

# Memorandum

SUPREME COURT OF WISCONSIN  
OFFICE OF COURT OPERATIONS  
PHONE (608) 266-3121 FAX (608) 267-0911



To: Clerks of Circuit Court  
Juvenile Clerks  
From: Marcia Vandercook  
Date: updated June 18, 2018  
Re: Juvenile offense case types

We are frequently asked what case types should be given to juvenile traffic and other juvenile offenses. The answer depends on the age of the juvenile and the type of offense. Here are some general principles to apply:

- As a general rule, a juvenile is a person who is 17 or younger. For crimes, forfeitures, and ordinance violations, a juvenile is a person who is 16 or younger. See §938.02(1), (10m).
- For most traffic offenses (ch. 341- 349, 351 and conforming ordinances), 16-year-olds are treated as adults because they are old enough to have operators' licenses. This also applies to other driving offenses involving boats, ATVs, and snowmobiles (ch. 23, 30, and 350 and conforming ordinances). See §938.17(1). A violation of absolute sobriety under §346.63(2m) is considered a traffic offense, not an underage drinking offense.
- Not every offense that involves a car or other motor vehicle is a traffic offense. Offenses such as disorderly conduct with a vehicle, squealing tires, display of power, etc, are regular ordinance violations, not traffic. The same is true for parking violations.
- Underage drinking, smoking, and curfew are "status offenses", penalties that apply because the person is too young to engage in a particular activity, not because the law considers the person to be a juvenile. Like any other offense, these are JO cases when the offender is 16 or under; FO otherwise. See §125.07(4), §134.66(2).
- Truancy cases are JO cases when the person is 16 or younger, and FO cases when the person is 17. §118.163(1m), §118.163(4), §938.125(2), §938.342(1g).
- TROs and injunctions under ch. 813 are civil cases. These fall within the jurisdiction of the juvenile court until the respondent is 18. See §48.14(10).
- Age is determined as of the time of charging, not the time of the offense. §938.02; *State v. Annola*, 168 Wis.2d 453 (1992).

Here are two different charts that we hope will help your staff make sense of this:

- JO: (1) the offender is 15 or under, and the offense is a traffic forfeiture.  
(2) the offender is 15 or under, and the offense is a driving offense involving boats, ATVs, or snowmobiles.  
(3) the offender is 16 or under, and the offense is a non-driving forfeiture, including DNR license violations and disorderly conduct with a car.  
(4) the offender is 16 or under, and the offense is underage drinking.  
(5) the offender is 16 or under, and the offense is underage tobacco.  
(6) the offender is 16 or under, and the offense is truancy.

FO: (1) the offender is 16, and the offense involves driving boats, ATVs, or snowmobiles.  
 (2) the offender is 17 or older, and the offense is a non-driving forfeiture.  
 (3) the offender is 17- 20, and the offense is underage drinking.  
 (4) the offender is 17, and the offense is underage tobacco.  
 (5) the offender is 17, and the offense is truancy.

JV: (1) the offender is 15 or under, and the offense is a criminal driving offense.  
 (2) the offender is 16 or under, and the offense is a criminal non-driving offense.  
 (3) the offender is 16, and the offense is a false statement in title application, forged proof of financial responsibility, duty to render aid in a boating accident (resulting in death or serious injury), or striking an attended vehicle (resulting in death or serious injury).

Jl: (1) the respondent is 17 or under, and the petition is for a restraining order or injunction.

TR: (1) the offender is 16 or older, and the offense is a traffic forfeiture.

CT or CM: (1) the offender is 16 or older, and the offense is a driving misdemeanor.

CM: (1) the offender is 17 or older, and the offense is a non-driving felony.  
 (2) original criminal jurisdiction over juveniles is available in limited circumstances.

CF: (1) the offender is 16 or older, and the offense is a driving felony.  
 (2) the offender is 17 or older, and the offense is a non-driving felony.  
 (3) original criminal jurisdiction over juveniles is available in limited circumstances.

<b>Driving offenses</b>	<b>16 &amp; OLDER</b>	<b>UNDER 16</b>
Traffic forfeitures, ch. 341-349, 351	TR	JO
ATV forfeitures, ch. 23	FO	JO
Boating forfeitures, ch. 30	FO	JO
Snowmobile forfeitures, ch. 350	FO	JO
Misdemeanor traffic	CT or CM	JV
Felony traffic, with exceptions below	CF	JV

<b>Crimes</b>	<b>17 &amp; OLDER</b>	<b>UNDER 17</b>
Boating accidents & reporting, 30.67(1)	CF	JV
Hit & run, 346.67(1)	CF	JV
Fraudulent title, 342.06(2)	CF	JV
Forged proof of insurance, 344.48(1)	CF	JV
Misdemeanor non-driving	CM	JV
Felony non-driving	CF	JV

<b>Forfeitures</b>	<b>17 &amp; OLDER</b>	<b>UNDER 17</b>
Disorderly conduct	FO	JO
Disorderly conduct with motor vehicle	FO	JO
Curfew	FO	JO
Underage drinking (but not drinking and driving)	FO	JO
Underage tobacco	FO	JO
Parking	FO	JO
Other ordinance violations	FO	JO
Truancy	FO	JO

# Memorandum

SUPREME COURT OF WISCONSIN  
CHILDREN'S COURT IMPROVEMENT PROGRAM  
PHONE (608) 267-1958 FAX (608) 261-0696



**DATE:** November 9, 2018 (updated 7-12-21)  
**TO:** Juvenile Clerks and Clerks of Court  
**FROM:** Bridget Bauman, Children's Court Improvement Program  
**SUBJECT:** Juvenile eFiling and Party Types

The Children's Court Improvement Program has created new recordkeeping standards for entering party information into the CCAP case management system for juvenile cases (JV, JC, and TP cases). These standards become even more critical as these case types transition to mandatory eFiling, which can provide electronic access to the entire court file for any person or agency listed as a party.

## **Statutory Requirements on Confidentiality in Juvenile Cases**

Juvenile court records are confidential and may only be disclosed if explicitly authorized in statute or ordered by the court. See ss. 48.396(2) and 938.396 (2), Wis. Stats. The new standards will ensure that the parties who are entitled to view the entire case file can participate as an eFiling party, while persons or agencies who are involved with the case but not authorized to view all of the case records will not.

As the new recordkeeping standards are being implemented, it is important to note the following:

1. There are situations where the statutes require distribution of a particular court document or hearing notice to individuals listed under "Related Parties/Notice Recipients". The person responsible for distributing this document is required to provide a paper copy to these case participants, as well as to any party who has not opted in as an eFiler.

The Office of Court Operations has been in the process of re-examining the policy around the use of email, and when it is appropriate to disseminate information through email. An update to the Director's policy on email will be issued by the end of the year and will provide guidance to clerks on how to best provide case-related information to parties and related parties (via the eFiling system or other methods).

2. Even though intake/dispositional workers and social workers are not entered as parties, they have the ability to eFile documents using non-party filing. However, they are not mandatory eFilers under the eFiling rule. The intake/dispositional workers and social workers will continue to have the option of filing documents via traditional means. Additional information related to using non-party eFiling can be found at: [www.wicourts.gov/ecourts/efilecircuit/docs/efilingnewcasesocialworkernonparty.pdf](http://www.wicourts.gov/ecourts/efilecircuit/docs/efilingnewcasesocialworkernonparty.pdf)

## **Entering Party Information**

In preparation for mandatory eFiling for juvenile cases, juvenile clerks should take the following steps when entering party information for new filings AND for every pending case:

### **I. Child in Need of Protection or Services (CHIPS) Cases**

A. On the **Parties Tab**, enter the following individuals:

- Petitioner
- Child and child's attorney and/or guardian ad litem
- Parent (mother, father, adjudicated father, adoptive father, adoptive mother) and parent's attorney
- Guardian
- Indian custodian and legal custodian
- Tribe (if case is subject to the Indian Child Welfare Act)

The petitioner in CHIPS proceedings is typically the District Attorney or Corporation Counsel. The child, parent, or guardian may be the petitioner under certain grounds. If the petitioner is Corporation Counsel or District Attorney, ensure that the agency number and attorney's name are entered into active cases that were initiated prior to eFiling. Selecting Corporation Counsel or District Attorney on the party screen as the agency will automatically populate the "petitioning agency" and "petitioning attorney" fields on the main case screen.

