



CIVIL PROTECTION ORDER PROCESS

# Frequently Asked Questions about Electronic Filing in Cases Involving Domestic Violence



**NCJFCJ**  
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NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

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## What is e-filing?

E-filing, or electronic filing, is the submission of a document in electronic form to a court in an existing case or to initiate a new action.<sup>1</sup> For years, courts around the country and the world have been steadily increasing the availability of e-filing. During the pandemic, established e-filing systems allowed for the continued filing of new cases and documents in existing cases for attorneys. Unfortunately, many courts were not initially prepared to accept filings from self-represented litigants (SRLs). Many courts and judicial officers are already well versed in the basics of e-filing for attorneys. This document focuses on the challenges facing SRLs in cases involving abuse and is not intended to be an exhaustive exploration of the design and implementation of an e-filing system.

## What are the different types of e-filing?

**Attorneys Only vs All Litigants:** In some states, e-filing is only available to attorneys while in others anyone can e-file. As frequent court users, attorneys are better situated to learn and become proficient in complex e-filing systems.<sup>2</sup> An SRL, on the other hand, may only interact with the system a handful of times. For e-filing to be accessible to the average SRL, it must be simple and straight forward to use with clear instructions throughout, available human tech support and customer service, and should minimize any burden or costs to the filer.<sup>3</sup> The COVID-19 pandemic illustrated how attorneys only e-filing systems can disadvantage SRLs. Blanket restrictions that require SRLs to file in-person impose barriers not

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<sup>1</sup> Circuit Court of New Hampshire, *Supplemental Rules of the Circuit Court of New Hampshire for Electronic Filing*, <https://www.courts.nh.gov/supplemental-rules-circuit-court-new-hampshire-electronic-filing>.

<sup>2</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>3</sup> *Id.*

imposed on litigants represented by legal counsel, therefore “unfairly discriminat[ing] against those without lawyers.”<sup>4</sup>

**Mandatory vs Optional:** To maximize the efficiency benefits of e-filing, some states mandate electronic filing for all cases. Others only mandate e-filing for attorneys or in certain types of cases. When e-filing is available to SRLs, it is often optional, allowing litigants to continue to file in person at the courthouse. This provides SRLs with multiple methods of filing and increases their access to justice. Mandating e-filing for all may only be sufficiently accessible if courts provide assisted e-filing in the courthouse.<sup>5</sup>

**Guide and File Portals:** Guide and file portals are types of electronic interviewing tools often available online that help users fill out forms for certain types of cases regularly filed by SRLs such as divorce, orders of protection, and eviction cases.<sup>6</sup> These programs ask a series of questions and provide helpful information to litigants, including referrals to pro bono or legal aid services and victim advocacy programs. They also often save the user’s answers to populate court approved fillable forms. Once completed, these forms can be submitted electronically to the court or printed and filed in person at the courthouse.<sup>7</sup> Some of these programs also include methods for advocates working with survivors seeking protection orders to access files and assist with their completion.<sup>8</sup> Advocate availability, either remotely or in-person, provides SRLs in civil protection order cases the opportunity to talk with a legal advocate to discuss seeking a protection order, potential safety concerns and unintended consequences that may arise from seeking a protection order, and can safety plan with survivors whether or not they ultimately file a petition with the court. Some portal systems also have features that allow survivors to request notice of service of the order or when the order is about to expire via text or email,<sup>9</sup> two critical points of potential danger for survivors of intimate partner violence.

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<sup>4</sup> *Id.* at 30-31.

<sup>5</sup> *Id.*

<sup>6</sup> *Minnesota Guide and File*, Minnesota Judicial Branch, <https://mncourts.gov/guide-and-file> (last visited Apr. 7, 2022).

<sup>7</sup> For examples of portals and e-filing options used in civil protection order cases, see National Center for State Courts et al., *Protection Order Repositories, Web Portals, and Beyond: Technology Solutions to Increase Access and Enforcement* (2020) <https://ncsc.contentdm.oclc.org/digital/collection/tech/id/947>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

**Email Filing:** In response to the COVID-19 Pandemic, many courts that did not previously provide e-filing for SRLs and lacked the infrastructure to implement such had to adapt quickly to allow for filings to continue while the physical courthouse was closed. One option utilized by courts was filing documents through email. To implement effective filing by email, courts created email accounts specifically for the purpose of accepting filings and drafted instructions that laid out the specifics needed for a document to be accepted by the court. These instructions included such things as how to label the subject line of the email, what formats documents could be accepted in, and provided contact information for communicating with the court.<sup>10</sup>

