

Electronic Filing and Remote Access Task force

# Discussion Draft Electronic Filing System for Montana Courts

Concept of Operation

Prepared by the Office of the Court Administrator

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This Concept of Operation provides background information, a Concept of Operation and Model Rules for a statewide electronic filing system for Montana Courts.

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## Background

3-1-115, MCA provides that “...the supreme court may make rules establishing procedures for electronic filing of documents and electronic storage of documents and that Courts may, but are not required to, institute procedures for electronic filing of documents and electronic storage of documents to further the efficient administration and operation of the courts. Electronically filed or stored documents may be kept in lieu of any paper documents. Electronic filing of documents and electronic storage of documents must be in conformity with rules adopted by the supreme court....”

The Montana Supreme Court’s Commission on Technology has long supported the concept of a common electronic filing system for Montana courts similar to the system used in the federal court system. The federal model includes an electronic filing system integrated with the court’s case management system and a document component (PACER) for public access to court documents.

Specific and measurable benefits of an electronic filing system include:

- Improving access to the court system by providing litigants and attorneys a secure and standard means in which to electronically file and serve documents 24/7 regardless of court or case type.
- Reducing document storage and retrieval costs.
- Reducing data entry costs and improving the quality and consistency of the court register of action.
- Increasing productivity and efficiency as a result of multiple users having simultaneous access to the case file.
- Reducing the risk of court documents being lost or destroyed in a catastrophic event (fire, flood, etc.).
- Providing a secure payment mechanism to process and account for statutory court filing fees and costs.

In 2007 the Judicial Branch received long range information technology funds to pursue a variety of strategic technology improvements in Montana Courts. Included in this authorization is \$1.535 million dollars set aside specifically for a statewide electronic filing and document management project. In addition, the Judicial Branch received a federal grant through the National Criminal History Improvement (NCHIP) program of \$243,007 (\$48,067 in-kind match) to support prosecutor filings in the future electronic filing system with the potential for additional funding (\$100,000) for each of the next five years through the Court Assessment Program.

In 2008 the Commission on Technology created the Electronic Filing and Remote Access Task Force, chaired by the Clerk of the Supreme Court, to study and report on how to best proceed in creating a statewide system for electronic filing and service in Montana courts. The Task Force included judges, clerks of court, attorneys representing the State Bar, representation from Montana Legal Services and records management personnel from the Office of the Secretary of State. In addition to the Task Force, several working groups of subject matter experts met and reported on the particular implications of an electronic filing system in their areas of expertise: Document Management, Remote Access, Self-Represented Litigants, Courts of Limited Jurisdiction and Court Rules.

The Task Force systematically reviewed, modified, approved or rejected each functional requirement in the Conference of State Court Administrators (COSCA) and the National Association of Court

Management (NACM) Functional Standards for Electronic Filing<sup>1</sup> and received product demonstrations from five commercial vendors of electronic filing solutions. In mid-2009 a committee of Task Force members was formed to prepare a recommendation and request for proposal for presentation to the Commission on Technology. Shortly thereafter the project was placed on-hold until after the 2011 legislative session in part because of uncertainty in the status of long range information technology funds.

The Task Force and Working Groups agreed a statewide electronic filing system would be beneficial to the Montana court system. The Task Force and Working groups, however, also identified a number of obstacles in implementing a statewide electronic filing system in Montana courts. These obstacles can be categorized in four distinct areas – recommendations are provided for each area:

1. **The Official Court Record:** Should the electronic documents submitted through the electronic filing system be the official court record? If so, what type of technologies and processes need to be in place to ensure the integrity, authenticity and long-term archival of the records?

**Recommendation:** Documents submitted through the electronic filing system should be the official court record with paper copies produced “on-demand” as needed. One of the great efficiencies of an electronic filing system (provided the electronic document is the official record) is in greatly reducing the amount of paper produced, processed and physically stored while at the same time improving accessibility to the records. The proposed model for electronic filing in Montana courts includes a requirement that documents traversing the system include a document hash<sup>2</sup> to ensure the document has not been modified or altered in any way during transmission and a digital stamp for use by the clerk of court (clearly visible on the electronic and any paper copies) to certify the document at official filing.

The Office of the Secretary of State has approved the State *FileNet* document management system for long term electronic document storage and electronic records. Montana Supreme Court electronic documents are stored in *FileNet*. For local governments, microfilm is the only approved media for long term electronic document storage and a mechanism currently exists to transfer electronic court documents to microfilm at a local government cost.

2. **Remote access to electronic court records:** If the electronic documents submitted through the electronic filing system are the official court record what type of remote access system should be implemented to support the system?

