STATE OF MAINE

SUPREME JUDICIAL COURT

**PROPOSED** MAINE RULES OF ELECTRONIC COURT RECORDS ACCESS

 1. The Maine Rules of Electronic Court Records Access, ECRA, have been drafted and read as follows:

**PREAMBLE**

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**RULE 1. SCOPE**

 These rules define the scope of public access to court records electronically stored by the Maine Judicial Branch and apply to:

**(A)** Persons and entities requesting access to electronic court records; and

**(B)** Court staff, including judges, responding to requests for electronic court records.

 These rules do not apply to county probate court records or State court records in hard copy format.

**RULE 2. DEFINITIONS**

 As used in these rules, unless the context otherwise indicates, the following terms have the following meanings.

 **(A) “Accessible”** means that a court record may be inspected by any member of the public and reproduced as permitted by these rules. Under these rules, some court records may be accessible only at a courthouse, and other court records may be accessible both remotely and at a courthouse. “Accessible” does not mean that the Judicial Branch will search for records when the requester does not have information sufficient to identify the court specific records sought. A fee may be charged for some categories of accessible records.

 **(B) “Accessible only at a courthouse”** means that a court record may be inspected by any member of the public only at any state court courthouse within the court’s closed‑loop computer system. Court records that are accessible only at a courthouse cannot be copied electronically, but hard copies may be provided by the clerks’ office.

 **(C)** **“Accessible 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 remotely accessible are also accessible at a courthouse.

 **(D) “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.

 **(E) “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.

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

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

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

 **(I) “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.

 **(J) “Court clerk”** means a manager of court operations, clerk of court, deputy clerk, assistant clerk, associate clerk, administrative clerk, and staff of the clerks’ office.

**(K) “Court record”**

(1) “Court record” means any file, document, information, or data received or maintained by a Maine state court in electronic form in connection with a particular case or proceeding, including, but not limited to:

(a) Pleadings, motions, briefs, and their respective attachments, and documentary evidentiary exhibits;

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

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

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

(a) 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 case record or file or is part of the court file but is prohibited from release by law;

(b) 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;

(c) 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;

(d) Legal work product, including but not limited to drafts, and other records or reports of any attorney, law clerk, or other person employed by or representing the Judicial Branch that are produced in the regular course of business or during representation of the Judicial Branch;

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

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

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

**(M) “Family matter proceedings”** means the following:

(1) Cases or proceedings for divorce;

(2) Cases or proceedings for annulment or judicial separation;

(3) Cases or proceedings for parental rights and responsibilities including, but not limited to, the establishment or enforcement of a child support obligation;

(4) Cases or proceedings for paternity or any type of parentage, including actions to enforce or obtain remedies for noncompliance with a gestational carrier agreement;

(5) Cases or proceedings for grandparent or great-grandparent visitation; and

(6) Cases or proceedings for the adoption, guardianship, name change, or emancipation of a minor.

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

(1) Names and identities;

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

(3) Social Security numbers;

(4) Dates of birth;

(5) Source lists;

(6) Seating charts;

(7) Qualification questionnaires;

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

(9) All other information that specifically identifies a juror or from which a juror’s identity could be learned.

**(O) “Legacy Records”** are completed case records created before the implementation of eFiling that become “court records” through scanning or other digitization.

**(P) “Nonpublic case, document, information, or data”** means any case, document, information, evidentiary materials,or data to which public access is restricted by law.

**(Q) “Public”**

(1) “Public” means the following:

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

(b) 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.

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

(a) Judicial Branch staff and employees, and judicial officers;

(b) The parties to a specific case or proceeding, their lawyers, or persons identified by the court as having access to the court record in that case or proceeding;

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

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

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

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

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

(h) 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

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

**(R) “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.

**(S) “Seal or impound”** means a court action restricting public access to an otherwise public and accessible court record. A sealed or impounded record is a public record to which public access has been restricted by a court order.

**RULE 3. GENERAL ACCESS POLICY**

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

**(B)** Restrictions on access to court records generally do not apply to the parties and their attorneys. Parties and their attorneys may access all court records in their cases except as provided by law or court order.

**(C)** Completed case records created before the implementation of eFiling that become “court records” through scanning or other digitization, referred to a “legacy records,” may be accessed remotely only by specific court order or when explicitly allowed by these rules. As eFiling is implemented in each Region, records in cases that are open and active in that Region will be accessible if otherwise allowed under these Rules.

 **(D)** 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**. In cases commenced pursuant to Rules 3 or 14(a) of the Maine Rules of Civil Procedure, except as otherwise provided by law or specific court order, no documents will be accessible until three business days after the court receives return of service on at least one defendant. The date of receipt must be determined by application of the Maine Rules of Electronic Filing.

