

West's Annotated Code of Maryland  
Courts and Judicial Proceedings  
Title 10. Evidence (Refs & Annos)  
Subtitle 9. Miscellaneous Rules (Refs & Annos)

MD Code, Courts and Judicial Proceedings, § 10-924

§ 10-924. In-custody witness testimony

Effective: October 1, 2020

[Currentness](#)

#### **Definitions**

(a)(1) In this section the following words have the meanings indicated.

(2)(i) “Benefit” means any consideration given to an in-custody witness, or to a third party at the request of or on behalf of the in-custody witness, in return for testimony from the in-custody witness in a criminal proceeding against a suspect or defendant.

(ii) “Benefit” includes an offer by a State's Attorney to:

1. Recommend or agree not to oppose a more favorable release status;
2. Recommend or agree not to oppose a motion for modification or reduction of a sentence;
3. Provide information to the Division of Parole and Probation to assist the in-custody witness or a third party in obtaining a favorable action by a probation agent, a parole officer, or the Parole Commission;
4. Provide immunity in a criminal proceeding;
5. Dismiss outstanding criminal charges, criminal prosecutions, or parole or probation violations;
6. Provide financial assistance; or
7. Provide any assistance in obtaining an amelioration of custodial conditions, status, or conditions of incarceration.

(3)(i) “In-custody witness” means an individual, other than an accomplice or a co-defendant, who:

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1. Is incarcerated at the time that the individual offers or provides testimony against a suspect or defendant; and

2. Receives, or has an expectation of receiving, a benefit in return for the testimony.

(ii) "In-custody witness" does not include a confidential informant who does not provide testimony against a suspect or defendant.

**State's Attorney recording and reporting of in-custody witness testimony; confidentiality of information**

(b)(1) If a State's Attorney obtains testimony from an in-custody witness, the State's Attorney shall record in writing:

(i) The substance of the in-custody witness's testimony, even if the testimony is not presented in a court proceeding;

(ii) The purpose for which the State's Attorney used the testimony; and

(iii) Whether the in-custody witness received a benefit and, if so, what the benefit is or will be.

(2) A State's Attorney shall report any information recorded under paragraph (1) of this subsection to the Governor's Office of Crime Prevention, Youth, and Victim Services.

(3) The information recorded and reported under this subsection is not subject to disclosure under the Maryland Public Information Act.

**Storage, maintenance, and disclosure of information by  
Governor's Office of Crime Prevention, Youth, and Victim Services**

(c)(1) The Governor's Office of Crime Prevention, Youth, and Victim Services shall securely store and maintain the information reported under subsection (b)(2) of this section.

(2) The Governor's Office of Crime Prevention, Youth, and Victim Services may disclose the information stored and maintained under paragraph (1) of this subsection only to:

(i) A State's Attorney, or a State's Attorney's designee;

(ii) The Attorney General, or the Attorney General's designee; and

(iii) The State Prosecutor, or the State Prosecutor's designee.

**Disclosure of information to defendant or attorney for defendant**

(d)(1) Except as provided in paragraph (2) of this subsection, within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant before the court, the State's Attorney shall disclose to the defendant, or an attorney for the defendant, all material and information required for disclosure under [Maryland Rule 4-263](#), including:

(i) Any benefits an in-custody witness has received, or expects to receive, in exchange for providing testimony;

(ii) The substance, time, and place of any statement:

1. Allegedly made by a suspect or defendant to the in-custody witness; or

2. Made by an in-custody witness to law enforcement implicating the suspect or defendant; and

(iii) Other cases in which the in-custody witness testified, provided that the testimony can be ascertained through reasonable inquiry, and whether the in-custody witness received a benefit in exchange for providing the testimony in those other cases.

(2)(i) The court may grant the State's Attorney an extension under paragraph (1) of this subsection if the court finds that the material or information could not have been discovered or obtained by the State after the exercise of due diligence within the prescribed period of time.

(ii) On a finding of good cause, the court may:

1. Set a reasonable period of time for disclosure; or

2. Continue the trial to allow for a reasonable period of time for disclosure.

**Compliance with Maryland Rule 4-263**

(e) Prior to admitting testimony of an in-custody witness, the court shall conduct a hearing, at the request of the defendant, to ensure that the State's Attorney has disclosed all material and information related to the in-custody witness as required under subsection (d) of this section and [Maryland Rule 4-263](#).

**Victim of in-custody witness provided with information about benefits received**

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(f) If an in-custody witness receives a sentence reduction or modification, a favorable release status, immunity in a criminal proceeding, dismissal or a criminal charge, or other leniency or incentive in exchange for testimony, this information shall be provided to any victim in the in-custody witness's case.

**Credits**

Added by [Acts 2020, c. 281, § 1, eff. Oct. 1, 2020](#); [Acts 2020, c. 282, § 1, eff. Oct. 1, 2020](#). Amended by [Acts 2020, c. 628, § 5](#).

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Current through all legislation from the 2020 Regular Session of the General Assembly.

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