

IN THE
SUPREME COURT OF ILLINOIS

In re: Electronic Access and Electronic Filing of
Court Records

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)
) M.R. 18368
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ORDER

Effective January 1, 2020, in furtherance of the Court's ultimate objective of a statewide online remote access system as explained in the Annotation to the May 30, 2017, Order *In re: Electronic Filing in Civil and Criminal Cases and Remote Access Systems* (M.R. 18368), IT IS HEREBY ORDERED:

1. The attached *Supreme Court of Illinois Remote Access Policy* ("the Policy") is hereby approved and supersedes the *Electronic Access Policy for Circuit Court Records of the Illinois Courts*. The Administrative Director of the Illinois Courts has authority to amend the Policy as is necessary and appropriate.
2. For the purpose of ensuring re:SearchIL is functioning in strict compliance with the Policy, a subset of Illinois licensed attorneys selected by the Illinois State Bar Association Standing Committee on Legal Technology shall perform preliminary testing after the effective date of this order and prior to expanding remote public access to all Illinois licensed attorneys and legal service providers defined as User Group 5 in the Policy. After this initial trial period, all User Group 5 members shall be allowed remote access to court information and documents in the six case types available for 'public' access. The Administrative Director of the Illinois Courts has authority to expand access to all User Group 5 members as deemed appropriate following this testing period.
3. Remote access by judicial partners and the public defined as User Group 3 in the Policy will be delayed pending the successful and satisfactory testing conducted by User Group 5, at which time expansion of remote access will be considered. The Administrative Director of the Illinois Courts has authority to expand access to user Group 3 when deemed appropriate. Nothing herein shall limit remote access by User Groups 1, 2 and 4 as defined in the Policy.
4. Any court in the State of Illinois whose case management system is currently integrated with re:SearchIL, shall make all written orders entered on or after the effective date of this order available to re:SearchIL. Upon integration, all other courts shall make all written orders entered after integration available to re:SearchIL. The Administrative Office of the Illinois Courts will provide technical assistance to courts in their efforts to meet this requirement.

Order Entered By the Court.

FILED

DEC 19 2019

**SUPREME COURT
CLERK**



ILLINOIS SUPREME COURT REMOTE ACCESS POLICY

Effective January 1, 2020

INTRODUCTION

Access to court documents is distinguished by method of access:

- a. Access to court documents at the Courthouse, whether in electronic or paper form, as allowed by court order, Court Rule, or Law.
- b. Remote Access to court documents through re:SearchIL or a local court document access system, provided the local system complies with this *Remote Access Policy* (hereinafter referred to as "*Policy*").

Access to court documents at the Courthouse is governed by court order, Court Rule or Law. This *Policy* does not change or affect that method of access.

This *Policy* applies only to Remote Access to court documents through re:SearchIL or a local court document Remote Access system.

GUIDING PRINCIPLES

The use of technology to promote efficiency, including electronic filing and document imaging, has made it possible for courts at all levels to offer the option of Remote Access to court documents. Concomitant with Remote Access, however, is a crucial fundamental awareness of the implications on privacy. This *Policy* applies to all levels of Illinois courts.

Since 2002, considerable efforts have been directed toward developing rules, policies, and technologies necessary to protect confidential and other sensitive information, but allow appropriate Remote Access to court documents. Research of policies, trends and best practices of other states revealed no singular national model or approach to Remote Access.

This *Policy* establishes an initial step toward Remote Access to court records, taking into account public policy interests not compatible with unrestricted access. The intention is to balance competing interests with recognition that unrestricted access to certain court records could result in unwarranted invasion of personal privacy and unduly increase the risk of irrevocable harm.

While the Supreme Court supports the presumption that some court records should be open to the public, there are sound reasons for restricting access to certain records. Working with the collective court community throughout the state, the court will proceed with a strategic and measured approach to the consideration of Remote Access to court records. As the process gradually evolves, and as the court evaluates the benefit of such access, the court may expand or limit Remote Access to documents, records, case types, or categories.

