SUPREME COURT STANDING COMMITTEE

ON RULES OF PRACTICE AND PROCEDURE

Minutes of a meeting of the Rules Committee held in Rooms 236-238 of the Maryland Judicial Center, 187 Harry S. Truman Parkway, Annapolis, Maryland on Thursday, May 22, 2025.

Members present:

Hon. Yvette M. Bryant, Chair
Hon. Douglas R.M. Nazarian, Vice Chair

Hon. Tiffany H. Anderson
James M. Brault, Esq.
Jamar R. Brown, Esq.
Hon. Catherine Chen
Julia Doyle, Esq.
Monica Garcia Harms, Esq.
Arthur J. Horne, Jr., Esq.
Brian A. Kane, Esq.
Bruce L. Marcus, Esq.
Stephen S. McCloskey, Esq.
Kathleen H. Meredith, Esq.
Judy Rupp, State Court Administrator
Scott D. Shellenberger, Esq.
Gregory K. Wells, Esq.
Hon. Dorothy J. Wilson
Brian L. Zavin, Esq.

In attendance:

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

Hon. Anne K. Albright, Appellate Court of Maryland
Derek Bayne, Esq., Commission on Judicial Disabilities
Tanya Bernstein, Esq., Commission on Judicial Disabilities
Kevin Collins, Esq., Counsel to the Maryland Circuit Judges Association
Thomas DeGonia II, Esq., Bar Counsel
Debra Gardner, Esq., Public Justice Center
Greg Hilton, Esq., Clerk of the Supreme Court of Maryland
Richard Keidel, Esq., Associate Legal Counsel, Office of Legal Affairs and Fair Practices

Rachel Konieczny, Reporter, The Daily Record
Anthony Monaco, Esq., Program Director, Judicial Services Information Privacy
Madeleine O'Neill, Reporter
Parker Schnell, Esq., Commission on Judicial Disabilities

The Chair convened the meeting. She thanked the Committee members and guests for their patience with the delayed meeting start due to multiple individuals being delayed by traffic.

The Reporter advised that the meeting was being recorded for the purpose of assisting with the preparation of meeting minutes and that speaking will be treated as consent to being recorded. She also informed the Committee that the Supreme Court will hold an open meeting on the Committee's 224th Report on June 3.

The Chair announced a series of new appointments and reappointments to the Committee. Harford County Circuit Court Judge Yolanda L. Curtin and Howard County State's Attorney Rich H. Gibson, Jr. are appointed to the Committee effective July 1. Judge Anderson, Judge Wilson, and Mr. Horne have been reappointed to five-year terms.

The Reporter called for a motion to approve the minutes for the Friday, March 21, 2025 meeting, which were circulated previously for review. She said that Ms. Meredith identified

one typo, which has been corrected. A motion to approve the minutes was made, seconded, and approved by consensus.

Agenda Item 1. Reconsideration of proposed amendments to Rule 18-434 (Hearing on Charges).

Mr. Marcus presented Rule 18-434, Hearing on Charges, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 – JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 5 – FILING OF CHARGES; PROCEEDINGS BEFORE COMMISSION

AMEND Rule 18-434 by adding new section (f) pertaining to the submission of exhibits to the Commission and by re-lettering subsequent sections, as follows:

Rule 18-434. HEARING ON CHARGES

(a) Bifurcation

If the judge has been charged with both sanctionable conduct and disability or impairment, the hearing shall be bifurcated and the hearing on charges of disability or impairment shall proceed first.

(b) Subpoenas

Upon application by Investigative Counsel or the judge, the Commission shall issue subpoenas to compel the attendance of witnesses and the

production of documents or other tangible things at the hearing in accordance with Rule 18-409.1(b).

(c) Non-Response or Absence of Judge

The Commission may proceed with the hearing whether or not the judge has filed a response or appears at the hearing.

(d) Motion for Recusal

Except for good cause shown, a motion for recusal of a member of the Commission shall be filed at least 30 days before the hearing. The motion shall specify with particularity the reasons for recusal.

(e) Role of Investigative Counsel

At the hearing, Investigative Counsel shall present evidence in support of the charges. If Investigative Counsel and any assistants appointed pursuant to Rule 18-411(e)(3) are recused from a proceeding before the Commission, the Commission shall appoint an attorney to handle the proceeding.

(f) Exhibits

(1) Definitions

In section (f) of this Rule, the following definitions apply:

(A) Redact

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

(B) Restricted Information

"Restricted information" means information that, by Rule, other law, or order, is not subject to public inspection or is prohibited from being included in a Commission or court record.

(2) Pre-Filing of Documentary Exhibits

At least five [business] days before the first day of the scheduled hearing, unless otherwise directed by the **Chair of the** Commission, **all proposed** exhibits **other than rebuttal and impeachment exhibits** shall be indexed, pre-numbered, and pre-filed electronically with the

Commission through Executive Counsel **using the Commission's file management system approved by the State Court Administrator. ~~at least five days prior to the first date of the scheduled hearing.~~ The filing party promptly shall serve a copy of each pre-filed exhibit ~~and served~~** on the other **~~parties~~ party**. **To the extent practicable, any objection to the admissibility of an exhibit shall be filed and served no later than three [business] days after service of the proposed exhibit.**

(3) Proposed Exhibits Containing Restricted Information

Each proposed exhibit filed under **section (f) of** this Rule that contains restricted information, shall state prominently on the first page that it contains restricted information. In addition, if an exhibit contains restricted information, the filing party shall file both an unredacted version of the exhibit noting prominently in the title of the version that the version is "unredacted" and a redacted version of the exhibit excluding the restricted information. Exhibits containing restricted information are not **~~otherwise~~** disclosable to the public**,** except as determined by the Chair of the Commission or by order of the Supreme Court.

(4) Impeachment and Rebuttal Exhibits Containing Restricted Information

The redaction requirements of subsection (f)(3) of this Rule apply to impeachment and rebuttal exhibits offered at the hearing.

~~(4)~~(5) Failure to Comply

If a filing party files **proposed** exhibits that are not in compliance with this section, the **Chair of the** Commission shall reject the **~~submission~~ proposed exhibits** without prejudice to refile compliant **proposed** exhibits promptly.

~~(f)~~(g) Evidence

Title 5 of the Maryland Rules shall generally apply.

Committee note: Rulings on evidence shall be made by the Chair, who may take into consideration any views expressed by other members of the Commission. Whether expert testimony may be allowed in a Commission hearing is governed by Rules 5-701 through 5-706, with the Commission exercising the authority of a court.

~~(g)~~(h) Recording

The proceeding shall be recorded verbatim, either by electronic means or stenographically, as directed by the Chair of the Commission. Except as provided in Rule 18-435 (e), the Commission is not required to have a transcript prepared. The judge, at the judge's expense, may have the record of the proceeding transcribed.

~~(h)~~(i) Proposed Findings

The Chair of the Commission may invite the judge and Investigative Counsel to submit proposed findings of fact and conclusions of law within the time period set by the Chair.

Source: This Rule is new.

Rule 18-434 was accompanied by the following Reporter's note:

The Rules Committee considered the Attorneys and Judges Subcommittee's proposed addition of new section (f) of Rule 18-434 at its March 2025 meeting. The new section was intended to set forth the procedures to be followed when exhibits are submitted to the Commission prior to a hearing. The procedures were substantially similar to the provisions contained in Rule 20-201.1.

At the March 2025 meeting, the Rules Committee voted to table consideration of the proposed amendments to this Rule until the May 2025 meeting. Rules Committee staff was instructed to draft revisions to proposed new section (f) consistent with the

concerns raised in the March 2025 meeting. Changes made to the draft as it appeared in the March 2025 meeting materials are shown in boldface type for ease of reference.

Subsection (f)(1) contains definitions for "redact" and "restricted information" that apply in section (f). The definitions are based on definitions in Rule 20-101.

Subsection (f)(2) requires that, unless otherwise directed by the Chair of the Commission, pre-numbered exhibits are to be filed with the Commission at least 5 days prior to a hearing. This is based on the provisions in subsection (c)(2)(B) of Rule 21-202. The Major Projects Committee is in the process of setting up a file management system for the Commission to use to receive pre-filed, proposed exhibits. To ensure that the provisions of this Rule remain current with the practice after the system is operational, the language "using the Commission's file management system approved by the State Court Administrator" is included in subsection (f)(2). In response to the Commission on Judicial Disabilities' comment letter dated May 9, 2025, "business" is included within brackets for the Committee's consideration where deadlines are referenced in this subsection.

Subsection (f)(3) covers the procedure to be followed in the event that any exhibits to be filed contain restricted information. This is based on the provisions in Rule 20-201.1.

Subsection (f)(4) establishes that the provisions in subsection (f)(3) pertaining to restricted information apply to rebuttal and impeachment exhibits.

Subsection (f)(5) requires the Chair of the Commission to reject an exhibit that does not comply with the provisions of section (f), without prejudice and with leave to re-file promptly.

Mr. Marcus explained that Rule 18-434 was before the Committee in March but was remanded to address concerns raised by the Commission on Judicial Disabilities and the Maryland

Circuit Judges Association. He invited Judge Anne K. Albright, Chair of the Commission, and Investigative Counsel Tanya Bernstein to address the Committee.

Ms. Bernstein said that she would like to clarify the pre-hearing process, which Judge Albright addressed in her written comment to the Committee (Appendix 1). She explained that by the time parties pre-file exhibits, all the potential exhibits are known to them for months. She said that exhibits are attached to the report and recommendations she files at the beginning of the disciplinary process pursuant to Rule 18-422. After the filing of charges, her office engages in "open file" discovery pursuant to Rule 18-433. In addition, the pre-hearing statement filed by Investigative Counsel lists the documents she intends to use, and the judge can object by filing a motion. Judge Albright added that deadlines, such as for a pre-hearing statement and objections, are set by scheduling order. When the parties pre-file the exhibits with the Commission, typically two weeks before the hearing begins, the documents are known to both sides already.

