

## Rules of Public Access to Records of the Judicial Branch

Adopted February 1, 1988

Effective July 1, 1988

With amendments effective through April 16, 2021

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### TEXT OF RULES

#### Rule 1. Scope of Rules

*[For text of subds 1 to 3, see M.S.2020, Volume 15]*

##### **Subd. 4. Filer's Obligations and Enforcement Sanctions Addressed Elsewhere.**

Various other court rules place obligations on parties and participants filing documents with the court to correctly designate non-public documents when filing (e.g., Minn. Gen. R. Prac. 14 (electronic filing)), to redact certain data elements from documents before filing (e.g., Minn. Gen. R. Prac. 11.02 (restricted identifiers such as Social Security numbers and certain financial account numbers); Minn. R. Juv. Prot. P. 8 (various elements in juvenile protection matters)), and to face sanctions for failure to comply (e.g., Minn. R. Civ. P. 5.04 (rejection of filings for inclusion of non-public information); Minn. Gen. R. Prac. 11.05 (appropriate sanctions including costs of redaction and potential striking of pleadings)). Following these rules correctly is critical to ensuring appropriate public access to court records as court staff are not required to review every word of every document submitted to the court for filing to determine if it is appropriately accessible to the public. To the extent that noncompliance is brought to the attention of the court, various rules may require, among other possible relief or action, that a document be temporarily segregated from public view until the redaction rules can be enforced.

(Amended effective July 1, 2005; amended effective July 1, 2015; amended effective January 1, 2021.)

#### Rule 2. General Policy

Records of all courts and court administrators in the state of Minnesota are presumed to be open to any member of the public for inspection or copying at all times during the regular office hours of the custodian of the records. Some records, however, are not accessible to the public, at least in the absence of a court order or disclosure by a judge, and these exceptions to the general policy are set out in Rules 4, 5, 6, and 8. Without limiting Rule 11, a disclosure made or directed by a judge acting in the judge's official capacity, including but not limited to disclosure directions in a written or oral order, shall not create liability, whether civil or criminal in nature, for the judge or for court staff implementing the judge's order.

(Amended effective July 1, 2005; amended effective January 1, 2021.)

#### Rule 4. Accessibility to Case Records

**Subdivision 1. Accessibility.** Subject to subdivision 4 of this rule (Records Referring to Information in Non-Public Documents) and Rule 8, subdivision 5 (Access to Certain Evidence), the following case records are not accessible to the public:

(a) *Domestic Abuse and Harassment Records.*

(1) Records maintained by a court administrator in accordance with the domestic abuse act, Minnesota Statutes, section 518B.01, until a court order as authorized

by Minnesota Statutes, section 518B.01, subdivision 5 or 7, is served upon the record subject who is the respondent to the action.

(2) Records of harassment restraining order proceedings maintained by a court administrator in accordance with Minnesota Statutes, section 609.748, until a court order as authorized by Minnesota Statutes, section 609.748, is served upon the record subject who is the respondent to the action. Upon the petitioner's request, information maintained by the court regarding the petitioner's location or residence is not accessible to the public but may be disclosed to law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

(3) A law enforcement information form provided by the petitioner in a proceeding under clause (1) or clause (2) of this rule. "Law enforcement information form" means a document in the form of OFP105 or HAR103 as published by the state court administrator on the website [www.mncourts.gov](http://www.mncourts.gov). A law enforcement information form may be disclosed to law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

(b) *Court Services Records*. Records on individuals maintained by a court that are gathered at the request of a court to:

(1) determine an individual's need for counseling, rehabilitation, treatment or assistance with personal conflicts (including, without limitation, support or attendance letters, e.g., regarding Alcoholics Anonymous, submitted by or for a party),

(2) assist in assigning an appropriate sentence or other disposition in a case (including, without limitation, disposition advisor memoranda or reports in criminal matters),

(3) provide the court with a recommendation regarding the custody of minor children, or

(4) provide the court with a psychological evaluation of an individual.