 **(B) All court records in some specific case types are nonpublic**. The following case types are not publicly accessible, and, as a result, no court records are public:

(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;

(6) Minor settlement proceedings; and,

(7) Mental health civil commitment proceedings.

 **(C) Civil court records accessible only at a courthouse.** Court records in the civil cases listed below are accessible only at courthouses:

(1) Protection from abuse cases;

(2) Court records in protection from harassment cases that involve allegations of domestic violence, violence against a dating partner, sexual assault, or stalking; and

(3) Forcible entry and detainer (FED) actions before the entry of a judgment for the plaintiff. Court records in FEDs are not accessible remotely unless and until a judgment has been entered against a defendant.

 **(D) Civil court records accessible remotely and at a courthouse.** Court records for any civil cases not listed in (B) or (C) are accessible remotely and at any courthouse, except as otherwise provided by law or specific court order.

 **(E) Nonpublic documents, data, and information contained in public civil court records.**  The documents, data, and information listed below, when filed in civil cases, are nonpublic, except as otherwise provided by law or specific court order.

(1) Full names of minors;

(2) Personally identifying information, including, but not limited to:

(a) Residence addresses;

(b) Telephone numbers;

(c) Personal and business 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 passport numbers and state identification numbers;

(g) Dates of birth; and

(h) DNA-identifying data or information;

(3) Disability accommodation requests;

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

(5) Images depicting nudity or sexual acts, or sexual contact;

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

(7) Personal financial documents including, but not limited to, financial statements, tax documents including W-2s, paystubs, bank statements, account statements, and payment histories

(8) Personal health information and medical records including, but not limited to, HIV/AIDS testing information and results, all mental health evaluations and records, forensic evaluations, and substance use evaluations and treatment records;

(9) Psychological, mental health, and intelligence test documents and results;

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

(11) Witness subpoenas and subpoenas for documents that extend to privileged or protected documents;

(12) Indigency affidavits with attachments, except by court order, pursuant to court rule;

(13) Death certificates;

(14) Social Security and employer identification numbers;

(15) Trade secrets; and

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

**RULE 5. CRIMINAL CASES**

**(A) Criminal court records accessible remotely and at a courthouse.** Court records listed below in criminal cases are accessible both remotely and at a courthouse except as otherwise provided by law or subdivisions (B), (C), or (D) of this Rule.

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

(a) Pending criminal charges;

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

(c) 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.

(2) Arrest warrants and associated affidavits, not otherwise ordered impounded by the court pursuant to M.R.U. Crim. P. 4, after the warrant has been executed;

(3) Search warrants and associated affidavits, not otherwise ordered impounded by the court under M.R.U. Crim. P. 40 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) Limited access to non-conviction court records accessible at a courthouse.** “Confidential criminal history record information,” as defined by the Maine Criminal History Records Information Act, Title 16, chapter 7, of the Maine Revised Statutes, is not generally accessible to the public. A member of the public may obtain access to a registry of action that would otherwise not be available only if that member of the public can provide the defendant’s name, the nature of the offense, and the year of the offense or docket number, if the reason for non-conviction is listed below:

(1) The charges were resolved by a judgment of acquittal after trial by a jury or judge;

(2) The charges were dismissed by a court order; or

(3) The charges were dismissed by the prosecutor without any plea to a related charge or any admission to a probation or administrative release violation.

Such access is available only at a courthouse.

**(C) Nonpublic information, data, and documents in criminal court records.** Information, data, and documents listed below, when filed in court records in adult criminal cases, are nonpublic, except as provided by law.

(1) Names and full dates of birth of minors (first names andinitials may be public);

(2) Personally identifying information, including, but not limited to:

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

(b) Telephone numbers;

(c) Personal and business 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) Day, month, and year of birth of anyone other than the accused; and

(h) DNA-identifying data or information.

(3) Disability accommodation requests;

(4) Names, addresses, and personally identifying information of alleged victims of sexual offenses;

1. Images of minors and of persons of any age subject to guardianship, conservatorship, or mental health commitment proceedings;
2. Images depicting nudity or sexual acts, sexual contact, or physical injuries;
3. Immigration and visa documents and related work authorizations;
4. Court records relating to applications for court‑appointed counsel, including indigency affidavits;

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

(10)Exhibits, affidavits and other materials that are filed that contain otherwise confidential information as set out in this rule;

(11) Cases, documents, or information sealed by court order issued under Rule 12 of these rules;

(12)Personal health information and medical records including, but not limited to, HIV/AIDS testing information, all mental health evaluations and records, forensic evaluations, and substance use evaluations and treatment records;

