

Confidential documents and information in court-filed documents

Transition from Paper to Electronic Files

- 2010 Judicial Branch decision to move courts from paper files to electronic files – eCourtMN
- eCourtMN means immediate access to public documents as they are filed
- No opportunity to review and redact confidential information after filing
- Amendments to rules necessary to identify process for dealing with confidential information before filing

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2

Transition to Electronic Access

- July 2015: mandatory segregation of confidential documents and information in CHIPS cases in all counties
- Public CHIPS documents filed on or after 7/1/15 are available to public in electronic format
- Public CHIPS documents filed before 7/1/15 not available to public in electronic format

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3

Who may access court-filed juvenile protection records

Access by public

The public will have immediate access to public juvenile protection records filed with the court, including court and guardian ad litem reports, at courthouse terminals. The public will not have access to confidential court documents and information. Judges may order public access to confidential documents if exceptional circumstances exist.

Access by parties

Parties have access to all public and most confidential records except recordings of children reporting abuse, reporters of abuse and neglect, information about HIV testing, and records subject to protective orders.

Who may access court-filed juvenile protection records, continued

Access by participants

Participants have access to public court records. Participants may request access to confidential court records orally or in writing. If a judge grants access, participants will have the same access as parties.

Exceptions to Electronic Access

- **Records in cases where a child is a party**, for example, truancy, runaway, or other cases where the court makes a child a party (this is only temporary; these records will be accessible to the public once the Judicial Branch court information system is able to prohibit searches by the names of children who are parties)
- **Confidential documents** referenced in the Minnesota Rules of Juvenile Protection Procedure Rule 8.04, subd. 2 are filed with Confidential Document Cover Sheet 11.3
- **Confidential information** referenced in the Minnesota Rules of Juvenile Protection Procedure Rule 8.04, subd. 2 are filed with Confidential Information Form 11.4

Adoption Records

- Adoption records filed in the court record are considered confidential and are not accessible to the public or parties, except upon order of the court.

Confidential Documents

Confidential documents must be separated from public documents in all juvenile protection case types prior to filing with the court. Filers must include a completed Confidential Document Cover Sheet 11.3 when filing confidential documents with the court.

Confidential Documents, Continued

- Medical records, chemical dependency evaluations and records, psychological evaluations and records, and psychiatric evaluations and records
- A child's education, physical health, and mental health records contained in or attached to the out-of-home placement plan
- Sexual offender treatment program reports
- Official transcript of testimony taken during portions of proceedings that are closed by the presiding judge
- Audio or video recordings of a child alleging or describing physical abuse, sexual abuse, or neglect of any child
- Victims' statements
- Records or portions of records that reveal a person has undergone HIV testing and/or HIV test results
- Photographs that identify a child
- Applications for ex parte emergency protective custody orders, and any resulting orders, until the hearing where all parties have an opportunity to be heard on the custody issue, provided that, if the order is requested in a Child in Need of Protection or Services (CHIPS) petition, only that portion of the petition that requests the order shall be deemed to be the application for purposes of confidentiality
- Notice of pending court proceedings provided to an Indian tribe by the responsible social services agency
- Records or portions of records which the court in exceptional circumstances has deemed inaccessible to the public

Confidential Information

Confidential information must be separated from public documents in all juvenile protection case types prior to filing with the court. Confidential information must be placed on a completed Confidential Information Form 11.4.

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10

Confidential Information, Continued

- Identity of a minor victim of an alleged or adjudicated sexual assault
- Name, address, home, or location of any shelter care or foster care facility in which a child is placed pursuant to emergency protective care, foster care, pre-kinship, pre-adoptive, or adoptive placement, or any other type of court-ordered placement
- Identity of reporter of abuse or neglect
- Portions of records that reveal a person has undergone HIV testing and/or HIV test results

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11

Filers must separate confidential documents and information

- **Any person who files any document in a juvenile protection matter with the court, except a judicial officer, must separate confidential documents and information prior to filing. Filers may include:**
 - Social workers
 - Attorneys
 - Guardians ad litem
 - Self-represented parents
 - Indian tribes
 - Everyone else, except judicial officers—including parties, participants, and self-represented litigants

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12

Consequences to filers for neglecting to separate confidential documents and information

- Court staff are not responsible for screening for confidential documents and information.
 - However, if court staff become aware of confidential documents or information that are mistakenly available to the public, court staff should change security from public to confidential and send a Notice of Deficiency to the filer directing the filer to file appropriately separated documents.
- Judges may sanction filers, either individuals, agencies, or both, for non-compliance.

