

## **Rule 37.5. Access to Court Records.**

### **(a) Scope and Purposes.**

(1) Public access to court records is governed by Administrative Rules 37.5 through 37.8. These rules are adopted pursuant to the inherent authority of the Alaska Supreme Court and provide for access in a manner that:

- (A) maximizes accessibility to court records;
- (B) supports the role of the judiciary;
- (C) promotes government accountability;
- (D) contributes to public safety;
- (E) minimizes risk of injury to individuals;
- (F) protects individual privacy rights and interests;
- (G) protects proprietary business information;
- (H) minimizes reluctance to use the courts to resolve disputes;
- (I) makes most effective use of court personnel;
- (J) provides excellent customer service; and
- (K) does not unduly burden the ongoing business of the judiciary.

(2) These rules apply to all court records; however, court personnel need not redact or restrict information that otherwise was public in case records and administrative records created before October 15, 2006.

### **(b) Who Has Access to Court Records.**

(1) Every member of the public will have the same access to court records under these rules, except as provided in Administrative Rule 37.8(b)(4) and 37.8(c)(2).

(2) The following persons are not members of the public and may have greater access in accordance with their functions within the judicial system:

- (A) court personnel for case processing purposes only;

(B) people or entities, private or governmental, who assist the court in providing court services;

(C) public agencies whose access to court records is defined by another statute, rule, order, or policy; and

(D) the parties to a case or their lawyers regarding access to records in their case.

(c) **Definitions.** For purposes of these rules:

(1) “Court record” means both case records and administrative records, but does not include records that may be in the court’s possession that do not relate to the conduct of the court’s business.

(2) “Case record” means any document, information, data, or other item created, collected, received, or maintained by the court system in connection with a particular case.

(3) “Administrative record” means any document, information, data, or other item created, collected, received, or maintained by the court system pertaining to the administration of the judicial branch of government and not associated with any particular case.

(4) “Confidential” means access to the record is restricted to:

(A) the parties to the case;

(B) counsel of record;

(C) individuals with a written order from the court authorizing access; and

(D) court personnel for case processing purposes only.

(5) “Sealed” means access to the record is restricted to the judge and persons authorized by written order of the court.

(6) “Remote access” means the ability of a person to inspect and copy information in a court record in electronic form through an electronic means.

(7) “In electronic form” means any information in a court record in a form that is readable through an electronic device.

(d) **General Access Rule.**

(1) Court records are accessible to the public, except as provided in paragraph (e) below.

(2) This rule applies to all court records, regardless of the manner of creation, method of collection, form of storage, or the form in which the record is maintained.

(3) If a court record, or portion thereof, is excluded from public access, there must be a publicly accessible indication of the fact of exclusion but not the content of the exclusion. This subparagraph does not apply to case records or administrative records that are confidential pursuant to law.

**(e) Court Records Excluded from Public Access.**

(1) *Case Records.* The following case records and case-related documents are not accessible to the public:

(A) memoranda, notes, or preliminary drafts prepared by or under the direction of any judicial officer of the Alaska Court System that relate to the adjudication, resolution, or disposition of any past, present, or future case, controversy, or legal issue;

(B) legal research and analysis prepared or circulated by judges or law clerks regardless of whether it relates to a particular case and written discussions relating to procedural, administrative, or legal issues that are or may be before the court; and

(C) documents, information, data, or other items sealed or confidential pursuant to statute, court rule, case law, or court order.

(2) *Administrative Records.* The following administrative records are not accessible to the public:

(A) personal information, performance evaluations, and disciplinary matters relating to any past or present employee of the Alaska Court System or any other person who has applied for employment with the Alaska Court System, and personnel records that are confidential under Alaska Court System Personnel Rules C1.07 and PX1.08;

(B) the work product of any attorney or law clerk employed by or representing the Alaska Court System if the work product is produced in the regular course of business or representation of the Alaska Court System;

(C) individual direct work access telephone numbers and email addresses of judges and law clerks;

(D) documents or information that could compromise the safety of judges, court staff, jurors, or the public, or jeopardize the integrity of the court's facilities or the court's information technology or recordkeeping systems;

(E) records or information collected and notes, drafts, and work product generated during the process of developing policy relating to the court's administration of justice and its operations;

(F) email messages that are created primarily for the informal communication of information and that do not set policy, establish guidelines or procedures, memorialize transactions, or establish receipts; and

(G) records that are confidential, privileged, or otherwise protected by law, rule, or order from disclosure.

