

**Circuit Court Electronic Filing Rules  
as amended effective July 1, 2021**

**s. 801.18 Electronic filing.**

**(1) DEFINITIONS.** In this section:

- (a)** "Clerk of court" or "clerk" means the official circuit court recordkeeper for the case in question, which may be the clerk of circuit court, juvenile clerk, or register in probate for that county.
- (b)** "Converted" means that all documents in a paper case file have been imaged by the clerk of court and the case file is available to accept filings via the electronic filing system.
- (c)** "Director" means the director of state courts.
- (d)** "Document" means a pleading, notice of appeal, petition, writ, form, notice, motion, order, affidavit, exhibit, brief, judgment, opinion, writ of execution, or other filing in an action or proceeding.
- (e)** "Electronic filing system" means an Internet-accessible system established by the director for the purpose of filing documents in a circuit court, automatically integrating them into the court case management system, and electronically serving them on the parties.
- (f)** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the document. To be considered electronically signed, a document must be submitted by or on behalf of a user through the electronic filing system. An electronic signature shall state "Electronically signed by" followed by the name of the signatory, and shall be placed where the person's signature would otherwise appear. "Electronic signature" includes only those signature technologies specifically approved by the director.
- (g)** "Filing agent" means a person authorized under s. 799.06 (2) to appear on behalf of another.
- (h)** "High-volume filing agent" means a person authorized under s. 799.06 (2) who appears on behalf of an entity filing 10 or more actions per calendar year in the county where the action is being filed.
- (i)** "Imaged document" means an electronic copy of a document originally created or submitted on paper.
- (j)** "Initiating document" means a summons and complaint, petition, application, citation, criminal complaint, notice of appeal, or any other document filed to commence a court action or proceeding.
- (k)** "Mandatory user" means a user who is subject to sub. (3) (a).
- (kg)** "Notice of activity" means a notice sent by the electronic filing system to alert the parties that there has been a new user, filing, or activity on the case.
- (km)** "Opt in" means to agree to receive electronic service and file electronic documents on a particular case, after first registering for access to the electronic filing system.

- (kr)** "Opt out" means to cease participation as a voluntary user or to indicate withdrawal from the case as an attorney.
- (L)** "Paper party" means a party who is not subject to sub. (3) (a) who chooses not to participate in the electronic filing system as described in sub. (3) (c).
- (Lm)** "Registration" means entering into an agreement to access the electronic filing system prior to filing documents under sub. (3) (d) or s. 809.801 (3) (d).
- (m)** "Traditional methods" means those methods of filing and serving documents, other than electronic filing, provided under statutes and local rules.
- (mm)** "Transmit" means to send or transfer documents and records from one court to another and may be completed by making the documents and records electronically available to the other court.
- (n)** "User" means an individual who has registered to use the electronic filing system. Users of the electronic filing system shall be individuals, not law firms, agencies, corporations, or other groups.
- (o)** "Voluntary user" means a party who is not subject to sub. (3) (a) who voluntarily registers to use the electronic filing system under sub. (3) (b).

#### **Comment, 2021**

The definitions of sub. (1) now incorporate language consistent with the adoption of appellate eFiling and use current electronic filing terminology.

- (2)** EFFECTIVE DATE; APPLICABILITY.
  - (a)** The director shall implement an electronic filing system for the Wisconsin circuit courts. The requirements of this section shall govern the electronic filing of documents in all types of actions and proceedings in circuit court.
  - (b)** Mandatory use of the electronic filing system shall be phased in according to a schedule set by the director until the system has been fully implemented.
  - (c)** Mandatory users shall be required to use the electronic filing system for all new filings covered by the schedule. Electronic filing shall be required for all new actions brought in circuit court and for all new documents submitted in previously filed cases, except as otherwise provided in this section.
  - (e)** Electronic filing is limited to methods specifically approved by the director. The director may enter into an agreement with any state agency to allow electronic filing through a custom data exchange between the court case management system and the agency's automated information system. Parties using a custom data exchange are considered mandatory users and are subject to the requirements of this section.
  - (f)** The procedures in this section shall be interpreted in a manner consistent with existing procedures. This section is not intended to limit the director's approval of new technologies that accomplish the same functions.
  - (g)** All judicial officers, the clerk of court, and all court staff shall cooperate and assist with the implementation of electronic filing.
  - (h)** This section does not apply to documents required by law to be filed with court officials that are not filed in an action before the court. These documents may be filed by traditional methods unless otherwise required by the director of state courts.

- (i) This section does not apply to filing of documents or transcripts with the court of appeals or supreme court.
- (k) The procedures under this section are intended to be consistent with the procedures governing electronic filing and service in the appellate courts under s. 809.801. The circuit and appellate court electronic filing and service rules shall be interpreted consistently to the extent practicable.

**Comment, 2021**

Sub. (2) (k) is also included in the appellate eFiling rule, s. 809.801 (2) (k), to support consistent interpretation of the two rules.

