

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

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CHAPTER 900 - ACCESS TO JUDICIAL RECORDS
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.

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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:

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- (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

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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
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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.

RULE 16-904

(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).

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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.

RULE 16-905

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

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- (g) Interagency and Intra-agency Memoranda
- (h) Problem-Solving Court Program Records

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

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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.

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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).

MARYLAND RULES OF PROCEDURE
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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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DIVISION 2. LIMITATIONS ON ACCESS

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.

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(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 9-204.1 and 9-204.2.

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

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

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

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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).

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

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) 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.

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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 (d).

(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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DIVISION 2. LIMITATIONS ON ACCESS

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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MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

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.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 900 - ACCESS TO JUDICIAL RECORDS

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

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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

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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.

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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 16-933.

(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
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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

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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).