Provided, however, that this paragraph (b) does not apply to social services reports and guardian ad litem reports to the court in juvenile protection matters governed by the Rules of Juvenile Protection Procedure, which must be filed with the court in accordance with Minn. R. Juv. Prot. P. 8.04, subd. 5(b). In addition, the following information on adult individuals is accessible to the public: name, age, sex, occupation, and the fact that an individual is a parolee, probationer, or participant in a diversion program, and if so, at what location; the offense for which the individual was placed under supervision; the dates supervision began and ended and the duration of supervision; information which was public in a court or other agency which originated the data; arrest and detention orders; orders for parole, probation or participation in a diversion program and the extent to which those conditions have been or are being met; identities of agencies, units within agencies and individuals providing supervision; and the legal basis for any change in supervision and the date, time and locations associated with the change.

(c) *Judicial Work Product and Drafts*. All notes and memoranda or drafts thereof prepared by a judge or by a court employed attorney, law clerk, legal assistant or secretary and used in the process of preparing a final decision or order, except the official minutes prepared in accordance with Minnesota Statutes, sections 546.24 and 546.25.

(d) *Juvenile Appeal Cases*. Case records arising from an appeal from juvenile court proceedings that are not open to the public, except the appellate court's written opinion or unless otherwise provided by rule or order of the appellate court.

(e) *Race Records*. The contents of completed race census forms obtained from participants in criminal, traffic, juvenile and other matters, and the contents of race data fields in any judicial branch computerized information system, except that:

(1) the records may be disclosed in bulk format if the recipient of the records:

(A) executes a nondisclosure agreement in a form approved by the state court administrator in which the recipient of the records agrees not to disclose to any third party any information in the records from which either the identity of any participant or other characteristic that could uniquely identify any participant is ascertainable; and

(B) obtains an order from the Supreme Court authorizing the disclosure;

(2) A juror's race may be disclosed to the parties or their attorneys as part of the juror profile information unless otherwise provided by law or court rule.

Nothing in this section (e) shall prevent public access to source documents such as complaints or petitions that are otherwise accessible to the public.

(f) *Medical Records.* Records in civil commitment cases, or in other cases if they are submitted under a non-public cover sheet or using an electronic filing code designated for non-public documents as provided in Rules 11.03(a) and 14.06 of the General Rules of Practice for the District Courts, that are from medical, health care, or scientific professionals (including but not limited to reports and affidavits) that are of the following types:

(1) Records that relate to the past, present, or future physical or mental health or condition of an individual, including but not limited to medical history, examinations, diagnoses and treatment, pre-petition screening reports, and court-appointed examiner reports and any other records designated by the presiding judge as medical records; and

(2) Records on genetic information. For purposes of this rule, "genetic information" means information about a specific human being that is derived from the presence, absence, alteration, or mutation of a gene or genes, or the presence or absence of a specific deoxyribonucleic acid or ribonucleic acid marker or markers, and which has been obtained from an analysis of an individual's biological information or specimen or the biological information or specimen of a person to whom an individual is genetically related.

(g) *Request for Assistance Other Than Counsel and Any Resulting Order.* A request made under Minnesota Statutes, section 611.21, for assistance other than counsel and any resulting order. The register of actions may publicly disclose the existence of the request and the order granting or denying the request, but not the substance of the assistance sought or granted.

(h) *Response to Petition for Criminal Expungement.* A response to a petition for expungement filed with the court under Minnesota Statutes, section 609A.03, shall not include any confidential or private data except on a separate document clearly marked as sealed or confidential, provided that the petition included or was accompanied by a request by the petitioner to seal or declare as not accessible to the public any private or confidential data as defined by Minnesota Statutes, chapter 13, included in a response to the petition by an agency or jurisdiction that is subject to Minnesota Statutes, chapter 13. When submitting a response and separate document via the court's E-Filing System, the agency or jurisdiction filing the separate document must also appropriately designate the separate document as sealed or confidential by selecting the appropriate designation in the court's E-Filing System. The agency or jurisdiction filing a response to the petition shall be entirely responsible for ensuring compliance with this rule. The court administrator is not responsible for reviewing filings for compliance with this rule. The court may issue appropriate sanctions for failure to comply with this rule.

