Court and Clerk Records

Access and Maintenance: Public Access to Paternity Case Information

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From July 1, 1941, through June 30, 2014, all records in paternity cases were confidential under various provisions of the Indiana Code as well as Ind. Administrative Rule 9. Ind. Code 31-39-1-1 and 31-39-1-2 were amended, effective July 1, 2014, and provide that records in proceedings that pertain to paternity issues of custody, parenting time, and child support concerning a child born to parents who are not married to each other are excluded from the general confidentiality provisions related to juvenile courts.

Since all records contained in a paternity action had previously been confidential, these cases were exempt from the "green paper" rule contained in Admin. R. 9. This means case records filed before July 1, 2014, may contain information that was confidential under Admin. R. 9 and other state and federal laws and, therefore, remains confidential under Ind. Access to Court Records Rule 5(A)(6).

To address the potential disclosure of confidential information, the Indiana Supreme Court amended Admin. R. 9, on September 2, 2014. On November 15, 2019, the Indiana Supreme Court further revised the source for rules which govern public access to, and confidentiality of, court records by creating the Indiana Rules on Access to Court Records. A.C.R. 5(A)(6) provides that juvenile paternity records created prior to July 1, 2014, remain confidential and not accessible to the public in their entirety. However, A.C.R. 2(B)(5) allows prospective attorneys and their agents, in such cases, to have access to the confidential records upon the filing of an *Assurance of Confidentiality* by the attorney.

Summary of the changes from P.L. 1-2014 and the Supreme Court Orders From 2014 and 2019 (Effective January 1, 2020)

The changes resulting from both the statutory amendments and the Rules on Access to Court Records mean that:

1. All records (case files, CCS entries and RJO) filed before 7/1/14 shall remain confidential.
2. Lawyers appearing in a confidential case and the parties to the case have always had a right to view and obtain copies of their confidential JP case records. That right remains in effect under A.C.R. 2(B)(4).
3. Under A.C.R. 2(B)(5), prospective lawyers and their agents can receive information about these confidential records after the attorney files the *Assurance of Confidentiality*. A sample form can be obtained from the Indiana Supreme Court's, Rules of Court, Rules on Access to Court Records website under *Prospective Attorney's Assurance of Confidentiality for Juvenile Paternity Cases.*
4. Records (case file, CCS entries and orders) filed in JP cases on or after 7/1/14 are no longer confidential just because they are filed in JP cases. This means the case caption and other CCS and case file information are open to the public, and court orders should go in the general, non-confidential RJO.
   In cases first filed after 7/1/14, all records are open. Courts and clerks are encouraged to provide remote/electronic access to these cases' records. For a further discussion of how to treat these records, please refer to the guidance in the "Public Access to Court Records Handbook."
5. Records filed in JP cases on or after 7/1/14 that contain information necessary to the disposition of the case but is otherwise confidential, such as complete social security numbers, medical tests, and other matters listed as confidential in A.C.R. 5 and state and federal laws, must be filed in accordance with Access to Court Records Rule 5(C), including the "green paper" requirements found in A.C.R. 5(C)(1) and converting the documents into an electronic record if conventionally filed (see Ind. Trial Rule 87(D)). Court orders that contain information necessary to the disposition of the case but are otherwise confidential must also comply with

the "green paper" requirements as required by Ind. Trial Rule 58(C). Records filed on green paper are not accessible to the public. **NOTE: Complete social security numbers and medical tests are rarely necessary for the disposition of a case. If the court or parties believe they are, follow A.C.R. 5, including the "green paper" requirements found in A.C.R. 5(C)(1) if the documents are conventionally filed.**

6. Hybrid JP cases – paper records:

    a. JP cases that (i) were opened and closed prior to 7/1/14 but are re-docketed after 7/1/14, or (ii) were filed prior to 7/1/14 and remain open on 7/1/14 are "hybrid cases," and the CCS and case file in these cases must be split so that the pre-7/1/14 information remains confidential and the post-7/1/14 information is public.

    b. Best practices: Clerks/courts can:

        - create a second file (as one does when a case file gets too large) and mark the pre-7/1/14 file as confidential, perhaps with a green sheet on top;
        - place the pre-7/1/14 filings in an envelope clearly marked denoting the contents as confidential; or
        - otherwise separate the pre-7/1/14 records with clear designation as to what is public and what is confidential and
        - only allow public disclosure of the non-confidential portions of the records.

7. Hybrid JP cases and electronic records

    a. Courts that use Odyssey will be able to post the JP CCS on the Internet on "mycase.in.gov."

        - In "hybrid cases," Odyssey courts will need to open a duplicate, public CCS on 7/1/14 with an event entry indicating that prior events are confidential and available in the clerk's office to

authorized persons. The Odyssey help desk will provide further information and answer questions.

- Odyssey courts will treat the JP case records filed after 7/1/14 just as they do any other public case type.

b. Non-Odyssey courts that have already received approval under T.R. 77(K) to put their non-confidential CCS's on the Internet can post the JP CCS entries made on or after 7/1/14. However, they are not required to post JP CCS entries on the Internet or make them available on the Internet or through third-party systems.