

THE SUPREME COURT STANDING COMMITTEE

ON RULES OF PRACTICE AND PROCEDURE

Minutes of a meeting of the Rules Committee held in Rooms 132-133 of the Maryland Judicial Center, 187 Harry S. Truman Parkway, Annapolis, Maryland on Thursday, September 7, 2023.

Members present:

Hon. Alan M. Wilner, Chair
Hon. Douglas R.M. Nazarian, Vice
Chair

Hon. Tiffany Anderson
Hon. Vicki Ballou-Watts
Julia Doyle Bernhardt, Esq.
James M. Brault, Esq.
Hon. Pamela J. Brown
Hon. Catherine Chen
Del. Luke Clippinger
Monica Garcia Harms, Esq.
Arthur J. Horne, Jr., Esq.
Brian A. Kane, Esq.

Victor H. Laws, Esq.
Dawne D. Lindsey, Clerk
Bruce L. Marcus, Esq.
Donna Ellen McBride, Esq.
Stephen S. McCloskey, Esq.
Judy Rupp, State Court
Administrator
Gregory K. Wells, Esq.
Brian L. Zavin, Esq.

In attendance:

Colby L. Schmidt, Esq., Deputy Reporter
Heather Cobun, Esq., Assistant Reporter
Meredith A. Drummond, Esq., Assistant Reporter

Hon. Anne Albright, Appellate Court of Maryland
Shantell Davenport, Family Law Administrator, Circuit for Anne
Arundel Co.

Chris Daniel
Tamara Dowd, Esq., Commission on Judicial Disabilities
Hon. Dan Friedman, Appellate Court of Maryland
Michael R. Hudak, Esq.
Kendra Jolivet, Esq., Commission on Judicial Disabilities
Shaoli Katana, Esq.
Connie Kratovil-Lavelle, Esq.
Megan Kraus

Hunter Marsh
Hon. John Morrissey, Chief Judge, District Court
Pamela Ortiz, Esq., Director, Access to Justice
Margaret H. Phipps, Register of Wills, Calvert Co.
Amber Spence, Director of Administrative Services, District
Court
Nisa Subasinghe, Esq., Domestic and Guardianship Program Manager
Gillian Tonkin, Esq., Staff Attorney to Chief Judge, District
Court

The Chair convened the meeting. He stated that the Committee received a draft of the June meeting minutes to review. The Chair asked the Committee if the members had sufficient time to review the draft and called for any discussion. There being no discussion, the Chair called for a motion to approve the minutes. A motion was made and seconded. By consensus, the minutes were approved.

The Deputy Reporter advised that the meeting was being recorded and speaking will be treated as consent to being recorded.

Agenda Item 1. Consideration of proposed amendments recommended by the General Court Administration Subcommittee.

The Chair presented Rule 16-934, Case Records - Court Order Denying or Permitting Inspection Not Otherwise Authorized by Rule, for consideration.

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.

. . .

Rule 16-934 was accompanied by the following 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. The General Court Administration agreed 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 Subcommittee agreed and recommended a stylistic change in subsection (b)(2)(B).

The Chair explained that the proposed amendments to Rule 16-934 clarify the procedure when a party requests to permit or deny inspection of a record. The amendments are recommended by the General Court Administration Subcommittee. There being no motion to amend or reject the proposed amendments to Rule 16-934, they were approved as presented.

The Chair presented Rule 1-322, Accommodation Under the Americans with Disabilities Act, for consideration.

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 readily 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, a party, a witness, a victim, a juror, a 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 the ~~administrative order of the Court of Appeals State Court Administrator~~ State Court Administrator 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: To the extent that a request for accommodation is made less than thirty 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 cases, motions before the court, or other matters that involve 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; or (v) other applicable Maryland or 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 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 to protect the identity of those requesting accommodations. The State Court Administrator shall publish a compilation of the data on the Judiciary website.

Source: This Rule is new.

Rule 1-322 was accompanied by the following 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 amendments were previously 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 the Subcommittee made several stylistic and

substantive modifications to the proposed amendments, the amendments to Rule 1-332 approved by the Subcommittee maintain many of the requested changes.

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 of the Rule, 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 General Court Administration Subcommittee 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. The section now also requires the request to be on a form approved by the State Court Administrator.

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 a sign language interpreter may be appointed 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 of the accommodation decision and provided with a reason for any denial.

New section (e) aims to collect and publish additional 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 must be published on the Judiciary website.

The Chair informed the Committee that Pam Ortiz, Director of Access to Justice in the Administrative Office of the Courts, was present and wished to address the proposed amendments to Rule 1-332. Ms. Ortiz said that the Court Access and Community Relations Committee, which requested many of the amendments in the draft before the Committee, also recommended that the appointment of counsel be added as an accommodation under the Rule. She noted that the General Court Administration Subcommittee declined to make that recommendation to the Committee. She said that Judge Pamela White, Chair of the Accessibility and Accommodations Subcommittee of the Court Access Committee, requests that, in lieu of adding appointment of counsel as an accommodation, the Committee consider adding a Committee note or some other instruction to the court to refer an individual who may benefit to the various services and resources available to assist unrepresented individuals.

Chief Judge Morrissey said that he was concerned about the recommendation to make appointed counsel an accommodation due to the potential costs without a funding source. He said that he supports the idea but is wary of an unfunded mandate. He expressed support for Judge White's proposal to add a Committee

note encouraging judges to continue cases and refer parties to the various Court Help Centers or other services. Ms. Ortiz echoed her support for Judge White's request. The Chair asked Ms. Ortiz for her response to the concern about the cost of providing counsel. Ms. Ortiz responded that the suggested Committee note would merely refer individuals to existing, funded services. She informed the Committee that there is a rule in Washington state which provides for appointment of counsel when the court deems it necessary to allow an individual to fully participate in proceedings. She said that it is an accommodation request and her understanding is that the requests are not frequent or burdensome on court resources.

The Chair said that the proposed amendments to Rule 1-332 are a Subcommittee recommendation and would require a motion to alter. He asked if any member wished to make a motion in light of the proposal from the Court Access Committee. There being no motion to amend or reject the proposed amendments to Rule 1-332, they were approved as presented.

Agenda Item 2. Consideration of proposed amendments to recommended by the Appellate Subcommittee.

Judge Nazarian presented Rule 8-303, Petition for Writ of Certiorari - Procedure, for consideration.

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 new subsection (a)(3) pertaining to petitions by unrepresented incarcerated or institutionalized petitioners 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, is 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.

Rule 8-303 was accompanied by the following Reporter's note:

Proposed amendments to Rule 8-303 are recommended by the Appellate Subcommittee in response to a request by Chief Justice Matthew J. Fader. The Chief Justice and the Court suggested that the Rules provide a mechanism for the 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 either a correctional or detention facility or a facility governed by

Title 10 (Mental Health) of the Health -
General Article.

A Committee note following subsection
(a)(3) permits the court to order the
petitioner to pay the fee or assess costs
later if the petitioner is not indigent.

Judge Nazarian explained that the proposed amendments to
Rule 8-303 are recommended by the Appellate Subcommittee at the
request of the Supreme Court. Proposed new subsection (a)(3)
permits the court to consider a petition or cross-petition for
writ of certiorari from an unrepresented incarcerated or
institutionalized individual without a fee payment or fee waiver
request. A Committee note following the new subsection
clarifies that a detained individual is presumed to be unable to
prepay the required fee for filing a petition but permits the
court to assess fees and costs if it is determined that the
individual is not indigent.

There being no motion to amend or reject the proposed
amendments to Rule 8-303, they were approved as presented.

Judge Nazarian presented Rule 8-511, Amicus Curiae, for
consideration.

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), and by adding a service requirement to subsection (b)(4), and by re-numbering current subsection (b)(4) as subsection (b)(3), 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~~ one ~~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.

Rule 8-511 was accompanied by the following 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 of copies attached to the motion and brief. The cross reference following subsection (b)(2) and subsection (b)(3) are deleted. Subsection (b)(4) is re-numbered as subsection (b)(3) and amended

to include the requirement of service of paper copies if the motion is granted.

Judge Nazarian said that the proposed amendments to Rule 8-511 are housekeeping amendments pertaining to copies of amicus briefs in light of the use of MDEC for filing in the appellate courts. There being no motion to amend or reject the proposed amendments to Rule 8-511, they were approved as presented.

Agenda Item 3. Consideration of proposed new Rule 11-420.2 (Safe Harbor - Victims of Child Sex Trafficking and Human Trafficking).

Judge Anderson presented new Rule 11-420.2, Safe Harbor - Victims of Child Sex Trafficking and Human Trafficking, for consideration.

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

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 by Code, Courts Article, § 3-8A-17.13 to be dismissed. If any charges in the petition are 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 that hearing.

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.

Rule 11-420.2 was accompanied by the following 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 criminally prosecuted or the subject of a delinquency petition 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 the child was a victim of trafficking and 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.

Section (e) governs use of statements or information from the child at later proceedings. 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 if the child is a victim of trafficking and the eligible charges in the petition should be dismissed. 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 the Rule.

Judge Anderson informed the Committee that proposed new Rule 11-420.2 implements a 2023 statute that aims to ensure that child victims of human trafficking or sex trafficking are not prosecuted but instead connected to services. She said that section (a) sets forth the offenses that are subject to a stay of proceedings and dismissal if certain conditions are met. Section (b) requires the stay on motion or on the court's own initiative. The hearing and findings are governed by section

(c). The court must find that the child is a victim of trafficking and only committed the alleged act as a direct result of the trafficking. Section (d) requires the court to enter an order as required by the statute. Section (e) protects the child's statements made during the hearing or in connection with services from use against the child later.

Judge Chen asked if section (d) should require the court to enter an order dismissing the charges only if the court has found that the child is a trafficking victim and committed the offense due to the trafficking. Assistant Reporter Cobun informed Judge Chen that the statute requires the court to dismiss any charges where these findings are made, and the language, "The court shall enter an order dismissing each charge required by Code, Courts Article, § 3-8A-17.13 to be dismissed," was intended to incorporate the requirements of the statute. Judge Chen thanked Ms. Cobun for the clarification.

There being no motion to amend or reject proposed new Rule 11-420.2, it was approved as presented.

Agenda Item 4. Consideration of proposed Rules changes recommended by the Criminal Rules Subcommittee.

Mr. Marcus informed the Committee that the Rules in Agenda Item 4 are proposed in response to the Report and

Recommendations of the Committee on Equal Justice Rules Review Subcommittee ("the EJC"). He invited Judge Daniel Friedman, immediate past chair of the Rules Review Subcommittee, to explain the context of the recommendations.

Judge Friedman addressed the Committee. He explained that in the summer of 2020, following the murder of George Floyd, then-Chief Judge of the Court of Appeals Mary Ellen Barbera issued a "Statement on Equal Justice under Law" and created the Committee on Equal Justice. The Rules Review Subcommittee was formed and tasked with studying the operation of the Rules of Practice and Procedure and investigating how the Rules may be perpetuating systemic bias based on race, gender, sexual orientation, etc. The Subcommittee hosted virtual listening sessions, sent out surveys, and solicited input from various organizations that engage with the legal system. The Subcommittee collected hundreds of suggestions, which were then used to prepare a Report, which includes more than 1,500 pages in background material.

Judge Friedman noted that the Rules changes proposed in Agenda Item 7 are another example of the type of proposal from the Rules Review Subcommittee to make the Rules more inclusive. He explained that the Rules were once written in the masculine only, then updated to reflect masculine and feminine pronouns (such as replacing "his" with "his or her"). The recommendation

from the EJC was to eliminate gendered pronouns to reflect the existence of individuals who identify outside of the gender binary.

Judge Friedman said that the Report and Recommendations were submitted to the Judicial Council which then referred them to the Rules Committee for consideration. He explained that the Rules Committee divided the recommendations among the various Subcommittees by subject matter. The recommendations that would lead to the proposed amendments contained in Agenda Item 4 were first sent to the Criminal Rules Subcommittee.

Mr. Marcus thanked Judge Friedman for the explanation.

The Chair explained that when the Committee received the Report, it needed to identify a starting point for the process of reviewing and implementing some of the recommendations. It was determined that an appropriate first step would be encouraging judiciary personnel and judicial officers and appointees to think about implicit bias in their interactions with members of the public. This led to the proposal for new Rule 1-342.

Mr. Marcus presented proposed new Rule 1-342, Fairness; Recognition of Potential Bias, and proposed amendments to Rule 18-102.3, Bias, Prejudice, and Harassment (ABA Rule 2.3), and Rule 18-202.3, Bias, Prejudice, and Harassment, for consideration.

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 the 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 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 often must make decisions - both large and small - that can affect the rights or status or perceived rights or status of a variety of individuals and organizations. In addition to being consistent with what the law permits or requires, those decisions must not be based upon or reflect impermissible actual or implicit bias on the part of the decision-maker.

Source: This Rule is new.

Rule 1-342 was accompanied by the following 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 Criminal Rules Subcommittee of the Rules Committee determined that the risks of implicit bias may impact more than criminal causes. The Subcommittee declined to add multiple Committee notes throughout Title 4. Instead, the Subcommittee 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 new
Comment [3] and renumbering subsequent
Comments, 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. 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] A judge often must make decisions that can affect the rights or status, or perceived rights or status, of a variety of individuals or organizations. In making a decision - whether large or small - 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.

~~{3}~~[4] 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}~~[5] 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 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).

Rule 18-102.3 was accompanied by the following 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 new Comment [3] in Rule 18-102.3 reminds 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 Comment also indicates that judges should take all lawful and reasonable steps to avoid the basis for any perception of such bias.

Subsequent Comments are renumbered accordingly.

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 new Comment [3] and renumbering subsequent Comments, 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. 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] A judicial appointee often must make decisions that can affect the rights or status, or perceived rights or status, of a variety of individuals or organizations. In making a decision - whether large or small - 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.

~~[3]~~[4] 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]~~[5] 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 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).

Rule 18-202.3 was accompanied by the following 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 new Comment [3] in Rule 18-202.3 reminds 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 Comment also indicates that judicial appointees should take all lawful and reasonable steps to avoid the basis for any perception of such bias.

Subsequent Comments are renumbered accordingly.

Mr. Marcus explained that the bulk of the work that will come from the EJC Report will come through the Criminal Rules Subcommittee. To manage the work, he said that the Subcommittee has divided the various recommendations across multiple meetings in the summer and fall. One of the recommendations was to add a statement in the Title 4 Rules that the Maryland Judiciary is committed to fairness and minimizing harmful biases. The Subcommittee determined that such a statement was more appropriate in the Rules in Title 1, which cut across all case types. The resulting new Rule 1-342 instructs judicial personnel to be mindful of their decisions or actions that could be perceived as reflecting impermissible biases. A Committee

note cautions judicial personnel against acting in a way that is based on or reflects those biases. Mr. Marcus further explained that proposed amendments to Rules 18-102.3 and 18-202.3 specifically apply the same standard to judges and judicial appointees. He added that judicial education and education to the bar at large will be key components in the Judiciary's ongoing efforts to eliminate impermissible biases.

