

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its Two Hundred and Second Report to the Court of Appeals, recommending rescission of current Title 16, Chapter 900 of the Maryland Rules of Procedure and replacement of it by revised Title 16, Chapter 900 (Access to Judicial Records) and transmitting thereby proposed revised Title 16, Chapter 900 and proposed new Rule 20-201.1 and proposed amendments to Rules 1-322.1, 2-512, 2-601, 3-601, 4-262, 4-263, 4-312, 9-203, 9-205.2, 10-108, 15-1103, 15-1302, 16-203, 16-204, 16-505, 19-104, 20-101, 20-106, 20-109, 20-201, 20-203, and 20-504.

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

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before March 30, 2020 any written comments they may wish to make to:

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Reporter, Rules Committee
Judiciary A-POD
580 Taylor Avenue
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Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

February 21, 2020

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Robert N. McDonald

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Joseph M. Getty

The Honorable Brynja M. Booth

The Honorable Jonathan Biran,

Judges

The Court of Appeals of Maryland

Robert C. Murphy Courts of Appeal Building

Annapolis, Maryland 21401

Your Honors:

The Rules Committee, submits this, its Two Hundred and Second Report, and recommends that the Court adopt the new Rules and amendments to existing Rules transmitted with this Report. The Report consists of two categories of proposed changes. There is an overlap between them.

Category One consists of a reorganization, updating, and revision of Title 16, Chapter 900 of the Maryland Rules, which governs public access to judicial records. Because each of the current Rules is amended in some way, including, in most cases, a renumbering, and several new Rules are proposed, the proposed Rules are presented, for convenience of reading, as new Rules rather than as amendments to the existing ones. Because the Court and the public have an interest in knowing what changes they make, the Rules Committee is preparing a marked version showing the changes from the current Rules through underlining and strikeouts. The marked version will be transmitted to the Court as a **Supplemental Appendix** to this Report and posted on the Judiciary website on or before February 28, 2020. Because of that delay, we ask that the comment period be extended to March 30, 2020, so that the public will have that version available for the full 30 days ordinarily allowed for providing written comment.

Although the Chapter 900 Rules have been amended from time to time, this represents the first comprehensive review of them since they were adopted in 2004. Much has changed since then. When the public access Rules were being drafted and were

adopted, nearly all judicial records were in paper form, most of them being in litigation files or land records kept at the various courthouses. With very limited exceptions, those records were open to public inspection, but one had to go to the courthouse to see them. Because of that inconvenience, there was what some termed a "practical obscurity" to them.¹

In the ensuing 15 years, that "practical obscurity," which provided some comfort to those concerned about privacy, shrunk significantly. Most of that shrinkage arose from (1) the shift from paper records to electronic ones, principally through MDEC, coupled with the expansion of the internet and the development and explosion of social media, which made it technically possible for the public to scour through judicial records remotely from their homes, offices, and cell phones and disseminate that information (or selected parts of it that could be taken out of context) throughout the world with a few clicks, and (2) the ability of judicial administrators to create new composite records regarding judicial operations and administration that also might become remotely accessible and easily disseminated. CaseSearch is but one example.

All of this was properly viewed as a benefit, providing both efficiency and transparency in judicial administration, but it also increased concerns over the invasion of privacy and actual safety and security. Partly in response to legislative initiatives, the Rules were tightened on several occasions to restrict public access to identifying and other personal information, even in land records. The balance between transparency and privacy/safety, weighted heavily in favor of transparency, shifted to some degree.

In considering and adopting the initial Rules, the Court of Appeals recognized that judicial records, in many ways, were different than most Executive Branch records and that blind adherence to the exceptions and procedures of the Public Information Act (PIA), which was designed principally to make Executive and Legislative agency records accessible, was not advisable and could well be unworkable. As do the current Rules, the proposed new Rules recognize that there are different categories of judicial records - initially four and, in this proposal, five - and that, while the presumption of openness

¹ The term "practical obscurity" came into the public lexicon when used by the United States Supreme Court in *U.S. Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), a case arising under the Federal Freedom of Information Act. The context of its use here is but one aspect of its broader application.

applies to all five, the level of access to them is not all the same. That is explained in proposed Rule 16-902 (c).

Pursuant to its Constitutional authority in Article IV, Section 18 of the Maryland Constitution to adopt Rules for practice and procedure in, and the administration of, the Maryland courts, the Court therefore chose to regulate access to judicial records by Rule, hewing closely nonetheless to the overarching premise that the traditional openness of judicial records should be maintained and that judicial records should be presumed to be open to public inspection, subject only to the legitimate security and privacy rights of those who are the subject of those records. The revision proposed in this Report maintains that premise.

The proposed new Chapter 900 is divided into four topical Divisions - General Provisions (Rules 16-901 through 16-905); Limitations on Access (Rules 16-911 through 16-919); Procedures - Requests and Responses (Rules 16-921 through 16-924); and Resolution of Disputes (Rules 16-931 through 16-934). The changes were developed in close collaboration with the Attorney General's Office, the Maryland State Bar Association through the Committee's liaison with that organization, the State Court Administrator, and other personnel from the Administrative Office of the Courts (AOC), and consultation with the Maryland, D.C., Delaware Press Association.

Division I - General Provisions

Rule 16-901 (Scope of Chapter) is derived, without substantive change, from current Rule 16-901. It makes clear that the Chapter 900 Rules govern **public** access to judicial records, not access by judicial personnel in the performance of their official duties or by government agencies or officials to whom access is provided by law, or, with respect to case records, by parties to the case or an attorney of record in the case.

Rule 16-902 (Preamble) is new. It states the Constitutional authority of the Court to adopt the Rules, expresses the general intent to maintain the openness of judicial records, subject only to the necessary protection of supervening rights of privacy, safety, and security, and describes the five different kinds of judicial records - Notice Records, Administrative Records, License Records, Case Records, and Special Judicial Unit Records.

Rule 16-903 (Definitions) is derived from and is largely consistent with current Rule 16-902 but contains several new definitions.

- In light of MDEC, it contains a new definition of "access" and "remote access" and includes a reference to the electronic access program in the orphans' courts (section (a)).

- It modifies the definition of "administrative record" to include a record containing judicial or other professional work product (subsection (b)(2)(J)).

- It creates an expanded definition of "license record" to include records of a marriage license, which the current Rule regards as a "case record" (section (l)).

- It modifies the definition of "custodian" (section (g)). This is mostly to take account of the fact that MDEC and certain other electronic records may be accessible both from the computer through which they were initially entered, which may be local, and from AOC computers, where they officially reside. There thus may be more than one custodian of those kinds of records, which would include electronic case records and e-mail records of judicial personnel. See subsections (g)(3) and (g)(4). The fact that there may be more than one custodian is recognized also in the PIA. See Code, General Provisions Article (GP), § 4-101(d).

- It defines "judicial work product" (section (k)).

- It also defines "special judicial unit" as (1) the State Board of Law Examiners and the Accommodations Review Committee and character committees attached to that Board, (2) the Attorney Grievance Commission and Bar Counsel, (3) the Commission on Judicial Disabilities, the Judicial Inquiry Board, and Investigative Counsel, and (4) the Client Protection Fund. The Rules governing those agencies have special confidentiality provisions (section (p)).

Rule 16-904 (General Policy) is derived from and is consistent with current Rule 16-903. The Committee calls attention to subsection (d)(3) and the Committee Note that follows, which are new.

Rule 16-905 (Copies) is derived from current Rule 16-904 but adds several new provisions.

- It permits a judge's signature to be redacted from a copy.
- Through a Committee Note, it permits the court to direct a custodian not to certify a copy of a case record if the court determines that the certified copy may be used for an improper purpose. Evidence of that happening was presented to the Committee.
- It adds the ability of a custodian to redact metadata from an electronic document before providing a copy of the document to a requester. That is taken from the PIA. See GP, § 4-205.

Division 2 - Limitations on Access

Rule 16-911 (Required Denial of Inspection - In General) is derived from current Rule 16-906 but broadens the provisions of that Rule.

- Unlike the current Rule, section (a) applies to **all** judicial records, not just case records. That is a logical extension. No judicial record should be open to public inspection if that would violate State or Federal law.

- Unless otherwise ordered by the court, it precludes access to a judicial record or part of a judicial record that, by law, is confidential or subject to an unwaived lawful privilege or that contains trade secrets. That is derived, in part, from the PIA. See GP, § 4-335. It also precludes inspection of judicial records subject to an expungement order.

- It precludes inspection of (1) judicial or other professional work product, (2) the contents of a continuity of operations plan, and (3) records that consist of or describe policies, procedures, directives, or designs pertaining to the security or safety of judicial facilities, equipment, operations, or personnel or of members of the public while in or in proximity to judicial facilities or equipment.

Rule 16-912 (Access to Notice, Special Judicial Unit, and License Records) is derived from current Rule 16-905. The new Rule does not cover access to administrative records, as current Rule 16-905 does. Those provisions are moved to Rule 16-913.

Rule 16-913 (Access to Administrative Records) is derived, in part from current Rule 16-905. It contains several new provisions.

- It provides that access to judicial procurement records will be governed by the Procurement Policy approved by the Chief Judge of the Court of Appeals and posted on the Judiciary website. The Judicial Procurement Policy currently follows the provisions that govern State procurement generally, as set forth in the State Finance and Procurement Article of the Md. Code.

- It permits a custodian to deny access to interagency and intra-agency memoranda, which is consistent with the PIA. See GP, § 4-344.

- It precludes access to judicial records maintained in connection with a participant in a problem-solving court program, and, in a Committee Note, explains the basis for that provision. See section (h) and the ensuing Committee Note and Source Note.

Rule 16-914 (Required Denial of Inspection - Certain Categories) is derived from current Rule 16-907. It contains several new provisions.

- It broadens non-access to guardianship records other than docket entries and the order establishing the guardianship and, in a Committee Note to § (f), explains the reason.

- Unless they are entered into evidence, it precludes inspection of case records pertaining to a pen register or trace device, an emergency order pursuant to Rule 4-602 (HIV test), the interception of wire or oral communications, or an order for electronic device location information pursuant to Rule 4-612.

- It precludes access to **any** income tax return of an individual, not just Federal or Maryland tax returns, and to a parenting plan or joint statement filed pursuant to Rules 9-401.1 or 9-401.2.

Rule 16-915 (Case Records - Required Denial of Inspection - Specific Information) is derived from current Rule 16-908.

Rule 16-916 (Case Records - Procedures for Compliance) is derived from current Rule 16-913. It has particular significance with respect to MDEC filings, as will be explained in **Category 2**.

Rule 16-917 (Conversion of Paper Records) is derived from current Rule 16-909 (a) through (e).

Rule 16-918 (Access to Electronic Records) is derived from current Rule 16-910.

Rule 16-919 (Creation of New Judicial Records) is derived from current Rule 16-909 (f). Section (c) makes explicit what was implicit in current Rule 16-909, that, except as otherwise required by law, a custodian, judicial agency, or special judicial unit is not required to create a new judicial record or reformat existing judicial records not necessary to be created or reformatted for judicial functions.

The Committee was advised that, as a matter of practice, AOC has complied with most requests to create new records or reformat existing ones in accordance with the criteria set forth in the Rule, and it has indicated its intent to continue doing so. The ultimate decision whether to grant a request hinges on the nature and extent of the burden on Judicial personnel and resources.

Division 3 - Procedures - Requests and Responses

Introduction

The Rules in this Division are new and fill a gap in how the substantive access Rules should be implemented. They are derived mostly from the procedural provisions of the PIA but differ from the PIA in some respects.

Rule 16-921 provides that the procedures for requesting access, as set forth in Division 3, are exclusive.

Rule 16-922 (Request) requires a request to inspect a judicial record to identify the record in sufficient detail to permit the custodian to locate it. A request to inspect a case record, notice record, or license record, may be made (1) in person at the clerk's office, (2) electronically in accordance with the MDEC Rules, which may be from a kiosk in any Maryland courthouse, or (3) in paper form. If the request is not made in person, it must be in writing. If the request is for an administrative or special judicial unit record, it must be in writing but may be electronic or in paper form.

Rule 16-923 (Decision on Request) requires generally that the custodian must grant or deny the request promptly but not later than 30 days after receiving the request. If the individual who receives the request is not the custodian of the record, the recipient, within 10 business days after receiving the request, must give the requester notice of that fact and, if

known, the name of the custodian and the location or possible location of the judicial record.

A custodian who approves a request must produce the record promptly or, if time is needed to retrieve the record, within 45 days after receipt of the request. A custodian who denies the request must promptly notify the requester of the denial and, within 10 business days after the denial, give the requester a written statement that includes the reasons and legal authority for the denial and allow inspection of any part of the record that is subject to inspection and is reasonably severable. With notice to the requester and for good cause, the custodian may extend the times for not more than 30 days.

Rule 16-924 (Conditions on Granting Request) is new but follows the PIA. See GP, § 4-204.

Division 4 - Resolution of Disputes

Introduction

Division 4 is new and represents a different approach to the resolution of disputes over access and fees than in the current Rules or in the PIA. With two categorical exceptions, the Rules in Division 4 provide a quick, efficient, effective, and inexpensive **administrative** review and, with respect to **all** such disputes, a quick, efficient, and inexpensive **judicial** review.

The PIA creates an administrative structure to receive and consider complaints regarding access or proposed fees, but it has no binding decisional authority. See GP, §§ 4-1A-01 and 4-1A-07, which create a PIA Compliance Board with authority to issue non-binding opinions regarding proposed fees over \$350, and GP, §§ 4-1B-01 and 4-1B-04, which create, in the Office of the Attorney General, an Ombudsman who attempts to resolve disputes over access but has no authority to compel disclosure. The only legally effective remedy to reverse a custodian's denial of access or insistence on an unreasonable fee is an action for judicial review provided for in GP, § 4-362. That action, however, is not limited to a determination of whether the custodian was right or wrong but, upon a finding of willfulness, permits an award of statutory damages of up to \$1,000, compensatory damages, attorneys' fees and litigation costs, and discipline administered by the custodian's appointing authority. To that extent, it is punitive in nature as much as it is remedial - perhaps more so.

In contrast, the Rules in Division 4, with limited exception, provide for quick, cost-free, and effective administrative review of the custodian's decision by an administrative judge with authority to compel compliance, and judicial review pursuant to the Declaratory Judgment Act, under which the court would determine only whether the requester has a right to access and whether any proposed fee is reasonable. If the decision favors access, it can be implemented by injunctive relief. The court would not be burdened with endless discovery and arguments over money. Court fees would be waived.

Rule 16-931 (Exclusive Method to Resolve Disputes) is new. Except as provided in Rule 16-919 (Creation of New Judicial Records), the Rules in Division 4 constitute the exclusive methods of resolving disputes regarding access to judicial records. The Rule declares GP Subtitles 1A and 1B and § 4-362 inapplicable.

Rule 16-932 (Administrative Review) is new. With two exceptions, if a custodian denies a request for the creation or inspection of a judicial record, fails to respond to a request within the time allowed, or proposes to charge an inappropriate fee, the requester may (but is not required) to file a request for administrative review. The request must be filed within 30 days after the custodian's final decision. It must be in writing, served on the custodian, identify the judicial record requested, and set forth with particularity why the custodian's decision was incorrect.

If the dispute concerns a case record, notice record, or license record filed in a court, the request must be filed in the court where the judicial record was filed and addressed to the administrative judge of that court. No fee may be charged. The custodian must file a response within 30 days after service of the request and has the burden of sustaining his or her decision. If the dispute is whether the record is subject to inspection, the administrative judge may review the record *in camera*. Unless there is a genuine dispute of material fact that indicates the need for an evidentiary hearing, the judge may decide the matter on the papers without a hearing. The judge must give expedited consideration to the matter and render a decision within 30 days after receiving the custodian's response, or, if a hearing is held, within 30 days after conclusion of the hearing. That procedure applies as well to a dispute over a judicial record of which a judge, other than the administrative judge, is the custodian.

A requester is not required to seek administrative review under this Rule but is free to file for declaratory and injunctive relief under Rule 16-933 without exhausting this discretionary administrative remedy. If the judicial record in dispute is in the custody of a special judicial unit or the administrative judge, administrative review is not available. The requester may seek relief only under Rule 16-933. There is a practical reason for that exemption. There is no administrative judge with administrative authority over a special judicial unit and the administrative judge cannot sit in judgment of his/her own decision.

