

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

The Rules Committee has submitted its Two Hundred and Twenty-Eighth Report to the Supreme Court of Maryland, transmitting thereby proposed new Title 15, Chapter 1700 (Assisted Outpatient Treatment); proposed new Rule 19-803; and proposed amendments to current Rules 1-101, 2-422, 3-325, 3-421, 4-203, 4-211, 4-231, 4-345, 4-507, 5-601, 5-615, 5-804, 8-501, 10-203, 10-302, 16-903, 16-914, 19-728, and 20-109.

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

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before May 1, 2026 any written comments they may wish to make to rules@mdcourts.gov or:

Sandra F. Haines, Esquire
Reporter, Rules Committee
580 Taylor Avenue, Judiciary A-POD
Annapolis, Maryland 21401

Gregory Hilton
Clerk
Supreme Court of Maryland

the AOT process, including the potentially involuntary nature of the proceedings, the detailed pleading requirements, the required expert testimony at the merits hearing, and the specificity of the findings the court is required to make, the Rules Committee recommends creation of a new chapter in the “Other Special Proceedings” Title to supplement Title 2’s general Rules.

Discussions concerning the AOT process were robust, and drew interest from disability rights advocates, representatives of the Health Department, representatives concerned with the potential burden on county attorneys, and the Office of the Public Defender. Appended to this Report is a list of individuals who were invited to participate in the process and a list of individuals who participated at the subcommittee level and during the Rules Committee meeting.

New Rule 15-1701- Applicability; Definitions

Proposed Rule 15-1701 sets forth the applicability of Chapter 1700 of Title 15 to AOT proceedings. In addition to clarifying that the term “Department,” as used in Chapter 1700, means the Maryland Department of Health, the proposed Rule points users to definitions set forth in the statute to understand the meaning of “assisted outpatient treatment,” “serious and persistent mental illness,” “program,” and other terms used in the legislation.

New Rule 15-1702 – Petition

The legislature declared that a petition for AOT may be filed in the circuit court for the county where a respondent resides or the circuit court for the county of the “last known address” of the respondent. The petition may be filed by the director of a mental health program receiving state funding or by an adult who has a “legitimate interest” in the respondent’s welfare. Proposed Rule 15-1702 is designed to highlight the statutory requirements.

The contents of the petition, as set forth in section (c), are derived in part from the legislation but are modified to ensure the court can comply with the statutory mandates. Specifically, because the court is required to notify any guardian or health care agent of the respondent upon the filing of a petition, the Committee recommends adding disclosure of the names and addresses of those individuals to the required statutory components of the petition.

New Rule 15-1703 – Show Cause; Service; Notice

Code, Health – General Article, § 10-6A-04(d)(2) provides “the circuit court shall *notify*...the respondent” that a petition was filed (emphasis added). The General Court Administration Subcommittee of the Rules Committee found that the use of the term “notify” raises a due process concern because “notifying” the respondent is not tantamount to “serving” the respondent.

Although the general rules of procedure apply to AOT proceedings and, in theory, traditional service requirements and the accompanying timeline would apply, because the AOT process is time-sensitive, and because the Committee concluded that the process is more akin to a guardianship proceeding than to a standard civil action, the Committee determined that the show cause model for bringing a respondent before the court best fits the AOT process.

The question of whether to employ the show cause process to obtain jurisdiction over a respondent generated a great deal of discussion. Concerns were raised that individuals served with a show cause order, who already are challenged by mental health problems, may perceive a threat of incarceration that they might not perceive if served with a court summons.

To assuage concern that the term “show cause” might cause undue alarm, the Committee recommends use of an Advice of Rights form that will accompany the show cause order, should the Supreme Court adopt the recommendation.

Required contents of the show cause order are set forth in subsection (a)(2) of the proposed Rule. The contents track the court’s goals of ensuring not only that the respondent appears in court, but also that the respondent understands the right to be represented by counsel.

As the proposed Rule is structured, the court, through the show cause order, will schedule an initial hearing to take place 10 days after the filing of the petition. If the respondent is not served prior to the scheduled date, the hearing will be rescheduled.

Section (b) requires that the show cause order, the Advice of Rights, and the petition be served pursuant to Rule 2-121 (a). Return of Service is as provided by Rule 2-126. When considering service options, the Committee noted that, if the court is responsible for serving the respondent, service will be accomplished by the sheriff. Given that the AOT process involves someone alleged to suffer from a mental illness, there was concern over defaulting to service by law enforcement. Consequently, the Committee recommends placing the onus on the petitioner to serve the respondent. Where the petitioner and respondent are co-residents, the proposed Rule allows for the court to direct the manner in which the petitioner is to serve the respondent, akin to what occurs in guardianship proceedings.

The Rule also sets forth, in section (c), the Clerk’s obligation to mail the petition and show cause order to any guardian, health care agent, and other individual entitled to notice pursuant to Code, Health – General Article, § 10-6A-04.

New Rule 15-1704 – Advice of Rights

Addressing the concern that use of a show cause order to obtain jurisdiction over someone suffering from a serious mental illness could cause distress, the Committee has drafted an Advice of Rights form to accompany (and supplement) the show cause order.

The Advice of Rights provides a brief summary of what the case is about and, importantly, assures the recipient that the recipient is not accused of committing a crime. In the hope that the recipient will seek counsel in advance of the hearing, the document outlines the right to be represented during the proceedings, and, at the request of the Office of the Public Defender, provides contact information to make the ability to seek counsel more accessible. Finally, the document outlines the various rights afforded to the respondent during the AOT process.

New Rule 15-1705 – Initial Hearing

When the General Court Administration Subcommittee met to discuss implementation of the AOT statutory scheme, concerns surfaced about the wisdom of scheduling a merits hearing prior to ensuring that all statutory pleading requirements were met, that the respondent was aware of the implications of the AOT proceeding, and that the respondent had an opportunity to receive legal guidance that may be available privately or through the Office of the Public Defender (“OPD”). After hearing from representatives of the OPD and advocates, the Committee determined that an initial hearing would allow the court to identify and address any problems or needs early in the process.

The goal of the initial hearing is to bring together the petitioner, the respondent, and counsel, after service of the petition. Although the statutory scheme does not contemplate an initial hearing, early and subsequent discussions about the process, which included robust participation from disability rights advocates and the Office of the Public Defender, pointed to the prudence of establishing an opportunity for the court and the parties to ensure that the petition meets statutory requirements, that the respondent fully understands the implications of the petition, and, given the alleged mental illness, that the respondent has the opportunity to engage counsel prior to a merits hearing.

Proposed Rule 15-1705 addresses the initial hearing, which, pursuant to proposed Rule 15-1703, should occur within 10 days after the petition is filed. During the hearing, the court is required to determine whether the petition meets statutory requirements, and, if it does, schedule a hearing on the merits.

The court also is required to inform the respondent of the respondent's rights and, if appropriate, appoint counsel for the respondent.

The petitioner, the respondent, their attorneys, if any, and any guardian or health care agent for the respondent must attend the hearing. Anyone else who receives notice, such as the State or a local behavioral health authority or core service agency of a county, and the county attorney, may, but is not required to, attend the hearing.

The proposed Rule also addresses how the court should proceed if the respondent does not appear after having been served. After receiving input from advocates and others, the Committee determined that no body attachment should issue and no contempt proceeding should be instituted should the respondent fail to appear. Rather, the court will proceed to schedule the merits hearing, if appropriate.

In concluding that the court should proceed to the merits hearing in the respondent's absence rather than seek compelled attendance by way of a body attachment or a contempt proceeding, the Committee considered legislative intent, which appears to strongly disfavor punitive consequences flowing from the AOT process. As an example, Code, Health – General Article, § 10-6A-10(d) prohibits a contempt finding if a respondent fails to comply with an AOT order. Additionally, Code, Health - General Article, § 10-6A-07(b)(5) prohibits a respondent's participation in AOT from being used in a subsequent legal matter that "carries negative collateral consequences." During legislative debate on the proposed new statute, legislators expressed concern that an AOT action might result in contact with law enforcement, contempt actions, and, possibly, criminal consequences. The Committee shares the concern, as do disability rights advocates and the Office of the Public Defender.

Although the legislation prohibits negative collateral consequences in connection with participation in AOT, there is no specific prohibition against enforcement of a subpoena to appear for AOT proceedings. However, given that a respondent may not be held in contempt or involuntarily committed based on failure to comply with an AOT order, and although all rules of civil procedure apply to AOT proceedings, the Committee recommends proceeding in the respondent's absence, rather than issuing a body attachment or instituting contempt proceedings based upon a failure to appear. This approach appears strongly favored by disability rights advocates.

New Rule 15-1706 – Merits Hearing

Absent a respondent's consent to treatment or a showing of good cause, proposed Rule 15-1706 requires a merits hearing to be held within 60 days from the date the petition was filed. Should a respondent fail to appear, the

court will not institute contempt proceedings or issue a body attachment. Rather, the court will conduct the hearing.

With a view to making the findings required by the legislation and outlined in proposed Rule 15-1707, the court must hear from one or more psychiatrists during the proceeding. See Code, Health – General Article, § 10-6A-07(d) and (e).

New Rule 15-1707 – Findings; Order

Proposed new Rule 15-1707 outlines the findings a court must make in determining whether to order a respondent to participate in AOT. The required factual findings track the requirements of Code, Health – General Article, § 10-6A-05.

Additionally, the proposed Rule requires the court to incorporate a treatment plan into its order, and to include in the treatment plan only the elements that are determined, by clear and convincing evidence, to be essential to maintenance of the respondent's health or safety. See Code, Health – General Article, § 10-6A-08(b). Moreover, by statute, the court may not order treatment for more than one year, although it has discretion to order treatment for less than a full year. Failure to comply with AOT does not subject a respondent to a contempt finding or to involuntary commitment.

New Rule 15-1708 – Modification; Status Conference

During the period of ordered treatment, the court may entertain a motion for modification and may stay, vacate, or modify an order. A non-material change to the plan or a material change to the plan explicitly authorized by the AOT order may be made by the care coordination team. If such a change takes place, no motion is required; however, the team must notify the court of the change, as required by new Rule 15-1708 (a)(2).

If a party believes that a material change (the addition or deletion of a category of services listed in the treatment plan) not explicitly permitted by the original AOT order should be implemented, the request shall be made by motion. Absent the respondent's consent, the court may order a material change only upon a finding, by clear and convincing evidence, that the material change is essential to maintenance of the respondent's health and safety.

If a hearing is requested by the respondent, the court shall hold a hearing; otherwise, whether to hold a hearing is discretionary. If no response to the motion is filed, the court may rule on the motion at the expiration of the response period. If the motion is contested, the court must rule on the motion no later than 30 days after a timely response is filed.

If a treating psychiatrist determines there is immediate necessity for a change to the treatment plan, a care coordination team member shall notify the respondent and the respondent's attorney, guardian, and health care agent, if any, and shall immediately file an emergency motion, which the court shall consider expeditiously after providing an opportunity for the respondent to receive notice and to be heard.

The court has discretion to conduct a status conference at any time to review the respondent's progress and must be notified by the care coordination team if, during the pendency of the AOT order, the respondent is the subject of an emergency petition.

New Rule 15-1709 – Confidentiality

Proposed Rule 15-1709 addresses confidentiality of records and hearings in AOT proceedings. Section (a) of the Rule provides for shielding of all papers and submissions while permitting docket entries to remain subject to public inspection. Although papers are shielded, the parties, the Department of Health or a local behavioral health authority or the core service agency within a county, and members of the respondent's care coordination team shall have access to the shielded records.

The proposed Rule also provides for hearings in the case to be closed at the respondent's or counsel for the respondent's request. Although AOT hearings are presumptively open, the Committee recommends that, akin to guardianship proceedings, the respondent be permitted to request a closed hearing.

Accompanying Housekeeping Amendments

Rule 1-101- Applicability

To incorporate AOT proceedings (proposed new Chapter 1700 of Title 15) and to clean up noted omissions, the Committee recommends a housekeeping amendment to Rule 1-101 to include AOT, derivative actions, liens for unpaid wages, marriage of minors, and judicial declarations of gender identity.

Rule 16-914 – Case Records – Required Denial of Inspection – Certain Categories

To incorporate AOT proceedings into Rule 16-914, the Committee recommends a housekeeping addition addressing access to records in AOT proceedings.