Ms. Bernstein said that the Commission's request to amend Rule 18-434 was to require the parties to redact information that is deemed "restricted" by the MDEC Rules. She explained that the Commission does not use MDEC for its proceedings, but if it recommends a sanction, it must file the record of the

proceedings with the Supreme Court, which does use MDEC. The Commission must comply with the MDEC Rules on restricted information before filing with the Court because the filing is a public record. She explained that this can be a burden on the small staff of the Commission.

Judge Albright said that the Commission is in the same position as a plaintiff filing a complaint when it files a record with the Supreme Court. Under the current MDEC Rules, as the filer, the Commission is responsible for redaction of restricted information despite the record including documents initially filed by the other party. She informed the Committee that the Commission wants the Rules to require the parties to redact information before filing papers with the Commission, rather than placing the burden on the Commission to evaluate and redact all records. She said that there was a recent case involving a substantial number of documents filed by the judge; counsel for the judge refused to redact restricted information when the documents were pre-filed.

Mr. Marcus asked Judge Albright about the Commission's objection to the staggered pre-file deadlines proposed by the Circuit Judges Association. Judge Albright said that she does not see the need to stagger the deadlines because all of the exhibits are known to the parties. Mr. Marcus also asked if the Commission prefers "business days" in subsection (f)(2). Judge

Albright responded in the affirmative. Assistant Reporter Cobun pointed out that, pursuant to Rule 1-203, when calculating a time prescribed by the Rules, any time that is seven days or less does not count weekends or holidays.

The Chair asked Judge Albright where the Commission derives the authority to issue the scheduling orders mentioned by Ms. Bernstein. Judge Albright acknowledged that the Rules do not address scheduling orders by the Commission, but she said that, in the absence of a Rule in Title 18, Chapter 400, the Commission defaults generally to the procedures in Title 2. The Chair said that the Circuit Judges Association expressed concern in its comment letter (Appendix 2) about the implications of missing the pre-filing deadline proposed in the amendments to Rule 18-434. Judge Albright replied that, as Commission Chair, she would hear arguments and decide whether to allow an exhibit to be filed late.

Kevin Collins, counsel for the Circuit Judges Association, addressed the Committee. He said that there is no reference to scheduling orders in the Rules and, while the process laid out by Judge Albright and Ms. Bernstein is a good one, there is no guarantee that the procedure will stay the same if leadership changes. He pointed out that the disciplinary process is incredibly stressful for judges who may be proceeding without

counsel. He said that a staggered approach to submitting exhibits makes sense.

Mr. Marcus said one of the concerns raised at the March Committee meeting was the fact that the Commission does not have a dedicated e-filing system. He pointed out that proposed subsection (f)(2) in Rule 18-434 provides for filing "using the Commission's file management system approved by the State Court Administrator." The Deputy Reporter commented that it is his understanding that the plan in the short term is to utilize ShareFile, a file management system already used by the Judiciary.

Ms. Rupp said that ShareFile is the current digital evidence system while the Judiciary works to find a more permanent integrated solution. She said that it is not an ideal solution, but it is in place as an interim measure. Mr. Marcus asked Ms. Rupp if there was a procedure in her office to vet and approve systems used by courts. She confirmed that is the case.

Mr. Marcus informed the Committee that some of the language in new section (f) was derived from the Rules governing virtual jury trials. He said that impeachment and rebuttal exhibits will not have to be redacted and filed until they are used for their purposes.

Mr. Marcus called for a motion on the proposed amendments to Rule 18-434. Mr. Horne moved to amend subsection (f)(2) to

stagger pre-filing deadlines. He said that the Commission has a staff while the judge may or may not have an attorney or the resources to complete the redaction before filing. He suggested that the Commission be required to pre-file two weeks before the first day of the scheduled hearing and the respondent be required to file at least five days before the hearing. Mr. Wells commented that the inclusion of "unless otherwise directed by the Chair of the Commission" would appear to address the issue.

Ms. Meredith asked Ms. Bernstein about the practical impact of staggering the deadlines as proposed by Mr. Horne. Ms. Bernstein said that the documents will have already been provided in discovery, but her office will have to redact restricted information from proposed exhibits earlier and engage in motions practice without knowing the redactions that the judge intends to make.

Judge Albright added that the Commission is opposed to the staggered deadlines but supports the redaction requirement. Mr. Marcus confirmed that the redaction of restricted information is not implicated by Mr. Horne's motion.

Mr. Brown asked Judge Albright to further explain her opposition to the staggered deadlines. She said that the Commission sets a deadline for discovery and for filing a pre-hearing statement listing exhibits; both parties can file

motions to oppose exhibits. She explained that if Investigative Counsel intends to introduce a document and the judge objects, the judge can file a motion and that will be handled prior to trial. The Chair asked again about the consequences of a judge failing to pre-file an exhibit that the judge later seeks to introduce. Judge Albright replied that she would hear arguments and consider the fairness of admitting the exhibit.

Judge Anderson asked whether the staggered deadlines currently being discussed would impact the time for filing pre-hearing statements. Judge Albright said that pre-hearing statements are usually submitted about one month before the start of the hearing. This allows time for motions practice prior to the hearing. Ms. Bernstein said that staggered deadlines create an imbalance where the judge has two weeks to review her exhibits, but she only has five days to review the judge's exhibits. Judge Anderson asked whether Investigative Counsel usually has more exhibits to pre-file. Ms. Bernstein said that it depends on the case; some are document-heavy, and others are not.

Judge Chen commented that given the long pre-hearing process with a significant exchange of information, judges do not want last-minute evidence to be precluded from admission due to a missed deadline. She added that the next Commission chair may not have Judge Albright's willingness to hear arguments and

consider admitting exhibits that are not pre-filed. She said that there was agreement about the proposal requiring the parties to redact their exhibits in advance; the concern is over the possible exclusion of late-discovered evidence. Ms. Bernstein replied that a late-notice document or witness would be addressed at trial like any motion or argument. Judge Albright added that there is a body of law governing evidence and exhibits. Ms. Bernstein said that the pre-filing process is not about admissibility; it is solely to address the redaction issue.

Mr. Wells observed that this matter came to the Committee as an issue of redaction of exhibits, but now the discussion is focused on broader pre-hearing procedures. He suggested that, if the pre-hearing procedures need to be codified, that can be done by a separate Rule-drafting effort. Mr. Brown said that pre-hearing procedural fairness could be discussed by the Attorneys & Judges Subcommittee, but that is largely unrelated to the redaction issue.

Ms. Doyle asked whether it would duplicate efforts if the pre-filing deadline was the same for both parties, specifically if both sides would redact and submit the same document. Ms. Bernstein replied that joint exhibits will be known to the parties and filed by agreement.

Mr. Brown commented that he agreed that the staggered deadlines and general pre-hearing fairness issues seem to be separate from the redaction issue that brought this Rule before the Committee.

Mr. Marcus remarked that there are many administrative hearings that involve the exchange of proposed exhibits; identifying them does not mean that the exhibits will be entered into evidence or even be offered. He added that he does not see the staggered deadlines as a large problem given the fact that there should not be any "surprise" exhibits. He noted that the proposed amendments do not prohibit the Commission from exercising its discretion to admit subsequent exhibits. He also acknowledged the point about waiting for a pre-trial procedure Rule to discuss these issues.

Mr. Horne said that he would withdraw his motion to stagger the pre-filing deadlines.

Mr. Marcus said that, without the motion, the question is whether to approve the Rule as presented. He added that "business day" is a defined term in Title 20. The Chair commented that the concern is that Title 20 does not apply at this stage of the Commission proceedings. Ms. Cobun said that the Title 20 definition addresses the fact that filings can be made electronically until 11:59 p.m. on the due date and still be considered timely because their filing is not dependent on

the clerk's office being open and accepting them. The Reporter pointed out that since Title 20 does not apply to the Commission but Title 1 does, "business day" is an unnecessary and possibly confusing term to use. The Chair asked if the Committee was in agreement to delete "business" from Rule 18-434. By consensus, the Committee agreed that the Rule should provide for "five days."

A motion to approve the proposed amendments to Rule 18-434 as presented, excluding the addition of "business" in brackets in subsection (f)(2), was made and seconded. By consensus, the Committee approved the amendments.

Agenda Item 2. Consideration of proposed new Title 16, Chapter 900, Division 5 (Other Requests).

Judge Nazarian informed the Committee that Agenda Item 2 consists of one new Rule and the renumbering of an existing Rule. The rest of the proposed amendments are conforming ones to address the renumbering.

Judge Nazarian presented the renumbering of Rule 16-934, Case Records – Court Order Denying or Permitting Inspection Not Otherwise Authorized by Rule, and new Rule 16-942, Protected Individuals – Request to Shield, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 5 – OTHER REQUESTS

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MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

~~DIVISION 4 – RESOLUTION OF DISPUTES~~ DIVISION 5 – OTHER REQUESTS

AMEND Rule 16-934 by renumbering it as Rule 16-941, as follows:

Rule ~~16-934~~ 16-941. CASE RECORDS – COURT ORDER DENYING OR PERMITTING INSPECTION NOT OTHERWISE AUTHORIZED BY RULE

(a) Purpose; Scope

. . .

