

**DRAFT TERMS AND CONDITIONS OF MANATEE CLERK**  
**ELECTRONIC ACCESS PILOT**

**I. PROJECT GOALS:** The pilot should achieve the following goals:

1. **The pilot will establish a finite set of records that clerks would maintain confidential/private in court records and produce information and data relevant to the ability of clerks to identify these records.**
2. **The pilot will produce information and data regarding personnel training programs employed by the clerk regarding identification and protection of confidential/private court records.**
3. **The pilot will produce information and data documenting the human processes and technology systems employed by the clerk to identify and protect confidential/private court records.**
4. **The pilot will produce information and data regarding the use of redaction technology to identify and remove confidential/private information located in otherwise public court records.**
5. **The pilot will produce information and data to educate the public and court system participants regarding private information in court records.**
6. **The pilot will produce a model for establishing levels of electronic access for judges, attorneys, parties, government users, subscribers and the general public; through both secure and public web access.**
7. **The pilot will produce information and data regarding other aspects of electronic access such as geographic information about court records users, public comment on the benefits or problems encountered accessing court records electronically and the costs and savings associated with electronic access.**

*NOTE: The Pilot will not be a static project; it is meant to change with advances in technology and as new rules are promulgated by the Supreme Court or its Committees.*

**II. CRITERIA FOR MANATEE PILOT:** Electronic access will be permitted during the pilot based on implementation of the following criteria

- 1 **Court Records required to be maintained confidential/private from public access by the clerk.**
  - a. The clerk will maintain the confidential/private essence of court records that fall within the list of records adopted by the committee and commission, draft of which is attached as Exhibit 1. The clerk will conduct compliance testing to ensure confidential court records are assigned the correct security.
  - b. Records made confidential by any other statutory provision not contained on the list would be made confidential by party motion and court order following the procedures set forth in the 12<sup>th</sup> Judicial Circuit Order 2006-10.2, attached as Exhibit 2. The clerk will maintain a record of all motions and orders to seal court records not protected by the clerk in Exhibit 1.
- 2 **Training.**
  - a. Clerk personnel who handle, file, store, retrieve court records or who facilitate the electronic access to court records will receive training on procedures to determine and protect confidential/private court records, proper records classification and docketing, redaction of personal information, levels of permitted access by different users of court records and assisting with educating the public on protecting private information.

**3. Record Protection Processes.**

- a. The clerk will document and employ human and technology processes to identify and protect confidential/private court records, including how staff examine, identify and protect confidential records and the technological process used to identify and assign security to confidential court records.

**4. Redaction.**

- a. The clerk will apply redaction software technology to court records accessed by the public. Redaction software will be used to identify and remove social security numbers, bank account numbers, debit, credit and charge card numbers from the record accessed by the public.
- b. The clerk will conduct quality assurance testing to determine the effectiveness of the software.
- c. The committee recommends that the Supreme Court enter an administrative order permitting the Chief Judge of the 12<sup>th</sup> Judicial Circuit to enter an administrative order similar to the one attached as Exhibit3 that would require parties to examine the court records they intend to file with the clerk and redact and identify private information such as but not limited to social security numbers, bank account, debit, credit and charge card numbers, then place that information on a separate Personal Information Reference Sheet.

**5. Public Education.**

The clerk will establish and implement a public education program aimed at educating the public, parties, attorney, the courts and other system users about: 1. Which records are confidential/private or public in court records, including confidential case types, confidential documents and confidential/private information contained within otherwise public court records, 2. The responsibilities of the clerk and filers in identifying and protecting confidential court records, 3. The processes forms and procedures for identifying and protecting confidential court records.

**6. Establishing Levels of Access for users of electronic court records.**

The clerk's electronic access system will provide access to users based on levels of access as described below in accordance with the matrix of users and court records attached as Exhibit 4.

