



Center for Public  
Representation

May 2, 2025

Hon. Matthew Fader, Chief Justice and  
Justices of the Supreme Court of Maryland  
c/o Sandra F. Haines, Esq. Reporter  
Standing Committee on Rules of Practice & Procedure  
580 Taylor Ave, A-Pod  
Annapolis, MD 21401  
Sent via email to:  
[rules@mdcourts.gov](mailto:rules@mdcourts.gov)

**Re: Standing Committee on Rules of Practice and Procedure's 224<sup>th</sup> Report: Testimony in Support of Proposed Amendments to Rule 1-332**

Your Honors:

The Center for Public Representation (CPR) is pleased to submit this testimony in support of the Rules Committee's 224<sup>th</sup> Report on proposed amendments to Rule 1-332: Reasonable Accommodations for Persons with Disabilities.<sup>1</sup>

CPR is a national legal advocacy center that has been committed to protecting, enforcing, and advancing people with disabilities rights for almost 50 years. CPR uses legal strategies, systemic reform initiatives, and policy advocacy to enforce civil rights, expand opportunities for inclusion and full community participation, and empower people with disabilities to exercise choice in all aspects of their lives. As a leader within the disability rights community, CPR has longstanding expertise on a myriad of issues, including Title II of the Americans with Disabilities Act (ADA) and Supported Decision-Making. CPR Staff Attorney, Megan Rusciano, was invited to serve as a subject matter expert to inform the Rules Committee's proposed amendments to this Rule. CPR asks this Court to issue a favorable report for the proposed amendments to Rule 1-332, which will create a streamlined process for Marylanders with disabilities to request reasonable accommodations, like Supported Decision-Making, and modernize the Rule's language in line with federal disability rights protections.

Nearly 35 years ago, Congress passed the ADA to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."<sup>2</sup> Title II of the ADA ensures that people with disabilities cannot, due to their disabilities, be "excluded from participation in or be denied the benefits of the services, programs, or activities" of a public entity.<sup>3</sup> While courts are public entities under the law, people with disabilities still face barriers to accessing court systems. Indeed, it was not until 2004, in *Tennessee v.*

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<sup>1</sup> See Supreme Court of Maryland, Standing Committee on Rules of Practice and Procedure, Notice of Proposed Rule Changes (April 2, 2025), <https://www.mdcourts.gov/sites/default/files/rules/reports/224threport.pdf>.

<sup>2</sup> 42 U.S.C. § 12101 (b)(1).

<sup>3</sup> *Id.* at § 12132.

*Lane*,<sup>4</sup> that the U.S. Supreme Court held that Title II's protections extended to state court systems. That case involved George Lane, a man with paraplegia, who was forced to crawl up two flights of stairs to attend a court hearing in a courthouse without an elevator.<sup>5</sup> When he refused "to crawl again or to be carried by officers to the courtroom" for a subsequent hearing, he was arrested and jailed.<sup>6</sup>

Courts' obligations to make reasonable accommodations and modifications are central to the ADA's mandate to eliminate discrimination against people with disabilities. As the late Supreme Court Justice Ruth Badar Ginsburg stated in her concurrence in *Lane*: "Including individuals with disabilities among people who count in composing 'We the People,' Congress understood in shaping the ADA, would sometimes require not blindfolded equality, but responsiveness to difference; not indifference, but accommodation."<sup>7</sup> Without reasonable accommodations and modifications to Courts' buildings, policies, procedures, and services, people with disabilities will be denied the administration of justice and thereby denied the opportunity to exercise their rights as full participants and members of our society.