If the dispute is over the creation or reformatting of a judicial record pursuant to Rule 16-919, the request is made to the State Court Administrator, who would make the final administrative decision. The considerations involved in that kind of dispute are more operational ones affecting units within the AOC than legal ones within the expertise of an administrative judge. As the head of the AOC, the State Court Administrator would be more aware of (or more easily could become aware of) the resources that would need to be devoted to approving the request.

Rule 16-933 (Declaratory and Injunctive Relief) is new. As noted above, it provides an expedited judicial review devoted entirely to whether the judicial record is open to inspection or should be created, at what cost, rather than wrangling over money damages and attorneys' fees, which may entail extensive discovery and motion practice.

Rule 16-934 (Case Records - Court Order Denying or Permitting Inspection Not Otherwise Authorized by Rule) is derived from current Rule 16-912. It is an important Rule that allows a judge, with certain exceptions, to order a judicial record otherwise open to public inspection to be shielded or vice versa upon a finding, made by clear and convincing evidence, that (1) there is a compelling reason, under the particular circumstances, for such an order, and (2) no substantial harm will come from such an order. The Rule sets forth a procedure for making that determination.

Conforming Amendments are proposed to Rules 1-322.1, 2-512, 2-601, 3-601, 4-262, 4-263, 4-312, 9-203, 9-205.2, 10-108, 15-1103, 15-1302, 16-203, 16-204, 16-505, 19-104, 20-109, 20-203, and 20-504.

Category Two consists of proposed new Rule 20-201.1 and amendments to Rules 20-101, 20-106, 20-201, and 20-203. These

are all MDEC Rules, but they "interface" with several Title 1 and Title 16 Rules.

The intent of the changes is to clarify, and to some extent, modify the requirements applicable when filing MDEC submissions that contain restricted (confidential) information not open to public inspection or documents that, by law, are in whole or in part open to public inspection but which the filer wants sealed. The need for these changes became clear from revelations emanating from a high-profile case pending in the Circuit Court for Anne Arundel County but extend well beyond what occurred in that case. The problem, it seems, arises from a "Confidential" drop-down box that appears on the computer screen in the course of filing an MDEC submission. The purpose of that drop-down box is to alert the clerk that the submission contains restricted information that is not subject to public inspection.

To give some context, the Title 16, Chapter 900 Rules, proposed to be amended as part of **Category One** in this Report, provide for the shielding of three kinds of judicial records:

- Records which, in their entirety, are not subject to public inspection, either because of the kind of action in which they are filed (e.g., adoption case) or because that kind of record is excluded by Rule or other law from public inspection (e.g., a medical report or tax return);
- Records that generally are subject to public inspection but contain restricted information that is not subject to public inspection (e.g., Social Security number); and
- Records that are subject to public inspection but which, for special reasons, the filer desires be sealed by the court and, by virtue of that seal, become not subject to public inspection.

Those access Rules are not self-implementing. Particularly with respect to records filed with a clerk - predominantly case records - there needs to be a way to alert the clerk to any restricted information in them, so the clerk can assure that it is protected. Unlike many Executive agency records, the overwhelming majority of case records are not created by the clerks (custodians) but by outsiders. The clerks cannot be expected to read through all of the thousands (or millions) of documents filed with them to look for restricted information. Current Rule 16-913 (proposed new Rule 16-916), which applies to both paper and electronic records, requires the filer to inform

the custodian, in writing, whether any part of a case record or any information in a case record, is confidential and subject to shielding. The custodian is not bound by the filer's determination that a record is not subject to inspection but **may** rely on the filer's failure to advise that a document is not subject to public inspection. Current Rule 20-201 (h) and proposed new Rule 20-201.1 (a) contain a similar requirement.

At present, in MDEC filings, the filer provides that notice by checking the Confidential drop-down box on the MDEC file-and-serve screen. When there are several documents in a filing and some, but not all, of which are not open to public inspection or where only a part of a document is not open to public inspection, the filer must indicate which documents, or parts of documents, are not open to inspection. The failure of filers to do that is what has caused the problem that arose in the Anne Arundel County case. Some filers have checked the "confidential" drop-down box indicating that the entire document, or all of the documents, are not open to public inspection, when that is not the case. That serves to diminish, if not destroy, the transparency required by the Rules.

A different, but related, problem arises with respect to documents that are open to inspection but which the filer wants "sealed." With respect to paper records, a record is sealed by putting it in an envelope, closing the envelope, and affixing the court seal on the envelope. No unauthorized person may open the envelope without a judge's consent. Only a judge can order a record sealed in that manner; a motion to seal and a proposed order must accompany the document. With respect to MDEC electronic records, there is no sealed envelope. Instead, if so ordered by a judge, the system "seals" the document through a security code that denies access to it. "Seal" has a different connotation, but with the same intended result. A motion and proposed order still must accompany the submission.

To deal with these issues, generated by electronic filing, the Committee, in conjunction with the State Court Administrator, is proposing a new regimen for alerting the clerks of restricted information and getting a document electronically sealed. This is provided for mostly in new Rule 20-201.1 and amendments to Rule 20-203. The procedure in those Rules will prevail over the one provided for in proposed Rule 16-934, which involves a different circumstance.

Rule 20-101 (Definitions)

At the request of the Attorney General's Office, the definition of "restricted information" in section (r) is amended and a Committee Note is added.

Rule 20-201.1 (Restricted Information)

This is a new Rule and the heart of the changes. It sets forth in one Rule what filers must do when seeking to file a document that is wholly or partially not open to public inspection or when requesting that the document be sealed.

The first requirement, in subsections (a) (1) and section (b) is that, if any document in a submission contains restricted information, the document must state that fact on the first page of the document. This implements the requirement that already is in Rule 16-913 (proposed Rule 16-916). Except for categories of actions in which **all** documents are shielded, such as adoption and juvenile actions, or other similar categories specified by the State Court Administrator in her Policies and Procedures, if the submission contains restricted information, it must be accompanied by a form Notice approved by the State Court Administrator that alerts the clerk to the nature (but not the content) of the restricted information and the basis for declaring it restricted. That supplants the general Confidential drop-down box. A form Notice has been drafted and is included as an **Appendix** to this Report.

As further stated in the amendments to Rule 20-203, if the submission does not contain that Notice and the clerk discovers restricted information, the submission will be rejected and returned to the filer, without prejudice to refile it with the proper Notice. For transparency purposes, the clerk will enter on the docket that a submission was received and rejected for non-compliance with the Rule 20-201.1.

Section (c) deals with the situation where a document as a whole is not restricted but contains restricted information. In that case, the filer must file two versions of the document - an unredacted version and a version that redacts the restricted information - and must correctly label each.

Section (d) deals with the situation in which the filer wants a document that otherwise would be open to public inspection to be sealed. It requires that the filer (1) state that desire, (2) include a file name that includes the word "sealed," (3) state the basis for sealing the document, (4) state whether there is an existing order permitting it to be sealed and, if so, identify that order, and (5) if there is no

existing order, include a motion to seal and a proposed order. That was not done in the Anne Arundel County case.

Rule 20-203 (Review by Clerk)

At the request of the State Court Administrator, subsection (a) (2) is amended to require the clerk to reject a submission that uses an incorrect case number and the error is not readily susceptible to correction pursuant to subsection (b)(1) of the Rule. This is to prevent the mischief that can arise from filing the document in the wrong case.²

Section (f) is amended to deal specifically with the sealing of a document. If the filer identifies an existing order permitting the document to be sealed, the clerk shall seal it, in accordance with MDEC protocols. If no existing order is identified but the submission contains a motion and proposed order, the clerk will docket the motion and proposed order, which will be open to public inspection, but shield the document pending a ruling on the motion. If the filer neglects to include a motion and proposed order, the clerk will reject the submission without prejudice, enter on the docket that a request was received and rejected.

Rules 20-106 and **20-201** are existing Rules. The proposed amendments are conforming ones.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:wlp

cc: Suzanne C. Johnson, Clerk

² The Committee was advised that, in some of the rural counties, the clerk, as a courtesy, may attempt to contact the filer and seek clarification but that, in the larger jurisdictions, that would be too great a burden. It is the filer's responsibility to correctly identify the case in which the submission is to be filed.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

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MARYLAND RULES OF PROCEDURE
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MARYLAND RULES OF PROCEDURE
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DIVISION 1. GENERAL PROVISIONS

ADD new Rule 16-901, as follows:

Rule 16-901. SCOPE OF CHAPTER

(a) Generally

Except as expressly provided or limited by other Rules, the Rules in this Chapter govern public access to judicial records, whether in paper or electronic form, that are in the custody of a judicial agency, judicial personnel, or a special judicial unit.

(b) Access by Judicial Employees, Parties, Attorneys of Record, and Certain Government Agencies

The Rules in this Chapter do not limit access to (1) judicial records by authorized judicial officials or employees in the performance of their official duties or to government agencies or officials to whom access is permitted by law, or (2) a case record by a party or attorney of record in the action.

Cross reference: For other Rules that affect access to judicial records, see Rule 16-504 (Electronic Recording of Circuit Court Proceedings) and Rule 20-109 (Access to Electronic Records in MDEC Actions).

Source: This Rule is new.

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

ADD new Rule 16-902, as follows:

Rule 16-902. PREAMBLE

(a) Constitutional Authority

Article IV, § 18(a) of the Md. Constitution authorizes the Court of Appeals to adopt Rules concerning the practice and procedure in and the administration of the courts of this State that have the force of law. Control over access to judicial records in the custody of judicial agencies, special judicial units, or judicial personnel is an integral part of the practice and procedure in and administration of the courts.

Committee note: The Public Information Act (Code, General Provisions Article, § 4-301 (2)(iii)) recognizes that authority by requiring a custodian of a public record to deny inspection of a public record if inspection would be contrary to a Rule adopted by the Court of Appeals.

(b) General Intent

The intent of this Chapter is to (1) adopt comprehensive principles and procedures that will maintain the traditional openness of judicial records, subject only to such shielding or sealing that is necessary to protect supervening rights of

privacy, safety, and security, and (2) provide an efficient, credible, and exclusive system for resolving disputes over inspection decisions by custodians of judicial records.

(c) Categories of Judicial Records

(1) Generally

Judicial records fall into five categories:

(A) Notice Records - those, such as land records, that are filed with circuit court clerks for the sole purpose of recording, preserving, and providing public and constructive notice of them;

(B) Administrative Records - those that relate to personnel, budgetary, or operational administration; information technology; the safety and security of judicial personnel, facilities, equipment, or programs; the development and management of electronic data; or that constitute judicial or other professional work product;

(C) License Records - those that relate to the issuance of licenses by Circuit Court clerks pursuant to statutes;

(D) Case Records - those that were filed with the clerk of a court in connection with litigation that was filed in or transferred to the court; and

(E) Special Judicial Unit Records - those maintained by four special judicial units that are subject to special rules of confidentiality.

(2) Treatment

(A) Although there is a presumption of openness applicable to all five categories of judicial records, some present special concerns that require more focused treatment with respect to sealing or shielding decisions.

(B) Because the principal function of notice records is to give public notice of them, very few exceptions to public access are warranted. Case records and certain kinds of administrative records may contain very sensitive information that needs to remain confidential for overarching privacy, safety, and security purposes and not be subject to public inspection.

(C) License records are similar to public records maintained by Executive Branch licensing agencies, and public inspection of them is generally consistent with what is allowed under the PIA or other statutes.

Source: This Rule is new.

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

ADD new Rule 16-903, as follows:

RULE 16-903. DEFINITIONS

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

(a) Access; Remote Access

(1) Access

"Access" means the right to inspect, search, or obtain a copy of a judicial record. "Access" and "Inspection" are used interchangeably.

Cross reference: for courthouse computer terminals or kiosks available for use by the public, see Rule 16-918 (c).

(2) Remote Access

(A) Generally

"Remote access" means the ability to inspect, search, or obtain a copy of a judicial record by electronic means from a device not under the control of the Maryland Judiciary.

(B) Case Records

Remote access to information in case records means access through the CaseSearch program operated by the Administrative Office of the Courts or through the MDEC System established by the Court of Appeals. Access to electronic case records through a terminal or kiosk located in a courthouse of the District Court, a circuit court, or an appellate court of this State and made available by the court for public access does not constitute remote access.

Cross reference: See Title 20 of the Maryland Rules.

Committee note: CaseSearch does not provide access to a complete record but only selected elements or information in a case record.

(C) Estate and Probate Records

Remote access to electronic estate and probate records maintained by an Orphans' Court or a Register of Wills means access through the Register of Wills ROWNET program.

(b) Administrative Record

(1) Except as otherwise provided in this Rule, "administrative record" means a record that:

(A) pertains to the administration or administrative support of a court, a judicial agency, a special judicial unit, or the judicial system of the State; and

(B) is not a case record.

(2) "Administrative record" includes:

(A) a rule adopted by a court pursuant to Rule 1-102;

(B) an administrative order, policy, or directive that governs the operation of a court or judicial agency;

(C) an analysis or report, even if derived from other judicial records, that is:

(i) prepared by or for the use of a court, judicial agency, a special judicial unit, or the judicial system of the State; and

(ii) not filed, and not required to be filed, with the clerk of a court for inclusion as or in a case record.

(D) judicial education materials prepared by, for, or on behalf of a judicial agency or special judicial unit for use by Maryland judges, magistrates, clerks, or other judicial personnel in the performance of their official duties;

(E) a jury plan adopted by a court;

(F) a case management plan adopted by a court;

(G) a continuity of operations plan;

(H) an electronic filing plan adopted by a court;

(I) policies, procedures, and plans adopted or approved by the SCA, the Court of Appeals, the Chief Judge of that Court, the administrative judge of a circuit court, the Chief Judge of the District Court, an orphans' court, or a register of wills pursuant to the Maryland Constitution, a Maryland Rule, or a statute;

(J) judicial or other professional work product; and

(K) policies, procedures, directives, or designs pertaining to the security or safety of judicial facilities, equipment, operations, personnel, or members of the public while in or in proximity to judicial facilities or equipment.

Cross reference: See Rule 16-911 (f) precluding the inspection of the kinds of records included in subsections (b)(1)(G) and (K) of this Rule.

(3) "Administrative record" does not include a document or information gathered, maintained, or stored by a person or entity other than a court, judicial agency, or special judicial unit, to which a court, judicial agency, or special judicial unit has access, but which is not a case record.

(c) Business License Record

(1) "Business license record" means a judicial record pertaining to an application for a business license issued by the clerk of a court and includes the application for the license and a copy of the license.

(2) "Business license record" does not include a judicial record pertaining to a marriage license.

(d) Case Record

(1) Except as otherwise provided in this Rule, "case record" means:

(A) all or any portion of a paper, document, exhibit, order, notice, docket entry, or other record, whether in paper, electronic, or other form, that is made, entered, filed with, or maintained by the clerk of a court in connection with an action or proceeding; and

(B) a miscellaneous record filed with the clerk of the court pursuant to law that is not a notice record.

(2) "Case record" does not include a document or information described in subsection (b) (3) of this Rule.

(e) Clerk

"Clerk" means the clerk of a Maryland court and includes (1) deputy and assistant clerks authorized to act for the clerk with respect to inspection requests, and (2) a register of wills when acting as the custodian of a judicial record filed with or created by the register or the orphans' court.

(f) Court

"Court" means the Court of Appeals of Maryland, the Court of Special Appeals, a circuit court, the District Court of Maryland, and an orphans' court of Maryland.

(g) Custodian

Subject to subsection (3) of this section, "Custodian," with respect to a judicial record, means:

(1) for a case record, notice record, or license record, the clerk of the court in which the record was filed or the license

was issued, or an employee of the clerk's office authorized to act for the clerk in determining administratively whether inspection of the record or any part of the record may be denied; and

(2) for an administrative record or special judicial unit record, the individual, or an employee authorized to act for the individual, with legal control over the record and authority to determine administratively whether inspection of the record or any part of the record may be denied.

