

THE COURT OF APPEALS OF MARYLAND
STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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June 1, 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
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Your Honors:

The Rules Committee submits this Supplement to its Two Hundred and Fifth Report and recommends that the Court substitute the attached amendment to Rule 16-302 for the proposed amendment to that Rule submitted with that Report.

The impetus for the proposed change to the Rule emanated from the Special Immigrant Juvenile Status Work Group of the Judicial Council and was intended to require that petitions or motions for findings and determinations required under Federal law in order for immigrant children to be accorded Special Immigrant Juvenile Status pursuant to 8 U.S. Code, Section 1101(a)(27)(J) be given expedited treatment by the court when, due to either the child's age or the prospect of the child facing an adverse immigration action, failure to do so may effectively preclude the child from obtaining that status. With some style changes, the Rules Committee approved the recommendation as proposed by the Work Group.

After the amendment to Rule 16-302 was submitted to the Court, the Committee received the attached Memorandum from the Work Group expressing concern that the amendment, as worded, was too narrow - that there were other circumstances beside the child's age or an adverse immigration action that would justify expedited treatment. The Memorandum suggested adding those other circumstances to the Rule.

The Rules Committee treated that Memorandum as a Comment on the proposal as submitted to the Court; hence, its attachment to this Supplement. After discussions with members of the Work Group, it was agreed that, rather than adding the few other circumstances, given the history of Federal agencies or officials periodically changing some of their policies and interpretations, it would be better to tie expedited case processing to any petition or motion for findings or determinations of fact necessary to a grant of Special Immigrant Juvenile Status for purposes of 8 U.S. Code, Section 1101(a)(27)(J); *i.e.*, to give it the broadest reach. We assume that the petition or motion will identify the relevant circumstances and particular need for the requested findings or determinations.

Respectfully submitted,

/S/

Alan M. Wilner
Chair

AMW:wlp
Attachment
cc: Suzanne C. Johnson, Clerk

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**SPECIAL STATUS WORK GROUP
OF THE MARYLAND JUDICIAL COUNCIL
DOMESTIC LAW COMMITTEE**

MEMORANDUM

To: Sandra F. Haines, Esquire, Report, Standing Committee on Rules of Practice and Procedure

From: Hon. Cynthia Callahan, Chair, Domestic Law Committee
Hon. Cathy Hollenberg Serrette, Co-Chair, Special Status Work Group

Date: May 25, 2020

Re: 205th Report to the Court of Appeals – Amendments to Rule 16-302

Subsequent to the Rules Committee's approval of the proposed changes to Rule 16-302, we learned that the language employed to protect children who have pending immigration proceedings does not sufficiently cover those children. While the "adverse immigration actions defined in Code, Estates and Trusts Article § 13-901 (b)" include some of the actions that may be taken against a child, in order to ensure that children facing removal, deportation, or exclusion proceedings are timely heard in the Circuit Court, the Rule should also provide for expedited case processing when a child has been issued a federal Notice to Appear or Order to Show Cause for removal, deportation or exclusion proceedings. Accordingly, we ask that the proposed amendment to the Rule read:

"The plan shall include appropriate procedures for expedited case processing for petitions and motions for findings or determinations of fact necessary to a grant of Special Immigrant Juvenile Status for the purposes of 8 U.S. Code § 1101(a)(27)(J) in which the child will turn 21 years of age within six months; or has been issued a federal Notice to Appear or Order to Show Cause for removal, deportation or exclusion proceedings; or is subject to an adverse immigration action as defined in Code, Estates and Trusts Article § 13-901 (b)."

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 300 - CIRCUIT COURTS - ADMINISTRATION
AND CASE MANAGEMENT

AMEND Rule 16-302 to require a certain addition to a case management plan pertaining to Special Immigrant Juvenile Status matters and to renumber current subsections (b)(4) and (b)(5) as subsections (b)(5) and (b)(6), respectively, as follows:

Rule 16-302. ASSIGNMENT OF ACTIONS FOR TRIAL; CASE MANAGEMENT PLAN.

(a) Generally

The County Administrative Judge in each county shall supervise the assignment of actions for trial in a manner that maximizes the efficient use of available judicial personnel, brings pending actions to trial, and disposes of them as expeditiously as feasible.

