

## Sup. R. 44 Implementation Considerations

### Frequently Asked Questions

The amendment to Rule 44 of the Rules of Superintendence for the Courts of Ohio became effective January 1, 2016, and the Administrative Judge and Clerk in your county are encouraged to meet to discuss implementation of the amendment. Below are several Frequently Asked Questions (FAQs) to assist in guiding the discussion.

#### **Which type of cases does this rule apply to?**

The rule applies to all matters in Domestic Relations court, and to custody cases in Juvenile court. The rule does not apply to general division cases. It also does not apply to Juvenile delinquency, abuse, neglect, or dependency cases, which are addressed under Sup. R. 44(C)(2)(d).

The records and documents protected under this rule include, but are not limited to, those prepared pursuant to R.C. [2151.281](#), [3105.171\(E\)\(3\)](#), and [3109.04\(C\)](#) and [Rule 48](#) of the Rules of Superintendence for the Courts of Ohio.

#### **Who may access the confidential documents?**

Parties to the case and their attorneys of record may access the documents. This may include Child Support Enforcement Association (CSEA), Guardian ad Litem (GAL), and parties who are self-represented.

#### **Are clerks required to separate confidential documents in all files?**

No, there is no requirement that family file documents be separated from all closed and active files. Only when the information is requested by a non-party must the confidential records be separated.

#### **What are some options for filing and storing the confidential documents?**

One option is to maintain each case's confidential documents in a separate "family file". These files may be stored in a separate area used solely for this purpose. Another option is to keep the confidential documents within the regular case file, but to physically separate them in some way- for instance by placing them all in a designated red "family file" folder within the case file.

Your county may decide to require an attorney who is filing confidential documents to provide a cover sheet alerting the clerks that the filing contains confidential documents, and where the documents are contained.

#### **In rendering decisions, judges and magistrates may include reference to confidential information in the detailed findings of fact and conclusions of law. Is it necessary to withhold this supporting information, or to render two separate decisions?**

No, it is not necessary to withhold supporting information or render separate decisions. Decisions are not protected as confidential under the amendment. Additionally, documents attached as exhibits to decisions or orders are not confidential under the amendment.

**Are there any special considerations regarding confidentiality when domestic violence is an issue in the case?**

When an individual provides information in the complaint indicating a desire to keep their home address confidential due to safety concerns, the court may redact the address prior to providing records containing the address to other parties pursuant to R.C. 3127.23(D).

**Do the records remain confidential on appeal?**

Yes, the records remain confidential on appeal.

**Do the records remain confidential after the case is closed?**

Yes, the records remain confidential after the case is closed.

**Is the courtroom open during motions and trials?**

Yes, the courtroom remains open to the public.

**Is the retention schedule for the confidential records the same as the schedule for non-confidential records?**

Yes, the retention schedule does not change for confidential records.

**Should filings of confidential documents be docketed?**

Yes, although the documents will not be available to non-parties in hard copy or electronically, the filing of the documents should be docketed.