**E-filing from Designated Locations:** Another option for SRLs is to allow e-filing from certain designated locations other than the courthouse.<sup>11</sup> Many litigants do not live in the same community as the local courthouse, especially in rural areas, and may have to drive significant distances to file in person. Allowing e-filing at a kiosk at the local library, a victim advocacy program, or legal aid office provides SRLs with more convenient locations throughout the community while also encouraging in-person assistance with completing forms and receiving meaningful referrals to additional services. During COVID-19, some of these entities also worked with SRLs to help them file electronically without having to physically appear at these designated locations. To facilitate these temporary measures, court rules regarding notarized signatures or other related verification procedures were amended to alleviate barriers for SRLs to file while also observing public health and safety protocols.<sup>12</sup>

## What Are Some Common Components of an E-filing System?

**E-filing Platform or Service Provider:** These include computer software or websites that parties can use to start a case or file documents in an existing case electronically. Some courts have their own e-filing system or link to a preferred e-filing service provider on their webpage while others

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<sup>10</sup> *Filing Documents by Email*, Utah Courts, <https://www.utcourts.gov/howto/filing/email/> (last visited Dec. 13, 2021).

<sup>11</sup> National Center for State Courts et al., *Protection Order Repositories, Web Portals, and Beyond: Technology Solutions to Increase Access and Enforcement* (2020) <https://ncsc.contentdm.oclc.org/digital/collection/tech/id/947>.

<sup>12</sup> During listening sessions conducted by NCJFCJ staff with practitioners from around the country, staff heard about a variety of different local rule changes such as e-signature programs, signatures under penalty of perjury, or affidavits verified under oath at the initial hearing.

provide a list of court approved e-filing service providers that litigants can choose from.

**Service and Consent to E-Service:** By utilizing e-filing, some courts deem the user to have consented to receiving service of process electronically. Others offer the user the option to opt into e-service through the e-filing service or portal.

**Availability and Maintenance:** With e-filing, courts can allow users to file twenty-four hours a day seven days a week. Courts should make it clear to users how filings after court hours will be handled - will a document filed after the court closes but before midnight be considered filed that day or will the court mark it as filed the next business day? Systems for e-filing can also require regular maintenance and may need to be offline for certain periods of time (usually during weekends). Courts should make it clear when maintenance will be conducted and the effect such will have on users.

**Formatting Requirements:** Some courts require documents to be in a specific form, like PDF, in order to be accepted. Courts also may require certain portions of documents, such as exhibits, to be clearly marked or bookmarked. Courts should provide instructions on how to accomplish such formatting requirements for users who may not be familiar with what an exhibit is or how to appropriately mark or bookmark such for filing.

### **How Does E-filing Protect/Not Protect Privacy and Confidentiality?**

As more information is shared and stored electronically, more information can be made readily available to the public. This, more than ever, requires courts to balance the access rights of the public with the privacy rights of the litigant.<sup>13</sup> Further, platform vendors may collect, share, or even sell aggregate data collected from users. Reports of data breaches, cyber-attacks, and other malware incidents highlight the potential dangers of moving more and more personal information online. Involvement with the justice system is rarely completely voluntarily and requirements to opt in to certain electronic systems or processes without rigorous privacy and confidentiality safeguards in place can be a serious access to justice issue

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<sup>13</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

as “fear of violation of rights of privacy may deter full participation in the justice system.”<sup>14</sup> Courts must ask themselves if there is a known risk involved with certain technology, whether that risk is reasonable to pass on to litigants.<sup>15</sup> Are the benefits of the technology solely for the court or does the user also receive a benefit?<sup>16</sup> Can the user opt out? Courts must be vigilant in ensuring that all users know what the safety issues are and whether they have other options. Courts should strive to be as transparent as possible regarding any risks involved.<sup>17</sup> Courts should also ensure that any third party policies from vendors are easy to find and in plain language.<sup>18</sup> While a full discussion of cyber security, data encryption, and vendor use of data is beyond the scope of this document, courts must take these issues seriously when planning and evaluating their e-filing and court records access policies and procedures.<sup>19</sup>

- **Confidential Address and/or Contact Information:** There are a multitude of reasons why a litigant may want to protect their address and contact information from the general public, but for victims of family violence or stalking it can be even more important to protect their confidentiality from the other party. Courts should provide information to litigants so they “understand the potential risks to their privacy of the information they share through mobile phones and electronic tablets and emerging mobile technologies before they are required to use those interfaces to keep up with their cases.”<sup>20</sup>

**Confidential Case Types:** Some case types may automatically provide the ability to file with confidential addresses and phone numbers, such as with protection orders for stalking cases. Users in these instances share their information with the court, but not the other party.<sup>21</sup> Other types allow for

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<sup>14</sup> *Id.* at 33.

