FILED
September 13 2011
Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 11-0360

IN RE UNIFORM CASELOAD FILING)
) O R D E R
STANDARDS FOR DISTRICT COURTS)

In June of 2011, we published and invited comments on proposed revisions to the Uniform Caseload Filing Standards for Montana district courts, as submitted to us by the District Court Council. Comments were received, and the Court has considered those comments. We have adopted some, but not all, of the suggestions made in the comments.

IT IS NOW ORDERED that the attached revised Uniform Caseload Filing Standards for the district courts of Montana are adopted as of this date, with an effective date of November 1, 2011.

The Clerk is directed to provide copies of this order and the attached Uniform Caseload Filing Standards to each member of the District Court Council, the Executive Director of the State Bar of Montana, Montana Legislative Services, and to the State Law Library for posting on the Court's website.

DATED this 13th day of September, 2011.

/S/ MIKE McGRATH
/S/ MICHAEL E WHEAT
/S/ PATRICIA COTTER
/S/ JAMES C. NELSON
/S/ BETH BAKER
/S/ JIM RICE

Montana Judicial Branch
District Court
Uniform Caseload Filing Standards
Effective November 1, 2011

BACKGROUND

In 2006, the Supreme Court adopted a set of Uniform Case Filing Standards for the District Courts. The standards were developed and endorsed by the District Court Council. Since that time, the standards have been implemented in all 56 District Courts. In preparation for the implementation of a set of court case management tools, the District Court Council is recommending changes to the standards. If approved, the changes would apply to any case filed or reopened on or after January 1, 2006.

These procedures are intended **solely** for purposes of record-keeping within the office of the Clerk of Court.

The standards continue to address procedures for the following key events relative to the maintenance of the court record in the office of the Clerk of Court: (1) OPENING of the case file; (2) CLOSING of the case file; (3) REOPENING of the case file; (4) designation of the case file as INACTIVE; and (5) other procedures based on a specific case type.

The following paragraphs provide a summary of the key changes proposed.

SUMMARY OF PROPOSED CHANGES

- Four new case status designations are proposed:
  - **SET FOR REVIEW** for cases that are periodically reviewed by the court, e.g., annual accounting reports by a conservator or personal representative.
  - **SUSPENDED** for cases that cannot proceed due to temporary circumstances outside the control of the court, e.g., the filing of a writ of supervisory control or bankruptcy stay.
  - **PENDING** for criminal cases where an information has been filed and a summons or arrest warrant has been issued, but the defendant has not appeared on the charges.
  - **ACTIVE** for criminal and juvenile cases upon arraignment or appearance of the defendant/youth, thereby, making a clear distinction between a criminal or juvenile case that is OPEN, i.e., case initiating documents have been filed with the court and a summons or arrest warrant has been issued but the defendant has not yet appeared.

Appropriate uses for each status are noted within each case type.

- In the juvenile case filing standard, sealing language has been added to the narrative of a case for juvenile records.

- A standard record keeping procedure for cases ON APPEAL to the Supreme Court is recommended for all case types. The original standard did not include instructions for Guardianship/Conservatorship, Juvenile, Probate, Paternity, or Commitment case types.

- A standard record keeping process for placing cases in an INACTIVE status is proposed for all case types. Currently, a case without activity for a specific amount of time may be placed in an INACTIVE status. Case research reveals that a high percentage of cases that could be placed in an INACTIVE status have actually been closed or dismissed by the court in a timely fashion. The change proposed would present a list of aged cases to the Judge for review and case status determination.

- To improve readability the standards are reformatted using bulleted lists for major events.

- Additional examples of how to apply the standards are included in the case narrative.

Please note that terms such as "order," "judgment," "petition," et al are used generically in many places throughout the document.

I - CRIMINAL (DC)

A criminal case file shall be OPENED upon the filing of an initial criminal pleading. A separate case file shall be OPENED and case number assigned for each named defendant, inclusive of all criminal charges relating to the same event or events. Multiple charges involving the same criminal defendant and relating to the same incident or event shall be filed as separate counts under the same case number. If a summons or arrest warrant is issued in the case or a petition to revoke is filed, the cases shall be OPENED but placed in a PENDING status until arraignment or appearance of the defendant. The case shall be set to ACTIVE upon the arraignment or appearance of the defendant.

A case is SUSPENDED:

- Upon issuance of an arrest or bench warrant if the defendant has been arraigned previously on the charges.
- Upon issuance of a writ staying the proceedings.
- Upon temporary transfer of the case to another court of jurisdiction.