As such, this *Policy* establishes the following key principles for Remote Access to court documents in the circuit, appellate and supreme courts:

- Court documents are presumptively open to public access unless restricted by court order, Court Rule, Law or policy;

- The nature of the information contained in some court documents suggests that exclusion from Remote Access may be warranted, even though Public access at the Courthouse is allowed;
- The nature of the information contained in some court documents is such that Remote Access must be prohibited;
- Confidential Records as defined in this *Policy* are excluded from remote access; and
- Access policies should be clear and applicable to all levels of courts statewide.

Pursuant to the Supreme Court's May 30, 2017 Order, all courts shall make case information and documents filed through eFileIL available to the statewide Remote Access system known as re:SearchIL. Although courts may continue to utilize local court document Remote Access systems, local systems must apply the same principles and access rights as identified in this *Policy*; otherwise, the clerk shall terminate such local Remote Access systems.

This *Policy* is intended to be prospective and responsive to future enhancements in court technologies and related securities. Ongoing review may result in future modifications. Any future amendments or updates to this *Policy* must be incorporated into any local court document Remote Access system providing Remote Access within 30 days of the effective date of the change.

SECTION 1 – DEFINITIONS

Attorney of Record – An attorney, who has entered an appearance, currently represents a party to the case, and who is listed as the Attorney of Record in the Case Management System.

Bulk Distribution - A request for "bulk distribution" is defined as a request for all, or a significant subset, of the information or data maintained in electronic form, as is and without modification or compilation.

Case Management System (CMS) – Any software or other tool used by the court for automated recordkeeping of documents and associated data comprising the Official Court Record.

Compiled Court Documents or Records - Information or data derived from the selection, aggregation, or manipulation of court information from multiple court records, with specified common denominators including, but not limited to, statistical reports and information or data that is not available in an existing record or report.

Confidential Records – Expunged, impounded, sealed, or otherwise secured pursuant to Court Rule, Law, order, or policy. Confidential Records are excluded from Remote Access under this *Policy* and shall not be accessible through re:SearchIL or any other system providing Remote Access.

Court Rule - Any Rule of the Supreme Court of Illinois and any local rule or administrative order established as provided by Supreme Court Rules 21 or 22.

Courthouse – Any location where a court or clerk does business.

Electronic Court Record - Contains all documents and associated data maintained in the Court's Case Management System and not excluded under this *Policy*, by Court Rule, court order, or Law.

eFileIL – The statewide, centralized Electronic Filing Manager (EFM) which is required to be used for filing into all civil case types and may be used for filing into criminal and juvenile case types. Web URL: <http://efile.illinoiscourts.gov/>

Encryption – The process of encoding a message or information in such a way that only authorized users have access.

Judicial Partner – An entity that interacts with courts on legal matters or cases and is allowed access to court documents by approval of the clerk of the court or a judge.

Judiciary – Judicial access applies to any active justice on the Supreme Court or Appellate Court, and any circuit or associate judge in the Circuit Courts.

Law - Any federal or state statute passed by the U. S. Congress or the Illinois General Assembly.

Legal Services Provider - a not-for-profit corporation that (i) employs one or more attorneys who are licensed to practice law in the State of Illinois and who directly provide free civil legal services or (ii) is established for the purpose of providing free civil legal services by an organized panel of pro bono attorneys as provided in 735 ILCS 5/5-105.5.

Non-Public Documents – Documents accessible at the courthouse, but excluded from Remote Access to User Groups 3 and 5 pursuant to this *Policy*.

Official Court Record - The basic record as defined under Part 1, Section F of the *Manual on Recordkeeping*, Court Rule, or Law.

Party of Record – A person who has been designated formally as a person engaged in a suit or in an appeal.

Public-Facing Configuration Codes – Defines a uniform coding structure for use in all Illinois' courts which is displayed to filers identifying case category, case type, and document filing codes. The codes are cross-referenced to each court's case management system. Web URL Public-Facing Configuration Codes: <http://efile.illinoiscourts.gov/index.htm>

Public - Users who are neither members of the judiciary, attorneys of record, parties of record, clerks nor court employees requiring access in the performance of their official duties.