Rule 10-203 – Service; Notice

To eliminate potential confusion about whether a petitioner may personally serve a respondent, the Committee recommends an amendment to

clarify that a petitioner shall “cause” a show cause order to be served, rather than serve a show cause order.

Rule 10-302 – Service; Notice

To eliminate potential confusion about whether a petitioner may personally serve a respondent, the Committee recommends an amendment to clarify that a petitioner shall “cause” a show cause order to be served, rather than serve a show cause order.

CATEGORY TWO – DISCOVERY

Rule 2-422 – Discovery of Documents, Electronically Stored Information, and Property – from Party

The proposed amendment to Rule 2-422 emanates from a practitioner’s suggestion that, akin to the Rules concerning interrogatories and requests for admission, Rule 2-422 should require parties to set forth the request, as well as the response, when responding to a discovery request. The Committee agrees that the amendment will promote uniformity with Rule 2-421 (Interrogatories to Parties) and Rule 2-424 (Admission of Facts and Genuineness of Documents).

Rule 3-421 – Interrogatories to Parties

The proposed amendment to Rule 3-421 arises from the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee. One recommendation from the report addressed discovery in the District Court. Anecdotal information provided to the Rules Review Subcommittee by an attorney raised an issue concerning perceived inequity associated with the timing of filing discovery requests. The Rules Review Subcommittee did not recommend varying the discovery deadlines; however, it suggested that the Rules Committee consider whether defendants, who often are self-represented, have sufficient time to propound discovery in the District Court.

The Rules Committee considered the expressed concern and determined that changes to the discovery timeframe are not warranted. However, the Committee, noting that the Rule permits a court to allow more than the typical number of interrogatories, determined that the Rule also should reference the court’s discretion to alter the deadline for parties to serve interrogatories.

CATEGORY THREE – CRIMINAL CAUSES – REVISORY POWER OF THE COURT

Rule 4-345 – Sentencing – Revisory Power of Court

The Supreme Court's holding in *State v. Thomas*, 488 Md. 456 (2024) prompted the Rules Committee's consideration of whether amendments to Rule 4-345 should be recommended. In *State v. Thomas*, the Supreme Court clarified that the deadline for modification set forth in Rule 4-345 is jurisdictional and that a court may not modify a sentence more than five years after its imposition.

In a concurring and dissenting opinion, the Honorable Justice Eaves suggested that an amendment to Rule 4-345 may help remedy a problem that cannot be fixed under the language of the existing Rule, by allowing for continued jurisdiction in situations where the defendant requests a hearing within the five-year period.

In exploring potential solutions to what appears to be a harsh result, particularly for incarcerated individuals who may have trouble tracking deadlines, the Criminal Rules Subcommittee of the Rules Committee learned that there is no feasible way to determine how many motions for modification are pending throughout the State at any given time. Data returned from the Research and Analysis Department of the Administrative Office of the Courts suggests that the inability to determine the number of outstanding motions is attributable, in part, to the fact that different clerks may use different filing codes in docketing the motions. Additionally, motions for modifications are not uniformly titled when filed, and even may be filed in letter format. Finally, variation in docket entries memorializing final disposition of the motions makes tracking difficult.

The Rules Committee also learned that it is not feasible to generate notices to defendants who are awaiting rulings that would advise defendants of the approaching jurisdictional deadline and prompt them to request a hearing on the motion or otherwise request a ruling.

In addition to addressing the jurisdictional limit on granting modification, the Rules Committee recommends conforming language concerning the entry of a probation before judgment to match current practices.

The Rules Committee submits to the Honorable Justices two options for consideration. In each option, the Committee recommends amending Rule 4-345 (e)(1) to permit a court to enter a probation before judgment within the five-year period for modifications. As is widely known, plea agreements often call for consideration of the entry of a probation before judgment upon a

defendant's successful completion of probation. Likewise, a court may announce a willingness to modify a sentence and enter a probation before judgment upon a defendant's successful completion of probation. Rule 4-345 currently does not expressly allow the court to take this action; therefore, the Committee recommends amending subsection (e)(1) to allow for entry of a probation before judgment within the modification period.

Should the Court agree that an amendment to permit the entry of a probation before judgment is appropriate, the Committee also recommends the addition of a cross reference and an amendment to an existing Committee note to bring attention to certain legal limitations on the entry of a probation before judgment.

To address the jurisdictional limit of five years for modification of a sentence, the Committee presents two options.

Option A – Jurisdictional Limitation on Modification

Under Option A, a defendant would be required to file a "Request for Hearing and Determination" no later than six months prior to the expiration of the five-year period. Upon receipt of a Request, the court is required to either deny the pending motion without a hearing or proceed to a hearing. Absent a showing of good cause, a court may treat the defendant's failure to timely file a Request for determination as withdrawal of the motion. If adopted, the amendment would apply to motions filed after the effective date of the Rule change. Under this option, a court also may extend the five-year jurisdictional period for 60 days upon a showing of good cause. The remaining proposed amendments in Option A are stylistic.

Option B – Jurisdictional Limitation on Modification

Under Option B, as suggested by the Honorable Justice Eaves, if a defendant timely filed a motion for modification and, additionally, requested a hearing within five years from the date of the sentence, the court would retain jurisdiction over the modification motion until the court rules on the motion.

CATEGORY FOUR - OTHER TITLE 4 RULES

Rule 4-203 – Charging Document – Joinder of Offenses and Defendants

Chapters 191/192, 2025 Laws of Maryland (SB 11/HB 179), known as the Organized Retail Theft Act of 2025, permit joinder and prosecution of multiple thefts committed in different venues by the same person under a scheme or continuing course of conduct in any county where any of the thefts

occurred. The proposed amendment adds a cross reference to the relevant statute.

Rule 4-211 – Filing of Charging Document

Under Code, Courts Article, § 2-608, special requirements exist for filing an application for a statement of charges against certain individuals, such as law enforcement officers and educators. Chapter 134, 2025 Laws of Maryland (HB 302) added adult protective services workers and child welfare caseworkers to the list of individuals. The Committee recommends amending the cross reference in Rule 4-211 to include those individuals.

Rule 4-231- Presence of Defendant

Chapters 150/151, 2025 Laws of Maryland (HB 293/SB 274) amend Code, Criminal Procedure Article, § 11-303 to add a new provision requiring a child victim testifying via closed circuit television to do so “within the courthouse in a setting that the court finds will reasonably mitigate the likelihood that the child victim will suffer emotional distress.” Although no substantive change to Rule 4-231 is recommended, the Committee recommends amending the cross reference.

Rule 4-507 – Hearing

The Committee recommends expanding the cross reference to acknowledge Chapter 95, 2025 Laws of Maryland (SB 432), which alters some terminology and adds new provisions concerning expungement. For instance, the court must consider a defendant’s success on probation, parole, or mandatory supervision and the issue of restitution when reviewing a petition for expungement. The amendment is recommended to bring attention to the new requirements.

CATEGORY FIVE – TITLE 5, EVIDENCE

Rule 5-615 – Exclusion of Witnesses

By letter dated May 2, 2025, the Honorable Chief Justice Fader referred to the Rules Committee consideration of whether an amendment to Rule 5-615 (b)(2) is warranted in light of *Cromartie v. State*, 490 Md. 297 (2025). In *Cromartie*, the parties disagreed regarding the State’s ability to designate a testifying law enforcement officer as its party representative pursuant to Rule 5-615 (b)(2). Finding that any error in allowing the primary investigating detective to serve as the State’s representative was harmless beyond a reasonable doubt, the Court did not resolve the issue of whether the State may designate a primary detective as a representative pursuant to Rule 5-615 (b)(2).

Specifically, the Committee was asked to consider three specific inquiries. First, the question was raised as to whether the exception in Rule 5-615 (b)(2) applies to the State in a criminal proceeding. Second, if the exception applies to the State, the Committee was asked to consider whether a local law enforcement officer is an “officer or employee” of the State for purposes of the exception. Finally, the Committee was asked to consider whether the exception is discretionary or mandatory.

The matter was referred to the Criminal Rules Subcommittee of the Rules Committee, which heard from the attorneys directly involved in the case. The Subcommittee also considered the history of the Rule, and the staff’s research regarding practices in other states.

The Rules Committee recommends amending Rule 5-615 (b)(2). The proposal provides that the State, which is not a natural person, is not entitled to exclude from sequestration an officer or employee designated as its representative by its attorney in criminal cases. A Committee note following subsection (b)(2) is proposed to clarify that even though the State may not designate a representative under subsection (b)(2), an individual otherwise may be qualified to remain in court upon a demonstration that the individual is entitled to be present under subsection (b)(3), (b)(4), or (b)(5).

The Committee also proposes amending subsection (b)(4) by adding the phrase “or other individual” to clarify that it is not necessary that a person essential to the presentation of the case have special expertise.

Rule 5-804 – Hearsay Exceptions; Declarant Unavailable

To highlight the court’s obligation, when considering whether a declarant made a declaration against interest, to parse each statement in a narrative and to exclude statements that do not inculcate the declarant, the Committee recommends amending Rule 5-804 (b)(3) to include a reference to *Smith v. State*, 487 Md. 635 (2024).

CATEGORY SIX – TITLE 19, ATTORNEYS

New Rule 19-803 – Name Change

At the request of the Clerk of the Supreme Court, the Rules Committee recommends adoption of new Rule 19-803 to establish procedures when an attorney requests a name change in the Attorney Information System.

A request for a name change must be made in writing and accompanied by documentation that supports the name change. If the attorney’s request complies with the proposed Rule’s requirements, the Clerk will change the attorney’s name in the system and, if requested, issue a new bar certificate. If

the request does not comply with the proposed Rule's requirements, the Clerk may seek supplementation of the request or refer the matter to the Chief Justice or the Chief Justice's designee for a determination. The Clerk must keep a record of the attorney's former names and each name change request.

Rule 19-728 – Post-Hearing Proceedings

At the request of the Clerk of the Supreme Court, the Committee proposes amending section (d) of Rule 19-728 to eliminate the requirement of filing paper copies of exceptions, recommendations, and responses in post-hearing proceedings on petitions for disciplinary or remedial action.

CATEGORY SEVEN – ACCESS TO ELECTRONIC RECORDS

Rule 20-109 – Access to Electronic Records in an Action

The Committee recommends amending Rule 20-109 (b) to clarify that, subject to a protective order by the court or other law, parties to an action and their counsel shall have full access to all case records, including access to confidential and shielded records. A Committee note is proposed to clarify that the parties' access to records in an action is not affected by any Title 16 restriction on public access.

A proposed Committee note to follow Rule 20-109 (i) flows from a suggestion by the Major Projects Committee and is offered in conjunction with implementation of Chapter 578, 2025 Laws of Maryland (HB 681), which adds a provision to Code, Family Law Article, § 12-202, requiring the court, upon entering an order for child support, to send a copy of the guidelines calculation and the order to the Child Support Administration.

The General Assembly was informed prior to passage of the law that the provision would have a significant operational impact on the courts and would likely result in transmittal of documents to the Child Support Administration for cases in which the Administration is not involved. Receipt of a substantial volume of unnecessary documents is a concern the Administration has expressed. The Committee note provides that, by agreement with the agency, the Judiciary may provide access to the records via MDEC to comply with the obligation to "send" or "transmit" the information to the agency.

CATEGORY EIGHT – MISCELLANEOUS HOUSEKEEPING

Rule 3-325 – Jury Trial

Under the Real Property – Wrongful Detainer – Time of Hearing and Service of Process law, Chapter 188, 2025 Laws of Maryland (SB 46), a hearing

in an action covered by the law must take place within ten business days after a complaint is filed. Based on the expedited hearing schedule, the possibility exists that a defendant may be required to pray a jury trial prior to the date a notice of intention to defend would be due under current Rule 3-325 (a)(2). Therefore, the Committee recommends amending the Rule to clarify that a jury trial prayer must be filed within the time for filing a notice of intention to defend or earlier, if the time requirements of Code, Real Property Article, § 8-601 *et seq.* are applicable.

Rule 5-601 – General Rule of Competency

The Committee recommends updating an obsolete reference in a cross reference at the end of Rule 5-601.

Rule 8-501 – Record Extract

The Committee recommends the proposed housekeeping amendment to Rule 8-501 to correct a reference in section (l).

Rule 16-903 - Definitions

The Committee recommends the proposed housekeeping amendment to Rule 16-903 to correct a reference in subsection (j)(2).

