

**STATE OF MAINE
SUPREME JUDICIAL COURT
PROPOSED MAINE RULES OF ELECTRONIC COURT SYSTEMS [RECS]
DRAFT May 13, 2020**

PREAMBLE

As the Maine courts implement an all new digital case management system (“CMS”) with an integrated electronic filing component, it is necessary that the new format through which court records are available be tailored to ensure that there is an appropriate balance between transparent and public access to court records and protection for the personal, sensitive, and private information contained in many of those records.

Given the extent and breadth of information contained in court records and the growing understanding of the dangers associated with online dissemination and use of personal and private information from digital court records, rules of access that are understandable, tailored to the varying and competing interests, and clear are important for creating the best public service.

In weighing the competing interests associated with the public’s right of access to the courts, the legitimate expectations of privacy held by those who choose or are required to come to court to resolve disputes and seek justice, and the need for effective court administration, the following principles have been adopted in these rules:

1. The public has a general right of access to court records in both civil and criminal cases and proceedings, unless otherwise restricted by federal or state law, court rule, or administrative order;
2. The public’s right of access is at its zenith where the records report the action of government, including judicial and executive branch actions;
3. The public’s interest in records held by the court is at its weakest when the records contain personal and private details regarding litigants and others who must provide that information in order to protect their rights and enforce the law;

4. Public access to court records can inform and educate the public about the workings of the courts and acts as a mechanism for oversight and accountability;
5. The protection of personal privacy is critical, and the public right of access to court records is not absolute. Certain private, personal information contained in court records need not be made public in order to promote the interests served by access to court records;
6. Once digital information or data is remotely accessible, neither the Judicial Branch nor any other entity or person has the practical ability to control its dissemination or use;
7. Therefore, access to court records, including remote electronic access, should be facilitated when it is consistent with the preservation of legitimate privacy interests and with state and federal laws.

Pursuant to those principles, these rules provide for access to court records in a manner that:

- provides maximum reasonable accessibility to court records,
- supports the role of the judiciary,
- promotes governmental accountability,
- contributes to public safety,
- minimizes the risk of harm to individuals,
- protects individual privacy rights and interests,
- makes effective use of limited court resources,
- minimizes reluctance to use the court to resolve disputes,
- provides excellent customer service,
- does not unduly interfere with the function of the Judicial Branch to administer justice to litigants,
- protects individuals from the use of outdated or inaccurate information, and
- contributes to the body of knowledge of effective practices of courts.

RULE 1. SCOPE

These rules define the scope of access to court records electronically stored by the Maine Judicial Branch and govern electronic filing and service of documents. These rules apply to:

(A) Parties, persons, and entities filing or requesting access to electronic court records; and

(B) All court staff and other persons conducting business on behalf of the court, including judicial officers, responding to requests for electronic court records.

These rules do not apply to county probate courts or paper records and paper filings in existence on or made before the date these rules are implemented in the court where the record is located.

RULE 2. DEFINITIONS

(A) As used in these rules, unless the context otherwise indicates, the following terms have the following meanings:

(1) “Accept” or “Acceptance” in the context of electronic filing indicates approval by the court clerk of an electronic document submitted to the electronic filing system. When a court clerk approves and accepts a document submitted for electronic filing, that electronic filing becomes part of the electronic case file.

(2) “Accessible by the public” means that a court record is open to inspection by any member of the public and may be reproduced as permitted by these rules. Under these rules, some court records may be accessible by the public only at a courthouse, and other court records may be accessible by the public both remotely and at a courthouse.

“Accessible by the public” does not mean that the court will search for records when the requester does not have information sufficient to identify the specific court records sought.

(3) “Accessible by the public only at a courthouse” means that a court record may be inspected by any member of the public only at a public access terminal. Court records that are accessible by the public only at a courthouse cannot be copied electronically, but hard copies may be provided by the court clerk. A fee may be charged for copies.

(4) “Accessible by the public remotely” means that a court record may be inspected or reproduced by any member of the public through an internet-based system that is not platform-specific. Court records that are accessible by the public remotely are also accessible by the public at a courthouse.

(5) “Aggregate data” means summary information extracted, assembled, or derived from compiled data. “Aggregate data” eliminates any case- or party-identifying information such as docket numbers, names, personally identifying information, and addresses.

(6) “Bulk data” means an electronic collection of data composed of information from multiple records, whose primary relationship to each other is their shared origin from single or multiple databases. Bulk data is different from multiple records.

(7) “By law” means by federal or state law or regulation, court rule, including these rules, or administrative order.

(8) “Case management system” or “CMS” means an electronic document repository maintained, administered, and managed by the Maine Judicial Branch to track information and manage cases in the courts.

(9) “Child protection matter” means any child protection matter filed under Title 22 of the Maine Revised Statutes.

(10) “Civil case” means any case that is not a criminal case subject to Rule 5, a juvenile case subject to Rule 6, or a family matter, child protection matter, or protection order case subject to Rule 7.

(11) “Clerical error” means information in the court record that is obviously incorrect and that occurred as a result of a mistake made by court staff.

