

RULE 102. CONFIDENTIALITY

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or minor child would be jeopardized by disclosure of identifying information appearing in any document filed with the court, the clerk shall seal the identifying information and shall not disclose the information to any other party or to the general public. Disclosure may be ordered only after a hearing in which the court takes into consideration the health, safety, and liberty of the party or minor child and determines that the disclosure is in the interest of justice. The court is authorized to enter any orders in furtherance of the purposes of this section. A party filing an action for parentage by assisted reproduction or gestational carrier agreement may request an order sealing the records from the public to protect the privacy of the child and the parties. Adoption records are confidential pursuant to 18-A M.R.S. § 9-310.

Advisory Note - July 2016

The first sentence of additional language reflects a provision in the Maine Parentage Act that allows parties who wish to obtain a “birth order” to establish parentage and parental rights and responsibilities for a child conceived through assisted reproduction to ask the court to seal the record of the proceeding. See 19-A M.R.S. § 1928(1)(B). The second sentence simply reminds the court and the parties of the statutory imposition of confidentiality on adoption records.

Advisory Notes June 2008

Rule 102 is based on 4 M.R.S. §§ 8-A & 8-B and 19-A M.R.S. §1753(5) and follows FAM DIV III.K. It appears in the beginning of this chapter, as the possibility of confidentiality is an important qualification to be understood early in case processing. If identifying information is sealed, the clerk’s office must serve the party who sought confidentiality with all the filings made by the other party. In drafting this rule, the committee initially considered adding a requirement that the party seeking confidentiality, if not represented by counsel, provide an alternate mailing address for use by the court and by the other party unless otherwise ordered by the court. This was

intended to avoid adding workload to clerks' offices. The Family Division staff recommended that this requirement not be added, as it anticipates that clerks' offices can handle any necessary forwarding without great difficulty.