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

Respectfully Submitted,

/ s /

Yvette M. Bryant
Chair

cc: Hon. Douglas R. M. Nazarian, Vice Chair
Greg Hilton, Clerk

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

Rule 15-1701. APPLICABILITY; DEFINITIONS

- (a) Applicability
- (b) Definitions

Rule 15-1702. PETITION

- (a) Who May File
- (b) Venue
- (c) Contents
- (d) Required Affidavit or Affirmation

Rule 15-1703. SHOW CAUSE; SERVICE; NOTICE

- (a) Show Cause Order
- (b) Service on Respondent
- (c) Notice to Other Persons

Rule 15-1704. ADVICE OF RIGHTS

Rule 15-1705. INITIAL HEARING

- (a) Generally
- (b) Required Attendees
- (c) Permitted Attendees
- (d) Respondent Not Present
- (e) Conduct of Hearing

Rule 15-1706. MERITS HEARING

- (a) Requirement; Scheduling
- (b) Required Testimony
- (c) Respondent Not Present

Rule 15-1707. FINDINGS; ORDER

- (a) Findings
- (b) Order

(c) Failure to Comply

Rule 15-1708. MODIFICATION; STATUS CONFERENCE

(a) Modification

(b) Status Conference

(c) Notice of Emergency Evaluation

Rule 15-1709. CONFIDENTIALITY

(a) Records

(b) Hearings

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1701, as follows:

Rule 15-1701. APPLICABILITY; DEFINITIONS

(a) Applicability

The Rules in this Chapter apply to assisted outpatient treatment proceedings under Code, Health – General Article, Title 10, Subtitle 6A.

(b) Definitions

(1) Statutory Definitions

The definitions in Code, Health – General Article, §§ 7.5-101 and 10-6A-01 are applicable to the Rules in this Chapter.

Cross reference: See Code, Health – General Article, § 7.5-101 for definitions of “core service agency,” “local behavioral health authority,” and “mental health program.”

See Code, Health – General Article, § 10-6A-01 for definitions of “assisted outpatient treatment,” “care coordination team,” “harm to others,” “harm to the individual,” “hospital,” “program,” “serious and persistent mental illness,” and “treatment plan.”

(2) Additional Definition

In this Chapter, “Department” means the Maryland Department of Health.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Title 15, Chapter 1700 implements Chapters 703/704, 2024 Laws of Maryland (HB 576/SB 453). The law creates a new subtitle in the Health – General Article for assisted outpatient treatment (“AOT”) programs. The Maryland Department of Health (“MDH”) is required to establish an AOT program by July 1, 2026 in any county that does not opt to establish its own. The Committee has been advised that no county has done so to date. The law generally permits certain individuals to file a petition for AOT in a circuit court.

Code, Health – General Article, § 10-6A-07(b)(3) provides that “[all] rules of civil procedure shall apply” to petitions filed under the AOT subtitle. Due to the unique characteristics of AOT proceedings, such as their potentially involuntary nature, detailed pleading requirements, and testimony and findings, the Rules Committee recommends the creation of a new Chapter in the Other Special Proceedings Title to supplement the general Rules of civil procedure in circuit court found in Title 2.

New Rule 15-1701 sets forth the applicability of the Chapter to AOT proceedings under Code, Health – General Article, Title 10, Subtitle 6A. It also incorporates by reference the statutory definitions in that subtitle, as well as in Code, Health – General Article, § 7.5-101. Additionally, the word “Department” is defined to mean the Maryland Department of Health.

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1702, as follows:

Rule 15-1702. PETITION

(a) Who May File

A petition for assisted outpatient treatment may be filed by:

(1) the director of a mental health program receiving state funding under Code, Health – General Article, Title 10, Subtitle 9, Part I; or

(2) an individual who is at least 18 years old and has a legitimate interest in the welfare of the respondent.

Cross reference: See Code, Health – General Article, § 10-6A-04(a).

(b) Venue

A petition for assisted outpatient treatment shall be filed in the circuit court for the county in which the respondent resides or in the county of the last known residence of the respondent.

Cross reference: See Code, Health – General Article, § 10-6A-04(d).

(c) Contents

A petition for assisted outpatient treatment shall be in writing, signed by the petitioner, and state:

(1) the name and address of the petitioner;

(2) the name and address of the respondent;

(3) the relationship of the petitioner to the respondent, if any;

(4) the name and address of each guardian and health care agent of the respondent, if any, or that there is no known guardian or health care agent;

and

(5) that the petitioner has reason to believe that the respondent meets the criteria for assisted outpatient treatment set forth in Code, Health – General Article, § 10-6A-05, and, as to each criterion, specific allegations of fact supporting that belief.

(d) Required Affidavit or Affirmation

The petitioner shall file with the petition an affidavit or affirmation of a psychiatrist in accordance with Code, Health – General Article, § 10-6A-04.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 15-1702 governs the petition for assisted outpatient treatment (“AOT”). It is derived in part from Code, Health – General Article, § 10-6A-04.

Section (a) is derived from the statute and permits a petition to be filed by a director of a mental health program receiving state funding under Code, Health – General Article, Title 10, Subtitle 9, Part I or an individual at least 18 years old who has a legitimate interest in the welfare of the respondent. “Legitimate interest” is not a defined term in the statute.

Section (b) is derived from the statute and lists the venues where the petition may be filed.

Section (c) is derived in part from the statute, with some modifications to

enable the court to comply with its requirements. The additional information required by section (c) includes the name and address of any guardian or health care agent of the respondent. The court is required by Code, Health – General Article, § 10-6A-04(d) to notify these individuals of the filing of the petition.

Rule 15-1702 (d) refers to the affidavit or affirmation of a psychiatrist required by the statute.

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1703, as follows:

Rule 15-1703. SHOW CAUSE; SERVICE; NOTICE

(a) Show Cause Order

(1) Generally

Upon the filing of a petition, the court shall schedule an initial hearing to be held ten days from the date the petition is filed and issue a show cause order in accordance with subsection (a)(2) of this Rule. If the respondent is not served in accordance with section (b) of this Rule prior to the date of the initial hearing, the court shall schedule a new date for the initial hearing and reissue the show cause order. The court may postpone the initial hearing for up to 30 days for good cause shown.

(2) Contents

The show cause order shall direct the person on whom it is served to appear for an initial hearing pursuant to Rule 15-1705 to (A) determine whether the petition meets the requirements of Code, Health – General Article, § 10-6A-04; (B) inform the respondent of the right to be represented by counsel; and, (C) as appropriate, schedule a hearing pursuant to Code, Health – General Article, § 10-6A-07. The order also shall specify who is to be served,

the method of service, and the date, time, and place of the initial hearing and be accompanied by a copy of the petition and an “Advice of Rights” in the form set forth in Rule 15-1704.

Cross reference: See Code, Health – General Article, § 10-6A-10(d) prohibiting a finding of contempt for failure to comply with an order of assisted outpatient treatment. See Rule 15-1705 (d) for procedures governing an initial hearing where the respondent does not appear.

(b) Service on Respondent

The petitioner shall cause the show cause order issued pursuant to section (a) of this Rule to be served on the respondent in the manner provided by Rule 2-121 (a) and returnable as provided by Rule 2-126. If the respondent resides with the petitioner, service shall be made upon the respondent and on such other persons as the court may direct.

(c) Notice to Other Persons

Unless the court orders otherwise, the clerk shall mail a copy of the petition and show cause order by first-class mail to:

- (1) the Mental Health Division of the Office of the Public Defender;

Committee note: The respondent is entitled to representation by the Office of the Public Defender in assisted outpatient treatment proceedings in accordance with Code, Criminal Procedure Article, §§ 16-204 and 16-208 and Code, Health – General Article, § 10-6A-07 or may elect to retain private counsel.

- (2) the Department or, if the county has established a program pursuant to Code, Health – General Article, § 10-6A-03, the applicable local behavioral health authority or core service agency of the county;

- (3) the county attorney; and

(4) each guardian and health care agent of the respondent listed in the petition.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 15-1703 establishes a show cause procedure to initiate service on the respondent and notify other interested persons of the filing of the petition. It is derived in part from the statute and in part from Rule 10-203, which applies to service of a show cause order in an action for guardianship of the person.

The Rules Committee and its General Court Administration Subcommittee (the "Subcommittee") discussed the appropriateness of a show cause order in assisted outpatient treatment ("AOT") proceedings. Representatives from the Maryland Office of the Public Defender and disability rights advocates, including Disability Rights Maryland, objected to analogizing AOT proceedings to guardianship matters and expressed concern about a perceived punitive nature of a show cause order. The Subcommittee also discussed a question raised by stakeholders about whether a show cause order improperly shifts the burden to the respondent.

The Committee concluded that a show cause order is the most appropriate mechanism for use in AOT proceedings. The Committee was informed that civil matters initiated by petition trigger a show cause order. The Committee believes that service of a show cause order is the only feasible way to obtain jurisdiction over the respondent; a summons or scheduling order, two suggested alternatives, do not accomplish this goal. A show cause order also allows the court to schedule a prompt hearing and specify service methods (e.g., the requirement in section (b) of Rule 15-1703 providing instructions for service if the respondent resides with the petitioner). The show cause order issued pursuant to Rule 15-1703 does not shift any burden in the action, as the court does not enter any substantive AOT orders at the initial hearing. See the Reporter's note to Rule 15-1705 for details about the initial hearing.

Section (a) of Rule 15-1703 establishes a process for the court to schedule an initial hearing ten days after the filing of the petition and to issue a show cause order for that hearing. Subsection (a)(1) provides for scheduling the initial hearing and rescheduling the hearing if the respondent is not served prior to the hearing date. Subsection (a)(2) sets forth the contents of the show

cause order, which explains the purpose of the initial hearing and provides instructions for service. The show cause order must be accompanied by a copy of the petition and the Advice of Rights in the form set forth in new Rule 15-1704.

Section (b) requires service of the show cause order, petition, and attachments on the respondent. Code, Health – General Article, § 10-6A-04(d)(2) states that “the circuit court shall notify... the respondent” of the filing of the petition. The Subcommittee identified two concerns stemming from the language of the statutory provision.

First is the issue of due process. “Notice” is not the equivalent of “service.” The Subcommittee believes “service” on the respondent should be required, and the Rules Committee concurs.

Second, if the court is responsible for conducting service of an initial pleading, that service will be accomplished by the sheriff. There were concerns with defaulting to service by law enforcement on a respondent who is alleged to have a serious and persistent mental illness.

The Subcommittee therefore recommends that it should be the responsibility of the petitioner to cause the show cause order to be served on the respondent. If the respondent resides with the petitioner, the court specifies how service on the petitioner is to be made. This provision is derived from Rule 10-203. The Rules Committee concurs with this recommendation.

Section (c) requires the clerk to mail the petition and show cause order to the remaining individuals named in Code, Health – General Article, § 10-6A-04, including the Mental Health Division of the OPD, the applicable local health authority, the county attorney, and any guardian or health care agent for the respondent who has been identified in the petition.

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1704, as follows:

Rule 15-1704. ADVICE OF RIGHTS

The Advice of Rights required to be served on a respondent shall be in the following form:

ADVICE OF RIGHTS

TO _____
(Name)

[Petitioner’s name] has filed a petition alleging that you are in need of outpatient mental health treatment. A copy of the petition is attached. If the court grants the petition, you could be ordered to participate in assisted outpatient treatment for up to one year. You have not been charged with a crime.

YOU HAVE CERTAIN RIGHTS IN THIS CASE:

1. You are entitled to be represented by an attorney of your choosing. The Maryland Office of the Public Defender will be notified of the filing of the petition, and you may be entitled to representation at no expense. You may contact the office by calling 410-999-8279 or you may visit opd.state.md.us for more information or to apply for an attorney.

2. You have a right to a hearing on the petition.
3. You have the right to be present at any hearing. If you choose not to be present, decisions may be made without your input.
4. You have the right to present evidence on your own behalf and to cross-examine witnesses against you. You are not required to testify at the hearing.
5. The hearing may be closed to the public if you so request.
6. You will have the opportunity to participate in the development of a treatment plan and the opportunity to voluntarily agree to the treatment plan.
7. If you have a guardian or health care agent, that individual has a right to participate in the process.
8. If you have a valid advance directive that applies to your mental health treatment, the care coordination team must honor it.