Remote Access - Access to documents within the Electronic Court Record through the use of technology other than the Court's CMS, from a location external to the Courthouse.

re:SearchIL – Remote Access system provided by the Illinois Supreme Court offering access to case information and documents made available via the Internet on a statewide level according to User Group as defined in this *Policy*. Web URL: <http://research.illinoiscourts.gov/>

User Group – A construct which determines access to documents pursuant to applicable rule,

statute, order, or as designated by the Illinois Supreme Court. Access is restricted to certain User Groups based on user role, jurisdiction, case type, or document type. See the *Remote Access Policy User Group Access Chart* for additional examples of user types.

Vendor - An entity which provides services to a court.

SECTION 2 – DATE OF APPLICATION

- a. Documents filed with the court after the effective date of this *Policy* shall be made remotely accessible through re:SearchIL and may be made remotely accessible through any other system providing Remote Access, consistent with this *Policy*.
- b. Nothing in this Section shall prohibit User Groups 1, 2 and 4, as defined in Section 3 of this *Policy*, from continuing to remotely access documents filed with the court before the effective date of this *Policy*.

SECTION 3 – USER GROUPS

- a. Access to court documents is determined by the User Group and applicable Court Rules, Laws, and policies. Access is restricted to certain User Groups based on user role, jurisdiction, case type, document type, due to the information contained within the Official Court Record, or for any other reason as determined by the court. Remote Access may be more restrictive than access at a Courthouse. Users, in their official capacity, who may need additional access beyond that which is granted to the User Role defined in this Policy may submit an application to the Presiding Judge of the reviewing court or Chief Circuit Judge requesting approval for additional access within that judge's jurisdiction.

- b. Access Levels:

User Group 1 - Judiciary

All case information, indexes and documents contained in the Official Court Record within the jurisdiction to which the judge is assigned.

User Group 2 - Attorney of Record or Party of Record

All case information and documents contained in the Official Court Record in which the attorney is the Attorney of Record or the party is the party of record.

User Group 3 –Judicial Partner or Public

Case information and documents contained in the Official Court Record not excluded under this Policy.

User Group 4 - Clerk and Court Employees Requiring Access in Performance of Official Duties

All case information and documents contained in the Official Court Record for any case within the jurisdiction in which the individual is employed as duly authorized by the court and/or Clerk of the Court.

User Group 5 – Illinois Licensed Attorney or Legal Services Provider

Case information and documents contained in the Official Court Record not excluded under this Policy.

<u>User Groups</u>	<u>Security Requirements</u>
User Group 1 – Judiciary	Registration and verification of user role
User Group 2 – Attorney of Record or Party of Record	Registration and verification of user role
User Group 3 – Judicial Partner or Public	Registration
User Group 4 – Clerk or Court Employees Requiring Access in Performance of Official Duties	Registration and verification of user role
User Group 5 – Illinois Licensed Attorney or Legal Services Provider	Registration and verification of user role

- c. All User Groups are authorized for remote access to records within the following case types as defined in the *Supreme Court's General Administrative Order on Recordkeeping in the Circuit Courts* and corresponding cases in counties of the Third Class and as defined by the Manual on Recordkeeping in the Circuit Court of Cook County:
 - 1. AR – Arbitration;
 - 2. ED – Eminent Domain;
 - 3. L – Law;
 - 4. LM – Law Magistrate;
 - 5. MC – Municipal Corporation; and
 - 6. TX – Tax.
- d. All User Groups are authorized for remote access to records in the courts of review, except records involving an appeal from a case type or item excluded from remote access under subsections e and f of this Section.
- e. The following case types as defined in the *Supreme Court's General Administrative Order on Recordkeeping in the Circuit Courts* and corresponding cases in counties of the Third Class and as defined by the Manual on Recordkeeping in the Circuit Court of Cook County are excluded from Remote Access by all User Groups:
 - 1. AD – Adoption;
 - 2. J – Juvenile;
 - 3. JA - Juvenile Abuse and Neglect;
 - 4. JD - Juvenile Delinquency; and
 - 5. MH - Mental Health.
- f. The following are excluded from Remote Access by User Groups 3 and 5:

1. Non-Public Documents in the following case types as defined in the *Supreme Court's General Administrative Order on Recordkeeping in the Circuit Courts* and corresponding cases in counties of the Third Class and as defined by the *Manual on Recordkeeping in the Circuit Court of Cook County*:
 - i. CC – Criminal Contempt;
 - ii. CH – Chancery;
 - iii. CL – Civil Law;
 - iv. CF - Criminal Felony;
 - v. CM – Criminal Misdemeanor
 - vi. CV - Conservation;
 - vii. D - Dissolution;
 - viii. DT - DUI
 - ix. F - Family;
 - x. MR - Miscellaneous Remedy;
 - xi. OP - Order of Protection;
 - xii. OV - Ordinance Violation;
 - xiii. P – Probate;
 - xiv. SC - Small Claim; and
 - xv. TR - Traffic cases.
2. Names, addresses, and telephone numbers of potential or sworn jurors;
3. Juror questionnaires or transcripts of voir dire of prospective jurors;
4. Original Wills deposited with the court;
5. All records on appeal filed in the courts of review pursuant to Supreme Court Rule 321;
6. Court reporting transcripts or electronic verbatim recordings used for transcript purposes;
7. Non-Public documents and case information in a court administrative case involving non-litigation matters; and
8. Non-Public documents and case information on the Supreme Court's Miscellaneous Record docket concerning attorney discipline and bar admission matters.
- g. All individuals and entities authorized under this *Policy* to have greater access than the general Public must protect records and information in accordance with applicable Court Rule, Law, or order. Any person or entity violating this *Policy* is subject to revocation of access rights and all other penalties authorized by Court Rule, Law, or policy.

SECTION 4 – SECURITY

Non-Public Records shall not be accessible by any User Group not authorized for access. Any system providing Remote Access to court documents must employ appropriate security and encryption measures to prevent disclosure to unauthorized users. Only Public Facing Configuration Codes identifying the Case Type, Case Category and Document Filing Codes approved by the Administrative Office of the Illinois Courts are authorized for display via any system providing remote access to documents.

Minimum Technical Requirements:

1. Encryption (as defined above) prevents the disclosure of information or documents to unauthorized users;
2. Hyperlinks must not include authentication credentials, such that this *Policy* can be circumvented via a hyperlink; as such, any returned access to a URL shall require that the user be verified;
3. To protect the integrity of the Official Court Record and a court's CMS, the Official Court Record in a Court's CMS shall not be directly accessible by the user; and
4. Any request for bulk distribution of case information and documents or request for compiled case information and documents shall be processed only if such request is allowed by the Court in the respective jurisdiction.

SECTION 5 – VERIFICATION REQUIREMENTS

Users other than Public and Judicial Partners require verification of identity and authentication before Remote Access will be granted.

SECTION 6 – REQUESTS FOR BULK DISTRIBUTION, COMPILED COURT DOCUMENTS OR RECORDS

Neither the court nor the clerk is required to grant a request for Bulk Distribution or Compiled Court Documents or Records. All requests for Bulk Distribution or Compiled Court Documents or Records must be in writing to the clerk of the court. A local rule or order is required to authorize any written request for Bulk Distribution or Compiled Court Documents or Records to an individual, agency, company, media entity, or organization. The request must comply with the requirements and limitations for Remote Access. Local rule or order shall direct the reasonable costs associated with the request for Bulk Distribution or Compiled Court Documents or Records. Prior to responding to a request for Bulk Distribution or Compiled Court Documents or Records, the requestor shall certify that the documents or records requested will not be used directly or indirectly to sell a product or services to an individual or the general public.

SECTION 7 – RECORDS NOT AVAILABLE BASED ON FORM

In the circuit courts, access to audiotape, videotape, microfilm, photographs, documents too large to be maintained in electronic form, or physical exhibits shall be available for public inspection during the office hours of the circuit clerk provided the access does not disclose information otherwise excluded from public access. Neither court nor the clerk is required to provide the means to access the contents of those materials if the means is not readily available.

