

Proposed Rule	Reason for Rule
<p><u>RULE 2.423. “MARSY’S LAW” CRIME VICTIM INFORMATION WITHIN COURT FILING</u></p> <p><u>(a) Scope and Purpose.</u> As provided by article I, section 16 of the Florida Constitution, known as “Marsy’s Law,” <u>the following rule shall govern public access to and the protection of the records of the judicial branch of government in criminal and juvenile justice cases as it pertains to confidential crime victim information. This rule shall be interpreted to be consistent with the scope and purpose of rule 2.420.</u></p> <p><u>(b) Definitions.</u></p> <p>(1) <u>“Confidential crime victim information” means any information contained within a court record that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information of the victim.</u></p> <p>(2) <u>“Crime” and “criminal” include delinquent acts and conduct.</u></p> <p>(3) <u>A “victim” is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term “victim” includes the victim’s lawful representative, the parent or guardian of a minor victim, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential</u></p>	<p>New rule is proposed in reaction to amendments of article I, section 16, Florida Constitution, that create crime victim rights.</p> <p>Subdivision (a) defines the authority for crime victim information to remain confidential. Subdivision defines a reference for interpretation of the new rule.</p> <p>Subdivision (b) defines “confidential crime victim,” “crime,” and “victim,” for interpretation and application of this rule.</p>

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conflict with the interests of the victim. The term “victim” does not include the accused.

(c) Confidential and Exempt Records. In accordance with rule 2.420(c)(9), confidential crime victim information is determined to be confidential on the grounds that confidentiality is required to comply with the Florida Constitution.

(d) Procedure for Identifying Confidential Crime Victim Information in Criminal and Juvenile Court Records.

(1) The filer of an initial charging document shall indicate the existence of confidential crime victim information pursuant to article I, section 16 of the Florida Constitution. If the filer indicates the existence of confidential crime victim information, the clerk of the court shall designate and maintain the confidentiality of any such information contained within the initial charging document.

(2) Except as provided under subparagraph (d)(1), the filer of any document with the court under this paragraph shall ascertain whether it contains any confidential crime victim information. If the filer believes in good faith that information is confidential, the filer shall request that the information be maintained as confidential by contemporaneously filing a “Notice of Confidential Crime Victim Information within Court Filing.”

(3) A crime victim, the filer, a party, or any affected nonparty may file a Notice of Confidential Crime

Subdivision (c) references rule 2.420 as authority and guide for “confidential crime victim information.”

Subdivision (d) itemizes the procedure for identifying confidential crime victim information.

Subdivision (d)(1) permits filers to identify a document as including confidential crime victim information at the time of the filing; the clerk will then maintain it as confidential.

Subdivision (d)(2) requires the filing of a Notice for an applicable subsequent filing.

Subdivision (d)(3) provides the authority for the filing of a

<p><u>Victim Information within Court Filing at any time.</u></p> <p>(4) <u>Filers of subsequent court filings shall limit the presence of crime victim identifying information in accordance with rule 2.425(a)(3) or file a Notice of Crime Victim Information within Court Filing with each subsequent court filing that contains confidential crime victim information.</u></p> <p>(5) <u>A Notice of Confidential Crime Victim Information within Court Filing:</u></p> <p>(A) <u>Shall identify the precise location of the confidential information within the document being filed.</u></p> <p>(B) <u>Shall be confidential to the extent it contains crime victim information pursuant to article I, section 16.</u></p> <p>(C) <u>Shall not be required when an entire case file is maintained as confidential.</u></p> <p>(D) <u>A form shall accompany this rule.</u></p> <p>(6) <u>If a Notice of Crime Victim Information within Court Filing is filed, the clerk of court shall review the filing identified as containing confidential crime victim information to determine whether the purported confidential information is facially subject to confidentiality under article I, section 16(b)(5) of the Florida Constitution.</u></p> <p>(A) <u>The clerk of the court shall designate and maintain the confidentiality of any such</u></p>	<p>Notice by a crime victim, filer, party, or an affected nonparty.</p> <p>Subdivision (d)(4) defines that filings, after case initiation, must be either in compliance with rule 2.425 or be filed with a Notice.</p> <p>Subdivision (d)(5) defines the Notice of Confidential Crime Victim Information within Court Filings document.</p> <p>Subdivision (d)(5)(A) requires confidential information to be precisely identified.</p> <p>Subdivision (d)(5)(B) defines the authority for the confidential status of the document or information.</p> <p>Subdivision (d)(5)(C) recognizes the lack of need for a Notice when the entire file is inherently confidential.</p> <p>Subdivision (d)(5)(D) refers the reader to the form.</p> <p>Subdivision (d)(6) requires clerks to review documents upon the filing of a Notice.</p> <p>Subdivision (d)(6)(A) directs clerks to designate and maintain</p>
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<p><u>information contained within a court record.</u></p> <p><u>(B) If the clerk determines that the information is not confidential, the clerk shall notify the filer in writing within 5 days of filing the notice and thereafter shall maintain the information as confidential for 10 days from the date such notification by the clerk is served. The information shall not be held as confidential for more than that 10-day period, unless a motion has been filed pursuant to rule 2.420(d)(3).</u></p> <p><u>(e) Duration of Confidentiality. In accordance with article 1, section 16(b)(3) of the Florida Constitution, a crime victim is entitled to be reasonably protected from the accused and any person acting on behalf of the accused within the judicial process. Therefore, once the court has made a final determination that it is no longer reasonable for the information to be maintained as confidential, the provisions of this rule no longer apply.</u></p> <p>[In compliance with <i>In re: Guidelines for Rules Submissions</i>, AOSC06-14, rule Appendix A is not included in this two-column chart.]</p>	<p>the confidentiality of identifiable information as necessary.</p> <p>Subdivision (d)(6)(B) directs clerks to notify filers in writing, within 5 days, if the information is not confidential or unable to be determined. The document will be held confidential for 10 days pending court order.</p> <p>Subdivision (e) defines the length of time documents will be maintained as confidential in this type of case.</p>
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