

Rule 8. Accessibility of Juvenile Protection Case Records**8.01 Presumption of Access to Juvenile Protection Case Records**

Except as otherwise provided in Rule 8.04 of these rules and the Rules on Public Access to Records of the Judicial Branch, all juvenile protection case records relating to juvenile protection matters, as those terms are defined in Rule 2.01, are presumed to be accessible to any party, participant, or member of the public for inspection, copying, or release. Any order prohibiting access to all juvenile protection case records of a particular case, or any portion of a juvenile protection case record, shall be accessible to the public, parties, and participants.

(Amended effective January 1, 2004; amended effective August 1, 2009; amended effective July 1, 2015.)

2001 Advisory Committee Comment (amended 2003)

Rule 8.01 establishes a presumption of public access to juvenile protection case records, and exceptions to this presumption are set forth in the remaining provisions of Rule 8. Rule 8.01 does not apply to any case records relating to adoption proceedings, which remain inaccessible to the public.

8.02 Effective Date

Subdivision 1. Open Hearings Pilot Project Counties. All juvenile protection case records deemed to be accessible to the public pursuant to this rule and filed in any of the twelve (12) open hearings pilot project counties on or after June 28, 1998, shall be accessible to the public for inspection, copying, or release. All juvenile protection case records deemed to be accessible to the public pursuant to this rule and filed in any of the twelve (12) open hearings pilot project counties before June 28, 1998, shall not be accessible to the public for inspection, copying, or release.

Subd. 2. Non-Open Hearings Pilot Project Counties. All juvenile protection case records deemed to be accessible to the public pursuant to this rule and filed in any non-open hearings pilot project county on or after July 1, 2002, shall be accessible to the public for inspection, copying, or release. All juvenile protection case records deemed to be accessible to the public pursuant to this rule and filed in any non-open hearings pilot project county before July 1, 2002, shall not be accessible to the public for inspection, copying, or release.

2001 Advisory Committee Comment

Rule 8.02 identifies different effective dates for the pilot project counties (June 1998) and non-pilot project counties (July 2002) because the twelve pilot counties already permit public access to hearings and records under the open hearings pilot project. Twelve counties participated in the open hearings pilot project from June 28, 1998, through June 30, 2002: Goodhue and LeSueur (First Judicial District); Houston (Third Judicial District); Hennepin (Fourth Judicial District); Watonwan (Fifth Judicial District); St. Louis--Virginia (Sixth Judicial District); Clay (Seventh Judicial District); Stevens (Eighth Judicial District); Marshall, Pennington, and Red Lake (Ninth Judicial District); and Chisago (Tenth Judicial District).

8.03 Access to Records Filed Prior to July 2015; Access to Records Upon Appeal

(a) **Access to Records Filed Before July 1, 2015.** For juvenile protection case records filed before July 1, 2015, or for case records filed before October 1, 2016, in cases where a child is a party, confidential information to which access is restricted under Rule 8.04 of these rules shall, if necessary, be redacted by or at the direction of court administration staff prior to allowing access to any party, participant, or member of the public. In the case of a request for access to a petition

filed before July 1, 2015, when a redacted petition has not been filed as required under Rule 33.01, court administration staff may notify the petitioner of the access request and direct the petitioner to promptly file a petition from which the confidential information has been redacted as required under Rule 33.01 so that access may be provided to the requesting individual.

(b) **Access to Records During Appeal.** For juvenile protection case records filed before July 1, 2015, confidential information to which access is restricted under Rule 8.04 of these rules shall not be redacted prior to transmission to the clerk of appellate courts. A request for access to a juvenile protection case record by any party, participant, or member of the public during an appeal shall be directed to the district court, and the portion of the record requested shall, if necessary, be redacted of all confidential information under Rule 8.04 of these rules by or at the direction of court administration staff before access shall be allowed.

(Amended effective July 1, 2015; amended effective October 1, 2016.)