(12) “Compiled data” means information that is derived from the selection, collection, or reformulation of all or some of the information from the records of more than one case or judicial proceeding.

(13) “Conventional filing” and its variants mean a process in which a filer submits a paper document that is then converted to electronic format by a court clerk and filed.

(14) “Conventional service” and its variants mean service accomplished by non-electronic means such as by mail or in person in accordance with the applicable rules of civil, criminal, or appellate procedure.

(15) “Court” means any judicial officer, attorney, law clerk, or other person employed by the Maine Judicial Branch.

(16) “Court clerk” means a manager of court operations, clerk of court, deputy clerk, assistant clerk, associate clerk, administrative clerk, or staff of a clerk’s office.

(17) “Court record”

(a) “Court record” means any file, document, information, or data received or maintained by a court in electronic form in connection with a specific case or proceeding, including:

(i) Pleadings, motions, briefs and their respective attachments, correspondence, and documentary evidentiary exhibits submitted with court filings;

(ii) Orders, judgments, opinions, and decrees;

(iii) Registries of actions, calendars, docket sheets, and other information created or prepared by court clerks that is related to a case or proceeding; and

(iv) Juvenile case records as defined in the Maine Juvenile Code.

(b) “Court record” does not include the following materials, even if they exist in connection with a specific case or proceeding:

(i) Information gathered, maintained, or stored by a governmental agency or other entity to which the court has access but that is not part of a court record or file or is part of the court record but is prohibited from release by law;

(ii) Notes, memoranda, and drafts thereof, and any other material prepared or collected by a judicial officer or other court staff at the direction of a judicial officer and used for a judicial settlement conference, in recording the judicial officer’s notes of a proceeding, or in researching or preparing orders, judgments, opinions, or decrees;

(iii) Internal draft working documents, reports, or data analysis prepared for or by a judicial officer or other court staff related to court practices, schedules, work assignments, and procedures;

(iv) Legal work product, including to drafts, and other records or reports of any attorney, law clerk, or other person employed by or representing the court that are produced in the regular course of business or during representation of the court;

(v) Records of consultative, advisory, or deliberative discussions pertaining to the rendering of decisions or the management of cases;

(vi) Discovery materials served through the EFS;

(vii) Exhibits submitted at trial or hearing;

(viii) Juror information; and

(ix) Any other court records not expressly defined as court records, including administrative records or reports maintained by the court.

(17) “Courthouse” means any facility in which a State of Maine District Court or Superior Court is housed. “Courthouse” does not include county probate courts.

(18) “Electronic case file” means the dataset that includes any document, information, data, or other item created, collected, received, or maintained by a court in connection with a specific case that is readable through the use of an electronic device. The electronic case file does not include anything that is not a court record as defined in these rules.

(19) “Electronic document” means the electronic form of pleadings, notices, motions, warrants, orders, exhibits, briefs,

judgments, writs of execution, and other records filed and accepted by a court. Electronic documents include documents filed in digitized format or converted to digitized format by a court clerk.

(20) “Electronic filing” means the electronic transmission of a document in electronic form to the court through the electronic filing system. An electronic filing under these rules does not include the submission or transmission of documents to a court through other electronic means such as e-mail, facsimile, or external USB drives.

(21) “Electronic filing system” or “EFS” means the system approved by the court for the filing and service of electronic documents.

(22) “Electronic service” means the electronic transmission of a document or information to a party or a party's attorney. Under these rules, electronic service does not include service of process or a summons to gain jurisdiction over persons or property.

(23) “Electronic notification message” means an automatic electronic message generated by the CMS and sent to all attorneys or parties in a specific case to denote the receipt of a filing.

(24) “Family matters” means cases or proceedings for the following:

(a) Divorce;

(b) Annulment or judicial separation;

(c) Parental rights and responsibilities, including the establishment or enforcement of a child support obligation;

(d) Paternity or any type of parentage, including actions to enforce or obtain remedies for noncompliance with a gestational carrier agreement;

(e) Grandparent or great-grandparent visitation; and

(f) Adoption, guardianship, name change, or emancipation of a minor.

(25) “Juror information” means the following for all prospective jurors, jurors, and grand jurors:

(a) Names;

(b) Telephone numbers, addresses, including email or other electronic addresses, and other contact information;

(c) Social Security numbers;

(d) Dates of birth;

(e) Source lists;

(f) Seating charts;

(g) Qualification questionnaires;

(h) Information obtained by special screening questionnaires or in *voir dire* proceedings that personally identifies jurors; and

(i) All other personally identifying information of a juror or information from which a juror’s identity could be learned.

(26) “Nonpublic” means access is restricted or prohibited by law.

(27) “Personally identifying information” means information that can be used to distinguish, detect, discover, or trace an individual, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

(28) “Protection order case” means any protection from abuse case or any protection from harassment case.

(29) “Public”

(a) “Public” means the following:

(i) Any person, business, media organization, or entity; and

(ii) A government agency or commission for which there is no existing federal or state law, court rule, or court order defining that agency’s access to court records.

