

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 06-0377

IN THE MATTER OF)	PETITION TO AMEND
ADOPTING RULES FOR)	AND EXTEND
PUBLIC ACCESS AND)	IMPLEMENTATION DEADLINE
PRIVACY TO COURT)	
RECORDS IN MONTANA)	

Come now the Chairs of the Taskforce charged by the Montana Supreme Court with developing and proposing Rules for Public Access and Privacy to Court Records (Rules) in Montana. The Court approved the Rules February 13th, 2007, following a Comment period that received seven comments.

Section 8.30 of the Rules concerns the obligation of the Court to inform and educate judges and court personnel about the Access Rules. Taskforce members have spent considerable time since February presenting and explaining the Rules to clerks of court, magistrates, district court judges

and attorneys. In addition, a video was prepared and distributed to emphasize the importance of the Montana Constitution's provisions for public access and privacy.

During this educational effort we have become aware of awkward wording in Section 4.5(c) that we believe has confused many people. We request that the Court change the wording of the first line of that section to read:

Unless required to be made public, the following information is not available without leave of the court:

Our intent was never to override current statutory requirements. We believe this minor change will assist in the general understanding of the rules and their implementation.

The recent educational efforts have given us a genuine concern that the Courts are not yet ready to implement the Rules. There is particular difficulty in applying Section 4.5's restrictions for Social Security numbers, full birthdates, financial account numbers, and minors' full names. Although frequently not required by statute, and thus restricted under the new Rules, there are dozens of current court forms that require this data.

We are requesting that the court delay implementation of the Rules until July 1, 2008. We would like a sixty-day comment period for courts and

attorneys to tell us which specific forms and processes will have to be amended to comply with Section 4.5(c). The Taskforce will use the following four months to respond to those specific concerns, modify forms, and develop procedures and advice for courts, clerks, and practitioners.

THEREFORE,

The Taskforce on Public Access and Privacy to Court Records in Montana requests the Court to:

1. Amend Section 4.5(c) to read:
Unless required to be made public, the following information is not available without leave of the court:
2. Extend the implementation deadline for the Rules from December 31, 2007 to July 1, 2008, with a sixty day comment period running from January 1 to February 28 to allow comments on implementation difficulties with Section 4.5(c).

Dated this 11th day of December, 2007.

(Signature)

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