B. In the **Related Parties** section (soon to be called "Notice Recipients"), enter any other person or agency that may require distribution of certain court documents or hearing notice. Examples of party types that may fall under this category include:

- Alleged father
- Foster parent and physical custodian
- Grandparent and relative
- Intake/Dispositional Worker and Social Worker
- Agency, custodial agency, and supervising agency
- Court-appointed special advocate and special advocate
- Stepfather and stepmother
- Spouse
- Other (such as school, group home, residential treatment center, and shelter home)

Select the notify checkbox to have the option to generate paper court notices for these related parties. For example, under Wis. Stat. § 48.27(3)(a)1., if a child is placed with a relative or in a foster home, notice of hearings needs to be provided to these individuals.

CCAP programming will identify these persons/agencies as "Notice Recipients" and you will have the option of printing paper notices or sending electronic notices. Both Related Parties and Notice Recipients can be identified as individuals/agencies that are associated with the case, but are not actual parties to the case. They can receive notice of scheduled court proceedings for a case. In the future they may receive certain electronic court documents granted by you or the court, but they will not be able to opt into the case as parties, with full access to the entire electronic file.

## II. Juvenile in Need of Protection or Services (JIPS) and Delinquency Cases

A. On the **Parties Tab**, enter the following individuals:

- Petitioner
- Juvenile and juvenile's attorney and/or guardian ad litem
- Parent (mother, father, adjudicated father, adoptive father, adoptive mother) and parent's attorney
- Guardian
- Indian custodian and legal custodian
- Tribe (if JIPS case subject to the Indian Child Welfare Act)
- Special prosecutor
- Victim (in accordance with the Victim Procedures: <http://courtnet.wicourts.gov/policies/modelrecord.htm>)

The petitioner in a delinquency proceeding is the District Attorney. The petitioner in a JIPS case may be the District Attorney, Corporation Counsel, parent, or guardian. If the petitioner is Corporation Counsel or District Attorney, ensure that the agency number and attorney's name are entered into active cases that were initiated prior to eFiling. Selecting Corporation Counsel or District Attorney on the party screen as the agency will automatically populate the "petitioning agency" and "petitioning attorney" fields on the main case screen.

B. In the **Related Parties** section (soon to be called "Notice Recipients"), enter any other person or agency that may require distribution of certain court documents or hearing notice. Examples of party types that may fall under this category include:

- Alleged father
- Foster parent and physical custodian
- Grandparent and relative
- Intake/Dispositional Worker and Social Worker
- Agency, custodial agency, and supervising agency
- Stepfather and stepmother
- Attorney representing a victim
- Other (such as school, group home, residential treatment center, and shelter home)

Select the notify checkbox to have the option to generate paper court notices for these related parties.

Later this year, CCAP programming will identify these persons/agencies as "Notice Recipients" and you will have the option of printing paper notices or sending electronic notices. Both Related Parties and Notice Recipients can be identified as individuals/agencies that are associated with the case, but are not actual parties to the case. They can receive notice of scheduled court proceedings for a case. In the future they may receive certain electronic court documents granted by you or the court, but they will not be able to opt into the case as parties, with full access to the entire electronic file.

## III. Termination of Parental Rights (TPR) Cases

A. On the **Parties Tab**, enter the following individuals:

- Petitioner
- Child and child's attorney and/or guardian ad litem

- Parent (mother, father, adjudicated father, adoptive father, adoptive mother) and parent's attorney\*
- Guardian
- Indian custodian and legal custodian
- Tribe (if case is subject to the Indian Child Welfare Act)

\*Note: The adoptive father and adoptive mother would only be entered as a party if the adoption has already occurred. If these individuals are a proposed adoptive parent, they should be entered as a related party.

The petitioner in TPR proceedings may be the parent, Corporation Counsel, District Attorney, child (through counsel or guardian ad litem), guardian, relative, or "other appropriate person designated by the court." If the petitioner is Corporation Counsel or District Attorney, ensure that the agency number and attorney's name are entered into active cases that were initiated prior to eFiling. Selecting Corporation Counsel or District Attorney on the party screen as the agency will automatically populate the "petitioning agency" and "petitioning attorney" fields on the main case screen.

B. In the **Related Parties** section (soon to be called "Notice Recipients"), enter any other person or agency that may require distribution of certain court documents or hearing notice. Examples of party types that may fall under this category include:

- Alleged father
- Foster parent, physical custodian, and group home
- Grandparent and relative
- Social Worker
- Agency, custodial agency, and supervising agency
- Stepfather and stepmother
- Other

Select the notify checkbox to have the option to generate paper court notices for these related parties.

Later this year, CCAP programming will identify these persons/agencies as "Notice Recipients" and you will have the option of printing paper notices or sending electronic notices. Both Related Parties and Notice Recipients can be identified as individuals/agencies that are associated with the case, but are not actual parties to the case. They can receive notice of scheduled court proceedings for a case. In the future they may receive certain electronic court documents granted by you or the court, but they will not be able to opt into the case as parties, with full access to the entire electronic file.



# Supreme Court of Wisconsin

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Hon. Randy R. Koschnick  
Director of State Courts

## INFORMATIONAL BULLETIN 19-02

DATE: February 5, 2019

TO: Circuit Court Judges  
Clerks of Circuit Court  
Registers in Probate  
Juvenile Clerks

FROM: Randy R. Koschnick  
Director of State Courts

SUBJECT: Limited use of email to transmit certain documents

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In 2011, the Director of State Courts Office issued a policy about sending and receiving court documents by email, Informational Bulletin 11-13. This bulletin is an update to that policy, taking into account the recent successful implementation of electronic filing and progress in developing automated information exchanges with our justice partners.

It is still the policy of the Director's Office that clerks and judges should not accept circuit court documents for filing by email. However, there are a number of situations where email may be used for other kinds of information exchange. Now that eFiling is firmly established, we believe we can allow greater use of email under certain conditions without jeopardizing the work everyone has done to adapt to the new system. We appreciate everyone's cooperation that allowed us to reach this point.

### Outgoing Documents

Generally speaking, the majority of case-specific outgoing documents should be provided to individuals directly through the eFiling system, an interface, or the Notice Recipient feature in CCAP Case Management. However, there may be situations where these methods are not available. In these limited situations, email may be the most appropriate and efficient way to send certain documents. Clerks can use the following questions to help them navigate whether it is appropriate to send certain documents via email:<sup>1</sup>

1. Is the individual allowed to access this document under the law?
2. Is it possible to send the document through eFiling, an interface, or through the Notice Recipient feature?

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<sup>1</sup> See Appendix A for a flow chart showing when it may be appropriate to send outgoing documents via email.

3. Does the law require the document to be served via traditional means or through personal service?

**Outgoing Documents that can be sent via email.**

1. *Copies to parties or individuals.* Clerks may send copies of certain documents to parties or to individuals who need them. Some examples include:
  - a. Child support orders and interim financial summaries to a child support agency when the agency is not a party to the case
  - b. Court orders (CR-205, 206, 270 – 277, 280) and supporting documentation (doctor's reports/criminal complaints) to the [Department of Health Services](#) when the court orders treatment, mental examination, predisposition investigation, commitment, or a conditional release plan
  - c. Bonds to local jail for intake
  - d. Out-of-county or out-of-state TROs/injunctions
  - e. Documents to GAL from other cases
2. *Case initiating courtesy copies.* To facilitate the access to information at the beginning of a case, clerks may provide courtesy copies of certain documents upon agreement with the party. Some examples include:
  - a. Initiating documents (complaints, petitions, etc...) to the public defender's office
  - b. Initiating documents to corporation counsel
  - c. Criminal complaints to an out-of-county DA's office
  - d. Conflict checks for GAL/social worker prior to appointment of GAL/social worker
3. *Alternative to a phone call/fax.* Email can be used in lieu of a phone call or fax to answer logistical questions about a case, or for an individual to request copies or forms. If you would have made a note of the phone call and placed it in the case file, then print out the email and scan it into the file. Some examples include:
  - a. Probate checklists with a list of documents that need to be filed
  - b. Providing small claims forms to individuals in compliance with Wis. Stat. § 799.04(2)
4. *Public records requests.* Public records requests for copies of official records may be received and answered via email, including the attachment of copies. Some examples include:
  - a. Media requests for public records
  - b. DOJ background requests
  - c. DOJ military and handgun hotline requests
5. *Copies to interested parties.* For Notice Recipients, those who have an interest in a case but who are not parties themselves (e.g., psychiatrists, social workers, medical professionals, school, etc...), the CCAP case management system includes a new feature that allows clerks to email CCAP system-generated documents to Notice Recipients. In order to use this feature, clerks need to obtain the email address of the Notice Recipient and add them to the 'Notice Recipients' section of the 'Parties' tab on the case. Some commonly-used documents that can be sent using the Notice Recipient feature include:
  - a. Notice of Hearings (CR-229, CV-802, GF-101, IW-1724, JD-1700,



JD-1724, PR-101)

- b. Injunctions to the sheriff (CV-404, CV-407, CV-409, CV-414, JC-1692)
- c. Bail/Bonds to the local jail (CR-203)
- d. Order to Surrender Firearm to the sheriff (CV-803)
- e. Order to Produce/Transport to sheriff's office and facility (GF-190)
- f. Notice to School Board (JD-1725)

### **Incoming Documents**

There are very few circumstances where incoming documents may be received by clerks via email. It is still the policy of the Director's Office that clerks and judges should not accept circuit court documents for filing by email (this includes judicial assignments, *pro se* filings, or any document that needs to be filed on a case).