(i) *Will Deposited for Safekeeping During Testator's Lifetime.* A will deposited with the court for safekeeping under Minnesota Statutes, section 524.2-515, except that upon proof of a testator's death the existence of the testator's will on deposit with the court may be publicly disclosed. Access to the will during the testator's lifetime by the testator, testator's attorney or agent, guardian or conservator is governed by Minn. Gen. R. Prac. 418. The court, following notice of the testator's death, may deliver the will to the appropriate court and may order that copies of the will be provided to appropriate persons.

(j) *Administrative Warrants.* All records of a request, and any resulting order, submitted pursuant to Minnesota Statutes, section 182.659, subdivisions 6, 7 (Occupational Safety and Health Inspection), Minnesota Statutes, section 299F.08, subdivision 2 (authorization for entry by state fire marshal), Minnesota Statutes, section 340A.704 (authorization for search warrants for liquor law violations), and for housing code inspections authorized pursuant to *Camara v. Municipal Court*, 387 U.S. 523, 87 S.Ct. 1727, 18 L.Ed.2d 930 (1967), and *McCaughtry v. City of Red Wing*, 831 N.W.2d 518 (Minn. 2013), unless and until the search or inspection authorized by the court has been completed, except by order of the court or consent of the official submitting the request. The person seeking to file the request for warrant/inspection shall contact the court administrator, who will establish a confidential file in the court's case records management system and provide the file number

to the person seeking to file, who may then submit the request for warrant/inspection for filing into that court case file.

(k) *Motion to Enforce or Quash Attorney General or County Attorney Subpoena.*

A request for an order enforcing or quashing an administrative subpoena issued pursuant to Minnesota Statutes, section 8.16 or 388.23, unless and until authorized by order of the court. The person seeking to file the request shall contact the court administrator, who will establish a confidential file in the court's case records management system and provide the file number to the person seeking to file, who may then submit the request for filing into that court case file.

(l) *Release of Video Recordings for Use in Administrative Hearing.* All records of a petition, and any resulting order, submitted pursuant to Minnesota Statutes, section 611A.90, seeking release of or access to a video recording of a child victim or alleged victim alleging, explaining, denying, or describing an act of physical or sexual abuse as part of an investigation or evaluation of the abuse and for use as provided in an administrative proceeding (see, e.g., Minnesota Statutes, section 256.045, subdivision 4), except by order of the court. The person seeking to file the petition shall contact the court administrator, who will establish a confidential file in the court's case records management system and provide the file number to the person seeking to file, who may then submit the request for order for filing into that court case file.

(m) *Minor Victim Identifying Information.*

(1) *Where Applicable.* Except as otherwise provided by order of the court, information that specifically identifies a victim who is a minor at the time of the alleged offense or incident in the following cases:

(A) criminal or juvenile delinquency or extended jurisdiction juvenile cases involving a petition, complaint, or indictment issued pursuant to Minnesota Statutes, section 609.322, 609.342, 609.343, 609.344, 609.345, 609.3451, or 609.3453;

(B) commitment proceedings related to a case in (A) above, in which supervisory responsibility is assigned to the presiding judge under Minn. R. Crim. P. 20.01, subd. 7, or 20.02, subd. 8(4);

(C) judicial review pursuant to Minnesota Statutes, section 256.045, subdivision 7, of maltreatment determinations made under Minnesota Statutes, section 626.556, that involve allegations of sexual abuse as defined by Minnesota Statutes, section 626.556, subdivision 2(d).

(2) *Burden on Filer.* No person shall submit information that specifically identifies a minor victim on any pleading or document filed with the court in the above cases except on a separate, confidential document entitled Confidential Victim Identifier Information. It shall not be a violation of this rule for a pleading or document to include generic references, including but not limited to "the victim" or "Child 1," and, unless otherwise ordered by the presiding judge, the victim's initials and year of birth.

(3) *Other Information Unaffected.* Nothing in this rule authorizes denial of access to any other data contained in the records, including the identity of the defendant.

(4) *Exception: Transcript.* Unless otherwise directed by the presiding judge, identifying information on a minor victim under this rule need not be redacted from a transcript of a public proceeding before such transcript is disclosed to the public.