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13

How to file confidential documents with the court using Form 11.3

- Form 11.3 is a cover sheet for confidential documents.
- Form 11.3, which includes a list of the types of confidential documents that the form may include, is accessible to the public while the documents filed with it are confidential.

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14

How to file confidential documents with the court using Form 11.3

- Filers must complete Form 11.3 when filing confidential documents by:
 - Checking the box(es) for the type(s) of confidential document(s) to be filed—multiple documents can be filed with one Form 11.3
 - Completing all other areas of the form, including signature of filer and the date
 - File the confidential document with the completed Form 11.3

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15

How to file confidential information with the court using Form 11.4

- Form 11.4 is the document onto which confidential information will be placed.
- Form 11.4 itself is confidential and is not accessible to the public, while the documents filed with it are public.
- Unlike Form 11.3, Form 11.4 is not a cover sheet for other documents.

How to file confidential information with the court using Form 11.4

- Filers must complete Form 11.4 when filing any document with confidential information with the court by:
 - Omitting the following confidential information from the document to be filed:
 - The name, address, birth date, age, and references to a child's gender or race for all cases in which a child is the victim of an alleged or adjudicated sexual assault, including sexual abuse.
 - The name, address, or location of current shelter care facility, foster care, pre-kinship, pre-adoptive, or adoptive placement, or any other type of court-ordered placement, including facility staff, foster, pre-adoptive, or adoptive parent, or prospective relative custodian signatures
 - Any information that identifies reporters of abuse or neglect
 - Any information that a person has undergone HIV testing and HIV results

How to file confidential information with the court using Form 11.4

- Referring to all child victims of alleged or adjudicated sexual assault, including sexual abuse, as CHILD 1, and all siblings who are a part of the same case as CHILD 2, CHILD 3, etc. in the document to be filed with the court as soon as allegations are known
- Referring to all foster care, pre-kinship, pre-adoptive, adoptive and court-ordered placements as FACILITY STAFF, FOSTER PARENT(S), PRE-ADOPTIVE PARENT(S), ADOPTIVE PARENT(S), and PROSPECTIVE RELATIVE CUSTODIAN(S), etc., in the document to be filed with the court
- Completing all other areas of the form, including signature of the filer and the date
- File the document with confidential information excluded and completed Form 11.4

How to file the out-of-home placement plan

- Like all other documents filed with the court, county workers must separate confidential information from public information in the out-of-home placement plan before filing.
- However, under Rule 37.02, there are additional requirements for filing the out-of-home placement plan.
- In order to separate confidential information in the out-of-home placement plan, county workers must complete, print, and sign the plan according to the following directions using both Confidential Cover Sheet Form 11.3 and Confidential Information Form 11.4:

How to file confidential information with the court using Form 11.4

- Fill in all sections of the out-of-home placement plan from the Title Page to the Signature Page
- Remember to use Form 11.4 for any confidential information (e.g., names of children who are alleged or adjudicated victims of sexual assault, names and address of foster care providers, etc.)
- Print the following confidential sections:
 - Child Functioning and Behaviors
 - Medical Needs
 - Educational Needs
 - Developmental Needs
 - Services
 - Health Care Provider
 - Health Information
 - Medication
 - Medical Responsibilities
 - Education Detail
 - Signature Page

How to file confidential information with the court using Form 11.4

- Complete Form 11.3 for this printed confidential section
 - Be sure to include in this section any education, physical health, or mental health records of the child intended to be attached to the out-of-home placement plan
- Print out the remaining non-confidential sections
- File the printed confidential section, the printed non-confidential section, Form 11.3, and Form 11.4 as needed

Questions?

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