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<sup>1</sup>

[http://www.ncsconline.org/d\\_tech/standards/Documents/pdfdocs/Recommended\\_%20Process\\_%20standards\\_02\\_26\\_03.pdf](http://www.ncsconline.org/d_tech/standards/Documents/pdfdocs/Recommended_%20Process_%20standards_02_26_03.pdf)

<sup>2</sup> [http://csrc.nist.gov/publications/fips/fips180-3/fips180-3\\_final.pdf](http://csrc.nist.gov/publications/fips/fips180-3/fips180-3_final.pdf)

**Recommendation:** It is recommended the electronic filing system's use be restricted to parties on the case, i.e., the system would not have a central document storage system. Documents (electronic and paper) would be housed at the court. Case information (documents, register of action events, etc.) in the electronic filing system would be available only to parties on the case. Public access to court records would remain as it is today with the electronic records stored by and under the purview of the clerk of court.

3. **System Sustainability:** What options exist to ensure the system, once established, is maintainable and refreshed as technology and business requirements change? Who will provide training and on-going support to court staff and attorneys in use of the system?

**Recommendation:** Court electronic filing systems are funded in a variety of ways. Some systems are provided by the court through the general appropriation process; some systems are funded through a statutorily authorized electronic filing fee; and, some systems are vendor operated where an electronic filing vendor (not the court) charges for the service. It is recommended that the expenses associated with maintaining the system for a period of three years be included in the proposed project. After the first year of operation this issue would be re-visited to determine the best funding source for continuing the system.

Further, service level agreements with the successful vendor will be required to ensure 24x7 vendor support of the application. It is proposed the actual electronic filing systems be housed in the Department of Administration's data center receiving 24x7 technical monitoring and support. An on-line training program for users would be developed with any questions about electronic filing procedures directed to the clerk of court in the court where the case is being electronically filed.

4. **Implementation:** How should the system be implemented – what courts, what case types? Should it be designed for mandatory or consensual filings? How will court business processes change with an electronic filing system?

**Recommendation:** An incremental approach to electronic filing is proposed. The conceptual model is based on an electronic filing portal and management system that functions as a value-added service permitting court filers, judges and clerks of court to opt in when they feel they can accommodate the inherent change an electronic filing system brings. The implementation plan sets forth a repeatable development life cycle by major case category to promote standardization across courts with as much consistency as can be expected in light of the variety of cases adjudicated in Montana courts.

Prosecutor initiated cases are the first major case group for implementation in the proposed electronic filing system. These case categories include criminal, juvenile, civil commitment and child abuse and neglect cases. The reasons for this recommendation are three-fold.

First, the opportunity to pilot many of the core electronic filing concepts considered by the Task Force presented itself in July 2009 with an e-citation project sponsored by the Montana Highway Patrol and the Automation Committee of the Commission on Courts of Limited Jurisdiction. To date, approximately 72,000 e-citations have been electronically filed in Montana Courts of Limited Jurisdiction and 58 of the State's 61 Justice Courts have voluntarily opted to use the electronic filing service provided through the Department of Justice and the Office of the Court Administrator. This pilot of a single criminal case subtype (traffic) has demonstrated the tremendous efficiencies and benefits of e-filing for filers and the court.

Second, one goal of the electronic filing system is to provide a system that supports all case types in all levels of court. Courts of Limited Jurisdiction, District Courts and the Montana Supreme court all decide prosecutor initiated cases. Focusing on this community provides the opportunity to demonstrate the capabilities of the system across levels of court using a common front end for prosecutors, public defenders, appellate public defenders, and State Bar attorneys who practice criminal law.

Third, specific funding is available for developing this electronic filing service. This approach allows segregation between the parts of the system specifically developed for prosecutor initiated case filings and non-criminal case filings.

The general civil case category with attorney representation is the second major case type targeted for the electronic filing system. The civil case category with attorney representation allows functionality of the system to be developed that supports predominantly non-governmental filers who file cases where there are statutory filing fees. This phase of the project incorporates the requirements of non-government attorneys to participate in the development of an electronic filing application specifically designed for members of the State Bar.

The remainder of this report presents the conceptual model for a statewide electronic filing system for Montana courts in sufficient detail for use as a basis for a request for proposal. Draft model rules to support the conceptual model are also provided.