2016 Advisory Committee Comment

Rule 8.03 is added to clarify that access to juvenile protection case records filed with or generated by the court prior to July 1, 2015, or for case records filed prior to October 1, 2016, in cases where a child is a party, shall be denied until it is determined that the record or portion of the record requested is free of confidential information to which access is restricted under Rule 8.04. Where an individual requests access to a petition filed prior to July 1, 2015, and the petition contains confidential information to which access is restricted under Rule 8.04, court administration staff may notify the petitioner of the access request and direct the petitioner to promptly file an appropriately redacted petition so that access may be provided to the requesting individual.

8.04 Juvenile Protection Case Records Inaccessible to the Public, Parties, or Participants

Subdivision 1. Definitions. The following definitions apply for purposes of this rule:

(a) "Calendar" is defined in Rule 8, subdivision 2, of the Rules of Public Access to Records of the Judicial Branch.

(b) "Register of Actions" is defined in Rule 8, subdivision 2, of the Rules of Public Access to Records of the Judicial Branch.

(c) "Remote Access" and "remotely accessible" are defined in Rule 8, subdivision 2, of the Rules of Public Access to Records of the Judicial Branch.

(d) "Confidential document" means any document that is inaccessible to the public under subdivisions 2 or 4 of this rule.

(e) "Confidential information" means any information that is inaccessible to the public under subdivision 2, paragraph (d), (e), (j), (l), or (m) of this rule.

Subd. 2. Confidential Documents and Confidential Information. The following juvenile protection case records are confidential documents or confidential information and are accessible to the public, parties, and participants only as specified in subdivision 3:

(a) official transcript of testimony taken during portions of proceedings that are closed by the presiding judge;

(b) audio or video recordings of a child alleging or describing physical abuse, sexual abuse, or neglect of any child;

(c) victims' statements;

- (d) portions of juvenile protection case records that identify reporters of abuse or neglect;
- (e) records of HIV testing, portions of records that reveal any person has undergone HIV testing, or any reference to any person's HIV status;
- (f) medical records, chemical-dependency evaluations and records, psychological evaluations and records, and psychiatric evaluations and records;
- (g) sexual offender treatment program reports;
- (h) portions of photographs that identify a child;
- (i) notices of change of foster care placement;
- (j) the identity of a minor victim or a minor perpetrator of an alleged or adjudicated sexual assault;
- (k) notice of pending court proceedings provided to an Indian tribe by the responsible social services agency pursuant to 25 U.S.C., section 1912 (the Indian Child Welfare Act);
- (l) records or portions of records which the court in exceptional circumstances has deemed to be inaccessible to the public through a protective order issued under Rule 8.07;
- (m) the name, address, home, or location of any shelter care facility or foster care in which a child is currently placed pursuant to law or court order, except in documents consenting to adoption or transferring permanent legal and/or physical custody to a foster care provider or relative; and
- (n) signature pages containing signatures of foster parents or children whose identities are confidential.

Subd. 3. Access to Juvenile Protection Case Records by the Public, Parties, and Participants.

- (a) **Public.** The public shall have access to inspect and copy all juvenile protection case records in the court file, except those listed in subdivision 2, paragraphs (a) to (n), and subdivision 4 of this rule.
- (b) **Parties.** Unless otherwise ordered by the court, parties shall have access to inspect and copy all juvenile protection case records in the court file, except those listed in subdivision 2, paragraphs (b), (d), and (e) of this rule.
- (c) **Participants.** Upon order of the court, participants may have access to inspect and copy all juvenile protection case records in the court file, except those listed in subdivision 2, paragraphs (b), (d), and (e) of this rule. A participant's request for an order permitting access need not be made by written motion, but may be made orally on the record.

Subd. 4. Juvenile Protection Case Records Confidential and Presumptively Inaccessible to the Public Unless Authorized by Court Order. The following juvenile protection case records are confidential and presumptively inaccessible to the public unless otherwise ordered by the court upon a finding of an exceptional circumstance:

- (a) "Confidential Documents" filed under subdivision 5; and
- (b) "Confidential Information Forms" filed under subdivision 5.