(3) Judicial records that are in electronic form may have more than one custodian. They may be in the custody or control of the person who created them or with whom they initially were filed and in the custody or control of the Administrative Office of the Courts or a unit of that Office. In that situation, where it may be more convenient and efficient for an employee of the Administrative Office of the Courts to locate the records requested, determine whether there are any impediments to inspection, and communicate with the requester, the SCA or the SCA's designee may delegate those functions to an employee of the Administrative Office of the Courts.

(4) For administrative records within the custody or control of the Administrative Office of the Courts, the State Court Administrator (SCA) may designate, by general or specific directive, which unit or employee within the Administrative

Office of the Courts should receive the request or perform the function of custodian.

Committee note: The objectives of subsection (g)(3) are efficiency in locating the judicial record and uniformity in determining whether there are any impediments to allowing inspection of the record or records of that kind. It is not intended to supplant the ability of the clerks or other custodians to accept and deal with requests for case records, notice records, license records, or local administrative records that easily may be located and present no issues of access as to which a uniform policy is desirable. This approach is not inconsistent with the PIA. Code, General Provisions Article, § 4-101 (d) defines "custodian" as the "official custodian," defined in § 4-101 (f), and "any other authorized individual who has physical custody and control of a public record."

(h) Individual

"Individual" means a human being.

(i) Judicial Agency

"Judicial agency" means a unit within the Judicial Branch of the Maryland Government other than a special judicial unit. Judicial agency includes an orphans' court and a register of wills.

(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), and

(3) includes:

- (A) an administrative record;
- (B) a license record;
- (C) a case record;
- (D) a notice record; or
- (E) a special judicial unit record.

(k) Judicial Work Product

"Judicial work product" has its common law meaning. It includes (1) documents, notes, and memoranda prepared by a judge or other Judicial Branch personnel at the request of a judge or other judicial official, (2) documents created or maintained as part of a judge's or judicial official's deliberative process, and (3) research, requests for information, and communications by or on behalf of a judge or other judicial official, and responses thereto, intended for use in the preparation of a decision, order, recommendation, opinion, or other judicial action or pronouncement.

Committee note: Judicial personnel sometimes may send or receive by e-mail or other electronic means information that was not intended to constitute a judicial record and would not constitute judicial work product. Upon an inspection request, the custodian of such records will need to determine whether a particular communication falls within the definition of judicial record and, if so, judicial work product.

(1) License Record

"License record" means a judicial record of a business license or a marriage license issued by the clerk of a circuit court pursuant to statute.

Cross reference: For business licenses issued by the clerk, see Code, Business Regulation Article, Titles 16, 16.5, and 17. For marriage licenses issued by the clerk, see Code, Family Law Article, Title 2, subtitles 4 and 5.

(m) Notice Record

"Notice record" means a record that is filed with the clerk of a court pursuant to statute for the principal purpose of giving public notice of the record. It includes deeds, mortgages, and other documents filed among the land records; financing statements filed pursuant to Code, Commercial Law Article, Title 9; and tax and other liens filed pursuant to statute.

(n) Person

"Person" means an individual, sole proprietorship, partnership, firm, association, corporation, or other entity.

(o) PIA

"PIA" means the Maryland Public Information Act (Code, General Provisions Article, Title 4).

(p) Special Judicial Unit

"Special Judicial Unit" means (1) the State Board of Law Examiners, the Accommodations Review Committee, and character committees; (2) the Attorney Grievance Commission and Bar

Counsel; (3) the Commission on Judicial Disabilities, the Judicial Inquiry Board, and Investigative Counsel; and (4) the Client Protection Fund.

Cross reference: See Rule 20-109 (c).

(q) SCA

"SCA" means the State Court Administrator.

Cross reference: See Rule 16-111 regarding the authority and duties of the State Court Administrator.

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

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

ADD new Rule 16-904, as follows:

Rule 16-904. GENERAL POLICY

(a) Presumption of Openness

Judicial records are presumed to be open to the public for inspection. Except as otherwise provided by the Rules in this Chapter or by other applicable law, the custodian of a judicial record shall permit a person to inspect a judicial record in accordance with Rules 16-922 through 16-924. Subject to the Rules in this Chapter, inspection of case records through the MDEC program is governed by Title 20 of the Maryland Rules. Cross reference: See Rule 16-922, 16-923, 16-924, and 20-109.

(b) Protection of Records

To protect judicial records and prevent unnecessary interference with the official business and duties of the custodian and other judicial personnel, a clerk is not required to permit public inspection of a case record filed with the clerk for docketing in a judicial action or a notice record

filed for recording and indexing until the document has been docketed or recorded and indexed.

(c) Exhibit Pertaining to Motion or Marked for Identification

Unless a judicial proceeding is not open to the public or the court expressly orders otherwise and except for identifying information shielded pursuant to law, a case record that consists of an exhibit (1) submitted in support of or in opposition to a motion or (2) marked for identification at a trial or hearing or offered in evidence, whether or not admitted, is subject to inspection, notwithstanding that the record otherwise would not have been subject to inspection under the Rules in this Chapter.

Cross reference: See Rule 2-516.

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

(d) Fees

(1) In this Rule, "reasonable fee" means a fee that bears a reasonable relationship to the actual or estimated costs incurred or likely to be incurred in providing the requested access.

(2) Unless otherwise expressly permitted by the Rules in this Chapter, a custodian may not charge a fee for providing

access to a judicial record that can be made available for inspection, in paper form or by electronic means, with less than two hours of effort by the custodian or other judicial employee.

(3) A custodian may charge a reasonable fee if two hours or more of effort are required to provide the requested access. In determining the level of effort required, the custodian may consolidate separate requests by the same or affiliated requesters for similar or affiliated categories of records filed within a close proximity of time, as determined by the custodian.

Committee Note: The intent of subsection (d)(3) is to deal with the situation in which a requester or affiliated requesters seek a significant number of records or parts of records that would take far more than two hours to locate and produce and arbitrarily break up the request into multiple separate smaller requests in order to avoid having to pay what would be a legitimate fee for the overall effort required. When this becomes apparent, the custodian may aggregate the separate requests and treat them as a single request for all of the records. This authority is not intended to curtail the ability of the custodian and the requester to negotiate in good faith a narrowing of the request.

(4) The custodian may charge a reasonable fee for making or supervising the making of a copy or printout of a judicial record.

(5) The custodian may waive a fee if, after consideration of the ability of the person requesting access to pay the fee and other relevant factors, the custodian determines that the waiver is in the public interest.

(6) A dispute concerning the assessment of a reasonable fee shall be determined in accordance with Rule 16-932.

Cross reference: See Code, Courts Article, §§ 7-202 and 7-301.

Source: This Rule is derived from former Rule 16-903 (2019).

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

ADD new Rule 16-905, as follows:

Rule 16-905. COPIES

(a) Entitlement

Except as otherwise provided by the Rules in this Chapter or by other law, a person entitled to inspect a judicial record is entitled to have a copy or printout of the record. The copy or printout may be in paper form or, subject to Rules 16-917 and 16-918 and the Rules in Title 20, in electronic form. A judge's signature may be redacted or otherwise withheld on a copy.

(b) Certified Copy

To the extent practicable and unless the court determines otherwise for good cause, a certified copy of a judicial record filed with the clerk shall be made by any authorized clerk of the court in which the case was filed or to which it was transferred.

Committee note: The court may direct the custodian not to certify a copy of a case record upon a determination that the certified copy may be used for an improper purpose.

(c) Uncertified Copy

Copies or printouts in paper form that are obtained from a terminal or kiosk located in a courthouse are uncertified.

(d) Metadata

(1) Definition

(A) In this Rule, "metadata" means information generally not visible when an electronic document is printed that describes the history, tracking, or management of the electronic document, including information about data in the electronic document that describes how, when, or by whom the data was collected, created, accessed, or modified and how the data is formatted.

(B) Metadata does not include (i) a spreadsheet formula, (ii) a database field, (iii) an externally or internally linked file, or (iv) a reference to an external file or a hyperlink.

(2) Removal

A custodian may remove metadata from an electronic document before providing the electronic document to an applicant by using a software program or function or converting the electronic document into a different format.

(e) Conditions

The custodian may set a reasonable time schedule to make copies or printouts and may charge a reasonable fee for the copy or printout.

Source: This Rule is derived in part from former Rule 16-904 (2019) and in part from Code, General Provisions Article, § 4-205.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

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

ADD new Rule 16-911, as follows:

Rule 16-911. REQUIRED DENIAL OF INSPECTION - IN GENERAL

(a) When Inspection Would be Contrary to Federal Law, Certain Maryland Law, Maryland Rules, or Court Order

A custodian shall deny inspection of a judicial record or any part of a judicial record if inspection would be contrary to:

(1) the Constitution of the United States, a Federal statute, or a Federal regulation adopted under a Federal statute and that has the force of law;

(2) the Maryland Constitution;

(3) a provision of the PIA that is made applicable to judicial records by the Rules in this Chapter;

(4) a Rule adopted by the Court of Appeals; or

(5) an order entered by the court having custody of the judicial record or by any higher court having jurisdiction over

(A) the judicial record,

(B) the custodian of the judicial record, or

(C) the person seeking inspection of the judicial record.

(b) When Inspection Would be Contrary to Other Maryland Statutes

Unless inspection is otherwise permitted by the Rules in this Chapter, a custodian shall deny inspection of a judicial record or any part of a judicial record if inspection would be contrary to a statute enacted by the Maryland General Assembly, other than the PIA, that expressly or by necessary implication applies to a judicial record.

(c) When Record is Subject to Lawful Privilege or Confidentiality

Unless otherwise ordered by a court, a custodian shall deny inspection of a judicial record or part of a judicial record that, by law, is confidential or is subject to an unwaived lawful privilege.

(d) Judicial or other Professional Work Product

A custodian shall deny inspection of a judicial record or part of a judicial record that contains judicial or other professional work product.

(e) Record Subject to Expungement Order

A custodian shall deny inspection of a judicial record that has been ordered expunged.

(f) Security of Judicial Facilities, Equipment, Operations, Personnel

A custodian shall deny inspection of:

(1) a continuity of operations plan; and

(2) judicial records or parts of judicial records that consist of or describe policies, procedures, directives, or designs pertaining to the security or safety of judicial facilities, equipment, operations, or personnel, or of the members of the public while in or in proximity to judicial facilities or equipment.

Cross reference: For an example of a statute enacted by the General Assembly other than the PIA that restricts inspection of a case record, see Code, Criminal Procedure Article, Title 10, Subtitle 3.

Committee note: Subsection (a)(5) of this Rule allows a court to seal a record or otherwise preclude its disclosure. So long as a judicial record is under seal or subject to an order precluding or limiting disclosure, it may not be disclosed except in conformance with the court's order. The authority to seal a judicial record must be exercised in conformance with the general policy of these Rules and with supervening standards enunciated in decisions of the United States Supreme Court and the Maryland Court of Appeals. See *Baltimore Sun Co. v. Colbert*, 323 Md. 290 (1991).

Source: This Rule is derived from former Rule 16-906 (2019).

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

ADD new Rule 16-912, as follows:

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

(a) Notice Records

Except as otherwise provided by statute, a custodian may not deny inspection of a notice record that has been recorded and indexed by the clerk.

Cross reference: See Code, Real Property Article, § 3-111, precluding certain personal information from being included in recordable documents after June 1, 2010 and providing for the redaction of such information if included.

(b) Special Judicial Unit Records

(1) Generally

Subject to unwaived lawful privileges and subsection (b)(2) of this Rule, where a requested record falls within the confidentiality rules applicable to a special judicial unit, access to the record is governed by the confidentiality Rules applicable to that unit.

(2) Exception

Access to administrative records of special judicial units that are not subject to a confidentiality provision in the Rules governing the unit shall be governed by Rule 16-913.

Cross reference: See Rule 18-407, applicable to records and proceedings of the Commission on Judicial Disabilities, the Judicial Inquiry Board, and Investigative Counsel; Rule 19-105, applicable to the State Board of Law Examiners, the Accommodation Review Committee, and the character committees; and Rule 19-707, applicable to records and proceedings of the Attorney Grievance Commission and Bar Counsel.

(c) License Records

(1) Business License Records

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

(2) Marriage License Records

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

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

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

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

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

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ADD new Rule 16-913, as follows:

Rule 16-913. ACCESS TO ADMINISTRATIVE RECORDS

(a) Records Pertaining to Jurors

(1) A custodian shall deny inspection of an administrative record used by a jury commissioner in the jury selection process, except (i) as otherwise ordered by a trial judge in connection with a challenge under Code, Courts Article, §§ 8-408 and 8-409; or (ii) as provided in subsections (a)(2) and (a)(3) of this Rule.

(2) Upon request, the trial judge may authorize a custodian to disclose the names and zip codes of the sworn jurors contained on a jury list after the jury has been impaneled and sworn.

Cross reference: See Rule 4-312 (d).

(3) After a source pool of qualified jurors has been emptied and re-created in accordance with Code, Courts Article, § 8-207, and after every individual selected to serve as a juror from that pool has completed the individual's service, a trial judge,

upon request, shall disclose the name, zip code, age, gender, education, occupation, marital status, and spouse's occupation of each person whose name was selected from that pool and placed on a jury list, unless, in the interest of justice, the trial judge determines that this information should remain confidential in whole or in part.

(4) A jury commissioner may provide jury lists to the Health Care Alternative Dispute Resolution Office as required by that Office in carrying out its duties, subject to any regulations of that office to ensure against improper dissemination of juror data.

Cross reference: See Rule 4-312 (d).

(5) At intervals acceptable to the jury commissioner, a jury commissioner shall provide to the State Board of Elections and State Motor Vehicle Administration data about prospective, qualified, or sworn jurors needed to correct erroneous or obsolete information, such as that related to a death or change of address, subject to the Board's and Administration's adoption of regulations to ensure against improper dissemination of juror data.

(b) Personnel Records - Generally

(1) Not Open to Inspection

Except as otherwise permitted by the PIA or by this Rule, a custodian shall deny to a person, other than the person

who is the subject of the record, inspection of the personnel records of an employee of the court, other judicial agency, or special judicial unit, or of an individual who has applied for employment with the court, other judicial agency, or special judicial unit.

(2) Open to Inspection

The following records or information are not subject to this exclusion and, unless sealed or otherwise shielded pursuant to the Maryland Rules or other law, shall be open to inspection:

(A) the full name of the individual;

(B) the date of the application for employment and the position for which application was made;

(C) the date employment commenced;

(D) the name, location, and telephone number of the court, other judicial agency, or special judicial unit to which the individual has been assigned;

(E) the current and previous job titles and salaries of the individual during employment by the court, other judicial agency, or special judicial unit;

(F) the name of the individual's current supervisor;

(G) the amount of monetary compensation paid to the individual by the court, other judicial agency, or special judicial unit and a description of any health, insurance, or

other fringe benefit that the individual is entitled to receive from the court or judicial agency;

(H) unless disclosure is prohibited by law, other information authorized by the individual to be released; and

(I) a record that has become a case record.

Committee note: Although a judicial record that has become a case record is not subject to the exclusion under section (d) of this Rule, it may be subject to sealing or shielding under other Maryland Rules or law.

(c) Personnel Records – Retirement

Unless inspection is permitted under the PIA or the record has become a case record, a custodian shall deny inspection of a retirement record of an employee of the court, other judicial agency, or special judicial unit.

(d) Administrative Record Prepared by or for a Judge or Other Judicial Personnel

A custodian shall deny inspection of an administrative record that is:

- (1) prepared by or for a judge or other judicial personnel;
- (2) either (A) purely administrative in nature but not a local rule, policy, or directive that governs the operation of the court or (B) a draft of a document intended for consideration by the author or others and not intended to be final in its existing form; and

(3) not filed with the clerk and not required to be filed with the clerk.

Cross reference: For judicial or other professional work product, see Rule 16-911 (d).

(e) Educational and Training Materials

A custodian shall deny inspection of judicial records prepared by, for, or on behalf of a unit of the Maryland Judiciary for use in the education and training of Maryland judges, magistrates, clerks, and other judicial personnel.

(f) Procurement Records

Inspection of judicial records in the form of procurement documents shall be governed exclusively by the Procurement Policy of the Judiciary approved by the Chief Judge of the Court of Appeals and posted on the Judiciary website. This Rule applies whether the procurement is funded by the federal, State, or local government.