<sup>15</sup> Webinar: Washington State Bar Association, *Justice and Technology: An Overview of the Updated Access to Justice Technology Principles*, Access to Justice Board (Sept. 29, 2020) <https://www.youtube.com/watch?v=laqK9TSPJNU>.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> For more information on court privacy policies, see Thomas M. Clark et al., *Best Practices for Court Privacy Policy Formulations*, National Center for State Courts (2017) [https://www.ncsc.org/\\_data/assets/pdf\\_file/0015/16206/best-practices-privacy-july-2017.pdf](https://www.ncsc.org/_data/assets/pdf_file/0015/16206/best-practices-privacy-july-2017.pdf).

<sup>20</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation, at 21 (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>21</sup> For examples of confidential case filing information sheets in abuse cases, see Missouri Judicial Branch’s FI-10 “Confidential Case Filings Information Sheets - Domestic Relations Cases” and FI-15

survivors of family abuse or stalking to request their information be kept confidential. Either way, information should be provided on how to properly file these types of documents to ensure that users are not inadvertently including information meant to be confidential in the actual pleadings or case documents that will be served on the other party.

**Use of Safe at Home or State Address Confidentiality Programs:**<sup>22</sup>

Courts should also take into consideration whether survivors of intimate partner violence who are enrolled in state run address confidentiality programs such as the Safe at Home program can use these addresses in place of their residential address on court documents and should make that information available to users.

- **Redaction Instructions:** Another issue regarding privacy is redaction of certain sensitive information from court documents. Redaction polices can vary and even some attorneys are not always experts at redacting the documents they file. SRLs are at a great disadvantage when it comes to knowing what information to redact and how to redact it, therefore “e-filing and document assembly systems must be built to help litigants make sure that information that they need to keep confidential, such as social security numbers and health information, is so treated.”<sup>23</sup> Instructions should be readily available and include information about any privacy requirements for specific case types or litigants, such as the names of minors or victims of crime being designated with initials only.<sup>24</sup> Courts should also provide contact information for those that have questions regarding redaction of documents or motions to seal. Further, courts should provide information regarding what to do should a litigant suspect their personally identifiable information (PII) has been

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“Confidential Case Filing Information Sheet: Domestic Relations Cases - Adult Abuse/Stalking” available at <https://www.courts.mo.gov/page.jsp?id=384>.

<sup>22</sup> For a list of state statutes regarding address confidentiality see National Center on Protection Orders and Full Faith and Credit, *State Address Confidentiality Statutes*, Battered Women’s Justice Project (Feb. 2021) <https://www.bwjp.org/resource-center/resource-results/state-address-confidentiality-statutes.html>.

<sup>23</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation, at 34 (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>24</sup> For an example of instructions for filing confidential information, see United States District Court of Maine’s “Guidelines for Filing Confidential Information in Civil Cases” available at <https://www.med.uscourts.gov/sealing-redacting-highly-sensitive-documents>.

wrongfully released either by the court or the other party.<sup>25</sup> Many courts have complicated procedures for filing confidential information and failure to follow those procedures to the letter can end up with information released to the public.<sup>26</sup> Once information is released on the internet, it can be nearly impossible to guarantee it has been safely removed.

- **Closed or Sealed Documents:** For types of documents that contain particularly intimate information, such as a victim's testimony about their sexual assault, photos from a sexual assault forensic exam, or nude or semi-nude photos of the victim shared by the other party without the victim's consent, it may be important to take more drastic steps to keep the information from being readily available to the public. Courts have long protected trade secrets and proprietary information from public consumption.<sup>27</sup> Courts must also recognize that making intimate information from victims of abuse available online to the public can cause great harm to victims of abuse and can continue to perpetuate the abuse long after the case is closed. Failing to thoughtfully consider an appropriate balance regarding the public's right to access to the courts and the privacy and safety of the victim can dissuade victims from seeking the legal relief they need and are entitled to. Clear plain language instructions on what these processes are and how to request them should be provided to all litigants, especially in cases that often involve family violence, sexual assault, and stalking.
- **Metadata:** Metadata is the data about data, such as name of the account that created or edited the document, when a document was created and last edited, or GPS coordinates of locations photos were taken. It is important for the court to take metadata into consideration when setting up e-filing systems and procedures or to provide information on how to remove metadata from documents.<sup>28</sup>

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<sup>25</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>26</sup> *Id.*

<sup>27</sup> Ingrid Evert & Jodi Munn Schebel, *Protecting the Record: Sealing Confidential Documents*, Practice Points, A.B.A. (May 5, 2017) <https://www.americanbar.org/groups/litigation/committees/products-liability/practice/2017/protecting-the-record-sealing-confidential-documents/>.