A case is REOPENED:

- Upon the appearance of the defendant in court following the service of an arrest, bench warrant or summons in the instant matter if previously arraigned on the charges.[1]
- If following an agreement for deferred prosecution and prior to the issuance of final judgment in a case, a motion filed by any party or the arrest of the defendant in the instant matter.
- Upon the appearance of the defendant in the court following the filing of a petition to revoke and/or any post-judgment pleading. [2]
- Upon remand to the District Court.

A case is CLOSED or RECLOSED:

- Upon judgment or order of dismissal or denial of original criminal pleadings.
- Upon sentencing, judgment or order.
- Upon the filing of a court-approved agreement to defer prosecution of all charges.
- Upon post-judgment and sentencing court order.
- Upon the date a case is permanently moved to another court of jurisdiction.

INACTIVE: If no action has been taken on a case for a period of 2 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

[1] If the defendant has not been arraigned the case should be set to an ACTIVE status rather than REOPENED.
[2] If the defendant has not appeared on the revocation, the case should be REOPENED and set to PENDING.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

II - Civil[3] (DV)

There will be one filing and case number assigned for each initial complaint or petition filed with the court. A case shall be OPENED upon the filing of an initial complaint, petition, or foreign judgment.

A case is SUSPENDED:

- When no proof of service, court order or responsive pleading is filed within 90 days of issuance of the summons.
- Bankruptcy proceedings are pursued in the federal bankruptcy system.
- The party in the case temporarily moves the case to another court of jurisdiction (e.g., petition for disqualification, or writ).

A case is REOPENED:

- Upon the filing of post-judgment motions or remand to the District Court.

A case is CLOSED or RECLOSED:

- Upon the issuance by the court of a final judgment or order or on the date a case is permanently moved to another jurisdiction.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

[3] It should be noted that this document provides for the maintenance and tracking of court records collectively for *all* other civil matters in the offices of the District Court Clerk of Court. This category includes petitions for writ of habeas corpus and petitions for post conviction relief. In evaluating the workload and determining the need for court resources based on caseload, it may be important to break this category down further to distinguish civil case types based on their level of complexity and the correlating workload.

III - ADOPTIONS (DA)

An adoption case will be OPENED and a case number assigned upon the filing of a petition for adoption. Each prospective adoptee will be assigned a separate case number. Where a petitioner seeks to simultaneously adopt more than one sibling of the same natural parents, each adoptee will be assigned a separate case number, but the same judge will preside over all such adoptions.

A case is SUSPENDED:

- When no proof of service, court order or responsive pleading is filed within 90 days of the case being opened.
- The case is temporarily moved to another court of jurisdiction (e.g., motion for disqualification, writ of supervisory control).

A case is REOPENED:

- Upon the filing of a post-decree pleading or application.
- Upon remand to the District Court.

A case is CLOSED OR RECLOSED:

- Upon the issuance of a decree of adoption.
- Upon an order of dismissal.
- Upon permanent removal of the case to another jurisdiction.
- Upon a post-decree court order.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

IV - Guardian/Conservator (DG)

There will be one filing for each protected person with a case file OPENED and case number assigned upon the filing of a petition for appointment of guardian or conservator. There will be one filing and case number assigned for each initial petition filed with the court. A new guardianship or conservatorship (following termination of a prior guardianship or conservatorship) filed involving the same protected person shall be filed and a new case number assigned. In the event that a petition seeks guardianship of more than one protected person, a separate case number shall be assigned to each protected person, but the same judge will preside over all guardianship proceedings.

A case is SUSPENDED:

- When no proof of service, court order or responsive pleading is filed within 90 days of the case being opened.
- When the case is temporarily moved to another court of jurisdiction (e.g., motion for disqualification, writ of supervisory control).

A case is REOPENED:

- Upon remand to the District Court, or filing of any pleading subsequent to a final order except an annual accounting.

A case is CLOSED OR RECLOSED:

- Upon an order appointing a permanent guardian and/or conservator. If there is a requirement for annual review of accounting by the court the case should be CLOSED and placed in a SET FOR REVIEW status.
- Upon a court-ordered or statutory requirement ending an order appointing a temporary guardian and/or conservator. By statute, temporary orders may not exceed six months (72-5-224, MCA and 72-5-317, MCA).
- Upon an order waiving the requirement to provide an annual accounting.
- Upon termination of the guardianship/conservatorship.
- Upon an order of dismissal.
- Upon permanent removal of the case to another court of jurisdiction.

A case is SET FOR REVIEW:

- When the case has closed but annual review of accounting is required.