(g) Interagency and Intra-agency Memoranda

A custodian may deny inspection of all or any part of an interagency or intra-agency letter or memorandum that would not be available by law to a private party in litigation with the custodian or the unit in which the custodian works.

(h) Problem-Solving Court Program Records

A custodian shall deny inspection of all or any part of a judicial record maintained in connection with a participant in a

problem-solving court program operating pursuant to Rule 16-207 that is not contained in a case record.

Committee note: Problem-solving court programs often provide for professionals in various fields working with a judge or other judicial official as a team to deal with participants in the program. That may result in the judge or other judicial official coming into possession of documents that identify the participant and contain sensitive information about the participant – health information, school records, drug testing, psychological evaluations. Some of that information may ultimately end up as a case record, and, if it does, public inspection will be determined by the Rules governing access to case records. To the extent the information does not become a case record but is used in private discussions among the therapy team, it will be shielded under this Rule, even though it also may be shielded under other Rules as well. Subsection (h) does not apply to judicial records regarding the creation, governance, or evaluation of problem-solving court programs that do not identify participants.

Source: This Rule is derived in part from former Rule 16-905 (2019) and in part from Code, General Provisions Article, § 4-344. See also *Stromberg Metal Works, Inc. v. University of Maryland*, 382 Md. 151, 163 (2004).

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ADD new Rule 16-914, 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:

(a) All case records filed in the following actions involving
children:

(1) Actions filed under Title 9, Chapter 100 of the Maryland
Rules for:

(A) adoption;

(B) guardianship; or

(C) revocation of a consent to adoption or guardianship
for which there is no pending adoption or guardianship
proceeding in that county.

(2) Delinquency, child in need of assistance, child in need
of supervision, and truancy actions in Juvenile Court, except
that, if a hearing is open to the public pursuant to Code,
Courts Article, § 3-8A-13 (f), the name of the respondent and

the date, time, and location of the hearing are open to inspection unless the record was ordered expunged.

Committee note: In most instances, the "child" or "children" referred to in this section will be minors, but, as Juvenile Court jurisdiction extends until a child is 21, in some cases, the children legally may be adults.

(b) Case records pertaining to petitions for relief from abuse filed pursuant to Code, Family Law Article, § 4-504, which shall be sealed until the earlier of service or denial of the petition.

(c) Case records shielded pursuant to Code, Courts Article, § 3-1510 (peace orders), Code, Family Law Article, § 4-512 (domestic violence protective orders), or Code, Public Safety Article, § 5-602 (c) (extreme risk protective orders).

(d) In any action or proceeding, a record created or maintained by an agency concerning child abuse or neglect that is required by statute to be kept confidential.

Committee note: Statutes that require child abuse or neglect records to be kept confidential include Code, Human Services Article, §§ 1-202 and 1-203 and Code, Family Law Article, § 5-707.

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

Committee note: Most filings in guardianship actions are likely to be permeated with financial, medical, or psychological

information regarding the minor or disabled person that ordinarily would be sealed or shielded under other Rules. Rather than require custodians to pore through those documents to redact that kind of information, this Rule shields the documents themselves subject to Rule 16-934, which permits the court, on a motion and for good cause, to permit inspection of case records that otherwise are not subject to inspection. There may be circumstances in which that should be allowed. The guardian, of course, will have access to the case records and may need to share some of them with third persons in order to perform his or her duties, and this Rule is not intended to impede the guardian from doing so. Public access to the docket entries and to orders entered under Rule 10-108 will allow others to be informed of the guardianship and to seek additional access pursuant to Rule 16-934.

(f) The following case records in criminal actions or proceedings:

(1) A case record that has been ordered expunged pursuant to Rule 4-508.

(2) The following case records pertaining to search warrants:

(A) The warrant, application, and supporting affidavit, prior to execution of the warrant and the filing of the records with the clerk.

(B) Executed search warrants and all papers attached thereto filed pursuant to Rule 4-601, except as authorized by a judge under that Rule.

(3) The following case records pertaining to an arrest warrant:

(A) A case record pertaining to an arrest warrant issued under Rule 4-212 (d) and the charging document upon which the

warrant was issued until the conditions set forth in Rule 4-212 (d) (3) are satisfied.

(B) Except as otherwise provided in Code, General Provisions Article, § 4-316, a case record pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation and the charging document upon which the arrest warrant was issued.

(4) Unless entered into evidence at a hearing or trial or otherwise ordered by the court, a case record pertaining to (i) a pen register or trace device applied for or ordered pursuant to Rule 4-601.1, (ii) an emergency order applied for or entered pursuant to Rule 4-602, (iii) the interception of wire or oral communications applied for or ordered pursuant to Rule 4-611, or (v) an order for electronic device location information applied for or entered pursuant to Rule 4-612.

(5) A case record maintained under Code, Courts Article, § 9-106, of the refusal of an individual to testify in a criminal action against the individual's spouse.

(6) Subject to Rules 16-902 (c) and 4-341, a presentence investigation report prepared pursuant to Code, Correctional Services Article, § 6-112.

(7) Except as otherwise provided by law, a case record pertaining to a criminal investigation by (A) a grand jury, (B) a State's Attorney pursuant to Code, Criminal Procedure

Article, § 15-108, (C) the State Prosecutor pursuant to Code, Criminal Procedure Article, § 14-110, or (D) the Attorney General when acting pursuant to Article V, § 3 of the Maryland Constitution or other law or a federal law enforcement agency.

Cross Reference: See Code, Criminal Procedure Article §§ 1-203.1, 9-101, 14-110, and 15-108, and Rules 4-612 and 4-643 dealing, respectively, with electronic device location, extradition warrants, States' Attorney, State Prosecutor, and grand jury subpoenas, and Code, Courts Article, §§ 10-406, 10-408, 10-4B-02, and 10-4B-03 dealing with wiretap and pen register orders. See also Code, Criminal Procedure Article, §§ 11-110.1 and 11-114 dealing with HIV test results.

Committee note: Although this Rule shields only case records pertaining to a criminal investigation, there may be other laws that shield other kinds of judicial records pertaining to such investigations. This Rule is not intended to affect the operation or effectiveness of any such other law.

(8) A case record required to be shielded by Code, Criminal Procedure Article, Title 10, Subtitle 3 (Incompetency and Criminal Responsibility).

Cross reference: See Code, Criminal Law Article, § 5-601.1 governing confidentiality of judicial records pertaining to a citation issued for a violation of Code, Criminal Law Article, § 5-601 involving the use or possession of less than 10 grams of marijuana.

(g) A transcript or an audio, video, or digital recording of any court proceeding that was closed to the public pursuant to Rule, order of court, or other law.

(h) Subject to the Rules in Title 16, Chapter 500, backup audio recordings, computer disks, and notes of a court reporter that have not been filed with the clerk.

(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.

(j) A case record that consists of the federal, state, or local income tax return of an individual.

(k) A case record that:

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

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

(l) A case record that consists of a financial statement filed pursuant to Rule 9-202, a Child Support Guideline Worksheet filed pursuant to Rule 9-206, or a Joint Statement of Marital and Non-marital Property filed pursuant to Rule 9-207. Cross reference: See also Rule 9-203.

(m) A document required to be shielded under Rule 20-203 (e) (1).

(n) An unredacted document filed pursuant to Rule 1-322.1 or Rule 20-203 (e) (2).

(o) A parenting plan or joint statement prepared and filed pursuant to Rules 9-401.1 and 9-401.2.

Source: This Rule is derived in part from former Rule 16-907 (2019).

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ADD new Rule 16-915, as follows:

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

Except as otherwise provided by law, the Rules in this Chapter, or court order, a custodian shall deny inspection of a case record or a part of a case record that would reveal:

(a) The name, address, telephone number, e-mail address, or place of employment of an individual who reports the abuse of a vulnerable adult pursuant to Code, Family Law Article, § 14-302.

(b) Except as provided in Code, General Provisions Article, § 4-331, the home address, telephone number, and private e-mail address of an employee of the State or a political subdivision of the State.

(c) The address, telephone number, and e-mail address of a victim or victim's representative in a criminal action, juvenile delinquency action, or an action under Code, Family Law Article, Title 4, Subtitle 5, who has requested that such information be shielded. Such a request may be made at any time, including in a

victim notification request form filed with the clerk or a request or petition filed under Rule 16-934.

(d) Any part of the Social Security or federal tax identification number of an individual.

(e) A trade secret, confidential commercial information, confidential financial information, or confidential geological or geophysical information.

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

(g) The address, telephone number, and e-mail address of a payee contained in a Consent by the payee filed pursuant to Rule 15-1302 (c) (1) (F).

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

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

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ADD new Rule 16-916, as follows:

Rule 16-916. CASE RECORDS - PROCEDURES FOR COMPLIANCE

(a) Duty of Person Filing Record

(1) A person who files or authorizes the filing of a case record shall inform the custodian, in writing, whether, in the person's judgment, the case record, any part of the case record, or any information contained in the case record is confidential and not subject to inspection under the Rules in this Chapter.

(2) The custodian is not bound by the person's determination that a case record, any part of a case record, or information contained in a case record is not subject to inspection and shall permit inspection of a case record unless, in the custodian's independent judgment, subject to review as provided in Rule 16-932, the case record is not subject to inspection.

(3) Notwithstanding subsection (a)(2) or (b)(2) of this Rule, a custodian may rely on a person's failure to advise that a case record, part of a case record, or information contained in a case record is not subject to inspection, and, in default

of such advice, the custodian is not liable for permitting inspection of the case record, part of the case record, or information, even if the case record, part of the case record, or information in the case record is not subject to inspection under the Rules in this Chapter.

Cross reference: See Rule 1-322.1 and 20-201.

(b) Duty of Clerk

(1) In conformance with procedures established by administrative order of the Chief Judge of the Court of Appeals, the clerk shall make a reasonable effort, promptly upon the filing or creation of a case record, to shield any information that is not subject to inspection under the Rules in this Chapter and that has been called to the attention of the custodian by the person filing or authorizing the filing of the case record.

Cross reference: See Rule 20-203.

(2) Persons who filed or authorized the filing of a case record filed prior to July 1, 2016 may advise the custodian in writing whether any part of the case record is not subject to inspection. The custodian is not bound by that determination. The custodian shall make a reasonable effort, as time and circumstances allow, to shield from those case records any information that is not subject to inspection under the Rules in this Chapter and that has been called to the attention of the

custodian. The duty under this subsection is subordinate to all other official duties of the custodian.

Committee note: In subsections (a)(1) and (b)(2) of this Rule, the requirement that a custodian be notified "in writing" is satisfied by an electronic filing if permitted by Rule 1-322 or required by the Rules in Title 20.

Source: This Rule is derived from former Rule 16-913 (2019).

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ADD new Rule 16-917, as follows:

Rule 16-917. CONVERSION OF PAPER RECORDS

(a) Construction of Rule

This Rule is subject to and shall be construed harmoniously with the other Rules in this Chapter, the Rules in Title 20, other applicable law, and administrative orders of the Chief Judge of the Court of Appeals.

Cross reference: Remote access to case records by the general public is governed predominantly by the CaseSearch program. See Rules 20-102 (a) (2) and 20-106 regarding the conversion of paper records under MDEC.

(b) Limiting Access to Judicial Records

A custodian may limit access to judicial records in electronic form to the manner, form, and program that the electronic system used by the custodian, without modification, is capable of providing.

(c) Facilitating Access to Judicial Records

If a custodian, court, or other judicial agency converts paper judicial records into electronic judicial records or otherwise creates new electronic records, databases, or computer

systems, it shall, to the extent practicable, design those records, databases, or systems to facilitate access to judicial records that are open to inspection under the Rules in this Chapter.

Cross reference: See Rule 16-904 (e).

(d) Current Programs Providing Electronic Access to Databases

Any electronic access to a database of judicial records that is provided by a court or other judicial agency and is in effect on July 1, 2016 may continue in effect, subject to review by the SCA for consistency with the Rules in this Chapter. After review, the SCA may recommend to the Chief Judge of the Court of Appeals any changes that the SCA concludes are necessary to make the electronic access consistent with the Rules in this Chapter.

Source: This Rule is derived from former Rule 16-909 (2019).

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ADD new Rule 16-918, as follows:

Rule 16-918. ACCESS TO ELECTRONIC RECORDS

(a) In General

Subject to the other Rules in this Title and in Title 20 and other applicable law, a judicial record that is kept in electronic form is open to inspection to the same extent that the record would be open to inspection in paper form.

(b) Denial of Access

(1) Restricted Information

A custodian shall take reasonable steps to prevent access to restricted information, as defined in Rule 20-101 (r), that the custodian is on notice is included in an electronic judicial record.

(2) Certain Identifying Information

(A) In General

Except as provided in subsection (b)(2)(B) of this Rule, a custodian shall prevent remote access to the name,

address, telephone number, date of birth, e-mail address, and place of employment of a victim or nonparty witness in:

(i) a criminal action,

(ii) a juvenile delinquency action under Code, Courts Article, Title 3, Subtitle 8A,

(iii) an action under Code, Family Law Article, Title 4, Subtitle 5 (domestic violence), or

(iv) an action under Code, Courts Article, Title 3, Subtitle 15 (peace order).

(B) Exception

Unless shielded by a protective order, the name, office address, office telephone number and office e-mail address, if any, relating to law enforcement officers, other public officials or employees acting in their official capacity, and expert witnesses, may be remotely accessible.

(C) Notice to Custodian

A person who places in a judicial record identifying information relating to a witness shall give the custodian written or electronic notice that such information is included in the record, where in the record that information is contained, and whether that information is not subject to remote access under this Rule, Rule 1-322.1, Rule 20-201, or other applicable law. Except as federal law may otherwise provide, in

the absence of such notice a custodian is not liable for allowing remote access to the information.

(c) Availability of Computer Terminals

Clerks shall make available at convenient places in the courthouses computer terminals or kiosks that the public may use to access judicial records and parts of judicial records that are open to inspection, including judicial records as to which remote access is otherwise prohibited. To the extent authorized by administrative order of the Chief Judge of the Court of Appeals, computer terminals or kiosks may be made available at other facilities for that purpose.

Cross reference: Rule 20-109.

Committee note: Although use of a courthouse computer terminal or kiosk is free of charge, the cost of obtaining a copy of the records is governed by Rule 16-905.

Source: This Rule is derived from former Rule 16-910 (2019).

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ADD new Rule 16-919, as follows:

Rule 16-919. CREATION OF NEW JUDICIAL RECORDS

(a) Scope

This Rule applies to requests for the creation of a new judicial record from (1) electronic databases maintained by a judicial agency or special judicial unit or (2) a reformatting of existing judicial records.

Cross reference: See Rule 16-918 for electronic access to existing electronic records.

(b) Definition

In this Rule, "reformatting" includes indexing, compilation, programming, or reorganization of existing judicial records, documents, or information.

(c) Generally

(1) Except as required by other law, a custodian, judicial agency, or special judicial unit is not required to create a new judicial record or reformat existing judicial records not necessary to be created or reformatted for judicial functions.

(2) The removal, deletion, or redaction from a judicial record of information not subject to inspection under the Rules in this Chapter in order to make the judicial record subject to inspection does not create or reformat a new record within the meaning of this Rule.

(3) If a custodian, judicial agency, or special judicial unit (A) reformats existing judicial records or other documents or information to create a new judicial record, or (B) comes into possession of a new judicial record created by another from the reformatting of other judicial records, documents or information, and there is no basis under the Rules in this Chapter to deny inspection of that new judicial record or some part of that judicial record, the new judicial record or part for which there is no basis to deny inspection shall be subject to inspection.

(d) Request

A person who desires to obtain electronic information pursuant to this Rule shall submit to the custodian a written request that describes with particularity the information that is sought. If there is no known custodian, the request shall be made to the SCA, who shall designate a custodian.

(e) Review and Response

(1) Generally

The custodian shall review the request, may consult with other employees, legal counsel, or technical experts, and, within 30 business days after receipt of the request, shall take one of the following actions:

(A) Approve the request to the extent that the information requested is subject to inspection under the Rules in this Chapter or Title 20 and that will not directly or indirectly impose significant fiscal or operational burdens on any court, judicial agency, or special judicial unit.

