

FILED

April 7, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8050

**ORDER PROMULGATING AMENDMENTS TO THE RULES
OF PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH**

The Supreme Court Advisory Committee on the Rules of Public Access to Records of the Judicial Branch filed a report on November 12, 2020, recommending that legislation passed in 2020 regarding court records in guardianship and conservatorship matters, *see* Act of May 16, 2020, ch. 86, art. 1, 2020 Minn. Laws 294, be added to the list of laws in Rule 4, subdivision 1(v), that are superseded by the Public Access Rules. No comments objecting to or opposing the committee's recommendations were filed during the public comment period.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules of Public Access to Records of the Judicial Branch be, and the same are, prescribed and promulgated to be effective immediately.
2. The Advisory Committee comments are included for convenience and do not reflect court approval of those comments.

Dated: April 7, 2021

BY THE COURT:



Lorie S. Gildea
Chief Justice

**AMENDMENTS TO THE RULES OF PUBLIC ACCESS TO RECORDS OF THE
JUDICIAL BRANCH**

[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]

RULE 4. ACCESSIBILITY TO CASE RECORDS.

Subd. 1. Accessibility. Subject to subdivision 4 of this rule (Records Referring to Information in Non-Public Documents) and Rule 8, subd. 5 (Access to Certain Evidence), the following case records are not accessible to the public:

* * *

(v) *Other.* Case records that are made inaccessible to the public under:

- (1) state statutes, other than MINN. STAT. ch. 13, Act of May 16, 2020, ch. 86, art. 1, and MINN. STAT. § 257.70(a), which are superseded to the extent inconsistent with these rules;

* * *

Advisory Committee Comment – 2021

Rule 4, subdivision 1(v), is amended in 2021 to identify conflicting legislation that will not apply to court record access determinations. The Act of May 16, 2020, ch. 86, art. 1, would have expanded the categories of non-public documents or information in guardianship and conservatorship proceedings beyond those designated in these Rules, including by expanding confidentiality of medical/health and financial records beyond just “records” to include medical/health and financial “information.” The 2020 legislation also would have required use of a new form called a bill of particulars for submitting confidential information. Following a detailed review and public hearing by the advisory committee, including a recognition that the concerns underlying the 2020 legislation were significant, the committee recommended against implementing changes to these Rules to conform to the legislation. The committee’s rationale included that: (1) the legislation would increase complexity, create confusion, and potentially deprive interested parties to probate cases of necessary information to determine whether they had concerns or objections to the court’s actions in the probate cases; (2) the committee had previously discussed these records and consistently determined that existing court rules and systems appropriately balance privacy of medical and financial records with providing transparency necessary to maintain public trust and confidence in the judiciary; (3) existing court rules and systems are consistent with how a majority of states handle these types of case records; and (4) the separation of powers under the state constitution vests authority over judicial branch records with the judicial branch. Finally, although rule changes that became effective January 1, 2021, will allow court staff to rely on filer designations of a “medical record,” this should not be interpreted as permitting filers to achieve what the 2020 Legislation sought, i.e. a sort of bill of particulars where not only medical records but medical information can be kept confidential. Access Rule 4, subdivision 1(f), limits confidentiality to medical records, not medical information.