(13) Psychological, mental health, and intelligence test documents and results;

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

(15) Death certificates;

(16) “Confidential criminal history record information,” as defined by the Maine Criminal History Records Information Act, Title 16, chapter 7, of the Maine Revised Statutes, except for information accessible pursuant to Rule 5(B);

(17) In criminal proceedings, any identifying or residence information in a protection from an abuse case, if a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or minor child would be jeopardized by disclosure of such information,19-A M.R.S. § 4008;

(18) In a criminal proceedings, any identifying or residence information in a protection from harassment case, when it is alleged that the health, safety, or liberty of a party or minor child would be jeopardized by disclosure of the personally identifiable information, 5 M.R.S. § 4656;

(19) Juror information as described in Rule 8;

(20) Witness subpoenas that extend to privileged or protected documents;

(21) Subpoenas *duces tecum* that extend to privileged or protected documents;

(22) Court records in grand jury proceedings; and

(23) Any other court record to which public access is prohibited by law.

**RULE 6. JUVENILE CASES**

 **(A) Juvenile court records generally.** All juvenile court records that are not explicitly identified as public by law, including by these rules, are nonpublic. If there is any ambiguity as to the level of access to a juvenile record, the court records are nonpublic unless determined otherwise by court order.

 **(B) Juvenile court records that are nonpublic.** There is no public access to the court records in juvenile cases listed below except as provided by law or specified in this section:

(1) Juvenile case records, documents, information, or data where what would be a Class D or E crime if the juvenile involved were an adult is alleged or adjudicated; and

(2) Any other juvenile case records where the Legislature has explicitly closed the proceedings.

 **(C) Juvenile court records that are public.** For the types of juvenile cases listed below, certaincourt records are public and accessible both remotely and at a courthouse unless impounded or sealed by court order.

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

(a) When a juvenile petition contains Class D or E offenses *and* murder, felony murder, or manslaughter, the information related to the lesser Class D or E offense is not accessible;

(2) Orders adjudicating a juvenile crime that would constitute a murder, or a Class A, B, or C crime if the juvenile were an adult to have been committed;

(3) If the juvenile is adjudicated to have committed a Class D or E offense *along with* a Class A, B, or C offense, court records related to the lesser Class D or E offense are accessible only until the end of the appeal period unless an appeal is filed. If an appeal is filed, the court records are accessible while the appeal is pending.

 **(D) Nonpublic juvenile court information, data, and documents.** Even when filed in otherwise public juvenile records, the court records, information, and documents listed below in juvenile cases are nonpublic:

(1) Names and dates of birth of minors, other than the accused, including, but not limited to, alleged victims, witnesses, alleged accomplices, and family members;

(2) Personally identifying information including, but not limited to:

(a) Residence addresses;

(b) Telephone numbers;

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

(d) Day and month of birth;

(3) Disability accommodation requests;

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

(5) Indigency affidavits with attachments, except by court order, pursuant to court rule;

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

(7) Images depicting nudity or sexual acts, or sexual contact to victims;

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

1. Documents concerning the issue of the juvenile’s competency unless and until there is a decision finding the juvenile competent to stand trial; and
2. Any other court record where public access is prohibited except as provided by law.

**RULE 7. FAMILY CASES**

1. **No court records are accessible remotely.**
2. **No court records are accessible in the following family cases:**

(1) Child protection matters;

(2) Adoptions;

(3) Guardianships of minors;

(4) Name change for a minor;

(5) Petition for court-authorized abortion for a minor;

(6) Emancipation of a minor; and

(7) Assisted reproduction matters including, but not limited to, noncompliance with gestational carrier agreements.

**(C) Family court records accessible only at a courthouse.** Court records listed below in family cases are accessible 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 matters:

(a) Divorce, annulment, or judicial separation;

(b) Parental rights and responsibilities, including but not limited to, the establishment or enforcement of a child support obligation;

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

(c) Grandparent or great-grandparent visitation.

**(D) Nonpublic records, documents, and information in family court records.** The documents, data, and information listed below, when filed in family cases, are nonpublic, except as provided by law.

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

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

(3) Images depicting nudity or sexual acts, or sexual contact to victims;

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

(5) Disability accommodation requests.