(B) Conditionally approve a request to the extent that the information requested is subject to inspection under the Rules in this Chapter or Title 20 but will directly or indirectly impose significant and reasonably calculable fiscal or operational burdens on a court, judicial agency, or special judicial unit, on condition of the requester's prepayment in full of all additional expenses reasonably expected to be incurred as a result of the approval.

(C) Deny the request and state the reason for the denial if or to the extent that:

(i) the request seeks inspection of information from judicial records that is not subject to inspection under the Rules in this Chapter or Title 20;

(ii) the requester fails or refuses to satisfy a condition imposed under subsection (e)(1)(B) of this Rule;

(iii) granting the request would impose significant and reasonably calculable operational burdens on a court, judicial agency, or special judicial unit that cannot be overcome merely by prepayment of additional expenses under subsection (e)(1)(B) of this Rule or any other practicable condition; or

(iv) the request directly or indirectly imposes a significant but not reasonably calculable fiscal or operational burden on any court, judicial agency, or special judicial unit.

(2) Considerations

In determining whether to grant or deny the request, the custodian shall consider the following, to the extent relevant:

(A) whether the data processing system, operational system, electronic filing system, or manual or electronic storage and retrieval system used by or planned for the court, judicial agency, or special judicial unit that maintains the judicial records can currently provide the inspection requested in the manner requested and in conformance with the Rules in this Chapter, and, if not, any changes or effort required to enable those systems to provide that inspection;

(B) whether any changes to the data processing, operational, electronic filing, or storage or retrieval systems used by or planned for other courts, other judicial agencies, or other special judicial units in the State would be required in order to avoid undue disparity in the ability of those courts,

agencies, or units to provide equivalent inspection of judicial records maintained by them;

(C) any other fiscal, personnel, or operational impact of the proposed program on the court, other judicial agency, or special judicial unit or on the State judicial system as a whole;

(D) whether there is a substantial possibility that information retrieved through the program may be used for any fraudulent or other unlawful purpose or may result in the dissemination of inaccurate or misleading information concerning judicial records or individuals who are the subject of judicial records and, if so, whether there are any safeguards to prevent misuse of disseminated information and the dissemination of inaccurate or misleading information; and

(E) any other consideration that the custodian finds relevant.

(3) Notice of Denial

If the custodian denies the request, the custodian shall give written notice to the requester and summarize the reasons for the denial.

Source: This Rule is derived from former Rule 16-909 (f) (2019).

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DIVISION 3. PROCEDURES - REQUESTS AND RESPONSES

ADD new Rule 16-921, as follows:

Rule 16-921. EXCLUSIVE PROCEDURES FOR REQUESTING ACCESS

Except as provided in Rule 16-919, the Rules in this Division 3 constitute the exclusive procedures for requesting inspection of judicial records.

Source: This Rule is new.

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DIVISION 3. PROCEDURES - REQUESTS AND RESPONSES

ADD new Rule 16-922, as follows:

Rule 16-922. REQUEST

(a) Identification of Records

A request to inspect a judicial record shall identify the record in sufficient detail to permit the custodian to locate the record efficiently.

(b) Form of Request

(1) Case, Notice, and License Records

A request to inspect a case record, a license record, or a notice record may be made in person at the clerk's office, electronically in accordance with the Rules in Title 20, or in paper form. For good cause, the custodian may require a request to be in writing and to state more clearly the document being requested. If the request is not made in person, it shall be in writing.

(2) Administrative and Special Judicial Unit Records

A request to inspect an administrative or special judicial unit record shall be in writing and may be made electronically or in paper form addressed to the custodian.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

DIVISION 3. PROCEDURES - REQUESTS AND RESPONSES

ADD new Rule 16-923, as follows:

Rule 16-923. DECISION ON REQUEST

(a) Generally

Subject to Rule 16-922 and section (e) of this Rule, the custodian shall grant or deny a request promptly, but not later than 30 days after receiving the request.

(b) Request Submitted to Non-Custodian

Subject to section (e) of this Rule, if the individual to whom the request is submitted is not the custodian of the judicial record, the individual, within 10 business days after receiving the request, shall give the requestor (1) notice of that fact, and (2) if known, the name of the custodian and the location or possible location of the judicial record.

Cross reference: See Code, General Provisions Article, § 4-202(c).

(c) Procedure for Approval

A custodian who approves a request for inspection shall produce the judicial record promptly or within a reasonable

period that is needed to retrieve the judicial record, but not more than 45 days after receipt of the request.

(d) Procedure for Denial

A custodian who denies a request for inspection shall (1) promptly notify the requestor of the denial; (2) within 10 business days of the denial give the requestor a written statement that includes the reasons and legal authority for the denial; and (3) allow inspection of any part of the judicial record that is subject to inspection and is reasonably severable.

(e) Extension of Custodian's Time to Respond

With notice to the requestor and for good cause, the custodian may extend time limits imposed by this Rule for not more than 30 days.

Cross reference: See Code, General Provisions Article, § 4-203.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

DIVISION 3. PROCEDURES - REQUESTS AND RESPONSES

ADD new Rule 16-924, as follows:

Rule 16-924. CONDITIONS ON GRANTING REQUEST

(a) Generally

Except as otherwise permitted by the Maryland Rules, other applicable law, or court order entered for good cause, a custodian may not condition the grant of a request for inspection on the identity of the requestor, any organizational or other affiliation of the requestor, or a disclosure by the requestor of the purpose of the request.

(b) Exceptions

This Rule does not preclude a custodian from considering the identity or organizational or other affiliation of a requestor or the purpose of the request if the requestor has requested a waiver of allowable fees or that information is relevant to a determination of whether, under other Rules or applicable law, the requestor is not entitled to inspect the requested judicial record or some part of it. A custodian may

request the identity of a requestor for the purpose of contacting the requestor.

Cross reference: Compare Code, General Provisions Article, § 4-204.

Source: This Rule is new.

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

ADD new Rule 16-931, as follows:

Rule 16-931. EXCLUSIVE METHOD TO RESOLVE DISPUTES OVER ACCESS

Except as provided in Rule 16-919, the Rules in this Division constitute the exclusive methods of resolving disputes regarding access to judicial records. The provisions of Code, General Provisions Article, Title 4, Subtitles 1A and 1B and § 4-362 are not applicable.

Committee note: As noted in Rule 16-902 (a), pursuant to its Constitutional Rule-making authority, the Court of Appeals has created a dispute resolution process that is efficient and credible and relies on the administrative expertise of judicial officials, with ultimate judicial review. There is no need in that process for actions for monetary damages, costs, and attorneys' fees against custodians.

Source: This Rule is new.

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

ADD new Rule 16-932, as follows:

Rule 16-932. ADMINISTRATIVE REVIEW

(a) Definition

In this Rule, "administrative judge" includes the chief judge of an appellate court or an orphans' court.

(b) Generally

(1) This Rule does not apply to disputes concerning a judicial record of a Special Judicial Unit. Review of a decision involving a judicial record of a Special Judicial Unit shall be pursuant to Rule 16-933.

(2) Except as provided in section (d) of this Rule, if a custodian denies a request for the creation or inspection of a judicial record, fails to respond to such a request within the time allowed by these Rules for a response, or proposes to charge a fee for producing the record that the requester believes is inappropriate, the requester may file a request for administrative review pursuant to this Rule. A person aggrieved by the custodian's decision is not required to seek

administrative review under this Rule but may proceed directly under Rule 19-933.

(3) Time; Form; Service; Content

The request for review pursuant to this Rule shall be filed within 30 days after the custodian's final decision. It shall be in writing and served on the custodian. The request shall identify the judicial record requested and shall set forth with particularity the reasons why the custodian's decision was incorrect.

(4) Response; Burden

The custodian shall file a written response within 30 business days after service of the request and shall have the burden of (A) sustaining the decision to deny inspection, production, or creation of the requested judicial record or to delay a decision on the request, and (B) justifying the proposed fee, if that is in dispute.

(c) Dispute Over Case, Notice, or License Record

(1) Where Filed

If the dispute concerns a case record, notice record, or license record filed in a court, the request shall be filed in the court where the judicial record was filed and shall be addressed to the administrative judge of that court.

(2) Docketing; Fee Waived

The clerk shall docket the request as a miscellaneous filing for administrative review by the administrative judge and not as a judicial proceeding. No fee shall be charged for filing or processing the request.

(3) Proceeding before Administrative Judge

(A) If the dispute is whether the requested record is subject to inspection, the administrative judge may direct the custodian to produce the judicial record for in camera review.

(B) Unless there is a genuine dispute of material fact that indicates the need for an evidentiary hearing, the administrative judge may decide the matter based on the written request, response, and, if produced for in camera inspection, inspection of the judicial record, without a hearing.

(C) The administrative judge shall give expedited consideration of the matter and render a decision within 30 business days after receiving the custodian's response, or if a hearing is held, within 30 business days after the conclusion of the hearing. The decision shall be in the form of a written administrative order and shall constitute the final administrative decision in the matter.

(d) Dispute over Administrative Record of Which a Judge Is Custodian

If the dispute is over an administrative record of which a judge, other than an administrative judge, is the custodian,

the request for administrative review shall be addressed to the administrative judge of the court. If the dispute is over an administrative record of which the administrative judge is the custodian, there shall be no administrative review, but the requester may seek judicial review pursuant to Rule 16-933.

Committee note: When acting solely in the capacity of custodian, the judge's decision is an administrative, not a judicial one, and is subject to review by the administrative judge, who has general supervision over the judges of the court. See Rule 16-105(b)(1). Where the custodial judge is the administrative judge, however, the problem of administrative review is more difficult. Of the various options considered, the Court has decided to allow further review to be through a judicial proceeding pursuant to Rule 16-933.

(e) Creation of Judicial Records; Other Administrative Records; Proposed Fees

If the dispute is over the creation of a judicial record pursuant to Rule 16-919, the inspection of an administrative record other than one subject to section (d) of this Rule, or a proposed fee, the request shall be filed with the SCA who, personally or through a designee, shall proceed in accordance with the procedures set forth in subsection (c)(3) of this Rule and make the final administrative decision.

Source: This Rule is new.

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

ADD new Rule 16-933, as follows:

Rule 16-933. DECLARATORY AND INJUNCTIVE RELIEF

(a) Generally

(1) Right to File

If a custodian or SCA denies a request for inspection of a judicial record or for the creation of a new judicial record, fails to respond to such a request within the time allowed by these Rules for a response, or proposes to charge a fee for the inspection or creation of judicial records that the requester believes is inappropriate, the requester may file a complaint for declaratory and injunctive relief pursuant to the Maryland Declaratory Judgment Act.

(2) Court costs for the action shall be waived.

(3) Failure to seek administrative review under Rule 16-932 shall not be grounds to dismiss the action.

(b) Where Filed; Service

The complaint shall be filed in the circuit court for the county in which the custodian is employed and shall be served on the custodian in accordance with Rule 2-121.

(c) Response

The custodian shall file a response within 30 days after service of the complaint and summons.

(d) Expedited Treatment

The court shall schedule a hearing promptly, if one is requested, and give expedited treatment to the action.

(e) Burden

The custodian or SCA shall have the burden of (1) sustaining the decision that the custodian or SCA made to deny inspection or production of the requested information or judicial record, or to delay a decision on the request, and (2) justifying the proposed fee, if that is in dispute.

(f) In Camera Inspection

The court may direct the custodian to produce a copy of the judicial record at issue for in camera inspection to determine whether the record or any part of it may be withheld pursuant to these Rules.

(g) Order

If the court finds that the requester has a right to inspect all or any of the record or to have a new judicial record created, it shall enter an order (1) directing the

custodian to produce or create the record or the part of the record subject to inspection for inspection by the requester within a specified time, and (2) if in issue, determine the appropriate fee for producing or creating the record.

Otherwise, the court shall dismiss the complaint. Willful disobedience of an order issued under this Rule may be enforced by contempt. No money damages or attorneys' fees may be awarded to any party.

Source: This Rule is in part derived from former Rule 16-914 (2019) and is in part new.

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

ADD new Rule 16-934, as follows:

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

(a) Purpose; Scope

(1) Generally

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

(2) Exception

This Rule does not apply to, and does not authorize a court to permit inspection of, a case record where inspection would be contrary to the United States or Maryland Constitution, a Federal statute or regulation that has the force of law, a Maryland statute other than the PIA, or to a judicial record

that is not subject to inspection under Rule 16-911 (c), (d), (e), or (f).

(b) Petition

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

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

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

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

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

(B) each identifiable person who is the subject of the case record.

(3) A petition to shield a judicial record pursuant to Code, Criminal Procedure Article, Title 10, Subtitle 3 shall be filed in the county where the judgment of conviction was entered and

shall state that the petition is filed pursuant to this Rule and that it should be shielded. The petition shall be shielded, subject to further order of the court. Service shall be made, and proceedings shall be held as directed in that Subtitle.

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

(c) Shielding of Record Upon Petition

This section does not apply to a petition filed pursuant to Code, Criminal Procedure Article, Title 10, Subtitle 3 or a submission pursuant to Rule 20-201.1(d). Upon the filing of a petition to seal or otherwise limit inspection of a case record pursuant to section (a) of this Rule, the custodian shall deny inspection of the case record for a period not to exceed five business days, including the day the motion is filed, in order to allow the court an opportunity to determine whether a temporary order should issue.

(d) Temporary Order Precluding or Limiting Inspection

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

(2) In conformance with the provisions of Rule 15-504 (Temporary Restraining Order), the court may enter a temporary order precluding or limiting inspection of a case record if it

clearly appears from specific facts shown by affidavit or other statement under oath that (A) there is a substantial basis for believing that the case record is properly subject to an order precluding or limiting inspection pursuant to this Rule, and (B) immediate, substantial, and irreparable harm will result to the person seeking the relief or on whose behalf the relief is sought if temporary relief is not granted before a full adversary hearing can be held on the propriety of a final order precluding or limiting inspection.

(3) A court may not enter an order permitting inspection of a case record that is not otherwise subject to inspection under the Rules in this Chapter in the absence of an opportunity for a full adversary hearing.

(e) Final Order

(1) After an opportunity for a full adversary hearing, the court shall enter a final order:

(A) precluding or limiting inspection of a case record that is not otherwise shielded from inspection under the Rules in this Chapter;

(B) permitting inspection, under such conditions and limitations as the court finds necessary, of a case record that is not otherwise subject to inspection under the Rules in this Chapter; or

(C) denying the petition.

(2) A final order shall include or be accompanied by findings regarding the interest sought to be protected by the order.

(3) A final order that precludes or limits inspection of a case record shall be as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order.

(4) A final order granting relief under Code, Criminal Procedure Article, Title 10, Subtitle 3 shall include the applicable provisions of the statute. If the order pertains to a judgment of conviction in (A) an appeal from a judgment of the District Court or (B) an action that was removed pursuant to Rule 4-254, the order shall apply to the records of each court in which there is a record of the action, and the clerk shall transmit a copy of the order to each such court.

(5) In determining whether to permit or deny inspection, the court shall determine, upon clear and convincing evidence:

(A) whether a special and compelling reason exists to preclude, limit, or permit inspection of the particular case record, and, if so, a description of that reason;

(B) whether any substantial harm is likely to come from the order and, if so, the nature of that harm; and

(C) if the petition seeks to permit inspection of a case record that has been previously sealed by court order under

subsection (e)(1)(A) of this Rule and the movant was not a party to the case when the order was entered, whether the order satisfies the standards set forth in subsections (e)(2), (3), and (5)(A) of this Rule.

(6) Unless the time is extended by the court on motion of a party and for good cause, the court shall enter a final order within 30 days after a hearing was held or waived.

(f) Filing of Order

A copy of any temporary or final order shall be filed in the action in which the case record in question was filed and, except as otherwise provided by law, shall be subject to public inspection.

(g) Non-Exclusive Remedy

This Rule does not preclude a court from exercising its authority under other law to enter an appropriate order that seals, shields, or limits inspection of a case record or that makes a case record subject to inspection.

(h) Request to Shield Certain Information

(1) This subsection applies to a request, filed by an individual entitled to make it, (A) to shield information in a case record that is subject to shielding under Code, Courts Article, Title 3, Subtitle 15 (peace orders) or Code, Family Law Article, Title 4, Subtitle 5 (domestic violence), or (B) in a

criminal action, to shield the address or telephone number of a victim, victim's representative, or witness.