Kendra Jolivet, Executive Secretary for the Commission on Judicial Disabilities, addressed the Committee. Ms. Jolivet said that the Commission is happy that the Rules Committee is taking on the issue of impermissible biases, but asked for guidance on how to investigate and enforce the proposed new language in Title 18. She explained that Comment 2 in Rule 18-102.3 is concrete and a violation can be established based on an occurrence in court, while proposed new Comment 3 may require a pattern of behavior over time which could extend beyond the existing Rule governing when alleged misconduct is stale. She also pointed to Rule 18-402 (m)(2)(A), which defines sanctionable conduct as more than just an incorrect ruling, and Rule 18-409, which prohibits use of allegations made in a previously dismissed complaint in a subsequent disciplinary proceeding. Ms. Jolivet reiterated her support for the Committee's goals with respect to the EJC Report and the proposed new Rule 1-342, but said that the Commission needs

guidance on investigation and enforcement of the provisions proposed to be added to the Code of Judicial Conduct in Title 18.

Judge Anne K. Albright, a member of the Commission on Judicial Disabilities, addressed the Committee. Judge Albright said that proposed new Comment 3 in both Rules sets forth a standard of "could reasonably be perceived as reflecting an impermissible actual or implicit bias." She said that she did not think that this is a clear and enforceable standard when compared to Comment 2, which contains examples of "conduct that may reasonably be perceived as prejudiced or biased." The Chair questioned whether listing examples could limit the impact of the Rule. Judge Albright replied that the Rule can be written to make the list of examples non-exclusive. She suggested that the concerns reflected by the proposed amendments to Title 18 are a judicial education issue more than a judicial discipline issue.

Judge Ballou-Watts said that one of the EJC Subcommittees is working to address judicial education around diversity, equity, and inclusion. She explained that there is a plan that was submitted to the Judicial Council and an administrative order issued by the Chief Justice which will require mandatory annual training in implicit bias and related issues beginning in 2024. She said that because the training mandate is not yet

effective, it may not be appropriate to craft examples as suggested by the Commission. She suggested that Rule 1-342 be approved and Rules 18-102.3 and 18-202.3 be tabled until the mandatory training is in place. Judge Nazarian cautioned against overthinking the proposed amendments, which are a broad statement about recognizing and avoiding biases in the Comments of the judicial ethics Rules. He suggested that there is enough guidance for the Commission to investigate allegations of impermissible bias and cautioned against delaying the proposed amendments.

The Chair called for further discussion from the Committee. Judge Anderson suggested that due to the overlap between Comment 2 and new Comment 3, the language of Comment 3 can be added instead to Comment 2 following the first sentence. She moved to make the amendment in Rules 18-102.3 and 18-202.3. The motion was seconded and approved by majority vote.

There being no motion to amend or reject proposed new Rule 1-342, it was approved as presented. There being no further motion to amend or reject the proposed amendments to Rules 18-102.3 and 18-202.3, they were approved as amended.

Agenda Item 5. Consideration of proposed Rules changes recommended by the Probate/Fiduciary Subcommittee.

Mr. Laws presented Rule 6-416, Attorney's Fees or Personal Representative's Commissions, for consideration.

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 form 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.

Rule 6-416 was accompanied by the following Reporter's
note:

Proposed amendments to Rule 6-416 are recommended by the Probate/Fiduciary Subcommittee. A group of attorneys, Registers of Wills, and orphans' court judges submitted a proposed revision to the Consent to Compensation Form in Rule 6-416. The Subcommittee was presented with two options, if the form was acceptable: delete and replace the existing form in the Rule or delete the form and require the consent to be "filed with the register substantially in the form posted on the Register of Wills forms website."

The Subcommittee discussed the issue at length, with input from several Registers. 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 and, ultimately, the Supreme Court.

The Subcommittee 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 Subcommittee inquired about the procedures of the Association, particularly for resolution of disputes. The Registers informed the Subcommittee 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.

After the discussion, the Subcommittee recommended removing the consent form from the Rule and requiring the consent in subsection (b)(2)(B) to be "substantially in the form approved by the Registers of Wills and posted on the Register of Wills forms website."

The Subcommittee also reviewed the proposed draft form and offered suggestions for improvement, but the form was no longer subject to Subcommittee approval in light of the decision to remove the form from the purview of Rule 6-416.

Mr. Laws informed the Committee that the form for consent to attorney's fees and personal representative's commissions in Rule 6-416 is proposed for deletion. He explained that there is a general trend in the Rules to remove forms, but typically the removed forms are then made the responsibility of the Administrative Office of the Courts' Forms Subcommittee and subject to approval by the State Court Administrator. Estate

forms, which are not proscribed by Rule, however, are designed, approved, and maintained by the Registers of Wills as a group through the Register of Wills Association. He said that the Registers assured the Probate/Fiduciary Subcommittee that the Association works cooperatively and consults with an Assistant Attorney General on the legal sufficiency of forms. He directed the Committee to the Reporter's note for more information.

The Chair called for comments. There being no motion to amend or reject the proposed amendments to Rule 6-416, they were approved as presented.

Mr. Laws presented Rule 6-454, Special Administration; Rule 16-101, General Administrative Structure; Rule 18-103.9, Service as Arbitrator or Mediator (ABA Rule 3.9); and Rule 20-101, Definitions, for consideration.

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.

Rule 6-454 was accompanied by the following 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" is now 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, 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.

Rule 16-101 was accompanied by the following 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, proposed constitutional amendments added Howard County to the list of counties requiring the judges of the circuit court of the county to sit as an Orphans' Court, the same structure currently utilized in both Harford County and Montgomery County. The constitutional amendments and other changes proposed in the bill 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 of the county are required to sit as an Orphans' Court.

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.

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.

...

Rule 18-103.9 was accompanied by the following 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 for further details.

A proposed amendment to section (c) of Rule 18-103.9 adds Howard County to the list of counties where a circuit court judge sits as an Orphans' Court judge.

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.

Rule 20-101 was accompanied by the following 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 for further details.

A proposed amendment to the Committee note following section (x) of Rule 20-101 adds Howard County to the list of counties where a circuit court judge sits as an Orphans' Court judge.

Mr. Laws said that the remaining proposed amendments in Item 5 are housekeeping amendments in light of various pieces of legislation. A cross reference is updated in Rule 6-545 and Howard County is added to the list of jurisdictions where a circuit court judge sits as an Orphans' Court judge in several Rules. There being no motion to amend or reject the proposed amendments, they were approved as presented.

Agenda Item 6. Consideration of proposed amendments recommended by the Judgments Subcommittee.

Mr. Laws presented Rule 3-633, Discovery in Aid of Enforcement, and Rule 3-634, Judgment Debtor Fact Information Sheet, for consideration.

MARYLAND RULES

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

Unless a money judgment arises out of a small claim action and ~~Except~~ 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.

Cross reference: See Code, Courts and Judicial Proceedings 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.

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.

(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.

Rule 3-633 was accompanied by the following 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.

To harmonize the existing Title 3 Rules with this new statutory provision, it is proposed that section (a) of Rule 3-633 be revised to reflect this policy change.

A cross reference to the new Code provision also is proposed.

MARYLAND RULES

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 this 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.

Rule 3-634 was accompanied by the following 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.

This policy change necessitated revisions to section (a) of Rule 3-633. Changes to subsections (a)(1) and (a)(2) of this Rule are proposed to clarify that this Rule no longer applies to money judgments arising out of small claim actions and to conform Rule 3-634 to the proposed revisions to Rule 3-633.

Mr. Laws informed the Committee that the General Assembly passed legislation in 2023 which eliminates the court's ability to order an individual debtor to appear for oral examination or answer interrogatories in aid of execution of a money judgment arising out of a small claim against the debtor. The proposed amendments to Rules 3-633 and 3-634 carve out small claims.

Mr. Laws informed the Committee that Ron Canter submitted a written comment on these Rules which was circulated to the Committee (see Appendix 1). Mr. Laws explained that Mr. Canter raised two concerns in his letter: first, that the statute only prevents the court from ordering an individual to appear or answer interrogatories but does not apply, as written, to corporations and business entities; and second, that where a small claims action is appealed to circuit court and tried *de novo* pursuant to Rule 7-112, a creditor would have the right to post-judgment discovery there, which would create inconsistent outcomes for District Court and circuit court judgments.

Mr. Laws informed the Committee that he believes that Mr. Canter raised a valid point regarding Rule 7-112. He explained that Rule 7-112 (d)(2) governs procedure in circuit court when a small claim action is heard *de novo*. That subsection provides that there is no pretrial discovery and the circuit court must conduct the trial in an informal manner in these appeals. He pointed out that if there is no pretrial discovery, there should also be a prohibition on post-judgment discovery in aid of enforcement to address the legislative intent of the General Assembly. Mr. Laws said that if post-judgment discovery is permitted in circuit court, the rights of creditors will be different in the District Court and the circuit court. He moved

to add "or post-judgment discovery under Chapter 600 of Title 2" to Rule 7-112 (d)(2).

Chief Judge Morrissey informed the Committee that the District Court is preparing to implement this legislation, which goes into effect on October 1. He said there are questions about the legislature's intent because the law does not prohibit sending interrogatories but prohibits the court from compelling the debtor to respond. He explained that if a creditor is permitted to seek discovery in aid of enforcement, the creditor will feel misled when the court cannot do anything to compel the debtor to answer. He noted that he testified at the legislature, where the primary concern appeared to be the use of body attachments to arrest individuals and bring them before the court if they did not respond to discovery requests. He informed the Committee that this situation occurs less than 400 times per year and that he has never detained someone under these circumstances. He stated that he believes that the concern over so-called "debtor's prison" are overblown but acknowledged that the legislature disagreed with him.

Judge Chen inquired as to whether the Rules should be amended to track the statute as far as referring to individual debtors as opposed to business entities. Ms. Bernhardt commented that it is hard to see how the legislative purpose could be furthered by extending the policy against compelling

responses to discovery to entities. Judge Brown added that the statute takes away a means of redress for small claims and expressed her reluctance to adopt a Rule that is broader than what was contemplated by the legislature. Judge Morrissey said that a common scenario in District Court is a homeowner suing a contractor, who could be a small business, for work that was not completed or not completed satisfactorily.

Del. Clippinger said that the language proposed by the Judgments Subcommittee adequately implements the legislation. He explained that the legislature has been working on the issue of body attachments against debtors with small claim judgments for years. Judge Chen asked Del. Clippinger if it was the intent of the legislature to have the statute apply to business entities as well as individual debtors. She pointed out that the preamble of the bill explicitly refers to an individual. Del. Clippinger responded that he would need more information about how the word "individual" is construed. He noted that the number of cases where debtors are detained for failure to respond to discovery is small, but that it still occurs. He said that he is not sure if the legislature considered whether the statute should only apply to individuals. Judge Morrissey said that in his example of a homeowner seeking compensation from a contractor, he worries that contractors will learn that they do not have to respond to post-judgment discovery about

their assets and will act in bad faith. Mr. Marcus said that businesses like limited liability companies would have to provide an individual to respond to a court order compelling the entity to appear. He suggested that if the Rule differentiates between individuals and business entities, there will be inequities in who is able to be made whole. Judge Chen pointed out that Rule 3-634 (a) refers to entry of judgment against an individual. Del. Clippinger acknowledged that the discussion in the legislature focused on individual debtors. He said that the policy position of the General Assembly is that individuals cannot be locked up over relatively small judgment amounts.

Judge Chen informed the Committee that the definition of "individual" in Rule 1-202 is a human being. Mr. Wells commented that if the intention of the legislature was to address judgments against individuals, the Committee should be careful before including business entities as well. Judge Brown said that it will be easier to craft a procedure that applies to all judgment debtors rather than carving out certain types of debtors. She said that she supports the version of the Rule recommended by the Subcommittee. Judge Morrissey agreed with Judge Brown that the version approved by the Subcommittee is cleaner, but added that ease of implementation is not a reason to fail to implement the statute correctly. He pointed out that even if the debtor is a corporation, it will be an individual

who is ordered to appear and could be subjected to a body attachment. He said that if the legislature wanted to eliminate people held on body attachments related to small claims, this proposal would do that. Judge Ballou-Watts commented that she is worried about small business owners abusing this process if they are included.

Mr. Laws restated his motion to add "or post-judgment discovery under Chapter 600 of Title 2" to Rule 7-112 (d)(2) to ensure that District Court and circuit court judgments in small claim actions are subject to the same policy. The motion was seconded and approved by majority vote.

The Chair called for a motion to amend Rules 3-633 and 3-634. Judge Chen moved to add "against an individual" to the new language added by the Subcommittee. The motion was seconded. The Chair called for discussion on the motion. Mr. Brault commented that he reads the statute to cover all money judgments arising from a small claim action. Judge Chen responded that the use of "individual" in the preamble and body of the statute suggests an intent to limit the statute to individual debtors. Judge Nazarian remarked that there is a difference between obtaining a judgment against an individual and ordering an individual to appear and respond to discovery. As others have pointed out, he said, an individual will have to respond on behalf of a business entity and would be subject to a body

attachment for failure to comply. Mr. Wells pointed out that the statute does not prohibit the discovery but removes the court's powers of enforcement. He suggested that the Rules could continue to permit seeking information from a judgment debtor but make sure that the creditor knows that the court cannot force compliance. Mr. Laws replied that the Subcommittee intentionally went further than the statute to avoid inequitable outcomes for savvy versus inexperienced litigants.

The Chair called for a vote on Judge Chen's motion to add "against an individual" to Rules 3-633 and 3-634. The motion failed with three members voting in favor and the remaining members against.

There being no further motion to amend or reject the proposed amendments to Rules 3-633 and 3-634, they were approved as presented. Staff was directed to draft the additional amendment to Rule 7-112 as approved by the Committee.

Agenda Item 7. Consideration of proposed amendments recommended by the Style Subcommittee to removed gendered pronouns from the Rules.

The Chair presented a series of proposed amendments recommended by the EJC Rules Review Subcommittee to remove gendered pronouns from the Rules (see Appendix 2). The proposed amendments are approved by the Style Subcommittee. Judge Brown

remarked that she attended a diversity education course and learned about allyship through proactively sharing your own preferred pronouns in places like email signatures. She encouraged administrative judges to consider education on this point in their courts.

There being no motion to amend or reject the proposed amendments, they were approved as presented.

There being no further business before the Committee, the Chair adjourned the meeting.

MARYLAND RULES OF PROCEDURE

TITLE 1 - GENERAL PROVISIONS

CHAPTER 300 - GENERAL PROVISIONS

AMEND Rule 1-333 by replacing gendered pronouns with non-gender specific language in subsection (a)(2), as follows:

Rule 1-333. COURT INTERPRETERS

(a) Definitions

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

(1) Certified Interpreter

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

(A) the Maryland Administrative Office of the Courts;

(B) any member of the Council for Language Access

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

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

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

or

Rule 1-333

(D) if the interpreter is a sign language interpreter, the Registry of Interpreters for the Deaf or the National Association of the Deaf.

(2) Individual Who Needs an Interpreter

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

. . .

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

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”). One recommendation contained in the EJC Report was for the Rules Committee to remove gendered pronouns from the Rules. The EJC Report identified approximately 50 Rules in which gendered pronouns exist. To implement the recommendation of the EJC Report, staff has removed each instance of gendered pronouns identified in the Rules and replaced it with non-gender specific language.

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

AMEND Rule 2-402 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (g)(1)(A), as follows:

Rule 2-402. SCOPE OF DISCOVERY

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

. . .

(g) Trial Preparation—Experts

(1) Expected to be Called at Trial

(A) Generally

Subject to subsection (g)(1)(C) of this Rule, a party by interrogatories may require any other party to identify each person, other than a party, whom the other party expects to call as an expert witness at trial; to state the subject matter on which the expert is expected to testify; to state the substance of the findings and the opinions to which the expert is expected to testify and a summary of the grounds for each opinion; and to produce any written report made by the expert concerning those

findings and opinions. A party also may take the deposition of the expert.