Subd. 5. Submission of Confidential Documents and Confidential Information.

- (a) **Confidential Documents.** No person shall file a confidential document listed in subdivision 2 unless it is submitted under a cover sheet entitled "Confidential Document" (see Form

11.3 as published by the State Court Administrator), in which case the document shall be designated as confidential and inaccessible to the public. The person filing a confidential document is solely responsible for ensuring that it is filed under a "Confidential Document" cover sheet and designated as confidential.

(b) **Confidential Information.** No person shall file a publicly accessible document, including without limitation, petitions and social services or guardian ad litem reports, that contains any confidential information listed in subdivision 2. Confidential information shall be omitted from the public document and filed on a separate document entitled "Confidential Information Form" (see Form 11.4 as published by the State Court Administrator), in which case the Confidential Information Form shall be designated as confidential and inaccessible to the public. The person filing a publicly accessible document is solely responsible for ensuring that all confidential information is omitted from the document and filed on a separate "Confidential Information Form." A person filing a document that refers to a child or foster parent using a pseudonym may reference a Form 11.4 previously filed that identifies the child or foster parent instead of filing a new Form 11.4.

(c) **Records Generated by the Court.** Confidential information generated by the court in its register of actions, calendars, indexes, and other records shall not be accessible to the public. Paragraphs (a) and (b) of this subdivision do not apply to orders and other documents filed by judicial officers.

(d) **Noncompliance.**

(1) **Confidential Document.** If it is brought to the attention of court administration staff that a confidential document has not been filed under a "Confidential Document" cover sheet and/or has not been designated as confidential, court administration staff shall designate the document as confidential, notify the filer of the change in designation, and direct the filer to promptly file a cover sheet in compliance with subdivision 5(a) of this rule.

(2) **Confidential Information.** If it is brought to the attention of court administration staff that a publicly accessible document includes confidential information that has not been filed under a "Confidential Information Form" and/or has not been designated as confidential, court administration staff shall designate the document as confidential and direct the filer to promptly file a document in compliance with subdivision 5, paragraph (b), of this rule.

(3) **Sanctions.** If a person fails to comply with the requirements of this rule, the court may upon motion or its own initiative impose appropriate sanctions, including any monetary fee to the court or costs necessary to prepare a document for filing that complies with this rule.

(Amended effective January 1, 2004; amended effective August 1, 2009; amended effective July 1, 2015; amended effective October 1, 2016.)

2016 Advisory Committee Comment

Juvenile protection records are presumed to be accessible to the public. Rule 8.04 draws the line between those juvenile protection records that are accessible to the public and those that are not. The rule helps strike a balance between preserving the privacy interests of the people involved in juvenile protection proceedings and ensuring transparency and accountability.

Everyone who files a document in a juvenile protection case is responsible for separating the publicly accessible portions from those that are inaccessible to the public. The onus is on filers to ensure that the public and confidential portions of the filings are properly separated. There are two types of records that are inaccessible to the public: confidential documents and confidential information. Confidential documents must be designated as confidential upon filing, and must be

filed with a Form 11.3 cover sheet, which is public. Confidential information is information that must be taken out of a public document and placed onto a Form 11.4 Confidential Information Form.

Only judges have discretion to change the classification of a record from the classification set out in Rule 8.04. A judge may order that a confidential record be made accessible to the public, or that a public record be made inaccessible if exceptional circumstances exist. Judicial officers who issue orders in juvenile protection proceedings have discretion to include confidential information and confidential documents in public court orders. Judicial officers are encouraged to consider that their public court orders are immediately accessible at every state courthouse in Minnesota.

The rule defines three levels of access to juvenile protection records: what the public can access; what parties can access; and what participants can access. Members of the public can access confidential information or confidential documents only by filing a motion for an order granting access. Parties can access most confidential documents and confidential information, with the exceptions of recordings of children alleging or describing abuse, the identities of reporters of child abuse or neglect, and information about any person's HIV status. Participants can access confidential information or confidential documents if a judge issues an order granting them access and can request access orally or in writing without filing a formal motion for access.