(2) The request shall be in writing and filed with the person having custody of the record.

(3) If the request is granted, the custodian shall deny inspection of the shielded information. The shield shall remain in effect until terminated or modified by order of court. Any person aggrieved by the custodian's decision may file a petition under section (b) of this Rule.

Committee note: If a court or District Court Commissioner grants a request to shield information under section (h) of this Rule, no adversary hearing is held unless a person seeking inspection of the shielded information files a petition under section (b) of this Rule.

Source: This Rule is derived from former Rule 16-912 (2019).

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

AMEND Rule 1-322.1 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 1-322.1. EXCLUSION OF PERSONAL IDENTIFIER INFORMATION IN COURT FILINGS

(a) Applicability

This Rule applies only to pleadings and other papers filed in an action on or after July 9, 2013 by a person other than a judge or judicial appointee. The Rule does not apply to administrative records, business license records, or notice records, as those terms are defined in ~~Rule 16-902 (a)~~ Rule 16-903.

Committee note: Although not subject to this Rule, judges and judicial appointees should be aware of the purpose of the Rule and refrain from including personal identifier information in their filings, unless necessary.

Cross reference: For the definition of "action," see Rule 1-202. For the prohibition against including certain personal information on recordable instruments, see Code, Real Property Article, § 3-111. For the prohibition against publicly posting or displaying on an Internet Website certain personal information contained in court records, including notice records, see Code, Courts Article, § 1-205.

. . .

RULE 1-322.1

Source: This Rule is in part derived from Fed. R. Civ. P. 5.2 (2007) and is in part new.

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

AMEND Rule 2-512 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 2-512. JURY SELECTION

. . .

(c) Jury List

(1) Contents

Before the examination of qualified jurors, each party shall be provided with a list that includes each juror's name, address, age, sex, education, occupation, spouse's occupation, and any other information required by Rule. Unless the trial judge orders otherwise, the address shall be limited to the city or town and zip code and shall not include the street address or box number.

(2) Dissemination

(A) Allowed

A party may provide the jury list to any person employed by the party to assist in jury selection. With permission of the trial judge, the list may be disseminated to

other individuals such as the courtroom clerk or court reporter for use in carrying out official duties.

(B) Prohibited

Unless the trial judge orders otherwise, a party and any other person to whom the jury list is provided in accordance with subsection (c)(2)(A) of this Rule may not disseminate the list or the information contained on the list to any other person.

(3) Not Part of the Case Record; Exception

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

Cross reference: See Rule ~~16-910~~ 16-934 concerning ~~motions~~ petitions to ~~seal or limit~~ permit or deny inspection of a case record.

. . .

Source: This Rule is derived as follows:

Section (a) is in part derived from former Rules 754 a and Rule 543 c and in part new.

Section (b) is derived from former Rule 751 b and former Rule 543 b 3.

Section (c) is new.

Section (d) is derived from former Rules 752, 754 b, and 543 d.

Section (e) is derived from former Rules 753 and 543 a 3 and 4.

Section (f) is new.

Section (g) is derived from former Rule 751 d.

MARYLAND RULES OF PROCEDURE

TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT

CHAPTER 600 - JUDGMENT

AMEND Rule 2-601 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 2-601. ENTRY OF JUDGMENT

. . .

(b) Applicability--Method of Entry--Availability to the Public

(1) Applicability

Section (b) of this Rule applies to judgments entered on and after July 1, 2015.

(2) Entry

The clerk shall enter a judgment by making an entry of it on the docket of the electronic case management system used by that court along with such description of the judgment as the clerk deems appropriate.

(3) Availability to the Public

Unless shielding is required by law or court order, the docket entry and the date of the entry shall be available to the public through the ~~ease-search~~ CaseSearch feature on the

Judiciary website and in accordance with Rules ~~16-902~~ and 16-903
and 16-904.

. . .

Source: This Rule is derived as follows:
Section (a) is new and is derived from the 1993 version of Fed.
R. Civ. P. 58.
Section (b) is new.
Section (c) is new.
Section (d) is new.

MARYLAND RULES OF PROCEDURE

TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT

CHAPTER 600 - JUDGMENT

AMEND Rule 3-601 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 3-601. ENTRY OF JUDGMENT

. . . .

(b) Applicability--Method of Entry--Availability to the Public

(1) Applicability

Section (b) of this Rule applies to judgments entered on and after July 1, 2015.

(2) Entry

The clerk shall enter a judgment by making an entry on the docket of the electronic case management system used by that court along with such description of the judgment as the clerk deems appropriate.

(3) Availability to the Public

Unless shielding is required by law or court order, the docket entry and the date of the entry shall be available to the public through the ~~ease-search~~ CaseSearch feature on the

Judiciary's website and in accordance with Rules ~~16-902~~ and 16-903 and 16-904.

. . .

Source: This Rule is derived as follows:

Section (a) is new and is derived from the 1963 version of Fed. R. Civ. P. 58.

Section (b) is new.

Section (c) is derived from former M.D.R. 619 b.

Section (d) is new.

Section (e) is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-262 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 4-262. DISCOVERY IN DISTRICT COURT

. . .

(d) Disclosure by the State's Attorney

(1) Without Request

Without the necessity of a request, the State's Attorney shall provide to the defense all material or information in any form, whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged and all material or information in any form, whether or not admissible, that tends to impeach a State's witness.

Cross reference: See *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Giglio v. U.S.*, 405 U.S. 150 (1972); *U.S. v. Agurs*, 427 U.S. 97 (1976); *Thomas v. State*, 372 Md. 342 (2002); *Goldsmith v. State*, 337 Md. 112 (1995); and *Lyba v. State*, 321 Md. 564 (1991).

(2) On Request

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

(A) Statements of Defendant and Co-defendant

All written and all oral statements of the defendant and of any co-defendant that relate to the offense charged and all material and information, including documents and recordings, that relate to the acquisition of such statements;

(B) Written Statements, Identity, and Telephone Numbers of State's Witnesses

As to each State's witness the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony: (i) the name of the witness; (ii) except as provided under Code, Criminal Procedure Article, § 11-205 or Rule ~~16-1009(b)~~ Rule 16-934, the address and, if known to the State's Attorney, the telephone number of the witness, and (iii) the statements of the witness relating to the offense charged that are in a writing signed or adopted by the witness or are in a police or investigative report;

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

All relevant material or information regarding:

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

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

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

(D) Reports or Statements of Experts

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

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

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

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

(E) Evidence for Use at Trial

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

(F) Property of the Defendant

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

. . .

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-263 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 4-263. DISCOVERY IN CIRCUIT COURT

. . .

(d) Disclosure by the State's Attorney

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

(1) Statements

All written and all oral statements of the defendant and of any co-defendant that relate to the offense charged and all material and information, including documents and recordings, that relate to the acquisition of such statements;

(2) Criminal Record

Prior criminal convictions, pending charges, and probationary status of the defendant and of any co-defendant;

(3) State's Witnesses

As to each State's witness the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony: (A) the name of the witness; (B) except as provided

under Code, Criminal Procedure Article, § 11-205 or Rule ~~16-912~~
~~(b)~~ Rule 16-934, the address and, if known to the State's
Attorney, the telephone number of the witness; and (C) all
written statements of the witness that relate to the offense
charged;

(4) Prior Conduct

All evidence of other crimes, wrongs, or acts committed
by the defendant that the State's Attorney intends to offer at a
hearing or at trial pursuant to Rule 5-404 (b);

(5) Exculpatory Information

All material or information in any form, whether or not
admissible, that tends to exculpate the defendant or negate or
mitigate the defendant's guilt or punishment as to the offense
charged;

(6) Impeachment Information

All material or information in any form, whether or not
admissible, that tends to impeach a State's witness, including:

(A) evidence of prior conduct to show the character of the
witness for untruthfulness pursuant to Rule 5-608 (b);

(B) a relationship between the State's Attorney and the
witness, including the nature and circumstances of any
agreement, understanding, or representation that may constitute
an inducement for the cooperation or testimony of the witness;

(C) prior criminal convictions, pending charges, or probationary status that may be used to impeach the witness, but the State's Attorney is not required to investigate the criminal record of the witness unless the State's Attorney knows or has reason to believe that the witness has a criminal record;

(D) an oral statement of the witness, not otherwise memorialized, that is materially inconsistent with another statement made by the witness or with a statement made by another witness;

(E) a medical or psychiatric condition or addiction of the witness that may impair the witness's ability to testify truthfully or accurately, but the State's Attorney is not required to inquire into a witness's medical, psychiatric, or addiction history or status unless the State's Attorney has information that reasonably would lead to a belief that an inquiry would result in discovering a condition that may impair the witness's ability to testify truthfully or accurately;

(F) the fact that the witness has taken but did not pass a polygraph examination; and

(G) the failure of the witness to identify the defendant or a co-defendant;

Cross reference: See *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Giglio v. U.S.*, 405 U.S. 150 (1972); *U.S. v. Agurs*, 427 U.S. 97 (1976); *Thomas v. State*, 372 Md. 342 (2002); *Goldsmith v. State*, 337 Md. 112 (1995); and *Lyba v. State*, 321 Md. 564 (1991).

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

All relevant material or information regarding:

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

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

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

(8) Reports or Statements of Experts

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

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

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

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

(9) Evidence for Use at Trial

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

(10) Property of the Defendant

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

. . .

Source: This Rule is new and is derived in part from former Rule 741 and the 1998 version of former Rule 4-263.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-312 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 4-312. JURY SELECTION

. . .

(c) Jury List

(1) Contents

Subject to section (d) of this Rule, before the examination of qualified jurors, each party shall be provided with a list that includes each juror's name, city or town of residence, zip code, age, gender, education, occupation, and spouse's occupation. Unless the trial judge orders otherwise, the juror's street address or box number shall not be provided.

(2) Dissemination

(A) Allowed

A party may provide the jury list to any person employed by the party to assist in jury selection. With permission of the trial judge, the list may be disseminated to other individuals such as the courtroom clerk or court reporter for use in carrying out official duties.

(B) Prohibited

Unless the trial judge orders otherwise, a party and any other person to whom the jury list is provided in accordance with subsection (c)(2)(A) of this Rule may not disseminate the list or the information contained on the list to any other person.

(3) Not Part of the Case Record; Exception

Unless the court orders otherwise, copies of jury lists shall be returned to the jury commissioner. Unless marked for identification and offered in evidence pursuant to Rule 4-322, a jury list is not part of the case record.

Cross reference: See Rule ~~16-905 (c)~~ Rule 16-913 (a) concerning disclosure of juror information by a custodian of court records.

(d) Nondisclosure of Names and City or Town of Residence

(1) Finding by the Court

If the court finds from clear and convincing evidence or information, after affording the parties an opportunity to be heard, that disclosure of the names or the city or town of residence of prospective jurors will create a substantial danger that (i) the safety and security of one or more jurors will likely be imperiled, or (ii) one or more jurors will likely be subjected to coercion, inducement, other improper influence, or undue harassment, the court may enter an order as provided in subsection (d)(2) of this Rule. A finding under this section

shall be in writing or on the record and shall state the basis for the finding.

(2) Order

Upon the finding required by subsection (d)(1) of this Rule, the court may order that:

(A) the name and, except for prospective jurors residing in Baltimore City, the city or town of residence of prospective jurors not be disclosed in voir dire; and

(B) the name and, except for jurors residing in Baltimore City, the city or town of residence of impaneled jurors not be disclosed (i) until the jury is discharged following completion of the trial, (ii) for a limited period of time following completion of the trial, or (iii) at any time.

Committee note: Nondisclosure of the city or town in which a juror resides is in recognition of the fact that some counties have incorporated cities or towns, the disclosure of which, when coupled with other information on the jury list, may easily lead to discovery of the juror's actual residence. The exception for Baltimore City is to take account of the fact that Baltimore City is both an incorporated city and the equivalent of a county, and because persons are not eligible to serve as jurors in the Circuit Court for Baltimore City unless they reside in that city, their residence there is necessarily assumed.

Cross reference: See ~~Rule 16-905 (c)~~ Rule 16-913 (a).

(3) Extent of Nondisclosure

An order entered under this section may direct that the information not be disclosed to (A) anyone other than the judge and counsel; (B) anyone other than the judge, counsel, and the

defendant; or (C) anyone other than the judge, counsel, the defendant, and other persons specified in the order. If the court permits disclosure to counsel but not the defendant, the court shall direct counsel not to disclose the information to the defendant, except pursuant to further order of the court.

(4) Modification of Order

The court may modify the order to restrict or allow disclosure of juror information at any time.

Committee note: Restrictions on the disclosure of the names and city or town of residence of jurors should be reserved for those cases raising special and legitimate concerns of jury safety, tampering, or undue harassment. See *United States v. Deitz*, 577 F.3d 672 (6th Cir. 2009); *United States v. Quinones*, 511 F.3d 289 (2nd Cir. 2007). When dealing with the issues of juror security or tampering, courts have considered a mix of five factors in deciding whether such information may be shielded: (1) the defendant's involvement in organized crime, (2) the defendant's participation in a group with the capacity to harm jurors, (3) the defendant's past attempts to interfere with the judicial process, (4) the potential that, if convicted, the defendant will suffer a lengthy incarceration, and (5) extensive publicity that could enhance the possibility that jurors' names would become public and expose them to intimidation or harassment. See *United States v. Ochoa-Vasquez*, 428 F.3d 1015 (11th Cir. 2005); *United States v. Ross*, 33 F.3d 1507 (11th Cir. 1994). Although the possibility of a lengthy incarceration is a factor for the court to consider the court should not shield that information on that basis alone. In particularly high profile cases where strong public opinion about a pending case is evident, the prospect of undue harassment, not necessarily involving juror security or any deliberate attempt at tampering, may also be of concern.

. . .

Source: This Rule is derived as follows:
 Section (a) is in part derived from former Rule 754 a and in part new.
 Section (b) is derived from former Rule 751 b.

Section (c) is new.

Section (d) is new.

Section (e) is derived from former Rule 752 and 754 b.

Section (f) is derived from former Rule 753.

Section (g) is new.

Section (h) is derived from former Rule 751 d.

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

AMEND Rule 9-203 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 9-203. FINANCIAL STATEMENTS

. . .

(d) Inspection of Financial Statements

Except as provided in this section, inspection of a financial statement filed pursuant to the Rules in this Chapter is governed by Code, General Provisions Article, § 4-328 and § 4-336. A financial statement is open to inspection if it is an exhibit (1) attached to a motion that has been ruled upon by the court or (2) marked for identification at trial, whether or not offered in evidence, and if offered, whether or not admitted. A party who does not want the financial statement open to public inspection pursuant to this section may make a motion at any time to have it sealed.

Cross reference: See Rule ~~16-903~~ (d) 16-904 (c) and Rule ~~16-910~~ 16-918.

Source: This Rule is new.

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

AMEND Rule 9-205.2 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 9-205.2. PARENTING COORDINATION

. . .

(i) Confidential Information

(1) Access to Case Records

Except as otherwise provided in this subsection, the parenting coordinator shall have access to all case records in the action. If a document or any information contained in a case record is not open to public inspection under the Rules in Title 16, Chapter 900, the court shall determine whether the parenting coordinator may have access to it and shall specify any conditions to that access.

Cross reference: See Rule ~~16-902~~ 16-903 for the definition of "case record."

(2) Other Confidential Information

(A) A parenting coordinator may not require or coerce the parties or an attorney for the child to release any confidential information that is not included in the case record.

RULE 9-205.2

(B) Confidential or privileged information received by the parenting coordinator from a party or from a third person with the consent of a party may be disclosed by the parenting coordinator to the other party, to an attorney for the child, and in court pursuant to subsections (g)(7) and (8) of this Rule. Unless otherwise required by law, the parenting coordinator may not disclose the information to anyone else without the consent of the party who provided the information or consented to a third person providing it.

. . .