<sup>28</sup> Webinar: Washington State Bar Association, *Justice and Technology: An Overview of the Updated Access to Justice Technology Principles*, Access to Justice Board (Sept. 29, 2020)



## What Should Be Considered Regarding Access to Justice?

E-filing during the pandemic has highlighted benefits to litigants such as not having to take time off work, find transportation, or childcare to file documents with the court. For e-filing to be truly accessible to all litigants regardless of geography, income, race, education level, gender identity, sexuality, technology experience, or personal ability, there are several considerations for its implementation. Courts must thoughtfully implement the use of technology, including e-filing, in ways that increase, not reduce, litigants “equitable access to justice; opportunities for participation; and usability, accountability, efficiency, and transparency.”<sup>29</sup> Ensuring accessibility should be a key goal from the start, involve a multitude of stakeholders (including potential SRL users), and be understood as an ongoing process requiring regular evaluation and solicitation of feedback. While a complete review of accessibility for all litigants is beyond the scope of this document, a number of helpful resources are included in the resource section at the end of this document. A few highlights for courts to consider are listed below.

- **Fees:** Fees for using e-filing can be a significant barrier to SRLs. If fees must be charged, waivers should be readily available, easy to find, minimally burdensome to the litigant, and should not delay their ability to file.<sup>30</sup>
- **Methods of Payment:** Many SRLs are unbanked and/or do not have credit cards they can use to pay filing fees. Courts should consider including multiple ways for litigants to pay such as PayPal, Apple Pay, Venmo, or even options for paying cash in person at designated community locations.<sup>31</sup>

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<https://www.youtube.com/watch?v=laqK9TSPJNU>; For more information on metadata and court filings see Administrative Office of the U.S. Courts, *Guidelines for Editing Metadata* (Sept. 2018)

<https://www.njd.uscourts.gov/sites/njd/files/EditMetaDataGuidePublic.pdf>.

<sup>29</sup> Washington State Access to Justice Board, *Access to Justice Technology Principles*, adopted by the State of Washington Supreme Court in order no. 25700-B-627 (June 4, 2020)

<https://www.srln.org/node/1497/resource-washington-courts-access-justice-technology-principles-washington-state-courts>.

<sup>30</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>31</sup> *Guiding Principles for Post-Pandemic Court Technology: A Pandemic Resource from CCJ/COSCA*, National Center for State Courts (July 2020) <https://www.srln.org/node/1511/resource-guiding-principles-post-pandemic-court-technology-ccjcosca-2020>.

- **Plain Language:** Like self-help tools for SRLs,<sup>32</sup> e-filing systems and instructions should be understandable and easy to use by an average SRL with no legal education or knowledge, limited English proficiency, limited technological knowledge and experience, and varying levels of educational or literacy.<sup>33</sup>
- **Language Access:** Courts are very familiar with the need for language access in court proceedings, but for those with limited English proficiency (LEP), this need begins well before the first court hearing.<sup>34</sup> When developing e-filing procedures, courts should take language access into account from the start. Courts should avoid depending on machine translation such as Google Translate to translate forms or instructions as these programs are often inaccurate within the context of the document. Instead, court forms, user instructions, help functions, and guided interviews should be checked for accuracy and cultural appropriateness.<sup>35</sup> Sign language interpretation is also a form of language access and should be considered when developing help functions and other interactive points.<sup>36</sup> The use of icons can also help make tools more accessible in a variety of ways.<sup>37</sup>
- **Culturally Responsive:** According to the Washington State Access to Justice Board’s Access to Justice Technology Principles, “[t]echnology in the justice system should incorporate principles and practices which address and respond to cultural variables and

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<sup>32</sup> For more information on plain language for SRLs see *Plain Language & LEP*, Self-Represented Litigant Network, <https://www.srln.org/taxonomy/term/175> (last visited Dec. 13, 2021).