 (6) Social Security Confidential Disclosure Form;

(7) Psychological, mental health, and intelligence test documents and results;

(8) Medical records, including, but not limited to, HIV/AIDS testing documents, all mental health evaluations and records, forensic evaluations, and substance use evaluations and treatment records;

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

(10) Death certificates;

(11) Indigency affidavits with attachments, except by court order, pursuant to court rule;

(12) Identifying or residence information in a protection from abuse case, if a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or minor child would be jeopardized by disclosure of such information, 19-A M.R.S. § 4008;

(13) Identifying or residence information in a protection from harassment case, when it is alleged that the health, safety, or liberty of a party or minor child would be jeopardized by disclosure of the personally identifying information, 5 M.R.S. § 4656;

(14) Witness subpoenas that extend to privileged or protected documents;

(15) Subpoenas *duces tecum* that extend to privileged or protected documents;

(16) Personal financial documents including, but not limited to, child support affidavits and worksheets, financial statements, tax documents including W-2s, paystubs, bank statements, account statements, and payment histories; and

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

**RULE 8. JUROR INFORMATION**

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

 **(B) During jury service: 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 *proposed* M.R. Civ. P. 47(f) or M.R.U. Crim. P. 24(g), depending on case type, 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 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 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 accessible court records may be inspected and reproduced at a courthouse as follows:

(1) Computer kiosk access. Members of the public may access a computer kiosk 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 kiosk access to protect the court clerk’s office from undue disruption and to promote access to the kiosk for all users. There is no fee to use the kiosk. A fee may be required for printouts of electronic court records from a kiosk as provided in Rule 14.

(2) Request for assistance from the court clerk. Requests for help finding court records at a courthouse will be made at the court clerk’s office. Such a request will be handled administratively and will not require a court order. The court clerk may require 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 deny the request for assistance from the court clerk. The court clerk may set reasonable limits on the time spent helping with public records requests to protect the court clerk’s office from undue disruption.

**(C) Access to exhibits.** Exhibits that are accessible under these rules and are included in the definition of court records under Rule 2(k) may be reproduced, subject to payment of fees and charges as provided in Rule 14.

**(D) Available formats for reproduction.**

(1) Printout. Court records that are accessible 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 a Maine state court in electronic form in connection with a particular case or proceeding are accessible only upon order of the court, 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 to make a copy of a court record.

**RULE 10. SEALING OR IMPOUNDING PUBLIC COURT RECORDS**

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

**(A) Procedure for sealing or impounding.**

(1) Juvenile court records.

(a) Juvenile case record. A person who has been adjudicated of committing a juvenile crime may petition the court to seal 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.

(b) Juvenile Petitions or Orders of Adjudication. Upon motion of a party or a court’s own initiative, the court may seal or impound juvenile petitions or orders of adjudication under extraordinary circumstances.

(2) All court records other than juvenile court records.

(a) Any party to a court case or any person or entity that has standing to do so may file a motion to impound or seal a court record that is accessible. 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.

(b) The person filing the motion must provide notice of the motion to impound or seal to all parties.

(c) As soon as a motion to impound or seal is filed, the public case, document, or information that is the subject of the motion will not be accessible to the public, pending the court’s ruling on the motion.

(d) The court may impound or seal 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 of this rule.** This rule applies to motions for access to

(1) Sealed or impounded court records; or

(2) Court records made nonpublic by law that authorizes the court to allow access in specified 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)** **Notice. 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 subdivision 11(c)(1), when serving a motion for access on any affected nonparty whose name or address is confidential, the movant shall use reasonable efforts to locate the affected nonparty and may serve such affected nonparty by any method permitted under the court’s rules of procedure;

(3) 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 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.

(4) The court may waive this service requirement on motion or at any time of 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. A motion for access to nonpublic records will be granted only when the court’s authority to make the records accessible is clear, and 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. Records or information made accessible to a specific movant are not accessible to the public unless otherwise ordered by the court.

**(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 will be accessible if and when so ordered by the court.

**(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 record(s) 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 record or records at issue will not be accessible to the party or the public during the pendency of the appeal.

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

It is the responsibility of the filing party to ensure that sealed or impounded court records, or nonpublic cases, documents, and information are redacted and/or submitted to the court in accordance with this rule. All electronic filings must comply with the Rules Governing Electronic Filing.

**(A)** For all cases designated as sealed, impounded, or nonpublic, every filing must be clearly and conspicuously marked, “NOT FOR PUBLIC DISCLOSURE.”

**(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, “NOT FOR PUBLIC DISCLOSURE.”

**(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 is not accessible. 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 are have been fully converted to the Odyssey system.

**RULE 14. FEES**

 The Judicial Branch 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 fee schedule will be published and publicly posted.

**RULE 15. CLERICAL ERRORS**

**(A)** A “clerical error” is information in the court record that is obviously incorrect and that occurred as a result of a misprint or mistake made by court staff.

**(B)** 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.

**(C)** 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.

**(D)** The party or the party’s attorney requesting to correct a clerical error (the requesting party) must send copies of the request to all parties to the case.

**(E)** Within 21 days after receiving a request, the court clerkwill 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.

**(F)** A requesting party 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.