(n) *Pre-Adjudication Paternity Proceedings In Cases Filed Before January 1, 2021.* Records of proceedings in cases filed before January 1, 2021, to determine the existence of parent-child relationship under Minnesota Statutes, sections 257.51 to 257.74, provided that the following are public: the final judgment under section 257.70(a) (minus findings of fact and restricted identifiers under Minn. Gen. R. Prac. 11), affidavits filed pursuant to Minnesota Statutes, sections 548.09 to 548.091, to enforce the judgment, and all subsequent proceedings seeking to modify or enforce the judgment except an appeal of the initial, final judgment. The subsequent proceedings shall be brought in the same case file provided that the register of actions in the case shall then be made public but identifying information on persons who were alleged to be the parent of the child but were not adjudicated as such parent will remain nonpublic, and documents that were not previously public will also

remain nonpublic except that the register of actions may publicly reflect the existence of the document and its title.

(o) *Death Certificates.* A certificate of death issued by the proper governmental authority except to the extent that the certificate, or a redacted version of the certificate, has been formally admitted into evidence in a testimonial hearing or trial. The burden shall be on any filer e-filing a death certificate to classify the certificate as confidential. If it comes to the attention of the court administrator that a death certificate has not been appropriately classified as required under this rule the court administrator shall classify the document as confidential and notify the parties and the presiding judge of the classification change.

(p) *Information From DPS for Collection of Court Debt.* Social Security numbers obtained by the judicial branch from the Department of Public Safety for the purposes of collection of court debts.

(q) *Voluntary Foster Care for Treatment.* Records of judicial reviews of voluntary foster care for treatment under Minnesota Statutes, section 260D.06 (Records of voluntary foster care proceedings under Minnesota Statutes, section 260D.07, are accessible to the public as authorized by these rules and by Minn. R. Juv. Prot. P., see clause (v)(2)(D), below.).

(r) *Juvenile Protection Case Records Child Name Search Results.* In juvenile protection case records, searching by a child's name shall not provide results through any public name search functionality provided by the court. For purposes of this rule "child" is defined as set forth in Minn. R. Juv. Prot. P. 2.01(5).

(s) *Images Containing Sexual Content or Nudity.* Any of the following images, or internet addresses described in a court filing as linking to any of the following images:

- (1) images that are "obscene" as defined in Minnesota Statutes, section 617.241;
- (2) images that constitute "pornographic works" involving minors as defined in Minnesota Statutes, section 617.246, subdivision 1, paragraph (f);
- (3) images containing depictions of actual or simulated "sexual conduct" as defined in Minnesota Statutes, section 617.246, subdivision 1, paragraph (e), regardless of the age of the individuals depicted in the image;
- (4) images that are "private sexual images" covered by Minnesota Statutes, section 604.31; or
- (5) images that depict nudity.

(t) *Drivers' Licenses and Passports.* An image of a state government driver's license or identification card, or a United States passport or passport card.

(u) *In Forma Pauperis Denials.* An order denying permission to commence or defend any civil action or appeal therein, without prepayment of fees, under Minnesota Statutes, sections 563.01 to 563.02, shall be accessible to the public, but the petition or application seeking such permission, including the financial disclosure, affidavit, and the proposed initial pleadings, shall not be accessible to the public except by court order for good cause shown.

(v) *Other.* Case records that are made inaccessible to the public under:

- (1) state statutes, other than Minnesota Statutes, chapter 13, Minnesota Statutes, section 257.70, paragraph (a), and Laws 2020, chapter 86, article 1, which are superseded to the extent inconsistent with these rules;
- (2) court rules not inconsistent with these rules, including but not limited to:
  - (A) Minn. R. Adopt. P. 7 (all adoption case records);
  - (B) Minn. Spec. R. Ct. App. Family L. Mediation 7, 9 (appellate family mediation confidential information form and selection of mediator form);
  - (C) Minn. Gen. R. Prac. 114.08, 114.09 (notes, records and recollections of the neutral);
  - (D) Minn. R. Juv. Prot. P. 8 (various records and data elements in juvenile protection proceedings);