While today many court systems have become more accessible, people with disabilities still face profound obstacles to accessing courts, including denial of their right to effective communication,<sup>8</sup> as well as physical, informational, economic, and other barriers.<sup>9</sup> The proposed amendments to Rule 1-332 are needed to provide a critical procedure for the nearly 25% of Marylanders<sup>10</sup> who have a disability and who may require reasonable accommodations to access our courts. For example, a person with cerebral palsy who relies on an augmentative and alternative communication device to communicate,<sup>11</sup> like text to speech generating technology on an iPad, may need a reasonable accommodation to provide her more time to type out and compose her responses to questioning in court.<sup>12</sup> A person with autism might need access to their supporter -- pursuant to a Supported Decision-Making arrangement<sup>13</sup> -- to help them understand the court process and effectively communicate during a court hearing.

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<sup>4</sup> *Tennessee v. Lane*, 541 U.S. 509 (2004).

<sup>5</sup> *Id.* at 513-514.

<sup>6</sup> *Id.* at 514.

<sup>7</sup> *Id.* at 536.

<sup>8</sup> See 28 C.F.R. § 35.160 (a)(1) (2025) ("A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.").

<sup>9</sup> DEPARTMENT OF JUSTICE: *Advancing Equal Access to Justice for Americans with Disabilities: Moving Towards Closing the Justice Gap on the 33<sup>rd</sup> Anniversary of the ADA*, (2023), <https://www.justice.gov/archives/atj/blog/advancing-equal-access-justice-americans-disabilities-moving-towards-closing-justice-gap> (last visited April 30, 2025).

<sup>10</sup> See CENTERS FOR DISEASE CONTROL AND PREVENTION, *Disability and Health Data System: Maryland*, (2022), <https://tinyurl.com/2c49ejcs> (last visited April 29, 2025) (finding that 24% of Maryland adults have a disability, including 11% of Maryland's who have cognitive disabilities, and 10% who have a mobility disability). Over 780,000 Marylanders have a mental health disability (19 times the population of Annapolis). See NATIONAL ALLIANCE ON MENTAL ILLNESS, *Mental Health in Maryland* (2021), <https://www.nami.org/NAMI/media/NAMI-Media/StateFactSheets/MarylandStateFactSheet.pdf> (last visited April 28, 2025).

<sup>11</sup> AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION, *Augmentative and Alternative Communication (AAC)*, <https://www.asha.org/NJC/AAC/> (last visited on April 28, 2025).

<sup>12</sup> COMMUNICATION FIRST, *Tips for Online Meetings with AAC Users*, by AAC User (2024) <https://communicationfirst.org/wp-content/uploads/2025/03/Best-Practices-for-Online-Meetings-with-AAC-Users-by-AAC-Users-v1.pdf> (last visited April 28, 2025).

<sup>13</sup> MD. CODE. ANN. EST. & TRUSTS § 18-101 *et. seq.* (2022).

The proposed amendments create a streamlined process for people with disabilities to submit a reasonable accommodation request and identify who will review the request, how the determination will be made, and what information must be provided in that determination. The proposed amendments also modernize the Rule 1-332's text to comport with language used in the ADA by, for example, using the definition of person with disability from Title II<sup>14</sup> and giving primary consideration to the preferred accommodation of the person with disabilities.<sup>15</sup> Together, these elements are vital to ensuring that people with disabilities have a clear way to communicate to the court what they need to participate in the judicial system.

Importantly, in identifying examples of reasonable accommodations, the proposed amendments to Rule 1-332 include Supported Decision-Making arrangements. Supported Decision-Making (SDM) is defined as “assistance from one or more persons of an individual’s choosing in understanding the nature and consequences of potential personal and financial decisions, which enables the individual to make the decisions, and in communicating a decision once made if consistent with the individual’s wishes.”<sup>16</sup> In 2022, Maryland formally recognized SDM arrangements and agreements in statute.<sup>17</sup> In 2023, this Court recognized in its amendments to Md. Rule 19-301.14 that, when attorneys are representing clients with diminished capacity, they should be mindful that the client may have the “ability to understand, deliberate upon, and reach conclusions about matters affecting the client’s own well-being...with supported decision-making or other accommodations.”<sup>18</sup> SDM has also been recognized federally as a reasonable modification for a person’s disability.<sup>19</sup>

Within the court system, SDM can ensure that people with disabilities have access to a trusted friend or family member—called a supporter—who can explain to them the court process and proceedings in plain language, so that they can effectively communicate and participate in those proceedings.<sup>20</sup> Too often, examples of court accommodations center on physical access needs, interpreters, or basic assistive technology. By naming SDM

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<sup>14</sup> 42 U.S.C. § 12131.