INACTIVE: If no action has been taken on a case in an open or reopen status for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an inactive status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

V- JUVENILE (DJ)

A case is OPENED upon the filing of an initiating document, a detention hearing order or upon the receipt of a transfer order from a court of limited jurisdiction. A separate case file shall be established and a case number assigned to the youth. The case shall be set to ACTIVE when the juvenile or juvenile's counsel appear in Youth Court. A consent adjustment pursuant to 41-5-1302, MCA is an informal proceeding and does not open a case in Youth Court. A revocation of probation shall REOPEN the same file number.

A case is SUSPENDED:

- Upon the issuance of a writ of supervisory control or some other action occurs that temporarily moves the case to another court of jurisdiction.

A case is REOPENED:

- Upon the filing of a petition for revocation or a post-judgment pleading relating to the same matter.
- Upon remand to the District Court.

A case is CLOSED OR RECLOSED:

- Upon the filing of a consent decree.
- Upon a final order.
- Upon a period of inactivity of 30 days following a detention order/hearing.

Detention Hearings that do not result in a petition for a Delinquent Youth or Youth in Need of Intervention are Informal Youth Court records and are to be closed and sealed upon a period of inactivity of 30 days following the detention order/hearing.

Adjudications as a Delinquent Youth and Youth in Need of Intervention are formal Youth Court records and the case file will be sealed on the youth's 18th birthday. In those cases when jurisdiction of the court is extended beyond the youth's 18th birthday or the youth did not fulfill all requirements of the court's judgment or disposition, the records must be sealed upon termination of the extended jurisdiction or compliance with the court order.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

VI – Child Abuse and Neglect (DN)

A case is OPENED upon the filing of a petition or complaint. A separate case file shall be OPENED and case number assigned for each child.[4] The case files for each child, if filed simultaneously, shall be presided over before the same District Court judge but shall not be consolidated under the same case number.

A case is SUSPENDED:

- Upon issuance of a writ of supervisory control or when the case is temporarily moved to another court of jurisdiction.

A case is REOPENED:

- Upon the filing of a new petition.
- Upon the filing of a petition for review of permanency plan.
- Upon remand to the District Court.

A case is CLOSED or RECLOSED:

- Upon dismissal of the petition.
- Upon entry of an adoption decree or court order appointing a surrogate parent.
- Upon a court order following a permanency hearing. If further reports to the court are required the case shall be closed and placed in a SET FOR REVIEW status.
- Upon permanent removal of the case to another jurisdiction.

A case is SET FOR REVIEW:

- Upon a court order following a permanency hearing when further reports to the court are required.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

[4] Many children have different putative fathers and the information included in the same files is protected from dissemination to some of the parties in the same case. The purpose behind this rule is to protect the confidential information related to one child from an individual who may be related to a stepbrother or a stepsister, but not related to the child in question.

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

VII - PROBATE (DP)

There shall be one case filing per decedent. The case shall be OPENED upon the filing of an application or petition to establish probate or a petition for appointment of a special administrator. A case shall be CLOSED upon entering of a decree of distribution or a sworn closing statement of the personal representative or upon permanent removal of the case to another jurisdiction. A petition filed to reopen an estate will REOPEN the original case.

A case is REOPENED:

- Upon the filing of a petition to reopen an estate.

A case is CLOSED OR RECLOSED:

- Upon the entering of a decree of distribution or a sworn closing statement of a personal representative.
- Upon permanent removal of the case to another jurisdiction.

INACTIVE: If no action has been taken on a case for a period of 2 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

VIII - DOMESTIC RELATIONS (DR)

A domestic relations filing shall include orders of protection, restraining orders, parenting plans**,** visitation, child support, dissolution of marriage, invalidity of marriage, and any subsequent modifications to the above. For purposes of clarification, this classification does not include paternity actions. The case file shall be OPENED upon the filing of an application or petition or upon the filing of a foreign judgment. An application or petition brought by a party not named in the original petition shall initiate a new case file and case number.

A case is SUSPENDED:

- When no proof of service, court order or responsive pleading is filed within 90 days of the case being opened or reopened.
- When the case is temporarily moved to another court of jurisdiction (e.g., motion for disqualification, issuance of writ of supervisory control).

A case is REOPENED:

- Upon the filing of any post-judgment motion or other pleading.
- Upon remand to the District Court.