Committee note: This subsection requires a party to disclose the name and address of any witness who may give an expert opinion at trial, whether or not that person was retained in anticipation of litigation or for trial. Cf. *Dorsey v. Nold*, 362 Md. 241 (2001). See Rule 104.10 of the Rules of the U.S. District Court for the District of Maryland. The subsection does not require, however, that a party name ~~himself or herself~~ self-designate as an expert. See *Turgut v. Levin*, 79 Md. App. 279 (1989).

. . .

REPORTER'S NOTE

See Reporter's note to Rule 1-333.

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

AMEND Rule 2-416 by replacing gendered pronouns with non-gender specific language in section (f), as follows:

Rule 2-416. DEPOSITION--AUDIO AND AUDIO-VIDEO RECORDINGS

. . .

(f) Procedure

The deposition shall begin by the operator stating on camera or on the electronic audio or audio-video recording: (1) the operator's name and address, (2) the name and address of the operator's employer, (3) the date, time, and place of the deposition, (4) the caption of the case, (5) the name of the deponent, and (6) the name of the party giving notice of the deposition. The officer before whom the deposition is taken shall ~~identify himself or herself~~ state the officer's identity and swear the deponent on camera or on the electronic audio or audio-video recording. At the conclusion of the deposition, the operator shall state on camera or on the electronic audio or audio-video recording that the deposition is concluded. When more than one tape, disk or similar electronic data unit of recording is used, the operator shall announce the end of each

unit and the beginning of the next unit of audio or audio-video recording. A deposition recorded under this subsection shall be timed by a clock or indicator that shall show on camera or on the recording whenever possible each hour, minute, and second of the deposition.

. . .

Source: This Rule is derived from former Rule 410 with the exception of section (g), which is derived from former Rule 409 c 2 and 413 c.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

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

AMEND Rule 2-521 by replacing gendered pronouns with non-gender specific language in subsection (d)(B), as follows:

Rule 2-521. JURY--REVIEW OF EVIDENCE--COMMUNICATIONS

. . .

(d) Communications With Jury

(1) Instruction to Use Juror Number

The judge shall instruct the jury, in any preliminary instructions and in instructions given prior to jury deliberations that, in any written communication from a juror, the juror shall be identified only by juror number.

(2) Notification of Judge; Duty of Judge

(A) A court official or employee who receives any written or oral communication from the jury or a juror shall immediately notify the presiding judge of the communication.

(B) The judge shall determine whether the communication pertains to the action. If the judge determines that the communication does not pertain to the action, the judge may respond as ~~he or she~~ the judge deems appropriate.

Committee note: Whether a communication pertains to the action is defined by case law. See, for example, *Harris v. State*, 428 Md. 700 (2012) and *Grade v. State*, 431 Md. 85 (2013).

. . .

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is derived from former Rules 558 a, b and d and 758 b.

Section (c) is derived from former Rule 758 c.

Section (d) is derived in part from former Rule 758 d and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

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

AMEND Rule 2-536 by replacing gendered pronouns with non-gender specific language, as follows:

Rule 2-536. DISABILITY OF JUDGE

If, by reason of termination of office, absence, death, sickness, or other inability to act, a judge is unable to perform an act or duty in an action, any other judge authorized to act in that court may perform the act or duty if satisfied that ~~he or she~~ the other judge can properly do so. Otherwise, the other judge shall grant a new trial or such other relief as justice requires.

Source: This Rule is derived from former Rule 528.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE—DISTRICT COURT
CHAPTER 500 - TRIAL

AMEND Rule 3-505 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 3-505. DISQUALIFICATION OF JUDGE

(a) Request for Recusal

A party who believes that a fair and impartial trial cannot be had before the judge to whom the action has been assigned may request ~~the assigned judge to disqualify himself or herself that judge's recusal~~. If the judge grants the request, the action shall be reassigned by the administrative judge of the district or a person designated by the administrative judge.

. . .

Source: This Rule is derived from former M.D.R. 542.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE—DISTRICT COURT
CHAPTER 500 - TRIAL

AMEND Rule 3-536 by replacing gendered pronouns with non-gender specific language, as follows:

Rule 3-536. DISABILITY OF JUDGE

If, by reason of termination of office, absence, death, sickness, or other inability to act, a judge is unable to perform an act or duty in an action, any other judge authorized to act in that court may perform the act or duty if satisfied that ~~he or she~~ the other judge can properly do so. Otherwise, the other judge shall grant a new trial or such other relief as justice requires.

Source: This Rule is derived from former Rule 528.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-216.1 by replacing gendered pronouns with non-gender specific language in subsection (f)(2)(I), as follows:

Rule 4-216.1. PRETRIAL RELEASE--STANDARDS GOVERNING

. . .

(f) Consideration of Factors

. . .

(2) Other Factors

. . .

(I) the danger of the defendant to ~~himself or herself~~ the defendant's self; and

(J) any other factor bearing on the risk of a willful failure to appear and the safety of each alleged victim, another person, or the community, including all prior convictions and any prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-326 by replacing gendered pronouns with non-gender specific language in subsection (d)(2)(B), as follows:

Rule 4-326. JURY--REVIEW OF EVIDENCE--COMMUNICATIONS

. . .

(d) Communications With Jury

(1) Instruction to Use Juror Number

The judge shall instruct the jury, in any preliminary instructions and in instructions given prior to jury deliberations that, in any written communication from a juror, the juror shall be identified only by juror number.

(2) Notification of Judge; Duty of Judge

(A) A court official or employee who receives any written or oral communication from the jury or a juror shall immediately notify the presiding judge of the communication.

(B) The judge shall determine whether the communication pertains to the action. If the judge determines that the communication does not pertain to the action, the judge may respond as ~~he or she~~ the judge deems appropriate.

Committee note: Whether a communication pertains to the action is defined by case law. See, for example, *Harris v. State*, 428 Md. 700 (2012) and *Grade v. State*, 431 Md. 85 (2013).

(C) If the judge determines that the communication pertains to the action, the judge shall promptly, and before responding to the communication, direct that the parties be notified of the communication and invite and consider, on the record, the parties' position on any response. The judge may respond to the communication in writing or orally in open court on the record.

. . .

Source: This Rule is derived as follows:
Section (a) is new.
Section (b) is derived from former Rule 758 a and b and 757 e.
Section (c) is derived from former Rule 758 c.
Section (d) is derived in part from former Rule 758 d and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-361 by replacing gendered pronouns with non-gender specific language in sections (a) and (b), as follows:

Rule 4-361. DISABILITY OF JUDGE

(a) After Verdict or Acceptance of Plea

If by reason of termination of office, death, sickness, or other disability, the judge before whom a defendant has been tried or by whom a plea of guilty or nolo contendere has been accepted is unable to perform an act or duty of the court after verdict or after acceptance of a plea, any other judge authorized to act in that court may sentence the defendant and perform any other act or duty if satisfied that ~~he or she~~ the other judge can properly do so.

(b) During Jury Trial in Circuit Court

If by reason of termination of office, absence, death, sickness, or other disability, the judge before whom a jury trial in circuit court has commenced is unable to proceed with the trial, any other judge authorized to act in that court upon certifying that ~~he or she~~ the other judge has become familiar

with the record of the trial, may proceed with and finish the trial.

Cross reference: Code, Criminal Procedure Article, § 6-224.

Source: This Rule is derived as follows:
Section (a) is derived from former Rule 750 b and M.D.R. 750.
Section (b) is derived from former Rule 750 a.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 800 - HEARSAY

AMEND Rule 5-803 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (b)(8)(D), as follows:

Rule 5-803. HEARSAY EXCEPTIONS: UNAVAILABILITY OF DECLARANT NOT REQUIRED

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

. . .

(b) Other Exceptions

. . .

(8) Public Records and Reports

(A) Except as otherwise provided in this paragraph, a memorandum, report, record, statement, or data compilation made by a public agency setting forth

(i) the activities of the agency;

(ii) matters observed pursuant to a duty imposed by law, as to which matters there was a duty to report;

(iii) in civil actions and when offered against the State in criminal actions, factual findings resulting from an investigation made pursuant to authority granted by law; or

(iv) in a final protective order hearing conducted pursuant to Code, Family Law Article, § 4-506, factual findings reported to a court pursuant to Code, Family Law Article, § 4-505, provided that the parties have had a fair opportunity to review the report.

Committee note: If necessary, a continuance of a final protective order hearing may be granted in order to provide the parties a fair opportunity to review the report and to prepare for the hearing.

(B) A record offered pursuant to paragraph (A) may be excluded if the source of information or the method or circumstance of the preparation of the record indicate that the record or the information in the record lacks trustworthiness.

(C) Except as provided in subsection (b)(8)(D) of this Rule, a record of matters observed by a law enforcement person is not admissible under this paragraph when offered against an accused in a criminal action.

(D) Subject to Rule 5-805, an electronic recording of a matter made by a body camera worn by a law enforcement person or by another type of recording device employed by a law enforcement agency may be admitted when offered against an accused if (i) it is properly authenticated, (ii) it was made

contemporaneously with the matter recorded, and (iii) circumstances do not indicate a lack of trustworthiness.

Committee note: Subsection (b)(8)(D) establishes requirements for the admission of certain electronic recordings made by a body camera worn by a law enforcement person or by another type of recording device employed by a law enforcement agency against an accused. Subsection (b)(8)(D) does not preclude an accused from offering on ~~his or her~~ the accused's own behalf a record of matters observed by a law enforcement person, including a recording made by a body camera. This section does not mandate following the interpretation of the term "factual findings" set forth in *Beech Aircraft Corp. v. Rainey*, 488 U.S. 153 (1988). See *Ellsworth v. Sherne Lingerie, Inc.*, 303 Md. 581 (1985).

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 800 - HEARSAY

AMEND Rule 5-804 by replacing gendered pronouns with non-gender specific language in subsection (b)(2), as follows:

Rule 5-804. HEARSAY EXCEPTIONS; DECLARANT UNAVAILABLE

. . .

(b) Hearsay Exceptions

The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former Testimony

Testimony given as a witness in any action or proceeding or in a deposition taken in compliance with law in the course of any action or proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement Under Belief of Impending Death

In a prosecution for an offense based upon an unlawful homicide, attempted homicide, or assault with intent to commit a homicide or in any civil action, a statement made by a

declarant, while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be ~~his or her~~ the declarant's impending death.

. . .

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 6-153 by replacing gendered pronouns with non-gender specific language in section (c) and by making a stylistic change, as follows:

Rule 6-153. ADMISSION OF COPY OF EXECUTED WILL

. . .

(c) Form of Consent

[CAPTION]

CONSENT TO PROBATE OF COPY OF EXECUTED LAST WILL AND TESTAMENT

The undersigned _____ and _____, being all the heirs at law of the decedent and all the legatees named in the will executed by the decedent on _____, hereby consent to the probate of a copy of that executed will, it having been determined, after an extensive search of the decedent's personal records, that an original of the will cannot be located. By signing this consent, each of the undersigned affirms that it is his or her the signer's belief that the will executed by the decedent on _____, is the last valid will executed by the decedent and was not revoked and that the copy of the will, as submitted with the petition for its admission, represents a true and correct copy of the will.

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

Date Signature Print Name and Relationship

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

CHILD CUSTODY

AMEND Rule 9-204.1 by replacing gendered pronouns with non-gender specific language in subsection (a)(3), as follows:

Rule 9-204.1. PARENTING PLANS

(a) Definitions

The following definitions apply, except as expressly otherwise provided or as necessary implication requires:

(1) Decision-Making Authority (Legal Custody)

Decision-Making Authority, also called legal custody, refers to how major long-term decisions about a child's medical care, mental health, education, religious training, and extracurricular activities are made.

(2) Parenting Plan

Parenting Plan means a written agreement about how parties will work together to take care of a child.

(3) Parenting Time (Physical Custody)

Parenting Time, also called physical custody, refers to where a child lives and the amount of time he or she the child spends with each party.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

CHILD CUSTODY

AMEND Rule 9-205.3 by replacing gendered pronouns with non-gender specific language in subsection (d)(2) and the Committee Note following subsection (f)(1)(F), as follows:

Rule 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS

. . .

(d) Qualifications of Custody Evaluator

. . .

(2) Training and Experience

Unless waived by the court, a custody evaluator shall have completed, or commit to completing, the next available training program that conforms with guidelines established by the Administrative Office of the Courts. The current guidelines shall be posted on the Judiciary's website. In addition to complying with the continuing requirements of ~~his or her~~ the custody evaluator's field, a custody evaluator shall have training or experience in observing or performing custody evaluations and shall have current knowledge in the following areas:

- (A) domestic violence;
- (B) child neglect and abuse;
- (C) family conflict and dynamics;
- (D) child and adult development; and
- (E) impact of divorce and separation on children and adults.

. . .

(f) Description of Custody Evaluation

(1) Mandatory Elements

Subject to any protective order of the court, a custody evaluation shall include:

(A) a review of the relevant court records pertaining to the litigation;

(B) an interview of each party and any adult who performs a caretaking role for the child or lives in a household with the child or, if an adult who lives in a household with the child cannot be located despite best efforts by the custody evaluator, documentation or a description of the custody evaluator's efforts to locate the adult and any information gained about the adult;

(C) an interview of the child, unless the custody evaluator determines and explains that by reason of age, disability, or lack of maturity, the child lacks capacity to be interviewed;

(D) a review of any relevant educational, medical, and legal records pertaining to the child;

(E) if feasible, observations of the child with each party, whenever possible in that party's household;

(F) contact with any high neutrality/low affiliation collateral sources of information, as determined by the assessor;

Committee note: "High neutrality/low affiliation" is a term of art that refers to impartial, objective collateral sources of information. For example, in a custody contest in which the parties are taking opposing positions about whether the child needs to continue taking a certain medication, the child's treating doctor would be a high neutrality/low affiliation source, especially if ~~he or she~~ the doctor had dealt with both parties.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 400 - TERMINATION OF PARENTAL RIGHTS UNDER CODE, FAMILY
LAW ARTICLE, TITLE 5, SUBTITLE 14

AMEND Rule 9-402 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (d)(2), as follows:

Rule 9-402. ACTION

. . .

(d) Parties

(1) If the action is filed by a parent, that parent shall be the petitioner and the other parent shall be the respondent.

(2) If the action is filed by the child's court-appointed guardian or attorney, the parent who is alleged to have committed the nonconsensual sexual conduct shall be the respondent, and the other parent shall be joined as a petitioner or as a nominal respondent.

Committee note: Code, Family Law Article, § 5-1403(c) requires that, when the action is filed by a court-appointed guardian or attorney for the child, the "other parent" shall be joined as "a party" but that the action may not proceed if that "other parent" objects before commencement of "a trial under this subtitle." If that parent intends to object, his/her that parent's status is more akin to that of a respondent seeking dismissal of the action. The term "nominal respondent" is used in subsection (d)(2) of the Rule to distinguish the "other

parent" from the respondent parent who is alleged to have committed the nonconsensual sexual conduct.

The choice of joining the other parent as a petitioner or as a nominal respondent may be influenced by whether the guardian or attorney is aware of that parent's position when filing the action. Hopefully, the guardian or attorney will have communicated with the parent before filing the action, but, if not, the Committee has attempted to deal with the problem by requiring the guardian or attorney to give notice to the parent of that right in the petition.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 400 - TERMINATION OF PARENTAL RIGHTS UNDER CODE, FAMILY
LAW ARTICLE, TITLE 5, SUBTITLE 14

AMEND Rule 9-403 by replacing gendered pronouns with non-gender specific language in subsection (b)(2)(B), as follows:

Rule 9-403. PROCEEDINGS; DUTY OF COURT

. . .