The above statements cannot cover all possible situations. Please read the attached papers carefully. You should consult with your attorney to determine what is in your best interest.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 15-1704 establishes a form for the Advice of Rights required to be served with the show cause order and petition by new Rule 15-1703. The form is derived in part from the Advice of Rights form in Rule 10-204 used in actions for guardianship of the person.

The form informs the respondent that a petition for assisted outpatient

treatment (“AOT”) has been filed, who filed it, and the possibility of the court ordering treatment for up to one year. The form sets forth a series of rights afforded to the respondent, including the right to representation by an attorney, to have a hearing on the petition, to present evidence, to ask for the hearing to be closed, to participate in development of the treatment plan, to have a guardian or health care agent participate in proceedings, and to have a mental health advance directive honored by the care coordination team. The Mental Health Division of the Office of the Public Defender requested that its phone number and website be included in the section pertaining to representation to encourage the respondent to make contact with the office.

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1705, as follows:

Rule 15-1705. INITIAL HEARING

(a) Generally

The court shall hold an initial hearing in accordance with this Rule.

(b) Required Attendees

The initial hearing shall be attended by:

- (1) the petitioner;
- (2) the respondent;
- (3) a guardian or health care agent for the respondent, if any; and
- (4) counsel for a party or for any person entitled to receive notice.

(c) Permitted Attendees

Any other person who receives notice of the initial hearing pursuant to Rule 15-1703 may attend the hearing but is not required to do so.

(d) Respondent Not Present

If the respondent is not present at the initial hearing, the court may proceed with the hearing in accordance with this Rule. No body attachment shall issue and no contempt finding may be made against the respondent for failing to appear at the initial hearing.

(e) Conduct of Hearing

At the initial hearing, the court shall:

- (1) determine whether the petition meets the requirements of Code, Health – General Article, § 10-6A-04 and, if so, schedule a hearing on the merits of the petition pursuant to Rule 15-1706;
- (2) inform the respondent, if present, of the rights set forth in the Advice of Rights issued pursuant to Rule 15-1704; and
- (3) if appropriate, appoint counsel for the respondent.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 15-1705 governs the conduct of the initial hearing after the filing of a petition for assisted outpatient treatment (“AOT”).

The General Court Administration Subcommittee of the Rules Committee expressed concern about scheduling a hearing on the merits of a petition for AOT without first ensuring (1) that the petition meets the requirements of the statute and (2) that the respondent understands the implications of the petition and has made contact with the Maryland Office of the Public Defender (“OPD”), which may provide representation to qualifying individuals. After hearing comments from the OPD and advocates from the disability rights community, the Subcommittee concluded that an initial hearing procedure would be an appropriate step to help the court and the parties identify and address any issues or needs early in the proceeding. The Rules Committee agrees with this conclusion.

Section (a) sets forth the applicability of the Rule.

Section (b) requires attendance at the hearing by the petitioner, respondent, and counsel, if any, for either party. Section (b) also requires attendance by a guardian or health care agent, if any, and counsel for any person entitled to receive notice.

Section (c) permits, but does not require, any other person who receives notice of the initial hearing pursuant to Rule 15-1703 to attend the hearing.

Section (d) provides the court with instructions for the conduct of the hearing if the respondent is not present. The Rules Committee determined that, because the purpose of the hearing is to review the petition for sufficiency, reiterate the Advice of Rights, and schedule a merits hearing with no substantive orders emanating, it would be appropriate for the court, assuming the respondent was properly served, to proceed in the respondent's absence.

The Rules Committee was informed that the Maryland Office of the Public Defender and disability rights advocates, including Disability Rights Maryland, were concerned that failure to appear in response to a show cause order could result in a body attachment or contempt finding.

Courts generally have various tools to enforce their orders. Failure to appear in response to a show cause order may result in a body attachment (“a written order issued by a court directing a sheriff or peace officer to take custody of and bring before the court... a party in a civil action who fails to comply with an order of court.” Rule 1-202 (c)). Failure to comply with a court order can be punished by a criminal contempt action or enforced by a civil contempt action (“Civil contempt proceedings are therefore remedial and coercive in nature. They are intended not to punish for past misconduct inflicted against the court but to force present or future compliance with the court's orders.” *Bryant v. Howard Cnty. Dept. of Soc. Services ex rel. Costley*, 387 Md. 30, 46 (2005)).

The legislative intent of the Maryland General Assembly strongly disfavors consequences that are punitive in nature for AOT respondents. Code, Health – General Article, § 10-6A-02 states that issuance of an AOT order may not be used as a basis for involuntary admission or evidence of incompetency. Code, Health – General Article, § 10-6A-07(b)(5) prohibits participation in AOT from being “used against a respondent in a subsequent legal matter that carries negative collateral consequences.” Code, Health – General Article, § 10-6A-10(d) prohibits a contempt finding for failing to comply with an AOT order. These provisions were heavily debated by the General Assembly, with many legislators expressing concern that an AOT action could result in contempt proceedings, interactions with law enforcement, and possible criminal consequences.

The new law, however, only expressly prohibits direct and collateral consequences in connection with ***an order for AOT***, not for any order issued in connection with an AOT action, such as a show cause order or subpoena. See Code, Health – General Article, § 10-6A-10(d) (“Failure to comply with ***an***

order of assisted outpatient treatment is not grounds for a finding of contempt of court or for involuntary admission under this title.” (emphasis added)). Code, Health – General Article, § 10-6A-07(b)(3) otherwise provides that “[a]ll rules of civil procedure shall apply” to AOT cases. The Rules of civil procedure would permit issuance of a body attachment or initiation of contempt proceedings for an individual who fails to appear or comply with a court order.

After considerable debate, the Rules Committee decided to recommend prohibition of the issuance of a body attachment or a finding of contempt for a respondent who fails to attend the initial hearing. This same provision is included in Rule 15-1706 regarding the merits hearing.

Section (e) of proposed Rule 15-1705 requires the court to determine whether the petition meets the statutory requirements in Code, Health – General Article, § 10-6A-04, inform the respondent of the rights contained in the Advice of Rights, and, if appropriate, appoint counsel for the respondent.

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1706, as follows:

Rule 15-1706. MERITS HEARING

(a) Requirement; Scheduling

Upon a determination that a petition meets the requirements of Code, Health – General Article, § 10-6A-04, the court shall schedule a hearing on the merits of the petition. The merits hearing on the petition shall be held no later than 60 days from the date the petition was filed, unless (1) otherwise ordered by the court for good cause shown or (2) the respondent has filed a written consent to a treatment plan and a stipulated agreement.

Cross reference: See Code, Health – General Article, § 10-6A-06(b)(3) regarding voluntary participation in assisted outpatient treatment.

(b) Required Testimony

At the merits hearing, the petitioner shall present the testimony of one or more psychiatrists as required by Code, Health – General Article, § 10-6A-07(d) and (e).

(c) Respondent Not Present

If the respondent is not present at the hearing, the court may proceed with the hearing in accordance with this Rule. No body attachment shall issue

and no contempt finding may be made against the respondent for failing to appear at the merits hearing.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 15-1706 governs the hearing on the merits of a petition for assisted outpatient treatment. It is derived from Code, Health – General Article, § 10-6A-07.

Section (a) requires the court to hold a hearing on the merits of the petition no later than 60 days after the date the petition was filed unless the court orders otherwise for good cause shown or the respondent consents to the treatment plan pursuant to Code, Health – General Article, § 10-6A-06. At the January 2026 Rules Committee meeting, the Office of the Public Defender expressed concern about investigating and preparing for a merits hearing within the 60-day time period. A motion to amend Rule 15-1706 to provide for a hearing within 120 days failed at the meeting. A subsequent motion to provide for a hearing within 90 days failed also. The Committee concluded that the intent of the legislature was to address AOT matters expeditiously, and that, subject to modification for good cause shown in a specific case, the 60-day time period is appropriate.

Section (b) requires the petitioner to present the testimony required by Code, Health – General Article, § 10-6A-07(d) and (e).

Section (c) provides the court with instructions for the conduct of the hearing if the respondent is not present at the hearing. See the Reporter's note to Rule 15-1705 (d).

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1707, as follows:

Rule 15-1707. FINDINGS; ORDER

(a) Findings

The court may order the respondent to participate in assisted outpatient treatment for a period not to exceed one year if the court finds, by clear and convincing evidence, that:

- (1) the respondent is at least 18 years old;
- (2) the respondent has a serious and persistent mental illness;
- (3) the respondent has demonstrated a lack of adherence with treatment for the serious and persistent mental illness that meets the requirements of Code, Health – General Article, § 10-6A-05(a)(3);
- (4) in view of the respondent’s treatment history and behavior at the time the petition was filed, the respondent is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would create a substantial risk of serious harm to the individual or harm to others;
- (5) the respondent is unlikely to adequately adhere to outpatient treatment on a voluntary basis, as demonstrated by the respondent’s history of treatment nonadherence in the 36 months immediately preceding the filing of the petition

that is not due to financial, transportation, or language issues during that period; and

(6) assisted outpatient treatment is the least restrictive alternative appropriate to maintain the health and safety of the respondent.

(b) Order

An order for participation in assisted outpatient treatment shall incorporate a treatment plan developed pursuant to Code, Health – General Article, § 10-6A-06 and may include only those elements of the treatment plan that the court finds by clear and convincing evidence are essential to the maintenance of the respondent’s health or safety.

Cross reference: See Code, Health – General Article, § 10-6A-08.

(c) Failure to Comply

Failure to comply with an order for assisted outpatient treatment issued pursuant to this Rule shall not be grounds for a finding of contempt or for involuntary admission pursuant to Code, Health – General Article, Title 10.

Cross reference: See Code, Health – General Article, § 10-6A-10(d).

Source: This Rule is new.

REPORTER’S NOTE

Proposed new Rule 15-1707 pertains to the findings required for the court to enter an order for assisted outpatient treatment (“AOT”) and the contents of the order.

Section (a) is copied from Code, Health – General Article, § 10-6A-05 and lists the findings required before the court may order AOT.

Section (b) is derived from Code, Health – General Article, § 10-6A-08 and governs the contents of the order.

Section (c) sets forth the prohibition from the statute that failure to comply with an AOT order may not be grounds for a contempt finding or involuntary admission.

MARYLAND RULES OF PROCEDURE

TITLE 15 – OTHER SPECIAL PROCEEDINGS

CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1708, as follows:

Rule 15-1708. MODIFICATION; STATUS CONFERENCE

(a) Modification

(1) Generally

At any time during the period of an order for assisted outpatient treatment, a petitioner, care coordination team member, or respondent may file a motion requesting that the court stay, vacate, or modify the order. A motion for a material change to the treatment plan shall be made in accordance with subsection (a)(3) of this Rule.

Cross reference: See Code, Health – General Article, § 10-6A-09(a) defining a “material change” as the addition or deletion of a category of services listed in the treatment plan.

(2) Without Motion

The care coordination team shall notify the court in writing if it makes a nonmaterial change to the treatment plan or a material change that is explicitly authorized by the terms of the assisted outpatient treatment order.

(3) On Motion

(A) Generally

On motion, the court may incorporate a requested material change into

the order for assisted outpatient treatment if (i) the respondent consents to the proposed change or (ii) the court finds, by clear and convincing evidence, that the material change is essential to the maintenance of the respondent's health or safety.

(B) Hearing

At the request of the respondent, the court shall hold a hearing on a motion for material change and, if no such request is made, may hold a hearing on a motion for material change on its own initiative.

(C) Ruling

Except as provided in subsection (a)(4) of this Rule, the court shall rule on a motion for material change no later than 30 days after (i) the filing of a timely response or, (ii) if no response is timely filed, the expiration of the time to file a response.

(4) Immediate Necessity

(A) Emergency Motion for Modification

If a treating psychiatrist makes a change to a treatment plan due to immediate necessity, a care coordination team member shall:

- (i) notify the respondent, the respondent's attorney, and, if applicable and known, the respondent's guardian and health care agent; and
- (ii) file immediately an emergency motion.

(B) Ruling on Emergency Motion

The court shall consider the motion on an expedited basis after providing the respondent with notice and an opportunity to be heard.

(b) Status Conference

At any time after entry of an order for assisted outpatient treatment, the court may schedule a status conference to review the progress of the respondent.