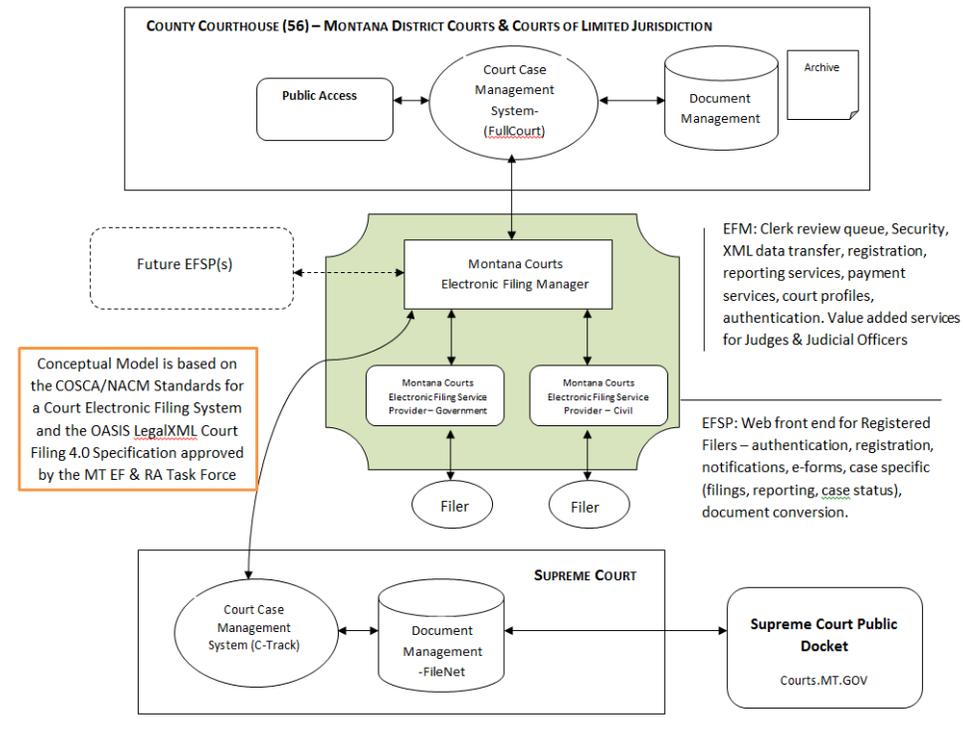
## Concept of Operations and Implementation Plan

The Electronic Filing and Remote Access Task Force approved the majority of the COSCA/NACM functional standards for electronic filing and conceptually the technical architecture proposed in the OASIS LegalXML ECF 4.0 specification. The OASIS LegalXML specification consists of five major design elements (MDE). The design elements can be implemented in a variety of ways in the e-filing system to provide external entities with the capability to file documents with the court via the Internet. However, the e-filing system must include the following e-filing components:

- **Filing Assembly MDE** – Enables a filer to create a filing message for submission to a court and for service on other parties in the case, returning the response from the court to the filer.
  - The Contractor will be responsible for providing a filing assembly MDE that will support an ECF 4.0 conforming filing assembly for civil and governmental filers.
  - The Contractor will be required to provide an open architecture allowing additional filing assembly providers to offer electronic filing to the Montana Judicial Branch in order to provide diversity in service providers.
- **Filing Review MDE** – Enables a court to receive and review a filing message and prepare the contents for recording in its case management and document management systems, sending a response concerning the filing to the Filing Assembly MDE. The Filing Review MDE also enables filers to obtain court-specific policies regarding electronic filing and to check on the status of a filing.
- **Court Record MDE** – Enables a court to record electronic documents and docket entries in its case management and document management systems and returns the results to the Filing Review MDE. The Court Record MDE also enables filers to obtain service information for all parties in a case, to obtain information about cases maintained in the court’s docket and register of actions and calendars, and to access documents maintained in the court’s electronic records.
- **Legal Service MDE** – Enables a party to receive service electronically *from* other parties in the case. Note that service on other parties in the case is performed by the Filing Assembly MDE.
- **Fee Collection** – The e-filing component must provide the ability to collect court fees in a manner that supports traditional fee processing (including fees based on specific document and case types, waiver of fees, etc.), as well as the option to assess convenience fees as the court allows.

The diagram on the following page illustrates the primary systems involved in the proposed electronic filing system. The components outlined in the green box are the components proposed to be procured in this initiative. The systems outside the green box are current systems and interfaces will need to be developed to support the data exchanges between systems.

## Conceptual Diagram of an Electronic Filing System for Montana Courts



A high-level step-by-step process for the proposed electronic filing system is described as follows:

### High Level Step by Step Filing

#### Step 1: Filer Initial Sign-on and Authentication

- Filer authenticates or registers as a first-time user. The Filer authentication and registration process includes an end-user agreement covering terms of use and validation of registration information against the Roll of Attorneys maintained by the Clerk of the Supreme Court.
- Filer reviews the court policies in place for the court in which s/he wishes to file, if the court accepts electronic case filings for the case type in question the filer proceeds in the electronic filing process. If the court does not accept electronic filings for the case type in question the filing proceeds in the traditional manner.

#### Step 2: Approved Filer receives case information

- Filer receives a case list for cases in which s/he is a party.