Rule 16-934 was accompanied by the following Reporter's note:

Proposed amendments to Rule 16-934 renumber it as Rule 16-941 and place it in new Division 5 of Title 16, Chapter 900. Rule 16-934 "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 certain conditions are met. It is currently located in Division 4, Resolution of Disputes, with Rules governing the procedure for contesting determinations by custodians, including administrative review and declaratory relief. The General Court Administration Subcommittee determined that Rule 16-934 should be moved to a new Division for "Other Requests." There are no substantive changes proposed to new Rule 16-941.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 5 – OTHER REQUESTS

ADD new Rule 16-942, as follows:

Rule 16-942. PROTECTED INDIVIDUALS – REQUEST TO SHIELD

(a) Definitions

The following definitions apply in this Rule:

(1) Personal Information

"Personal information" means information described in Code, Courts Article, § 3-2301(d).

(2) Protected Individual

"Protected individual" means an individual described in Code, Courts Article, § 3-2301(e).

(b) Applicability

This Rule applies to a request by or on behalf of a protected individual to shield from public inspection personal information contained in a case record.

(c) Request

A request to shield pursuant to this Rule shall itself be shielded and shall:

(1) be in writing;

(2) provide sufficient information to permit the court to confirm that the requester or individual on whose behalf the request is made is a protected individual;

(3) state with particularity each record alleged to contain personal information and the location of the personal information within the record; and

(4) be filed with the clerk.

(d) Shielding of Record upon Request

Upon the filing of a request pursuant to this Rule, the clerk shall deny public inspection of the case record for a period not to exceed five business days, including the day the request is filed, in order to allow the court an opportunity to determine whether an order should issue. Immediately upon docketing, the request shall be delivered to a judge who is not the

protected individual or related to the protected individual named in the request for consideration.

(e) Determination; Order

(1) The court shall consider a request filed under this Rule on an expedited basis.

(2) If the court determines that the case record contains personal information of a protected individual, the court shall:

(A) order the clerk to redact the personal information from a copy of each case record that is subject to public inspection and shield the unredacted version of the case record; and,

(B) in an open case, order the parties to redact specified personal information from all future filings in the proceeding and, if the personal information is necessary to be included in the filing, file an unredacted copy, which shall be shielded by the clerk.

Cross reference: See Rule 20-201.1 pertaining to restricted information in electronic court filings.

Source: This Rule is new. It is derived in part from former Rule 16-934 (2025).

Rule 16-942 was accompanied by the following Reporter's note:

Proposed new Rule 16-942 extends the protections of the Judge Andrew F. Wilkinson Judicial Security Act (the "Act"), signed into law on May 9, 2024, to publicly available court records. The Act established the Office of Information Privacy (the "OIP") in the Administrative Office of the Courts (the "AOC") and established the ability for current or retired state judges, federal judges, magistrates, and other judicial officers and their families to seek to have certain personal information removed from certain publications, websites, and government records. The Act also created a Judicial Address Confidentiality Program.

The Act applies to records held by a "governmental entity" (defined as Executive Branch agencies and local entities that are political subdivisions of the state) and real property records but does not apply to public case records. The AOC was informed that judges and other judicial officers, who, from time to time, may be private parties in a case, expressed concern about their personal information being available in Case Search or at courthouse kiosks. In response, the AOC requests that the Rules Committee consider the formulation of a Rule to permit individuals covered by the Act to request shielding from public-facing Judiciary systems.

New Rule 16-942 is derived in part from current Rule 16-934 and the Act.

Section (a) adopts the definitions of "personal information" and "protected individual" from the Act.

Section (b) states that the Rule applies to a request by or on behalf of a protected individual to shield certain information in a case record. Rule 16-903 contains definitions applicable in all of the Rules in Title 16, Chapter 900, and includes, as section (d), the definition of the term "case record," which is used throughout new Rule 16-942.

Section (c) is derived in part from Code, State Government Article, §3-2302. It requires the request to shield to be in writing, provide sufficient information for the court to confirm that the requester or the individual on whose behalf the request is made is a protected individual, state in detail the records and information that are the subject of the request, and be filed with the clerk. The General Court Administration Subcommittee was informed that specificity will assist courts with implementing the requests. The OIP creates standards for compliance and can assist courts with questions about application of the Act and, by extension, the new Rule.

Section (d) is derived from current Rule 16-934 (c). It provides for the temporary shielding of the subject record while the court considers the request. The temporary shielding may not exceed five business days. The request must be docketed and delivered immediately to a judge who is not the protected

individual or related to the protected individual. This provision was added to Rule 16-942 to make it clear that a judge cannot rule on the judge's own request or a request pertaining to a family member of the judge.

Section (e) is derived in part from current Rule 16-934 (d). It requires expedited consideration of the request and instructions for compliance if the record is found to contain personal information. Subsection (e)(2)(B) provides for redaction of the personal information in future filings in an open case. It is derived in part from the procedure in Rule 20-201.1 (c).

Judge Nazarian informed the Committee that Rule 16-934, which is currently in Division 4 (Resolution of Disputes), is renumbered and relocated to new Division 5 (Other Requests). He explained that the new Division and renumbering are a commonsense update to place the Rule in a more logical location.

Judge Nazarian said that proposed new Rule 16-942 addresses personal information about judicial officers and their families that appears in court records. He said that the Judge Andrew F. Wilkinson Judicial Security Act (Chapters 414/415, 2024 Laws of Maryland (HB 664/SB 575)) applies to "personal information" of "protected individuals" – both defined terms in the law – that is published or available publicly in certain records. The law does not apply to court records, but this information can be in court records where the judge or a family member of the judge is a party to a case. The Rule would permit a protected individual

to request shielding of the information that is covered by the law in public court records.

Judge Anderson asked why the request is to be "delivered to a judge who is not... related to the protected individual." Ms. Rupp explained that, because the law defines "protected individual" to involve the judge's spouse, child, etc., the Rule ensures that the judge who rules on the request is not a relative of the requester. The Chair said that the goal is to avoid a conflict of interest.

There being no motion to amend or reject the proposed renumbering of Rule 16-934 as Rule 16-941, it was approved as presented. There being no motion to amend or reject proposed new Rule 16-942, it was approved as presented.

Judge Nazarian presented conforming amendments to Rule 2-512, Jury Selection; Rule 15-901, Action for Change of Name; Rule 16-203, Electronic Filing of Pleadings, Papers, and Real Property Instruments; Rule 16-204, Reporting of Criminal and Motor Vehicle Information; Rule 16-904, General Policy; Rule 16-914, Case Records – Required Denial of Inspection – Certain Categories; Rule 16-915, Case Records – Required Denial of Inspection – Specific Information; Rule 20-203, Review by Clerk; Striking of Submission; Deficiency Notice; Correction; Request for Court Order to Seal; and Rule 20-504, Agreements with Vendors, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 500 - TRIAL

AMEND Rule 2-512 by updating a reference to Rule 16-934 in the cross reference following subsection (c)(3), as follows:

Rule 2-512. JURY SELECTION

. . .

(c) Jury List

. . .

(3) Not Part of the Case Record; Exception

Unless the court orders otherwise, copies of jury lists shall be returned to the jury commissioner. Unless marked for identification and offered in evidence pursuant to Rule 2-516, a jury list is not part of the case record.

Cross reference: See Rule ~~16-934~~ 16-941 concerning petitions to permit or deny inspection of a case record.

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MARYLAND RULES OF PROCEDURE

TITLE 15 – OTHER SPECIAL PROCEEDINGS

CHAPTER 900 –CHANGE OF NAME; JUDICIAL DECLARATION OF GENDER IDENTITY

AMEND Rule 15-901 by updating a reference to Rule 16-934 in the Committee note following subsection (c)(1)(G), as follows:

Rule 15-901. ACTION FOR CHANGE OF NAME

. . .

(c) Petition

(1) Contents

An action for change of name shall be commenced by filing a petition captioned "In the Matter of ..." [stating the name of the individual whose name is sought to be changed] "for change of name to ..." [stating the change of name desired]. The petition shall be under oath and shall contain the following information:

. . .

(G) if the individual whose name is sought to be changed is a minor, (i) a statement explaining why the petitioner believes that the name change is in the best interest of the minor; (ii) the name and address of each parent and any guardian or custodian of the minor; (iii) whether each of those persons consents to the name change; (iv) whether the petitioner has reason to believe that any parent, guardian, or custodian is unfamiliar with the English language and, if so, the language the petitioner reasonably believes the individual can understand; (v) if the minor is at least ten years old, whether the minor consents to the name change; and (vi) if the minor is younger than ten years old, whether the minor objects to the name change; and

Committee note: If a petition filed on behalf of a minor contains confidential information pertaining to the minor, the petitioner may request that the court seal or otherwise limit inspection of a case record as provided in Rule ~~16-934~~ 16-941.

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CHAPTER 200 – GENERAL PROVISIONS – CIRCUIT AND DISTRICT COURTS

AMEND Rule 16-203 by updating a reference to Rule 16-934 in the cross reference following subsection (c)(6), as follows

Rule 16-203. ELECTRONIC FILING OF PLEADINGS, PAPERS, AND REAL PROPERTY INSTRUMENTS

. . .

(c) Criteria for Adoption of Plan

In developing a plan for the electronic filing of pleadings, the County Administrative Judge or the Chief Judge of the District Court, as applicable, shall be satisfied that the following criteria are met:

. . .

(6) the court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden.

The State Court Administrator shall review the plan and make a recommendation to the Chief Justice of the Supreme Court with respect to it.

Cross reference: For the definition of "public record," see Code, General Provisions Article, § 4-101. See also Rules ~~16-901 – 16-934~~ 16-901 through 16-942 (Access to Judicial Records).

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MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 200 – GENERAL PROVISIONS – CIRCUIT AND DISTRICT COURTS

AMEND Rule 16-204 by updating a reference to Rule 16-934 in section (b), as follows:

Rule 16-204. REPORTING OF CRIMINAL AND MOTOR VEHICLE INFORMATION

. . .