**Comment, 2016**

Sub. (2) provides that the mandatory use of electronic filing will be implemented according to a schedule determined by the director of state courts. The director will designate the order and timing of implementation after evaluating the resources available for programming, the readiness of the persons affected, and the logistical support available for implementation. The director may advance or delay implementation of certain case types, may require or exempt participation by certain filers, and may require other conditions as necessary. The director will set the schedule after consultation with the steering committee that oversees the work of the consolidated court automation programs.

All open cases will be converted to an electronic format. Mandatory electronic filing will apply both to new cases and to new documents filed in old cases. This will allow both the court and the parties to more quickly reap the benefits of all-electronic files rather than persist for years with both paper and electronic court records.

Conversion to electronic files is an enormous change for parties, attorneys, and the court system. Good-faith efforts and cooperation will promote a smooth transition to the new system.

**(3) REGISTRATION REQUIREMENTS.**

- (a) The following individuals shall register for access to the electronic filing system prior to filing documents in circuit court:
  - 1. Licensed Wisconsin attorneys.
  - 2. Attorneys appearing under [SCR 10.03 \(4\)](#).
  - 3. High-volume filing agents.
- (b) Parties who are not subject to par. (a) may voluntarily register to use the electronic filing system.
- (c) Except as otherwise provided by law, a party not subject to par. (a) who does not choose to participate in the electronic filing system under par. (b) shall file, serve, and receive paper documents by traditional methods.

- (d) All users shall register through the electronic filing system by executing a user agreement governing the system's terms of use. To register, users must have the capability to produce, file, and receive electronic documents meeting the technical requirements of the electronic filing system. The electronic filing system shall make information on the technical requirements for filing readily available. By registering, users agree to electronically file all documents to the extent the electronic filing system can accept them. Users shall promptly provide notice through the electronic filing system of any change in the information provided for registration.
- (e) Upon completion of a properly executed user agreement under par. (d), the electronic filing system shall provide the user with a confidential, secure authentication procedure for access to the electronic filing system. This authentication procedure shall be used only by that user and by any agents or employees that the user authorizes. The same authentication procedure shall be used for all cases on which the user is an attorney or a party. The electronic filing system may reset authentication procedures as needed for administrative and security purposes. Upon learning that the confidentiality of the authentication procedure has been inadvertently or improperly disclosed, the user shall immediately report that fact through the electronic filing system.
- (f) After registering to use the electronic filing system, a user shall also opt in as an attorney or party on any case in which the user intends to participate. Users shall promptly opt in or out on each case upon beginning or ending appearance as an attorney or as a party. Filing agents appearing under s. 801.18 (3) (a) or (b) shall promptly opt in or out upon any change in the identity of a filing agent. Mandatory users who do not opt in on a case will not receive notices of activity or service of documents.
- (g) Attorneys appearing under SCR 10.03 (4) shall register following court approval of a motion to appear *pro hac vice*.
- (i) Voluntary users who wish to opt out of a particular case shall notify the electronic filing system or the clerk of court. The electronic filing system shall indicate that traditional methods must be used for this party for future filings and service.
- (j) The electronic filing system may provide a method for filing documents by individuals who are not parties to the case. It may also provide a method for professionals and agencies associated with the case to receive information and file reports.

#### **Comment, 2021**

Sub. (3) (a) mandates that three types of filers participate in the electronic filing system. An exception for attorneys representing themselves was previously included in this rule at the request of a single attorney who theorized that electronic filing might be difficult for an attorney not in private practice. Experience has shown that electronic filing is straightforward to use, with minimal technical impediments and expense, so this exception is deleted.

#### **Comment, 2016**

Sub. (3)(a) distinguishes between non-attorney filers for purposes of mandatory participation in the electronic filing system. Under s. 799.06(2), certain employees, agents, and LLC members may be authorized to file on behalf

of an organization in small claims proceedings. This group of persons includes both high-volume filers like utility companies and hospitals and low-volume filers like small businesses and individual landlords. This section requires the high-volume filers to use the electronic filing system and allows small filers to participate voluntarily like self-represented parties.

Sub. (3)(j) recognizes that there are persons who occasionally file documents in cases where they are not parties, such as witnesses seeking protective orders, intervenors, amicus curiae, and crime victims under ch. 950. There are also many professionals and agencies regularly providing case-related services to the court, such as presentence investigators and social workers. To the extent that it is feasible and resources allow, the director may provide a means for filing documents and exchange of information in these situations.

