



Bulletin

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#16-68-06

DATE

March 3, 2016

OF INTEREST TO

County Directors

Social Services Supervisors
and Staff

ACTION/DUE DATE

Read information and
prepare for implementation

EXPIRATION DATE

March 3, 2018

Separating Confidential Documents and Information When Filing Juvenile Protection Case Records

TOPIC

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

PURPOSE

Describes confidential documents and information 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 will be mandatory in all counties 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. In preparation for the statewide transition to electronic filing and service for all case types in July 2016, the separation of confidential documents and information when filing juvenile protection records became mandatory statewide on July 1, 2015.

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.

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:

- 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

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:

- Medical records, chemical dependency evaluations and records, psychological evaluations and records, and psychiatric evaluations and records¹

¹ 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 Minn. R. Juv. Prot. Pro., Rule 8.04, subd. 2(b) and (c), attorneys,

- A child's education, physical health, and mental health records contained in or attached to the out-of-home placement plan¹
- 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 child¹
- Victims' statements¹
- 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

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 of an alleged or adjudicated sexual assault²

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, treatment records, and the child's education, physical health, and mental health records are inaccessible to the public under Rule 8.04, subd. 2(f) and (n), 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.

² Excerpt of guidance from Juvenile Protection Rules Advisory Committee Comment regarding Rule 8.04, subd. 2(j): "This is intended to parallel the treatment of victim identities in criminal and juvenile delinquency proceedings involving sexual assault charges under Minnesota Statutes 2001 Supplement, section 609.3471. Thus, the term "sexual assault" includes any act described in Minnesota Statutes § 609.342, 609.343, 609.344, 609.345, and 609.3451. The Committee considered using the term "sexual abuse" but felt that it was a limited subcategory of "sexual assault." See Minnesota Statutes 2001 Supplement, section 626.556, subd. 2(a) ("sexual abuse" includes violations of Minnesota Statutes § 609.342 to 609.345, committed by person in a

- 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

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.

position of authority, responsible for child's care, or having a significant relationship with the child). Rule 8.04(j) does not require a finding that sexual assault occurred. An allegation of sexual assault is sufficient.”

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 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://www.mncourts.gov/mncourtsgov/media/CIOMediaLibrary/PublicForms/Confidential_Information/CON113.pdf)**

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. 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 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
2. **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**
 3. **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**
 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://www.mncourts.gov/mncourtsgov/media/CIOMediaLibrary/PublicForms/Confidential_Information/CON114.pdf)**

C. 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:

1. **Fill in all sections of the out-of-home placement plan from the Title Page to the Signature Page *without* selecting the Complete box on the bottom of each screen**
2. **The following information must not be included in the filed plan and, instead, must be provided under the directions for Form 11.4:**
 - 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
- 3. Select the Complete box at the bottom center of each of the following confidential sections only:**
- Child Functioning and Behaviors
 - Medical Needs
 - Educational Needs
 - Developmental Needs
 - Services
 - Health Care Provider
 - Health Information
 - Medication
 - Medical Responsibilities
 - Education Detail
 - Signature Page
- 4. Print the plan with only the completed confidential sections as directed in step 3 above**
- 5. Fill out Confidential Document Cover Sheet Form 11.3 by checking the appropriate box(es)**
- 6. Select the Complete box for all remaining sections of the out-of-home placement plan from the Title Page to the Signature Page**
- 7. Unselect the Complete box for each section listed in step 3**
- 8. Print the plan without the confidential sections**
- 9. Once signed by the parties, file the plan printed in step 8 with the:**
- Completed Confidential Information Form 11.4, as needed,
 - Completed Confidential Document Cover Sheet Form 11.3, and
 - Confidential sections, including the Signature Page, printed in Step 4.
- 10. If the following confidential documents are attached to the out-of-home placement plan, they will require a completed Confidential Document Cover Sheet Form 11.3. One Form 11.3 may be filed with the court that covers all of the child's records listed below:**
- Education records
 - Physical health records
 - Mental health records

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

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

This Confidential Document Cover Sheet is accessible to the public. The documents referenced in this Cover Sheet shall not be accessible to the public except by court order.
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INSTRUCTIONS: Check only the boxes that apply.

- 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
- Documents that are confidential under Minnesota Juvenile Protection Procedure Rule 8.04, subd. 2(i)
- Notice of pending court proceedings provided to an Indian tribe by the responsible social services agency pursuant to the Indian Child Welfare Act
- The child's education, physical health, and mental health records contained in or attached to the case plan required under Minnesota Statutes § 260C.212, subd. 1, and identified as inaccessible under Rule 37.02, subd. 3(b)

- Records or portions of records which the court in exceptional circumstances has deemed inaccessible to the public

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

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 shall not be accessible to the public except by court order. This form shall be accessible to case participants as authorized by the court. This form shall be accessible to case parties unless it contains information in sections 3 (identity of reporter of abuse) or 4 (HIV-related information), in which case it shall be accessible to the parties as authorized by 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 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				

CONFIDENTIAL

3. Portions of juvenile protection case records that identify reporters of abuse or neglect

Reporter 1: _____

Reporter 2: _____

Reporter 3: _____

4. Information that a person has undergone HIV testing and/or HIV test results

5. Other information that is confidential by statute, rule, or court order

Filed by:

Name: _____

Signed: _____

Attorney Reg. #: (if attorney) _____

Firm/Agency Name: _____

Address: _____

City/State/Zip Code: _____

E-mail address: _____

Date: _____