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

Criminal history record information contained in court records of public judicial proceedings is subject to inspection in accordance with Rules 16-901 through ~~16-934~~ 16-942.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 1 – GENERAL PROVISIONS

AMEND Rule 16-904 by updating a reference to Rule 16-934 in the Committee note following section (c), as follows:

Rule 16-904. GENERAL POLICY

. . .

(c) Exhibit Pertaining to Motion or Marked for Identification

Unless a judicial proceeding is not open to the public or the court expressly orders otherwise and except for identifying information shielded pursuant to law, a case record that consists of an exhibit (1) submitted in support of or in opposition to a motion or

(2) marked for identification by the clerk at a hearing or trial or offered in evidence, whether or not admitted, is subject to inspection, notwithstanding that the record otherwise would not have been subject to inspection under the Rules in this Chapter.

Cross reference: See Rules 2-516, 3-516, and 4-322 concerning exhibits.

Committee note: Section (c) is based on the general principle that the public has a right to know the evidence upon which a court acts in making decisions, except to the extent that a superior need to protect privacy, safety, or security recognized by law permits particular evidence, or the evidence in particular cases, to be shielded. See Rule ~~16-934~~ 16-941 authorizing 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.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-914 by updating a reference to Rule 16-934 in the Committee note following section (e) and in subsection (k)(2), as follows:

Rule 16-914. CASE RECORDS – REQUIRED DENIAL OF INSPECTION – CERTAIN CATEGORIES

. . .

(e) Except for docket entries and orders entered under Rule 10-108, papers and submissions filed in guardianship actions or proceedings under Title 10, Chapter 200, 300, 400, or 700 of the Maryland Rules.

Committee note: Most filings in guardianship actions are likely to be permeated with financial, medical, or psychological information regarding the minor or disabled person that ordinarily would be sealed or shielded under other Rules. Rather than require custodians to pore through those documents to redact that kind of information, this Rule shields the documents themselves subject to Rule ~~16-934~~ 16-941, which permits the court, on a motion and for good cause, to permit inspection of case records that otherwise are not subject to inspection. There may be circumstances in which that should be allowed. Parties to the action have access to the case records unless the court orders otherwise. See Rule 10-105 (b). The guardian, as a party, has access to the case records and may need to share some of them with third persons in order to perform the duties of the guardian. This Rule is not intended to impede the guardian from doing so. Public access to the docket entries and to orders entered under Rule 10-108 will allow others to be informed of the guardianship and to seek additional access pursuant to Rule ~~16-934~~ 16-941.

. . .

(k) A case record that:

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

(2) in accordance with Rule ~~16-934 (b)~~ 16-941 (b) is the subject of a pending petition to preclude or limit inspection.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 900 – ACCESS TO JUDICIAL RECORDS

DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-915 by updating references to Rule 16-934 in section (c), section (d), and the cross reference following section (i), as follows:

Rule 16-915. CASE RECORDS – REQUIRED DENIAL OF INSPECTION – SPECIFIC INFORMATION

. . .

(c) The address, telephone number, and e-mail address of a victim or victim's representative in a criminal action, juvenile delinquency action, or an action under Code, Family Law Article, Title 4, Subtitle 5, who has requested, or as to whom the State has requested, that such information be shielded. Such a request may be made at any time, including in a victim notification request form filed with the clerk or a request or petition filed under Rule ~~16-934~~ 16-941.

(d) The name of a minor victim or any other information that could reasonably be expected to identify a minor victim in a criminal action or a juvenile delinquency action where the juvenile court waives jurisdiction.

Cross reference: See Code, Criminal Procedure Article, § 11-301(b).

~~*(d)*~~*(e)* The address, telephone number, and e-mail address of a witness in a criminal or juvenile delinquency action, who has requested, or as to whom the State has requested, that such information be shielded. Such a request may be made at any time, including a request or petition filed under Rule ~~16-934~~ 16-941.

~~*(e)*~~*(f)* Any part of the Social Security or federal tax identification number of an individual.

~~*(f)*~~*(g)* A trade secret, confidential commercial information, confidential financial information, or confidential geological or geophysical information.

~~*(g)*~~*(h)* Information about a person who has received a copy of a case record containing information prohibited by Rule 1-322.1.

~~*(h)*~~*(i)* The address, telephone number, and e-mail

address of a payee contained in a Consent by the payee filed pursuant to Rule 15-1302 (c)(1)(F).

Cross reference: See Rule ~~16-934 (i)~~ 16-941 (i) concerning information shielded upon a request authorized by Code, Courts Article, Title 3, Subtitle 15 (peace orders) or Code, Family Law Article, Title 4, Subtitle 5 (domestic violence) and in criminal actions. For obligations of a filer of a submission containing restricted information, see Rules 16-916 and 20-201.1.

Source: This Rule is derived from former Rule 16-908 (2019).

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 – FILING AND SERVICE

AMEND Rule 20-203 by updating a reference to Rule 16-934 in subsection (e)(3), as follows:

Rule 20-203. REVIEW BY CLERK; STRIKING OF SUBMISSION; DEFICIENCY NOTICE; CORRECTION; REQUEST FOR COURT ORDER TO SEAL

. . .

(e) Restricted Information

. . .

(3) Shielding on Motion of Party

A party aggrieved by the refusal of the clerk to shield a filing or part of a filing that contains restricted information may file a motion pursuant to Rule ~~16-934~~ 16-941.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 – MISCELLANEOUS RULES

AMEND Rule 20-504 by changing Rule 16-934 to Rule 16-942 in the cross reference following section (b), as follows:

Rule 20-504. AGREEMENTS WITH VENDORS

. . .

(b) Agreement With Administrative Office of the Courts

As a condition of having the access to MDEC necessary for a person to become a vendor, the person must enter into a written agreement with the Administrative Office of the Courts that, in addition to any other provisions, (1) requires the vendor to abide by all Maryland Rules and other applicable law that limit or preclude access to information contained in case records, whether or not that information is also stored in the vendor's database, (2) permits the vendor to share information contained in a case record only with a party or attorney of record in that case who is a customer of the vendor, (3) provides that any material violation of that agreement may result in the immediate cessation of remote electronic access to case records by the vendor, and (4) requires the vendor to include notice of the agreement with the Administrative Office of the Courts in all agreements between the vendor and its customers.

Cross reference: See Maryland Rules 20-109 and 16-901 through ~~16-934~~ 16-942.

Source: This Rule is new.

Judge Nazarian informed the Committee that any changes shown in italics represent amendments currently pending in the

224th Report to the Supreme Court. There being no motion to amend or reject the proposed conforming amendments, they were approved as presented.

Agenda Item 3. Reconsideration of proposed Rules changes remanded by the Style Subcommittee.

Judge Nazarian presented Rule 20-106, When Electronic Filing Required; Exceptions, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 20-106 by deleting a portion of current subsection (a)(3)(A) and replacing it with a statement pertaining to filing by a self-represented litigant; by creating new subsection (a)(3)(B) containing a portion of current subsection (a)(3)(A) pertaining to paper filing by a self-represented litigant, with amendments; by adding new subsection (a)(3)(C) pertaining to electronic filing by a self-represented litigant; by adding a Committee note following subsection (a)(3)(C); by adding new subsection (a)(3)(D) pertaining to the administrative judge's authority to permit a self-represented litigant to change how the litigant files; by re-lettering current subsection (a)(3)(B) as (a)(3)(E); and by making stylistic changes, as follows:

RULE 20-106. WHEN ELECTRONIC FILING REQUIRED; EXCEPTIONS

(a) Filers – Generally

(1) Attorneys

Except as otherwise provided in section (b) of this Rule, an attorney who enters an appearance in an action shall file electronically the attorney's entry of appearance and all subsequent submissions in the action.

(2) Judges, Judicial Appointees, Clerks, and Judicial Personnel

Except as otherwise provided in section (b) of this Rule, judges, judicial appointees, clerks, and judicial personnel, shall file electronically all submissions in an action.

(3) Self-represented Litigants

(A) ~~Except as otherwise provided in section (b) of this Rule,~~ A self-represented litigant who is a registered user may elect to file electronically or in paper form.

(B) Subject to section (b) of this Rule, a self-represented litigant in an action who is a registered user and who files an initial pleading or paper electronically shall file electronically all subsequent submissions in the action in that court.

(C) A self-represented litigant who files an initial pleading or paper in paper form shall file in paper form all subsequent submissions in the action in that court and shall not be considered a registered user under this Title in that action.

Committee note: A self-represented litigant must choose a filing method and continue to file in the same manner throughout the action in that court. Nothing in this Rule is intended to preclude a self-represented litigant from selecting a different filing method in the action on appeal.

(D) For good cause shown, the administrative judge having direct administrative supervision over the court in which an action is pending may permit a self-represented litigant to change how the litigant files in the action.

~~(B)~~(E) A self-represented litigant in an action who is not a registered user may not file submissions electronically.

(4) Other Persons

Except as otherwise provided in the Rules in this Title, a registered user who is required or permitted to file a submission in an action shall file the submission electronically. A person who is not a registered user shall file a submission in paper form.

Committee note: Examples of persons included under subsection (a)(4) of this Rule are government agencies or other persons who are not parties to the action but are required or permitted by law or court order to file a record, report, or other submission with the court in the action and a person filing a motion to intervene in an action.

(b) Exceptions

(1) MDEC System Outage

Registered users, judges, judicial appointees, clerks, and judicial personnel are excused from the requirement of filing submissions electronically during an MDEC system outage in accordance with Rule 20-501.