(b) “Public” does not mean the following:

(i) Court staff, employees, and judicial officers;

(ii) The parties to a specific case or proceeding, their attorneys and their attorneys’ authorized agents, and persons identified by the court as having access to the court record in that case or proceeding;

(iii) Private or governmental persons, vendors, or entities that assist the court in performing its functions and are subject to court restrictions on the use and dissemination of information from court records;

(iv) Persons or governmental entities whose access to court records is governed by law, or by a policy set by the State Court Administrator;

(v) Persons who are authorized by law to access court records;

(vi) An alleged victim in a criminal or juvenile proceeding;

(vii) The parent, guardian, or legal custodian of an alleged victim in a criminal or juvenile proceeding when the alleged victim is a minor;

(viii) An immediate family member, parent, guardian, legal custodian, or a licensed investigator acting on behalf of an alleged victim in a criminal or juvenile proceeding when the alleged victim cannot act on his or her own behalf due to death, age, physical or mental disease, or disability; and

(ix) An attorney representing the alleged victim in a criminal or juvenile proceeding.

(30) “Public access terminal” means a facility within a courthouse to access the court’s closed-loop system.

(31) “Registry of actions,” formerly identified as “docket entries,” means the list of case information maintained by the court clerk that contains the case caption; docket number; a chronological entry identifying the date and title of each complaint, motion, order, judgment, notice, action, or other document filed in a case; and the dates of events in the case.

(32) “Registered user” means an individual or entity with an assigned username and password authorized by the Maine Judicial Branch to access and utilize the EFS.

(33) “Seal or impound” means a court action restricting public access to a court record that is otherwise accessible by the public. A sealed or impounded court record is a court record to which public access has been restricted by a court order or by law.

(34) “Self-represented litigant” means a person or entity, other than an attorney, who is not represented by an attorney in a court proceeding.

(35) “User agreement” means an agreement that establishes the obligations and responsibilities of the registered user for use of the EFS.

PART ONE: RULES OF ELECTRONIC COURT RECORDS ACCESS

RULE 3. GENERAL ACCESS POLICY

(A) Electronic court records are accessible by the public except as provided by law, including these rules, or by court order.

(B) Parties and their attorneys may access all court records in their cases remotely and at the courthouse except as provided by law or court order. Persons named as victims in any criminal or juvenile cases may access court records as provided by law only at a courthouse.

(C) Completed case records created before the implementation of electronic filing that become “court records” through scanning or other digitization, referred to as “legacy records,” may be accessed remotely only by court order or when explicitly allowed by these rules.

(D) Timing of access to court records accessible under these rules is determined by date of acceptance as defined in Rule (2)(A)(1). Court records become accessible upon acceptance unless otherwise provided in these rules.

(E) Whenever the accessibility of a court record changes under these rules, or by court order, the court clerk will either remove or grant electronic access within a reasonable time.

RULE 4. CIVIL CASES

(A) Date of Accessibility.

(1) No court records will be accessible by the public until three business days after the court receives and accepts proof of service on at least one defendant. The date of acceptance by the court must be determined by application of these rules.

(2) When a complaint is filed with a motion for approval of *ex parte* attachment or trustee process, no court records will be accessible by the public, by any other party to the case, or by attorneys of record until the court rules on the motion.

(3) When a motion for approval of *ex parte* attachment or trustee process is filed after the filing of the complaint, the motions and any attachments will not be accessible by the public, by any other party to the case, or by attorneys of record until the court rules on the motion.

(B) Civil Court Records Not Accessible by the Public. Court records related to the following proceedings are nonpublic:

- (1) Mental health civil commitment proceedings;
- (2) Medical malpractice screening panel proceedings;
- (3) Sterilization proceedings;
- (4) Proceedings for extreme weapon protection orders;
- (5) HIV/AIDS testing proceedings; and
- (6) Minor settlement proceedings.

(C) Civil Court Records Accessible by the Public only at a Courthouse. Court records in forcible entry and detainer (FED) cases before the entry of a judgment are accessible by the public only at a courthouse. Court records in FEDs are accessible by the public remotely only if and after a judgment has been entered against a defendant.

(D) Civil Court Records Accessible by the Public Remotely and at a Courthouse. Court records for any civil cases not listed in (B) or (C) are accessible by the public remotely and at any courthouse, except as otherwise provided by law or court order.

(E) Nonpublic Data, Documents, and Information. The data, documents, and information listed below, when filed in civil cases, are nonpublic, except as otherwise provided by law or court order.