For eFiling parties, documents intended for the case file may be submitted through the electronic filing system or through an electronic interface such as the District Attorney PROTECT system, as required by Wis. Stat. § 801.18(2). For paper parties (self-represented litigants who choose not to eFile), documents intended for the case file should be submitted through traditional means like mail or hand delivery. For non-parties, those who file documents in a case but who are not parties themselves (e.g., psychiatrists, social workers, district court administrators, etc...), the eFiling system includes a non-party filing feature that allows them to upload documents for filing into the case. While non-party filers should be encouraged to use the upload feature, they may also continue to submit documents by traditional means.

### **Incoming Documents that can be received via email.**

1. *Courtesy copies.* Circulating drafts and courtesy copies may be sent by email as long as the official copy is eFiled or filed by traditional means.
2. *Alternative to a phone call/fax.* Email can be used in lieu of a phone call or fax to answer logistical questions about a case, or for an individual to request copies/forms. If you would have made a note of the phone call and placed it in the case file, then print it out and scan it into the file. If your office wishes to set limits on accepting email, it may do so.
3. *Public records requests.* Public records requests for copies of official records may be received and answered via email, including the attachment of copies.
  - a. Media requests for public records
  - b. DOJ background requests
  - c. DOJ military and handgun hotline requests

### **Electronic Interfaces**

CCAP works with the following justice partners to electronically transmit court data and documents whenever possible. Information should always be exchanged through these interfaces. While clerks may honor occasional requests for courtesy copies sent via email, repeated requests should be referred to the Office of Court Operations to follow up with the agency involved.

**Department of Children and Families (DCF) – public assistance liens**

**Department of Corrections (DOC)** – all incoming and outgoing documents and data will come through the improved DOC interface

**Department of Justice (DOJ)** – crime information bureau (CIB), concealed carry records, daycare and firearms restrictions, juvenile adjudications, DNA at arrest

**Department of Natural Resources (DNR)** – electronic citations, license revocation, disposition, and reinstatement information

**Department of Revenue (DOR)** – tax warrants, tax intercepts (TRIP), state debt collection (SDC)

**Department of Transportation (DOT)** – electronic citations, dispositions, license suspensions and reinstatements, and conviction status reports

**Department of Workforce Development (DWD)** – unemployment compensation cases

**District Attorneys Information Technology (DAIT)** – all incoming and outgoing documents and data come through the PROTECT system

**State Public Defender (SPD)** – case data for certain case types; no documents are exchanged through this interface

**Local/County Data Exchanges.** Certain counties have secure local data systems in place for the exchange of information. These data systems should not be used to file documents in a case, but can be used to exchange information outside of case filings in a secure manner.

### **Best Practices**

If your county chooses to use email as a way of exchanging certain documents and information, it is important to consider the following topics when developing your county's policy.

**Make sure you have a valid email address.** For individual communications, make sure your email address is up to date as well as the email address of the person who is receiving the communication. For repeated communications, it is best to set up a global email address rather than using an individual email address, so long as the global email is sufficiently monitored to ensure that information is not missed. A global email address is also preferred when information is being sent to local agencies (e.g., jail, sheriff's department, etc...).

**Email is not always a two-way street.** While it may be permissible to send case-related documents to individuals via email, it is not always appropriate to receive documents via email. Again, email should not be used to receive documents that need to be filed on a particular case.

**Confidential documents.** When sending or receiving confidential documents via email, use your discretion. You should exercise caution to ensure that the document is protected from disclosure. You may choose to use traditional methods such as mail or hand delivery for confidential documents if you are not certain that the document should be transmitted via email. Some agencies email confidential documents regularly through secure methods.

### **Conclusion**

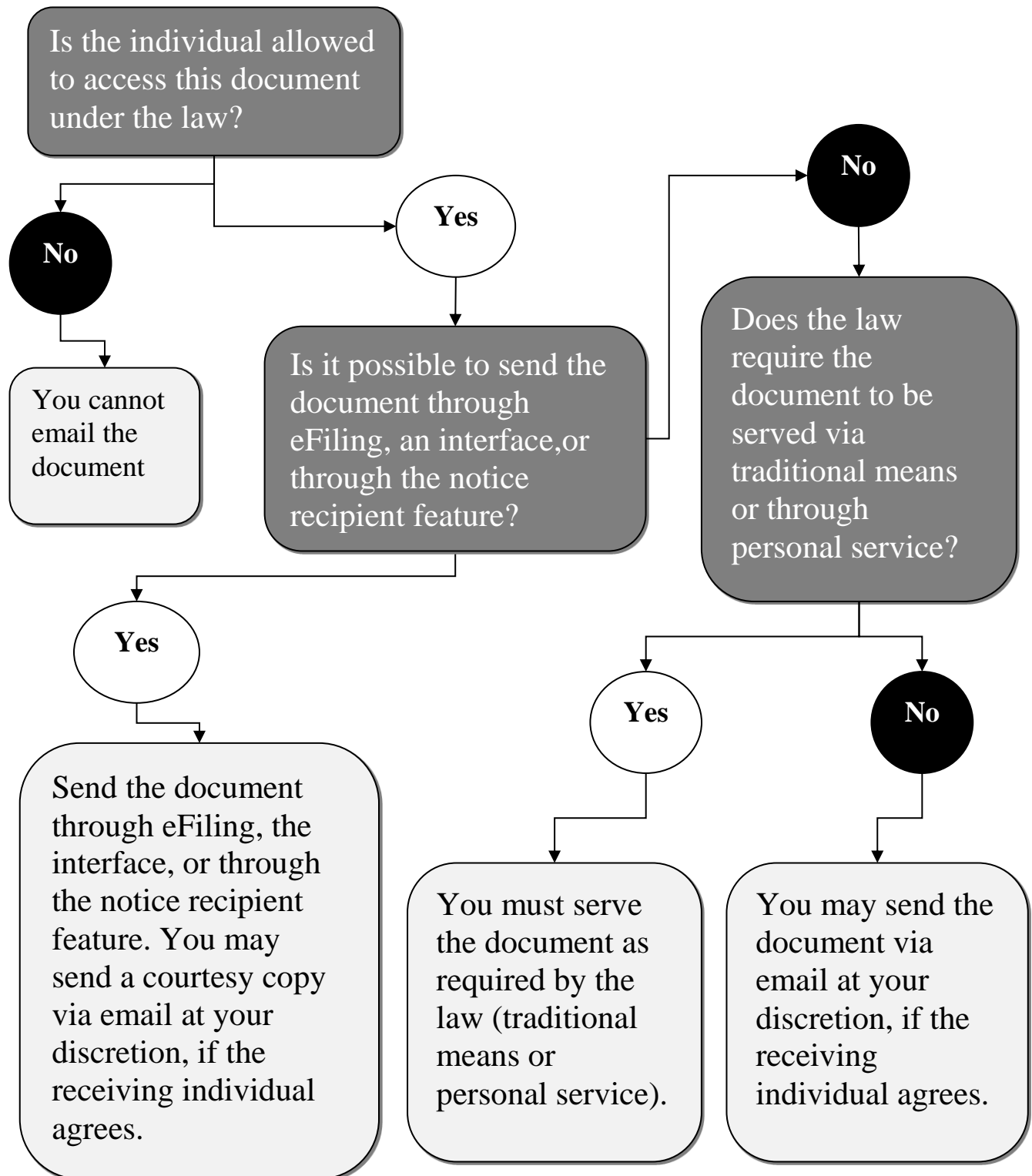
My office remains committed to developing the most efficient case management system and data exchanges that we can build. Please feel free to send me your ideas for better ways to automate and upgrade our case management functions.

cc: District Court Administrators

# Appendix A

## Emailing Outgoing Documents Flowchart

**Question:** Is it appropriate to email this particular document?



## CONFIDENTIALITY OF CIRCUIT COURT RECORD INFORMATION <sup>1</sup>

Wisconsin public policy favors public access to government records. Wis. Stat. §19.31. §59.20(3) specifically authorizes public inspection of papers required to be kept by the clerk of courts and register in probate. However, many court records are made confidential by state statute, and others may be sealed in the discretion of the court.