Although confidential documents are inaccessible to the public, filers are free to discuss the contents of confidential documents in public court filings where doing so is necessary and relevant to the issues being addressed in the court filing. For example, all medical records are confidential documents. But a publicly accessible social worker report could describe a child's medical condition and progress in treatment. The social worker report could quote directly from the child's treatment records, even though the treatment records themselves are not accessible to the public. The public social worker report should not include confidential information, such as the child's HIV status or the child's identity if there is an allegation of sexual assault.

Categories of confidential documents:

Rule 8.04, subd. 2(a) precludes public access to transcripts of portions of hearings that were closed to the public by the presiding judge upon a finding of exceptional circumstances.

Rule 8.04, subd. 2(b) precludes public access to audio or video recordings of a child alleging or describing physical abuse, sexual abuse, or neglect of any child. This is consistent with Minnesota Statutes, section 13.821, which governs access to these recordings when held by an executive branch agency.

Rule 8.04, subd. 2(c) precludes public access to victims' statements, which includes written records of interviews with victims made under Minnesota Statutes, section 626.561. This is consistent with the confidential classification of victim interviews in presentence investigation reports in criminal proceedings, pursuant to Minnesota Statutes, sections 609.115, 609.2244, and 611A.037.

Rule 8.04, subs. 2(f) and (g) preclude public access to medical records, chemical dependency evaluations and records, psychological evaluations and records, psychiatric evaluations and records, and sexual offender treatment program reports. This is consistent with Rule 4, subd. 1(f) of the Rules of Public Access to Records of the Judicial Branch. Filers should be careful not to violate federal law by disclosing these records. Under 42 U.S.C. section 290dd-2, records of all federally assisted or regulated substance abuse treatment programs are confidential and may not be disclosed by the program without consent or a court order. Disclosure procedural requirements are found in 42 C.F.R. sections 2.1-2.67.

Rule 8.04, subd. 2(h) precludes public access to portions of photographs that identify a child. Filers are required to designate as confidential any photograph that displays a child's face or other identifying features. Any need to make the remainder of the photograph accessible to the public can be addressed through a court order issued under Rule 8.07.

Rule 8.04, subd. 2(i) precludes public access to notices of change of foster care placement. All of the information in these notices is confidential under subdivision 2(m). The Form 11.3 cover sheet discloses to the public that there has been a change of foster care placement.

Rule 8.04, subd. 2(k) precludes public access to the notice of pending proceedings given by the responsible social services agency to an Indian child's tribe or the Secretary of the Interior pursuant to 25 U.S.C. section 1912(a). The notices can contain detailed personal information about the child, and parties who receive the notices are directed to keep them confidential. 25 C.F.R. section 23.11(e)(7). Subdivision 2(k) does not preclude public access to tribal intervention motions or transfer petitions.

Rule 8.04, subd. 2(l) recognizes that judges may, in exceptional circumstances, issue orders precluding public access to specified records.

Rule 8.04, subd. 2(n) precludes public access to the signature pages of documents containing signatures of foster parents or children whose identities are confidential. This recognizes that foster parents and, occasionally, children whose identities are confidential must sign documents that are filed with the court, such as out-of-home placement plans. Classifying the signature page as confidential preserves the confidentiality of their identities. Subdivision 2(n) does not make the remainder of the document confidential.

Categories of confidential information:

Rule 8.04, subd. 2(d) precludes public access to the identity of a reporter of abuse or neglect of a child. This is consistent with state laws restricting the disclosure of the identity of a reporter of abuse or neglect. Minnesota Statutes, section 626.556. It is also intended to help preserve federal funds for child abuse prevention and treatment programs. 42 U.S.C. section 5106a(b)(2). Subdivision 2(d) does not, however, apply to testimony of a witness in a proceeding that is open to the public.