### Step 3: Filing Assembly

- Filer initiates a case or selects a case to supplement or append for which s/he is a party on the case.
- Filer supplies required data fields and attaches documents to be filed with the receiving court.
- Filer requests any special processing (e.g. fee waivers, sealing documents, etc.)
- Filer optionally requests Service of Process

### Step 4: Filing Validation (EFM)

- System applies validation rules and receiving court policies to ensure the accuracy and completeness of the filing.

### Step 5: Initial Acceptance (EFM)

- At initial acceptance, the EFM returns an initial notice of receipt prior to Clerk/Judge reviews; and provides an e-filing submission reference ID. *Pending cases now appear as a pending case in the authorized filer's case list.*
- System exercises Service of Process options for certain case types, if selected by the filer

### Step 6: Fee Reservation

- Reserving the fee(s) indicated for the submitted case filings against the filer's payment method (e.g. reservation of funds against a credit card)

### Step 7: Transmission to Court

- Movement of initially accepted filing to the receiving courts' Clerk/Judge review functions
- Movement of Clerk/Judge review notices to the EFM for notification to the filer of acceptance or rejection.

### Step 8: Clerk/Judge Review (Filing Review) *Processes where case file submissions are reviewed for acceptance or rejection by the receiving court.*

- If the submission is rejected, an error message will be returned to the filer and the submission will not be filed.
- If the submission is accepted, the acceptance constitutes official filing with the receiving court. The system will automatically affix a digital stamp to the document to electronically certify the document. The system will return an acceptance notification, including court reference information, to the filer.
- Assignment of the actual filing fee associated with the submission

#### Step 9: Fee Capture/Collection

- Payment component processes actual payment against the e-filer's chosen payment method

#### Step 10: Notice to Filer

- System sends notice of filing and acknowledgement of actual payment amount (receipt for payment)
- Notice includes case file information (e.g. case number, case name, etc.)
- System exercises Service of Process options for certain case types, if previously selected by the filer

#### Step 11: Deposit to Court Bank Account(s)

- Payment component deposits collected funds to the applicable Court bank account(s)
- Payment component provides financial reconciliation reports to the Court

#### Step 12: Case Document Access

- Filer may retrieve accepted case documents in which s/he is an approved party in the case (see Step 2).

#### Step 13: Court Order / Minute Entry Distribution

- Any orders or minute entries issued on a case by the Court will result in an e-mail notification to the filers and/or associated parties in the case.

Note: A local print function must be available for the filer to print any message, document, or receipt.

### **Approach and Case Category Development**

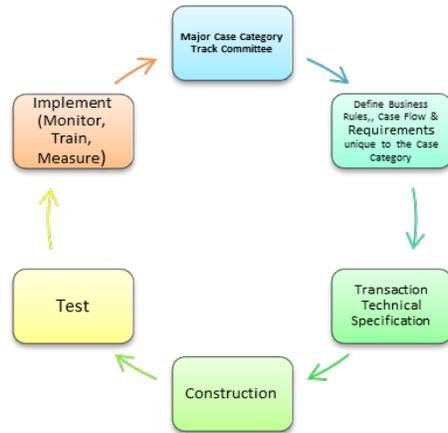
The Montana court system is best served in an incremental approach to electronic filing. This conceptual model is based on an electronic filing portal and management system that functions as a value-added service permitting court filers, judges and clerks of court to opt in when they feel they can reasonably accommodate the inherent change an electronic filing system brings. The implementation plan sets forth a repeatable development life cycle by major case category to promote standardization across courts with as much consistency as can reasonably be expected in light of the variety of cases adjudicated in Montana courts.

Fundamental requirements of the proposed electronic filing system are configurability and scalability allowing a non-programmer to implement the case flow and business rules for electronic filing for a

given case category for a given level of court. Business rules would be defined by subject matter experts in the case area. Once a case category for electronic filing is defined, implemented and tested it would be eligible for electronic filing. The proposed model rules allow courts and the local legal community to opt in at the point the system is ready to support that case category.

The following diagram illustrates the proposed development cycle:

Figure 1: Case Category Development Cycle



The major case categories proposed by level of court are:

**Courts of Limited Jurisdiction:** Civil, Small Claims, Landlord/Tenant, Criminal, *Traffic*, Unlawful Detainers, Orders of Protection

**District Courts:** Criminal, Family (includes domestic relations, adoptions and paternity), Involuntary Commitment, Probate/Guardianship, Civil, Juvenile, Child Abuse and Neglect

**Supreme Court:** Direct Appeals (multiple case subtypes), Original Proceedings (multiple case subtypes)

## Proposed Scope of Work

**Phase 1: Installation and Customization of the Montana Electronic Filing System** Installation and customization of the Montana Electronic Filing system is the Phase 1 objective. The Office of the Court Administrator’s objective is to complete this phase within six (6) months of contract signing. The contractor will be expected to:

- Deliver a detailed project plan covering all phases of work.
- Create a model template for track teams to develop case electronic filing workflows based on case type.
- Work with the Criminal Case track team to develop the messaging specification for the electronic filing system to support criminal case filings in a court of limited jurisdiction, district court and the Montana Supreme Court.