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

- (a)** The electronic filing system is an agent of the circuit courts for purposes of filing, receipt, service, and retrieval of electronic documents. The electronic filing system shall receive electronic filings 24 hours per day except when undergoing maintenance or repair.
- (am)** A document is considered filed on a particular day if the submission is completed by 11:59 p.m. central time, as recorded by the electronic filing system, so long as it is subsequently accepted by the clerk of court upon review. Documents filed after 11:59 p.m. are considered filed the next day the clerk's office is open. The expanded availability of time to file shall not affect the calculation of time under other statutes, rules, and court orders. The electronic filing system shall issue a confirmation that submission to the electronic filing system is complete.
- (b)** When a document is submitted by a user to the electronic filing system, the electronic filing system shall transmit it to the appropriate clerk of court in the county where the case is filed.
- (c)** If the clerk of court accepts a document for filing, it shall be considered filed with the court at the date and time of the original submission, as recorded by the electronic filing system. The electronic filing system shall issue a notice of activity to serve as proof of filing. When personal service is not required, the notice of activity shall constitute proof of service on the other users in the case.
- (cm)** If the clerk rejects the document, the user shall receive notification of the rejection. The user may be required to resubmit the document.
- (f)** The clerk of the circuit court may not refuse to accept a notice of appeal for failure to pay the appellate court filing fee required by s. 809.25 (2) (a) or the transmittal fee required by s. 814.61 (9).

**Comment, 2021**

Sub. (4) (f) adds a provision codifying *Douglas v. Dewey*, 147 Wis. 2d 328, 338, 433 N.W.2d 243 (1989) and *Rome v. Betz*, 120 Wis.2d 528, 355 N.W.2d 844 (Ct. App. 1984), holding that payment of the appellate filing fee and circuit court transmittal fee are not prerequisites to filing a notice of appeal.

### Comment, 2016

Sub. (4)(c) provides that where personal service is not required, submission of a document to the electronic filing system is considered service on the other electronic users. Just as service through the post office is considered complete upon dropping a properly addressed envelope into a mailbox, service using the electronic filing system is complete upon properly transmitting the document.

Sub. (4)(e) is a change to law and practice. Currently, paper filings must arrive at the office of the clerk of court before the end of the regular business day in order to be considered filed on that day. *Northern Air Services v. Link*, 2011 WI 75, 336 Wis. 2d 1, 804 N.W.2d 458. However, the most common if not universal practice among courts that mandate electronic filing is to use the entire calendar day as the filing period; this is also the practice recommended to the Wisconsin courts by the National Center for State Courts. This provision gives a user an extra few hours to file on the last day a document is due but does not otherwise affect the calculation of time. If a user files a document or the court signs an order on a day when the clerk's office is closed, it is considered filed on the next day the clerk's office is open, except as provided by other statutes and rules, or by court order.

For consistency, the circuit court fax statute, s. 801.16 (2)(f), is also amended. For a document that can be filed by facsimile, paper parties are given the advantage of the extended filing hours by providing that pleadings received before midnight will be considered filed that day.

#### **(5) COMMENCEMENT OF ACTION OR PROCEEDING; FILING OF INITIATING DOCUMENTS.**

- (a)** A user seeking to initiate an action shall first register with the electronic filing system as provided in sub. (3). The user shall then file an initiating document in the county where the action is to be commenced and provide the additional information requested by the electronic filing system to open a case.
- (b)** If a filing fee is required, the clerk of court may reject the document unless it has been submitted as provided in sub. (7) (b). At the written or oral request of the filer, the clerk of court may reject the document for filings made in error, if the request is made before the clerk of court has accepted the document.
- (c)** 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 sub. (10). The case shall then be available through the electronic filing system. If the clerk of court rejects an initiating document, the filer shall be notified of the rejection.
- (d)** Initiating documents shall be served by traditional methods unless the responding party has consented in writing 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 with instructions for how to use the electronic filing system.
- (e)** A mandatory user who represents a responding party shall register to use the electronic filing system as provided under this section. After registering to use the electronic filing

system, the user shall also register as a user on the particular case. The electronic filing system will note the new user on the case.

**Comment, 2016**

Sub. (5) does not change the substantive law about when personal service is required for purposes of commencing the action and obtaining jurisdiction over the defendant or respondent.

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

- (a)** The electronic filing system shall generate a notice of activity to the other users in the case when documents other than initiating documents are filed. Users shall access filed documents through the electronic filing system. For documents that do not require personal service, the notice of activity is valid and effective service on the other users and shall have the same effect as traditional service of a paper document, except as provided in par. (b).
- (b)** If a document requires personal service, it shall be served by traditional methods unless the responding party has consented in writing to accept electronic service or service by some other method.
- (c)** Paper parties shall be served by traditional methods. The electronic case record shall indicate which parties are to be served electronically and which are to be served by traditional methods.
- (d)** Paper parties shall file documents with the court by traditional methods. The clerk of court shall image the documents and enter the imaged documents into the electronic filing system promptly. The notice of activity generated by the entry shall constitute service on the users in the case. Paper parties shall serve other paper parties by traditional methods.
- (e)** An electronic notification that cannot be successfully delivered shall be returned to the clerk of court. If the clerk cannot contact the user to update the information, the user shall be treated as a paper party until the party corrects the problem.
- (f)**
  - 3.** For all cases that were in closed status prior to the time electronic filing was mandated, no action is required until there is a subsequent filing or the court initiates further activity on the case, subject to all of the following:
    - a.** A mandatory user who wishes to file on a closed case shall opt in on the case and shall serve any paper parties by traditional methods. Any mandatory user so served shall promptly opt in on the case or shall notify the court that the user is no longer appearing on behalf of the party.
    - b.** A voluntary user who wishes to file electronically on a closed case shall opt in on the case and shall serve any paper parties by traditional methods. Any mandatory user so served shall promptly opt in on the case or shall notify the court that the user is no longer appearing on behalf of the party.
    - c.** Service on a party who might be a voluntary user shall include a notice stating that the case has been converted to electronic filing and giving instructions for how to use the electronic filing system if the party chooses to do so.