- (1) Full names of minors;
- (2) Personally identifying information, including:
 - (a) Residence addresses;
 - (b) Telephone numbers;
 - (c) Personal, business, or school email addresses and other electronic addresses;
 - (d) Financial account numbers or statements, such as those that identify loans, bank accounts, mortgages, investment accounts, credit card numbers, personal identification numbers, or similar numerical identifiers;
 - (e) Driver's license numbers;
 - (f) Other personal identification numbers, such as Social Security and employer identification numbers, passport numbers, and state identification numbers;
 - (g) DNA-identifying data or information; and
 - (h) Dates of birth.
- (3) Disability accommodation requests;
- (4) Names, addresses, and personally identifying information of parties protected under a protection order, restraining order, or

injunction, and of alleged victims of sexual offenses, domestic violence, or stalking;

(5) Images of minors and of persons of any age subject to guardianship, conservatorship, or mental health commitment proceedings;

(6) Images depicting nudity or of a sexual nature including, sexual acts, sexual contact, or sexual touching;

(7) Immigration and visa documents and any related work authorizations;

(8) Indigency affidavits with attachments;

(9) Exhibits, affidavits, and other materials that are filed that contain otherwise confidential information as set out in these rules;

(10) Personal financial documents, including financial statements, tax documents including W-2s, paystubs, bank statements, account statements, and payment histories;

(11) Personal health information and medical records, including HIV/AIDS testing information and results, all mental health evaluations and records, forensic evaluations, substance use evaluations and treatment records, psychological records, and intelligence test documents and results;

(12) School and education records, including discipline and scholastic achievement information and data;

(13) Death certificates;

(14) Trade secrets;

(15) Requests for appointment of a guardian ad litem, orders appointing guardians ad litem, and guardian ad litem reports;

(16) Reports of sexual assault kits;

(17) Juror information, except as allowed in Rule 8; and

(18) Any other information or court record to which public access is prohibited by law.

RULE 5. CRIMINAL CASES

(A) Criminal Court Records Accessible by the Public Remotely and at a Courthouse. Court records listed below in criminal cases are accessible by the public both remotely and at a courthouse except as otherwise provided by law or subdivision (B) of this rule.

(1) Complaints, indictments, informations, motions, registries of actions, court judgments and commitment documents, and sentencing orders concerning:

(a) Pending criminal charges;

(b) Criminal charges that have resulted in either a conviction or an acquittal;

(c) Criminal charges that are dismissed by court order that are not part of an agreement;

(d) Criminal charges that are dismissed as a part of an agreement that results in:

(i) A conviction or adjudication on another charge,

(ii) An admission to a probation or administrative release violation,

(iii) A deferred disposition or filing of the charge, or

(iv) A dismissal of one charge and conviction on one or more others after a deferred disposition or filing;

(e) Criminal charges that are affected by conditional pardons or commutation;

(f) Criminal charges that were dismissed by the prosecutor without any plea to a related charge or any admission to a probation or administrative release violation; or

(g) Judgments of not criminally responsible.

(2) Motions for arrest warrants and any associated affidavits, not otherwise ordered impounded by the court pursuant to M.R.U. Crim. P. 4, after the warrant has been executed. Arrest warrants for failure to appear or for failure to pay a fine are accessible by the public remotely and at a courthouse before execution;

(3) Search warrants and associated affidavits, not otherwise ordered impounded by the court under M.R.U. Crim. P. 41 or 41B, only after a criminal charge related to the case is filed; and

(4) Pleadings, registries of actions, docket sheets, and the court's orders or decisions.

(B) Nonpublic Data, Documents, and Information. Data, documents, and information listed below, when filed in adult criminal cases, are nonpublic, except as provided by law.

(1) Names and dates of birth of persons, other than the accused and alleged adult accomplices;

(2) Personally identifying information, including:

(a) Residence addresses, other than of the accused;

(b) Telephone numbers;

(c) Personal, business, or school email addresses and other electronic addresses;

(d) Financial account numbers or statements, such as those that identify loans, bank accounts, mortgages, investment accounts, credit card numbers, personal identification numbers, or similar numerical identifiers;

(e) Driver's license numbers;

(f) Other personal identification numbers, such as Social Security and employer identification numbers, passport numbers, and state identification numbers; and

(g) DNA-identifying data or information.

(3) Disability accommodation requests;

(4) Names, addresses, and personally identifying information of parties protected under a protection order, restraining order, or injunction, and of alleged victims of sexual offenses, domestic violence, or stalking;

(5) Images of minors and of persons of any age subject to guardianship, conservatorship, or mental health commitment proceedings;

(6) Images depicting nudity or of a sexual nature, including sexual acts, sexual contact, or sexual touching;

(7) Immigration and visa documents and related work authorizations;

(8) Court records relating to applications for court-appointed counsel, including indigency affidavits;

(9) Exhibits, affidavits, and other materials that are filed that contain otherwise confidential information as set out in these rules;

(10) Personal financial documents, including financial statements, tax documents including W-2s, paystubs, bank statements, account statements, and payment histories;

(11) Personal health information and medical records, including HIV/AIDS testing information and results, all mental health evaluations and records, forensic evaluations, substance use evaluations and treatment records, psychological records, and intelligence test documents and results;

(12) School and education records, including discipline and scholastic achievement information and data;

(13) Death certificates;

(14) Trade secrets;

(15) Requests for appointment of a guardian ad litem, orders appointing guardians ad litem, and guardian ad litem reports;

(16) Reports of sexual assault kits;

(17) Juror information, except as allowed in Rule 8;

(18) In criminal prosecution for an alleged violation of a protection from abuse or harassment order, any identifying or residence information that is confidential under 19-A M.R.S. § 4008 or 5 M.R.S. § 4656;

(19) “Confidential criminal history record information,” as defined by the Maine Criminal History Records Information Act, 16 M.R.S. §§ 701-710, except for information accessible by the public pursuant to Rule 5(A);

(20) Court records in grand jury proceedings;

(21) Presentence reports, including attachments and evaluation reports; and

(22) Any other information or court record to which public access is prohibited by law.