(b) Scheduling Conference

(1) The court shall hold a scheduling conference within 60 days after service of the petition.

(2) At the scheduling conference, the court:

(A) shall determine whether there is a criminal action pending that involves the same underlying facts and, if so, whether further proceedings in the termination of parental rights action should be stayed until the criminal action is concluded.

Cross reference: See Code, Family Law Article, § 5-1404(a)(2).

(B) shall advise the respondent that the respondent may refuse to testify or to offer evidence and that no adverse inference will be drawn from ~~his or her~~ the respondent's refusal to testify or offer evidence;

(C) after taking into consideration the best interest of the child, the time needed for discovery, and the interest of justice, shall issue a scheduling order; and

(D) after providing the parents with an opportunity to be heard, may determine temporary custody of the child.

(3) Failure to comply with subsection (b)(2)(A) is not grounds to overturn a finding made under these Rules.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-103 by replacing gendered pronouns with non-gender specific language in subsections (b)(1) and (b)(2), as follows:

Rule 10-103. DEFINITIONS

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

(a) Court

"Court" means the circuit court for any county and, where it has jurisdiction, the Orphans' Court.

Cross reference: See Code, Estates and Trusts Article, § 13-105 for the jurisdiction of the Orphans' Court over guardians of the person of a minor and protective proceedings for minors. See also 92 Op.Atty.Gen. 009 (March 20, 1992).

(b) Disabled Person

(1) In connection with a guardianship of the person, "disabled person" means a person, other than a minor, who, because of mental disability, disease, habitual drunkenness, or addiction to drugs, has been adjudged by a court to lack sufficient understanding or capacity to make or communicate responsible decisions concerning ~~himself or herself~~ the person's

self, such as provisions for health care, food, clothing, or shelter, and who, as a result of this inability, requires a guardian of the person.

(2) In connection with a guardianship of property, "disabled person" means a person, other than a minor, (A) who has been adjudged by a court to be unable to manage ~~his or her~~ the person's property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance, (B) who has or may be entitled to property or benefits that require proper management, and (C) who, as a result of this inability, requires a guardian of the property.

Cross reference: Code, Estates and Trusts Article, §§ 13-101, 13-705(b) and 13-201(c).

. . .

Source: This Rule is derived as follows:
 Section (a) is derived from former Rule R70 a.
 Section (b) is derived from former Rule R70 b, and Code, Estates and Trusts Article, §§ 13-201(c)(1) and 13-705(b).
 Section (c) is derived in part from former Rule V70 b and is in part new.
 Section (d) is new.
 Section (e) is derived from former Rule R70 c.
 Section (f)
 Subsection (1) is derived in part from former Rule R70 d and in part from Code, Estates and Trusts Article, § 13-707.
 Subsection (2) is derived from former Rule V70 c.
 Section (g) is in part derived from former Rule R70 e and is in part new.
 Section (h) is derived from Code, Estates and Trusts Article, § 13-707(a)(10).

Section (i) is derived in part from Code, Estates and Trusts Article, §§ 13-203 and 13-709 and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-113 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 10-113. DISQUALIFYING OFFENSES; WAIVER

(a) Opportunity to Show Good Cause

Upon request, a proposed guardian who has been convicted of a disqualifying offense under Code, Estates and Trusts Article, § 11-114 shall be given an opportunity to show good cause why ~~he or she~~ the proposed guardian should be appointed guardian notwithstanding the conviction.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-201 by replacing gendered pronouns with non-gender specific language in subsection (f)(2)(A), as follows:

Rule 10-201. PETITION FOR APPOINTMENT OF A GUARDIAN OF THE PERSON

. . .

(f) Request for Expedited Hearing in Connection with Medical Treatment

. . .

(2) Factors for Court to Consider

In determining whether to expedite the hearing in connection with medical treatment, the court shall consider:

(A) the degree to which the alleged disabled person's current circumstances are not meeting ~~his or her~~ the alleged disabled person's medical needs in the most appropriate manner;

(B) the degree to which alternative arrangements are or can be made available;

(C) the urgency, necessity, and gravity of the proposed medical treatment and any medical risks to the alleged disabled person if the proceedings are not expedited;

(D) the ability of the alleged disabled person or other legally authorized individual to provide necessary consents for services; and

(E) any other factor that the court considers relevant.

. . .

Source: This Rule is derived as follows:
Section (a) is derived from former Rule R71 a.
Section (b) is new.
Section (c) is derived from former Rule R72 a and b.
Section (d) is new.
Section (e) is new.
Section (f) is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-205 by replacing gendered pronouns with non-gender specific language in section (b), as follows:

Rule 10-205. HEARING

. . .

(b) Guardianship of Alleged Disabled Person

When the petition is for guardianship of the person of an alleged disabled person, the court shall set the matter for jury trial. The alleged disabled person or the attorney representing the person may waive a jury trial at any time before trial. If a jury trial is held, the jury shall return a verdict pursuant to Rule 2-522 (b)(2) as to any alleged disability. Each certificate filed pursuant to Rule 10-202 is admissible as substantive evidence without the presence or testimony of the certifying health care professional unless, not later than 10 days before trial, an interested person who is not an individual under a disability, or the attorney for the alleged disabled person, files a request that the health care professional appear to testify. If the trial date is less than 10 days from the date the response is due, a request that the health care

professional appear may be filed at any time before trial. If the alleged disabled person asserts that, because of ~~his or her~~ a disability, the alleged disabled person cannot attend a trial at the courthouse, the court may hold the trial at a place to which the alleged disabled person has reasonable access.

Cross reference: See Rules 21-201 and 21-202.

Source: This Rule is in part derived from former Rule R77 and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-212 by replacing gendered pronouns with non-gender specific language in section (b), as follows:

Rule 10-212. HEARING

. . .

(b) Conduct of Hearing

The person alleged to be in need of emergency protective services is entitled to be present at the hearing unless the person has knowingly and voluntarily waived the right to be present. Waiver may not be presumed from nonappearance but shall be determined on the basis of factual information supplied by the person's attorney or a representative appointed by the court. Upon motion by or on behalf of the person alleged to be in need of emergency protective services that, because of ~~his or~~ **her a** disability, the person cannot attend a hearing at the courthouse, the court may hold the hearing at a place to which the person has reasonable access. The person has a right to counsel and to present evidence and cross-examine witnesses.

Source: This Rule is derived from Code, Estates and Trusts Article, § 13-709(f).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 300 - GUARDIAN OF PROPERTY

AMEND Rule 10-301 by replacing gendered pronouns with non-gender specific language in subsection (d)(2), as follows:

Rule 10-301. PETITION FOR APPOINTMENT OF A GUARDIAN OF PROPERTY

. . .

(d) Required Exhibits

The petitioner shall attach to the petition as exhibits a copy of any instrument nominating a guardian and documentation in full compliance with at least one of the following:

- (1) the certificates required by Rule 10-202;

Committee note: Rule 10-202 (a)(2) requires that a certificate of a licensed physician, licensed psychologist, licensed certified social worker-clinical, or nurse practitioner be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the offices of the clerks of the circuit courts.

- (2) if the alleged disability is due to detention by a foreign power or by imprisonment, affidavits or exhibits documenting (A) where and when the person is detained or imprisoned, (B) the reason the person was detained or imprisoned, (C) the expected duration of the detention or imprisonment, if known and (D) reasons why detention or

imprisonment renders the person unable to manage ~~his or her~~ the person's property and affairs effectively;

(3) if the alleged disability is due to disappearance, affidavits or exhibits documenting (A) when the person was first suspected of having disappeared, (B) the nature and extent of any search known to the petitioner to have been made to locate the person, (C) whether there exists any power of attorney signed by the person or effective remedy other than a guardianship, and (D) what, if any, effort was made to determine whether the person is still alive; or

Cross reference: With respect to a person who allegedly has disappeared, see Code, Courts Article, Title 3, Subtitle 1, in particular §§ 3-102, 3-105, and 3-106.

(4) if the petition is for the appointment of a guardian for a minor, all required exhibits listed in the Instructions on the form set forth in Rule 10-111, including, if the minor is a beneficiary of the Department of Veterans Affairs, a certificate of the Secretary of that Department or any authorized representative of the Secretary, in accordance with Code, Estates and Trusts Article, § 13-802.

. . .

Source: This Rule is derived as follows:
Section (a) is derived from former Rule R71 a.
Section (b) is new.
Section (c) is derived from former Rule R72 a and b.
Section (d) is new.
Section (e) is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 300 - GUARDIAN OF PROPERTY

AMEND Rule 10-302 by replacing gendered pronouns with non-gender specific language in section (c), as follows:

Rule 10-302. SERVICE; NOTICE

. . .

(c) Notice to Interested Persons

The Notice to Interested Persons shall be in the following form:

In the Matter of <hr/> (Name of minor or alleged disabled person)	In the Circuit Court for <hr/> (County) <hr/> (docket reference)
--	--

NOTICE TO INTERESTED PERSONS

A petition has been filed seeking appointment of a guardian of the property of _____, who is alleged to be a minor or alleged disabled person.

You are an "interested person", that is, someone who should receive notice of this proceeding because you are related to or otherwise concerned with the welfare of this person. If the court appoints a guardian of the property for _____, that person will lose the right to manage ~~his or her~~ that person's property.

Please examine the attached papers carefully. If you object to the appointment of a guardian, please file a response in

accordance with the attached show cause order. (Be sure to include the case number). If you wish otherwise to participate in this proceeding, notify the court and be prepared to attend any hearing.

Each certificate filed pursuant to Rule 10-202 that is attached to the petition will be admissible as substantive evidence without the presence or testimony of the certifying health care professional unless you file a request that the health care professional appear to testify. The request must be filed at least 10 days before the trial date, unless the trial date is less than 10 days from the date your response is due. If the trial date is less than 10 days from the date your response is due, the request may be filed at any time before trial.

If you believe you need further legal advice about this matter, you should consult your attorney.

Source: This Rule is in part derived from former Rule R74 and Code, Estates and Trusts Article, § 1-103 (b) and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 14 - SALES OF PROPERTY

CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-207.1 by replacing gendered pronouns with non-gender specific language in section (c), as follows:

Rule 14-207.1. COURT SCREENING

. . .

(c) Special Magistrates or Examiners

The court may designate one or more qualified Maryland lawyers to serve as a part-time special magistrate or examiner to screen pleadings and papers under section (a) of this Rule, conduct proceedings under section (b) of this Rule, and make appropriate recommendations to the court. Subject to section (d) of this Rule, the costs and expenses of the special magistrate or examiner may be assessed against one or more of the parties pursuant to Code, Courts Article, § 2-102(c), Rule 16-807 (b), or Rule 16-808 (b). ~~With his or her consent, the~~ The special magistrate or examiner may serve on a pro bono basis if the special magistrate or examiner consents.

(d) Assessment of Costs, Expenses, and Attorney's Fees

The costs, expenses, and attorney's fees of any proceeding under this Rule, including any costs or expense of a

special magistrate or examiner under section (c) of this Rule, shall not be assessed against the borrower or record owner either directly or as an expense of sale, unless the affidavit in question was filed by or on behalf of the borrower or record owner.

Committee note: The exercise of the authority granted in this Rule is discretionary with the court. Nothing in this Rule precludes the court from using its own personnel for these purposes.

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 1300 - STRUCTURED SETTLEMENT TRANSFERS

AMEND Rule 15-1303 by replacing gendered pronouns with non-gender specific language in section 23 of the form, as follows:

Rule 15-1303. CONSENT BY PAYEE

A Consent by the payee shall be substantially in the following form.

CONSENT TO PETITION FOR APPROVAL OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS

Identifying Information

- 1. My name is _____.
- 2. I live at _____.
- 3. My telephone number is _____.
- 4. My e-mail address is _____.
- I do not have an e-mail address.
- 5. I do not have a guardian of the person, guardian of the property, or representative payee.
- I do have a guardian of the person, guardian of the property, or representative payee, whose name, address, and telephone number _____.

Employment

- 6. I am employed by _____.
- I am not currently employed.

Dependents

- 7. I am married divorced single.
- 8. I have _____ children under the age of 18.
- no children under the age of 18.

9. I am under an order of the _____ (Name of court(s)) to pay a total of \$ _____ per _____ (week/month) in spousal support.

not under a court order to pay spousal support.

10. I am under an order of the _____ (Name of court(s)) to pay a total of \$ _____ per _____ (week/month) in child support.

not under any court order to pay child support.

Structured Settlement Agreement

11. In _____ (year):

a case was filed by me by my parent or guardian on my behalf in the _____ (Name of court). The case number is _____.

a claim was made by me by my parent or guardian on my behalf. No court case was filed and the claim was settled without litigation.

12. I was represented in that case or claim by _____ (Name of attorney).

13. In or as a result of that case or claim, I received a structured settlement pursuant to a structured settlement agreement.

Independent Professional Advisor

14. I have selected _____ as my independent professional advisor to explain the terms and consequences to me of the transfer and advise me regarding whether it is in my best interest to accept those terms, taking into account the welfare and support of my dependents.

15. My independent professional advisor has:

met with me in person on _____ occasion(s);

explained the terms and consequences of the proposed transfer agreement;

answered all my questions;

16. I learned about _____ (Name of independent professional advisor) from:

TV, radio, or other advertising

Personal solicitation by the independent professional advisor

Other: _____ (explain)

17. I have not previously transferred any of my structured settlement payments.

18. I have made _____ previous transfers of some of my structured settlement payments and I have

disclosed to my independent professional advisor the details of each such transfer and

given to my independent professional advisor copies of the transfer agreements from each such transfer.

I used the money I received from the prior transfer(s) for the following purposes:

19. If the current transfer is approved, I intend to use the money that I receive for the following purposes:

20. After consultation with my independent professional advisor, I understand:

that I am presently entitled to receive from my structured settlement \$ _____ each month year; and that those payments will continue

for the rest of my life or

until _____, 20 ____.

that I am entitled to receive lump sum payments due on the dates and in the amounts specified below:

that the payments I now propose to transfer, in exchange for a net purchase price of \$ _____, have a discounted present value of \$ _____, as determined for federal tax purposes, and

that the "effective annual interest rate" of the proposed transfer is _____ %. Based on the net amount that I will receive and the amounts and timing of the structured settlement payments that I am transferring, I will, in effect, be paying interest at a rate of _____ % per year so that I can get money now rather than later.

21. I have not received any advances or gifts of money, other property, or services in connection with the proposed assignment.

22. I have received an advance or gift of _____, from _____ in connection with this assignment.

23. I have agreed to pay my independent professional advisor a fee of \$ _____ for the services rendered by **him/her the advisor**.

My independent professional advisor has told me that **he/she the advisor** will receive no other compensation from anyone with respect to this transaction, except as follows:

My Understanding

24. I understand that, if the proposed transfer is approved:

the aggregate amount of the future payments I would be transferring and would no longer be entitled to is \$ _____ ;

[] the discounted present value of the future payments that I would be transferring and would no longer be entitled to receive is \$ _____; and

[] as consideration for the transfer, I would receive from the transferee the sum of \$ _____; which is _____ % of the discounted present value.

[] From that sum, [] fees and other charges in the amount of \$ _____ will be deducted or [] no fees or other charges will be deducted.