### **Comment, 2016**

Sub. (6)(a) provides that the electronic filing system now serves as the means of delivery between users for subsequent documents, the kind that were previously served by mail or delivery. Paper parties will continue to be served by traditional methods for both initiating and subsequent documents.

Sub. (6)(f) outlines how mandatory electronic filing will be initiated on previously filed cases. For cases that are in open status at the time electronic filing becomes mandatory, the clerk will work with attorneys and high-volume filing agents to register as users on their open cases. Parties who might be voluntary users will be provided with instructions on how to participate in the electronic filing system if they choose.

For cases that are in closed status, no action is required unless there is further activity on the case. Where post-judgment activity takes place, the first party to initiate electronic activity in the case must serve any unregistered parties by traditional methods. Mandatory users must then register as users on the case.

### **(7) PAYMENT OF FEES.**

- (a)** Users shall make payments due to the clerk of court through the electronic filing system unless otherwise ordered by the court or unless arrangements are made with the clerk of court. The electronic filing system shall deposit the fees due to the clerk of court in the clerk's account.
- (b)** A document that requires payment of a fee is not considered filed until the fee is paid, a waiver of the fee is granted, or other arrangements for payment are made. The user may submit a petition or motion for waiver of costs and fees, including the electronic filing fee, under ss. [814.29 \(1\) or \(1m\)](#), using a form provided by the court for that purpose. If a document is submitted with a petition or motion for waiver, it shall be considered filed with the court on the date and time of the original submission if the waiver is subsequently granted by the court or other arrangements for payment are made.
- (c)** Users shall be charged a fee for use of the electronic filing system, as provided under s. [758.19 \(4m\)](#) and established by the director of state courts. The fee is a recoverable cost under ss. [799.25 \(13\)](#) and [814.04 \(2\)](#). The electronic filing fee shall not be charged to Wisconsin state or local government units.

### **Comment , 2016**

Sub. (7)(a) provides that filing fees shall be paid through the electronic filing system unless other arrangements are made. Payment of fines and forfeitures may be handled through separate websites. Other fees and deposits, such as guardian ad litem fees and condemnation awards, may be paid by other methods if ordered by the court or agreed to by the clerk of court. Attorneys should consult the Rules of Professional Conduct with respect to the restrictions on electronic transactions from trust accounts.



Sub. (7)(b) provides that the electronic filing fee may be waived for indigent parties and their attorneys, using the same procedure and criteria that courts apply to waiver of other costs and fees. If the court denies the waiver, the court may allow a window of time to submit the fee for the filing to be considered filed on the date when it was first submitted.

Sub. (7)(c) provides that the electronic filing fee will not be charged to a Wisconsin governmental unit such as the district attorney, public defender and appointed counsel, court-appointed counsel, child support agency, Attorney General, or county and municipal attorney.

**(8) FORMAT AND CONTENT OF FILINGS.**

- (a)** The director shall make information about the technical requirements of the electronic filing system readily available to the public. Users are responsible for keeping up with these requirements and providing the necessary equipment, software, communication technology, and staff training.
- (b)** Users shall provide any case management information needed to file documents. The electronic filing system shall reject a document for failure to include information in any one of the mandatory fields identified by the system.
- (c)** Users shall format the appearance of all electronically filed documents in accordance with statutes and local rules governing formatting of paper documents, including page limits.
- (d)** The electronic filing system may set limits on the length or number of documents. Leave of court may be granted for traditional filing and service in appropriate cases. If a document cannot be electronically filed due to the size limitations of the system, the user shall contact the clerk of court for assistance.

**Comment, 2016**

Sub. (8)(a) recognizes that the electronic filing system will become more sophisticated and user-friendly over time. Users should expect a number of changes during the initial years of electronic filing. Information about upcoming changes and any new requirements for equipment, software, formatting, connectivity, security, and staff training will be made available to the public.

**(9) OFFICIAL RECORD.**

- (a)** Electronically filed documents have the same force and effect as documents filed by traditional methods. The electronic version constitutes the official record. No paper copy of an electronically filed document shall be sent to the court.
- (b)** The duties of the clerk of court under ss. [59.40](#), [851.72](#), and [851.73](#), and all other statutes, court rules, and procedures may be fulfilled through proper management of electronic documents as provided in this section. The requirements of statutes and rules that refer to paper copies, originals, mailing, and other traditional methods may be satisfied by transmission of documents through the electronic filing system.
- (c)** Subject to the schedule set by the director in sub. (2) (b), the clerk of court shall maintain the official court record only in electronic format for all cases commenced after that

date. Documents filed by traditional methods shall be electronically imaged and made part of the official record. The clerk of court may discard the paper copy pursuant to [SCR 72.03 \(3\)](#). Any official court record containing electronically filed documents must meet the operational standards set by [SCR 72.05](#) for electronic records.