(c) Notice of Emergency Evaluation

If the care coordination team becomes aware of a petition for emergency evaluation of the respondent filed pursuant to Code, Health – General Article, Title 10, Subtitle 6, Part IV, the care coordination team shall notify the court in writing of the reasons for the evaluation and findings of the evaluation.

Cross reference: Code, Health – General Article, § 10-6A-10.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 15-1708 governs modifications to a treatment plan and status conferences. It is derived from Code, Health – General Article, §§ 10-6A-09 and 10-6A-10.

Section (a) is derived from the statutory provisions and provides that certain individuals may file a motion at any time requesting that the court stay, vacate, or modify the order for assisted outpatient treatment (“AOT”). A cross reference to the definition of “material change” in the statute follows subsection (a)(1).

Subsection (a)(2) sets forth the types of modifications that may be made to the treatment plan without court order. It requires the care coordination team to notify the court in writing of such changes.

Subsection (a)(3) establishes a procedure for modification to the order on motion. The court shall hold a hearing on the motion at the request of the respondent and may hold a hearing on its own initiative. The court is required by Code, Health – General Article, § 10-6A-09(d) to rule on a motion for

material change within 30 days of the filing of the motion and any timely response.

Subsection (a)(4) contains an exception to the requirement that a material change may only be made by court order where the treating psychiatrist deems the change an “immediate necessity.” Code, Health – General Article, § 10-6A-09(f) requires the care coordination team to notify the respondent, respondent’s attorney, and any guardian or health care agent of the respondent. If a change based on “immediate necessity” is made, the Rule requires the team to immediately file an emergency motion with the court to be considered on an expedited basis.

Section (b) is derived from Code, Health – General Article, § 10-6A-10 and permits the court to schedule a status conference at any time to review the progress of the respondent.

Section (c) also is derived from Code, Health – General Article, § 10-6A-10 and requires certain notice to the court if the respondent is the subject of a petition for emergency evaluation.

MARYLAND RULES OF PROCEDURE
TITLE 15 – OTHER SPECIAL PROCEEDINGS
CHAPTER 1700 – ASSISTED OUTPATIENT TREATMENT

ADD new Rule 15-1709, as follows:

Rule 15-1709. CONFIDENTIALITY

(a) Records

Except for docket entries, all papers and submissions in an assisted outpatient treatment proceeding shall be shielded upon filing and not open for public inspection. Unless the court orders otherwise, each of the following shall have access to case records in the proceeding: (1) the parties; (2) the Department or, if the county has established a program pursuant to Code, Health – General Article, § 10-6A-03, the applicable local behavioral health authority or the core service agency of the county; and (3) members of the respondent’s care coordination team.

Committee note: In cases where the petitioner is not a physician, a petitioner who does not already have authorization to access medical information relating to the respondent will have access to the case records in the proceeding unless the court enters an order restricting that access.

(b) Hearings

A hearing conducted pursuant to this Chapter may be closed at the request of the respondent or counsel for the respondent.

Source: This Rule is new.

REPORTER'S NOTE

Proposed new Rule 15-1709 governs confidentiality of records and hearings in assisted outpatient treatment (“AOT”) proceedings. Code, Health – General Article, § 10-6A-04(e) requires that a petition for AOT “be held under seal” and prohibits publication on the Case Search website.

The General Court Administration Subcommittee of the Rules Committee considered the intent of the legislature and the existing scheme of Rules governing confidentiality of similar records. The statute refers only to the petition, not any subsequent records filed in the action, and is silent on the openness of hearings on AOT petitions. The Subcommittee concluded that prohibition of publication to Case Search indicates a strong intent to prevent public inspection of case records. The Rules Committee agrees with this conclusion.

Section (a) is derived from the provisions governing access to records in guardianship proceedings. It makes all papers and submissions in an AOT proceeding shielded upon filing and not open for public inspection. Docket entries are public, as they are in guardianships, for the limited purpose of permitting interested persons to learn of the existence of the case.

The Rule specifies that each party, the Department or, if applicable, the local or county agency, and the respondent’s care coordination team shall have access to case records unless the court orders otherwise. The Committee note following section (a) cautions that, as a party, a lay petitioner who initiates the proceeding will have access to records in the case, including medical records the individual otherwise would not be authorized to see.

Section (b) states that hearings conducted in an AOT proceeding may be closed at the request of the respondent. Court proceedings are presumed to be open to permit the public to see how cases are adjudicated and to protect litigants from decisions impacting their rights being made in secret. The General Court Administration Subcommittee of the Rules Committee recommends that AOT hearings similarly be presumptively open but, like guardianship proceedings, be permitted to be closed at the request of the respondent. The Rules Committee concurs with this recommendation.

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 100 – APPLICABILITY AND CITATION

AMEND Rule 1-101 by adding categories of special proceedings to section (o), as follows:

Rule 1-101. APPLICABILITY

• • •

(o) Title 15

Title 15 applies to special proceedings relating to arbitration, assisted outpatient treatment, catastrophic health emergencies, contempt, coram nobis, derivative actions, habeas corpus, health claims arbitration, injunctions, judicial releases of individuals confined for mental disorders, liens for unpaid wages, mandamus, marriage of minors, the Maryland Automobile Insurance Fund, name changes and judicial declarations of gender identity, structured settlement transfers, and wrongful death.

• • •

REPORTER'S NOTE

Proposed amendments to Rule 1-101 (o) consist of general housekeeping amendments to update the Rule and a conforming amendment in light of proposed new Title 15, Chapter 1700 (Assisted Outpatient Treatment).

MARYLAND RULES OF PROCEDURE
TITLE 16 – COURT ADMINISTRATION
CHAPTER 900 – ACCESS TO JUDICIAL RECORDS
DIVISION 2 – LIMITATIONS ON ACCESS

AMEND Rule 16-914 by adding new subsection (i)(7) pertaining to records in assisted outpatient treatment proceedings, as follows:

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

Except as otherwise provided by law, court order, or the Rules in this Chapter, the custodian shall deny inspection of:

• • •

(i) The following case records containing medical or other health information:

(1) A case record, other than an autopsy report of a medical examiner, that (A) consists of a medical or psychological report or record from a hospital, physician, psychologist, or other professional health care provider, and (B) contains medical or psychological information about an individual.

(2) A case record pertaining to the testing of an individual for HIV that is declared confidential under Code, Health-General Article, § 18-338.1, § 18-338.2, or § 18-338.3.

(3) A case record that consists of information, documents, or records of a child fatality review team, to the extent they are declared confidential by Code,

Health-General Article, § 5-709.

(4) A case record that contains a report by a physician or institution concerning whether an individual has an infectious disease, declared confidential under Code, Health-General Article, § 18-201 or § 18-202.

(5) A case record that contains information concerning the consultation, examination, or treatment of a developmentally disabled individual, declared confidential by Code, Health-General Article, § 7-1003.

(6) A case record relating to a petition for an emergency evaluation made under Code, Health-General Article, § 10-622 and declared confidential under § 10-630 of that Article.

(7) Except for docket entries, a case record relating to a petition for assisted outpatient treatment made under Code, Health-General Article, § 10-6A-01 et seq. and shielded pursuant to Rule 15-1709.

...

REPORTER'S NOTE

Proposed amendments to Rule 16-914 (i) are conforming ones in light of proposed confidentiality provisions governing petitions for assisted outpatient treatment ("AOT").

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 – GUARDIAN OF THE PERSON

AMEND Rule 10-203 by clarifying in section (a) that the petitioner is responsible for causing the show cause order to be served, as follows:

Rule 10-203. SERVICE; NOTICE

(a) Service on Minor or Alleged Disabled Person

The petitioner shall ~~serve~~ cause a show cause order issued pursuant to Rule 10-104 to be served on the minor or alleged disabled person and on the parent, guardian, or other person having care or custody of the minor or alleged disabled person. Service shall be in accordance with Rule 2-121 (a). If the minor or alleged disabled person resides with the petitioner, service shall be made upon the minor or disabled person and on such other person as the court may direct. Service upon a minor under the age of ten years may be waived provided that the other service requirements of this section are met. The show cause order served on a disabled person shall be accompanied by an “Advice of Rights” in the form set forth in Rule 10-204.

• • •

REPORTER’S NOTE

Proposed amendments to Rules 10-203 and 10-302 are clarifying ones to Rule 10-203 (AOT housekeeping)
228th Report

RULE 10-203

accurately state service requirements for a show cause order in a guardianship proceeding. Rule 2-123 prohibits a party to the action from serving original papers; the amendments make it clear that the petitioner is responsible for causing the respondent to be served, not for conducting the service.

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

AMEND Rule 10-302 by clarifying in section (a) that the petitioner is responsible for causing the show cause order to be served, as follows:

Rule 10-302. SERVICE; NOTICE

(a) Service on Minor or Alleged Disabled Person

The petitioner shall ~~serve~~ cause a show cause order issued pursuant to Rule 10-104 to be served on the minor or alleged disabled person and on the parent, guardian, or other person having care or custody of the minor or alleged disabled person or of the estate belonging to the minor or alleged disabled person. Service shall be in accordance with Rule 2-121 (a). If the minor or alleged disabled person resides with the petitioner, service shall be made upon the minor or disabled person and on such other person as the court may direct. Service upon a minor under the age of ten years may be waived provided that the other service requirements of this section are met. The show cause order served on a disabled person shall be accompanied by an “Advice of Rights” in the form set forth in Rule 10-303.

• • •

REPORTER'S NOTE

Proposed amendments to Rules 10-203 and 10-302 are clarifying ones to accurately state service requirements for a show cause order in a guardianship proceeding. Rule 2-123 prohibits a party to the action from serving original papers; the amendments make it clear that the petitioner is responsible for causing the respondent to be served, not for conducting the service.

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

AMEND Rule 2-422 by deleting certain language and adding language to section (c), as follows:

Rule 2-422. DISCOVERY OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND PROPERTY – FROM PARTY

• • •

(c) Response

The party to whom a request is directed shall serve a written response within 30 days after service of the request or within 15 days after the date on which that party's initial pleading or motion is required, whichever is later.

~~The~~ As to each item or category requested to be inspected, the response shall set forth the request and state, ~~with respect to each item or category,~~ that (1) inspection and related activities will be permitted as requested, (2) the request is refused, or (3) the request for production in a particular form is refused. The grounds for each refusal shall be fully stated. If the refusal relates to part of an item or category, the part shall be specified. If a refusal relates to the form in which electronically stored information is requested to be produced (or if no form was specified in the request) the responding party shall state the form in which it would produce the information.

Cross reference: See Rule 2-402 (b)(1) for a list of factors used by the court to determine the reasonableness of discovery requests and (b)(2) concerning the assessment of the costs of discovery.

• • •

REPORTER'S NOTE

A practitioner suggested that the Rules Committee consider an amendment to Rule 2-422 (c) to make the format for discovery responses consistent across the Rules.

Rules 2-421 and 2-424, concerning interrogatories and requests for admission, require that responses set forth each interrogatory or request before stating the response. For example, Rule 2-421 (b) provides, "The response shall set forth each interrogatory followed by its answer." Rule 2-424 states, similarly, "As to each matter of which an admission is requested, the response shall set forth each request for admission and shall specify an objection, or shall admit or deny the matter, or shall set forth in detail the reason why the respondent cannot truthfully admit or deny it."

Rule 2-422, addressing requests for documents, does not contain the same formatting requirement found in Rules 2-421 and 2-424. Although attorneys may repeat the request in the response, it does not appear to be a mandatory practice.

A proposed amendment to Rule 2-422 adds language to section (c) requiring that each response set forth the request before stating the required information.

MARYLAND RULES OF PROCEDURE
TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT
CHAPTER 400 – DISCOVERY

AMEND Rule 3-421 by adding a provision to section (b) related to the ability of the court to alter the time to serve interrogatories and by making stylistic changes, as follows:

Rule 3-421. INTERROGATORIES TO PARTIES

• • •

(b) Availability; Number; Time for Filing

Any party may serve written interrogatories directed to any other party. Unless the court orders otherwise, a party may serve only one set of not more than 15 interrogatories to be answered by the same party. Interrogatories, however grouped, combined or arranged and even though subsidiary or incidental to or dependent upon other interrogatories, shall be counted separately. Each form interrogatory contained in the Appendix to these Rules shall count as a single interrogatory. The Unless otherwise ordered by the court, (1) the plaintiff may serve interrogatories no later than ten days after the date on which the clerk mails the notice required by Rule 3-307 (d).~~The~~ and (2) the defendant may serve interrogatories no later than ten days after the time for filing a notice of intention to defend.