- Develop an interface and integration specification for Montana’s current case management systems.
- Provide expertise to guide the installation and transition to the electronic filing application(s), including:
  - Application configuration
  - Hosting Configuration
  - Connectivity configuration
  - Enterprise active directory integration
  - User access and management
  - Web-based access; Integration with State’s web standards;
- Provide training to Court Administrator staff in all aspects of administering, running, and using the application;
- Develop all necessary support processes, procedures, functions, documentation, and staffing to ensure the project is managed in accordance with the project plan.

**Phase 2: Pilot of the Criminal Case Electronic Filing Application** A pilot of the electronic filing system using the criminal case category in at least two courts of limited jurisdiction, district courts and the Montana Supreme Court is the Phase 2 objective. The Office of the Court Administrator’s objective is to complete this phase within nine (9) months of contract signing. The contractor will be expected to:

- Construct and test the interfaces to the Montana case management systems developed in Phase 1.
- Construct and test the criminal case filing transactions.
- Develop and deliver a training plan for criminal case filers.

**Phase 3: Pilot of the Civil Case Electronic Filing Application** A pilot of the electronic filing system in the civil case category in at least two courts of limited jurisdiction, district courts and the Montana Supreme Court is the Phase 3 objective. The Office of the Court Administrators’ objective is to complete this phase within twelve (12) months of contract signing.

- Using the model template for track teams created in Phase 1 work with the civil case track team to develop the messaging specification for the electronic filing system to support civil case filings in a district court and the Montana Supreme Court.

## **Acceptance Process**

### **Pre-Cutover Acceptance Plan**

A pre-cutover acceptance testing plan (ATP) for each of the major case categories will be developed and agreed upon by the contractor and State. Testing must include a measurable testing process for each functional and technical aspect of the specifications listed in the offeror's proposal. Once accepted by the State, the testing plan will be used for testing the initial installation.

### **Post-Cutover Acceptance Test Plan**

A final post-cutover acceptance-testing plan (ATP) for each of the major case categories will be developed and agreed upon by the contractor and State. Final acceptance testing is expected to commence immediately upon solution cutover and proceed for 30 consecutive failure free days. If a priority one failure occurs during the final acceptance-testing period, the final acceptance-testing period will be stopped, and the failure(s) expediently fixed to the State's satisfaction. During this period of interruption, the solution must continue to operate with the greatest degree of reliability possible given the respective failure(s). The final acceptance-testing period of 30 consecutive failure free days will restart the day after corrections/repairs are affected, at the State's sole discretion.

### **Final Acceptance**

A "punch list" will be used in the acceptance process. It is a requirement that any installation issue that was discovered while the ATP was performed or after the solution becomes operational be resolved in less than 30 days.

Upon completion of the acceptance-test period, the State representative shall either give written notice of its acceptance or shall specify in writing those portions of the criteria that have not been met. In the event the contractor fails to meet the acceptance criteria by the end of the second acceptance-test period, the contract may be subject to termination.

Sign-off will not occur until all ATP and "Punch List" items are completed and the system has performed without errors for 30 days.

## Draft Electronic Filing Rules<sup>3</sup>

### Electronic Filing

#### (1) DEFINITIONS:

- (a) "Clerk of court" means the official custodian of the court record for the case in question, which may be the clerk of the Supreme Court, clerk of district court, or the appointed clerk in a justice court, municipal court, city court, water court, or workers compensation court.
- (b) "Document" means a pleading, form, notice, motion, order, affidavit, paper exhibit, brief, judgment, writ of execution, or other filing. For purposes of this rule, a document includes the transmittal information submitted with the filing.
- (c) "Electronic filing system" means a web-based system established by the Office of the Court Administrator for the purpose of filing documents with or by a court, integrating them into the court's case management system, and electronically serving them on the parties who have registered with the electronic filing system. "Electronic filing" does not include alternative methods of filing, such as electronic mail, facsimile, floppy disks, or other electronic methods.
- (d) "Electronic filing system administrator" means an individual appointed by the Supreme Court Administrator to receive information and take action as necessary to run the electronic filing system.
- (e) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document, that can be executed or adopted by the user with the intent to sign the document.
- (f) "Electronic digital signature" means an advanced electronic signature based on Public Key Infrastructure (PKI) and is a result of a cryptographic operation that guarantees signer authenticity, data integrity and non-repudiation of signed documents.
- (g) "Initiating document" means a summons and complaint, petition, notice of appeal, application, citation, criminal complaint, or any other document filed to commence a court case.

