



# Bulletin

**NUMBER**

#16-68-06C

**DATE**

November 4, 2016

**OF INTEREST TO**

County Directors

Social Services Supervisors  
and Staff

**ACTION/DUE DATE**

Read information and  
prepare for implementation

**EXPIRATION DATE**

November 4, 2018

## Separating Confidential Documents and Information When Filing Juvenile Protection Case Records

**TOPIC**

Under the October 1, 2016 amendments to the Rules of Juvenile Protection Procedure, filers must separate confidential documents and information before filing court documents.

**PURPOSE**

Updates confidential documents and information based on the recent amendments to the Rules of Juvenile Protection Procedure and explains how filers should separate confidential documents and information from publicly accessible juvenile protection case records.

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**SIGNED**

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**TERMINOLOGY NOTICE**

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

## **I. Background**

In 2010, the Minnesota Judicial Branch decided to move state courts from a paper-based information system to an electronic one. Recent amendments to Minnesota Rules of Juvenile Protection Procedure allow the public to access juvenile protection case records electronically at county courthouse terminals as soon as they are filed. Previously, such records were only available in paper format and access to the public was often delayed for administrative reasons. Electronic filing and service for all case types, including juvenile protection, has been mandatory in pilot counties since July 1, 2015, and across the state as of July 1, 2016. Because there is no opportunity for court staff to review and redact confidential information when records are electronically filed, filers must instead separate confidential documents and information from the publicly accessible documents before being filed.

This bulletin will discuss who has access to electronically filed juvenile protection records, who is responsible for filing, what documents and information are confidential, and how to separate confidential documents and information when filing documents with the court according to the most recent (Oct. 1, 2016) amendments to the Minnesota Rules of Juvenile Protection Procedure. According to the amended rules, filers will no longer have to separate public and non-public sections when filing the out-of-home placement plan with the court. However, filers still must remove confidential information from the out-of-home placement plan, such as the names of foster parents and the names of children who are alleged victims, or perpetrators, of sexual assault, using Form 11.4, just as they will for all other documents filed with the court.

## **II. Electronic Access of Juvenile Protection Records**

### **A. Who may access juvenile protection records filed with the court**

There are three tiers of access to juvenile protection records, depending on the status of the person interested in accessing a record.

#### **1. 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.

## **2. 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.

## **3. 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.

## **B. 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.

## **C. Exceptions to electronic access to public juvenile protection records**

The following court records are not electronically accessible to the public:<sup>1</sup>

- Confidential documents referenced in Minnesota Rules of Juvenile Protection Procedure, Rule 8.04, subd. 2, are filed with Confidential Document Cover Sheet 11.3
- Confidential information referenced in Minnesota Rules of Juvenile Protection Procedure, Rule 8.04, subd. 2, are filed with Confidential Information Form 11.4

## **III. Confidential Documents and Information**

### **A. 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 include:

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<sup>1</sup>Prior to Oct. 1, 2016, CHIPS cases in which a child was named as a party were not accessible to the public. This was because the court's electronic records system could not restrict searches by party names. As of Oct. 1, 2016, these cases are now treated the same as cases where no child is a party.

- Medical records, chemical dependency evaluations and records, psychological evaluations and records, and psychiatric evaluations and records<sup>2</sup>
- 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<sup>1</sup>
- Victims' statements<sup>1</sup>
- Records of HIV testing or portions of records that reveal any person has undergone HIV testing or any reference to any person's HIV status
- Photographs that identify a child
- 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
- Notices of changes in foster care placement
- Signature pages containing signatures of foster parents or children whose identities are confidential

## **B. 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. Confidential information includes:

- Identity of a minor victim or minor perpetrator<sup>3</sup> of an alleged or adjudicated sexual assault<sup>4</sup>
- Name, address, home, or location of any shelter care facility or foster care facility in which a child is currently placed pursuant to law or court order, except documents consenting to adoption or transferring permanent legal or physical

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<sup>2</sup>Although victims' statements, audio tapes, and video tapes of a child alleging or describing abuse or neglect of any child are inaccessible to the public under Rule 8.04, subd. 2(b) and (c), attorneys, GALs, social workers, and the court may include summaries or quotes from the statements or tapes in petitions, reports to the court, orders, and other documents that are accessible to the public. Likewise, although medical records, chemical dependency records, psychological records, and psychiatric records are inaccessible to the public under Rule 8.04, subd. 2(f), summaries of or quotes from those records may be included in petitions, reports to the court, orders, and other documents that are accessible to the public.

<sup>3</sup> As of October 1, 2016, the identity of minor perpetrators of alleged or adjudicated sexual assault is now confidential. (Rule 8.04, subd. 2(j))

<sup>4</sup> Excerpt of guidance from Juvenile Protection Rules Advisory Committee Comment regarding Rule 8.04, subd. 2(j): "Rule 8.04, subd. 2(j), precludes public access to the identity of a minor victim or minor perpetrator of an alleged or adjudicated sexual assault. The rule is similar to the requirements of Minnesota Statute, section 609.3471, and Rule 4, subd. 1(m), of the Rules of Public Access to Records of the Judicial Branch. Unlike that statute and rule, Rule 8.04, subd. 2(j), applies to all situations where there has been an allegation of sexual assault, even if the allegation is not proven."