RULE 6. JUVENILE CASES

(A) Juvenile Case Records that are Nonpublic. There is no public access to the juvenile case records listed below:

(1) Juvenile case records of an alleged or adjudicated offense that would be a Class D or E crime or a civil violation if committed by an adult;

(2) Juvenile case records for a juvenile offense that is dismissed by the court;

(3) Any other juvenile case records where the Legislature has explicitly closed the proceedings; and

(4) Any other juvenile case records that are not explicitly identified as public by law. If there is any ambiguity as to the level of access to a juvenile case record, the juvenile records are nonpublic unless determined otherwise by court order.

(B) Juvenile Case Records that are Accessible by the Public both Remotely and at a Courthouse. For the types of juvenile cases listed below, certain juvenile case records are accessible by the public both remotely and at a courthouse.

(1) Juvenile petitions alleging murder, felony murder, or manslaughter;

(2) Orders adjudicating a juvenile of an offense that would constitute murder, or a Class A, B, or C crime if committed by an adult;

(3) If a juvenile is charged with a Class A, B, or C offense and a Class D or E offense arising out of the same series of events, the Class A, B, or C charges must be filed by a separate petition from the petition charging the Class D or E offense or civil violation. The petition or order of adjudication containing the Class D or E offenses or civil violation is not accessible to the public pursuant to Rule 6(A)(1).

(C) Juvenile Case Records that are Accessible by the Public only at a Courthouse. Upon motion of a party or a court's own initiative, the court may limit access to juvenile case records that are accessible remotely and at a courthouse under Rule 6(B) to access only at a courthouse if the court finds that the juvenile's interest in privacy substantially outweighs the general public's right to remote access to the juvenile case records.

(D) Juvenile Case Records that are Accessible to Alleged Victims.

(1) Access for Alleged Victims. An alleged victim of a juvenile crime may access juvenile case records as provided by law and only at a courthouse.

(2) Alleged Victim Defined. For purposes of this rule, alleged victim of the juvenile crime includes:

(a) The alleged victim;

(b) If the alleged victim is a minor, a parent or parents, guardian or legal custodian of the alleged victim; and

(c) If the alleged victim cannot act on the alleged victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other reason, an immediate family member, guardian legal custodian of the alleged victim or a licensed professional investigator under Title 32, Chapter 89.

(E) Nonpublic Juvenile Case Data, Documents, and Information. Even when filed in otherwise public juvenile case records, the data, documents, and information listed below are nonpublic:

(1) Names and dates of birth of persons, other than the accused and alleged adult accomplices;

(2) Personally identifying information, including:

(a) Residence addresses;

- (b) Telephone numbers;
 - (c) Personal, business, or school email addresses and other electronic addresses; and
 - (d) Financial account numbers or statements, such as those that identify loans, bank accounts, mortgages, investment accounts, credit card numbers, personal identification numbers, or similar numerical identifiers;
 - (e) Driver's license numbers;
 - (f) Other personal identification numbers, such as Social Security and employer identification numbers, passport numbers, and state identification numbers; and
 - (g) DNA-identifying data or information.
- (3) Disability accommodation requests;
 - (4) Names, addresses, and personally identifying information of parties protected under a protection order, restraining order, or injunction, and of alleged victims of sexual offenses, domestic violence, or stalking;
 - (5) Images of minors and of persons of any age subject to guardianship, conservatorship, or mental health commitment proceedings;
 - (6) Images depicting nudity or of a sexual nature, including sexual acts, sexual contact, or sexual touching;
 - (7) Immigration and visa documents and related work authorizations;
 - (8) Court records relating to applications for court-appointed counsel, including indigency affidavits;

(9) Exhibits, affidavits, and other materials that are filed that contain otherwise confidential information as set out in these rules;

(10) Personal financial documents, including financial statements, tax documents including W-2s, paystubs, bank statements, account statements, and payment histories;

(11) Personal health and medical records, including HIV/AIDS testing information and results, all mental health evaluations and records, forensic evaluations, substance use evaluations and treatment records, psychological records, and intelligence test documents and results;

(12) School and education records, including discipline and scholastic achievement information and data;

(13) Death certificates;

(14) Trade secrets;

(15) Requests for appointment of a guardian ad litem, orders appointing guardians ad litem, and guardian ad litem reports;

(16) Reports of sexual assault kits;

(17) Documents concerning the issue of the juvenile's competency unless and until there is a decision finding the juvenile competent to stand trial;

(18) Special Immigrant Juvenile Status: Any information in an order of adjudication or other document about determination of Special Immigrant Juvenile Status;

(19) Presentence reports, including attachments and evaluation reports; and

(20) Any other information or court record to which public access is prohibited by law.