(2) Other Unexpected Event

If an unexpected event other than an MDEC system outage prevents a registered user, judge, judicial appointee, clerk, or judicial personnel from filing submissions electronically, the registered user, judge, judicial appointee, clerk, or judicial personnel may file submissions in paper form until the ability to file electronically is restored. With each submission filed in paper form, a registered user shall submit to the clerk an affidavit describing the event that prevents the registered user from filing the submission electronically and when, to the registered user's best knowledge, information, and belief, the ability to file electronically will be restored.

Committee note: This subsection is intended to apply to events such as an unexpected loss of power, a computer failure, or other unexpected event that

prevents the filer from using the equipment necessary to effect an electronic filing.

(3) Other Good Cause

For other good cause shown, the administrative judge having direct administrative supervision over the court in which an action is pending may permit a registered user, on a temporary basis, to file submissions in paper form. Satisfactory proof that, due to circumstances beyond the registered user's control, the registered user is temporarily unable to file submissions electronically shall constitute good cause.

. . .

Rule 20-106 was accompanied by the following Reporter's note:

Proposed amendments to Rule 20-106 had been approved by the Committee at its January 10, 2025 meeting. In the course of the Style Subcommittee's review of the approved amendments, the Subcommittee identified several issues that could not be resolved without substantive changes to the Rule. Accordingly, the Subcommittee remanded the Rule to the General Court Administration Subcommittee for further consideration.

The proposed amendments were recommended by the Major Projects Committee (the "MPC") to clarify requirements for self-represented litigants ("SRLs") who register to use MDEC. Rule 20-106 requires attorneys as well as judges, judicial appointees, and judicial personnel to file electronically, with limited exceptions for an MDEC outage or another unexpected event. SRLs are the only filers still permitted to file in paper form, but they have the option of registering for MDEC, becoming registered users, and filing electronically.

Rule 20-106 currently provides that an SRL who is a registered MDEC user must file all submissions in an action electronically. The MPC was alerted to a situation where an SRL who is a registered user

wished to file a case in paper form. The Rule does not include a provision for a registered user to "unregister" or opt out of being a registered user. The MPC recommends permitting an SRL to file either electronically or in paper form in each action, but requiring the SRL to continue to use the chosen filing method thereafter in that action.

Proposed amendments to Rule 20-106 (a)(3) implement the MPC recommendation. Subsection (a)(3)(A) is amended to state that an SRL who is a registered user may file either electronically or in paper. New subsections (a)(3)(B) and (a)(3)(C) set forth the policy that an SRL who files an initial pleading or paper in electronic form or in paper form must continue to use that method throughout the action.

The Style Subcommittee questioned whether the phrase "in that action" was intended to include any judicial review or appeal in the case. "Action" is defined in Rule 1-202 (a) to mean "collectively all the steps by which a party seeks to enforce any right in a court or all the steps of a criminal prosecution." The General Court Administration Subcommittee was informed that applying the proposed approach to appeals (e.g., an SRL who files a complaint in paper form in the trial court must continue to file in paper form on appeal) would be complicated for the clerks of the appellate courts to enforce and does not serve the same policy function as prohibiting a litigant from changing filing methods mid-case. A clarification is added to subsection (a)(3)(B) and (a)(3)(C) that their strictures only apply "in that court," and a Committee note further explains the intent of the new provisions.

Additionally, language is added in subsection (a)(3)(C) to clarify that an SRL who is a registered user and who chooses to file in paper form "shall not be considered a registered user under this Title in that action." Rule 20-101 defines "registered user" as "an individual authorized to use the MDEC system by the State Court Administrator pursuant to Rule 20-104" and is used throughout Title 20. The proposed language in subsection (a)(3)(C) makes it clear that the procedures in Title 20 do not apply when an SRL who is a registered user is filing in paper.

New subsection (a)(3)(D) permits the administrative judge, for good cause shown, to allow the SRL to change how the SRL files in an action.

Judge Nazarian informed the Committee that the proposed amendments to Rule 20-106 are the result of continued discussions on how to address self-represented litigants who register to use MDEC. He explained that this Rule previously was considered by the Committee, and certain amendments were recommended, but the Style Subcommittee had clarifying questions that were substantive in nature and remanded the Rule for further discussion. The goal of the amendments is to prevent these individuals from using a mixture of electronic and paper filing methods within a case: a filer must choose one method and stick with it throughout each action.

There being no motion to amend or reject the proposed amendments to Rule 20-106, the Rule was approved as presented.

Judge Nazarian presented Rule 20-205, Service, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 – FILING AND SERVICE

AMEND Rule 20-205 by adding new subsection (c)(1) pertaining to MDEC service by the clerk on

registered users entitled to service; by creating new subsection (c)(2) containing the current provisions of section (c), with stylistic amendments; by adding a new stem to section (d); by adding to subsection (d)(1) a requirement that the filer cause MDEC to electronically serve submissions not served by the clerk, by adding a cross reference to Rules pertaining to service requirements in the event of an MDEC system outage; and by making stylistic changes, as follows:

Rule 20-205. SERVICE

(a) Original Process

Service of original process shall be made in accordance with the applicable procedures established by the other Titles of the Maryland Rules.

(b) Subpoenas

Service of a subpoena shall be made in accordance with the applicable procedures established by the other Titles of the Maryland Rules.

(c) Court Orders and Communications

(1) Except as provided by subsection (c)(2) of this Rule, the clerk is responsible for causing the MDEC system to electronically serve writs, notices, official communications, court orders, and other dispositions on each registered user entitled to service of the submission.

(2) The clerk is responsible for serving writs, notices, official communications, court orders, and other dispositions, in the manner set forth in Rule 1-321, on ~~persons~~ each person entitled to receive service of the submission who (A) ~~are~~ is not a registered ~~users~~ user, (B) ~~are~~ is a registered ~~users~~ user but ~~have~~ has not entered an appearance in the action, ~~and~~ or (C) ~~are persons~~ is a person otherwise entitled to receive service of copies of tangible items that are in paper form.

(d) Other Electronically Filed Submissions

For all electronically filed submissions other than those described in sections (a), (b), and (c) of this Rule:

(1) ~~On~~ Except as provided by subsection (d)(2) of this Rule, (A) the filer is responsible for causing the MDEC system to electronically serve each registered user entitled to receive service, and (B) on the effective date of filing, the MDEC system shall electronically serve ~~on~~ each registered ~~users~~ user entitled to receive service ~~all other submissions filed electronically~~.

Cross reference: For the effective date of filing, see Rule 20-202.

(2) The filer is responsible for serving, in the manner set forth in Rule 1-321, ~~persons~~ each person entitled to receive service of the submission who (A) ~~are~~ is not a registered ~~users~~ user, (B) ~~are~~ is a registered ~~users~~ user but ~~have~~ has not entered an appearance in the action, or (C) ~~are persons~~ is a person otherwise entitled to receive service of copies of tangible items that are in paper form.

Committee note: Rule 1-203 (c), which adds three days to certain prescribed periods after service by mail, does not apply when service is made by the MDEC system.

Cross reference: See Rule 20-106 (b)(1) and Rule 20-501 concerning service requirements in the event of an MDEC system outage.

Source: This Rule is new.

Rule 20-205 was accompanied by the following Reporter's note:

Proposed amendments to Rule 20-205 had been approved by the Committee at its January 10, 2025 meeting. In the course of the Style Subcommittee's review of the approved amendments, the Subcommittee identified issues that could not be resolved without substantive changes to the Rule. Accordingly, the Subcommittee remanded the Rule to the General Court Administration Subcommittee for further consideration.

Proposed amendments to Rule 20-205 clarify electronic service requirements in MDEC to address an apparent gap in the MDEC Rules regarding service of electronic submissions.

New subsection (c)(1) clarifies that the clerk is responsible for causing the MDEC system to serve court orders and communications on registered users entitled to service. Subsection (c)(2) contains the current language from section (c), with stylistic amendments.

Section (d) is amended to add stem language, which states that it applies to electronically filed submissions other than those described in sections (a), (b), and (c). This applicability previously was stated at the end of subsection (d)(1).

Subsection (d)(1) is amended to state that the filer is responsible for causing MDEC to electronically serve submissions on registered users entitled to service. Current Rule 20-205 (d) sets forth that "the MDEC system shall electronically serve" these submissions. The Committee was informed that some users neglect to properly electronically serve submissions, and the Rules do not expressly require the filer to instruct MDEC to conduct electronic service. The current language can be a point of confusion, particularly with self-represented litigants using MDEC. The clarifying amendment to subsection (d)(1) states that the filer is responsible for causing MDEC to electronically serve submissions.

A cross reference to the Rules applicable to service in the event of an MDEC system outage follows section (d).

Stylistic amendments to sections (c) and (d) change "persons" and "users" to the singular "person" and "user."

Judge Nazarian said that Rule 20-205 also was remanded for clarification by the Style Subcommittee. Assistant Reporter Cobun explained that the amendments generally clarify that a

registered user filing in MDEC must cause MDEC to serve electronically filings that are required to be served.

There being no motion to amend or reject the proposed amendments to Rule 20-205, the Rule was approved as presented.

Agenda Item 4. Consideration of proposed amendments to Rule 4-215 (Waiver of Counsel).

Mr. Marcus presented Rule 4-215, Waiver of Counsel, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-215 by adding to the cross reference at the end of the Rule and by making stylistic changes, as follows:

Rule 4-215. WAIVER OF COUNSEL

(a) First Appearance in Court Without Counsel

At the defendant's first appearance in court without counsel, or when the defendant appears in the District Court without counsel, demands a jury trial, and the record does not disclose prior compliance with this section by a judge, the court shall:

(1) Make certain that the defendant has received a copy of the charging document containing notice as to the right to counsel.