- (d)** If a document is filed in a case in closed status, the clerk of court shall file the document electronically and convert that case to electronic format within a reasonable time. If conversion of the case would be unusually burdensome, the clerk of court may maintain the record in paper format with the permission of the court.
- (e)** The clerk of court shall make the public portions of the electronic record available for viewing at the clerk of court's office. The clerk of court shall make nonpublic portions of the electronic record available for viewing by authorized persons.
- (f)** The clerk of court may provide either paper or electronic copies of pages from the court record. The clerk of court shall charge the per-page fee set by ss. [814.61 \(10\)](#) and [814.66 \(1\) \(h\)](#) for electronic court records.
- (g)** Certified copies of an electronic record may be obtained from the clerk of court's office by traditional methods, as provided by s. [889.08](#). The electronic system may also make available a process for electronic certification of the court record. The seal of the court may be applied electronically. No use of colored ink or an impressed seal is required.
- (h)** Except as provided in par. **(i)**, parties filing by traditional methods shall file a copy of any document and not the original paper document. The court may require the submitting party to produce the original paper document if authenticity of document is challenged. If the court inspects the original paper document, it shall be retained as an exhibit as provided in [SCR 72.03 \(4\)](#).
- (i)** Notwithstanding the other provisions of this section, a will deposited for safekeeping under s. [853.09](#) may not be electronically filed. The original paper will shall be deposited with the court.
- (j)** Notwithstanding the other provisions of this section, a person submitting a will to the court under s. [856.05](#) shall file the original paper will in the proper court. The register in probate shall image the will and create an electronic case file. The register in probate shall maintain the paper copy of a will in a separate file for the time period provided by [SCR chapter 72](#).
- (k)** Documents may be submitted during a court proceeding by traditional methods. Documents submitted in court shall be imaged and the imaged copy entered into the court record by the clerk of court.
- (l)** For documentary exhibits, parties shall submit a copy of the exhibit and not the original. The clerk of court shall image each documentary exhibit and enter the imaged document into the court record. Copies of documentary exhibits so imaged may be discarded as provided in [SCR 72.03 \(3\)](#). If inspection of the original document is necessary to the court proceeding, the court may order that the original document be produced. Any original document so produced shall be retained as an exhibit as provided in [SCR 72.03 \(4\)](#).
- (m)** An administrative agency submitting a record for judicial review in compliance with s. [227.55](#) shall image the administrative record and submit the imaged copy electronically using a method provided by the electronic filing system. The electronic

record shall be the official record in the circuit court. If inspection of an original document is necessary to the court proceeding, the court may order that the original document be produced.

#### **Comment, 2016**

Sub. (9) provides that court case files must be kept electronically. Mandatory users are required to file all documents electronically, with only a few exceptions. Documents submitted by paper parties will be converted to electronic format by the clerk of court. Because any paper submitted will be discarded after it is imaged, parties should not submit original documents to the court.

Similarly, this section does not require the parties to retain original paper documents. If there is likely to be a challenge to the validity of a document or exhibit, parties may be well-advised to keep the original document. For a high-volume practice, the economics may not support keeping paper originals when the remainder of the file is electronic, and parties may prefer to assume the risk of failure of proof.

Sub. (9)(k) allows most documents submitted in court as exhibits to be imaged and made part of the electronic record, rather than retained in paper format. If the court requires that the original document be produced for inspection, it will be retained pursuant to the supreme court rule governing imaging of exhibits.

Sub. (9)(L) requires an agency submitting an administrative record for review to file an electronic copy of the record.

- (10) AUTHENTICATION.** Electronic placement of the court filing stamp and the 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 case management system by the clerk of court or from the electronic filing system by the user.

#### **Comment, 2016**

Sub. (10) provides that electronic authentication satisfies the authentication requirements of Wisconsin Statutes, including ss. 801.02, 801.09(4), and 909.02(8). Statutory authentication requirements must be met upon filing of the summons and complaint in order to confer jurisdiction on the court. *American Family Mut. Ins. Co. v. Royal Ins. Co.*, 167 Wis. 2d 524, 534, 481 N.W.2d 629 (1992).

The purpose of authentication is to give assurance by the clerk of court that copies served are true copies of filed documents and to provide the case number for future reference. *J.M.S. v. Benson*, 91 Wis. 2d 526, 532, 283 N.W.2d 465 (Ct. App. 1979), *rev'd on other grounds*, 98 Wis. 2d 406 (1980). The security and verifiability provided by the electronic filing system satisfy the purposes of the authentication requirements under statutes and case law.