(f) **Obtaining Access to Public Court Records.** Court records that are accessible to the public shall be open to inspection at all times during the regular office hours of the courts. The administrative director shall establish written guidelines to ensure that all members of the public upon request will be given reasonable access and opportunity to inspect such public records and to ensure the preservation and safekeeping of such public records for such period of time as they may be kept by the Alaska Court System.

### **Rule 37.6. Prohibiting Access to Public Case Records.**

(a) **Limiting Access.** Notwithstanding any other rule to the contrary, the court may, by order, limit access to public information in an individual case record by sealing or making confidential the case file, individual documents in the case file, log notes, the audio recording of proceedings in the case, the transcript of proceedings, or portions thereof. A request to limit access may be made by any person affected by the release of the information or on the court's own motion.

(b) **Standard.** The court may limit public access as described above if the court finds that the public interest in disclosure is outweighed by a legitimate interest in confidentiality, including but not limited to (1) risk of injury to individuals;

(2) individual privacy rights and interests;

(3) proprietary business information;

(4) the deliberative process; or

(5) public safety.

(c) **Least Restrictive Alternative.** In limiting public access the court must use the least restrictive means that will achieve the purposes of these public access rules and the reasonable needs as set out as the basis for the request, without unduly burdening the court.

(d) **Procedure.** Any request to limit access must be made in writing to the court and served on all parties to the case unless otherwise ordered. A request to limit access, the response to such a request, and the order ruling on such a request must be written in a manner that does not disclose non-public information, are public records, and shall not themselves be sealed or made confidential.

### **Rule 37.7. Obtaining Access to Non-Public Court Records.**

(a) **Allowing Access to Non-Public Records.** The court may, by order, allow access to non-public information in a case or administrative record if the court finds that the requestor's interest in disclosure outweighs the potential harm to the person or interests being protected, including but not limited to:

- (1) risk of injury to individuals;
- (2) individual privacy rights and interests;
- (3) proprietary business information;
- (4) the deliberative process; or
- (5) public safety.

Non-public information includes information designated as confidential or sealed by statute or court rule and public information to which access has been limited under Administrative Rule 37.6. A request to allow access may be made by any person or on the court's own motion as provided in paragraph (b).

(b) **Procedure.** Any request to allow access must be made in writing to the court and served on all parties to the case unless otherwise ordered. The court shall also require service on other individuals or entities that could be affected by disclosure of the information. A request to allow access, the response to such a request, and the order ruling on such a request must be written in a manner that does not disclose non-public information, are public records, and shall not themselves be sealed or made confidential.

### **Rule 37.8. Electronic Case Information.**

(a) **Availability.** The following case-related information maintained in the court system's electronic case management systems will not be published on the court system's website or otherwise made available to the public in electronic form:

- (1) addresses, phone numbers, and other contact information for parties, witnesses, and third-party custodians;
- (2) names, initials, addresses, phone numbers, and other contact and identifying information for victims in criminal cases;
- (3) social security numbers;
- (4) driver and vehicle license numbers;

(5) account numbers of specific assets, liabilities, accounts, credit cards, and PINs (Personal Identification Numbers);

(6) names, addresses, phone numbers, and other contact information for minor children in domestic relations cases, paternity actions, domestic violence cases, emancipation cases, and minor settlements under Civil Rule 90.2;

(7) juror information;

(8) party names protected under Administrative Rule 40(b) and (c); and

(9) information that is confidential or sealed in its written form.

**(b) Bulk Distribution of Electronic Case Information.**

(1) Bulk distribution is defined as the distribution of all or a significant subset of the case information in the court system's electronic case management systems, as is, and without modification or compilation.

(2) Bulk distribution of case information is permitted, unless the information is not publicly available in electronic form under subsection (a) of this rule.

(3) Bulk distribution of imaged case records is not allowed, unless the records are already remotely accessible to the public on the court system's website.

(4) The administrative director may allow bulk distribution of case information that is not publicly available and of publicly available imaged case records for scholarly or governmental purposes. The administrative director shall adopt procedures to protect the security of information and records released under this paragraph.

**(c) Distribution of Compiled Information.**

(1) Compiled information is defined as information that is derived from the selection, aggregation, or reformulation of case information in the court system's electronic case management systems.

(2) Information routinely compiled by the court may be made available unless the compiled information is privileged or reveals information that is confidential, sealed, or not available to the public under subsection (a) of this rule. A request from a person outside the court system for other compiled information must be approved by the administrative director. The request may be granted if resources are available to compile the information and if it is an appropriate use of public resources, such as for scholarly, governmental, or any other purpose in the public interest.

(d) **Fees.** The administrative director may establish fees for distribution of information under subsections (b) and (c) of this rule.