(E) Minn. R. Crim. P. 9.03, subds. 5-7, 18.04, 18.07, 25.01, 26.02, subd. 2, 26.02, subd. 4(4), 26.03, subd. 6, 33.04, 36.06 (in camera discovery materials, grand jury records, closed hearings and records, and search warrants);

(F) Minn. Gen. R. Prac. 313 (2004) (Social Security numbers and tax returns submitted to the court prior to July 1, 2005);

(G) Minn. Gen. R. Prac. 11, 361.02, 361.05, 370.04, 371.04, 372.04, 807(e), 814 (restricted identifiers and financial source documents submitted to the court on or after July 1, 2005; juror records);

(H) Minn. Spec. R. Commitment & Treatment Act 13, 21 (medical records in all commitment matters and all records in proceedings for commitment of a minor);

(I) Minn. R. Civ. App. P. 112 (confidential or sealed portions of the record on appeal); and

(J) Minn. R. Civ. P. 47.01 (supplemental juror questionnaire).

(3) court orders; or

(4) other applicable law.

The state court administrator shall maintain, publish and periodically update a partial list of case records that are not accessible to the public.

*[For text of subds 2 to 4, see M.S.2020, Volume 15]*

(Amended effective July 1, 2005; amended effective July 1, 2007; amended effective March 1, 2008; amended effective July 1, 2015; amended effective October 1, 2016; amended effective January 1, 2021; amended effective April 7, 2021.)

*[For text of Advisory Committee Comments, see M.S.2020, Volume 15]*

#### **Advisory Committee Comment - 2020**

*Rule 4, subd. 1(a), is amended in 2020 to ensure a consistent level of privacy to orders for protection involving domestic abuse under Minnesota Statutes, section 518B.01, and harassment restraining orders under Minnesota Statutes, section 609.748, as proceedings under either statute can involve domestic abuse. The phrase "executed or served upon ... the respondent" has been shortened to "served upon ... the respondent" to obviate arguments that "executed" means signed by a judge as opposed to being carried out by those seeking to serve the order on the respondent. These provisions have been consistently interpreted and applied with service on the respondent as the triggering mechanism for public access to occur. The reference to a particular subdivision in Minnesota Statutes, section 609.748, has been removed as orders are addressed in multiple locations in the statute.*

*Rule 4, subd. 1(n), (s), and (t), are amended in 2020 to make paternity cases public upon initial filing like other family-law cases, confirm that images containing sexual content or nudity are non-public, and confirm that access to drivers' licenses and state/federal ID cards is restricted. A new section (u) is added precluding public access to certain records of in forma pauperis denials.*

#### **Advisory Committee Comment - 2021**

*Rule 4, subdivision 1 (v), is amended in 2021 to identify conflicting legislation that will not apply to court record access determinations. Laws 2020, chapter 86, article 1, would have expanded the categories of non-public documents or information in guardianship and conservatorship proceedings beyond those designated in these Rules, including by expanding confidentiality of medical/health and financial records beyond just "records" to include medical/health and financial "information." The 2020 legislation also would have required use of a new form called a bill of particulars for submitting confidential information. Following a detailed review and public hearing by the advisory committee, including a recognition that the concerns underlying the 2020 legislation were significant, the committee recommended against implementing changes to these Rules to conform to the legislation. The committee's rationale included that: (1) the legislation would increase complexity, create confusion, and potentially deprive interested parties to probate cases of necessary information to determine whether they had concerns or objections to the court's actions in the probate cases; (2) the committee had previously discussed these records and consistently determined that existing court rules and systems appropriately balance privacy of medical*

*and financial records with providing transparency necessary to maintain public trust and confidence in the judiciary; (3) existing court rules and systems are consistent with how a majority of states handle these types of case records; and (4) the separation of powers under the state constitution vests authority over judicial branch records with the judicial branch. Finally, although rule changes that became effective January 1, 2021, will allow court staff to rely on filer designations of a "medical record," this should not be interpreted as permitting filers to achieve what the 2020 legislation sought, i.e. a sort of bill of particulars where not only medical records but medical information can be kept confidential. Access Rule 4, subdivision 1 (f), limits confidentiality to medical records, not medical information.*