

Montana Statewide Electronic Filing: What it *Is* and What it *Is Not*

*Electronic Filing

(1) DEFINITIONS:

- (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.* (italics and highlight added)

What E-filing *IS*

Electronic Filing (E-filing) is the automated transmission of legal files through a secure, standardized web-based user interface. It requires users to have valid logins and passwords. It standardizes document submission to the court record by use of pre-defined data templates and work flows. It provides for electronic service as well as payment of statutory filing fees.

What E-filing *IS NOT*

As explicitly stated in the Electronic Filing Rules cited above:

"Electronic filing" does not include alternative methods of filing, such as electronic mail, facsimile, floppy disks, or other electronic methods.

An important distinction is that E-filing and emailing are not the same thing. Many courts throughout the state allow filers to submit documents by emailing them or faxing them to the court. The Montana statewide E-Filing system does not restrict or expand the ability of courts to set local rules regarding filing by e-mail and/or fax.

M.C.A. 25-1-201(1)(r) and 25-1-201(1)(d)(iii) do not apply to E-filing

M.C.A. 25-1-201 specifies fees that are to be collected by a clerk of district court.

- Subsection (1)(d)(iii) states: *for providing copies of papers on file in the clerk's office by facsimile, e-mail, or other electronic means in all criminal and civil proceedings, 25 cents per page;*
- Section (1)(r) states: *for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per page.*

According to the Legislative liaison of the Montana Association of the Clerks of District Court (Nancy Sweeney), these two new line items were created with the intention of establishing uniformity among courts when local rules allow for submitting filings via email and facsimile and/or for copies to be provided via email and facsimile. Prior to these subsection specifications, some courts were not charging, while others were charging variable amounts. These subsections were added to address the confusion created by this variety of charges.

Statewide E-filing is not filing by fax or e-mail and is therefore not subject to this statutory filing fee.

E-filers will have their own means to print copies of documents in court records for which they are parties or attorneys of parties, and will not be subject to a fee for copies they print from the E-filing system.

*The definition is part of the Electronic Filing Concept of Operations (and Rules) which has been approved by the E-Filing RFP Committee and the Commission on Technology. The Rule is established as a Proposed Temporary Rule.