Rule 8.04, subd. 2(e) precludes public access to any person's HIV test results, to information that reveals that any person has been tested for HIV, and to any reference to a person's HIV status. This is consistent with the classification of HIV status of crime victims under certain state and federal laws. Minnesota Statutes, section 611A.19, 42 U.S.C. section 14011. Additionally, federal funding for early intervention services is contingent upon HIV status being kept confidential. 42 U.S.C. sections 300ff-61-300ff-63.

Rule 8.04, subd. 2(j) precludes public access to the identity of a minor victim or minor perpetrator of an alleged or adjudicated sexual assault. The rule is similar to the requirements of Minnesota Statutes, section 609.3471, and Rule 4, subd. 1(m) of the Rules of Public Access to Records of the Judicial Branch. Unlike that statute and rule, Rule 8.04, subd. 2(j) applies to all situations where there has been an allegation of sexual assault, even if the allegation is not proven. Several recommended practices are listed below in this comment.

Rule 8.04, subd. 2(m) precludes public access to the name, address, home, and location of the child's current shelter care or foster care placement. This is designed to reduce the risk of continued contact with someone whose parental rights have been terminated. Subd. 2(m) only makes current placements confidential. It does not make a child's past placements confidential. Subd. 2(m) does not apply to information disclosed in consent to adoption forms. Subd. 2(m) also does not apply to information disclosed in documents, such as petitions or proposed orders that are intended to

transfer permanent legal and/or physical custody of a child to a foster care provider or relative. Documents containing the signature for a foster parent are addressed in subd. 2(n) (see the discussion of confidential documents above).

Use of Form 11.3:

Every confidential document needs a Form 11.3 cover sheet. The filer should check the appropriate box on Form 11.3 to indicate the type of confidential document that is being filed.

Electronic filers using Form 11.3 need to file it as a separate PDF file from the confidential document. This makes it possible to make the cover sheet accessible to the public and the confidential documents inaccessible to the public.

Form 11.3 does not have a separate checkbox for documents referring to HIV, because having a separate checkbox would reveal to the public that there is a document referring to HIV. Documents referring to HIV should be checked as "medical records" on Form 11.3. Filers should not write anything on Form 11.3 to indicate there is a document referring to HIV.

Use of Form 11.4:

Form 11.4 is used to file confidential information. If a document contains confidential information but is otherwise public, the public portion of the document must be filed as public. The confidential information is filed on a Form 11.4. Filers should file a Form 11.4 with each filing that contains confidential information, with the exception that filers may refer to a Form 11.4 that was previously filed in a case that identifies a child's identity or a foster parent's identity.

Some confidential information is accessible to parties and some is not. Filers who are submitting both party-accessible and party-inaccessible confidential information should use two Forms 11.4 to submit the information: one Form 11.4 that is accessible to the parties and another that is not accessible.

Electronic filers using Form 11.4 need to file it as a separate PDF file from the public document. This makes it possible to make the public document accessible to the public and the confidential information inaccessible to the public.

Recommended practices for using pseudonyms for minor victims of sexual assault:

Do not use the child's initials when there is an allegation of sexual assault. Refer to the child as "Child 1," "Child 2," etc. The child's name, date of birth, race, gender, address, and Indian tribal status should be submitted on a Form 11.4. No Form 11.4 need be submitted if the child's identity has already been provided on a Form 11.4 in the same case. Instead, the public document may state "Child 1 is identified on Confidential Information Form 11.4, filed on [DATE]."

If there are multiple children in a case and only one child's identity is confidential, all of the children should be given pseudonyms to avoid revealing the child's identity by process of elimination.

Use consistent pseudonyms for minor children within a juvenile protection matter and within related juvenile protection matters. Do not use gendered pronouns. Instead of "she," "he," "his," or "her," write "the child" or "the child's."