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<sup>3</sup> These model rules are based on "A Guide to Model Rules for Electronic Filing and Service" available at: <http://www.ncsc.org/Topics/Technology/Electronic-Filing/Resource-Guide.aspx> and various state rules for electronic filing including Wisconsin, Texas and California.

- (h) "Traditional methods" means those methods of filing and serving documents, other than electronic filing, provided under statutes and local rules.
- (i) "Transmittal page" means a document generated by the electronic filing system containing the case management information necessary to transmit and file a document.
- (j) "User" means an individual who has registered to use the electronic filing system under section (3).

**(2) SCOPE:**

- (a) The Supreme Court Administrator shall implement an electronic filing system for Montana courts.
- (b) Use of the electronic filing system is voluntary. Courts choosing to participate in the electronic filing system must make formal application to the Office of the Court Administrator. The application must be made in writing by the Chief Judge and, if applicable, the elected clerk of court. Parties or their attorneys may choose to participate in the electronic filing system unless the court has designated a certain case type for mandatory filing. Parties or attorneys who choose not to participate shall file, serve, and receive documents by traditional methods.
- (c) Any action that may be brought in court may be brought using electronic filing, subject to the ability of the electronic filing system to accept the documents. This section does not guarantee anyone the right to file electronically.
- (d) The procedures in this section shall be interpreted in a manner consistent with existing court rules.
- (e) Exceptions for authorized governmental agencies. Certain governmental agencies will be allowed to file documents and transfer data by a Supreme Court-approved alternative method of transferring the document or data from the agency's electronic system to the court's electronic case management system. For example, interfaces have been created to allow electronic filing of Montana Highway Patrol citations.

**(3) REGISTRATION REQUIREMENTS:**

- (a) The following individuals may register to use the electronic filing system:
  1. Licensed Montana attorneys and designated staff.
  2. Attorneys appearing pro hac vice.
  3. Parties to an action.
  4. Court employees.

- (b) Users of the electronic filing system shall be individuals, not law firms, agencies, corporations, or other groups.
- (c) Users shall register through the electronic filing system website by executing a user agreement governing the terms of use of the electronic filing system. To register, users must have the capability to produce, file, and receive electronic documents meeting the technical requirements of the electronic filing system. By registering, users agree to electronically file all documents in the case to the extent the electronic filing system can accept them and agree to electronic service on any case electronically filed via the electronic filing system of which he or she is a party.
- (d) Users will be provided with a confidential, secure identifier. The secure identifier shall be used only by the user to whom it is assigned. This user may authorize agents or employees to use the electronic filing system on his or her behalf. Each such authorized user shall use a unique, secure identifier. Upon learning that the confidentiality of the secure identifier has been inadvertently or improperly disclosed, the user shall immediately report that fact through the electronic filing system.
- (e) Users shall immediately update registration information in the electronic filing system of any changes in the information provided during initial registration.
- (f) The same secure identifier shall be used for all cases on which the user is an attorney or a party. The electronic filing system may reset secure identifiers and electronic signatures as needed for administrative and security purposes.
- (g) The electronic filing system may provide a method for filing documents by individuals who are not parties to the case, such as witnesses seeking protective orders, intervenors, and amicus curiae. It may also provide a method for submitting reports by individuals who are not parties to the case, such as presentence investigators and social workers.

**(4) TIME AND EFFECT OF ELECTRONIC FILING:**

- (a) The electronic filing system is an agent of the court for purposes of electronic filing, receipt, service, and retrieval of electronic documents.
- (b) When a document is submitted by a user to the electronic filing system, the electronic filing system shall transmit it to the appropriate court where the case is filed. The electronic filing system shall issue a confirmation that submission to the electronic filing system is complete.
- (c) Filing of documents with the electronic filing system shall be accepted on a 24 hour basis, from 12:00 a.m. to 11:59 p.m. Documents electronically submitted and approved by the clerk shall receive the filing date the document was initially submitted if the filing

date is a business day for the court. If the filing occurs on a weekend or holiday the next court business day will be the filing date. The electronic filing system shall note the date and time the document is submitted.

- (d) The clerk of court shall review the document to determine if the document should be accepted for filing. If the clerk accepts the document, the document shall be considered filed with the court on the date the original submission to the electronic filing system was complete. Upon acceptance, the electronic filing system shall issue a confirmation with the date and time of the original submission to serve as proof of filing. If the clerk rejects the document, the document shall not become part of the court record and the filer shall receive notification of the rejection. The filer may be required to refile the document.
- (e) The calculation of time for reply under other statutes and rules is neither expanded nor contracted by this section.
- (f) The electronic filing system shall receive electronic filings 24 hours per day except when undergoing maintenance or repair.