(2) Inform the defendant of the right to counsel and

of the importance of assistance of counsel.

(3) Advise the defendant of the nature of the charges in the charging document, and the allowable penalties, including mandatory penalties, if any.

(4) Conduct a waiver inquiry pursuant to section (b) of this Rule if the defendant indicates a desire to waive counsel.

(5) If trial is to be conducted on a subsequent date, advise the defendant that if the defendant appears for trial without counsel, the court could determine that the defendant waived counsel and proceed to trial with the defendant unrepresented by counsel.

(6) If the defendant is charged with an offense that carries a penalty of incarceration, determine whether the defendant had appeared before a judicial officer for an initial appearance pursuant to Rule 4-213 or a hearing pursuant to Rule 4-216 and, if so, that the record of such proceeding shows that the defendant was advised of the right to counsel.

The clerk shall note compliance with this section in the file or on the docket.

(b) Express Waiver of Counsel

If a defendant who is not represented by counsel indicates a desire to waive counsel, the court may not accept the waiver until after an examination of the defendant on the record conducted by the court, the State's Attorney, or both, the court determines and announces on the record that the defendant is knowingly and voluntarily waiving the right to counsel. If the file or docket does not reflect compliance with section (a) of this Rule, the court shall comply with that section as part of the waiver inquiry. The court shall ensure that compliance with this section is noted in the file or on the docket. At any subsequent appearance of the defendant before the court, the docket or file notation of compliance shall be prima facie proof of the defendant's express waiver of counsel. After there has been an express waiver, no postponement of a scheduled trial or hearing date will be granted to obtain counsel unless the court finds it is in the interest of justice to do so.

(c) Waiver by Inaction--District Court

In the District Court, if the defendant appears on the date set for trial without counsel and indicates a desire to have counsel, the court shall permit the defendant to explain the appearance without counsel. If the court finds that there is a meritorious reason for the defendant's appearance without counsel, the court shall continue the action to a later time, comply with section (a) of this Rule, if the record does not show prior compliance, and advise the defendant that if counsel does not enter an appearance by that time, the action will proceed to trial with the defendant unrepresented by counsel. If the court finds that there is no meritorious reason for the defendant's appearance without counsel, the court may determine that the defendant has waived counsel by failing or refusing to obtain counsel and may proceed with the trial only if (1) the defendant received a copy of the charging document containing the notice as to the right to counsel and (2) the defendant either (A) is charged with an offense that is not punishable by a fine exceeding five hundred dollars or by imprisonment, or (B) appeared before a judicial officer of the District Court pursuant to Rule 4-213 (a) or (b) or before the court pursuant to section (a) of this Rule and was given the required advice.

(d) Waiver by Inaction—Circuit Court

If a defendant appears in circuit court without counsel on the date set for hearing or trial, indicates a desire to have counsel, and the record shows compliance with section (a) of this Rule, either in a previous appearance in the circuit court or in an appearance in the District Court in a case in which the defendant demanded a jury trial, the court shall permit the defendant to explain the appearance without counsel. If the court finds that there is a meritorious reason for the defendant's appearance without counsel, the court shall continue the action to a later time and advise the defendant that if counsel does not enter an appearance by that time, the action will proceed to trial with the defendant unrepresented by counsel. If the court finds that there is no meritorious reason for the defendant's appearance without counsel, the court may determine that the

defendant has waived counsel by failing or refusing to obtain counsel and may proceed with the hearing or trial.

(e) Discharge of Counsel—Waiver

If a defendant requests permission to discharge an attorney whose appearance has been entered, the court shall permit the defendant to explain the reasons for the request. If the court finds that there is a meritorious reason for the defendant's request, the court shall permit the discharge of counsel; continue the action if necessary; and advise the defendant that if new counsel does not enter an appearance by the next scheduled trial date, the action will proceed to trial with the defendant unrepresented by counsel.

If the court finds no meritorious reason for the defendant's request, the court may not permit the discharge of counsel without first informing the defendant that the trial will proceed as scheduled with the defendant unrepresented by counsel if the defendant discharges counsel and does not have new counsel. If the court permits the defendant to discharge counsel, it shall comply with subsections ~~(a)(1)-(4)~~ (a)(1) through (a)(4) of this Rule if the docket or file does not reflect prior compliance.

Cross reference: See Rule 4-213.1 with respect to waiver of the right to an attorney at an initial appearance before a judge and Rule 4-216.2 (b) with respect to waiver of the right to an attorney at a hearing to review a pretrial release decision of a commissioner. See *Dykes v. State*, 444 Md. 642 (2015) and *State v. Westray*, 444 Md. 672 (2015) pertaining to discharge of appointed counsel. See Code, Criminal Procedure Article, §16-213 with respect to appointment of an attorney other than through the Office of the Public Defender.

Source: This Rule is derived as follows:
Section (a) is derived from former Rule 723 b 1, 2, 3 and 7 and c 1.
Section (b) is derived from former Rule 723.
Section (c) is in part derived from former M.D.R. 726 and in part new.
Section (d) is derived from the first sentence of former M.D.R. 726 d.

Section (e) is new.

Rule 4-215 was accompanied by the following Reporter's note:

> Proposed amendments to Rule 4-215 expand the cross reference at the end of the Rule to provide additional guidance to parties and the court when the discharge of counsel analysis in section (e) is triggered.
>
> Both *Dykes v. State*, 444 Md. 642 (2015) and *State v. Westray*, 442 Md. 672 (2015) address procedures and considerations when an indigent defendant seeks to discharge appointed counsel. The Supreme Court – then the Court of Appeals – held in *Dykes* that a request to discharge appointed counsel for a reason deemed meritorious by the court is not the equivalent of a waiver of the right the appointed counsel. The Court also determined that if the Office of the Public Defender is unable or unwilling to provide new counsel, the trial court may appoint counsel for the defendant pursuant to its inherent authority. In *Westray*, the Court provided additional guidance on when an unmeritorious discharge of counsel can be treated as a waiver of counsel.
>
> The Rules Committee, prompted by the opinions in *Dykes* and *Westray*, recommended a series of Rules changes to clarify the procedures for evaluating a request to discharge counsel. In *Dykes*, Justice Shirley M. Watts wrote a concurring opinion suggesting that the Committee consider providing guidance to trial judges after they determine that a defendant has a meritorious reason for appearing without counsel – particularly in the circumstances present in *Dykes* where an indigent defendant discharges appointed counsel for a meritorious reason. The Committee proposed in its 191st Report the deletion of Rule 4-215 and the creation of new Rules 4-215 and 4-215.1 for the District Court and circuit courts, respectively. Those proposals were remanded on other grounds without discussion of the discharge issue. Rule 4-215 was amended in the 192nd Report, but the discharge issue raised by *Dykes* was not revisited at that time.

Recently, the Committee was informed that the issue raised in *Dykes* has persisted, most recently in a case where an indigent defendant had conflicts with his attorney appointed from the Office of the Public Defender and a subsequently appointed panel attorney. The OPD declined to be reappointed in the case, but the judge had not yet found that the discharge of appointed counsel was not meritorious.

The Criminal Rules Subcommittee discussed current issues faced by courts attempting to comply with Rule 4-215, agreeing with Judge Charles E. Moylan's characterization of the Rule – cited by Justice Watts – as a "minefield" (see *Dykes* at 671, citing *Garner v. State*, 183 Md.App. 122, 127 (2008), aff'd, 414 Md. 372, (2010)). The Subcommittee considered whether to expand section (e) to set forth a procedure after the court has determined whether the reason for discharging an attorney was meritorious.

The Subcommittee concluded that the "meritorious" analysis is a significant issue for trial judges and determined that it would be most helpful to expand the cross reference at the end of the Rule to include references to *Dykes*, *Westray*, and a statute addressing appointment of an attorney when the Public Defender is unable or declines to provide representation.

A stylistic change in section (e) is also proposed.

Mr. Marcus informed the Committee that the proposed amendment to Rule 4-215 was prompted by a 2015 case, *Dykes v. State*, 444 Md. 642. In her concurring opinion, Justice Shirley Watts suggested that the Rule be reviewed and quoted Judge Charles E. Moylan, Jr., who said: "For a judge to traverse [Maryland] Rule 4-215 is to walk through a minefield. A miracle might bring one across unscathed. For mere mortals, the course will seldom be survived." *Garner v. State*, 183 Md.App. 122, 127

(2008), *aff'd*, 414 Md. 372(2010). Justice Watts went on to observe that, despite amendments, the Rule "remains a minefield." *Dykes*, 444 Md. at 671.

Mr. Marcus explained that there are instances where a defendant has a right to counsel, including State-funded counsel if the defendant is indigent, but wishes to discharge that counsel for any number of reasons. The defendant has a right to waive the right to counsel and proceed unrepresented. If counsel is appointed by the State, the court is required to conduct an inquiry into the reason for the discharge and determine whether it is "meritorious." If the discharge is not meritorious, i.e., potentially to "game" the system, the discharge of appointed counsel can be deemed a waiver of the right to counsel; if the discharge is meritorious, and the defendant has not waived the right to representation, the court must appoint new counsel.

Mr. Marcus said that the Criminal Rules Subcommittee determined that it would be impossible to write a Rule to address all possible situations, but wanted to stress that the court must conduct the inquiry into the reason for the discharge. He emphasized that the key to the analysis is whether the reason for discharge is meritorious. The proposed amendment is to expand the cross reference at the end of Rule 4-

215 to include *Dykes*; *State v. Westray*, 442 Md. 672 (2015); and a statute.

There being no motion to amend or reject the proposed amendment to Rule 4-215, it was approved as presented.

Agenda Item 5. Consideration of proposed amendments to Rule 4-345 (Sentencing – Revisory Power of Court).