25. I understand that the proposed transfer cannot proceed unless approved by the Court and that a petition for Court approval has been or will be filed by the transferee

26. I have received a copy of the petition and

[] have read it.

[] had it read to me by _____.

Consent

WITH THIS KNOWLEDGE, I HEREBY CONFIRM THAT I UNDERSTAND THE PROPOSED TRANSFER AND ITS CONSEQUENCES TO ME, AND I CONSENT TO THE PETITION. MY CONSENT IS VOLUNTARY. I HAVE NOT BEEN THREATENED WITH ANY LEGAL ACTION OR OTHER PENALTY IF I FAIL OR REFUSE TO FILE THIS CONSENT.

Signature of Transferor Date

Signature of Witness Date

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 200 - GENERAL PROVISIONS - CIRCUIT AND DISTRICT COURTS

AMEND Rule 16-207 by replacing gendered pronouns with non-gender specific language in the Committee note after section (f), as follows:

Rule 16-207. PROBLEM-SOLVING COURT PROGRAMS

. . .

(f) Immediate Sanctions; Loss of Liberty or Termination from Program

If permitted by the program and in accordance with the protocols of the program, the court, for good cause, may impose an immediate sanction on a participant, except that if the participant is considered for the imposition of a sanction involving the loss of liberty or termination from the program, the participant shall be afforded notice, an opportunity to be heard, and the right to be represented by an attorney before the court makes its decision. If a hearing is required by section (f) of this Rule and the participant is not represented by an attorney, the court shall comply with Rule 4-215 in a criminal action or Code, Courts Article, § 3-8A-20 in a delinquency action before holding the hearing.

Committee note: In considering whether a judge should be disqualified pursuant to Rule 18-102.11 of the Maryland Code of Judicial Conduct from conducting violation of probation proceedings involving a defendant who has been terminated from a problem-solving court program, the judge should be sensitive to any exposure to ex parte communications or inadmissible information that the judge may have received while the participant was in the program. Even in cases where the judge does not have personal bias or prejudice that would require disqualification, if presiding over the violation of probation proceedings might reasonably create the appearance of impropriety, the judge should ~~disqualify himself or herself~~ recuse. See Conner v. State, 472 Md. 722 (2021).

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 400 - CIRCUIT COURT-CLERKS' OFFICES

AMEND Rule 16-401 by replacing gendered pronouns with non-gender specific language in subsection (b)(2)(B), as follows:

Rule 16-401. PERSONNEL

. . .

(b) Other Employees

(1) Authorization to Fill Vacancy

If a vacancy occurs in a clerk's office, the clerk shall seek authorization from the State Court Administrator to fill the vacancy.

(2) Personnel System

(A) Generally

The selection and appointment of other employees in the clerk's office and the promotion, classification and reclassification, transfer, demotion, suspension, discharge, and other discipline of such employees shall be subject to and conform with the standards and procedures set forth in a personnel system developed by the State Court Administrator and approved by the Chief Justice of the Supreme Court. The personnel system shall (i) provide for equal opportunity, (ii)

be based on merit principles, (iii) include appropriate job classifications and compensation scales, and (iv) include a grievance procedure in conformance with subsection (b)(2)(B) of this Rule.

(B) Grievance Procedure

The clerk shall resolve a grievance within the clerk's office, but the grievance procedure shall permit an aggrieved party to appeal from the decision of the clerk to the State Court Administrator or ~~his or her~~ designee of the State Court Administrator. The decision of the State Court Administrator or designee shall constitute the final administrative decision. During the pendency of an appeal, the State Court Administrator may grant interim relief which, after consultation with the county administrative judge of each affected court, may include a transfer of an employee.

Committee note: The State Court Administrator may seek appropriate judicial relief to enforce a final determination and directive. See Rule 1-201 (a).

. . .

Source: This Rule is derived from former Rule 16-301 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 400 - CIRCUIT COURT-CLERKS' OFFICES

AMEND Rule 16-405 by replacing gendered pronouns with non-gender specific language in subsection (e)(1)(C), as follows:

Rule 16-405. FILING AND REMOVAL OF PAPERS

. . .

(e) Removal of Papers and Exhibits

(1) Papers and Exhibits Filed with the Clerk

A paper or exhibit filed with the clerk in an action may not be removed from the clerk's office, except:

(A) by direction of a judge of the court;

(B) upon signing a receipt, by an attorney of record in the case for the purpose of presenting the paper or exhibit to the court;

(C) upon signing a receipt, by an auditor, magistrate, or examiner or examiner-magistrate in connection with the performance of ~~his or her~~ the official duties of the signer; or

(D) pursuant to the Rules in Title 20.

. . .

Source: This Rule is derived from former Rule 16-306 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

AMEND Rule 16-804 by replacing gendered pronouns with non-gender specific language in subsection (a)(1), as follows:

Rule 16-804. CONTINUANCES OR POSTPONEMENTS FOR CONFLICTING CASE ASSIGNMENTS OR LEGISLATIVE DUTIES

(a) Responsibilities of Attorneys

(1) Ascertaining Potential Conflict

When consulted as to the availability of dates or times for a trial or other proceeding, an attorney shall check ~~his or her~~ the attorney's calendar to determine whether the attorney has a conflicting assignment before agreeing to a particular date and time.

(2) When Conflict Exists

If an attorney accepts employment in a case in which a date or time for trial or other proceeding has already been set, the attorney shall:

(A) advise the client that the attorney has a conflicting assignment, that the attorney will promptly attempt to resolve the conflict, and that, after consulting with the client, the attorney will attempt to make suitable arrangements in the event

the attorney is unsuccessful in obtaining a continuance or postponement in the client's case;

(B) unless impracticable, within five business days, contact the other parties in either or both cases to attempt to obtain (i) consent to a postponement or continuance and (ii) at least three alternative dates for which no conflict exists for any party; and

(C) unless impracticable, no later than 30 days prior to scheduled argument in an appellate court or 15 days prior to the scheduled proceeding in a circuit court or in the District Court, request a postponement or continuance in one or more of the conflicting cases, advise the court whether the other parties consent to the request, and provide to the court the alternative dates obtained in accordance with subsection (a)(2)(B)(ii) of this Rule.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

AMEND Rule 16-809 by restoring the original language of the quotation in the Committee Note following subsection (a)(2), as follows:

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

(a) Standing Auditors

(1) Appointment; Compensation

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

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

(2) Duties

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

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

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

. . .

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

REPORTER'S NOTE

See Reporter's note for Rule 1-333. For clarity, staff has elected to restore the quotation to its exact, original language.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 1000 - EMERGENCY POWERS OF THE CHIEF JUSTICE OF THE
SUPREME COURT

AMEND Rule 16-1001 by replacing gendered pronouns with non-gender specific language in the Committee note after section (b), as follows:

Rule 16-1001. APPLICABILITY OF CHAPTER

. . .

(b) Other Events Affecting the Judiciary

The authority granted specifically by these Rules and by Article IV, Section 18 of the Maryland Constitution generally may be exercised, to the extent necessary, by the Chief Justice of the Supreme Court in the event of a natural or other event that significantly affects access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Maryland Judiciary to operate effectively.

Committee note: Section (b) is intended to cover situations in which, due to a local event not warranting an emergency declaration by the Governor or possibly a quarantine or isolation order issued by the Secretary of Health on ~~his or her~~ the Secretary's own initiative pursuant to Health-General Article § 18-905, access to or the functioning of one or more courts or other judicial facilities or operations is, or is likely to be, significantly inhibited for a significant period of time.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE CODE

AMEND Rule 18-100.3 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 18-100.3. DEFINITIONS

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

(a) Domestic Partner

"Domestic partner" means an individual with whom another individual maintains a household and an intimate relationship, ~~other than an individual to whom he or she is legally married~~ and the two individuals are not legally married to each other.

. . .

Source: This Rule is derived from paragraphs B-101 through B-112 of former Rule 16-813 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE CODE

AMEND Rule 18-100.4 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 18-100.4. PREAMBLE

(a) Importance of Independent, Fair, Competent, Impartial Judiciary

An independent, fair, competent, and impartial judiciary composed of ~~men and women~~ individuals of integrity who will interpret and apply the law that governs our society is indispensable to our system of justice. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

. . .

Source: This Rule is derived from paragraphs C-101 through C-103 of former Rule 16-813 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING JUDICIAL INTEGRITY AND THE AVOIDANCE OF
IMPROPRIETY

AMEND Rule 18-101.3 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-101.3. AVOIDING LENDING THE PRESTIGE OF JUDICIAL OFFICE
(ABA RULE 1.3)

A judge shall not lend the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

COMMENT

[1] It is improper for a judge to use or attempt to use ~~his or her~~ the judge's position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use a judicial letterhead to gain an advantage in conducting ~~his or her~~ the judge's personal business.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

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 18-102.11 by replacing gendered pronouns with non-gender specific language in section (a) and subsection (a)(3), as follows:

Rule 18-102.11. DISQUALIFICATION

(a) A judge shall ~~disqualify himself or herself~~ recuse in any proceeding in which the judge's impartiality might reasonably be questioned, including the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, an individual within the third degree of relationship to either of them, or the spouse or domestic partner of such an individual:

(A) is a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) is acting as an attorney in the proceeding;

(C) is an individual who has more than a de minimis interest that could be substantially affected by the proceeding; or

(D) is likely to be a material witness in the proceeding.

(3) The judge knows that ~~he or she~~ the judge, individually or as a fiduciary, or any of the following individuals has a significant financial interest in the subject matter in controversy or in a party to the proceeding:

(A) the judge's spouse or domestic partner;

(B) an individual within the third degree of relationship to the judge; or

(C) any other member of the judge's family residing in the judge's household.

. . .

Source: This Rule is derived from former Rule 2.11 of Rule 16-813 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

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 18-102.12 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-102.12. SUPERVISORY DUTIES (ABA RULE 2.12)

. . .

COMMENT

[1] A judge is responsible for ~~his or her~~ the judge's own conduct and for the conduct of others, such as staff, when those individuals are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate this Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under ~~his or her~~ the judge's supervision administer their workloads promptly.

Source: This Rule is derived from former Rule 2.12 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.4 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-103.4. APPOINTMENT TO GOVERNMENTAL POSITIONS (ABA RULE 3.4)

. . .

COMMENT

. . .

[3] A judge may represent ~~his or her~~ the judge's country, State, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.5 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-103.5. USE OF NONPUBLIC INFORMATION (ABA RULE 3.5)

. . .

COMMENT

. . .

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to ~~his or her~~ the judge's judicial duties.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.7 by replacing gendered pronouns with non-gender specific language in subsection (a)(4), as follows:

Rule 18-103.7. PARTICIPATION IN EDUCATIONAL, RELIGIOUS, CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES (ABA Rule 3.7)

(a) Subject to the requirements of Rules 18-103.1 and 18-103.6, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including the following activities:

. . .

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting ~~his or her~~ the judge's title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the

event concerns the law, the legal system, or the administration
of justice;

. . .

Source: This Rule is derived from former Rule 3.7 of Rule 16-
813 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.8 by replacing gendered pronouns with non-gender specific language in section (d), as follows:

Rule 18-103.8. APPOINTMENTS TO FIDUCIARY POSITIONS (ABA Rule 3.8)

. . .

(d) If an individual who is serving in a fiduciary position becomes a judge, ~~he or she~~ the individual must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

(e) Section (a) of this Rule does not apply to senior judges.

COMMENT

[1] A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 18-102.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.

Source: This Rule is derived from former Rule 3.8 of Rule 16-813 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.10 by replacing gendered pronouns with non-gender specific language in Comment [2], as follows:

Rule 18-103.10. PRACTICE OF LAW (ABA RULE 3.10)

. . .

COMMENT

. . .

[2] Section (a) and subsection (b)(1) of this Rule limit the practice of law in a representative capacity but not in a self-represented capacity. A judge may act for ~~himself or herself~~ self-represented in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. In so doing, however, a judge must not abuse the prestige of office for any reason, including advancement of an interest of the judge or the judge's family. See Rules 18-102.4 (b) and 18-103.2 (c).

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.11 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-103.11. FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES
(ABA RULE 3.11)

. . .

COMMENT

[1] Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 18-102.1. Similarly, it would be improper for a judge to use ~~his or her~~ the judge's official title or appear in judicial robes in business advertising, or to conduct ~~his or her~~ the judge's business or financial affairs in such a way that disqualification is frequently required. See Rules 18-101.3 and 18-102.11.

[2] As soon as practicable without serious financial detriment, the judge must divest ~~himself or herself of~~ from investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

Source: This Rule is derived from former Rule 3.11 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.14 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-103.14. REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES OR CHARGES (ABA RULE 3.14)

. . .

COMMENT

. . .

[3] A judge must ~~assure himself or herself~~ ensure that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 - MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING POLITICAL ACTIVITY

AMEND Rule 18-104.4 by replacing gendered pronouns with non-gender specific language in Comments [7] and [8], as follows:

Rule 18-104.4. POLITICAL CONDUCT OF CANDIDATE FOR ELECTION (ABA Rule 4.4)

. . .

COMMENT

. . .

[7] Candidates for election are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. As long as the candidate for election does not violate Rule 18-104.4 (d), ~~he or she~~ **the candidate** may make a factually accurate public response, although it is preferable for someone else to respond if the allegations relate to a pending case. If an independent third party has made unwarranted attacks on a candidate for election's opponent, the candidate for election may disavow the attacks and request the third party to cease and desist.

[8] Rule 18-104.4 (d)(3) prohibits candidates for election, with regard to cases or issues likely to come before the court, from making a commitment, promise, or pledge that is inconsistent with the impartial performance of the adjudicative duties of the office. The making of a commitment, promise, or pledge is not dependent on, or limited to, the use of any specific words or phrases. The totality of the statement must be examined to determine if a reasonable person would believe that the candidate has specifically undertaken to reach a

particular result. Commitments, promises, and pledges must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to ~~his or her~~ the judge's personal views.

Source: This Rule is derived from former Rule 4.4 of Rule 16-813 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING INTEGRITY AND THE AVOIDANCE OF IMPROPRIETY

AMEND Rule 18-201.3 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-201.3. AVOIDING LENDING THE PRESTIGE OF THE POSITION

. . .

COMMENT

[1] It is improper for a judicial appointee to use or attempt to use ~~his or her~~ the judicial appointee's position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judicial appointee to allude to ~~his or her~~ the judicial appointee's official status to gain favorable treatment in encounters with traffic officials. Similarly, a judicial appointee must not use an official letterhead to gain an advantage in conducting ~~his or her~~ the judicial appointee's personal business.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF JCONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING THE PERFORMANCE OF A JUDICIAL APPOINTEE'S DUTIES

AMEND Rule 18-202.11 by replacing gendered pronouns with non-gender specific language in section (a) and subsection (a)(3), as follows:

Rule 18-202.11. DISQUALIFICATION

(a) A judicial appointee shall ~~disqualify himself or herself~~ **recuse** in any proceeding in which the judicial appointee's impartiality might reasonably be questioned, including the following circumstances:

(1) The judicial appointee has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judicial appointee knows that the judicial appointee, the judicial appointee's spouse or domestic partner, or an individual within the third degree of relationship to either of them, or the spouse or domestic partner of such an individual:

(A) is a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) is acting as an attorney in the proceeding;

(C) is an individual who has more than a de minimis interest that could be substantially affected by the proceeding; or

(D) is likely to be a material witness in the proceeding.