**7. Progress dockets.**

The clerk will provide progress docket and search capabilities from data existing within its case management system to include: case name, case number, party name, address, race, gender, date of birth, attorney names and addresses, judicial division, case status and disposition, lists of all documents filed, lists of all court events, clerk actions, and in criminal cases all charges arrest and offense dates and the arresting agency.

**8. Accessibility.**

The clerk will examine the different technologies available to design or modify electronic access systems to accommodate persons with disabilities.

**9. Cost considerations.**

The clerk will plan and implement a cost analysis of electronic access analyzing the personnel, software and hardware costs, including cost offsets for the reduction of personnel and other costs associated with having to access paper files.

**10. Anecdotal information regarding the benefits and problems encountered with electronic access.**

The clerk will solicit and document all commentary from various users regarding the benefits and problems encountered with electronic access including but not limited to information solicited through questionnaires and log on requirements on the internet site.

**III. REPORTING REQUIREMENTS** The Manatee Clerk will provide the committee with the following data and information during the pilot. All reports shall be bi-monthly.

**1. Court Records required to be maintained confidential from public access by the clerk.**

- a. The clerk will report the results of all compliance testing to ensure confidential court records are assigned the correct security. The report will contain the results of random sampling of records to determine whether court records contained in Exhibit 1 are protected from public access.
- b. The clerk will report all motions and orders to protect all other court records not listed in Exhibit 1.
- c. The clerk shall report all incidents of the inadvertent release of court records listed in Exhibit 1.

**2. Processes to identify and protect confidential court records.**

The clerk will document its training program; provide its training materials to the committee and a record of staff who received training.

**3. Court Record Protection Processes.**

- a. The clerk will provide documentation of the human processes of reviewing court records for confidential/private information, proper identification and processes for handling public access requests.
- b. The clerk will document technology systems and processes for all hardware and software providing electronic access, including security measures to prevent outside attacks, protection of original electronic records, assignment of levels of access and methods to access electronic records.

**4. Redaction.**

- a. The clerk will document the redaction software processes, the number of records processed, the number of redactions performed.
- b. The clerk will report the results of quality assurance testing.
- c. The clerk will report the number of filings of the Personal Information Reference Sheet.

**5. Public Education.**

The clerk will document and provide the committee with all the methods used for public education, including all educational materials.

**6. Establishing Levels of Access for users of electronic court records.**

- a. The clerk will document each level of user, including documentation of the methods and processes for granting access and the numbers and identities of persons and entities subscribing to electronic access.
- b. The clerk will perform and document compliance testing regarding correct assignment of levels of access by users.
- c. The clerk will perform and document compliance testing regarding correct access to court records based on level of user.
- d. The clerk will also report all incidents of unauthorized access.
- e. The clerk will document the types of records accessed and the geographic locations of subscribers accessing records.
- f. During the Pilot the Clerk will request name, location and usage information each log-in from users who are not subscribers with the Clerk before allowing public access. (See public internet access under phase two below)

**7. Progress Dockets.**

The Clerk will report all public comment regarding search and display of progress docket information.

**8. Accessibility.**

The clerk will report the result of its examination of the different technologies available to design or modify electronic access systems to accommodate persons with disabilities and all changes made to its systems to utilize such technologies.

**9. Cost Considerations.**

The clerk will report the results of the cost analysis in terms of the above criteria.

**10. Anecdotal information regarding the benefits and problems encountered with electronic access.**

The clerk will report all commentary received from various users regarding the benefits and problems encountered with electronic access.

**IV. PILOT IMPLEMENTATION TIME FRAME AND PLAN:** Access for Phase One will begin May 1, 2007. Access for Phase Two will begin November 1, 2007 and continue for six months. (**NOTE: both phases can be done as one if so desired**). Access will be based on the criteria set forth above, through levels of access set forth below.

**1. PHASE ONE: Levels of Access:** Electronic Access to court records will be provided through several levels of access. No fees will be charged for users, however, depending on the final structure and processes adopted by the Court for electronic access, fees may be assessed to the extent they offset the cost of providing services.