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-108 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 10-108. ORDERS

(a) Order Appointing Guardian

(1) Generally

An order appointing a guardian shall:

(A) state whether the guardianship is of the property, the person, or both;

(B) state the name, sex, and date of birth of the minor or disabled person;

(C) state the name, address, telephone number, and e-mail address, if available, of the guardian;

(D) state whether the appointment of a guardian is solely due to a physical disability, and if not, the reason for the guardianship;

(E) state (i) the amount of the guardian's bond or that a bond is waived and (ii) the date by which proof of any bond shall be filed with the court;

Cross reference: See Rule 10-702 (a), requiring the bond to be filed before the guardian commences the performance of any fiduciary duties.

(F) state the date by which any annual report of the guardian shall be filed; and

Cross reference: See Rule 10-706 (b).

(G) state the specific powers and duties of the guardian and any limitations on those powers or duties either expressly or by referring to the specific sections or subsections of an applicable statute containing those powers and duties; and

(H) except as to a public guardian, unless the guardian has already satisfied the requirement or the court orders otherwise, direct the guardian to complete an orientation program and training in conformance with the applicable Guidelines for Court-Appointed Guardians attached as an Appendix to the Rules in this Title.

Committee note: An example of an appointment as to which waiver of the orientation and training requirements of subsection (a)(1)(H) may be appropriate is the appointment of a temporary guardian for a limited purpose or specific transaction.

Cross reference: Code, Estates and Trusts Article, §§ 13-201 (b) and (c), 13-213, 13-214, 13-705 (b), 13-708, and 15-102 and Title 15, Subtitle 6 (Maryland Fiduciary Access to Digital Assets Act).

(2) Confidential Information

Information in the order or in papers filed by the guardian that is subject to being shielded pursuant to the Rules in Title 16, Chapter 900 shall remain confidential, but, in its

order, the court may permit the guardian to disclose that information when necessary to the administration of the guardianship, subject to a requirement that the information not be further disclosed without the consent of the guardian or the court.

Committee note: Disclosure of identifying information to financial institutions and health care providers, for example, may be necessary to further the purposes of the guardianship.

Cross reference: See Rule ~~16-907 (f) and (j)~~ 16-914 (e) and (i) and Rule ~~16-908~~ 16-915 (d).

. . .

Source: This Rule is derived as follows:

Section (a) is derived in part from Code, Estates and Trusts Article, §§ 13-208 and 13-708 and is in part new.

Section (b) is new.

Section (c) is derived from former Rules V71 f 1 and f 2.

Section (d) is derived in part from former Rule R78 b and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 1100 - CATASTROPHIC HEALTH EMERGENCY

AMEND Rule 15-1103 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 15-1103. INITIATION OF PROCEEDING TO CONTEST ISOLATION OR QUARANTINE

(a) Petition for Relief

An individual or group of individuals required to go to or remain in a place of isolation or quarantine by a directive of the Secretary issued pursuant to Code, Health--General Article, § 18-906 or Code, Public Safety Article, § 14-3A-05, may contest the isolation or quarantine by filing a petition for relief in the circuit court for the county in which the isolation or quarantine is occurring or, if that court is not available, in any other circuit court.

Committee note: Motions to seal or limit inspection of a case record are governed by Rule ~~16-910~~ 16-918. The right of a party to proceed anonymously is discussed in Doe v. Shady Grove Hosp., 89 Md. App. 351, 360-66 (1991).

. . .

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 1300 - STRUCTURED SETTLEMENT TRANSFERS

AMEND Rule 15-1302 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 15-1302. PETITION FOR APPROVAL

. . .

(c) Contents of Petition

In addition to any other necessary averments, the petition shall:

(1) subject to section (d) of this Rule, include as exhibits:

- (A) a copy of the structured settlement agreement;
- (B) a copy of any order of a court or other governmental authority approving the structured settlement;
- (C) a copy of each annuity contract that provides for payments under the structured settlement agreement or, if any such annuity contract is not available, a copy of a document from the annuity issuer or obligor evidencing the payments payable under the annuity policy;
- (D) a copy of the transfer agreement;

(E) a copy of any disclosure statement provided to the payee by the transferee;

(F) a written Consent by the payee substantially in the form specified in Rule 15-1303;

Cross reference: For shielding requirements applicable to identifying information contained in the payee's Consent, see Rule ~~16-1007~~(f) 16-915 (f).

(G) an affidavit by the independent professional advisor selected by the payee, in conformance with Rule 15-1304;

(H) a copy of any complaint that was pending when the structured settlement was established; and

(I) proof of the petitioner's current registration with the Office of the Attorney General as a structured settlement transferee or a copy of a pending application for registration as specified in Code, Courts Article, § 5-1107, if the Office of the Attorney General has not acted within the time specified in Code, Courts Article, Title 5, Subtitle 11.

(2) if the petitioner is not an individual, state (i) the legal status of the petitioner, (ii) whether it is registered to do business in Maryland; and (iii) the name, address, e-mail address, and telephone number of any resident agent in Maryland;

(3) state the names and addresses and, if known, the telephone numbers and email addresses of all interested parties, as defined in Code, Courts Article, § 5-1101 (e);

(4) state whether, to the best of the petitioner's knowledge, information, and belief, the structured settlement arose from (A) a claim of lead poisoning, or (B) any other claim in which an allegation was made in a court record of a mental or cognitive impairment on the part of the payee;

(5) identify any allegations or statements in any complaint attached under subsection (c)(1)(H) of this Rule that describe the nature, extent, or consequences of the payee's cognitive injuries or disabling impairment;

Committee note: To comply with subsection (c)(5) of this Rule, the petitioner should refer to places in the complaint containing the allegations or statements, rather than repeating the allegations or statements in the petition.

(6) state whether there have been any prior transfers or proposed transfers of any of the payee's structured settlement payment rights, and for each prior transfer or proposed transfer:

(A) state whether the transferee in each transfer agreement was the petitioner, an affiliate or predecessor of the petitioner, or a person unrelated in any way to the petitioner;

(B) identify the court and the number of the case in which the transfer or proposed transfer was submitted for approval;

(C) state the disposition of the requested approval; and

(D) include as an exhibit a copy of (i) the transfer agreement, (ii) any disclosure statement provided to the payee

by the transferee, and (iii) a copy of any court order approving or declining to approve such transfer or otherwise finally disposing of an application for approval of such transfer.

(7) state the amounts and due dates of the structured settlement payments to be transferred and the aggregate amount of these payments;

(8) state (A) the total amount to be paid under the transfer agreement; (B) the net amount to be received by the payee, after deducting all fees, costs, and amounts chargeable to the payee; and (C) the discounted present value of the payments that would be transferred as determined in accordance with Code, Courts Article, § 5-1101 (b); and

(9) contain a calculation and statement in the following form: "Based on the net amount that the payee will receive from the transferee and the amounts and timing of the structured settlement payments that the payee is transferring to the transferee, the payee will be paying an implied, annual interest rate of _____ percent per year on this transaction, if it were a loan transaction";

(10) state whether, prior to the filing of the petition, there have been any written, oral, or electronic communications between the petitioner and the independent professional advisor selected by the payee with respect to the transfer and, if so, the dates and nature of those communications; and

(11) state whether, to the best of the petitioner's knowledge after making reasonable inquiry, the proposed transfer would not contravene any applicable law, statute, Rule, or the order of any court or other government authority.

. . .

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 200 - JUDGMENT

AMEND Rule 16-203 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

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

. . .

(c) Criteria for Adoption of Plan

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

(1) the proposed electronic filing system is compatible with the data processing systems, operational systems, and electronic filing systems used or expected to be used by the judiciary;

(2) the installation and use of the proposed system does not create an undue financial or operational burden on the court;

(3) the proposed system is reasonably available for use at a reasonable cost, or an efficient and compatible system of manual filing will be maintained;

(4) the proposed system is effective, secure, and not likely to break down;

(5) the proposed system makes appropriate provision for the protection of privacy and for public access to public records in accordance with the Rules in Chapter 900 of this Title; and

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

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

Cross reference: For the definition of "public record," see Code, General Provisions Article, § 4-101 (h). See also Rules 16-901--~~16-914~~ 16-934 (Access to Judicial Records).

. . .

Source: This Rule is derived from former Rules 16-307 and 16-506 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 200 - GENERAL PROVISIONS - CIRCUIT AND DISTRICT COURTS

AMEND Rule 16-204 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

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

. . .

(b) Inspection of Criminal History Record Information

Contained in Court Records of Public Judicial Proceedings

Criminal history record information contained in court records of public judicial proceedings is subject to inspection in accordance with Rules 16-901 through ~~16-914~~ 16-934.

Cross reference: See Code, Courts Article, §§ 2-203 and 13-101 (d) and (f), Criminal Procedure Article, §§ 10-201, 10-214, 10-217, and General Provisions Article, Title 4. For the definition of "court records" for expungement purposes, see Rule 4-502 (d). For provisions governing access to judicial records generally, see Title 16, Chapter 900.

Source: This Rule is derived from former Rules 16-308 and 16-503 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 500 - RECORDING OF PROCEEDINGS

AMEND Rule 16-505 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 16-505. ADMINISTRATION OF CIRCUIT COURT RECORDING PROCESS

. . .

(c) Supervision of Court Reporters

Subject to the general supervision of the Chief Judge of the Court of Appeals, the County Administrative Judge shall have the supervisory responsibility for the court reporters and persons responsible for recording court proceedings in that county. The County Administrative Judge may delegate supervisory responsibility to the supervisory court reporter or a person responsible for recording court proceedings, including the assignment of court reporters or other persons responsible for recording court proceedings.

Cross reference: Rule ~~16-907~~(i) 16-914 (h) provides that backup audio recordings made by any means, computer disks, and notes of a court reporter that have not been filed with the clerk or are not part of the official court record are not ordinarily subject to public inspection.

Source: This Rule is derived from former Rule 16-404 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 19 - ATTORNEYS

CHAPTER 100 - STATE BOARD OF LAW EXAMINERS

AND CHARACTER COMMITTEES

AMEND Rule 19-104 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 19-104. SUBPOENA POWER

(a) Subpoena

(1) Issuance

In any proceeding before the Board or a Character Committee pursuant to Rule 19-204 or Rule 19-216, the Board or Committee, on its own initiative or the motion of an applicant, may cause a subpoena to be issued by a clerk pursuant to Rule 2-510. The subpoena shall issue from the Circuit Court for Anne Arundel County if incident to Board proceedings or from the circuit court in the county in which the Character Committee proceeding is pending. The proceedings shall be docketed in the issuing court and shall be sealed and shielded from public inspection.

(2) Name of Applicant

The subpoena shall not divulge the name of the applicant, except to the extent this requirement is impracticable.

(3) Return

The sheriff's return shall be made as directed in the subpoena.

(4) Dockets and Files

The Character Committee or the Board, as applicable, shall maintain dockets and files of all papers filed in the proceedings.

(5) Action to Quash or Enforce

Any action to quash or enforce a subpoena shall be filed under seal and docketed as a miscellaneous action in the court that issued the subpoena.

Cross reference: See Rule ~~16-906~~ 16-911 (a) (5).

. . .

Source: This Rule is derived from former Rule 22 of the Rules Governing Admission to the Bar of Maryland (2016).

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-109 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

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

. . .

(e) Public Access

(1) Access Through CaseSearch

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

(2) Unshielded Documents

Subject to any protective order issued by the court, members of the public shall have free access to unshielded case records and unshielded parts of case records from computer terminals or kiosks that the courts make available for that purpose. Each court shall provide a reasonable number of terminals or kiosks for use by the public. The terminals or kiosks shall not permit the user to download, alter, or forward the information, but the user is entitled to a copy of or printout of a case record in accordance with Rule ~~16-903 (d)~~ 16-904 (c).

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

. . .

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 - MISCELLANEOUS RULES

AMEND Rule 20-504 to conform to the revision of the Rules in Title 16, Chapter 900, as follows:

Rule 20-504. Agreements with vendors

(a) Definition. In this Rule, "vendor" means a person who provides or offers to provide to registered users or others services that include the filing or service of submissions pursuant to the Rules in this Title or remote access to electronic case records maintained by Maryland courts.

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

cessation of remote electronic access to case records by the vendor, and (4) requires the vendor to include notice of the agreement with the Administrative Office of the Courts in all agreements between the vendor and its customers.

Cross reference: See Maryland Rules 20-109 and 16-901 through ~~16-914~~ 16-934.

Source: This Rule is new.

MARYLAND RULES

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-101 by revising the definition of "restricted information" and by deleting a cross reference and adding a Committee note after section (r), as follows:

RULE 20-101. DEFINITIONS

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

(a) Appellate Court

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

(b) Business Day

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

(c) Clerk

"Clerk" means the Clerk of the Court of Appeals, the Court of Special Appeals, or a circuit court, an administrative

clerk of the District Court, and authorized assistant clerks in those offices.

(d) Concluded

An action is "concluded" when

(1) final judgment has been entered in the action;

(2) there are no motions, other requests for relief, or charges pending; and

(3) the time for appeal has expired or, if an appeal or an application for leave to appeal was filed, all appellate proceedings have ended.

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

(e) Filer

"Filer" means a person who is accessing the MDEC system for the purpose of filing a submission and includes each person whose signature appears on the submission for that purpose.

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

(f) Hand-Signed or Handwritten Signature

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

(g) Hyperlink

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

(h) Judge

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

(i) Judicial Appointee

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

(j) Judicial Personnel

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

(k) MDEC or MDEC System

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

Committee note: "MDEC" is an acronym for Maryland Electronic Courts. The MDEC system has two components. (1) The electronic filing system permits users to file submissions electronically through a primary electronic service provider (PESP) subject to clerk review under Rule 20-203. The PESP transmits registered users' submissions directly into the MDEC electronic filing system and collects, accounts for, and transmits any fees

payable for the submission. The PESP also accepts submissions from approved secondary electronic service providers (SESP) that filers may use as an intermediary. (2) The second component--the electronic case management system--accepts submissions filed through the PESP, maintains the official electronic record in an MDEC county, and performs other case management functions.

(l) MDEC Action

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

(m) MDEC County

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

(n) MDEC Start Date

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

(o) MDEC System Outage

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

(2) For judges, judicial appointees, clerks, and judicial personnel, "MDEC system outage" means the inability of the MDEC

electronic filing system or the MDEC electronic case management system to receive electronic submissions.

(p) Redact

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

(q) Registered User

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

(r) Restricted Information

~~"Restricted information" means information (1) prohibited by Rule or other law from being included in a court record, (2) required by Rule or other law to be redacted from a court record, (3) placed under seal by a court order, or (4) otherwise required to be excluded from the court record by court order.~~
that, by Rule or other law, is not subject to public inspection or is prohibited from being included in a court record absent a court order.

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

Committee note: There are several Rules and statutes that (1) make certain categories of records inaccessible to the public except by court order or (2) preclude certain information from being included in judicial records that otherwise are accessible to the public. See generally the Rules in Title 16, Chapter 900 and Rule 1-322.1. Filers of submissions under MDEC need to be aware of those provisions and alert the clerk to whether a

document, or a part of a document, included in a submission is that kind of document or contains that kind of information. See Rules 20-201 (h), 20-201.1, and 20-203 (d), (e), and (f). Failure to comply with the requirements in those Rules may result in rejection or striking of the submission.

(s) Scan

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

(t) Signature

Unless otherwise specified, "signature" means the signer's typewritten name accompanied by a visual image of the signer's handwritten signature or by the symbol /s/.

Cross reference: Rule 20-107.

(u) Submission

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

Cross reference: See Rule 20-402.

(v) Tangible Item

"Tangible item" means an item that is not required to be filed electronically. A tangible item by itself is not a submission; it may either accompany a submission or be offered in open court.

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

Committee note: Examples of tangible items include an item of physical evidence, an oversize document, and a document that

cannot be legibly scanned or would otherwise be incomprehensible if converted to electronic form.

(w) Trial Court

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

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

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 8 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 20-106 by conforming it to new Rule 20-201.1, as follows:

Rule 20-106. WHEN ELECTRONIC FILING REQUIRED; EXCEPTIONS

. . .

(d) Paper Submissions

(1) Compliance With MDEC Rules

A paper submission shall comply with Rule 20-201 (h) and ~~(i)~~(k). If applicable, a paper submission also shall comply with Rule ~~20-201-(j)~~ 20-201.1.