### New court rules

Beginning July 1, 2016, parties filing documents will be subject to three new court rules:

- §801.19, providing procedures for protection of certain personal identifiers found in court records (social security numbers, employer and tax identification numbers, financial accounts, driver license and passport numbers). Parties submitting documents to the court must protect those numbers using the procedures and forms provided by the new rule.
- §801.20, providing a procedure for filing of confidential information and documents. The director's office will publish a list of commonly-filed documents that the court will automatically treat as confidential without a motion because they are protected by statutes, court rules, or case law. The filing party must inform the clerk that confidential material is being filed.
- §801.21, providing procedures for motions to seal. A party seeking to protect a court record not covered by §801.19 or included on the list in §801.20 must file a motion to seal part or all of a document and must specify the authority for restricting the information from public access.

### Confidential by Statute

These statutes require that certain information found in court records be kept confidential.<sup>2</sup> These statutes may have provisions allowing disclosure to the parties, their attorneys, and others.

- Adoption records [48.93(1d)]
- Child abuse restraining order and injunction records [813.122(3)(bq)]
- Child pornography as evidence [971.23(11)(d)]
- Children's proceedings under ch. 48 [48.396(2)]
- Confidential informants – identification & testimony [905.10(3)]
- Confidential name change petition and records – risk of harm [786.37(4), 786.36(2m)(a)]
- Confidential petition addendum [767.215(5)(b)]
- Divorce judgments when set aside after reconciliation [767.35(6)]
- Divorce judgments when parties remarry each other [767.35(7)]
- Family financial disclosure form & exchange of information [767.127(3)(a), 767.54]
- Family maintenance payment records [767.57(1)(c)]
- Guardianship records [54.75]
- Grand juror list and grand jury proceedings [968.40-.46; 968.505-53]

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<sup>1</sup> List updated by Office of Court Operations on October 30, 2015.

<sup>2</sup> Many state statutes require other recordkeepers to keep certain information confidential. For a list of these statutes see State Bar of Wisconsin, *Wisconsin Public Records and Open Meetings Handbook*, appendix 4.

- Insurance proceedings – judicial review [645.24(3)] (may be open at insurer's request)
- Jane Doe proceedings [48.375(7)(e)]
- Juror qualification forms and supplemental information [756.04(9), (11)]
- Juvenile proceedings [938.396(2)]
- Mental commitments [51.30(3)]
- Parent denied periods of physical placement – limited access to child's records [767.41(7)]
- Presentence investigation reports [972.15(4)]
- Protective services and placement [55.22]
- Restraining orders and injunctions, petitioner's address [813.12(5m), 813.122(5g), 813.123(5g), 813.125(5m)]
- Restraining orders and injunctions, domestic abuse and harassment – may not display petitioner's name on internet [18 USCS 2265(d)(3), 814.61(1)(e)]
- Pupil records provided under subpoena for in camera inspection – [118.125(2)(f)]
- Treatment records of individuals criminally committed under ch. 971 and 975 [51.30(7), *LaCrosse Tribune v. Stanley*, 2012 WI App 42]
- Victim notification cards [302.113(9g)(g)3., 302.114(6)(e), 973.09(3m)]
- Wills deposited for safekeeping during life of testator [853.09(1), (2)]
- Wiretaps, electronic or oral interceptions [968.30(7)]

### **Confidential by Court Order**

These statutes provide that certain records may be made confidential if the court so orders. This is not an exclusive list; the court may order other records sealed in the interests of justice.

- Antitrust actions – confidential business or trade secrets [133.13(2)] (may be sealed on motion)
- Family actions may be impounded "for good cause shown" [767.13]
- Uniform Child Custody Jurisdiction Enforcement Act proceedings [822.29(5)]
- John Doe proceedings [968.26(4)] (court has discretion to enter secrecy order applicable to some participants)
- Trade secrets litigation [134.90(5)] (court shall protect trade secret by reasonable means)
- Restraining orders and injunctions, individual at risk [813.125(3)(c)2.]
- Coroner's inquest [979.05(6), 979.08(7)] (open unless sealed by judge with concurrence of district attorney)
- Name change [786.36(2m)(a); 786.37(4)] (confidential if court finds danger to petitioner)

### **Confidential at Certain Stages**

Some records are confidential at certain stages of the case but are open at other stages.

- Criminal competency determinations are confidential prior to competency hearing. [971.14(4)(a)]
- Criminal mental disease or defect reports are confidential until the physician or psychologist has testified or at completion of trial. [971.16(3)]
- Medical incapacity of attorney petitions are closed until a finding of incapacity. [SCR 12.02(1)(e)]
- Paternity pre-adjudication records are closed; post-adjudication records are open. [767.853]
- Search warrants are confidential until executed. [968.21]

## **Not Kept in Court Files**

Some records are not kept by the court, but if found in court files should be considered confidential.

- Family medical history of noncustodial parent should be forwarded to the physician. [767.41(7m)]
- Judge's notes are kept in the judge's personal files and not the case file. [19.32(2); *State v. Panknin*, 217 Wis. 2d 200 (Ct. App. 1998)]
- Reports of sexual exploitation by therapists are not intended for filing with the court. [940.22(4)(a)]
- Vital records [69.20-24; 78 Op. Att'y Gen. 232 (1989)] It is DHS policy that birth certificates not be kept or copied by the court; to prevent identity theft, they should be inspected and returned after a note is made in the file. For vital records related to sex change operations, the court record may be sealed as needed or the record not kept. [69.15(6); *Madison v. Madison Human Services Comm.*, 122 Wis.2d 488 (Ct.App. 1984)]

## **Commonly Misunderstood**

Although the following types of records are often perceived as confidential, the clerk should maintain them as a public record unless otherwise ordered by the court.

- Child parties are confidential as part of the general confidentiality rules associated with Chapters 48 and 938 and in child abuse cases under 813.122. The names of children are not confidential in other matters in the absence of a specific statute.
- Health care records filed with the court are not automatically sealed under the provisions of either Wis. Stat. 146.82 or HIPAA. Parties must identify an additional statutory exception or move to seal the records. [*State v. Hancock*, 2015AP1337 (unpublished); OAG 03-07]]
- Minor settlements are not confidential. [807.10]
- Crime victims must be treated with fairness, dignity and respect for their privacy by public officials. Victims and witnesses should not have their personal identifiers used for a purpose unrelated to official government business. [950.04(1v), (2w)] These provisions do not change the obligations of clerks of circuit court to provide access to records.

## **Information on court website**

Under CCAP policy, some information should not be entered into fields that display on the Wisconsin Circuit Court Access website. See the general Model Recordkeeping Procedures, "Guidelines for entry of additional text on CCAP" regarding personally identifiable information (social security numbers, credit card numbers, security codes, passwords) and names and address of victims, witnesses, and jurors.

# Memorandum

SUPREME COURT OF WISCONSIN  
OFFICE OF COURT OPERATIONS  
PHONE (608) 266-3121 FAX (608) 267-0911



**DATE:** April 22, 2019  
**TO:** Court Procedures File  
**FROM:** Kat Carpenter  
**SUBJECT:** A Guide to Confidentiality, Sealing, and Redaction in Wisconsin Circuit Courts

This memo is intended as a guide for filers, court staff, and judges on the various statutory provisions related to confidentiality, redaction, and sealing of information in circuit court case records. This general guide clarifies how the court system treats different types of filings under statute. Individual practices of judges in each county may vary from this guide. If a filer wants to supplement this guide with additional information, please contact Kat Carpenter in the Office of Court Operations at Katherine.Carpenter@wicourts.gov.

## 1. Documents that can be marked as confidential and submitted with no further motion

- The CCAP software automatically marks these documents as confidential when filed through eFiling. Filers need to select the correct document type when eFiling the below documents in order for the software to mark them properly.
- The DA should mark these documents as confidential when filed through PROTECT.
- Clerks should mark these documents as confidential when they are filed in paper.
- See Wis. Stat. § 801.20.

Form Title	Form Number	Statute Number	Who Is Allowed to View the Record? <sup>1</sup>
Confidential Address Information in TRO and Injunction Actions (NOTE: restraining orders and injunctions are not yet enabled to eFiling)	CV-502	813.12(5m) 813.122(5g) 813.123(5g) 813.125(5m)	Petitioner/Child/Individual at Risk (and his/her attorney) or person filing on behalf of the person to be protected. 813.12(5m), 813.122(5g), 813.123(5g), 813.125(5m)
Confidential Disclosure of Protected Information	GF-241	801.19(2)	Parties, party attorneys, guardians ad litem, judicial officers, court staff, individuals allowed access by stipulation of parties, and other

<sup>1</sup> “Allowed to view the record” means allowed to access the record under Wisconsin state statutes. Some statutes allow for individuals to only inspect the record while others allow for individuals to obtain copies of the record. For eFiling parties, access may be granted through the eFiling system. For paper parties and other individuals, access may be through traditional means.