(F) Sealing or Impounding Public Juvenile Case Records. Court records sealed or impounded under this rule are not accessible by the public.

(1) Procedure for sealing or impounding juvenile case records.

(a) Juvenile petitions or orders of adjudication at any time. Upon motion of a party or a court's own initiative, the court may seal or impound juvenile petitions or orders of adjudication at any time if it finds the juvenile's interest in privacy substantially outweighs the general public's right to information.

(b) Juvenile case records after adjudication. A person who has been adjudicated of committing a juvenile offense may petition the court to seal or impound the juvenile case record when:

(i) At least three years have passed since the person was discharged from the disposition;

(ii) Since the date of the disposition, the person has not been adjudicated of having committed a juvenile crime and has not been convicted of committing an adult crime; and

(iii) There are no current adjudicatory proceedings pending for a juvenile or adult crime.

The court will review and rule on the petition to seal or impound in accordance with 15 M.R.S. § 3308(8).

(2) Handling of sealed or impounded court records. It is the responsibility of the filing party to ensure that sealed or impounded court records are submitted to the court in accordance with Rule 12.

RULE 7. FAMILY MATTERS, CHILD PROTECTION MATTERS, AND PROTECTION ORDER CASES

(A) No court records are accessible by the public remotely.

(B) No court records are accessible by the public in the following family cases:

- (1) Child protection matters;
- (2) Adoptions;
- (3) Guardianships of minors;
- (4) Name changes for minors;
- (5) Petitions for court-authorized abortions for minors;
- (6) Emancipations of minors; and
- (7) Assisted reproduction matters, including noncompliance with gestational carrier agreements.

(C) Family Court Records Accessible by the Public only at a Courthouse. Court records listed below in family matters are accessible by the public at a courthouse except as provided by law or subdivisions (B) or (C) of this rule.

- (1) Protection from abuse cases;
- (2) Protection from harassment cases; and
- (3) The following family matter:
 - (a) Divorce, annulment, or judicial separation;
 - (b) Parental rights and responsibilities, including the establishment or enforcement of a child support obligation;

(c) Establishment of parentage including complaints for de facto parenthood; and

(d) Grandparent or great-grandparent visitation.

(D) Nonpublic Records. The documents listed below, when filed in family matters, are nonpublic, except as provided by law.

(1) Social Security Confidential Disclosure Form;

(2) Disability accommodation requests;

(3) Images of minors and of persons of any age subject to guardianship, conservatorship, or mental health commitment proceedings;

(4) Images depicting nudity or of a sexual nature, including sexual acts, sexual contact, or sexual touching;

(5) Immigration and visa documents and related work authorizations;

(6) Indigency affidavits with attachments;

(7) Exhibits, affidavits, and other materials that are filed that contain otherwise confidential information as set out in these rules;

(8) Personal financial documents, including child support affidavits and worksheets, financial statements, tax documents including W-2s, paystubs, bank statements, account statements, and payment histories;

(9) Personal health and medical records, including HIV/AIDS testing documents, all mental health evaluations and records, forensic evaluations, substance use evaluations and treatment records, psychological records, and intelligence test documents and results;

(10) School and education records, including discipline and scholastic achievement information and data;

- (11) Death certificates;
- (12) Trade secrets;
- (13) Requests for appointment of a guardian ad litem, orders appointing guardians ad litem, and guardian ad litem reports;
- (14) Reports of sexual assault kits;
- (15) Any identifying or residence information that is confidential under 19-A M.R.S. § 4008 or 5 M.R.S. § 4656; and
- (16) Any other court record or document to which public access is prohibited by law.

RULE 8. JUROR INFORMATION

(A) No Public Access. No juror information is accessible remotely or at a courthouse to anyone other than the parties or their representatives.

(B) Limited Party or Attorney Access. During the period of service of a jury pool, juror information is provided only:

(1) To attorneys of record, their agents, and unrepresented litigants for cases for which jurors are being selected from the pool;

(2) For purposes of conducting *voir dire* examination;

(3) At the courthouse where *voir dire* examination takes place;
and

(4) On the condition that the requester provides a written, signed certification that the requester will comply with all requirements of 14 M.R.S. § 1254-A(7)–(9), and all applicable rules of procedure now or hereafter promulgated by the Maine Supreme Judicial Court, and will return any provided materials at the conclusion of the jury panel's role in the case, on penalty of contempt.

(C) After Jury Service Motion and Affidavit Required. After expiration of the period of service for all jurors in the pool, public access to jurors' names may be requested only by motion to the court with an affidavit stating the basis for the request. The court may grant the motion, subject to appropriate conditions to protect juror privacy, only upon a determination that the disclosure is in the interests of justice. The factors the court may consider in determining if the disclosure is in the interests of justice include, but are not limited to, encouraging candid responses from jurors, the safety and privacy interests of jurors, and the interests of the media and the public in ensuring that trials are conducted ethically and without bias.

(D) Use of Juror Information. Use of juror information is controlled by 14 M.R.S. §§ 1254-A-1254-B, M.R. Civ. P. 47(f), and M.R.U. Crim. P. 24(g).