(2) Review by Clerk; Scanning

(A) Except as provided in subsection (d)(2)(B) of this Rule, upon receipt of a submission in paper form, the clerk shall review the submission for the presence of a signature and for compliance with Rule 20-107 (a)(1), ~~and~~ Rule 20-201 (g)~~7~~ and ~~(i)~~(k), and Rule 20-201.1. If the submission is in compliance, the clerk shall scan it into the MDEC system, verify that the electronic version of the submission is legible, and docket the submission. If the submission is not in compliance, the clerk shall decline to scan it and promptly notify the filer in person

or by first-class mail that the submission was rejected and the reason for the rejection.

Committee note: The clerk's pre-scanning review is a ministerial function, limited to ascertaining whether any required fee has been paid (Rule 20-201 ~~(l)~~(k)); ~~and~~ the presence of the filer's signature; a certificate of service if one is required (Rule 20-201 (g)); and whether a Notice Regarding Restricted Information is present, if required (Rule 20-201.1 (a)).

(B) Upon receipt of a submission in paper form that is required by the Rules in this Title to be filed electronically, the clerk shall (i) decline to scan the submission, (ii) notify the filer electronically, if possible, or otherwise by first-class mail, that the submission was rejected because it was required to be filed electronically, and (iii) enter on the docket that the submission was received and that it was not entered into the MDEC system because of non-compliance with Rule 20-106. The filer may seek review of the clerk's action by filing a motion with the administrative judge having direct administrative supervision over the court.

Committee note: Subsection (d)(2)(B) of this Rule is necessary to enforce the electronic filing requirement of Rule 20-106. It is intended to be used only when it is clear that the filer is a registered user who is required to file submissions electronically and that none of the exceptions in sections (b) or (c) of this Rule appear to be applicable.

(3) Destruction of Paper Submission

Subject to subsections (d)(4) and (e)(2) of this Rule, the clerk may destroy a paper submission after scanning it and verifying the legibility of the electronic version of it.

(4) Optional Return of Paper Document

The State Court Administrator may approve procedures for identifying and, where feasible, returning paper documents that must be preserved in their original form.

(5) Public Notice

The State Court Administrator shall provide public notice alerting the public to the procedure set forth in subsections (d)(2), (3), and (4) of this Rule.

Committee note: If submissions properly filed in paper form are to be destroyed by the clerk following their being scanned into MDEC, the public must be given reasonable notice of that policy. Notice may be given in a variety of ways, including on the Judiciary website, on on-line and pre-printed forms prepared by the Judiciary, on summonses or other notices issued by the clerks, and by postings in the clerks' offices.

. . .

Source: This Rule is new.

MARYLAND RULES

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-201, by conforming it to new Rule 20-201.1,
as follows:

RULE 20-201. REQUIREMENTS FOR ELECTRONIC FILING

(a) Scope

Subject to section (l) of this Rule, sections (b), (c),
and (e) of this Rule apply to all filers. Sections (d), (f),
(g), (h), (j), (k), and (l), ~~and (m)~~ of this Rule do not apply
to judges, judicial appointees, clerks, and judicial personnel.

(b) Authorization to File

A person may not file a submission in an MDEC action
unless authorized by law to do so.

(c) Policies of State Court Administrator

A filer shall comply with all published policies and
procedures adopted by the State Court Administrator pursuant to
Rule 20-103.

(d) Signature

If, under Rule 1-311, the signature of the filer is required, the submission shall be signed in accordance with Rule 20-107.

(e) Multiple Submissions Filed Together

All submissions related to a particular MDEC action that are filed together at one time shall be included in a single electronic folder, sometimes referred to as an envelope.

Committee note: As an example, an answer to a complaint, a counter-claim, a cross-claim, and a motion for summary judgment, all filed at the same time in the same action, must be filed as separate pleadings or papers but in a single electronic folder.

(f) Service Contact Information

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

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

(g) Certificate of Service

(1) Generally

Other than an original pleading that is served by original process, each submission that is required to be served pursuant to Rule 20-205 (d) shall contain a certificate of service signed by the filer.

(2) Non-Electronic Service

If service is not to be made electronically on one or more persons entitled to service, service on such persons shall be made in accordance with the applicable procedures established by other Titles of the Maryland Rules, and the submission shall include a certificate of service that complies with Rule 1-323 as to those persons and states that all other persons, if any, entitled to service were served by the MDEC system.

(3) Electronic Service

If service is made electronically by the MDEC system on all persons entitled to service, the certificate shall so state.

(h) Restricted information

~~(1) Generally~~

Except as provided in ~~subsection (h) (2) of this Rule 20-~~201.1, a submission filed by a filer shall not contain any restricted information.

~~(2) Where restricted information is necessary to be included, the filer shall (A) state the reason and a legal basis for including the restricted information, and (B) file both an~~

~~unredacted version of the document, noting prominently in the caption that the document is unredacted, and a redacted version of the document that excludes the restricted information, noting prominently in the caption that the document is redacted.~~

(i) Electronic File Names

The electronic file name for each submission shall relate to the title of the submission. If a submission relates to another submission, the file name and the title of the submission shall make reference to the submission to which it relates. If all or part of a submission is to be sealed or shielded pursuant to Rule 20-201.1, the electronic file name shall so indicate.

~~(j) Sealed Submissions. If the filer desires the submission to be under court seal, the submission shall (1) state prominently in the caption that the document is to be under seal, (2) have a file name that includes the word "sealed," and (3) state whether there is already in effect a court order to seal the document and, if so, identify that order. If there is no such order, the submission shall include a motion and proposed order to seal the document, and the clerk temporarily shall seal the submission pending the court's action on the motion.~~

~~(k)~~ (j) Proposed Orders

A proposed order to be signed by a judge or judicial appointee shall be (1) in an electronic text format specified by the State Court Administrator and (2) filed as a separate document identified as relating to the motion or other request for court action to which the order pertains. The file name of the proposed order shall indicate that it is a proposed order.

Committee note: As originally adopted, section ~~(k)~~ (j) of this Rule required that a proposed order be submitted in "an editable text form." Because at the time of initial implementation, the MDEC system could only accept pdf documents, amendments to section (j) [formerly lettered (k)] were made in 2015 to give the State Court Administrator the flexibility to specify the electronic format of the proposed order. The filer should consult the MDEC policies and procedures posted on the Judiciary website for any changes to the required format.

~~(1)~~ (k) Fee

(1) Generally

A submission shall be accompanied, in a manner allowed by the published policies and procedures adopted by the State Court Administrator, by any fee required to be paid in connection with the filing.

(2) Waiver--Civil Action

(A) A filer in a civil action who (i) desires to file electronically a submission that requires a prepaid fee, (ii) has not previously obtained and had docketed a waiver of prepayment of the fee, and (iii) seeks a waiver of such prepayment, shall file a request for a waiver pursuant to Rule 1-325 or Rule 1-325.1, as applicable.

(B) The request shall be accompanied by (i) the documents required by Rule 1-325 or Rule 1-325.1, as applicable, (ii) the submission for which a waiver of the prepaid fee is requested, and (iii) if applicable, a proposed order granting the request.

(C) No fee shall be charged for the filing of the waiver request.

(D) The clerk shall docket the request for waiver. If the clerk waives prepayment of the prepaid fee pursuant to Rule 1-325 (d) or the applicable provision of Rule 1-325.1, the clerk also shall docket the attached submission. If prepayment is not waived by the clerk, the clerk and the court shall proceed in accordance with Rule 1-325 (e) or Rule 1-325.1 (c), as applicable.

(3) Waiver--Criminal Action

A fee waiver in a criminal action is governed by Rule 7-103 (c) (2), 8-201 (b) (2), or 8-303 (a) (2), as applicable.

~~(m)~~ (1) Filings by Certain Judicial Officers and Employees

(1) District Court Commissioners

(A) Filings in District Court

In accordance with policies and procedures approved by the Chief Judge of the District Court and the State Court Administrator, District Court commissioners shall file electronically with the District Court reports of pretrial release proceedings conducted pursuant to Rules 4-212, 4-213, 4-

213.1, 4-216, 4-216.1, 4-217, 4-267, or 4-347. Those filings shall be entered directly into the MDEC system, subject to post-filing review and correction of clerical errors in the form or language of the docket entry for the filing by a District Court clerk.

Committee note: The intent of the last sentence of subsection ~~(m)(1)(A)~~ (1)(1)(A), as well as subsections ~~(m)(1)(B)~~ (1)(1)(B) and ~~(m)(2)~~ (1)(2), is to provide the same obligation to review and correct post-filing docket entries that the clerk has with respect to filings under Rule 20-203 (b)(1).

(B) Filings in Circuit Court

Subject to approval by the Chief Judge of the Court of Appeals, the State Court Administrator may adopt policies and procedures permitting District Court Commissioners to file electronically with a circuit court reports of pretrial release proceedings conducted pursuant to Rules 4-212, 4-213, 4-213.1, 4-216, 4-216.1, 4-217, 4-267, or 4-347. The policies and procedures shall permit District Court Commissioners to enter those filings directly into the MDEC system, subject to post-filing review and correction of clerical errors in the form or language of the docket entry for the filing by a circuit court clerk.

(2) Circuit Court Employees

In addition to authorized employees of the clerk's office and with the approval of the county administrative judge, the clerk of a circuit court may authorize other employees of

the circuit court to enter filings directly into the MDEC system, subject to post-filing review and correction of clerical errors in the form or language of the docket entry for the filing by a circuit court clerk.

Committee note: In some counties, there are circuit court employees who are not employees in the clerk's office but who perform duties that, in other counties, are performed by employees in the clerk's office. Those employees are at-will employees who serve at the pleasure of the court or the county administrative judge. The intent of subsection ~~(m)(2)~~ (1)(2) is to permit the clerk, with the approval of the county administrative judge, to authorize those employees to enter filings directly into the MDEC system as part of the performance of their official duties, subject to post-filing review by the clerk. It is not the intent that this authority apply to judges' secretaries, law clerks, or administrative assistants. Rule 20-108 (b) authorizes judges and judicial appointees in MDEC counties to delegate to law clerks, secretaries, and administrative assistants authority to file submissions on behalf of the judge or judicial appointee. That delegated authority is a ministerial one, to act on behalf of and for the convenience of the judge or judicial appointee and not an authority covered by subsection ~~(m)(2)~~ (1)(2).

Source: This Rule is new.

MARYLAND RULES

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

Add new Rule 20-201.1, as follows:

RULE 20-201.1. RESTRICTED INFORMATION

(a) Statement in Submission; Notice Regarding Restricted Information

(1) Requirement

Each submission filed pursuant to Rule 20-201 that contains restricted information shall state prominently on the first page that it contains restricted information. Except for categories of actions specified in Rule 16-914 (a) or in the Policies and Procedures adopted by the State Court Administrator pursuant to Rule 20-103 (b), if the submission contains restricted information, it shall be accompanied by a completed Notice Regarding Restricted Information on a form approved by the State Court Administrator. The completed Notice shall be subject to public inspection.

(2) Failure to File Notice Regarding Restricted Information

If the filer fails to file a completed Notice of Restricted Information as required, the clerk shall reject the

submission without prejudice to refile the submission accompanied by the Notice. The clerk shall enter on the docket that a submission was received but was rejected for non-compliance with Rule 20-201.1 (a).

(b) Submission Not Subject to Public Inspection

If the submission, as a whole, is not subject to public inspection by Rule, other law, or court order, the filer shall cite the grounds for such an assertion in the Notice.

(c) Submission Containing Restricted Information

If a filer believes that a submission contains both restricted information that is not subject to public inspection and information that is subject to public inspection, and that the restricted information is necessary to be included in the submission, the filer shall (1) file both an unredacted version of the submission, noting prominently in the title of the version that the version is "unredacted - to be shielded," and a redacted version of the submission that excludes the restricted information, noting prominently in the title of the version that the version is "redacted," and (2) state in the Notice the grounds for the assertion that some information is restricted information and for including the restricted information in the submission.

Cross reference: See Rule 20-203 (e), requiring the unredacted version to be shielded.

(d) Request for Court Seal

If the filer desires that a submission that otherwise would be accessible to the public be placed under a court seal, the filer shall (1) state that the submission is to be under seal, (2) include a file name that includes the word "sealed," (3) state clearly the legal basis justifying the sealing of the submission, and (4) state whether there is already in effect a court order to seal the submission and, if so, identify that order. If there is no such order, the filer shall include a motion and proposed order to seal the submission.

Cross reference: See Rule 16-916 for the general duty of a filer to inform the clerk of confidential information in a submission; see Rule 20-203 (f) for the consequence of a failure to attach a motion and proposed order.

(e) Publication of Form of Notice

The Notice Regarding Restricted Information form approved by the State Court Administrator shall be published on the Judiciary's website and in the MDEC policies and procedures manual.

Source: This Rule is new.

MARYLAND RULES

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

AMEND Rule 20-203 by requiring the clerk to reject a submission with an incorrect case number under certain circumstances and providing for notification to the filer and a relation back provision pertaining to a refiled submission; by adding a new section (f) to provide a procedure for requesting that a document be placed under court seal; by conforming subsection (e)(3) to the revision of the Rules in Title 16, Chapter 900; and by conforming internal references, as follows:

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

(a) Time and Scope of Review

(1) Inapplicability of Section

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

(2) Review by Clerk

As soon as practicable, the clerk shall review a submission for compliance with Rule 20-201 (g) and the published policies and procedures for acceptance established by the State Court Administrator. If the clerk determines that the filer has

used an incorrect case number for the submission, and the error is not readily susceptible to correction pursuant to subsection (b) (1) of this Rule, the clerk shall reject the submission and promptly notify the filer. Unless otherwise ordered by the court for good cause shown, a refiled submission shall relate back to the filing of the rejected submission.

(b) Docketing

(1) Generally

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

(2) Submission Signed by Judge or Judicial Appointee

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

(3) Submission Generated by Clerk

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

(c) Striking of Certain Non-compliant Submissions

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

(d) Deficiency Notice

(1) Issuance of Notice

If, upon review, the clerk concludes that a submission is not subject to striking under section (c) of this Rule but materially violates a provision of the Rules in Title 20 or an

applicable published policy or procedure established by the State Court Administrator, the clerk shall send to the filer with a copy to the parties that have entered an appearance or have been served a deficiency notice describing the nature of the violation unless the deficiency is cured prior to the sending of the notice.

(2) Judicial Review; Striking of Submission

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

(e) Restricted Information

(1) Shielding Upon Issuance of Deficiency Notice

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

(2) Shielding of Unredacted Version of Submission

If, pursuant to Rule ~~20-201(h)-(2)~~ 20-201.1 (c), a filer has filed electronically a redacted and an unredacted submission, the clerk shall docket both submissions and shield

the unredacted submission from public access. Any party and any person who is the subject of the restricted information contained in the unredacted submission may file a motion to strike the unredacted submission. Upon the filing of a motion and any timely answer, the court shall enter an appropriate order.

(3) Shielding on Motion of Party

A party aggrieved by the refusal of the clerk to shield a filing or part of a filing that contains restricted information may file a motion pursuant to Rule ~~16-912~~16-934.

(f) Request for Court Seal

(1) Existing Order

If a filer requests that a document included in a submission be placed under court seal pursuant to Rule 20-201.1 and identifies an existing order permitting the document to be sealed, the court shall seal the document.

(2) No Existing Order; Attached Motion

If there is no existing order, but there is an attached motion and proposed order, the clerk shall docket the motion and proposed order, which shall be open to public inspection, but shield the document that is the subject of the motion and proposed order pending a ruling on the motion.

(3) No Existing Order; No Attached Motion and Proposed Order

If there is no existing order and no attached motion and proposed order, the clerk shall reject the submission without prejudice to refile it with an attached motion and proposed order. The clerk shall enter on the docket that a submission was received with a request that it be sealed and was rejected for non-compliance with Rule 20-201.1 (d). Unless otherwise ordered by the court for good cause shown, a refiled submission shall relate back to the filing of the rejected submission.

Committee note: The clerk will reject the submission under subsection (f)(3) of this Rule because (1) the filer does not want the document to be accessible to the public and (2) there is nothing to present to a judge and no basis for placing the document under seal. The docket entry showing that a document was received and rejected is for transparency purposes.

Source: This Rule is new.