		938.396(2m)(b)2. 938.295	<p>attorney or court-appointed special advocate for the child/juvenile, counsel for the unborn child and the unborn child's expectant mother can have access to the report.</p> <p>Parents, guardian, and legal custodian (and their attorneys), corporation counsel/district attorney, child's/juvenile's counsel/guardian ad litem or court-appointed special advocate, Indian child's Indian custodian and tribe for purposes of participating in a permanency review/hearing under 48.38 or 938.38.</p>
Family Medical History Questionnaire	FA-608	767.41(7m)	Physician or health care provider with custody of the information and other record custodian at the request of the physician, parents, guardians, legal custodians and other individuals authorized under 146.81 to 146.835. 767.41(7m)(b)
Financial Disclosure Statement	FA-4139V	767.127	Parties and party attorneys, Department of Children and Families as needed with respect to child and spousal support and establishment of paternity and information to administer the medical support liability program. 767.127(3) and 59.40(2)(p)
Income and Expense Statement	FA-4138V	767.127	Parties and party attorneys, Department of Children and Families as needed with respect to child and spousal support and establishment of paternity and information to administer the medical support liability program. 767.127(3) and 59.40(2)(p)
Permanency Plan		48.396(3)(b)2. 48.38(5)(d) & (5m)(d) 938.38(5)(d) & (5m)(d)	Parents, guardian, and legal custodian (and their attorneys), corporation counsel/district attorney, child's/juvenile's counsel/guardian ad litem or court-

			appointed special advocate, Indian child's Indian custodian and tribe.
Presentence Investigation Reports		972.15(4m)	District attorney, defense attorney, assistant attorney general. If unrepresented, the defendant may view the report, but not keep a copy. 972.15(4m)
Report of Examination under 51.45(13) (Involuntary Commitment)	ME-940	51.45(13)	<p>The attorney of the person subject to the commitment or the person (if he/she waived counsel) must be provided this report 96 hours prior to the hearing under 51.45(13)(e).</p> <p>Accessible to individual's attorney, GAL, corporation counsel, without modifications, to prepare for commitments. 51.30(3)(b). <i>See</i> Wis. Stat. 51.30 for the list of individuals who are able to access these records in other circumstances.</p>
Report of Examination 51.20 (Involuntary Commitment for Treatment)	ME-941	51.20	<p>The attorney of the person subject to the commitment or the person (if he/she waived counsel) must be provided this report 48 hours prior to the final hearing under 51.20(10)(b).</p> <p>Accessible to individual's attorney, GAL, corporation counsel, without modifications, to prepare for commitments. 51.30(3)(b). <i>See</i> Wis. Stat. 51.30 for the list of individuals who are able to access these records in other circumstances.</p>

## 2. Other information made confidential by statute - submit using form GF-244

- Form GF-244, Cover Sheet for Confidential Records, should be used to submit the information listed below. This information is made confidential by statute, so no motion needs to accompany the form.
- The CCAP software automatically marks form GF-244 as confidential when submitted through eFiling. Attachments are automatically marked as confidential if submitted with the GF-244 as a single document.
- The clerk should note on the court record the nature of the information submitted.

- The DA should mark the GF-244 as confidential when filing through PROTECT.
- Clerks should mark the GF-244 and accompanying documents as confidential when they are filed in paper.
- *See Wis. Stat. § 801.20.*

Information	Statute Number	Who Is Allowed to View the Record?
Child pornography recordings as evidence	971.23(11)(d)	Law enforcement and district attorney. Must be made reasonably available to the defense (so defense can view the evidence). The defense may get a copy upon order from the court. 971.23(11)
Criminal competency determinations prior to competency hearing	971.14(4)(a)	District attorney, defense attorney, and defendant. Sheriff or jailer only upon request to the court. Sheriff or jailer may in turn provide it to the medical records custodian, nurse, physician or physician assistant of the defendant. 971.14(4)(a)
Criminal mental disease or defect reports prior to testimony or end of trial	971.16(3)	District attorney and defense attorney. The contents of the report shall be confidential until the physician or psychologist have testified or at the completion of the trial. 971.16(3)
Documents previously sealed by court order	801.21(7)	Access granted according to the original order to seal.
Family maintenance payment records	767.57(1)(c)	Parties to the action, their attorneys, and the circuit court commissioner. 767.57(1)(c)
Records relating to insurer rehabilitation/liquidation summary proceedings	645.24(3)	All parties to the proceeding and their attorneys unless otherwise ordered by the court. 645.24(3)
Medical incapacity of attorney petition	SCR 12.02(1)(e)	Petitioner, attorney, trustee attorney after appointment by the court. OLR upon notice of the court. SCR 12.02(1)(a)
Parent denied physical placement has limited access to child's records	767.41(7)	Certain child's records (school records, court/treatment records, protective services records, health records) may not be available to a parent who has been denied periods of physical placement under Ch. 767. 767.41(7)(b)
Physical/mental health/sensitive personal matter in proceedings under Chs. 48/938	48.396(3)(b)2. 938.396(2m)(b)2.	Documents may be disclosed to individuals as permitted under ss. 48.396(2) and 938.396(2g) or as otherwise permitted by another section of this chart.

Pupil records provided under subpoena for in camera inspection	118.125(2)(f)	After the court conducts an in camera review, the records or parts of the records may be turned over to the parties in the action and their attorneys. 118.125(2)(f)
Treatment records of individuals criminal committed under ch. 971 and 975 (e.g. conditional release plan in NGI cases)	51.30(7)	Accessible to individual's attorney, GAL, corporation counsel, without modifications, to prepare for commitments. 51.30(3). <i>See</i> Wis. Stat. 51.30 for the list of individuals who are able to access these records in other circumstances.
UCCJEA proceedings where risk of harm is alleged	822.29(5)	Petitioner (and petitioner attorney) 822.29(5)
Wiretap records, electronic or oral interceptions	968.30(7)	Court shall seal the records and recordings. The court has the authority to grant access to sealed records and recordings under specific circumstances. 968.30(7) – (9)

### 3. Information to be sealed based on court discretion (may require a motion to seal)

- Unlike the information listed in the preceding two charts, the following is a list of documents that require a court's discretion to determine if the information should be sealed or redacted.
- For some of the documents below, parties will need to file a motion to seal and the court will determine whether to treat the information/documents as confidential. Parties can file a motion to seal using form GF-246A, Motion to Seal or Redact a Court Record, or form GF-247A, Motion to Seal or Redact a Transcript. Parties can also submit a motion to seal in a different format.
- Form GF-245, Confidential Disclosure of Information to be Sealed or Redacted, should be used to submit the information to the court that the party wants to be sealed or redacted.
- The CCAP software automatically places form GF-245 under temporary seal when submitted through eFiling. The filer should check the radio button labeled "seal" in order to seal the documents submitted with the GF-245. Until the court rules on the motion, the information can be viewed only by the filer.
- The DA needs to place the GF-245 under "temporary seal" when filing through PROTECT.
- Clerks should mark the GF-245 and information to be sealed or redacted as confidential when they are filed in paper until the court can rule on the motion.
- The motions to seal, GF-246A and GF-247A, and their orders, GF-246B and GF-247B, are open to the public.
- If the court grants a motion to seal the court record, the clerk will place the GF-245 under permanent seal and allow access to the parties only as provided in the court order.
- *See* Wis. Stat. § 801.21.

Information	Statute Number	Who Is Allowed to View the Record?
Antitrust actions - business or trade secrets	133.13(2)	The court should use form GF-246B to designate who can access the records.
Confidential informants - identification and testimony	905.10(3)	The court should use form GF-246B to designate who can access the records.
Coroner's inquest records	979.05(6) 979.08(7)	The court should use form GF-246B to designate who can access the records.
Divorce judgments may be impounded when parties remarry each other or reconcile	767.35(6) 767.35(7)	The court should use form GF-246B to designate who can access the records.
Family actions may be impounded for good cause shown	767.13	The court should use form GF-246B to designate who can access the records.
In camera inspection of alleged victim's psychological/psychiatric/treatment records under <i>Shiffra/Green</i>	<i>State v. Green</i> , 2002 WI 68, 253 Wis. 2d 356	The court shall review the records and determine whether the records will be disclosed.
In camera inspection of potential discovery under 971.23	971.23(6m)	Under 971.23, the court shall review the documents and shall mask or delete any material which is not relevant to the case being tried. District attorneys, defense attorneys and defendant attorneys get access after inspection and redaction. 971.23(6m)
In camera inspection of state employment records if the employee demands de novo review of the release ( <i>Woznicki</i> notice)	19.356	The court shall determine access after review of the records.
John Doe proceedings	968.26(4)	The court should use form GF-246B to designate who can access the records.
Juror Information	<i>State v. Tucker</i> , 2003 WI 12, 259 Wis. 2d 484	Under <i>State v. Tucker</i> , in order to restrict juror information, the court must make an individualized determination that the jury needs protection, and take reasonable precautions to minimize any prejudicial effect to the defendant. <i>Id.</i> at ¶ 27. The court may use form GF-246B to designate who can access this information.
Restraining orders and	813.123(3)(c)2.	The court should use form GF-246B to

injunctions, individual at risk		designate who can access the records.
Trade secrets litigation	134.90(5)	The court should use form GF-246B to designate who can access the records.