(3) The judicial appointee knows that ~~he or she~~ the judicial appointee, individually or as a fiduciary, or any of the following individuals has a significant financial interest in the subject matter in controversy or in a party to the proceeding:

(A) the judicial appointee's spouse or domestic partner;

(B) an individual within the third degree of relationship to the judicial appointee; or

(C) any other member of the judicial appointee's family residing in the judicial appointee's household.

. . .

Source: This Rule is derived from former Rule 2.11 of Rule 16-814 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

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 18-202.12 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-202.12. SUPERVISORY DUTIES

. . .

COMMENT

[1] A judicial appointee is responsible for ~~his or her~~ the judicial appointee's own conduct and for the conduct of others, such as staff, when those individuals are acting at the judicial appointee's direction or control. A judicial appointee may not direct court personnel to engage in conduct on the judicial appointee's behalf or as the judicial appointee's representative when such conduct would violate this Code if undertaken by the judicial appointee.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judicial appointee with supervisory authority must take the steps needed to ensure that judicial appointees under ~~his or her~~ the judicial appointee's supervision administer their workloads promptly.

Source: This Rule is derived from former Rule 2.12 of Rule 16-814 (2016).

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.4 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-203.4. APPOINTMENT TO GOVERNMENTAL POSITIONS

. . .

COMMENT

. . .

[3] A judicial appointee may represent ~~his or her~~ the judicial appointee's country, State, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.5 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-203.5. USE OF NONPUBLIC INFORMATION

. . .

COMMENT

[1] In the course of performing official duties, a judicial appointee may acquire information of commercial or other value that is unavailable to the public. The judicial appointee must not reveal or use such information for personal gain or for any purpose unrelated to ~~his or her~~ the judicial appointee's official duties.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.7 by replacing gendered pronouns with non-gender specific language in subsection (a)(4), as follows:

Rule 18-203.7. PARTICIPATION IN EDUCATIONAL, RELIGIOUS, CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES

(a) Subject to the requirements of Rules 18-203.1 and 18-203.6, a judicial appointee may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including the following activities:

. . .

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting ~~his or her~~ the judicial appointee's title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judicial

appointee may participate only if the event concerns the law,
the legal system, or the administration of justice;

. . .

Source: This Rule is derived from former Rule 3.7 of Rule 16-814 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.8 by replacing gendered pronouns with non-gender specific language in section (d), as follows:

Rule 18-203.8. APPOINTMENTS TO FIDUCIARY POSITIONS

. . .

(d) If an individual who is serving in a fiduciary position becomes a judicial appointee, he or she the individual must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judicial appointee.

. . .

Source: This Rule is derived from former Rule 3.8 of Rule 16-814 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.10 by replacing gendered pronouns with non-gender specific language in subsection (b)(2)(A), as follows:

Rule 18-203.10. PRACTICE OF LAW

. . .

(b) Exceptions

. . .

(2) To the extent not expressly prohibited by law or by the appointing authority and subject to other applicable provisions of this Code, a part-time judicial appointee who is an attorney may practice law, provided that:

(A) the judicial appointee shall not use ~~his or her~~ the judicial appointee's position to further the judicial appointee's success in the practice of law; and

(B) the judicial appointee shall not practice or appear in the appointing court, as an individual in a matter involving the judicial appointee or the judicial appointee's interest.

. . .

Source: This Rule is derived in part from former Rule 3.10 of Rule 16-814 (2016) and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.11 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-203.11. FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES

. . .

COMMENT

[1] Judicial appointees are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extra-official activities, is subject to the requirements of this Code. For example, it would be improper for a judicial appointee to spend so much time on business activities that it interferes with the performance of the judicial appointee's official duties. See Rule 18-202.1. Similarly, it would be improper for a judicial appointee to use ~~his or her~~ the judicial appointee's official title or conduct ~~his or her~~ the judicial appointee's business or financial affairs in such a way that disqualification is frequently required. See Rules 18-201.3 and 18-202.11.

[2] As soon as practicable without serious financial detriment, the judicial appointee must divest ~~himself or herself~~ of from investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

Source: This Rule is derived from former Rule 3.11 of Rule 16-814 (2016).

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.14 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-203.14. REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES OR CHARGES

. . .

COMMENT

. . .

[3] A judicial appointee must ~~assure himself or herself~~ ensure that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judicial appointee's independence, integrity, or impartiality. The factors that a judicial appointee should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 - MARYLAND CODE OF CONDUCT FOR JUDICIAL APPOINTEES

RULES GOVERNING POLITICAL ACTIVITY

AMEND Rule 18-204.4 by replacing gendered pronouns with non-gender specific language in Comments [7] and [8], as follows:

Rule 18-204.4. POLITICAL CONDUCT OF CANDIDATE FOR ELECTION

. . .

COMMENT

. . .

[7] Candidates for election are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. As long as the candidate for election does not violate Rule 18-204.4 (d), ~~he or she~~ the candidate may make a factually accurate public response, although it is preferable for someone else to respond if the allegations relate to a pending case. If an independent third party has made unwarranted attacks on a candidate for election's opponent, the candidate for election may disavow the attacks and request the third party to cease and desist.

[8] Rule 18-204.4 (d)(3) prohibits candidates for election, with regard to cases or issues likely to come before the court, from making a commitment, promise, or pledge that is inconsistent with the impartial performance of the duties of the office. The making of a commitment, promise, or pledge is not dependent on, or limited to, the use of any specific words or phrases. The totality of the statement must be examined to determine if a reasonable person would believe that the candidate has specifically undertaken to reach a particular result. Commitments, promises, and pledges must be contrasted with statements or announcements of personal views on legal,

political, or other issues, which are not prohibited. When making such statements, a candidate for election should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to ~~his or her~~ the candidate's personal views.

Source: This Rule is derived from former Rule 4.4 of Rule 16-814 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 - JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 - JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 4. DISPOSITION OTHER THAN FILING OF CHARGES

AMEND Rule 18-428 by replacing gendered pronouns with non-gender specific language in section (c), as follows:

Rule 18-428. RETIREMENT AS A DISPOSITION

. . .

(c) Effect

(1) Retirement under this Rule is permanent. A judge who is retired under this Rule may not be recalled to sit on any court, but the judge shall lose no other retirement benefit to which ~~he~~ he or she the judge is entitled by law.

(2) Retirement under this Rule does not constitute discipline.

Cross reference: See Rule 18-441 dealing with special procedures in disability cases. See also Md. Const., Art. IV, § 4B(a)(2), authorizing the Commission to recommend to the Supreme Court retirement of a judge "in an appropriate case" and Rule 19-717.1 authorizing a comparable disposition for attorneys who have a disability.

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 - JUDGES AND JUDICIAL APPOINTEES
CHAPTER 500 - MARRIAGE CEREMONIES

AMEND Rule 18-504 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 18-504. RESTRICTIONS

(a) Judge's Own Ceremony

A judge may not perform ~~his or her~~ the judge's own marriage ceremony.

. . .

Source: This Rule is derived from former Rule 16-824 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS AND CHARACTER
COMMITTEES

AMEND Rule 19-105 by replacing gendered pronouns with non-gender specific language in subsection (b)(1), as follows:

Rule 19-105. CONFIDENTIALITY

. . .

(b) Right of Applicant

(1) Right to Attend Hearings and Inspect Papers

An applicant has the right to attend all hearings before a panel of the Accommodations Review Committee, a Character Committee, the Board, and the Court pertaining to ~~his or her~~ the application. Except as provided in subsection (b)(2) of this Rule, and subject to any protective order issued by a circuit court for good cause on motion by the Board, an applicant has the right to be informed of and inspect all papers, evidence, and information received or considered by the panel, Committee, or the Board pertaining to the applicant.

. . .

Source: This Rule is derived from former Rule 19 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 200 - ADMISSION TO THE BAR

GENERAL ADMISSION

AMEND Rule 19-201 by replacing gendered pronouns with non-gender specific language in subsection (a)(6), as follows:

Rule 19-201. ELIGIBILITY FOR ADMISSION TO THE MARYLAND BAR BY UNIFORM BAR EXAMINATION

(a) General Requirements

Subject to section (b) of this Rule, in order to be admitted to the Maryland Bar by the UBE, an individual shall have:

(1) completed the pre-legal education necessary to meet the minimum requirements for admission to a law school approved by the American Bar Association;

(2) graduated with a juris doctor or equivalent degree from a law school (A) located in a state and (B) approved by the American Bar Association;

(3) achieved a qualifying UBE score;

(4) achieved a qualifying MPRE score;

(5) successfully completed the Maryland Law Component; and

(6) established ~~his or her~~ good moral character and fitness for admission to the Bar.

. . .

Source: This Rule is derived in part from former Rules 3 and 4 of the Rules Governing Admission to the Bar of Maryland (2016) and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

CLIENT-ATTORNEY RELATIONSHIP

AMEND Rule 19-301.8 by replacing gendered pronouns with non-gender specific language in Comment [14], as follows:

Rule 19-301.8. CONFLICT OF INTEREST; CURRENT CLIENTS; SPECIFIC RULES (1.8)

. . .

COMMENT

. . .

Limiting Liability and Settling Malpractice Claims--[14] Agreements prospectively limiting an attorney's liability for malpractice are prohibited unless the client is independently represented in making the agreement because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the attorney seeking the agreement. This section does not, however, prohibit an attorney from entering into an agreement with the client to arbitrate existing legal malpractice claims, provided the client is fully informed of the scope and effect of the agreement. Nor does this section limit the ability of attorneys to practice in the form of a limited-liability entity, where permitted by law, provided that each attorney remains personally liable to the client for ~~his or her~~ the attorney's own conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance. Nor does it prohibit an agreement in accordance with Rule 19-301.2 (1.2) that defines the scope of the representation, although a definition of scope that makes the obligations of

representation illusory will amount to an attempt to limit liability.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

CLIENT-ATTORNEY RELATIONSHIP

AMEND Rule 19-301.17 by replacing gendered pronouns with non-gender specific language in Comment [11], as follows:

Rule 19-301.17. SALE OF LAW PRACTICE (1.17)

. . .

COMMENT

. . .

[11] This Rule does not apply to the transfers of legal representation between attorneys when such transfers are unrelated to the sale of a practice. This Rule does not prohibit an attorney from selling ~~his or her~~ the attorney's interest in a law practice.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

LAW FIRMS AND ASSOCIATIONS

AMEND Rule 19-305.3 by replacing gendered pronouns with non-gender specific language in subsection (d)(2)(B)(i), as follows:

Rule 19-305.3. RESPONSIBILITIES REGARDING NON-ATTORNEY ASSISTANTS (5.3)

With respect to a non-attorney employed or retained by or associated with an attorney:

. . .

(d) an attorney who employs or retains the services of a non-attorney who (1) was formerly admitted to the practice of law in any jurisdiction and (2) has been and remains disbarred, suspended, or placed on inactive status because of incapacity shall comply with the following requirements:

(A) all law-related activities of the formerly admitted attorney shall be (i) performed from an office that is staffed on a full-time basis by a supervising attorney and (ii) conducted under the direct supervision of the supervising attorney, who shall be responsible for ensuring that the

formerly admitted attorney complies with the requirements of this Rule.

(B) the attorney shall take reasonable steps to ensure that the formerly admitted attorney does not:

(i) ~~represent himself or herself claim~~ to be an attorney;

(ii) render legal consultation or advice to a client or prospective client;

(iii) appear on behalf of or represent a client in any judicial, administrative, legislative, or alternative dispute resolution proceeding;

(iv) appear on behalf of or represent a client at a deposition or in any other discovery matter;

(v) negotiate or transact any matter on behalf of a client with third parties;

(vi) receive funds from or on behalf of a client or disburse funds to or on behalf of a client; or

(vii) perform any law-related activity for (a) a law firm or attorney with whom the formerly admitted attorney was associated when the acts that resulted in the disbarment or suspension occurred or (b) any client who was previously represented by the formerly admitted attorney.

. . .

Model Rules Comparison: The language of Rule 19-305.3 (a) through (c) (5.3) is substantially similar to the language of the Ethics 2000 Amendments to the ABA Model Rules of Professional Conduct. Section (d) of this Rule and Comment [3] are in part derived from Rule 217 (j) of the Pennsylvania Rules of Disciplinary Enforcement and in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

MAINTAINING THE INTEGRITY OF THE PROFESSION

AMEND Rule 19-308.2 by replacing gendered pronouns with non-gender specific language in subsection (b)(3), as follows:

Rule 19-308.2. JUDICIAL AND LEGAL OFFICIALS (8.2)

. . .

(b) Rule 18-104.1 (c)(2)(D) (4.1) of the Maryland Code of Judicial Conduct, set forth in Title 18, Chapter 100, provides that an attorney becomes a candidate for a judicial office when the attorney files a certificate of candidacy in accordance with Maryland election laws, but no earlier than two years prior to the general election for that office. A candidate for a judicial office:

. . .

(3) shall not knowingly misrepresent ~~his or her~~ the candidate's identity or qualifications, the identity or qualifications of an opponent, or any other fact;

. . .

Model Rules Comparison: Rule 19-308.2 (8.2) revises prior Maryland language without adopting Ethics 2000 Amendments to the ABA Model Rules of Professional Conduct.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

MAINTAINING THE INTEGRITY OF THE PROFESSION

AMEND Rule 19-308.5 by replacing gendered pronouns with non-gender specific language in subsection (a)(2)(B), as follows:

Rule 19-308.5. DISCIPLINARY AUTHORITY; CHOICE OF LAW (8.5)

(a) Disciplinary Authority

(1) An attorney admitted by the Supreme Court to practice in this State is subject to the disciplinary authority of this State, regardless of where the attorney's conduct occurs.

(2) An attorney not admitted to practice in this State is also subject to the disciplinary authority of this State if the attorney:

(A) provides or offers to provide any legal services in this State,

(B) ~~holds himself or herself out as~~ claims to be practicing law in this State, or

(C) has an obligation to supervise or control another attorney practicing law in this State whose conduct constitutes a violation of these Rules.

Cross reference: Md. Rule 19-701 (b).

. . .

Model Rules Comparison: Rule 19-308.5 (a) (8.5) combines the substance of former Rules 8.5 (a) and 8.5 (b). Rule 19-308.5 (b) (8.5) is substantially similar to ABA Model Rule 8.5 (b). The Comments are substantially similar to the ABA Comments with the exception of omitting the final sentence of ABA Comment [1].

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

GENERAL PROVISIONS

AMEND Rule 19-701 by replacing gendered pronouns with non-gender specific language in section (b), as follows:

Rule 19-701. DEFINITIONS

. . .

(b) Attorney

"Attorney" means an individual admitted by the Supreme Court to practice law in this State. For purposes of discipline or inactive status, the term also includes (1) an individual not admitted by the Supreme Court but who engages in the practice of law in this State, ~~holds himself or herself out as practicing~~ claims to practice law in this State, or who has the obligation of supervision or control over another attorney who engages in the practice of law in this State, and (2) an individual who is seeking reinstatement pursuant to Rules 19-751 or 19-752 following the imposition of discipline or inactive status.

Cross reference: See Rule 19-308.5 (8.5) of the Maryland Attorneys' Rules of Professional Conduct.

. . .

Source: This Rule is derived in part from former Rule 16-701 (2016) and is in part new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEEDINGS

AMEND Rule 19-716 by deleting gendered pronouns in subsection (c)(3)(A)(vi), as follows:

Rule 19-716. CONDITIONAL DIVERSION AGREEMENT

. . .