Mr. Marcus presented Rule 4-345, Sentencing – Revisory Power of Court, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 300 – TRIAL AND SENTENCING

AMEND Rule 4-345 by deleting certain language in subsection (e)(1) and adding language regarding the court's revisory power to enter a disposition of probation before judgment, by expanding the current cross reference and Committee note after subsection (e)(1), by adding new subsection (e)(2) addressing the duration of the court's revisory power, by adding new subsection (e)(3) requiring the filing of a Request for Hearing and Determination, by renumbering current subsection (e)(2) as (e)(4), by moving section (f) and making current subsection (e)(3) new subsection (f)(1), by making new subsection (f)(2) with the language of current section (f), and by updating an internal reference in subsection (f)(2), as follows:

Rule 4-345. SENTENCING - REVISORY POWER OF COURT

(a) Illegal Sentence

The court may correct an illegal sentence at any time.

(b) Fraud, Mistake, or Irregularity

The court has revisory power over a sentence in case of fraud, mistake, or irregularity.

(c) Correction of Mistake in Announcement

The court may correct an evident mistake in the announcement of a sentence if the correction is made on the record before the defendant leaves the courtroom following the sentencing proceeding.

Cross reference: See *State v. Brown*, 464 Md. 237 (2019), concerning an evident mistake in the announcement of a sentence.

(d) Desertion and Non-Support Cases

At any time before expiration of the sentence in a case involving desertion and non-support of spouse, children, or destitute parents, the court may modify, reduce, or vacate the sentence or place the defendant on probation under the terms and conditions the court imposes.

(e) Modification Upon Motion

(1) Generally

Upon a motion filed within 90 days after imposition of a sentence (A) in the District Court, if an appeal has not been perfected or has been dismissed, and (B) in a circuit court, whether or not an appeal has been filed, the court has revisory power over the sentence ~~except that it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not~~, including the ability to enter a disposition of probation before judgment, for the period of time stated in subsection (e)(2) of this Rule. The revisory power does not include the ability to increase the sentence.

Cross reference: See Rule 7-112 (b) regarding a de novo appeal from a judgment of the District Court. See Code, Criminal Procedure Article, § 6-220(f) for

restrictions on a court's authority to enter probation before judgment.

Committee note: The revisory power to enter a disposition of probation before judgment applies in any action in which probation before judgment would have been a lawful disposition at the original sentencing. Except as provided in Code, Health-General Article, § 8-505, the court at any time may commit a defendant who is found to have a drug or alcohol dependency to a treatment program in the Maryland Department of Health if the defendant voluntarily agrees to participate in the treatment, even if the defendant did not timely file a motion for modification or timely filed a motion for modification that was denied. See Code, Health-General Article, § 8-507.

(2) Duration of Revisory Power

In ruling on a motion filed pursuant to subsection (e)(1) of this Rule, the court may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant, except that the court, for good cause shown, may extend the five-year period by an additional 60 days.

(3) Request for Hearing and Determination of Motion

Subsection (e)(3) of this Rule applies to motions filed on or after [effective date of amendment]. No later than six months before the expiration of five years from the date the sentence originally was imposed on the defendant, if the motion has not been ruled upon, the defendant shall file a "Request for Hearing and Determination" of the motion. Upon receipt of the request, the court shall review the request and the motion and shall either (a) deny the motion without a hearing or (b) proceed in accordance with section (f) of this Rule. Except for good cause shown, a failure to timely file a Request for Hearing and Determination of the motion may be deemed a withdrawal of the motion.

~~(2)~~(4) Notice to Victims

The State's Attorney shall give notice to each victim and victim's representative who has filed a Crime Victim Notification Request form pursuant to Code, Criminal Procedure Article, § 11-104 or who has

submitted a written request to the State's Attorney to be notified of subsequent proceedings as provided under Code, Criminal Procedure Article, § 11-503 that states (A) that a motion to modify or reduce a sentence has been filed; (B) that the motion has been denied without a hearing or the date, time, and location of the hearing; and (C) if a hearing is to be held, that each victim or victim's representative may attend and testify.

(f) Open Court Hearing

~~(3)~~(1) Inquiry by Court

Before considering a motion under this Rule, the court shall inquire if a victim or victim's representative is present. If one is present, the court shall allow the victim or victim's representative to be heard as allowed by law. If a victim or victim's representative is not present and the case is one in which there was a victim, the court shall inquire of the State's Attorney on the record regarding any justification for the victim or victim's representative not being present, as set forth in Code, Criminal Procedure Article, § 11-403(e). If no justification is asserted or the court is not satisfied by an asserted justification, the court may postpone the hearing.

~~(f) Open Court Hearing~~

(2) Conduct of Hearing

The court may modify, reduce, correct, or vacate a sentence only on the record in open court, after hearing from the defendant, the State, and from each victim or victim's representative who requests an opportunity to be heard. The defendant may waive the right to be present at the hearing. No hearing shall be held on a motion to modify or reduce the sentence until the court determines that the notice requirements in subsection ~~(e)(2)~~(e)(4) of this Rule have been satisfied. If the court grants the motion, the court ordinarily shall prepare and file or dictate into the record a statement setting forth the reasons on which the ruling is based.

Cross reference: See Code, Criminal Law Article, § 5-609.1 regarding an application to modify a mandatory minimum sentence imposed for certain drug offenses

prior to October 1, 2017, and for procedures relating thereto. See Code, Criminal Procedure Article, § 10-105.3 regarding an application for resentencing by a person incarcerated after a conviction of possession of cannabis under Code, Criminal Law Article, § 5-601.

Source: This Rule is derived in part from former Rule 774 and M.D.R. 774, and is in part new.

Rule 4-345 was accompanied by the following Reporter's note:

Several amendments are proposed to Rule 4-345 to conform the provisions of the Rule to current practice and to address issues recently raised in an appellate decision.

Proposed amendments to subsection (e)(1) delete and add certain language. The provision that the court may not revise a sentence after five years from the date the sentence was imposed is deleted from subsection (e)(1) and moved to new subsection (e)(2). New language in subsection (e)(1) highlights that revisory power includes the court's ability to enter a disposition of probation before judgment ("PBJ"). Despite courts historically demonstrating their ability to enter PBJs when considering a motion to revise under Rule 4-345, the current language of the Rule does not clearly confer this authority. Accordingly, this new language ensures that the current practice is permitted within the language of the Rule.

The cross reference after subsection (e)(1) is proposed to be updated. Additional language is added to clarify the current reference to Rule 7-112 (b). A new reference to Code, Criminal Procedure Article, § 6-220(f) is added, pointing to restrictions on probation before judgment.

The Committee note following subsection (e)(1) is also expanded. A new sentence is added noting that the revisory power to enter a disposition of probation before judgment applies in actions where probation before judgment would have been a lawful disposition at the original sentence. A reference to Code, Health-

General Article, § 8-505 is also added to the current language of the Committee note. The current language does not account for the 2018 amendments to the Health-General Article of the Code limiting the eligibility of a defendant convicted of a crime of violence for evaluations and treatment pursuant to § 8-507. The proposed amendment acknowledges this exception to the court's ability to commit a defendant to treatment for drug or alcohol dependency.

New subsections (e)(2) and (e)(3) are proposed to address situations similar to that found in *State v. Thomas*, 488 Md. 456 (2024). In *Thomas*, the defendant filed a timely motion to modify his sentence and repeatedly requested a hearing before the deadline for ruling. However, the motion was neither denied nor granted during the five-year period. The Supreme Court of Maryland held that a trial court lacked jurisdiction to modify a sentence more than five years after entry of the sentence, even if a timely motion to modify was filed.

In addition to the majority opinion in *Thomas*, one concurring opinion, one concurring and dissenting opinion, and one dissenting opinion were filed. In the concurring and dissenting opinion, Justice Eaves noted that Rules changes may address concerns about the type of uncorrectable error demonstrated by *Thomas*:

> This pitfall requires correction either by the General Assembly or this Court in its rulemaking capacity based on recommendations from the Standing Committee on Rules of Practice and Procedure. Such a correction could be as simple as requiring that a defendant need only request a hearing within five years for the court to have jurisdiction. If the defendant complies, then the sentencing court retains jurisdiction until a definitive ruling is made. Any revision, of course, also could address finality concerns and instruct the sentencing judge to use reasonable efforts to schedule a hearing within five years from the date the defendant originally was sentenced, but otherwise make clear that an inability to do so,

for whatever reason, does not deprive the court of jurisdiction. *Id.* at 518.

Proposed new subsection (e)(2) of Rule 4-345 reiterates the five-year limitation currently included in subsection (e)(1). However, the new language provides that the period may be extended by 60 days for good cause shown. This 60-day extension intends to address situations, such as seen in *Thomas*, where logistic or administrative hurdles make holding a hearing and ruling on the motion within the five-year period impracticable.

New subsection (e)(3) requires a Request for Hearing and Determination of Motion to be filed no later than six months before the expiration of the five-year period, alerting the court of the approaching deadline to rule on the motion. A failure to file such a request may be treated as a withdrawal of the motion, except for good cause shown. To ensure that this amendment to the Rule does not impact the rights of defendants with pending motions to revise, the new language states that the subsection applies only to motions filed on or after the effective date of the Rule.

The remaining amendments to Rule 4-345 are stylistic. Current subsection (e)(2) is renumbered as subsection (e)(4). Upon review, it was determined that current subsection (e)(3) concerns an inquiry by the court at an open court hearing on a motion pursuant to Rule 4-345. Accordingly, the subsection is moved to section (f), becoming new subsection (f)(1). Current section (f) is relabeled as subsection (f)(2) and an appropriate tagline is added. Finally, an internal reference in new subsection (f)(2) is updated to reflect the structural changes to the Rule.