RULE 9. PROCEDURES FOR ACCESS TO ELECTRONIC COURT RECORDS

(A) Remote Access. Court records that are accessible by the public remotely may be inspected and reproduced at any time as permitted by these rules. Remote access to court records may require a user account, registration by the user, the payment of fees as provided elsewhere in these rules, and any other procedures and payments that are reasonably necessary for administration of the system as determined by the Supreme Judicial Court.

(B) Courthouse Access. All court records accessible by the public may be inspected and reproduced at a courthouse as follows:

(1) Computer access. Members of the public may access a public access terminal during regular court business hours, subject to technical difficulties or system maintenance. The court clerk may set reasonable limits on the time and volume of access to the terminal to protect the court clerk's office from undue disruption and to promote access to the public access terminal for all users. There is no fee to use the public access terminal. A fee may be required for printouts of electronic court records from a public access terminal as provided in Rule 14.

(2) Request for assistance from the court clerk. Requests for help searching for and finding court records at a courthouse will be made at the court clerk's office. Such requests will be handled administratively and will not require a court order. The court clerk may ask the requesting person to complete a written request for the court record. If a request does not provide information sufficient to identify the record sought, the court clerk may decline to provide the requested assistance. The court clerk may set reasonable limits on the time spent helping the public with court records requests to protect the court clerk's office from undue disruption.

(C) Access to Exhibits Submitted with Court Filings. Exhibits submitted with court filings that are accessible by the public under these rules and are included in the definition of court records under Rule 2(A)(16) may be reproduced, subject to payment of fees and charges as provided in Rule 14. The rules do not address electronic access to trial exhibits because under Rule 34(C) trial exhibits are not part of the electronic case file.

(D) Available Formats for Reproduction.

(1) Printout. Court records that are accessible by the public under these rules may be printed subject to the payment of fees and charges as provided in Rule 14.

(2) Audio or audiovisual recordings, including transcripts of a public court proceeding. Audio or audiovisual recordings of public court proceedings that are received or maintained by the court in electronic form in connection with a particular case or proceeding are accessible by the public only by court order, except as provided by law. A fee may be charged for access to or reproduction of audio or audiovisual recordings, including transcripts, as provided in Rule 14.

(E) Requester's Self-service Duplication of a Court Record Not Permitted. Use of a smart phone or other electronic imaging device or any other means to duplicate or store copies of electronic court records is not permitted.

RULE 10. SEALING OR IMPOUNDING PUBLIC COURT RECORDS

Court records sealed or impounded under this rule are not accessible by the public.

(A) Procedure for Sealing or Impounding.

(1) The procedure for sealing or impounding juvenile case records is controlled by Rule 6(F).

(2) The procedure for sealing all court records other than juvenile case records is as follows:

(a) Any party to a court case or any person or entity that has standing to do so may file a motion to seal or impound a court record that is already accessible by the public, or would be accessible by the public if filed. Such a motion must be accompanied by an affidavit stating the basis upon which the movant has standing, and the reason for the request to seal or impound, including a statement describing the harm that is alleged will occur should the motion be denied. The motion and all attachments shall be labeled "NONPUBLIC" when filed.

(b) The person filing the motion must serve the motion to seal or impound on all parties unless the motion is filed ex-parte.

(c) Upon acceptance by the court clerk of a motion to seal or impound, the motion, and any related documents will not be accessible by the public, pending the court's ruling on the motion. The court clerk shall not docket the filing of the motion on the registry of actions until the court has ruled on the motion.

(d) Upon acceptance by the court clerk of an ex parte motion to seal or impound, the motion, any related documents, and any related entry on the registry of actions will not be accessible by the public or by any other party, pending the court's ruling on the motion.

(e) The court may seal or impound a court record from public access if it finds that a reasonable expectation of privacy outweighs the public interest in public access to the court record. In weighing a reasonable expectation of privacy against the public interest in access to the court record, the court will consider the following factors:

(i) An individual's personal safety, health, or well-being;

(ii) An individual's substantial personal, business, or reputational interest; and

(iii) The public interest in the information in the court record.

(B) Handling of Sealed or Impounded Court Records. It is the responsibility of the filing party to ensure that sealed or impounded court records are submitted to the court in accordance with Rule 12.

RULE 11. OBTAINING ACCESS TO NONPUBLIC OR SEALED OR IMPOUNDED COURT RECORDS

(A) Scope. This rule applies to motions for access to

- (1) Sealed or impounded court records; or
- (2) Court records made nonpublic by law where that law authorizes the court to allow access in specific circumstances.

(B) How Access is Requested. Any person seeking access to sealed or impounded or nonpublic court records may file a motion for access in accordance with applicable court rules of procedure. A nonparty who files a motion for access will be considered a party in interest for the limited purposes of the motion brought under this rule.

(C) Procedure for Service when Addresses are Confidential.