Other state statutes provide confidentiality for records when held by other custodians. These statutes may be used in support of a motion to the court to seal the record, but the clerk does not automatically treat the information as confidential without a court order (e.g. patient health care records).

A party may wish to file a motion to seal the following information/documents, even though there is no statute that specifically provides for confidentiality when these are submitted to the court:

- medical and psychological records
- crime victim and witness information – name, address
- victim impact statements
- children’s names in cases outside the Children’s Code (Ch. 48) and Juvenile Code (Ch. 938)
- driver records
- qualified domestic relations orders
- personnel records

When ordering a record sealed, the court should use Form GF-246B to designate who can access the records.

**4. Five numbers identified by court rule as “protected information” – submit using form GF-241 OR omit if not needed for the court proceeding**

- Form GF-241, Confidential Disclosure of Protected Information, should be used to submit the five numbers listed below. Court rule requires that these numbers be submitted in a confidential manner. If the number is not needed for the proceeding, it may be omitted or redacted from the filing.
- The CCAP software automatically marks form GF-241 as confidential when submitted through eFiling. Attachments are automatically marked as confidential if submitted with the GF-241 as a single document.
- The DA needs to mark the GF-241 as confidential when filing through PROTECT.
- Clerks should mark the GF-241 as confidential when it is filed in paper.
- Form GF-242A, Motion to Redact Protected Information in Court Record, is used when a party wishes to redact information previously filed. Form GF-243A, Motion to Redact Protected Information in Transcript, is used when one of the numbers has been spoken in court and needs to be redacted from the transcript. These motions and their orders are not confidential.
- *See Wis. Stat. § 801.19.*

Protected Information	Statute Number
Social security numbers	801.19(a)1.

Employer & tax ID numbers	801.19(a)2.
Financial account numbers (bank accounts, credit cards, passwords, PINs)	801.19(a)3.
Driver license and state identification numbers	801.19(a)4.
Passport numbers	801.19(a)5.

**5. Records submitted from another confidential court proceeding**

- If records from other confidential proceedings are used as exhibits in another type of case, the filer must bring them to the attention of the clerk and the court with the appropriate motion in order to assure that the records remain confidential.

**6. Information submitted *ex parte***

- If a party wishes to submit documents *ex parte*, the filer must file the documents in paper. The CCAP software does not have the capability for parties to submit these documents through the eFiling system without the other party being able to see the filing.

**7. Entire classifications of cases that are confidential**

- Some statutes require that an entire classification of cases be kept confidential. These statutes have provisions allowing disclosure to the parties, their attorneys, and others.
- When a party commences an action under one of these case types, the clerk will automatically treat them as confidential.

Case Type	Statute Number
Adoption	48.93
Child Abuse Restraining Orders and Injunctions	813.122(3)(bq)
Children's Proceedings under Chapter 48	48.396(2)(a)
Confidential Name Change Petition	786.37(4)
Grand juror list and grand jury proceedings	968.40 - 968.53
Guardianship	54.75 54.25(2)(c)4. 54.44(5)
Jane Doe Proceedings	48.375(7)(e)
Mental Health Act Proceedings	51.30
Juvenile Proceedings under Chapter 938	938.396(2)(a)
Paternity pre-adjudication records	767.853
Protective Services and Placement	55.22, 55.10(3)
Unexecuted Search Warrants	968.21
Wills Deposited with the Court During Testator's Life	853.09(1)

More guidance is posted at <https://www.wicourts.gov/services/attorney/redact.htm>





# Handling Requests for Juveniles' Records

Wisconsin Supreme Court ■ Director of State Courts Office ■ P.O. Box 1688, Madison, WI 53701-1688 ■ 608/266-1298

The vast majority of juvenile records and proceedings involving Class A and B felonies are open to the public. Wisconsin Statute §938.396(2g)(k) provides that proceedings and records involving **juveniles 14 and over** who are charged with crimes listed in §938.34 (4h) are to be open. The statute provides that if a request is made the court "shall" open the records for inspection by the requester **except for the following items:**

- physical, psychological, mental or developmental examinations (938.295);
- court dispositional reports (938.33);
- other records dealing with "sensitive personal information of the juvenile or juvenile's family."

Here is the list of crimes this covers:

- Attempt to commit a Class A felony (939.32(1)(a))
- Felony murder (940.03)
- 2nd degree reckless homicide (940.06)
- Mayhem (940.21)
- 1st degree sexual assault (940.225(1))
- Taking hostages (940.305)
- Kidnapping (940.31)
- Tampering with a household product (941.327(2)(b)4.
- Arson by explosive (943.02)
- Armed burglary (943.10(2))
- Operate vehicle without owners consent w/weapon and force (943.23(1g)(1m)(1r))
- Robbery with a dangerous weapon or an attempt (943.32(2))
- 1st degree sexual assault of a child (948.02(1))
- Repeated acts of sexual assault of same child (948.025)(1)
- Child abduction (948.30(2))

Further, if a juvenile is charged with any felony and has previously been adjudicated delinquent for anything else, the hearings and records are open.

In addition, the proceedings and records are open when the **juvenile is 10 or over** in the following:

- 1st degree intentional homicide or an attempt (940.01)
- 1st degree reckless homicide (940.02)
- 2nd degree intentional homicide (940.05)

## Recommended procedure for responding to open records requests:

1. the juvenile court clerk reviews the file to remove any of the information that is exempted;
2. the trial judge (or duty judge if the trial judge is unavailable) reviews the file again;
3. the person making the request is provided with the information that is deemed to be public.

## Questions? Problems? Call...

**Office of Court Operations**  
Director of State Courts Office, 608/266-3121

*We gratefully acknowledge the work of Taylor County Circuit Court Judge Gary L. Carlson, who provided the legal analysis in this guide.*  
updated 1/13/14

# COURT RECORDS RETENTION SCHEDULE

## *A Summary of Supreme Court Rule Chapter 72*

Prepared by the Office of Court Operations, Updated February 2022

The following is a summary of the records retention rules under Wisconsin Supreme Court Rule Chapter 72. Before destroying any record, consult the full Chapter 72 rule

([https://www.wicourts.gov/supreme/sc\\_rules.jsp](https://www.wicourts.gov/supreme/sc_rules.jsp)).

### **DISPOSING OF COURT RECORDS (SCR 72.02, 72.03)**

A court records custodian may destroy records after the minimum retention periods in SCR 72.01 expire and after offering the record to the State Historical Society (SHS), if applicable.

Paper court records that have been electronically stored (scanned) following the procedures in SCR 72.05 may be destroyed 48 hours after scanning per SCR 72.03(3). Paper court records that have been suitably microfilmed may be destroyed 2 years after entry of final order or 2 years after filing for records not specifically related to court actions per SCR 72.03(2).

### **OFFERING TO STATE HISTORICAL SOCIETY (SHS) (SCR 72.04)**

All court records custodians must give at least 60-day written notice to SHS prior to the destruction of most court records. The records custodian should complete and submit *Notification to the State Historical Society (GF-110)* form when providing notification. Complete one form for each record series (e.g., family on one form, criminal on another). This form can be printed from the forms section of the Wisconsin Court System website – [www.wicourts.gov](http://www.wicourts.gov).

Notification to SHS is not required when paper records have been electronically or optically stored. Notice of destruction to SHS is required when the electronically or optically stored record will be destroyed once the retention period under SCR 72.01 has expired. Notice is not required if SHS has previously approved destruction or waived interest in a particular record series.

Courts are not required to purge confidential information from records prior to transfer to SHS. However, Courts should identify in the Notification form when records with confidential information might be included in the series for transfer.