Mr. Marcus informed the Committee that Agenda Item 5 was hotly debated in the Subcommittee. He explained that pursuant to Rule 4-345 (e), a motion to modify a sentence must be filed within 90 days after the imposition of that sentence. The current Rule also provides that the court may not revise the

sentence "after the expiration of five years from the date the sentence originally was imposed."

Mr. Marcus explained that, in *State v. Thomas*, 488 Md. 456 (2024), the Supreme Court held that the five-year limitation in Rule 4-345 is jurisdictional, and the court loses its ability to revise a sentence after that time. Mr. Marcus said that, in *Thomas*, the defendant filed a timely motion for modification and diligently pursued a hearing and ruling on it before the deadline. For whatever reason, the trial court did not take up the motion before the expiration of the five years.

Mr. Marcus said that typically, when a motion to modify a sentence is filed, the defendant wants the court to hold the motion for future consideration to allow time for the defendant to demonstrate behavior that warrants the modification. The Criminal Rules Subcommittee was concerned about this scenario reoccurring where, through no fault or lack of diligence on the part of the defendant, a defendant loses the ability to have a motion to modify a sentence adjudicated. Mr. Marcus said that the Subcommittee discussed several possibilities to ensure that these motions are adjudicated timely.

Mr. Marcus said that discussions of Rule 4-345 overlap with the broader discussions happening as the Rules Committee, and the Criminal Rules Subcommittee in particular, considers the recommendations of the Equal Justice Committee Rules Review

Subcommittee, which was tasked with evaluating the Rules for actual or implicit bias. He said that the Committee has been working through the Report of the Rules Review Subcommittee for about two years now.

Regarding Rule 4-345, Mr. Marcus explained that a motion to modify is filed, and then the attorney, generally, no longer is in the case because the representation has ended. The pending motion may be a "placeholder" motion, without any substantive information in it, often requiring a supplement before the court can make a meaningful determination. He said that the Criminal Rules Subcommittee sought to identify how to improve this process. He added that the Chair had described how she catalogues and tracks these motions, and her method is fastidious and probably should be codified into the Rules.

Mr. Marcus invited Mr. Zavin to explain his position on the proposed amendments to the Rule. Mr. Zavin said that the Subcommittee proposal extends the time to consider a motion to 60 days following the five-year deadline. He expressed his concern that this change only "kicks the can" and doesn't solve the underlying issue of making sure these motions get heard. He said that there were practical discussions at the Subcommittee about whether there is a way for the court to "tag" and track the motions to trigger notice to the parties that the five-year deadline is approaching. He reiterated that trial counsel files

the motion as a placeholder after sentencing, then counsel's appearance automatically terminates after a certain time. There is no way to know how many of these motions currently are pending, held *sub curia* by judges. He suggested that the Subcommittee needs to gather more information.

Mr. Shellenberger commented that new legislation, the Maryland Second Look Act (Chapter 96, 2025 Laws of Maryland (HB 853)), may require additional amendments to Rule 4-345. He said that the law expands eligibility for filing motions to reduce a sentence after serving 20 years to individuals who were 18- to 25-years-old at the time of the offense. Previously, the law applied to individuals who committed the offense when they were younger than 18.

The Chair said that something to consider could be a more uniform process for judges to follow once the motion is filed, such as sending notification to the defendant about the five-year deadline and what the defendant needs to do to have a hearing.

A motion to remand Rule 4-345 to the Criminal Rules Subcommittee for further discussion was made and seconded. By consensus, the Committee remanded Rule 4-345 to the Criminal Rules Subcommittee.

Agenda Item 6. Consideration of proposed housekeeping amendments to Rule 4-508.1 (Expungement by Operation of Law) and Rule 4-512 (Disposition of Expunged Records).

Mr. Marcus presented Rule 4-508.1, Expungement by Operation of Law, and Rule 4-512, Disposition of Expunged Records, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 500 – EXPUNGEMENT OF RECORDS

AMEND Rule 4-508.1 by updating a cross reference after section (d), as follows:

Rule 4-508.1. EXPUNGEMENT BY OPERATION OF LAW

. . .

(d) Compliance by Custodians

Not later than ten days after the effective date of the expungement stated in the notice, each custodian shall expunge all records subject to the expungement.

Cross reference: See Code, Criminal Procedure Article, § ~~10-101(e)~~ 10-101(f) for methods of expungement.

Source: This Rule is new.

Rule 4-508.1 was accompanied by the following Reporter's note:

On April 22, 2025, the Governor signed Senate Bill 432, the Expungement Reform Act of 2025. The

new law makes several changes to the statutes governing expungement, including adding a new definition to Code, Criminal Procedure Article, § 10-101, altering the lettering of prior sections. Accordingly, a housekeeping amendment is proposed to Rule 4-508.1 to update a reference to a certain section of Code, Criminal Procedure Article, § 10-101 in the cross reference after section (d).

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 500 – EXPUNGEMENT OF RECORDS

AMEND Rule 4-512 by updating a cross reference after section (e), as follows:

Rule 4-512. DISPOSITION OF EXPUNGED RECORDS

. . .

(e) Storage in Denied Access Area on Premises--Prohibition on Transfer

All expunged records shall be filed and maintained by the clerk in numerical sequence by docket or case file number, together with the Index of Expunged Records, in one or more locked filing cabinets to be located on the premises of the clerk's office but in a separate secure area to which the public and other persons having no legitimate reason for being there are denied access. Expunged records shall not be transferred to any Hall of Records facility.

Cross reference: Code, Criminal Procedure Article, § ~~10-101(e)~~ 10-101(f).

. . .

Rule 4-512 was accompanied by the following Reporter's note:

> On April 22, 2025, the Governor signed Senate Bill 432, the Expungement Reform Act of 2025. The new law makes several changes to the statutes governing expungement, including adding a new definition to Code, Criminal Procedure Article, § 10-101, altering the lettering of prior sections. Accordingly, a housekeeping amendment is proposed to Rule 4-512 to update a reference to a certain section of Code, Criminal Procedure Article, § 10-101 in the cross reference after section (e).

Mr. Marcus said that proposed amendments in Agenda Item 6 should be noncontroversial; they update citations to statutes within the Rules.

There being no motion to amend or reject the proposed housekeeping amendments to Rules 4-508.1 and 4-512, the Rules were approved as presented.

Information Items:

Mr. Marcus informed the Committee that there were two information items included in the materials providing updates on the Criminal Rules Subcommittee's consideration of various recommendations made by the Equal Justice Committee Rules Review Subcommittee (the "EJC") in its Report and Recommendations (Appendix 3). He explained that the Subcommittee wished to bring these matters to the full Committee to create a public

record of the Subcommittee's determination that no action will be taken at this time.

Assistant Reporter Drummond said that the first item pertains to the use of stet dockets. She said that the Criminal Rules Subcommittee discussed the recommendation from the EJC that the Rules Committee consider conducting a study on stets and concluded that the Committee does not have sufficient resources or guidance to conduct such a study.

Ms. Drummond informed the Committee that the second information item pertains to pretrial release. She said that this issue is in a similar posture; the EJC recommended that the Committee, along with the legislature and the courts in general, "continue to focus on the problem" of pretrial detention. The EJC acknowledged that "changes to the State's policies on bail and pretrial detention cannot be addressed by Rules changes alone." She explained that stakeholders and advocates were invited to address the Subcommittee on this issue in July 2023. The materials from that meeting are included with the information item for the Committee's review. After the issue was tabled at that time, the Subcommittee returned to it and reviewed the materials again to determine if there should be any additional action. She said that the Subcommittee determined that, at this time, no Rules changes will be proposed.

The Chair said that Debra Gardner, Legal Director for the Public Justice Center, wished to address the Committee on this topic. Ms. Gardner said that she would like to encourage the Committee to return the subject of pretrial release to the Subcommittee for serious consideration. She noted that she had submitted a written comment to the Committee urging this (Appendix 4). She explained that it is a matter of serious importance, and to decide not to take any action because Rules alone cannot address the concerns raised by the EJC is inconsistent with the EJC's mission and charge to the Rules Committee.

Judge Nazarian said that the Subcommittee's report that there is no pending proposal to amend the pretrial release Rules does not mean that the Committee is not looking at bail reform at all. He suggested that this issue is one of the best examples of the Committee's struggle to identify amendments that would make a difference in response to a concern raised by the EJC Report. He added that the Subcommittee has discussed the current state of pretrial release at length, particularly as it relates to the availability of pretrial services throughout the State. He noted that it is difficult to take neutral Rules that set forth principles, processes, and procedures and translate them into application to individuals day-to-day in the criminal justice system. He informed Ms. Gardner that the information

item is not intended to suggest that the Committee believes that there is no more work to be done on pretrial release.

The Chair said that she spoke with Chief Judge Morrissey on this topic prior to the meeting. His response was that the changes envisioned by the Public Justice Center and other advocates are legislative in nature, particularly the issue of a Statewide pretrial release system. Chief Judge Morrissey also informed the Chair that a group of experts is being convened through the Justice Reinvestment Oversight Board to explore issues impacting pretrial supervision. The Chair said that there is hope that a long-term, comprehensive plan may result from that work.

Mr. Marcus said that, because he will not be at the June meeting of the Committee, he wished to take the opportunity to thank Mr. Shellenberger, whose term is ending, for his 10 years of service on the Committee. He said that Mr. Shellenberger exemplifies the best of public officials and has been a fine Rules Committee member who is always thoughtful and reasonable. He concluded that it has been a privilege and a pleasure to work with Mr. Shellenberger, who is always civil and collaborative. Mr. Shellenberger thanked Mr. Marcus for his remarks.

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