(c) Terms of Agreement

. . .

(3) Permissive Provisions

The agreement may:

(A) provide for any program or corrective action appropriate under the circumstances, including:

(i) mediation or binding arbitration of a fee dispute;

(ii) restitution to persons financially injured by the attorney's professional misconduct, to a client of unearned or excessive fees, and to the Client Protection Fund for amounts paid on claims arising from the attorney's professional misconduct;

(iii) a public apology to designated persons;

(iv) assistance in law office management, including temporary or continuing monitoring, mentoring, accounting, bookkeeping, financial, or other professional assistance, and completion of specific educational programs dealing with law office management;

(v) completion of specific legal education courses or curricula, including courses in legal ethics and professional responsibility;

(vi) an agreement not to practice in specific areas of the law (a) unless the attorney associates ~~himself or herself~~ with one or more other attorneys who are proficient in those areas, or (b) until the attorney has successfully completed a designated course of study to improve the attorney's proficiency in those areas;

. . .

Source: This Rule is derived from former Rule 16-736 (2016).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEEDINGS

AMEND Rule 19-717.1 by replacing gendered pronouns with non-gender specific language in subsection (b)(7), as follows:

Rule 19-717.1. PERMANENT RETIRED STATUS

. . .

(b) Criteria

. . .

(7) the attorney has taken all appropriate actions to windup ~~his or her~~ the attorney's practice or will do so within a time established by the Commission in any approval of permanent retired status.

. . .

Source: This Rule is derived from former Rule 19-740 (2021).

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEEDINGS

AMEND Rule 19-720 by replacing gendered pronouns with non-gender specific language in the Committee note after section (a), as follows:

Rule 19-720. PEER REVIEW PROCESS

(a) Purpose

The purpose of the peer review process is for the Peer Review Panel to consider the Statement of Charges and all relevant information offered by Bar Counsel and the attorney concerning it and to determine (1) whether the Statement of Charges has a substantial basis and there is reason to believe that the attorney has committed professional misconduct or is incapacitated, and, if so, (2) whether a Petition for Disciplinary or Remedial Action should be filed or some other disposition is appropriate. The peer review process is not intended to be an adversarial one and it is not the function of Peer Review Panels to hold evidentiary hearings, adjudicate facts, or write full opinions or reports.

Committee note: If a Peer Review Panel concludes that the complaint has a substantial basis indicating the need for some remedy, some behavioral or operational changes on the part of the attorney, or some discipline short of suspension or disbarment, part of the peer review process can be an attempt through both evaluative and facilitative dialogue, (a) to effectuate directly or suggest a mechanism for effecting an amicable resolution of the existing dispute between the attorney and the complainant, and (b) to encourage the attorney to recognize any deficiencies on ~~his or her~~ the attorney's part that led to the problem and take appropriate remedial steps to address those deficiencies. The goal, in this setting, is not to punish or stigmatize the attorney or to create a fear that any admission of deficiency will result in substantial harm, but rather to create an ambience for a constructive solution. The objective views of two fellow attorneys and a lay person, expressed in the form of advice and opinion rather than in the form of adjudication, may assist the attorney (and the complainant) to retreat from confrontational positions and look at the problem more realistically.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 700 - DISCIPLINE, INACTIVE STATUS, RESIGNATION

DISPOSITIONS BY THE SUPREME COURT

AMEND Rule 19-740 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (c)(2)(B), as follows:

Rule 19-740. DISPOSITION - GENERALLY

. . .

(c) Disposition

. . .

(2) If Suspension Ordered

. . .

(B) Upon a request by Bar Counsel or the attorney or on its own initiative and for good cause, the Court may stay execution of a suspension and place the attorney on probation upon terms and conditions the Court finds appropriate, which may include any terms or conditions permitted in a Conditional Diversion Agreement. The Order staying execution of a suspension may include provisions for monitoring compliance with the terms and conditions and for prompt reporting to Bar

Counsel, the attorney, and the Court of any material noncompliance.

Committee note: In determining whether to enter a stay of execution and place the attorney on probation, the Court should consider, among any other relevant factors, whether (1) the attorney had been the subject of prior discipline or the dismissal of a complaint with a letter of cautionary advice or admonition; (2) the misconduct was repetitive in nature; (3) the misconduct was likely to have been episodic and out of character; (4) upon the attorney's satisfaction of conditions attached to the stay, misconduct was not likely to recur; (5) the attorney recognizes the misconduct and the severity of it and has shown genuine remorse; and (6) the attorney has provided or will provide adequate recompense for anyone harmed by ~~his or her~~ the attorney's misconduct.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-104 by replacing gendered pronouns with non-gender specific language in the Committee note following subsection (b)(2), as follows:

Rule 20-104. USER REGISTRATION

. . .

(b) On-line Application

(1) An individual seeking to become a registered user shall complete an on-line application in the form prescribed by the State Court Administrator.

(2) The form may require information the State Court Administrator finds necessary to identify the applicant with particularity and shall include (A) an agreement by the applicant to comply with MDEC policies and procedures and the Rules in this Title, (B) a statement as to whether the applicant is an attorney and, if so, is a member of the Maryland Bar in good standing, and (C) whether the applicant has ever previously registered and, if so, information regarding that registration, including whether it remains in effect and why the applicant is seeking another registration.

Committee note: One of the purposes of registration is to help ensure that electronic submissions are not filed in MDEC actions by persons who are not authorized to file them. See Rule 20-201 (b). It is important for the MDEC system to know, to the extent possible, whether a person seeking to file a submission or to access, through MDEC, documents in an MDEC action, is who ~~he or~~ she the person purports to be.

This is particularly important with respect to attorneys, who have greater ability to file submissions and access case records than other members of the public. As part of the registration process, attorney-applicants are required to supply a unique attorney number so that MDEC will know they are attorneys. Other kinds of information may be necessary to identify non-attorneys. See section (e) of this Rule with respect to multiple registrations.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-105 by replacing gendered pronouns with non-gender specific language in section (a) and the Committee note following section (a), as follows:

Rule 20-105. JUDGES; JUDICIAL APPOINTEES; CLERKS; JUDICIAL PERSONNEL

(a) Assignment of Username and Password

The State Court Administrator shall assign to each judge, judicial appointee, clerk, and judicial personnel a username and password that will allow that individual to access the MDEC System to the extent necessary to the performance of ~~his or her~~ the individual's official duties.

Committee note: The access permitted under section (a) of this Rule is limited to that necessary to the performance of official duties. A judicial official or employee who desires access for personal reasons, such as to file submissions as a self-represented litigant, must become a registered user and proceed as such. The State Court Administrator may permit a senior judge to continue to use the username and password the senior judge used while an incumbent judge so long as ~~he or she~~ the judge remains a senior judge.

. . .

Source: This Rule is new.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 21 - REMOTE ELECTRONIC PARTICIPATION IN JUDICIAL
PROCEEDINGS

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 21-105 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 21-105. SUBPOENAS

(a) Generally

In addition to complying with the content requirements of Rule 2-510, a subpoena issued to require the presence of an individual at a proceeding to be conducted by remote electronic participation shall describe the method by which that presence will be implemented and state that details will be supplied by a court official prior to the court proceeding. The party requesting the subpoena shall provide to the court official in writing an e-mail address for the individual subject to the subpoena if the individual subject to the subpoena is to appear by remote electronic participation. Unless impracticable, the court official shall send log-in information to individuals appearing by remote electronic participation at least five days before the date of the proceeding. The subpoena shall direct the individual subject to the subpoena to contact the party who

requested the subpoena within three days after service if the individual is unable to effect ~~his or her~~ the individual's presence by the manner stated in the subpoena.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

APPENDIX OF FORMS

FORMS FOR EXPUNGEMENT OF RECORDS

AMEND Form 4-508.1 by replacing gendered pronouns with non-gender specific language, as follows:

Form 4-508.1. ORDER FOR EXPUNGEMENT OF RECORDS

(Caption)

ORDER FOR EXPUNGEMENT OF RECORDS

Having found that _____
(Name)

of _____
(Address)

is entitled to expungement of the police records pertaining to his/her that individual's arrest, detention, or confinement on or about _____, at _____, Maryland,

(Date)

by a law enforcement officer of the _____
(Law Enforcement Agency)

and the court records in this action, it is by the _____
Court for _____ City/County, Maryland, this _____
day of _____, _____
(Month) (Year)

ORDERED that the clerk forthwith shall serve a true copy of this Order on each of the parties to this proceeding; and it is further

ORDERED that the clerk forthwith shall serve on each custodian of police and court records designated in this Order and on the Central Repository a copy of this Order together with a blank form of Certificate of Compliance; and it is further

ORDERED that within 60 days after the entry of this Order or, if this Order is stayed, 30 days after the stay is lifted, the clerk and the following custodians of court and police records and the Central Repository shall (1) expunge all court and police records pertaining to this action or proceeding in their custody, (2) file an executed Certificate of Compliance, and (3) serve a copy of the Certificate of Compliance on the applicant/petitioner/defendant; and it is further

ORDERED that the clerk and other custodians of records forthwith upon receipt of this Order if it is not stayed or notice that the stay is lifted shall remove the records from public inspection; and it is further

ORDERED that this Order

is stayed pending further order of the court.

is not stayed.

_____	_____
(Custodian)	(Address)
_____	_____
Date	Judge

NOTICE TO APPLICANT/PETITIONER/DEFENDANT: Until a custodian of records has received a copy of this Order AND filed a Certificate of Compliance, expungement of the records in the custody of that custodian is not complete and may not be relied upon.

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 - FAMILY LAW ACTIONS

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

CHILD CUSTODY

APPENDIX

AMEND the following Appendix by replacing gendered pronouns with non-gender specific language in section 1.2, as follows:

APPENDIX. MARYLAND GUIDELINES FOR PRACTICE FOR COURT-APPOINTED LAWYERS REPRESENTING CHILDREN IN CASES INVOLVING CHILD CUSTODY OR CHILD ACCESS

INTRODUCTION AND SCOPE

These Guidelines are intended to promote good practice and consistency in the appointment and performance of lawyers for children in cases involving child custody and child access decisions. However, the failure to follow a Guideline does not itself give rise to a cause of action against a lawyer nor does it create any presumption that a legal duty has been breached. These Guidelines apply to divorce, custody, visitation, domestic violence, and other civil cases where the court may be called upon to decide issues relating to child custody or access. Nothing contained in the Guidelines is intended to modify, amend, or alter the fiduciary duty that an attorney owes to a client pursuant to the Maryland Lawyers' Rules of Professional Conduct.

These Guidelines do not apply to Child In Need of Assistance ("CINA"), Termination of Parental Rights ("TPR"), or adoption cases. The appointment and performance of attorneys appointed to represent children in those cases is addressed by the Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings.

1. DEFINITIONS

A court that appoints counsel for a minor child in a case involving child custody or child access issues should clearly indicate in the appointment order, and in all communications with the attorney, the parties, and other counsel, the role expected of child's counsel. The terminology and roles used should be in accordance with the definitions in Guidelines 1.1-1.3.

1.1. CHILD'S BEST INTEREST ATTORNEY

"Child's Best Interest Attorney" means a lawyer appointed by a court for the purpose of protecting a child's best interests, without being bound by the child's directives or objectives. This term replaces the term "guardian ad litem." The Child's Best Interest Attorney makes an independent assessment of what is in the child's best interest and advocates for that before the court, even if it requires the disclosure of confidential information. The best interest attorney should ensure that the child's position is made a part of the record whether or not different from the position that the attorney advocates.

1.2. CHILD'S ADVOCATE ATTORNEY

"Child's Advocate Attorney" means a lawyer appointed by a court to provide independent legal counsel for a child. This term replaces the less specific phrase, "child's attorney." A Child's Advocate Attorney owes the child the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client. A Child's Advocate Attorney should be appointed when the child is need of a voice in court, such as in relocation cases, when there are allegations of child abuse, or where the child is sufficiently mature and sees his or her the child's interests as distinct from the interests of the child's parents.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

APPENDIX

AMEND the following Appendix by replacing gendered pronouns with non-gender specific language in section 1.1 (b), as follows:

APPENDIX. MARYLAND GUIDELINES FOR ATTORNEYS REPRESENTING MINORS AND ALLEGED DISABLED PERSONS IN GUARDIANSHIP PROCEEDINGS

DEFINITIONS; INTRODUCTION AND SCOPE

In these guidelines, the word "minor" means the minor who is the subject of a guardianship proceeding, and the word "attorney" means the attorney representing the minor or alleged disabled person in a guardianship proceeding.

These Guidelines are intended to promote good practice and consistency in the appointment and performance of attorneys representing minors and alleged disabled persons in guardianship proceedings in orphans' and circuit courts. However, the failure to follow a Guideline does not itself give rise to a cause of action against an attorney, nor does it create any presumption that a legal duty has been breached. These Guidelines apply to guardianship of the person and property cases where the court may be called upon to decide whether a minor or alleged disabled person needs a guardian and whether a proposed guardian is appropriate. Nothing contained in these Guidelines is intended to alter the duty an attorney owes to a client pursuant to the Maryland Attorneys' Rules of Professional Conduct.

1.1. RESPONSIBILITIES

It is the responsibility of attorneys representing minors and alleged disabled persons in guardianship proceedings to protect

the due process rights of their clients. This role is distinct from the role of an investigator appointed under Rule 10-106.2. As clients in guardianship proceedings may have diminished capacity due to minority, mental impairment, or some other reason, the attorney should be mindful of the obligation, as far as reasonably possible, to maintain a normal client-attorney relationship as prescribed by the Maryland Attorneys' Rules of Professional Conduct. The attorney's role is to advocate for the client's position even if that position conflicts with the attorney's judgment as to what the best interest of the client, except where the attorney reasonably believes that a client with diminished capacity is at risk of substantial physical, financial, or other harm. In that instance, Rule 19-301.14 permits the attorney to take reasonably necessary protective action.

In guardianship proceedings, it is the role of the attorney to:

- (a) explain the proceedings to the client;
- (b) advise the client of ~~his or her~~ the client's rights;

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 11 - JUVENILE CAUSES

CHAPTER 300 - GUARDIANSHIP TERMINATING PARENTAL RIGHTS FORMS

AMEND Form 11-309 by replacing gendered pronouns with non-gender specific language, 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.

A. What a Consent Means. If you sign this consent, you are agreeing and acknowledging that the court may, and likely will, enter an order that:

1. Except as otherwise specified in this consent, terminates all of your parental rights to your child;
2. Makes the local department of social services the legal guardian of the child;
3. Grants to the local department of social services the authority to consent to the adoption or other planned permanent

living arrangement of the child without the need of any further consent by you; and

4. Also grants to the local department of social services the authority to take other actions regarding the child specified in § 5-325 (b) of the Courts and Judicial Proceedings Article of the Maryland Code.

B. Right to Speak with a Lawyer.

1. You have the right to speak with a lawyer before you decide whether to sign the consent.

2. If a lawyer has been appointed for you in a CINA case, speak with that lawyer before you decide whether to sign this consent. If a lawyer has not been appointed for you and you are unable to afford a lawyer, you may be eligible for a lawyer free of charge through the Office of the Public Defender. You should contact the Office of the Public Defender, and ask for a lawyer to represent you in a D.S.S. (Department of Social Services) guardianship case. The Public Defender's telephone number is _____. The e-mail address is _____.

3. If you are under 18 years old or have a disability that makes it difficult for you to understand this document, you must have a lawyer review the form with you before you can consent to the guardianship. You should contact the Office of the Public Defender or let the Juvenile Court know that you need to have a lawyer appointed for you.