**(11) NOTARIZATION AND OATHS.**

- (a)** Notaries public who hold valid appointments under ch. 140 may issue certificates of notarial acts for electronically filed documents as provided in this section.
- (b)** Court officials authorized by law to perform notarial acts may do so by application of their electronic signatures provided through the electronic filing system.
- (c)** Unless specifically required by statute or court rule, electronically filed documents are not required to be notarized.
- (d)** Documents notarized by traditional methods may be filed through the electronic filing system if a handwritten signature and physical seal appear on the original document. The user shall submit an imaged copy of the notarized document to the electronic filing system, and the court shall maintain the imaged copy as the official court record. The court may require the submitting party to produce the original paper document if the authenticity of the notarization is in question.
- (e)** An electronically filed complaint under ch. 799 may be verified by applying the electronic signature of the plaintiff or the plaintiff's attorney to a written oath attesting that the facts of the complaint are true, without swearing to the oath in front of a notarial officer.
- (f)** The director, in his or her discretion, may approve the use of an electronic notary technology compatible with the existing electronic filing system.

**Comment, 2016**

Sub. (11)(e) makes a change to the law governing small claims complaints by eliminating the need for an electronically filed small claims complaint to be verified in front of a notary. Instead, it may be verified by applying the electronic signature of the plaintiff or the plaintiff's attorney to a written oath or affidavit attesting to the facts of the complaint. This change has been made to encourage the use of electronic filing by self-represented parties. The identification procedures and personal accountability provided by this section satisfy the purposes of traditional oath and notarization procedures.

**(12) SIGNATURES OF USERS.**

- (a)** To be considered electronically signed, a document must be submitted by or on behalf of a user through the electronic filing system. A document requiring the signature of a user shall bear either an electronic signature or a handwritten signature applied to a document before it is imaged. An electronic signature shall state "Electronically signed by" followed by the name of the signatory, and shall be placed where the person's signature would otherwise appear. Either form of signature shall be treated as the user's personal original signature for all purposes under the statutes and court rules.
- (b)** A summons and complaint, petition, or other initiating document that is signed in compliance with par. (a) bears a sufficient signature under s. 802.05.
- (c)** Each electronically filed document shall bear that person's name, mailing address, electronic mail address, telephone number, and state bar number if applicable. Users shall notify the electronic filing system of any change in this information, consistent with sub. (3) (d).

- (d) An attorney may delegate the authority to submit documents to the electronic filing system to a person under the attorney's supervision. Any document requiring the attorney's signature is deemed to have been signed by the attorney if submitted to the electronic filing system and signed as provided in par. (a). Every attorney is responsible for all documents so submitted.
- (e) Every attorney is responsible for electronically filed documents to the same extent as for paper filings. Attorneys using the electronic filing system are subject to sanctions under s. 802.05 and contempt procedures under ch. 785, and are subject to discipline for a violation of any duty to the court under the supreme court rules.
- (f) Self-represented parties and filing agents under s. 799.06 are responsible for electronically filed documents to the same extent as for paper filings. Self-represented parties and filing agents using the electronic filing system are subject to sanctions under s. 802.05 and contempt procedures under ch. 785.
- (g) Users may submit documents without electronic signatures in the following situations:
  1. A joint petition in an action for divorce or legal separation may be electronically filed if it bears the handwritten signature of one party and the electronic signature of the other or the handwritten signatures of both parties.
  2. A stipulation will be considered signed by multiple persons if it bears the handwritten signatures of all signatories or if it bears the printed name of each signatory and contains a representation by the filing party that the filing party has consulted with the signatories and all have agreed to sign the document. This paragraph does not apply to the signature requirements of s. 809.107 (2) (bm) 6., (5) (a), or (6) (f), where a signature is required from the appellant or petitioner, other than the state, on whose behalf the document is filed.
  3. The court may agree to accept a document with the handwritten signature of a user and direct that it be made part of the electronic record by the clerk of court.
- (h) For paper parties, every document requiring a signature shall be signed using a handwritten signature. If a document requiring a signature is filed by traditional methods, the filing party shall file a copy of that document and not the original paper document, as provided under sub. (9).
- (i) Documents containing handwritten signatures of third parties, such as affidavits, may be filed through the electronic filing system if a handwritten signature appears on the original document. The user shall submit an imaged copy of the signed document to the electronic filing system, and the court shall maintain the imaged document as the official court record. The court may require the submitting party to produce the original paper document if validity of the signature is challenged.
- (j) The director, in his or her discretion, may approve the use of other signature technologies to the extent that they work with the existing electronic filing system.

#### **Comment, 2021**

Sub. (12) (a) tightens the definition of signature used by the current circuit court rule to provide a consistent signature format. Traditional handwritten signatures may also be used. Either form of signature provides the level of accountability to client and court called for by these rules.

### Comment, 2016

Sub. (12)(a) and (d) represent a change to the 2008 electronic filing statute and to current law and practice. Since 2008, electronic filing in Wisconsin has used two processes to identify the lawyer or self-represented party who signs a document: a username and password combination, which allows users into the system, and a personal identification number (PIN), which acts as the signature and is applied personally by the attorney or self-represented party. Application of a separate PIN signature is an extra step compared to other states and the federal courts, where the username and password are sufficient.

