

Regarding Implementation of Public Act 101-0255

AOIC Responses:

- 1) During the period of time that the file is kept confidential, can a party to the case have access to it in order to review the file and or get a copy of it? If so, how?

AOIC: For Orders of Protection and Stalking No Contact cases, the case will be marked sealed until the first emergency order is entered and served. For Civil No Contact cases, the case will be marked sealed until the first (non-emergency) order is entered and served. These different processes are necessary because of the placement of the additional language in the Civil No Contact section. I will also note Firearm Restraining Orders were not included in the Act at all, even though they follow similar processes and are filed under the OP case category.

- 2) Do parties need a picture ID in order to access a file? If so, how do undocumented parties gain access to a file?

AOIC: Sealed cases are not available to any person, except the court and clerk. Therefore, no parties or requests for access will be granted, regardless of identity, unless a court has entered an order allowing access to the requestor. Once the indicated order has been served on the defendant, the case will become public record and would be available for access to any person requesting it.

- 3) Can an attorney access a file in order to review it prior to filing his/her appearance?

AOIC: Sealed cases are not available to any person, except the court and clerk. Therefore, no parties or requests for access will be granted, regardless of identity, unless a court has entered an order allowing access to the requestor. Once the indicated order (depending on the type of case) has been served on the defendant, the case will become public record and would be available for access to any person requesting it. A person's access rights to a case does not prohibit them from filing into that case, either through eFileIL or manually, as long as they can identify the case number in which they wish to file an appearance.

- 4) What if another public agency, like the Office of the Public Guardian, wants to review an OP file since it may be relevant to issues that come up in child abuse and neglect cases. Could one of their attorneys or staff get access to the file prior to service of summons?

AOIC: Sealed cases are not available to any person, except the court and clerk. Therefore, no parties or requests for access will be granted, regardless of identity, unless a court has entered an order allowing access to the requestor. Once the indicated order (depending on the type of case) has been served on the defendant, the case will become public record and would be available for access to any person requesting it. A person's access rights to a case does not prohibit them from filing into that case, either through eFileIL or manually, as long as they can identify the case number in which they wish to file a pleading requesting access.

- 5) What if the Respondent is short-form served? Will there be a delay in getting that type of service noted by the Clerk's Office so that the file can be unsealed?

AOIC: Notification of "Short-form Service" to the clerk will not satisfy the service requirements in that the specifics of the Order entered by the judge must still be served on the Defendant. If a person receives short-form service, clerks should direct the requestor to the Sheriff to obtain official service. Upon the Sheriff returning the Summons to the clerk, the case would no longer be sealed.

- 6) If the Petitioner files an OP pro se, and then an attorney agrees to represent the petitioner prior to service of summons on the Respondent, can the Petitioner's attorney paper-file his/her appearance? (this question presumes that the attorney cannot e-file the appearance during the period of time that the file is confidential);

AOIC: A person's access rights to a case does not prohibit them from filing into that case, either through eFileIL or manually, as long as they can identify the case number in which they wish to file an appearance. In addition, paper filings are also authorized under Supreme Court Rule 9.

- 7) Similarly, if the Respondent is willing to waive service of summons, can his attorney paper-file an appearance? Right now, attorneys cannot paper-file appearances in the Circuit Court of Cook County.

AOIC: A person's access rights to a case does not prohibit them from filing into that case, either through eFileIL or manually, as long as they can identify the case number in which they wish to file an appearance. In addition, paper filings are also authorized under Supreme Court Rule 9.

- 8) Is your office opposed to delaying the effective date of the law until July 1, 2020 so that many of these issues can be sorted out?

AOIC: I have no opposition to delaying the effective date allowing for additional time to ensure processes can be developed to accommodate the security settings.