**(5) COMMENCEMENT OF ACTION:**

- (a) If the clerk of court accepts an initiating document for filing, the clerk of court shall assign a case number and authenticate the document as provided in section (10). The electronic filing system shall send a notice to the filer that the filing has been accepted and is available through the electronic filing system website.
- (b) Initiating documents shall be served by traditional methods unless the responding party has consented to accept electronic service or service by some other method. Initiating documents shall be served together with a notice to the responding party stating that the case has been electronically filed and giving instructions for how to use the electronic filing system if the responding party chooses to do so.

**(6) FILING AND SERVICE OF SUBSEQUENT DOCUMENTS:**

**(a) DOCUMENTS THAT MAY BE FILED ELECTRONICALLY:**

1. A court may permit electronic filing of a document in any action or proceeding unless court rules or other legal authority expressly prohibit electronic filing.
2. In a proceeding that requires the filing of an original document, an electronic filer may file an electronic copy of a document if the original document is then filed with the court within 10 calendar days.
3. The court may permit electronic filing of an application for waiver of court fees and costs in any proceeding in which the court accepts electronic filings.

4. The court may electronically file any notice, order, minute entry, judgment, or other document prepared by the court.
5. Proposed orders may be filed and submitted electronically through the electronic filing system.
6. Effect of document filed electronically:
  - (a) A document that the court or a party files electronically under these rules has the same legal effect as a document in paper form.
  - (b) Filing a document electronically does not alter any filing deadline.
7. The electronic filing system shall not be used for the electronic exchange of discovery materials and other communications between the parties that are not intended to be filed with the court.
8. If a document is desired or ordered to be “lodged” in a case, it must be manually submitted to the clerk of court, since electronic filing is limited to those documents which are officially filed with the case.

**(b) ELECTRONIC SERVICE:**

1. When a document may be served by mail, express mail, overnight delivery, or fax transmission, electronic service of the document is permitted when authorized by these rules.
2. A party agrees to accept electronic service by:
  - (a) Serving a notice on all parties that the party accepts electronic service and filing the notice with the court. The notice must include the electronic service address at which the party agrees to accept service; or
  - (b) Electronically filing any document with the court using the electronic filing system. The act of electronic filing is evidence that the party agrees to accept service at the electronic service address the party specified when registering as a user of the electronic filing system.
3. A court that permits electronic filing in a case must maintain and make available electronically to the parties an electronic service list that contains the parties’ current electronic service addresses, as provided by the parties that have filed electronically in the case.
4. Service by the parties:
  - (a) Notwithstanding (3), parties are responsible for electronic service on all other parties in the case. A party may serve documents electronically directly, by an agent, or through the electronic filing system.

(b) A document may not be electronically served on a nonparty unless the nonparty consents to electronic service or electronic service is otherwise provided for by law or court order.

5. Change of electronic service address:

(a) A party whose electronic service address changes while the action or proceeding is pending must promptly file a notice of change of address electronically with the court.

(b) A party's election to use the electronic filing system to electronically file and serve documents or to receive electronic service of documents on the party's behalf does not relieve the party of its duties under (a).

6. An electronic service address is presumed valid for a party if the party files electronic documents with the court from that address and has not filed notice that the address is no longer valid.

7. Electronic service of a document is complete at the time of the electronic transmission of the document or at the time the electronic notification of service of the document is sent, however, service that occurs after the close of business is deemed to have occurred on the next business day.

**(c) PROOF OF SERVICE:**

1. Proof of electronic service must state:

(a) The electronic service address of the person making the service, in addition to that person's residence or business address;

(b) The date and time of the electronic service;

(c) The name and electronic service address of the person served; and

(d) That the document was served electronically.

2. Proof of electronic service may be in electronic form and may be filed electronically with the court.

3. The party filing the proof of electronic service must maintain the printed form of the document bearing the declarant's original signature and must make the document available for inspection and copying on the request of the court or any party to the action or proceeding in which it is filed.

4. The court may electronically serve any notice, order, judgment, or other document issued by the court in the same manner that parties may serve documents by electronic service.

**(7) PAYMENT OF FEES:**

- (a) Users shall make any payment due to the clerk of court through the electronic filing system unless otherwise ordered by the court or unless special arrangements are made with the clerk of court. Documents that require payment of a fee are not considered filed until the fee is paid or a waiver of the fee is granted. The electronic filing system shall establish one or more methods for electronic payment.
- (b) Users may submit a request for waiver of fees, using a form provided by the electronic filing system for that purpose.
- (c) The electronic filing system shall deposit the fees due to the clerk of court in the clerk's account.