A case is CLOSED OR RECLOSED:

- Upon the issuance of a final decree or final order.
- Upon the issuance of a post-decree final order.
- Upon permanent removal of the case to another jurisdiction.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

IX – PATERNITY (DF)

There will be one file number assigned to each child for the sole purpose of the application or petition for the establishment of paternity. A case shall be OPENED upon the filing of the application or petition for establishment of paternity. All related actions, including orders for child support and parenting plans, shall be recorded as separate Domestic Relations matters.

A case is SUSPENDED:

- Upon issuance of a writ staying the proceedings or temporary removal of the case to another court or jurisdiction.

A case is REOPENED:

- Upon filing of post-judgment pleadings or upon remand to the District Court.

A case is CLOSED OR RECLOSED:

- Upon a dismissal of an application or petition for the establishment of paternity.
- Upon the issuance of an order of paternity.
- Upon permanent removal of the case to another jurisdiction.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

X - COMMITMENT OF A PERSON WITH DEVELOPMENTAL DISABILITY (DD)

There will be one filing for each protected person with a case file OPENED and case number assigned upon the filing of a petition for commitment. On the issuance of an order of commitment, the case shall be CLOSED. A new filing shall REOPEN the same file number. This file number shall stay with the protected person. It is necessary that the judge be familiar with the history of the person. Any new petitions shall be filed as a consecutively numbered petition within the original case file and case number. Each new petition shall be considered as a new filing for reporting purposes. If a petition for recommitment is filed in a different county than the original petition for commitment, a case file shall be OPENED and a new case number assigned in the county of the recommitment.

A case is SUSPENDED:

- Upon issuance of a writ staying the proceedings or temporary removal of the case to another court or jurisdiction.

A case is REOPENED:

- Upon the filing of a petition for recommitment.
- Upon the filing of a new petition for commitment.
- Upon court review or petition for further order of the court.
- Upon remand to the District Court.

A case is CLOSED or RECLOSED:

- Upon issuance of an order of commitment or recommitment.
- Upon an order of dismissal.
- Upon permanent removal to another jurisdiction.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent final order.

XI - COMMITMENT OF A PERSON WITH MENTAL ILLNESS (DI)

There will be one filing for each protected person with a case file OPENED and case number assigned upon the filing of a petition for commitment. On the issuance of an order of commitment, the case shall be CLOSED. A new filing shall REOPEN the same file number. This file number shall stay with the protected person. It is necessary for the presiding judge to be familiar with the history of the person. Any new petitions shall be filed as a consecutively numbered petition within the original case file and case number. Each new petition shall be considered a new filing for reporting purposes. If a petition for recommitment is filed in a different county than the original petition for commitment, a case file shall be OPENED and a new case number assigned in the county of the recommitment.

A case is SUSPENDED:

- Upon issuance of a writ staying the proceedings or temporary removal of the case to another court or jurisdiction.

A case is REOPENED:

- Upon the filing of a petition for recommitment.
- Upon the filing of a new petition for commitment.
- Upon a petition for revocation of conditional release.
- Upon court review or petition for further order of the court.
- Upon remand to the District Court.

A case is CLOSED or RECLOSED:

- Upon the entry of judgment.
- Upon an order of commitment or recommitment.
- Upon an order of dismissal.
- Upon permanent removal of the case to another jurisdiction.

INACTIVE: If no action has been taken on a case for a period of 3 or more years the case will be presented to the Judge for a determination of case status. The case may be placed in an INACTIVE status if no other action is deemed appropriate by the Judge.

Effect of NOTICE OF APPEAL:

Upon the transmission by the Clerk of Court of the record for appeal, the case file shall be CLOSED (if not already CLOSED) and placed in an ON APPEAL status. Receipt of the Supreme Court Remittitur or Order shall REOPEN the case and closure shall be determined by entry of a subsequent

final order.

XII – INVESTIGATIVE SUBPOENA (IS)

There will be one file number assigned to each application for issuance of subpoena, regardless of the number of subpoena requests included within the application. A case file shall be OPENED upon the filing of the application with the court. A case file shall be deemed CLOSED upon the issuance of a subpoena or the denial of the application.

OPENED: Upon the filing of an application for subpoena. One file number shall be assigned to each application for issuance of subpoena.

CLOSED: Upon the issuance of a subpoena or the denial of an application.

XIII - SEARCH WARRANT (SW)

There will be one file number assigned to each application for issuance of search warrant. A case file shall be OPENED upon the filing of the application with the court. A case file shall be deemed CLOSED upon the denial of the application or the return of receipt following the issuance of the search warrant.

OPENED: Upon the filing of an application for search warrant. Each application for issuance of search warrant assigned a separate case number.

CLOSED: Upon the denial of an application or the return of receipt following the issuance of a search warrant.