Sometimes, an allegation of sexual assault is made midway through a case. In such situations, the child's identity will be apparent from previously filed documents. The previously filed publicly accessible documents continue to be publicly accessible, even though they identify the child. Under Rule 8.07, a judge may, upon finding an exceptional circumstance, order that the documents be made confidential.

A judicial order that uses a pseudonym for a child placed in foster care should include the child's identity in a confidential attachment which is incorporated into the order. If this is not done, the foster placement may not be eligible for federal Title IV-E reimbursement.

Recommended practices for using pseudonyms for foster parents:

Foster parents should be referred to as "Foster Parent 1," "Foster Parent 2," etc. No Form 11.4 need be submitted if the foster parent's identity has already been provided on a Form 11.4 in the same case. Instead, the public document may state "Foster Parent 1 is identified on Confidential Information Form 11.4, filed on [DATE]." When assigning a pseudonym to a foster parent, consider which pseudonyms have already been used for any previous foster parents in the case.

8.05 Access to Exhibits

Juvenile protection case records received into evidence as exhibits during a hearing or trial are not subject to Rule 8.04, subdivision 5, and shall be accessible to the public unless subject to a protective order issued pursuant to Rule 8.07.

(Amended effective July 1, 2015; amended effective October 1, 2016.)

2001 Advisory Committee Comment (amended 2015)

Rule 8.05 permits public access to records that have been received in evidence as an exhibit, unless the records are subject to a protective order (see Rule 8.07). Thus, any of the records identified in Rule 8.04, subdivision 2(b) through (n) that have been admitted into evidence as an exhibit are accessible to the public, unless there is a protective order indicating otherwise. An exhibit that has been offered, but not expressly admitted by the court, does not become accessible to the public under Rule 8.05. Exhibits admitted during a trial or hearing must be distinguished from items attached as exhibits to a petition or a report of a social worker or guardian ad litem. Merely attaching something as an "exhibit" to another filed document does not render the "exhibit" accessible to the public under Rule 8.05.

8.06 Electronic Access to Juvenile Protection Case Records

Electronic access to juvenile protection case records, including remote access and access at a courthouse facility, shall be as permitted by the Rules of Public Access to Records of the Judicial Branch.

(Amended effective July 1, 2015.)

2015 Advisory Committee Comment

Rule 8.06 is amended to allow for electronic access to public juvenile protection case records in light of the Judicial Branch's transition to electronic court records and its effort to offer electronic accessibility to public court documents across all case types. Electronic access to public juvenile protection case records will be available to the public only at courthouse facilities. Remote access to public records is governed by Rule 8, subdivision 2, of the Rules of Public Access to Records of the Judicial Branch, which prohibits remote access to juvenile protection case records. Access to juvenile protection records by government agencies is governed by Rule 8, subdivision 4, of the Rules of Public Access to Records of the Judicial Branch.

8.07 Protective Order

Subdivision 1. Orders Regarding the Public. The court may sua sponte, or upon motion and hearing, issue an order prohibiting public access to juvenile protection case records that are otherwise accessible to the public only if the court finds that an exceptional circumstance exists. The protective

order shall state the reason for issuance of the order. If the court issues a protective order on its own motion and without a hearing, the court shall schedule a hearing on the order as soon as possible at the request of any person. A protective order issued pursuant to this subdivision is accessible to the public.

Subd. 2. Orders Regarding Parties. The court may sua sponte, or upon motion and hearing, issue a protective order prohibiting a party's access to juvenile protection case records that are otherwise accessible to the party. The protective order shall state the reason for issuance of the order. If the court issues a protective order on its own motion and without a hearing the court shall schedule a hearing on the order as soon as possible at the request of any person. A protective order issued pursuant to this subdivision is accessible to the public.

(Amended effective January 1, 2004.)

2001 Advisory Committee Comment

Rule 8.07 establishes two categories of protective orders. One is made on motion of a party after a hearing, and the other is made on the court's own motion without a hearing, subject to a later hearing if requested by any person, including representatives of the media. In any case, a protective order may issue only in exceptional circumstances. The Advisory Committee felt that these procedures would provide adequate protection and flexibility.