**Level 1. Judges, Clerks and authorized governmental entities** will be provided in-house system access. Government access use in this category provides direct access to limited aspects of the clerk's case management system. Government users include the judicial assistants, court counsel, court administrators, state attorney, public defender, probation department and sheriff's office.

**Level 2. Attorney of Record access** (as currently permitted by AOSC04-4) through password-protected secure login by subscription agreement, which will provide access to:

- a. Indexes and dockets for all cases not sealed or expunged where the attorney is of record in a case.
- b. Images to all court records, including confidential/private information not sealed or expunged, where the attorney is of record in a case. As to cases where the attorney is not of record, access would also be identical to public access granted through subscriber level access with the limitations set out for that category in Level 4 below.

**Level 3. Party access** (as currently permitted by AOSC04-4) based on a per-case basis through written notarized request or face-to-face request with identification. Access will be by password-protected secure login, which provides the party with access to:

- a. Indexes and dockets of all cases not sealed or expunged where the person or entity is a party and has been assigned an access password.
- b. Images to all court records, including confidential/private information not sealed or expunged, except court records that contain the identity of victims of sexual abuse and all confidential addresses which will be redacted prior to providing party access. During the initial phase, party access will not be provided to some case types such as mental health and criminal cases as set forth in Exhibit 5.

**Level 4. Subscriber access** through password-protected secure login by subscription agreement. This access is the public and government user access. The only difference regarding what can be accessed, as a public subscriber from attorney of record or party access, is that subscribers would not be provided access to confidential/private case-types, confidential documents or confidential information redacted from documents. Access is provided to:

- a. Indexes and dockets of all case types that are not confidential, sealed or expunged.
- b. Images to all court records that are not confidential, sealed or expunged, except documents categorized as available on request. Social Security and bank, debit and credit card numbers will be redacted from all images.
- c. Documents categorized as available on request will be provided based on individual requests for records and additional human inspection.
- d. Governmental entity subscribers will have additional access to records that are confidential to the public provided there is specific statutory authority for the entity to access the record.

**Level 5. Public access in the clerk's office** (as currently permitted by AOSC04-4) using clerk-supplied terminals will access:

- a. Indexes and dockets of all case types that are not confidential, sealed or expunged.
- b. Images to all court records that are not confidential, sealed or expunged, except documents categorized as available on request. Social Security and bank, debit and credit card numbers will be redacted from all images.
- c. Documents categorized as available on request will be provided based on individual requests for records and additional human inspection.

**Level 6. Public Internet access** (as currently permitted by AOSC04-4):

- a. Indexes and dockets of all case types that are not confidential/private, sealed or expunged.

**2. PHASE TWO: Levels of Access:** Electronic Access to court records will be provided through several levels of access.

**Levels 1-5.** Access as provided in Phase One.

**Level 6. Public Internet access to:**

- a. Indexes and dockets of all case types that are not confidential/private, sealed or expunged.
- b. Images to all court records that are not confidential, sealed or expunged, except documents categorized as available on request. Social Security and bank, debit and credit card numbers will be redacted from all images.
- c. Documents categorized as available on request will be provided based on individual requests for records and additional human inspection.
- d. Public Internet users will be able to view case indexes and dockets directly from the Internet. To view image of court records, public Internet users will have to respond to a brief survey providing limited identifying geographic, as well as, usage data. Software and hardware technology security measures will be deployed to prevent automated mass-downloading of court documents. Any user can also apply for subscriber access in accordance with level 4 above. In compliance with F.S. Sec. 28.2221, Public Internet users will not access any images of cases governed by the Florida Rules of Family Law and Probate Rules. No access to any Juvenile actions or records will be provided.
- e. The clerk will block access to all images of court records where the court has seated a jury until such time as a verdict has been rendered.