The 2008 eFiling committee chose to impose this extra step because of Wisconsin case law regarding improperly signed pleadings. Appellate decisions have reasoned that the statutes require that attorneys personally sign a summons and complaint to confer jurisdiction on the court. The personal signature requirement exists to assure that the pleadings are well-grounded in law and fact, as an “essential protection” against an invalid claim, and to prevent the unauthorized practice of law. See *Schaefer v. Riegelman*, 2002 WI 18, 250 Wis. 2d 494, 512-13, 639 N.W.2d 715; *Jadair, Inc. v. U.S. Fire Insurance Co.*, 209 Wis. 2d 187, 211-12, 785 N.W.2d 698 (1997).

The new statute supersedes this line of cases and provides that any document submitted through the electronic filing system is considered signed by the individual who holds the account. The statutes and rules in other electronic filing jurisdictions provide that attorneys and self-represented parties are responsible for everything submitted from their accounts.

Compliance with this section is intended to satisfy the signature requirements of ss. 801.09(3) and 802.05(1), as well as all other statutes and rules relating to court documents. For users of the electronic filing system, the identification procedures, security, and personal accountability provided by this section are deemed to satisfy the purposes of a handwritten signature and all other signature requirements. The courts and the Office of Lawyer Regulation have a range of sanctions and disciplinary measures that will serve as an adequate deterrent to any abuse of electronic signatures.

#### **(13) SIGNATURES OF COURT OFFICIALS.**

- (a)** If the signature of a court official is required on a document, an electronic signature applied through the court case management system may be used. The electronic signature shall be treated as the court official's personal original signature for all purposes under Wisconsin statutes and court rules. Where a handwritten signature would be located on a particular order, form, letter, or other document, the official's printed name shall be inserted.
- (b)** The electronic signature of a court official shall be used only by the official to whom it is assigned and by such delegates as the official may authorize. The court official is responsible for any use of his or her electronic signature by an authorized delegate.
- (c)** A court official may delegate the use of his or her electronic signature to an authorized staff member pursuant to the security procedures of the court case management

system. Upon learning that the confidentiality of the electronic signature has been inadvertently or improperly disclosed, the court official shall immediately report that fact to the consolidated court automation programs. Court officials shall safeguard the security of their electronic signatures and exercise care in delegation.

**Comment, 2016**

Sub. (13) provides electronic signatures for those court officials whose duties require them to sign documents in circuit court case files, including circuit court judges, clerks of circuit court, registers in probate, juvenile clerks, and circuit court commissioners appointed under s. 757.68 and SCR 75.02 (1).

Under this section, court officials may allow an authorized staff member to apply the official's electronic signature at the official's specific direction. Each court official remains responsible for approving the document before the electronic signature is applied, and should be held accountable as if the document were signed personally. The electronic signature shall be applied in accordance with the provisions of SCR 70.42.

**(14) CONFIDENTIAL INFORMATION.**

- (a)** The confidentiality of an electronic record 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)** Parties shall comply with the requirements of ss. 801.19 to 801.21 regarding redaction of protected information, identification of confidential material, and sealing of filed documents.
- (c)** 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.
- (d)** If a user seeks court approval to seal a document, the user may electronically file the document under temporary seal pending court approval of the user's motion to seal.
- (e)** If the clerk notes that a document has been identified as confidential or sealed, the electronic filing system shall place a visible mark on the document to identify it as confidential or sealed.

**Comment, 2016**

Sub. (14) provides that the electronic filing system shall protect those case types and individual documents made confidential by law or sealed by court order. The electronic filing system will provide user security measures to allow access only to authorized persons.

S. 801.19 requires that all persons filing documents with the circuit court must review and redact certain protected information about individuals, such as

personal identifiers and financial account numbers. S. 801.20 – 801.21 require the filing party to identify any materials deemed confidential by law and to submit a motion to seal if a court order is required. These statutes are intended to work in concert with the electronic filing statute so that all electronic documents are free of protected information. The electronic filing system will mark confidential documents in a way that will be visible electronically and when the documents are printed.