• • •

REPORTER'S NOTE

In March 2023, the Judicial Council approved for dissemination the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee (hereinafter “the EJC Report”). One of the recommendations within the EJC Report concerned civil discovery in the District Court.

Current Rule 3-421 addresses discovery procedures for civil actions in the District Court. Section (b) sets forth the time for serving interrogatories:

The plaintiff may serve interrogatories no later than ten days after the date on which the clerk mails the notice required by Rule 3-307 (d) [promptly when the defendant files a notice of intention to defend]. The defendant may serve interrogatories no later than ten days after the time for filing a notice of intention to defend.

The EJC Report highlighted the concern of an attorney that “the existence of two different deadlines for filing discovery was unfair to debtors in consumer debt actions because they often were unrepresented.” However, since a defendant typically has 15 days to file a notice of intention to defend pursuant to Rule 3-307, the defendant often has 25 days after being served with the complaint to serve interrogatories. The plaintiff’s time to serve interrogatories is ten days, beginning when the clerk mails notice that a notice of intention to defend was filed. As noted in the EJC Report, the two parties have roughly the same timeframe for serving interrogatory requests.

The EJC Report further stated, “It is unclear why two different triggering events would lead to [unfairness to debtors], but if the problem is that defendants have insufficient time to file their own discovery requests, the rule could be amended to extend the 10-day deadline to some longer period.” Accordingly, the EJC Report did not propose altering the varying discovery deadlines, instead recommending that, “The Rules Committee should consider whether defendants have enough time to file discovery requests under Rule 3-421.”

The Discovery Subcommittee of the Rules Committee addressed the recommendation of the EJC Report and determined that the anecdotal evidence from the EJC Report’s listening session did not merit changes to the timeframe for interrogatories in the District Court at this time. The Subcommittee considered that, although using the same triggering event for the time for both sides to serve interrogatories may appear more straightforward, the current staggered deadlines reflect the different information available to each party at different times of the action. The plaintiff, for example, may not know what information is needed in discovery until there is a notice of intention to defend

filed indicating that the defendant disputes the claim. The defendant, in contrast, is aware of the plaintiff's allegations when the complaint is served.

The Discovery Subcommittee of the Rules Committee also noted that, if there are concerns about having sufficient time to serve interrogatories, discovery deadlines can be extended by court order in a particular case. Rule 3-421, however, does not directly address the filing of a motion to extend the discovery deadline. Section (b) acknowledges the ability of the court to permit more than the typical number of interrogatories: "Unless the court orders otherwise, a party may serve only one set of not more than 15 interrogatories to be answered by the same party." However, the remaining provisions of section (b) setting forth the timeframe to serve interrogatories do not include a statement that the court may order different deadlines.

The Rules Committee approved the recommendation of the Subcommittee. Accordingly, a proposed amendment to Rule 3-421 (b) addresses some of the concern discussed in the EJC Report by adding language to section (b) highlighting the court's authority to alter the deadline for a party to serve interrogatories. Stylistic changes are also proposed in the section.

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.

REPORTER'S NOTE

In light of the recent Supreme Court decision in *State v. Thomas*, 488 Md. 456 (2024), the Criminal Rules Subcommittee of the Rules Committee considered whether amendments to Rule 4-345 should be recommended to conform certain provisions of the Rule to current practice and to address the issues raised in *Thomas*.

Amendments recommended by the Criminal Rules Subcommittee were first presented to the Rules Committee at the May 2025 meeting. Concerns were raised about whether the amendments sufficiently addressed the underlying issue of ensuring that motions are heard within the five-year deadline. The Committee also questioned the number of these motions currently pending that must be addressed before the five-year deadline. It was noted that the

Subcommittee may want to consider a uniform process for the processing of these motions by the courts, such as certain notifications to defendants. Overall, Rule 4-345 was remanded to the Subcommittee for further discussion after the May 2025 Committee meeting.

The Criminal Rules Subcommittee reconsidered the proposed amendments to Rule 4-345 at an August 2025 Subcommittee meeting. In regard to the question about how many Rule 4-345 motions are pending throughout the State, staff reached out to the Research and Analysis Department of the Administrative Office of the Courts to determine whether there is a feasible search of court data to determine the number of motions for modification currently pending in the District Court and circuit courts throughout the State. Although certain searches can be conducted for relevant filing codes, review of the returned data found that different filing codes may have been utilized in different jurisdictions when a Rule 4-345 motion was filed. Docket entries indicating the final disposition of such a motion also varied throughout cases. As a result, a feasible search with reliable results could not be created.

The Subcommittee discussed the Committee's concern regarding whether the amendments sufficiently ensure that Rule 4-345 motions are heard within the five-year deadline. Subcommittee members noted that defendants are advised of their rights after sentencing. A new advice of rights form could make clear that a motion for modification under this Rule is a two-step process, explaining that the defendant must seek a hearing on a Rule 4-345 motion within five years. Because changes to most forms are outside the purview of the Rules Committee, the matter may be referred to the Forms Subcommittee of the Judicial Council if the proposed amendments proceed.

The Subcommittee also discussed that proposed new subsection (e)(3) uses "shall" to indicate that, upon receipt of a request for hearing, the court must either deny the motion or schedule a hearing. Because the court is required to act pursuant to the subsection, an emphasis on this language may alleviate concerns about whether the proposed amendments ensure that Rule 4-345 motions are timely decided.

Therefore, after consideration of the questions raised at the May 2025 Rules Committee meeting, the Criminal Rules Subcommittee recommended the same amendments to Rule 4-345 as originally presented at the May 2025 Rules Committee meeting.

The proposed amendments were presented to the Rules Committee again at the November 2025 meeting. At the meeting, the Committee decided to present two options to the Supreme Court for consideration. Both options

address not only the issues raised in *State v. Thomas*, 488 Md. 456 (2024), but also questions about entry of probation before judgment.

In Option A, 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 express 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 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 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 is intended 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 filed 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.

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) regarding when the court retains jurisdiction, 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

Except as provided in subsection (e)(3) of this Rule, 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.

(3) Jurisdiction of Court

If the defendant filed a timely motion pursuant to subsection (e)(1) of this Rule and requested a hearing within five years from the date the sentence originally was imposed on the defendant, the court retains jurisdiction until it grants or denies 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.

REPORTER'S NOTE

Proposed amendments to Rule 4-345 were presented to the Rules Committee at the November 2025 meeting. At the meeting, the Committee decided to present two options to the Supreme Court for consideration to address questions about entry of probation before judgment and the issues raised in *State v. Thomas*, 488 Md. 456 (2024).

The majority of the proposed amendments in Option A and Option B are identical. However, each Option presents different new subsections (e)(2) and (e)(3) to address situations like that found in *State v. Thomas*, 488 Md. 456 (2024).

In Option B, proposed new subsections (e)(2) and (e)(3) mirror the language in the concurring and dissenting opinion of Justice Eaves, suggesting that, “[A] correction [to the pitfall of Rule 4-345 seen in *Thomas*] 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.” *Id.* at 518.

Proposed new subsection (e)(2) of Rule 4-345 reiterates the five-year limitation currently included in subsection (e)(1), but notes that subsection (e)(3) contains an exception. Proposed new subsection (e)(3) addresses the jurisdiction of the court. The new language explicitly states that the court retains jurisdiction to grant or deny a timely-filed motion for modification outside the five-year period if a hearing was requested within five years from the date the sentence was imposed. Working together, proposed new subsections (e)(2) and (e)(3) would have permitted the trial court to rule on the pending motion for modification in *Thomas* because the record demonstrated that the defendant filed a timely motion to modify his sentence and repeatedly requested a hearing before the deadline for ruling.

See the Reporter's note for Option A for information on the additional amendments proposed to Rule 4-345.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-203 by adding a cross reference after section (a), as follows:

Rule 4-203. CHARGING DOCUMENT – JOINDER OF OFFENSES AND DEFENDANTS

(a) Multiple Offenses

Two or more offenses, whether felonies or misdemeanors or any combination thereof, may be charged in separate counts of the same charging document if the offenses charged are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

Cross reference: See Code, Criminal Law Article, § 7-103(f)(2) permitting joinder of multiple thefts under one scheme or a continuing course of conduct committed by the same defendant in multiple counties.

(b) Multiple Defendants – Separate Charging Documents

Regardless of whether two or more defendants are alleged to have participated in the same act or transaction or in the same series of acts or transactions, a charging document may not contain charges against more than one defendant.

Source: This Rule is derived as follows:
Section (a) is derived from former Rule 712 a and M.D.R. 712.

Section (b) is derived from former Rule 712 b.

REPORTER'S NOTE

Chapters 191/192, 2025 Laws of Maryland (SB 11/HB 179), also known as the Organized Retail Theft Act of 2025, amend and add certain provisions to the Criminal Law Article of the Code about an individual committing a series of thefts from retailers. In addition to adding new Code, Criminal Law Article, § 7-104.1 establishing the crime of “organized retail theft,” the bill amends § 7-103(f) to provide that “[m]ultiple thefts committed by the same person in multiple counties under one scheme or continuing course of conduct may be joined and prosecuted in any county in which any one of the thefts occurred.”

A proposed amendment to Rule 4-203 adds a cross reference after section (a) to Code, Criminal Law Article, § 7-103(f)(2) to highlight that the statute permits joinder of certain theft offenses, even if committed in different counties.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-211 by updating the cross reference after section (b), as follows:

Rule 4-211. FILING OF CHARGING DOCUMENT

(a) Citation

The original of a citation shall be filed in District Court promptly after its issuance and service. Electronic data documenting the citation uploaded to the District Court by or on behalf of the peace officer who issued the citation shall be regarded as an original of the citation.

(b) Statement of Charges

(1) Before Any Arrest

Except as otherwise provided by statute, a judicial officer may file a statement of charges in the District Court against a defendant who has not been arrested for that offense upon written application containing an affidavit showing probable cause that the defendant committed the offense charged. If not executed by a peace officer, the affidavit shall be made and signed before a judicial officer.

(2) After Arrest

When a defendant has been arrested without a warrant, unless an

information is filed in the District Court, the officer who has custody of the defendant shall (A) forthwith cause a statement of charges to be filed against the defendant in the District Court and (B) at the same time or as soon thereafter as is practicable file an affidavit containing facts showing probable cause that the defendant committed the offense charged.

Cross reference: See Code, Courts Article, § 2-608 for special requirements concerning an application for a statement of charges against a law enforcement officer, an educator, an adult protective services worker, a child welfare caseworker, or a person within the definition of “emergency services personnel” in that section for an offense allegedly committed in the course of executing the person's duties.

(c) Information

A State's Attorney may file an information as permitted by Rule 4-201.

Committee note: Nothing in section (b) of this Rule precludes the filing of an information in the District Court by a State's Attorney at any time, whether in lieu of the filing of a statement of charges or as an additional or superseding charging document after a statement of charges has been filed.

(d) Indictment

The circuit court shall file an indictment returned by a grand jury.

Source: This Rule is derived as follows:
Section (a) is derived from the last clause of M.D.R. 720 i.
Section (b) is derived from M.D.R. 720 a and b.
Section (c) is new.
Section (d) is new.

REPORTER'S NOTE

Current Code, Courts Article, § 2-608 addresses special requirements for an application for a statement of charges against law enforcement officers, emergency services personnel, or educators. Chapter 134, 2025 Laws of Maryland (HB 302) amends the statute by adding adult protective services

workers and child welfare caseworkers to the list of people impacted by these special requirements.

A cross reference after section (b) in Rule 4-211 acknowledges the special requirements for an application for statement of charges pursuant to Code, Courts Article, § 2-608. A proposed amendment adds adult protective services workers and child welfare caseworkers to the list of people impacted by the requirements of § 2-608.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-231 by expanding the cross reference after section (b) and by making a stylistic change, as follows:

Rule 4-231. PRESENCE OF DEFENDANT

(a) When Presence Required

A defendant shall be present at all times when required by the court. A corporation may be present by counsel.

(b) Right to Be Present—Exceptions

A defendant is entitled to be physically present in person at a preliminary hearing and every stage of the trial, except (1) at a conference or argument on a question of law; and (2) when a nolle prosequi or stet is entered pursuant to Rules 4-247 and 4-248.