### **NOTIFICATION REQUIREMENT WAIVED**

The SHS has waived notification under SCR 72.04 for the following records:

- Accounting Records (receipts, bank statements, etc.)
- Complex Forfeitures
- Condominium and Construction Liens
- Court Reporter Notes
- Criminal Misdemeanor Records
- Criminal Traffic (CT) Records
- Exhibits
- Expunged Case Records
- Family Case Records that are Dismissed
- Family Maintenance/Support Records
- Guardianship Records
- Incarcerated Persons Records
- Judgment/Lien Docket Records
- Jury Records (payroll, questionnaires, arrays)
- Juvenile Delinquency/CHIPS Records
- Mental Health Records
- Notary Public Appointments
- Oaths of Office
- Ordinance Violations (FO)
- Other Lien Claims (claims filed as liens only)
- Public Assistance Liens
- Search Warrants
- Small Claims Records

- Subpoenas for Documents (Wis. Stat. 968.135)
- Subpoenas for Electronic Documents (Wis. Stat. 968.30)
- Tax Warrants/Liens
- Traffic/Conservation Forfeiture Records
- Trust Account Ledgers
- Unemployment Compensation Warrants/Liens
- Workers Compensation Liens

## RETENTION PERIODS BY RECORD TYPE

- Accounting Records - 7 years
- Adoption/TPR Records - 150 years
- Civil Records - 20 years
- Complex Forfeitures - 20 years
- Coroner's Inquests - None (Wis. Stat. 979.08(6))
- Court Records in Books - Retention period of related case file
- Court Records No Longer Created - 20 years
- Court Reporter Notes - 10 years
- Criminal Felony Records (if disposed as felony) - 50 years or 75 years for Class A felonies
- Criminal Misdemeanor Records (if disposed as misdemeanor) - 20 years
- Criminal Traffic Records (if disposed as misdemeanor) - 20 years
- Delinquent Income Tax Warrants
  - Filed before Aug 1, 1981: 10 years
  - Filed on Aug 1, 1981-April 30, 2004: Permanent
  - Filed on or after May 1, 2004: 20 years
- Estate/Probate Records - 75 years
- Exhibits
  - Felony - the later of 20 years or until every person is discharged
  - Misdemeanor - 10 years
  - Juvenile delinquency - 4 years after 18<sup>th</sup> birthday
  - Criminal exhibits containing biological material - the later of 50 years after entry of final judgment or until every person in custody is discharged, or until the court otherwise orders disposition of the evidence
  - Non-Criminal - 1 year after time for appeal has expired
  - Ch. 980 - length of time underlying case is retained
- Family Records - 40 years
  - Dismissed divorce, legal separation, annulment, paternity - 2 years
- Family Support/Maintenance Records - 40 years
- Forfeiture (Traffic, DNR, FO) (if disposed as Traffic, DNR, FO) - 5 years
- Grand Jury Records - 75 years
- Guardianship Records - 7 years after termination of guardianship, or 75 years if firearm restriction was ordered, or 7 years after death of the ward
- Incarcerated Persons Records - 5 years
- Information & Indictment Records - None
- John Doe Records - 75 years
- Jury Records - 4 years
- Juvenile Delinquency, JIPS, and CHIPS Records
  - 4 years after 18<sup>th</sup> birthday
  - 75 yrs. if adjudicated for act punishable as felony, misdemeanor with firearm restriction, or sex offender registry requirement
- Juvenile Guardianships - 7 yrs. after 18<sup>th</sup> birthday or 75 years if firearm restriction was ordered

- Juvenile Ordinance Violations - 5 years
- Juvenile Search Warrants (if not filed w/case) - 15 years
- Liens
  - Condominium liens - 7 years from date of filing
  - Construction liens - 6 years from date of filing
  - Public assistance liens - 20 years
  - Liens not specifically covered in another rule - 30 years
- Mental Health Records - 7 years or 75 years if firearm restriction was ordered
- Ministers' Credentials - None (not filed with court)
- Misdemeanor Traffic Records (CT) - 20 years
- Naturalization Records - Transfer to SHS
- Notary Public Appointment - None (not filed with court)
- Oaths of Office - 7 years
- Paternity Records - 40 years
  - Dismissed divorce, legal separation, annulment, paternity - 2 years
- Proceedings Commenced Under 968.02 - 75 years
- Register of Officials - 2 years
- Registry of Wills - 100 years
- Search Warrants (if not filed w/case) - 75 years
- Sexually Violent Person Commitments (CI) - 75 years
- Small Claims Records - 20 years
  - Dismissed small claims cases - 2 years
- Trust Account Ledgers - Retention of related case file
- Unemployment Compensation Warrants - 20 years
- Workers Compensation Warrants - 20 years
- Wills
  - Deposited for safekeeping - 100 years
  - Deposited after death, but no probate filed - 100 years
  - Admitted to probate - 2 years after case closure (as long as electronically or optically stored)

## **RETENTION PERIODS BY LENGTH OF RETENTION**

### **1 YEAR**

- Non-Criminal Case Exhibits (+120 days for appeal time)

### **2 YEARS**

- Dismissed Small Claims Cases
- Dismissed Family and Paternity Cases
- Register of Officials
- Wills that have been admitted to probate and have been electronically or optically stored (2 years after case closure)

### **4 YEARS**

- Juror Questionnaires
- Jury Array and Records of Jurors
- Juvenile Delinquency, JIPS, CHIPS (4 years after 18<sup>th</sup> birthday, unless felony, misdemeanor with firearm restriction, or sex offender registry requirement)
- Juvenile Delinquency Exhibits – 4 years after 18<sup>th</sup> birthday

### **5 YEARS**

- Incarcerated Persons Records
- DNR Forfeiture Cases (cases disposed as forfeiture)
- Juvenile Ordinance Violation Cases
- Ordinance Violation Cases (FO) (cases disposed as forfeiture)
- Traffic Forfeiture Cases (cases disposed as forfeiture)

### **6 YEARS**

- Construction Liens

### **7 YEARS**

- Bank Statements, Checks, Deposit Slips
- Certificates of Payment/Vouchers
- Condominium Liens
- Guardianship Cases (unless firearm restriction)
- Jury Payrolls
- Juvenile Guardianships (7 yrs. after 18<sup>th</sup> birthday, unless firearm restriction)
- Mental Health Cases (unless firearm restriction)
- Oaths of Office
- Receipts

### **10 YEARS**

- Verbatim record of in-court proceedings
- Misdemeanor Exhibits (cases disposed as a misdemeanor)

### **15 YEARS**

- Juvenile Search Warrants (if not filed w/case)

### **20 YEARS**

- Civil Cases
- Complex Forfeitures
- Court Records No Longer Created
- Criminal Traffic Cases (cases disposed as a misdemeanor)
- Felony Exhibits (the later of 20 years or until every person in custody has been discharged - does not include exhibits w/ biological material)
- Misdemeanor Cases (cases disposed of as a misdemeanor)
- Public Assistance Liens
- Small Claims Cases (except for dismissed small claims)
- Unemployment Compensation Warrants/Docket
- Workers Compensation Warrants

### **30 YEARS**

- Liens not specifically covered by another rule

### **40 YEARS**

- Family Cases
- Family Maintenance & Support Records
- Paternity Cases

### **50 YEARS**

- Felony Cases (cases disposed as a felony, except for Class A)

### **75 YEARS**

- Estate Cases
- Felony Case Files (Class A) (cases disposed as a Class A felony)
- Grand Jury Proceedings
- Guardianship Records (if firearm restriction was ordered)
- John Doe Cases
- Juvenile Delinquency (if adjudicated delinquent for act punishable as a felony, misdemeanor w/ firearm restriction, or sex offender registry requirement)
- Juvenile Guardianships (if firearm restriction was ordered)
- Mental Health Records (if firearm restriction was ordered)
- Probate Cases
- Proceedings commenced Under 968.02
- Search Warrants (if not filed w/case)
- Sexually Violent Person Commitments (CI) and exhibits

### **100 YEARS**

- Registry of Wills
- Wills Deposited for Safekeeping
- Wills Not Admitted to Probate

### **150 YEARS**

- Adoption and TPR Cases

### **VARIABLE RETENTION PERIODS**

- Criminal Case Exhibits Containing Biological Material
- Court Records in Books - Retention of related case file
- Delinquent Income Tax Warrants
- Trust Account Ledgers - Retention of related case file
- Group File (GF) cases (see below)

### **NO RETENTION REQUIRED**

- Coroner's Inquest Records (Wis. Stat. 979.08(6))
- Information & Indictment Records
- Judgment & Order Records
- Minister's Credentials
- Naturalization Records (Transfer to SHS)
- Notary Public Appointments

### **OTHER USEFUL RETENTION PERIODS**

- General Judicial Assignments - Current year plus 10 years after the year assigned
- County Board Reports/Admin. Files - Retain for current year plus 6 years (Wis. Stat. 59.52(4)(c) requires 6 years)

### **Retention Period for GF Cases**

There is no specific retention period for GF cases under Supreme Court Rule (SCR) 72.01. Given the wide variety of documents filed in GF cases, there is no one retention period that works well for all situations. To determine when to destroy GF documents, clerks should examine the documents, consider what case type those documents are most akin to, and destroy the GF file using the corresponding retention period under SCR 72.01 for those case types. (*E.g.*, denied restraining order petitions filed in a GF case should be retained for 20 years, consistent with the civil case retention period under SCR 72.01(1).)