**(8) FORMAT AND CONTENT OF DOCUMENTS:**

- (a) To the extent practicable, the user shall format all electronically filed documents in accordance with statutes and local rules governing formatting of paper documents, including page limits.
- (b) Users shall provide any case management information needed to transmit and file the document. The electronic filing system shall reject the document for failure to include information in any one of the mandatory fields identified by the system.
- (c) The electronic filing system administrator shall publish a Technical Operations Guide describing the specific technical requirements regarding the format and content of documents filed in the electronic filing system.
- (d) Users shall maintain the original of each electronically filed document in electronic form until final disposition of the case and expiration of all time for appeal.

**(9) OFFICIAL RECORD:**

- (a) Electronically filed documents have the same force and effect as documents filed by traditional methods.
- (b) For documents that have been electronically filed, the electronic version constitutes the official record. No paper copy of an electronically filed document shall be sent to the court, unless the court specifically requires a courtesy copy through court policy.
- (c) The clerk of court may maintain the official court record in electronic format or in a combination of electronic and non-electronic formats. Documents filed by traditional methods in an electronic case file may be electronically scanned and made part of the official record. The clerk of court may discard the paper copy immediately, unless statutorily required to maintain the paper copy. If a document submitted by traditional methods is not of sufficient graphical quality to be legible when electronically scanned

into the electronic document management system, the clerk shall maintain the document in paper format.

- (d) Any official court record containing electronically filed documents must meet the operational standards for electronic records.
- (e) The clerk of court shall make the public portions of the electronic record available through the clerk's office.
- (f) Certified copies of an electronic record shall be obtainable from the clerk of court's office by traditional methods.
- (g) If a document is filed by traditional methods in an electronic case file, the court may require the submitting party to produce the original paper document if validity of the signature or document is challenged.

**(10) AUTHENTICATION:**

- (a) Electronic placement of the clerk's filing stamp and case number on each copy of an initiating document constitutes authentication under the statutes and court rules. An authenticated copy may be printed from the court case management system by the clerk of court or from the electronic filing system by the filing party.

**(11) SIGNATURES ON E-FILED DOCUMENTS:**

- (a) Except as otherwise provided by this rule, the confidential, secure username and password that the e-filer must use to e-file a document constitute the e-filer's signature on the document. When a signature is required, the e-filer will include either the e-filer's name typed in the space where the e-filer's signature would otherwise appear or an electronic image of the e-filer's signature, which may take the form of a public key-based digital signature or a scanned image of the e-filer's signature. The e-filer must not allow the e-filer's username or password to be used by anyone other than an agent who is authorized by the e-filer.
- (b) If a document must be notarized, sworn to, or made under oath, the e-filer must e-file the document as a scanned image containing the necessary signature(s).
- (c) If a document requires the signature of an opposing party, the e-filer must e-file the document as a scanned image containing the opposing party's signature.
- (d) When an e-filer e-files a scanned image of a document pursuant to paragraph (b) or (c) of this rule, the e-filer must retain the original document from which the scanned image was made until the case in which the document was filed is resolved. If the original

document is in another party's possession, that party must retain the original document until the case in which the document was filed is resolved.

- (e) If an e-served document was also e-filed and the person who completes a certificate of service is different from the person who e-filed the document, the person who completes the certificate of service must sign the certificate by including either an "/s/" and his or her name typed in the space where his or her signature would otherwise appear or an electronic image of his or her signature.

**(12) CONFIDENTIAL INFORMATION:**

- (a) The confidentiality of an electronic record, or an electronic or paper copy thereof, is the same as for the equivalent paper record. The electronic filing system may permit access to confidential information only to the extent provided by law. No person in possession of a confidential electronic record, or an electronic or paper copy thereof, may release the information to any other person except as provided by law.
- (b) If a document is confidential, it shall be identified as confidential by the submitting party when it is filed. The electronic filing system may require users to enter certain information, such as social security numbers, in confidential fields. The clerk of court is not required to review documents to determine if confidential information is contained within them.
- (c) If a user seeks court approval to make a document confidential, the user may electronically file the document under temporary seal pending court approval of the user's motion to seal.
- (d) The electronic filing system shall place a visible mark on documents identified as confidential.

**(13) TECHNICAL FAILURES:**

- (a) A user whose filing is made untimely as a result of a technical failure may seek appropriate relief from the court as follows:
  - 1. If the failure is caused by the court electronic filing system, the court shall grant appropriate relief upon satisfactory proof of the cause.
  - 2. If the failure is not caused by the court electronic filing system, the court may grant appropriate relief upon satisfactory proof of the cause. Parties are responsible for timely filing of electronic documents to the same extent as filing of paper documents, with similar consequences for missed deadlines.
- (b) This subsection shall be liberally applied to avoid prejudice to any person using the electronic filing system in good faith.