8.08 Case Captions and Text of Decisions and Other Records

Subdivision 1. District Court. All juvenile protection court files opened and any petitions, pleadings, reports, orders, or other documents or records filed, in any

(i) of the twelve (12) open hearings pilot project counties on or after June 22, 1998, or

(ii) non-open hearings pilot project county on or after July 1, 2002, shall be captioned in the name of the child's parent(s) or legal custodian(s), as follows: "In the Matter of the Welfare of the Child(ren) of _____, Parent(s)/Legal Custodian(s)." The caption shall not include the child's name or initials. The body of any petitions, pleadings, reports, orders, or other documents or records filed with the court shall include the child's and parent's or legal custodian's full name, not their initials. The case caption shall not be modified upon the issuance of an order terminating parental rights.

Subd. 2. Appellate Court. All juvenile protection court files opened in any Minnesota appellate court shall be captioned in the initials of the parent(s) or legal custodian(s) as follows: "In the Matter of the Welfare of the Child(ren) of _____, Parent(s)/Legal Custodian(s)." The caption shall not include the child's name or initials. The body of any decision filed in any Minnesota appellate court shall use the parent's and child's initials, not their names. Upon the filing of an appeal pursuant to Rule 47.02, the appellant shall provide to the court administrator, the appellate court, and the parties and participants notice of the correct appellate case caption required under this Rule. This Rule supersedes Rule 143.01 of the Rules of Civil Appellate Procedure regarding the provisions relating to case captions upon appeal.

(Amended effective January 1, 2004.)

2001 Advisory Committee Comment

Twelve counties participated in the pilot project from June 28, 1998, through June 30, 2002: Goodhue and LeSueur (First Judicial District); Houston (Third Judicial District); Hennepin (Fourth Judicial District); Watonwan (Fifth Judicial District); St. Louis--Virginia (Sixth Judicial District);

Clay (Seventh Judicial District); Stevens (Eighth Judicial District); Marshall, Pennington, and Red Lake (Ninth Judicial District); and Chisago (Tenth Judicial District).

The change in case captions under Rule 8.08 is designed to minimize the stigma to children involved in juvenile protection matters that are accessible to the public. It is more appropriate to label these cases in the name of the adults involved, who are often the perpetrators of abuse or neglect.

8.09 Access to Juvenile Protection Record by Family Court Judicial Officer

In any family court matter involving custody or parenting time regarding a child who has been or is the subject of a juvenile protection matter, the assigned judicial officer shall, upon notice to the parties, have access to the entire juvenile protection court record. Upon request of a party made within ten (10) days of the court's notice to the parties, the parties shall have an opportunity to be heard after the court accesses the file.

(Added effective July 1, 2014.)

8.10 Access to Juvenile Protection Record by Parties and Child's Guardian ad Litem in Family Court Matter

The parties to a family court matter involving a determination of custody or parenting time regarding a child who has been or is the subject of a juvenile protection matter, including any person established as a parent in a parentage matter and any guardian ad litem appointed in the family court matter, shall have access to the juvenile protection case record to the same extent as a party to the juvenile protection matter has access under Rule 8. If the juvenile court has issued a protective order under Rule 8.07, the portions of the juvenile protection case record subject to the protective order continue to be subject to the protective order when accessed by any party to the family court matter.

(Added effective July 1, 2014.)

2014 Advisory Committee Comment

Rules 8.09 and 8.10 serve the child's best interests and judicial economy by permitting access by the family court judicial officer to information in the juvenile court case record when the two courts are hearing or have heard matters regarding the same child. After giving the parties notice, the family court judicial officer may have the same access to the juvenile protection file as the juvenile court judicial officer. A legal parent in a family matter has access to the juvenile protection case record to the same extent as a party to the juvenile protection matter. If the juvenile court has issued a protective order regarding the content of the juvenile protection case record, that order remains in effect regarding access by any party to the family court matter.