(b) Case Management Plan; Information Report

(1) Development and Implementation

(A) The County Administrative Judge shall develop and, upon approval by the Chief Judge of the Court of Appeals, implement a case management plan for the prompt and efficient scheduling and disposition of actions in the circuit court. The plan shall include a system of differentiated case management in

which actions are classified according to complexity and priority and are assigned to a scheduling category based on that classification and, to the extent practicable, follow any template established by the Chief Judge of the Court of Appeals.

(B) The County Administrative Judge shall send a copy of the plan and all amendments to it to the State Court Administrator. The State Court Administrator shall review the plan or amendments and transmit the plan or amendments, together with any recommended changes, to the Chief Judge of the Court of Appeals.

(C) The County Administrative Judge shall monitor the operation of the plan, develop any necessary amendments to it, and, upon approval by the Chief Judge of the Court of Appeals, implement the amended plan.

(2) Family Law Actions

(A) The plan shall include appropriate procedures for the granting of emergency relief and expedited case processing in family law actions when there is a credible prospect of imminent and substantial physical or emotional harm to a child or vulnerable adult.

Committee note: The intent of this subsection is that the case management plan contain procedures for assuring that the court can and will deal immediately with a credible prospect of imminent and substantial physical or emotional harm to a child or vulnerable adult, at least to stabilize the situation pending further expedited proceedings. Circumstances requiring expedited processing include threats to imminently terminate

services necessary to the physical or mental health or sustenance of the child or vulnerable adult or the imminent removal of the child or vulnerable adult from the jurisdiction of the court.

(B) In courts that have a family division, the plan shall provide for the implementation of Rule 16-307.

Cross reference: See Rule 9-204 for provisions that may be included in the case management plan concerning an educational seminar for parties in actions in which child support, custody, or visitation are involved.

(3) Guardianship Actions

The plan shall include appropriate procedures for expedited case processing pursuant to Code, Estates and Trusts Article, § 13-705 (f) and Rule 10-201 (b) and (f).

Committee note: The intent of subsection (b)(3) is that the case management plan contain procedures for non-emergency expedited case processing for guardianships of the person of disabled adults in connection with medical treatment.

(4) Special Immigrant Juvenile Status Matters

The plan shall include appropriate procedures for expedited case processing for petitions and motions for findings or determinations of fact necessary to a grant of Special Immigrant Juvenile Status for the purposes of 8 U.S. Code § 1101(a)(27)(J).

~~(4)~~(5) Consultation

In developing, monitoring, and implementing the case management plan, the County Administrative Judge shall

(A) consult with the Administrative Office of the Courts and

with other County Administrative Judges who have developed such plans, in an effort to achieve as much consistency and uniformity among the plans as is reasonably practicable, and (B) seek the assistance of the county bar association and such other interested groups and persons as the judge deems advisable.

~~(5)~~ (6) Information Report

As part of the plan, the clerk shall make available to the parties, without charge, a form approved by the County Administrative Judge that will provide the information necessary to implement the case management plan. The information contained in the information report shall not be used for any purpose other than case management. The clerk of each circuit court shall make available for public inspection a copy of any current administrative order of the Chief Judge of the Court of Appeals exempting categories of actions from the information report requirement of Rule 2-111 (a).

(c) Additional Features of Case Management Plan

As part of the case management plan, the County Administrative Judge shall adopt procedures consistent with the Maryland Rules designed to:

- (1) eliminate docket calls in open court;
- (2) ensure the prompt disposition of motions and other preliminary matters;

(3) provide for the use of scheduling and pretrial conferences, and the establishment of a calendar for that purpose, when appropriate;

(4) provide for the prompt disposition of uncontested and ex parte matters, including referrals to an examiner or magistrate, when appropriate;

(5) provide for the disposition of actions under Rule 2-507;

(6) to the extent permitted by law and when feasible and approved by the presiding judge, provide for non-evidentiary hearings to be conducted by telephonic, video, or other electronic means.

(7) establish trial and motion calendars and other appropriate systems under which actions ready for trial will be assigned for trial and tried, after proper notice to parties, without necessity of a request for assignment from any party; and

Cross reference: See Rule 16-303 (Motion Day).

(8) establish systems of regular reports that will show the status of all pending actions with respect to their readiness for trial, the disposition of actions, and the availability of judges for trial work.

Source: This Rule is derived from former Rule 16-202 (2016).