1) Definition

In this section, "CASA program" means a Court-Appointed Special Advocate Program created pursuant to Code, Courts Article, § 3-830.

Committee note: CASA programs provide trained volunteers (1) to provide background information to the Juvenile Courts to aid them in making decisions in the child's best interest, and (2) to ensure that children who are

the subject of proceedings within the jurisdiction of the court are provided appropriate case planning and services. See Code, Courts Article, §§ 3-830 and 3-8A-32. CASA programs are county-based. They are created in a county with the support of the Juvenile Court for that county. The overall CASA program is administered by the Administrative Office of the Courts, which may adopt rules governing the operation of the program, including supervision of the volunteers.

More than a dozen CASA programs have been created throughout the State, some of which serve the Juvenile Courts in more than one county. Upon an appointment to assist a child in a particular case, the director of the program assigns a volunteer attached to that program to provide that assistance. The confidentiality that applies to court records in juvenile cases does not prohibit review of a court record by a “Court-Appointed Special Advocate for the child” in a proceeding involving that child. See Code, Courts Article, §§ 3-827(a)(2) and 3-8A-27(b)(2). The purpose of this section is to clarify how that access and ability to file reports may be accomplished through MDEC.

(2) Registered Users; Reports

Each CASA program shall inform the clerk of the circuit court for each county within its authorized service area in writing of the name of and contact information for not more than two staff persons who are registered users authorized by the program to have remote access and to file reports through MDEC on behalf of the program. Except as otherwise ordered by the court, only those registered users may file reports and have remote access to court records on behalf of the program. CASA program registered users must file reports through MDEC if the program's service area is located in an MDEC jurisdiction.

(3) Limitations; Access

The ability to file reports and have remote access to court records shall be limited to cases in which the CASA program or a volunteer on behalf of the program has been appointed by the court to provide service and is allowed only

for the period during which service is being provided in that case pursuant to the order of appointment. Unless otherwise ordered by the court, access shall include notices of hearings and all other records not under seal.

(4) Control of Records

The registered user with remote access (A) shall keep exclusive control over the records obtained and (B) may not permit such records to be shared with or copied for anyone other than (i) an authorized volunteer designated by the CASA program to provide service to the child pursuant to the order of appointment and (ii) CASA program staff authorized to supervise the volunteer. Any order expunging the court records in a case in which the CASA program participated shall include the expungement of records in that case obtained and maintained by the program.

REPORTER'S NOTE

Proposed amendments to Rule 20-109 (b) are recommended to provide remote MDEC access for the general counsel or other designee of a business entity to monitor litigation where the business has engaged outside counsel to handle the case.

The Major Projects Committee referred this issue to the Rules Committee after being contacted by in-house counsel for a nonprofit corporation. The attorney explained that she needs to stay informed about the litigation in order to advise the corporation and wished to monitor filings in MDEC via remote access.

Rule 20-109 (b) provides remote access to parties and attorneys of record but there is no clear provision for providing access to a business entity party through an authorized person.

Proposed amendments to section (b) permit a corporation or business entity to designate a registered user who may access case records. The

business entity must be one established under state or federal law, and the designee is permitted to view, but not file, records in the proceeding.

MARYLAND RULES OF PROCEDURE
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES
CHAPTER 400 – ADMINISTRATION OF ESTATES

AMEND Rule 6-454 by updating the cross reference following section (e),
as follows:

Rule 6-454. SPECIAL ADMINISTRATION

...

(e) Notice

Notice of the appointment of a special administrator is not required unless
otherwise directed by the court.

Cross reference: Code, Estates and Trusts Article, §§ 1-101 ~~(s)~~(x), 6-304, 6-401
through 6-404, 7-201, 7-301, and 12-701.

REPORTER'S NOTE

Several statutory changes to Code, Estates and Trusts Article, § 1-101,
including Chapter 647, 2023 Laws of Maryland (SB 792), have rendered the
cross reference following Rule 6-454 (e) out of date. The definition of “special
administrator” now is located in section (x).

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 100 – COURT ADMINISTRATIVE STRUCTURE

AMEND Rule 16-101 by adding a reference to Howard County in section (i), as follows:

Rule 16-101. GENERAL ADMINISTRATIVE STRUCTURE

The administrative structure of the Maryland Judiciary consists of the following:

...

(i) The Registers of Wills and, except in Harford, Howard, and Montgomery Counties, the chief judges of the Orphans' Courts exercising the administrative powers conferred and fulfilling the duties imposed upon them by the Maryland Constitution, the Maryland Code, and the Maryland Rules.

Source: This Rule is new.

REPORTER'S NOTE

Chapter 539, 2022 Laws of Maryland (HB 868) altered the composition of the Orphans' Court for Howard County. Instead of electing three judges for the Orphans' Court, a constitutional amendment set forth in this legislation added Howard County to the list of counties requiring the judges of the circuit court of the county to sit as an Orphans' Court. This is the Orphans' Court structure currently in effect in Harford and Montgomery Counties. The constitutional amendment became effective on proclamation of the Governor after the constitutional amendment was ratified by voters in the November 2022 election.

A proposed amendment to Rule 16-101 (i) adds Howard County to the list of counties that do not have a separate chief judge of the Orphans' Court, because the judges of the circuit court for the county sit as the Orphans' Court in the county.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.9 by adding a reference to Howard County in section (c), as follows:

Rule 18-103.9. SERVICE AS ARBITRATOR OR MEDIATOR (ABA RULE 3.9)

...

(c) An Orphans' Court judge, other than a judge sitting as an Orphans' Court judge in Montgomery County, Howard County, or Harford County, may conduct alternative dispute resolution (ADR) proceedings only if the Orphans' Court judge:

(1) does not conduct ADR proceedings in matters within the jurisdiction of an Orphans' Court or that are related to the administration of an estate or guardianship;

(2) does not use the judge's judicial office to further the judge's success in the practice of ADR; and

(3) discloses to the parties in each ADR proceeding over which the judge presides, whether a party, attorney, or law firm involved in the ADR proceeding is or has been involved in an Orphans' Court proceeding before the judge within the past 12 months.

RULE 18-103.9

Committee note: A senior judge may affiliate with an entity that is engaged exclusively in offering ADR services but may not affiliate with any entity that also is engaged in the practice of law.

...

REPORTER'S NOTE

Amendments to Rule 18-103.9 are prompted by Chapter 539, 2022 Laws of Maryland (HB 868). See the Reporter's note to Rule 16-101.

A proposed amendment to section (c) of Rule 18-103.9 adds Howard County to the list of counties where circuit court judges sit as the Orphans' Court.

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

AMEND Rule 20-101 by adding a reference to Howard County in the Committee note following section (x), as follows:

Rule 20-101. DEFINITIONS

...

(x) 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, Howard, and Montgomery Counties, a judge of the circuit court is sitting as a judge of the orphans' court.

Source: This Rule is new.

REPORTER’S NOTE

Amendments to Rule 18-103.9 are prompted by Chapter 539, 2022 Laws of Maryland (HB 868). See the Reporter’s note to Rule 16-101.

A proposed amendment to the Committee note following section (x) of Rule 20-101 adds Howard County to the list of counties where circuit court judges sit as the Orphans' Court.