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

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

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

1. You can consent to the guardianship and the adoption of your child by any family approved by the local [Department of Social Services or Montgomery County Department of Health and Human Services]; or

2. You can consent to the guardianship only if the child is adopted into a specific family. This is called a "conditional consent." If you sign a conditional consent, and the family whose name is on the consent cannot adopt the child, your consent will no longer be valid. The court will try to locate you to find out if you want to sign a new consent. If you do not sign a new consent, the court can have a trial to decide whether your parental rights should be ended (terminated) and whether guardianship with the right to consent to adoption should be granted, even without your consent.

E. Effect of Post-Adoption Agreement. If you have a post-adoption agreement, you will keep only the rights the agreement gives you. See Paragraph C. Violation of the agreement will not affect your consent or the adoption.

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

G. Right to Revoke Consent.

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

2. The written and signed revocation statement must be sent to the court, not to your social worker or lawyer. You may deliver

your written revocation of consent in person or by mail. If it is not received by the Juvenile Clerk's office within 30 days after the date the consent form was filed in court, it will be too late, and you will not be able to withdraw the consent or stop the guardianship from being granted.

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.

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

J. Access to Birth and Adoption Records. When your child is at least 21 years old, your child, your child's other parent, or you may apply to the Maryland Secretary of the Department of Health for access to certain birth and adoption records. If you do not want information about you to be disclosed (given) to that person, you have the right to prevent disclosure by filing a disclosure veto. Attached to this document is a copy of the form that you may use if you want to file a disclosure veto.

K. Adoption Search, Contact, and Reunion Services. When your child is at least 21 years old, your child, your child's other parent or siblings, or you may apply to the Director of the Social Services Administration of the Maryland Department of Human Services for adoption search, contact, and reunion services.

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.

M. Authorization for Access to Medical and Mental Health Records. You may be asked to sign a separate form (authorization) to allow the adoptive parents and the guardian to get your child's medical and mental health records or your medical and mental health records. If you agree to allow access to this information, the records given to the adoptive parents will not include identifying information about you unless identifying information was previously exchanged by agreement.

N. Signature, Witness, and Copy. If you decide to complete and sign the consent form, you must have a witness present when you sign it. The witness must be someone 18 or older but may not be the child or the child's other parent. You must complete and sign the form with a pen and print or type in your name, address, and telephone number. The witness also must sign the form and print or type in the witness's name, address, and telephone number in the blanks on the last page.

You have the right to receive a copy of the signed consent form.

STOP HERE IF YOU DID NOT UNDERSTAND SOMETHING YOU HAVE READ OR IF YOU WANT TO SPEAK WITH A LAWYER BEFORE YOU DECIDE IF YOU WANT TO SIGN THE CONSENT FORM.

If you wish to sign the consent form, you must first sign here to verify that you read these instructions and understand them:

(Signature)

(Date)

You must attach a copy of these signed instructions to the signed consent form.

CONSENT TO GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION 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.

(b) If I checked "alleged to be the father 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 named as the father on the child's birth certificate.

(4) [] The child's mother named me as the child's father.

(5) [] I have been adjudicated by a court to be the child's father.

(6) [] I have acknowledged myself orally or in writing to be the child's father.

(7) On the basis of genetic testing, I [] have been [] have not been indicated to be the child's biological father.

(8) [] I do not know if I am the father of the child.

(9) [] I deny that I am the father of the child.

C. Advice of Counsel; Right to Speak with a Lawyer.

I WANT TO COMPLETE THIS CONSENT FORM BECAUSE:

Check **one** of the following:

[] I already have spoken with a lawyer whose name and telephone number are _____, regarding this form and whether I should consent to the guardianship. I have read the instructions in front of this form, and I am ready to consent to the guardianship with the right to consent to adoption.

OR

[] I am at least 18 years old and am able to understand this document. I have read the instructions at the front of this form, and I do not want to speak with a lawyer before I consent to the guardianship with the right to consent to adoption.

D. Consent. Check one of the following statements:

[] After consulting or having the opportunity to consult with an attorney, I voluntarily and of my own free will consent to the ending (termination) of my parental rights and responsibilities with respect to my child and to the appointment of _____ [Department of Social Services or Montgomery County Department of Health and Human Services] to be the guardian of my child, with the right of the guardian to consent

to the child's adoption or other planned permanent living arrangement.

OR

[] I voluntarily and of my own free will consent to the ending (termination) of my parental rights and to the appointment of _____ [Department of Social Services or Montgomery County Department of Health and Human Services], to be the guardian of my child on the condition that my child is adopted by _____.

E. Further Notice.

Check one of the following:

[] I give up (waive) the right to any further notice of the guardianship case, any reviews after guardianship is granted, or when my child is adopted.

OR

[] I give up (waive) the right to any further notice of the guardianship case or any reviews after guardianship is granted, but I want to be notified when my child is adopted.

OR

[] I want to be notified about everything that happens in the guardianship case, all reviews after guardianship is granted, and when my child is adopted.

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

G. Effect of this Consent.

I UNDERSTAND THAT IF I SIGN THIS CONSENT FORM AND GUARDIANSHIP IS GRANTED, I WILL BE GIVING UP ALL RIGHTS AND RESPONSIBILITIES RELATING TO THE CHILD, EXCEPT THOSE RIGHTS THAT I HAVE KEPT UNDER ANY WRITTEN POST-ADOPTION AGREEMENT.

(Signature)

(Date)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(E-Mail Address)

(Witness Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(E-Mail Address)

(Date)

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

AMEND Appendix 19-B by replacing gendered pronouns with non-gender specific language throughout the Appendix, as follows:

Appendix 19-B. IDEALS OF PROFESSIONALISM

Professionalism is the combination of the core values of personal integrity, competency, civility, independence, and public service that distinguish attorneys as the caretakers of the rule of law.

These Ideals of Professionalism emanate from and complement the Maryland Attorneys' Rules of Professional Conduct ("MARPC"), the overall thrust of which is well-summarized in this passage from the Preamble to those Rules:

"An attorney should use the law's procedures only for legitimate purposes and not to harass or intimidate others. An attorney should demonstrate respect for the legal system and for those who serve it, including judges, other attorneys, and public officials."

A failure to observe these Ideals is not of itself a basis for disciplinary sanctions, but the conduct that constitutes the

failure may be a basis for disciplinary sanctions if it violates a provision of the MARPC or other relevant law.

Preamble

Attorneys are entrusted with the privilege of practicing law. They take a firm vow or oath to uphold the Constitution and laws of the United States and the State of Maryland. Attorneys enjoy a distinct position of trust and confidence that carries the significant responsibility and obligation to be caretakers for the system of justice that is essential to the continuing existence of a civilized society. Each attorney, therefore, as a custodian of the system of justice, must be conscious of this responsibility and exhibit traits that reflect a personal responsibility to recognize, honor, and enhance the rule of law in this society. The Ideals and some characteristics set forth below are representative of a value system that attorneys must demand of themselves as professionals in order to maintain and enhance the role of legal professionals as the protectors of the rule of law.

Ideals of Professionalism

An attorney should aspire:

- (1) to put fidelity to clients before self-interest;
- (2) to be a model for others, and particularly for ~~his or~~ her clients of the attorney, by showing respect due to those

called upon to resolve disputes and the regard due to all participants in the dispute resolution processes;

(3) to avoid all forms of wrongful discrimination in all ~~of~~ ~~his or her~~ activities of the attorney, including discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, with equality and fairness as the goals;

(4) to preserve and improve the law, the legal system, and other dispute resolution processes as instruments for the common good;

(5) to make the law, the legal system, and other dispute resolution processes available to all;

(6) to practice law with a personal commitment to the rules governing the profession and to encourage others to do the same;

(7) to preserve the dignity and the integrity of the profession by ~~his or her~~ the attorney's conduct, because the dignity and the integrity of the profession are an inheritance that must be maintained by each successive generation of attorneys;

(8) to strive for excellence in the practice of law to promote the interests of ~~his or her~~ the attorney's clients, the rule of law, and the welfare of society; and

(9) to recognize that the practice of law is a calling in the spirit of public service, not merely a business pursuit.

Accountability and Trustworthiness

An attorney should understand the principles set forth in this section.

(1) Punctuality promotes the credibility of an attorney. Tardiness and neglect denigrate the individual, as well as the legal profession.

(2) Personal integrity is essential to the honorable practice of law. Attorneys earn the respect of clients, opposing attorneys, and the courts when they keep their commitments and perform the tasks promised.

(3) Honesty and, subject to legitimate requirements of confidentiality, candid communications promote credibility with clients, opposing attorneys, and the courts.

(4) Monetary pressures that cloud professional judgment and should be resisted.

Education, Mentoring, and Excellence

An attorney should:

(1) make constant efforts to expand ~~his or her the~~ **attorney's** legal knowledge and to ensure familiarity with changes in the law that affect a client's interests;

(2) willingly take on the responsibility of promoting the image of the legal profession by educating each client and the

public regarding the principles underlying the justice system, and, as a practitioner of a learned art, by conveying to everyone the importance of professionalism;

(3) attend continuing legal education programs to demonstrate a commitment to keeping abreast of changes in the law;

(4) as a senior attorney, accept the role of mentor and teacher, whether through formal education programs or individual mentoring of less experienced attorneys; and

(5) understand that mentoring includes the responsibility for setting a good example for another attorney, as well as an obligation to ensure that each mentee learns the principles enunciated in these Ideals and adheres to them in practice.

A Calling to Service

An attorney should:

(1) serve the public interest by communicating clearly with clients, opposing attorneys, judges, and the general public;

(2) consider the impact on others when scheduling events. Reasonable requests for schedule changes should be accommodated if, in the view of the attorney, such requests do not impact adversely the merits of the client's position;

(3) maintain an open and respectful dialogue with clients and opposing attorneys;

(4) respond to all communications promptly, even if more time is needed to formulate a complete answer, and understand that delays in returning telephone calls or answering mail may leave the impression that the communication was unimportant or that the message was lost, and such delays increase tension and frustration;

(5) keep a client apprised of the status of important matters affecting the client and inform the client of the frequency with which information will be provided, understanding that some matters will require regular contact, while others will require only occasional communication;

(6) always explain a client's options or choices in sufficient detail to help the client make an informed decision;

(7) reflect a spirit of respect in all interactions with opposing attorneys, parties, staff, and the court; and

(8) accept responsibility for ensuring that justice is available to every person and not just those with financial means.

Fairness, Civility, and Courtesy

An attorney should:

(1) act fairly in all dealings as a way of promoting the system of justice;

(2) understand that an excess of zeal may undermine a client's cause and hamper the administration of justice and that

an attorney can advocate zealously a client's cause in a manner that remains fair and civil;

(3) know that zeal requires only that the client's interests are paramount and therefore warrant use of negotiation and compromise, when appropriate, to achieve a beneficial outcome, understanding that yelling, intimidating, issuing ultimatums, and using an "all or nothing" approach may constitute bullying, not zealous advocacy;

(4) seek to remain objective when advising a client about the strengths and weaknesses of the client's case or work;

(5) not allow a client's improper motives, unethical directions, or ill-advised wishes to influence an attorney's actions or advice, such as when deciding whether to consent to an extension of time requested by an opponent, and make that choice based on the effect, if any, on the outcome of the client's case and not on the acrimony that may exist between the parties;

(6) when appropriate and consistent with duties to the client, negotiate in good faith in an effort to avoid litigation and, where indicated, suggest alternative dispute resolution;

(7) use litigation tools to strengthen the client's case, but avoid using litigation tactics in a manner solely to harass, intimidate, or overburden an opposing party; and

(8) note explicitly any changes made to documents submitted for review by opposing attorneys, understanding that fairness is undermined by attempts to insert or delete language without notifying the other party or the party's attorney.

An attorney should understand that:

(1) professionalism requires civility in all dealings, showing respect for differing points of view, and demonstrating empathy for others;

(2) courtesy does not reflect weakness; rather, it promotes effective advocacy by ensuring that parties have the opportunity to participate in the process without personal attacks or intimidation;

(3) maintaining decorum in every venue, especially in the courtroom, is neither a relic of the past nor a sign of weakness; it is an essential component of the legal process;

(4) professionalism is enhanced by preparing scrupulously for meetings and court appearances and by showing respect for the court, opposing attorneys, and the parties through courteous behavior and respectful attire;

(5) courtesy and respect should be demonstrated in all contexts, not just with clients and colleagues, or in the courtroom, but also with support staff and court personnel;

(6) hostility between clients should not be a ground for an attorney to show hostility or disrespect to a party, an opposing attorney, or the court;

(7) patience enables an attorney to exercise restraint in volatile situations and to defuse anger, rather than elevate the tension and animosity between parties or attorneys; and

(8) the Ideals of Professionalism are to be observed in every kind of communication, and an attorney should resist the impulse to respond uncivilly to electronic communications in the same manner as ~~he or she~~ the attorney would resist such impulses in other forms of communication.

REPORTER'S NOTE

See Reporter's note for Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 300 - MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

APPENDIX

AMEND the following Appendix by replacing gendered pronouns with non-gender specific language in section 1.2, as follows:

APPENDIX 19-D. MARYLAND GUIDELINES FOR PRACTICE FOR COURT-APPOINTED ATTORNEYS REPRESENTING CHILDREN IN CASES INVOLVING CHILD CUSTODY OR CHILD ACCESS

Introduction and Scope

These Guidelines are intended to promote good practice and consistency in the appointment and performance of attorneys for children in cases involving child custody and child access decisions. However, the failure to follow a Guideline does not itself give rise to a cause of action against an attorney nor does it create any presumption that a legal duty has been breached. These Guidelines apply to divorce, custody, visitation, domestic violence, and other civil cases where the court may be called upon to decide issues relating to child custody or access. Nothing contained in the Guidelines is intended to modify, amend, or alter the fiduciary duty that an attorney owes to a client pursuant to the Maryland Attorneys' Rules of Professional Conduct.

These Guidelines do not apply to Child In Need of Assistance ("CINA"), Termination of Parental Rights ("TPR"), or adoption cases. The appointment and performance of attorneys appointed to represent children in those cases is addressed by the Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings.

1. Definitions.-- A court that appoints an attorney for a minor child in a case involving child custody or child access issues should clearly indicate in the appointment order, and in all

communications with the attorney, the parties, and other attorneys, the role expected of child's attorney. The terminology and roles used should be in accordance with the definitions in Guidelines 1.1--1.3.

1.1. Child's Best Interest Attorney.-- "Child's Best Interest Attorney" means an attorney appointed by a court for the purpose of protecting a child's best interest, without being bound by the child's directives or objectives. This term replaces the term "guardian ad litem." The Child's Best Interest Attorney makes an independent assessment of what is in the child's best interest and advocates for that before the court, even if it requires the disclosure of confidential information. The best interest attorney should ensure that the child's position is made a part of the record whether or not different from the position that the attorney advocates.

1.2. Child's Advocate Attorney.-- "Child's Advocate Attorney" means an attorney appointed by a court to provide an independent attorney for a child. This term replaces the less specific phrase, "child's attorney." A Child's Advocate Attorney owes the child the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client. A Child's Advocate Attorney should be appointed when the child is need of a voice in court, such as in relocation cases, when there are allegations of child abuse, or where the child is sufficiently mature and sees ~~his or her~~ the child's interests as distinct from the interests of the child's parents.

. . .

REPORTER'S NOTE

See the Reporter's note for Rule 1-333.