SECTION 8– ARCHIVING

In order to accommodate Remote Access, records must be archived in a manner which protects the records from degradation, loss of content, or software compatibility problems.

SECTION 9 – USER AUTHORIZATION

Any governmental agency, vendor, business, or firm with personnel not included within the Public User Group and authorized to remotely access records, must immediately remove any personnel at such time as the individual is no longer associated with that governmental agency, vendor, business, or firm.

SECTION 10 – DOCUMENT MARKINGS

Documents made available via re:SearchIL shall include a marking indicating that re:SearchIL is the source of the document. For example, a watermark or footer on each page of a document will indicate "re:SearchIL" and identify the court providing access to the document. As a best practice, it is recommended that a local court's remote document access system include similar document markings to denote the source of the online documents.

SECTION 11 – REQUESTS FOR EXCEPTIONS TO PUBLIC REMOTE ACCESS

Requests to limit Public Remote Access to case information and documents are to be directed to the court that maintains the Official Court Record and shall be subject to Court Rule, order, policy, or statute.

SECTION 12 – DATA CONSOLIDATORS AND RE-SELLERS

Any document accessed remotely under this *Policy* shall not be given or sold to organizations or vendors which gather documents from public sources and subsequently resell such documents for profit. Third party vendors not conducting business directly with the court or clerk are prohibited from selling court documents for profit.

SECTION 13 – FEES

- a. Pursuant to Section 27.1b of the Clerk of Courts Act (705 ILCS 105/27.1b) and Supreme Court Rule 313, with the exception of the User Groups set forth in subsection b. below, for Remote Access to any case document through re:SearchIL, the fee is \$.10 per page with a maximum fee of \$3 per document.
- b. The following User Groups, are excluded from payment of fees:
 - Judiciary;
 - Party of Record (to that party's case(s) only);
 - Attorney of Record (to that attorney's case(s) only);
 - Legal Services Provider;
 - Judicial Partner;
 - Clerk; and
 - Court Employees requiring access in performance of official duties.
- c. Any remote document access system may develop and offer users optional value-added or subscription services for a fee.

Remote Access Policy User Group Access Chart

<u>Group #</u>	<u>User Group</u>	<u>User Type</u>	<u>Remote Access to Non-Public* Records</u>	<u>Remote Access to Public Records Statewide - Cost</u>
1	Judiciary	Supreme Court Justices	Statewide	Free
		Appellate Court Justices	Appellate District	Free
		Circuit Court Judges	Circuit	Free
		Associate Judges	Circuit	Free
		Judicial Assignment Outside Assigned Jurisdiction	Assigned Cases	Free
2	Attorney/Party of Record	Attorney of Record (including: a firm or group of attorneys/staff acting on behalf of that agency/office, such as State's Attorney, Public Defender, OSAD, SAAP, etc.)	Specific cases listing attorney "of record"	Free
		Party of Record	Specific cases for that party "of record"	Free
3	Judicial Partner/Public	State/Local Agency or Office (including but not limited to: HFS, DOC sheriff, Probation, etc.)	None	Free
		Public (includes: media, federal agency or office)	None	Fee Required
4	Clerk/Court Employees	Supreme Court Clerk	Statewide	Free
		Appellate Court Clerk	Appellate District	Free
		Circuit Court Clerk	County	Free
		Supreme Court Clerk Staff/Employees	Statewide	Free
		Appellate Court Clerk Staff/Employees	Appellate District	Free
		Circuit Court Clerk Staff/Employees	County	Free
		Court Reporter (state-paid)	County/Circuit	Free
		Judicial Employees (TCA, legal assistants, law clerks, etc.)	County/Circuit/District/State/Jurisdiction	Free
5	IL Licensed Attorney or Legal Services	IL Licensed Attorney (not attorney of record)	None	Fee Required
		Legal Services Provider	None	Free

*Non-Public Records are defined in the *Illinois Supreme Court Remote Access Policy*