## **Victim-Related Procedures in CCAP: Party Types, eFiling, Enforcement of Rights, Addresses, and Civil Judgments**

Office of Court Operations, November 2020

### **Entering Victims into CCAP Using the Victim (VI) Party Type**

Although victims are not technically a party in a criminal action<sup>1</sup>, they are still afforded several constitutional and statutory rights in the case. Accordingly, it is sometimes necessary to add them to the CCAP Case Management System so the court has access to the victim's name and address.

Victims can be added to CCAP using the Victim (VI) party type. This is a confidential party type, which means the following:

- Victim names and addresses will not appear on WCCA
- Victim names and addresses will not appear on Courthouse WCCA
- Victim names and addresses will not appear to other eFiled parties on the case
- Victim names and addresses will not print on CCAP-generated forms (e.g., Notice of Hearing (GF-101), Summons (Juvenile) (JD-1720), etc.)

Clerks are not required to add the victim to CCAP for every criminal or juvenile case. Depending on local practice, the court may not need to have the victim's name and address available. However, if local practice requires the need to have victim information available, entering victims using the Victim (VI) party type allows the clerk to keep this information in a confidential manner.

### **Pro Se Victims and eFiling**

**Pro se victims cannot opt in to be an eFiling party**, even if they are entered in CCAP using the Victim (VI) party type and even if they are willing to pay the \$20.00 eFiling fee. The Electronic Filing Notice to Other Party (GF-180) and Electronic Notice Status Change (GF-208) will not print for the Victim (VI) party. Victims may electronically file documents as non-party eFilers.

#### **Note about "Opting In"**

There has been some confusion over the use of the term "opt in" with the passage of Marsy's Law in May, 2020. Under Marsy's Law, victims can request or "opt in" to exercise certain rights at any time in the case, such as the right to receive notice of proceedings, the right to appear, and the right to be heard. The use of the term "opt in" with respect to Marsy's Law and eFiling is different. Despite victims having the right to "opt in" to certain rights under Marsy's Law, pro se victims cannot "opt in" to be an eFiling party.

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<sup>1</sup> Wis. Const. Art. I, § 9m(6).

## Attorneys for Victims and eFiling – CRIMINAL CASES

Victims have standing in criminal cases and may assert that their constitutional or statutory rights have been violated.<sup>2</sup> If a victim has an attorney, the victim should be added to CCAP using the Victim (VI) party type and the attorney can be added to the victim party.

**An attorney representing the victim in a criminal case may opt in to be an eFiling party and will not be charged the \$20.00 eFiling fee.** By default, a victim's attorney will be restricted from viewing the Order for Presentence Investigation Report (PSI) and the Examining Physician's or Psychologist's Report. If the court allows the attorney to view these documents, access will need to be provided by the clerk using the Restrictions tab.

## Attorneys for Victims and eFiling – JUVENILE CASES

Victims have standing in juvenile cases and may assert that their constitutional or statutory rights have been violated.<sup>3</sup> If a victim has an attorney, the victim should be added to CCAP using the Victim (VI) party type. Unlike in criminal cases, attorneys for victims in juvenile cases should be added as a Victim's Attorney (VA) Notice Recipient Type and should not be added as the attorney for the victim in the Victim (VI) party type.

**An attorney representing the victim in a juvenile case may not opt in to be an eFiling party.** The victim's attorney should not have access to all of the confidential information in a juvenile case without a court order. Accordingly, victim's attorneys should be added to the case as notice recipients. Victim's attorneys may electronically file documents as non-party eFilers.

## Filing a Victim's Request to Enforce Rights

If a victim files a request with the court to enforce the victim's rights, **the clerk shall:**

- File the request in the underlying criminal case using the **REQ (Request)** court record event and send it to the judge for review;
- If no criminal case has been filed, file the request in a GF (Group File) case using the **REQ (Request)** court record event and send it to the judge for review;
- Schedule a hearing for the court to review the request.

The court "shall act promptly" to review the request and shall afford a remedy for the violation, "clearly stat[ing] on the record the reasons for any decision" and shall provide those reasons to the victim or victim's attorney.<sup>4</sup>

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<sup>2</sup> Wis. Const. Art. I, § 9m(4)(a) and Wis. Stat. § 950.105.

<sup>3</sup> *Id.*

<sup>4</sup> Wis. Const. Art. I, § 9m(4)(a)

## Victim Addresses – Confidential Crime Victim(s) Information (CR-247) Form

Victim addresses are confidential by statute and should not be disclosed.<sup>5</sup> To assist the court in keeping victim addresses confidential, individuals and government agencies needing to file this information with the court should use the [Confidential Crime Victim\(s\) Information \(CR-247\)](#) form. If a clerk receives this form, **the clerk shall:**

- Enter the form into CCAP using the **CCVI (Confidential Crime Victim Information)** court record event.

There are several important notes about this form:

- If the document is uploaded or scanned into CCAP and saved to the **CCVI** court record event, **it will automatically be marked as confidential** and not available to the parties.
- If the document is received from the District Attorney or any other queue in eFiling Review, **it will not automatically be marked as confidential**. Users will have to manually designate the form as confidential. Ideally, the DA’s Office will mark the form confidential when it is electronically-filed, but clerks should review the filing to make sure this box was checked. If it is not, the clerk will have to check the confidential box.
- This **form is not intended to be a “Victim Key”** that some counties have developed to assign victims anonymous identifiers, such as “Victim 1.” Counties can adopt such practices, but any victim key should be separate from this form. Unlike with victim addresses, there is no statute that specifically makes victim names confidential. Victim names, including Victim Keys, will have to be sealed by the court.
- This **form may be provided to the Department of Corrections (DOC)** when requested. DOC frequently needs victim addresses for purposes such as collecting restitution. DOC has developed systems that allow them to maintain the victim’s identifying information, including addresses, in a confidential manner.

### Note about Confidentiality and Victim Information

Under the Wisconsin Statutes, only victim addresses are automatically confidential. Other information, such as victim names and victim impact statements, can be confidential, but must first be sealed by the court at the request of the parties or the court’s own motion. Some counties may adopt policies or issue blanket orders to seal victim information in every case, but that decision is within the discretion of the judge. If clerks notice a victim’s address in the court file, clerks can redact the address and should inform the filer that the address should not be disclosed in future filings and request that the filer use CR-247, if necessary.

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<sup>5</sup> See Wis. Stats. §§ 302.113(9g)(g)3., 302.114(6)(e), and 973.09(3m)(c).

## **Victim Addresses – Civil Judgments and the Judgment and Lien Docket**

Because victim addresses are confidential, special care must be taken when creating civil judgments for unpaid restitution and docketing them on the judgment and lien docket. There are three ways Court Operations has identified that will allow victims to collect unpaid restitution without their addresses being disclosed:

1. Clerks can collect unpaid restitution on behalf of victims by certifying the debt to Department of Revenue (DOR) using the State Debt Collection Program (SDC) or Tax Refund Interception Program (TRIP). Clerks will disburse any money collected by DOR directly to the victim.
2. Clerks can enter the court's address on the judgment and have the debtor send money directly to the clerk for disbursement to the victim. This option prevents the victim's address from appearing both on the civil judgment and on the judgment and lien docket.
3. Clerks can leave the creditor address field black when entering the judgment in the judgment and lien index so the address will not display online. The victim's address will still need to be included on the civil judgment, which means the address will have to be redacted from the "paper" copy in the court file. This option is not ideal if the victim does not want the defendant to know where he/she lives because it will be on the copy of the judgment that is sent to the defendant. For this reason, options 1 or 2 are preferable.

We recognize that options 1 and 2 create extra work for clerks. At the same time, Marsy's Law does guarantee victims the right to "full restitution" and "to be provided assistance collecting restitution."<sup>6</sup> Although Marsy's Law does not define what constitutes "assistance" or who is responsible for providing it, options 1 and 2 arguably help the county satisfy this requirement.

## **Other Resources on Marsy's Law**

For more information about Marsy's Law, see the "Marsy's Law Summary (Wis. Const. Art. I, sec. 9m)" Court Operations Memo on CourtNet:

<http://courtnet.wicourts.gov/policies/courttopsmemos.htm>.

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<sup>6</sup> Wis. Const. Art. I, § 9m(2)(m).

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