(1) In criminal cases, when the defendant is required to serve a motion for access on an alleged victim of a crime or a witness who testified at trial, service shall be on the office responsible for prosecuting the case, which shall send or forward the notice or motion to the alleged victim or witness;

(2) Except as set forth in Rule 11(C)(1), when serving a motion for access on a party or affected nonparty whose name or address is confidential, the movant must state prominently in the caption of the motion for access “Confidential Party: Court Service Requested” or “Confidential Affected Nonparty: Court Service Requested.” The court will provide a copy of the motion to the party or affected nonparty by any method permitted in the rules of procedure, in a way that does not reveal the confidential information.

(3) The court may waive this service requirement on motion or at any time on its own initiative if it finds that good faith efforts to locate the person to be served are not likely to be successful or could endanger that person’s health, safety, or well-being.

(D) Opportunity to be Heard. The court must provide the movant and the affected persons or parties an opportunity to be heard on the documents or through an in-person hearing.

(E) Standard to Obtain Access.

(1) Sealed or impounded records. A motion for access to sealed or impounded records will be granted only upon a showing that extraordinary circumstances exist that require the court records now be made available. In determining whether extraordinary circumstances exist, the court will consider both the public access and privacy interests served.

(2) Nonpublic Records. A motion for access to nonpublic records will be considered only when the motion includes explicit legal authority for public or limited non-party access to such records. If there is no explicit standard for review, then access will be granted only upon a showing that extraordinary circumstances exist that require the records to be made available.

(F) Extent of Access if Motion Granted. If the court allows access, it may impose reasonable conditions to protect the privacy interests at issue. Court records or information made accessible to a specific movant are not accessible by the public until the court orders otherwise.

(G) Access in Motions Practice. A motion to allow access, the response to such a motion, and the order ruling on such a motion must be written in a manner that does not disclose information from sealed or impounded court records. Motions and responses are sealed or impounded until the court orders otherwise.

(H) Appeal. A party, party in interest, or affected nonparty may appeal from a court order regarding access to a court record under these rules in accordance with the Maine Rules of Appellate Procedure.

The effective date of any order in a proceeding under this rule granting access will be suspended for a period of three days following entry of the order and the records at issue will remain nonpublic during this three-day period.

If any party to the proceeding files an appeal from the order in compliance with the applicable rules of appellate procedure before the end of the three-day period, the records at issue will not be accessible by the public or the party during the pendency of the appeal.

RULE 12. IDENTIFICATION AND HANDLING OF NONPUBLIC CASES, DATA, DOCUMENTS, AND INFORMATION

It is the responsibility of the filing party to ensure that sealed or impounded court records, or nonpublic cases, data, documents, and information are redacted or otherwise submitted to the court in accordance with these rules.

(A) For all cases designated as sealed, impounded, or nonpublic, every filing must be clearly and conspicuously marked, “NONPUBLIC.”

(B) When a document or other filing that is nonpublic or that has been sealed or impounded is submitted to the court in a public case, that document or filing must be clearly and conspicuously marked, “NONPUBLIC.”

(C) No records, documents, or information designated as sealed, impounded, or nonpublic will be submitted to any court as part of a public document.

(D) If a filed document does not comply with the requirements of these rules, a court may, upon motion or its own initiative, order the filed document returned, and that document may be deemed not to have been filed. A court may impose sanctions on any party or person filing a noncompliant document.

RULE 13. COMPILED, AGGREGATE, AND BULK DATA

Except in extraordinary circumstances, compiled, aggregate, and bulk data are not court records accessible by the public. Requests for compiled, aggregate, and bulk data may be submitted to the State Court Administrator or designee. In deciding whether to grant the request, the State Court Administrator or designee will consider staffing resources, technical barriers, and any applicable administrative order. No access to compiled, aggregate, or bulk data will be considered until all regions have been fully converted to the CMS.

RULE 14. ACCESS FEES

The court may charge reasonable fees for providing access to court records pursuant to these rules. For persons other than parties or their attorneys, a fee may be required for inspecting or copying any court records. A person may apply to the court for a waiver of fees based on inability to pay. A fee schedule will be published and publicly posted.

RULE 15. CLERICAL ERRORS

(A) To correct a clerical error in a court record, a party or the party's attorney must submit a request in writing to the court clerk's office.

(B) A request to correct a clerical error must state:

(1) The information that the party or the party's attorney claims is wrong, and

(2) Enough facts to support the claim that the information is wrong.

The request will include supporting documents as needed to prove there is a clerical error in the court record and to correct it.

(C) The requesting party must send copies of the request to all parties to the case.

(D) Within 21 days after receiving a request, the court clerk will respond in writing to all parties to the case in one of the following ways, stating that:

(1) A clerical error does exist in the court record, and the information in question has been corrected;

(2) A clerical error does not exist in the court record;

(3) The request does not state enough information or facts to determine what information is claimed to be wrong, and no further action will be taken on the request;

(4) The request does not relate to a court record covered by these rules, and no further action will be taken on the request; or

(5) The request has been received and an additional period, up to 35 days, is needed to complete a review of the request.

(E) Any party or the party's attorney may seek review of the court clerk's response. A request for review must be submitted to the court clerk within 14 days after the mailing date of the court clerk's response. The request to review the court clerk's response will be reviewed by the judge who presided over the case.

RULES 16 TO 30. [RESERVED]