<sup>15</sup> 28 CFR § 35.160.

<sup>16</sup> NAT’L CONF OF COMM’RS ON UNIF. STATE L., *Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act* at §102 (2017), <http://tinyurl.com/azfnxrsj> (last visited April 29, 2025). See also MD. CODE ANN. EST. & TRUSTS § 18-101(b) (2022) (defining Supported Decision-Making as “a process by which an adult, with or without having entered a supported decision-making agreement, utilizes support from a series of relationships in order to make, communicate, or effectuate the adult’s own life decisions). For more information on Supported Decision-Making, see CENTER FOR PUBLIC REPRESENTATION, *About Supported Decision-Making*, <https://supporteddecisions.org/about-supported-decision-making/> (last visited April 28, 2025).

<sup>17</sup> MD. CODE ANN. EST. & TRUSTS §18-101 *et. seq.* (2022). See also MD. CODE ANN. HEALTH-GEN § 20-1601(c)(2015) (In 2015, Maryland passed a law recognizing SDM as an auxiliary aid and service to prevent discrimination in access to organ transplantation for people with disabilities). For more information on others States that have passed similar legislation, see CENTER FOR PUBLIC REPRESENTATION, *U.S. Supported Decision-Making Laws*, <https://supporteddecisions.org/resources-on-sdm/state-supported-decision-making-laws-and-court-decisions/> (last visited April 28, 2025).

<sup>18</sup> MD. ATT’Y RULES FOR PRO. CONDUCT, R. 19-301.14 at Comm. 1 (2023).

<sup>19</sup> See U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES (HHS), *Final Rule: Discrimination on the Basis of Disability in Health and Human Service Programs or Activities*, 89 Fed. Reg. 40,066, at 40,082, 40,089-090, 40,097, 40,098-099, and 40,0110 (effective July 8, 2024), <https://www.federalregister.gov/documents/2024/05/09/2024-09237/nondiscrimination-on-the-basis-of-disability-in-programs-or-activities-receiving-federal-financial>,

<sup>20</sup> See Elizabeth Moran & Megan Rusciano, *Ensuring Effective Communication for People with Disabilities*, National Center for State Courts, Webinar (April 2024), <https://vimeo.com/910011122?share=copy> (last visited April 29, 2025). See also Elizabeth Moran, *Something to Talk About: Supported Decision-Making and Access to Justice for All*, 42 BIFOCAL 6 (2021), [https://www.americanbar.org/groups/law\\_aging/publications/bifocal/vol-42/bifocal-vol-42-issue-6-july-august-2021/something-to-talk-about--supported-decision-making-and-access-to/](https://www.americanbar.org/groups/law_aging/publications/bifocal/vol-42/bifocal-vol-42-issue-6-july-august-2021/something-to-talk-about--supported-decision-making-and-access-to/).

as an example of a reasonable accommodation, the proposed amendments to Rule 1-332, in line with federal and Maryland law, signal to people with disabilities, including people with cognitive disabilities, that they have a right to effective communication and should have meaningful access to the court.<sup>21</sup>

We commend the Maryland Judiciary's efforts to reform and modernize Rule 1-332. This Rule holds much promise to making Maryland courts more accessible to people with disabilities in line with the ADA's mandate. We ask this Court to provide a favorable report on these amendments. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Megan Rusciano', with a stylized flourish at the end.

Megan Rusciano  
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