Cross reference: See Code, Criminal Procedure Article, § 11-303 concerning the testimony of a child victim by closed circuit television in certain circumstances.

(c) Waiver of Right to Be Present

The right to be present under section (b) of this Rule is waived by a defendant:

(1) who is voluntarily absent after the proceeding has commenced, whether or not informed by the court of the right to remain; or

- (2) who engages in conduct that justifies exclusion from the courtroom; or
- (3) who, personally or through counsel, agrees to or acquiesces in being absent.

(d) Video Conferencing in District Court

In the District Court, if the Chief Judge of the District Court has approved the use of video conferencing in the county, a judicial officer may conduct an initial appearance under Rule 4-213 (a) or a review of the commissioner's pretrial release determination under Rule 4-216.2 with the defendant and the judicial officer at different locations, provided that:

- (1) the defendant's right to counsel under Rules 4-213.1 and 4-216.2 is not infringed;
- (2) the video conferencing procedure and technology are approved by the Chief Judge of the District Court for use in the county; and
- (3) immediately after the proceeding, all documents that are not a part of the District Court file and that would be a part of the file if the proceeding had been conducted face-to-face shall be electronically transmitted or hand-delivered to the District Court.

(e) Electronic Proceedings in Circuit Court

A circuit court may conduct an initial appearance under Rule 4-213 (c) or a review of the District Court's release determination in accordance with Rule 21-301 and the procedures, standards, and requirements set forth in Rule 21-104 relating to remote electronic participation, provided that (1) the defendant's right to an attorney is not infringed, (2) the defendant's right to a qualified

interpreter under Code, Criminal Procedure Article, § 1-202 is not infringed, and (3) to the extent required by law and practicable, any victim or victim's representative has been notified of the proceeding and has an opportunity to observe it.

Committee note: Except when specifically covered by this Rule, the matter of presence of the defendant during any stage of the proceedings is left to case law and the Rule is not intended to exhaust all situations.

Source: Sections (a), (b), and (c) of this Rule are derived from former Rule 724 and M.D.R. 724. Sections (d) and (e) are new.

REPORTER'S NOTE

Current Code, Criminal Procedure Article, § 11-303 addresses the testimony of a child victim in certain child abuse cases. Chapters 150/151, 2025 Laws of Maryland (HB 293/SB 274) amend certain provisions of § 11-303 and add a new provision noting that, if a child victim testifies by closed circuit television, the testimony shall occur “within the courthouse in a setting that the court finds will reasonably mitigate the likelihood that the child victim will suffer emotional distress.”

Upon review, the amendments to Code, Criminal Procedure Article, § 11-303 do not appear to necessitate any substantive Rules revisions. Although certain Rules reference § 11-303, the Rules do not detail the process of a child victim's testimony. Rule 4-231, however, includes a cross reference to the statute setting forth specific exceptions to the right of a defendant to be present. A proposed amendment expands the cross reference after section (b) to more clearly explain the applicability of the statutory section.

A stylistic change is proposed in section (b) to correct punctuation and add “and” between subsections (b)(1) and (2).

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 500 – EXPUNGEMENT OF RECORDS

AMEND Rule 4-507 by expanding the cross reference after section (b), as follows:

Rule 4-507. HEARING

(a) On Application

In the case of an application for expungement, a hearing shall be held not later than 45 days after the filing of the application.

Cross reference: Code, Criminal Procedure Article, § 10-103(f).

(b) On Petition

In the case of a petition for expungement, a hearing shall be held only if the State's Attorney or law enforcement agency objects to the petition by way of timely answer.

Cross reference: See Code, Criminal Procedure Article, §§ 10-105(e) and 10-110(f) regarding hearings on petitions for expungement, including factors for the court to consider in determining whether a person is entitled to expungement.

Source: This Rule is derived from former Rule EX6.

REPORTER'S NOTE

Chapter 95, 2025 Laws of Maryland (SB 432) impacts expungement statutes in the Criminal Procedure Article by altering some terminology and

adding new provisions. The bill adds new subsection (e)(5) to Code, Criminal Procedure Article, § 10-105 requiring the court, when ruling on a petition for expungement, to consider a petitioner's success at probation, parole, or mandatory supervision and whether the person has paid or does not have the ability to pay monetary restitution as ordered by the court. Similar language is added to Code, Criminal Procedure Article, § 10-110(f)(2) setting forth the required considerations.

Current Rule 4-507 addresses hearings on expungement applications and petitions. The Rule does not include the factors to be considered by the court, but a cross reference after section (b) points to the statutory provisions regarding hearings on petition for expungements pursuant to Code, Criminal Procedure Article, § 10-105.

A proposed amendment to Rule 4-507 expands the cross reference by adding a reference to the hearing provisions in Code, Criminal Procedure Article, § 10-110 and noting that the cited statutes include factors for the court to consider when determining if a petitioner is eligible for expungement.

MARYLAND RULES OF PROCEDURE

TITLE 5 – EVIDENCE

CHAPTER 600 – WITNESSES

AMEND Rule 5-615 by adding new language in subsection (b)(2) concerning applicability to the State in a criminal action, by adding a Committee note after subsection (b)(2), by adding “or other individual” to subsection (b)(4), and by making a stylistic change, as follows:

Rule 5-615. EXCLUSION OF WITNESSES

(a) In General

Except as provided in sections (b) and (c) of this Rule, upon the request of a party made before testimony begins, the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses. When necessary for proper protection of the defendant in a criminal action, an identification witness may be excluded before the defendant appears in open court. The court may order the exclusion of a witness on its own initiative or upon the request of a party at any time. The court may continue the exclusion of a witness following the testimony of that witness if a party represents that the witness is likely to be recalled to give further testimony.

Cross reference: For circumstances when the exclusion of a witness may be inappropriate, see *Tharp v. State*, 362 Md. 77 (2000).

(b) Witnesses Not to Be Excluded

A court shall not exclude pursuant to this Rule:

(1) a party who is a natural person,

(2) an officer or employee of a party that is not a natural person designated as its representative by its attorney, except that in a criminal action the State may not designate such a representative,

Committee note: Nothing in subsection (b)(2) of this Rule is intended to exclude an individual who otherwise qualifies to be present under subsections (b)(3), (b)(4), or (b)(5) of this Rule.

(3) an expert who is to render an opinion based on testimony given at the trial,

(4) a person whose presence is shown by a party to be essential to the presentation of the party's cause, such as an expert or other individual necessary to advise and assist counsel, or

(5) a victim of a crime or a delinquent act, including any representative of such a deceased or disabled victim, to the extent required by statute.

Cross reference: Code, Courts Article, § 3-8A-13; Criminal Procedure Article, § 11-102 and § 11-302; Rule 4-231.

...

REPORTER'S NOTE

By letter dated May 2, 2025, Chief Justice Fader asked the Rules Committee to consider whether amendments to Rule 5-615, specifically to subsection (b)(2), are needed. The Chief Justice noted that the issue arose during consideration of *Cromartie v. State*, 490 Md. 297 (2025), in which “the parties disputed whether the trial court has erred in permitting the State to designate a law enforcement officer as its party representative pursuant to Rule 5-615 (b)(2).”

In *Cromartie*, the defendant was convicted of second-degree assault and other offenses after a jury trial. At the beginning of trial, the defendant invoked Rule 5-615 to exclude witnesses from the courtroom. The State designated the primary detective investigating the incident, also a witness, as the State's representative. *Cromartie*, 490 Md. at 301. The defendant appealed his conviction, arguing in part that the detective should not have been exempted from witness sequestration and should not have been permitted to remain at counsel table during the trial.

The Supreme Court determined that, because any error was harmless beyond a reasonable doubt, it need not resolve the question of whether Rule 5-615 allows the State to designate a detective who is also a witness as a representative not subject to exclusion from the courtroom.

The Chief Justice noted in his May 2, 2025 letter that several questions were raised in the case on appeal, including "(1) whether the exception [in Rule 5-615 (b)(2)] applies to the State in a criminal prosecution; (2) if so, whether a local law enforcement officer is an 'officer or employee' of the State for purposes of the exception; and (3) whether the exception is discretionary or mandatory." The Rules Committee was asked to consider these questions and what, if any, amendments should be recommended to Rule 5-615.

The topic was referred to the Criminal Rules Subcommittee of the Rules Committee for consideration. The Subcommittee considered the arguments of both the State and the Office of the Public Defender from the *Cromartie* case, which included a review of the Rule's history. The Subcommittee also reviewed the results of staff's research regarding the practice in other states. While most states have a rule regarding witness exclusion similar to Maryland Rule 5-615 and Federal Rule 615, the application of the exceptions, specifically in regard to the State in criminal cases, is most often determined in case law.

Amendments are proposed to subsection (b)(2) of Rule 5-615. New language clarifies that, although the State is not a natural person, it is not entitled to exclude from sequestration an officer or employee designated as its representative by its attorney in criminal cases. A proposed Committee note following subsection (b)(2) highlights that, even though the State may not designate a representative to remain in the courtroom under subsection (b)(2) in a criminal action, an individual otherwise may be qualified to be present pursuant to subsection (b)(3), (b)(4), or (b)(5).

An additional amendment is proposed in subsection (b)(4) of Rule 5-615. The phrase "or other individual" is added to clarify that a person essential to the presentation of the party's cause does not have to be an expert. The subsection may be applicable to other individuals.

MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 800 – HEARSAY

AMEND Rule 5-804 by adding a citation to the cross reference following subsection (b)(3), as follows:

Rule 5-804. HEARSAY EXCEPTIONS; DECLARANT UNAVAILABLE

• • •

(b) Hearsay Exceptions

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

(1) Former Testimony

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

(2) Statement Under Belief of Impending Death

In a prosecution for an offense based upon an unlawful homicide, attempted homicide, or assault with intent to commit a homicide or in any civil action, a statement made by a declarant, while believing that the declarant's death was imminent, concerning the cause or circumstances of what the

declarant believed to be the declarant's impending death.

(3) Statement Against Interest

A statement which was at the time of its making so contrary to the declarant's pecuniary or proprietary interest, so tended to subject the declarant to civil or criminal liability, or so tended to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless the person believed it to be true. A statement tending to expose the declarant to criminal liability and offered in a criminal case is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

Cross reference: See Code, Courts Article, § 10-920, distinguishing expressions of regret or apology by health care providers from admissions of liability or fault, and *State v. Smith*, 487 Md. 635 (2024) concerning a trial court's duty to parse each statement in a narrative offered against interest and exclude those statements that do not inculcate the declarant.

...

REPORTER'S NOTE

The Rules Committee proposes adding a citation to *State v. Smith*, 487 Md. 635 (2024) to the cross reference following subsection (b)(3) of Rule 5-804. This is proposed to emphasize a trial court's duty to parse each statement in a narrative that is offered against interest and exclude all statements that do not inculcate the declarant.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 800 – ATTORNEY INFORMATION SYSTEM

ADD new Rule 19-803, as follows:

Rule 19-803. NAME CHANGE

(a) Request to Change an Attorney’s Name in AIS

A request to change an attorney’s name in AIS shall be made in writing and delivered to the Clerk of the Supreme Court. The request shall state:

- (1) the attorney’s present name reflected in AIS;
- (2) the attorney’s proposed name change;
- (3) the attorney’s AIS number; and
- (4) if wanted, a request for a new bar certificate.

(b) Required Supporting Documentation

The attorney’s name change request shall be accompanied by an original or certified copy of at least one of the following documents that supports the request:

- (1) a marriage certificate;
- (2) a divorce decree that includes an order restoring the attorney to a former name;
- (3) a court order changing the attorney’s name;
- (4) a certificate of citizenship; or

(5) a certificate of naturalization.

(c) Clerk's Duties on Receipt of Compliant Request

Upon receipt of a request for name change that the Clerk determines complies with this Rule, the Clerk shall:

(1) change the attorney's name in AIS; and

(2) if the attorney requests a new bar certificate and pays any applicable fee charged by the Clerk, send the new certificate to the attorney's address of record in AIS.

(d) Action on Non-compliant Request

Upon receipt of a request for name change that the Clerk determines does not comply with this Rule, the Clerk shall:

(1) request that the attorney supplement the request with additional information or documents supporting the request; or

(2) refer the request, supporting documentation, and any supplementary documentation to the Chief Justice or the Chief Justice's designee for a determination of the request.

