

An Act Regarding the Electronic Data and Court Records Filed in the Electronic Case Management System of the Supreme Judicial Court

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §7 is amended to read:

§ 7. General jurisdiction; control of records

The Supreme Judicial Court may exercise its jurisdiction according to the common law not inconsistent with the Constitution or any statute, and may punish contempts against its authority by fine and imprisonment, or either, and administer oaths. It has general superintendence of all inferior courts for the prevention and correction of errors and abuses where the law does not expressly provide a remedy and has control of all records and documents in the custody of its clerks whether physical or electronic, including those stored in an electronic case management system. Whenever justice or the public good requires, it may order the expunging from the records and papers on file in any case which has gone to judgment of any name or other part thereof unnecessary to the purpose and effect of said judgment. It may issue all writs and processes, not within the exclusive jurisdiction of the Superior Court, necessary for the furtherance of justice or the execution of the laws in the name of the State under the seal of said court, attested by any justice not a party or interested in the suit and signed by the clerk.

Sec. 2. 4 MRSA §8-C, as enacted by PL 2015, c. 78, §1, is amended to read:

§ 8-C. Rules concerning electronic court records

1. Rules and orders; processes and procedures. Notwithstanding any other provision of law, the Supreme Judicial Court may adopt rules and issue orders to permit or require the use of electronic forms, filings, records, documents, e-mail and electronic signatures whenever paper forms, filings, records, written notice, postal mail and written signatures are required for judicial, legal or any other court-related process under the Maine Revised Statutes.

The Supreme Judicial Court, by rule, may determine any other processes or procedures appropriate to ensure adequate preservation, disposition, integrity, security, appropriate accessibility and confidentiality of the electronic court documents, data and court records described in this section and section 8-D.

2. Electronic signatures. An electronic signature may be accepted as a substitute for and, if accepted, has the same force and effect as the use of a manual signature. The Supreme Judicial Court shall determine the type of electronic signature required, the manner and format in which the signature is affixed to the electronic record and the criteria that must be met by a party, including attorneys, filing a document.

Sec. 3. 4 MRSA §8-D is enacted to read:

§ 8-D. Rules concerning electronic case management system

1. Rulemaking for electronic case management system. Pursuant to its authority, the Supreme Judicial Court will develop and adopt rules addressing any systems or procedures appropriate to ensure adequate preservation, disposition, integrity, security, accessibility, and confidentiality of electronic data and court records filed with or generated by the state courts and stored in an electronic case management system.

The tradition of open courts and public access to court records will be balanced against the need to protect private, personal, or confidential cases, information, data, and documents.

2. General policies regarding access to electronic court records. The following provisions will guide distinctions regarding access to electronic court records.

A. Access to electronic court records by the public is the presumption. Electronic court records that are not designated confidential, private, closed, sealed, or otherwise not public records by state or federal statute or by court rule or order will be publicly accessible except as otherwise provided in this subsection. Public access may be at the courthouse or through the internet or other programs. The presumption that electronic court records are public does not preclude the imposition of reasonable fees for access to records.

B. All parties to a case, and the attorneys for those parties, will be provided access to the electronic court records for that case, whether or not those records are publicly accessible, unless otherwise specifically ordered.

C. When an entire case type is closed to the public by statute, the electronic court records of a case of that case type are not publicly accessible. For case types that are generally open to the public, specific documents, data and information from those case types may be closed to the public by state or federal statute or by court rule or order.

D. Documents, data and information that are designated confidential, private, closed, sealed or otherwise not public by state or federal statute or by court rule or order that are contained in electronic court records are not publicly accessible.

Sec. 4. 16 MRS §708(3) is further amended as follows:

§708. Inapplicability of this chapter to criminal history record information contained in certain records

3. Records of public judicial proceedings. Notwithstanding the provisions of 16 MRS § 703, records of public judicial proceedings:

A. Retained at or by the District court, Superior Court or Supreme judicial Court. Public Access to and dissemination of such records for inspection and copying are as provided by rule or administrative order of the Supreme Judicial Court; and

SUMMARY

This bill recognizes the Supreme Judicial Court's authority to develop and adopt rules regarding court records and documents retained by the courts in an electronic case management system. The general presumption that court records are open to the public will be balanced against the need to protect private, personal, or confidential information, data, and documents. Records will not be available to the public when so designated by state or federal statute or by court rule or order. Digital records that are publicly available may be made available at the courthouses or through the internet or other programs. The presumption that court records are public does not preclude the imposition of reasonable fees for access to those records. The amendment also clarifies the Court's authority to regulate records addressed by the Criminal History Records Information Act.