- custody to a foster care provider or relative
- Identity of reporter of abuse or neglect<sup>5</sup>
- Records or portions of records that reveal any person has undergone HIV testing

## **IV. Filers Must Separate Confidential Documents and Information**

**A. 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

## **B. 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.

## **V. How Confidential Documents and Information Should be Segregated by Filers**

Court staff are not responsible for reviewing and redacting confidential information from court records before being filed. The responsibility to separate confidential documents and information from court records rests with filers. Each time a filer has confidential

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<sup>5</sup> This information should not be filed unless specifically ordered by a court.

documents or information, the filer needs to file a new Form 11.3 or Form 11.4, whichever is appropriate. Each juvenile protection case may have multiple forms of either type.

## **A. 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. Filers must complete Form 11.3 when filing confidential documents by:

- 1. 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**
- 2. Completing all other areas of the form, including signature of filer and the date**
- 3. File the confidential document with the completed Form 11.3 (see Attachment A or go to: <http://mncourts.gov/GetForms.aspx?c=11&f=71>)**

## **B. 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. A person filing a document that refers to a child or foster parent using a pseudonym may reference Form 11.4 previously filed that identifies the child or foster parent instead of filing a new Form 11.4. Unlike Form 11.3, Form 11.4 is not a cover sheet for other documents. Filers must complete Form 11.4 when filing any document with confidential information with the court by:

- 1. Omitting the following confidential information from the document to be filed:**
  - The first and last name, birth date, and references to a child's gender or race for all cases in which a child is the victim or perpetrator of an alleged or adjudicated sexual assault, including sexual abuse
  - The name or address of any shelter care facility or foster care facility in which a child is currently placed under a court order, except in documents consenting to adoption or transferring permanent legal and physical custody to a foster care provider or relative
  - Any information that identifies reporters of abuse or neglect
  - Any information that a person has undergone HIV testing and HIV results

2. Referring to all child victims or perpetrators 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. consistently in all documents filed with the court as soon as allegations are known
3. Referring to all shelter care and foster care placements as FACILITY STAFF, FOSTER PARENT 1, FOSTER PARENT 2, etc., in the document to be filed with the court
4. Completing all other areas of the form, including signature of the filer and the date
5. File the document with confidential information excluded and completed Form 11.4 (see attachment B or go to: <http://mncourts.gov/GetForms.aspx?c=11&f=72>)

### **Americans with Disabilities Act (ADA) Advisory**

This information is available in accessible formats for people with disabilities by calling (651) 431-4670 (voice) or toll free at (800) 627-3529 or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.

State of Minnesota

District Court

County
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Judicial District:	_____
Court File Number:	_____
Case Type:	Juvenile

In the Matter of the Welfare of the Child(ren) of:

**Confidential Document Cover Sheet  
(Form 11.3)**

\_\_\_\_\_  
 Parent(s)    Legal Custodian(s)

Minn. R. Juv. Prot. P. 8.04, subd. 5

<p><b>This Confidential Document Cover Sheet is accessible to the public. The documents referenced in this Cover Sheet are not accessible to the public except by court order. This Cover Sheet must be filed separately from the referenced document(s).</b></p>
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**INSTRUCTIONS: Check the boxes that apply. Do not use this Cover Sheet for documents that are not listed on this form.**

- Official transcripts 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
- Medical records (such as medical bills, lab results, or any document that refers to HIV)
- Chemical dependency evaluations and records
- Psychological evaluations and records
- Psychiatric evaluations and records
- Sexual offender treatment program reports
- Photographs or portions of photographs that identify a child
- Notice of change of foster care placement
- Notice of pending court proceedings provided to an Indian tribe by the responsible social services agency pursuant to the Indian Child Welfare Act

Document signature page with a confidential name, such as a foster parent or minor victim of sexual assault

Records or portions of records which a judicial officer ordered on \_\_\_\_\_ (*date*) be inaccessible to the public because of an exceptional circumstance

**Filed by:**

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Attorney Reg. #: (if attorney) \_\_\_\_\_

Firm/Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Date: \_\_\_\_\_

**CONFIDENTIAL**

**State of Minnesota**

**District Court**

County
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Judicial District:	_____
Court File Number:	_____
Case Type:	Juvenile

**In the Matter of the Welfare of the Child(ren) of:**

**Confidential Information Form  
(Form 11.4)**

\_\_\_\_\_  Parent(s)  Legal Custodian(s)

Minn. R. Juv. Prot. P. 8.04, subd. 5

**This form is not accessible to the public or case participants except by court order. This form is accessible to parents/legal custodians except when any of the following applies (select all that apply):**

- Disclosing section 1 information about the child's location will endanger the child
- Section 3 contains HIV information
- Section 4 contains information that a court has ordered be inaccessible

**NOTE TO FILERS:** Complete only the portion of this form that are necessary for the confidential information you are submitting to the court.

**1. Name, address, home, or location of any shelter care or foster care facility in which a child is placed under a court order.**

Reference in Document	Name of Shelter/Foster Care Facility or Parent	Shelter/Foster Care Address	Child in Shelter/Foster Care
Shelter Facility or Foster Parent 1			
Shelter Facility or Foster Parent 2			
Shelter Facility or Foster Parent 3			

**2. Information that identifies a child as a victim or perpetrator of an alleged or adjudicated sexual assault.**

Reference in document	Child's First and Last Name	Child's Date of Birth (mm/dd/yyyy)	Child's Gender	Child's Race
Child 1				
Child 2				
Child 3				
Child 4				

**3. Information about HIV testing, HIV test results, or HIV status.**

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**4. Other information that is confidential by court order.**

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**Filed by:**

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Attorney Reg. #: (if attorney) \_\_\_\_\_

Firm/Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Date: \_\_\_\_\_