(e) Record of Name Changes

The Clerk shall keep a record of attorneys' former names and each request for a name change.

Source: This Rule is new.

REPORTER'S NOTE

The Rules Committee, at the request of the Clerk of the Supreme Court, proposes new Rule 19-803, which establishes procedures an attorney must follow to request a change to the attorney's name in the Attorney Information System ("AIS"). The documentation sufficient to effectuate a name change in AIS is similar to the requirements necessary for an individual to obtain a name change with the Maryland Motor Vehicle Administration.

Section (a) specifies that a request to change an attorney's name in AIS must be in writing and lists the required contents of the request.

Section (b) requires that at least one of the following documents in the form of an original or certified copy must be submitted with a name change request: a marriage certificate; a divorce decree that includes a name change order; a court order changing the attorney's name; a certificate of citizenship; or a certificate of naturalization.

Sections (c) and (d) establish the Clerk's responsibilities after a name change request is received. Section (c) specifies that, if a request is compliant with the provisions of section (b) of this Rule, the Clerk will change the attorney's name in AIS and, if requested by the attorney, issue a new bar certificate to the attorney.

Section (d) specifies the actions the Clerk takes if a non-compliant request is received. The Clerk must either request additional documentation or refer the request to the Chief Justice or the Chief Justice's designee for a determination of the request.

Section (e) requires that the Clerk to keep a record of attorneys' former names and each request for a name change.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

DIVISION 3. PROCEEDINGS ON PETITION FOR DISCIPLINARY OR REMEDIAL
ACTION

AMEND Rule 19-728 by removing the provision concerning paper copies from section (d), as follows:

Rule 19-728. POST-HEARING PROCEEDINGS

(a) Notice of the Filing of the Record

Upon receiving the record, the Clerk of the Supreme Court shall notify the parties that the record has been filed.

(b) Exceptions; Recommendations; Statement of Costs

Within 30 days after service of the notice required by section (a) of this Rule, each party may file (1) exceptions to the findings and conclusions of the hearing judge, (2) recommendations concerning the appropriate disposition under Rule 19-740 (c), and (3) a statement of costs to which the party may be entitled under Rule 19-709.

(c) Response

Within 15 days after service of exceptions, recommendations, or a statement of costs, the adverse party may file a response.

(d) Form

~~The parties shall file eight copies of any~~ Any exceptions, recommendations, and responses. ~~The copies shall conform to the requirements of Rule 8-112.~~

(e) Proceedings in Supreme Court

Review in and disposition by the Supreme Court are governed by Rule 19-740.

Source: This Rule is derived from former Rule 16-758 (2016).

REPORTER'S NOTE

In the wake of the Judiciary's migration to MDEC, the Rules Committee, at the request of the Clerk of the Supreme Court, proposes revising section (d) of this Rule to eliminate the requirement to file paper copies of exceptions, recommendations, and responses in post-hearing proceedings on petitions for disciplinary or remedial action.

MARYLAND RULES OF PROCEDURE
TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 20-109 by clarifying the parameters of access to case records by parties and attorneys of record in section (b), by adding a Committee note pertaining to party access to case records following section (b), and by adding a Committee note following section (i), as follows:

Rule 20-109. ACCESS TO ELECTRONIC RECORDS IN AN ACTION

(a) Generally

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

(b) Parties and Attorneys of Record

Subject to any protective order issued by the court or other law, parties to an action and attorneys of record for a party in an action shall have full access to all case records in that action, including remote access to electronic case records and access to records marked confidential or shielded from public inspection. In an action where a corporation or business entity established under the law of any state or federal law is a party, the corporation or business entity may designate in writing a registered user who shall have remote access to all case records in the action but not be permitted to file in the action. An attorney for a victim or victim's representative shall have access to case

records, including remote access to electronic case records, as provided in Rule 1-326 (d).

Committee note: The Rules in Title 16, Chapter 900 may restrict public access to certain case records. Access by a party or attorney of record in an action is not affected by a restriction on public access. See Rule 16-901 (b).

• • •

(i) Government Agencies and Officials

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

Committee note: Where a law, such as Code, Family Law Article, § 12-202(b), requires the court to send or transmit certain court records to a government agency, such a requirement may be satisfied, with the written consent of the agency, by providing access to the court records pursuant to this section.

• • •

REPORTER'S NOTE

Proposed amendments to Rule 20-109 (b) clarify that, subject to a protective order or other law expressly regulating access, parties to an action and attorneys of record in an action have full access, including electronic access, to all records, including those “marked confidential or shielded from public inspection.”

A Committee note following section (b) refers to the Rules in Title 16, Chapter 900, which govern public access to case records. The Committee note

makes it clear that the restrictions on public access to records do not affect access by a party or an attorney of record.

A proposed amendment to Rule 20-109 (i) adds a Committee note stating that an agreement to provide MDEC government access pursuant to the statute can satisfy a statutory requirement to “send” a case record, if the government agency agrees in writing.

The amendment was suggested by the Major Projects Committee to implement Chapter 578, 2025 Laws of Maryland (HB 681). The law adds a provision to Code, Family Law Article, § 12-202 requiring the court, after establishing a child support order, to “send a copy of the guideline calculation and the order to the Child Support Administration.”

The General Assembly was informed that this statutory provision would have a significant operational impact on the courts and likely result in the transmittal of tens of thousands of documents to the Child Support Administration in cases where the Administration is not involved. According to the Fiscal Note, there were approximately 8,200 dispositions in cases involving the Administration in the 2024 fiscal year. The Administration was provided child support orders in those cases through MDEC, but not the guidelines calculation. The Judiciary estimated that more than 50,000 additional cases could be affected by the statute, in addition to the requirement that the guidelines calculation be shared.

Since the passage of the statute, the Administrative Office of the Courts and the Major Projects Committee discussed compliance with the Child Support Administration. Rules Committee staff was informed that the Administration expressed concern about receiving orders from cases in which the agency is not involved and may never become involved. Both the Administration and the Judiciary wish to comply with the law, which requires these records to be “sent,” and favor a business process solution that allows both sides to share necessary records without wasting resources.

MARYLAND RULES OF PROCEDURE
TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT
CHAPTER 300 – PLEADINGS AND MOTIONS

AMEND Rule 3-325 by adding to subsection (a)(2) a reference to certain sections of Title 8 of the Real Property Article of the Maryland Code, as follows:

Rule 3-325. JURY TRIAL

(a) Demand – Time for Filing

(1) By Plaintiff

A plaintiff whose claim is within the exclusive jurisdiction of the District Court may elect a trial by jury of any action triable of right by a jury by filing with the complaint a separate written demand therefor.

(2) By Defendant

A defendant, counter-defendant, cross-defendant, or third-party defendant may elect a trial by jury of any action triable of right by a jury by filing a separate written demand therefor within ten days after the time for filing a notice of intention to defend or, if applicable, within the time provided in Code, Real Property Article, § 8-601 et seq.

(b) Waiver

The failure of a party to file the demand as provided in section (a) of this Rule constitutes a waiver of trial by jury of the action for all purposes, including trial on appeal.

(c) Transmittal of Record to Circuit Court

When a timely demand for jury trial is filed, the clerk shall transmit the record to the circuit court within 15 days. At any time before the record is transmitted pursuant to this section, the District Court may determine, on motion or on its own initiative, that the demand for jury trial was not timely filed or that the action is not triable of right by a jury.

Cross reference: Code, Courts Article, § 4-402(e)(2).

Source: This Rule is derived as follows:
Section (a) is derived from former M.D.R. 343 b and c.
Section (b) is derived from former M.D.R. 343 a.
Section (c) is derived from former M.D.R. 343 d and e.

REPORTER'S NOTE

The General Assembly, during its 2025 Regular Session, passed the Real Property – Wrongful Detainer – Time of Hearing and Service of Process law as Chapter 188, 2025 Laws of Maryland (HB 560/SB 46). The law specifies, among other things, that a hearing in an action covered by Chapter 188 must take place within 10 business days after the complaint is filed. Because of the law's expedited hearing provision, it is possible that a defendant in an action brought under Chapter 188 may be required to file a request for a jury trial prior to the time specified by Rule 3-325 (a)(2), which is keyed to a computation of time based on the time for filing a notice of intention to defend.

As a result, the Rules Committee proposes revising subsection (a)(2) of Rule 3-235 to clarify that a request for a jury trial must be filed within the time for filing a notice of intention to defend or, if Code, Real Property Article, § 8-601 *et seq.* is applicable, the time specified by that statute.

MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 600 – WITNESSES

AMEND Rule 5-601 by updating the cross-reference, as follows:

Rule 5-601. GENERAL RULE OF COMPETENCY

Except as otherwise provided by law, every person is competent to be a witness.

Committee note: Under this Rule, a witness is not generally incompetent by virtue of status. A court could find, however, that because of insufficient memory, intelligence, or ability to express oneself, or inability to appreciate the need to tell the truth, a particular witness is not competent to testify as to certain matters. See Rules 5-401 through 5-403, and 5-603.

Cross reference: Code, Courts Article, §§ ~~9-104~~ 9-105 and 9-116.

Source: This Rule is derived from F.R.Ev. 601.

REPORTER'S NOTE

The proposed amendment to Rule 5-601 implements Chapters 145/146, 2025 Laws of Maryland (HB 241/SB 142) and updates an out-of-date reference. The law alters the definition of “spouse” in Code, Courts Article, § 9-105 to include a former spouse for the purposes of competency to testify to confidential communications occurring during the marriage. In reviewing Rule 5-601 for possible amendments, it was discovered that the cross reference at the end of the Rule contains a reference to a repealed statute (Code, Courts Article, § 9-104). The proposed amendment replaces the repealed statute with Code, Courts Article, § 9-105, which impacts competency.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE

APPELLATE COURT

CHAPTER 500 – RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-501 by correcting a reference to Rule 8-412 in section (l) as follows:

Rule 8-501. RECORD EXTRACT

• • •

(l) Deferred Record Extract; Special Provisions Regarding Filing of Briefs

(1) If the parties so agree in a written stipulation filed with the Clerk or if the appellate court so orders on motion or on its own initiative, the preparation and filing of the record extract may be deferred in accordance with this section. The provisions of section (d) of this Rule apply to a deferred record extract, except that the designations referred to therein shall be made by each party at the time that party serves the page-proof copies of its brief.

(2) If a deferred record extract authorized by this section is employed, the appellant, within 30 days after the filing of the notice required by Rule 8-412 ~~(a)~~(c), shall file one page-proof copy of the brief and shall serve one copy on each party. Within 30 days after the filing of the page-proof copy of the appellant's brief, the appellee shall file one page-proof copy of the brief and shall serve one copy on the appellant. The page-proof copies shall contain

appropriate references to the pages of the parts of the record involved. The parties are not required to file paper copies of page-proof briefs if they are represented by counsel or are registered users of MDEC.

Committee note: Attorneys and other registered users are required to file briefs and other papers with the court electronically.

...

REPORTER'S NOTE

A housekeeping amendment is proposed to subsection (l)(2) of Rule 8-501 to replace the incorrect reference to section (a) of Rule 8-412 with a correct reference to section (c) of the same Rule.

MARYLAND RULES OF PROCEDURE
TITLE 16 – COURT ADMINISTRATION
CHAPTER 900 – ACCESS TO JUDICIAL RECORDS
DIVISION 1. GENERAL PROVISIONS

AMEND Rule 16-903 by correcting a typographical error and making a stylistic change to subsection (j)(2) as follows:

Rule 16-903. DEFINITIONS

• • •

(j) Judicial Record

“Judicial record” means a record that is the original or copy of any documentary material that:

(1) is made or received by, and is in the possession of, a judicial agency, judicial personnel, or a special judicial unit, in connection with the transaction of judicial business;

(2) is in any form, including the forms listed in Code, General Provisions Article, § ~~4-101(j)(1)(ii)~~, 4-101(k)(1)(ii); and

(3) includes:

(A) an administrative record;

(B) a license record;

(C) a case record;

(D) a notice record; or

(E) a special judicial record.

• • •

Source: This Rule is derived from former Rule 16-902 (2019).

REPORTER'S NOTE

A housekeeping amendment is proposed to subsection (j)(2) of Rule 16-903 to correct a typographical error in the citation to the General Provisions Article of the Maryland Code.

A stylistic change is also proposed.