**(15) TRANSCRIPTS.**

- (a)** The original transcript of any proceeding produced under [SCR 71.04](#) shall be electronically filed with the circuit court in accordance with procedures established by the director. This rule does not alter the requirements governing timelines, format or costs established by [s. 814.69](#), [SCR 71.04](#), or any other statutes, rules, and procedures.
- (b)** The electronic filing system shall note that the transcript has been prepared and filed with the court. Upon receiving payment or making arrangements for payment, the court reporter shall indicate which users may have access to the electronic transcript. Access to an electronic copy of the transcript through the electronic filing system shall serve as a duplicate copy under [s. 757.57 \(5\)](#) and [SCR 71.04 \(6\)](#). Upon the request of a user who is entitled to view the transcript, a single paper copy of the transcript shall be provided without additional charge. No user shall be granted access to view the transcript unless the court reporter has notified the system or the court has so ordered.
- (c)** The court reporter shall notify any paper parties by traditional methods that the transcript has been prepared. The court reporter shall serve a paper copy of the transcript by traditional methods on any paper party who has made arrangements for payment or who is entitled to be served with a copy. A court reporter may by agreement make the transcript available in another format.
- (d)** When notice to the clerk of the supreme court and court of appeals is required, the court reporter shall provide notice as provided in [s. 809.801 \(15\) \(d\)](#).
- (e)** A transcript when filed under this section becomes a part of the court file. The transcript shall be made available to the public in accordance with the statutes and rules governing court records and any court orders.
- (f)** Under [SCR 71.04 \(10\) \(b\)](#), a court reporter may certify that the transcript is a verbatim transcript of the proceedings by applying the court reporter's signature in the same manner as provided in [sub. \(12\) \(a\)](#) and then electronically filing the transcript.
- (g)** A court reporter shall electronically file with the circuit court any sentencing transcript prepared under [s. 973.08 \(2\)](#). Payment shall be made as provided by [SCR 71.04 \(5\)](#) and [s. 973.08 \(2\)](#). The electronic filing system may provide a method to electronically transmit the transcript to the Department of Corrections as provided in [s. 973.08 \(5\)](#).
- (h)** A court reporter shall electronically file an original unredacted transcript with the circuit court. Parties shall comply with the requirements of [ss. 801.19 \(4\)](#) and [801.21 \(8\)](#), regarding redaction and sealing of protected information in the transcript. If redaction is ordered, a court reporter shall electronically file a complete copy of the redacted transcript as provided in [s. 801.19 \(4\)](#).



- (i) A court reporter's verbatim record that is required to be stored under SCR 71.03, SCR 72.01 (47), and Rule of Trial Court Administration 7 shall continue to be stored in its original medium.

**Comment, 2016**

Sub. (15) provides that transcripts of court proceedings shall be filed and incorporated into the circuit court record electronically. The director's office will provide access for court reporters to electronically file transcripts and serve them on the parties who are registered users. The director will provide access for court reporters to view the electronic court record while preparing the transcript, including confidential information.

This section is not intended to change the arrangements for payment made between court reporters and parties. Users will receive service of the transcript via the electronic filing system and will be able to view it electronically when the court reporter notifies the system that payment has been arranged. Upon request, the court reporter will provide a single paper copy to each user who is entitled to view the transcript; otherwise paper copies for users are not required. Paper parties will continue to receive notices and transcripts on paper. Voluntary arrangements may be made to provide the transcript in other formats.

This section is not intended to change any requirements applicable to proceedings before the supreme court and court of appeals.

**(16) 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 may make a finding of fact that the user attempted to file the document with the court in a timely manner by submitting it to the electronic filing system. The court may enter an order permitting the document to be deemed filed or served on the date and time the user first attempted to submit the document electronically or may grant other relief as appropriate.
  2. If the failure is not caused by the court electronic filing system, the court may grant appropriate relief from non-jurisdictional deadlines upon satisfactory proof of the cause. Users are responsible for timely filing of electronic documents to the same extent as filing of paper documents.
- (b) A motion for relief due to technical failure shall be made on the next day the office of the clerk of court is open. The document that the user attempted to file shall be filed separately and any fees due shall be paid at that time.
- (c) This subsection shall be liberally applied to avoid prejudice to any person using the electronic filing system in good faith.

**Comment, 2016**

Sub. (16) addresses technical failures of the court's electronic filing system and the user's electronic systems. Court technical failures may include a failure

to process the document upon receipt or erroneous exclusion of a user from the service list by the electronic filing system. User technical failures may include problems with the user's internet service provider, payment, office equipment or software, or loss of electrical power.

This section provides guidance for courts dealing with the rare, but probably inevitable, circumstance of the electronic filing system not being available or not functioning as intended. Where the user can demonstrate that the problem was caused by the court's electronic filing system, the circuit court may make a finding of fact that the document is deemed filed or served on the date and time that filing was attempted. The electronic filing system will generate a report for the user to document the problem.

Where the failure is caused by the user's own electronic systems or by external forces, the court should consider what consequences would follow a missed deadline for traditional filings caused by similar forces. Relief may be provided to the extent provided by s. 801.15 and other applicable statutes, court rules, and case law. Where the technical failure was not caused by the court electronic filing system, this section does not provide for relief from jurisdictional deadlines.

Regardless of the cause, the user shall submit a motion for relief on the next business day, along with the document to be filed and any filing fee.

**Other 2021 changes to circuit court procedure related to electronic filing:**

- a) For requests for substitution of judge, the requesting party does not have to mail a separate copy of the request directly to the judge. Wis. Stat. 48.29(1), 801.58(1), 938.29 (1).
- b) Paper copies of divorce judgments need not be provided to the clerk of circuit court for mailing to the parties. Wis. Stat. 767.36.
- c) For requests to serve small claims summons and complaints by mail, the parties need not provide paper service copies to the clerk of circuit court. Wis. Stat. 799.12(3).
- d) Further clarification is added that the circuit court eFiling fee can be assessed as a cost. Wis. Stat. 814.04(2).