<sup>33</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>34</sup> For a more in-depth discussion of language access, see Limited English Proficiency Committee, *Improving Access to Public Websites and Digital Services for Limited English Proficient (LEP) Persons*, (Dec. 2021) [https://www.lep.gov/sites/lep/files/media/document/2021-12/2021\\_12\\_07\\_Website\\_Language\\_Access\\_Guide\\_508.pdf](https://www.lep.gov/sites/lep/files/media/document/2021-12/2021_12_07_Website_Language_Access_Guide_508.pdf); the Asian Pacific Institute on Gender-Based Violence, <https://www.api-gbv.org/>; and the National Center for State Courts, <https://www.ncsc.org/>.

<sup>35</sup> Webinar: Washington State Bar Association, *Justice and Technology: An Overview of the Updated Access to Justice Technology Principles*, Access to Justice Board (Sept. 29, 2020) <https://www.youtube.com/watch?v=laqK9TSPJNU>.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

diversity of people and communities.”<sup>38</sup> For instance, when creating instructions or guided interviews, avoid using gendered language or parenting roles as many litigants will not fit within outdated or non-inclusive terms.<sup>39</sup> Courts should engage a variety of stakeholders and potential users from the community to ensure court processes treat all litigants with dignity and respect.

- **Accessible to All:** Courts must ensure accessibility and compliance with federal and state non-discrimination laws and policies, such as the Americans with Disabilities Act and Section 508 of the Rehabilitation Act of 1973. Courts should ask vendors not just if they are compliant, but how they ensure that their products are accessible.<sup>40</sup> Courts should consult with disability rights experts<sup>41</sup> and self-advocates from the beginning and any e-filing processes should be tested by users with disabilities.<sup>42</sup> Some examples of considerations include ensuring that the platform or software chosen is compatible with screen-reading software, that webpages can be easily magnified and still navigable, and using closed captioning with any instructional videos.<sup>43</sup>
- **Digital Divide:** The COVID-19 pandemic has exposed the severity of the digital divide across the country. While many litigants have ready

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<sup>38</sup> Washington State Access to Justice Board, *Access to Justice Technology Principles*, adopted by the State of Washington Supreme Court in order no. 25700-B-627 (June 4, 2020) <https://www.srln.org/node/1497/resource-washington-courts-access-justice-technology-principles-washington-state-courts>.

<sup>39</sup> Webinar: Washington State Bar Association, *Justice and Technology: An Overview of the Updated Access to Justice Technology Principles*, Access to Justice Board (Sept. 29, 2020) <https://www.youtube.com/watch?v=laqK9TSPJNU>.

<sup>40</sup> *Id.*

<sup>41</sup> For more information on the inclusion of the disability community and meaningful access, see the Vera Institute of Justice, <https://www.vera.org/securing-equal-justice/reaching-all-victims/people-with-disabilities-and-deaf-people> (last visited Dec. 13, 2021); and United States Department of Justice Civil Rights Division, *Information and Technical Assistance on the Americans with Disabilities Act*, <https://www.ada.gov/> (last visited Dec. 13, 2021).

<sup>42</sup> Webinar: Washington State Bar Association, *Justice and Technology: An Overview of the Updated Access to Justice Technology Principles*, Access to Justice Board (Sept. 29, 2020) <https://www.youtube.com/watch?v=laqK9TSPJNU>; National Center for State Courts, *Guiding Principles for Post-Pandemic Court Technology: A Pandemic Resource from CCJ/COSCA* (July 2020) <https://www.srln.org/node/1511/resource-guiding-principles-post-pandemic-court-technology-ccjcosca-2020>.

<sup>43</sup> *Guiding Principles for Post-Pandemic Court Technology: A Pandemic Resource from CCJ/COSCA*, National Center for State Courts (July 2020) <https://www.srln.org/node/1511/resource-guiding-principles-post-pandemic-court-technology-ccjcosca-2020>.

and reliable access to the internet, others have no access to reliable broadband or even cell service. Others, especially victims of abuse, may not have access to devices like smartphones, tablets, or computers that are safe to use for sensitive tasks like e-filing court documents or communicating with the court in a particular manner such as email. “No matter how accessible an e-filing site is, if litigants cannot get to the Internet, or if the Internet service is too slow to allow completion of the work in a reasonable period of time, the system is functionally inaccessible.”<sup>44</sup> While a full discussion of how courts can address the digital divide is beyond the scope of this document, the following are a few considerations.

- **Broadband Availability:** In order for SRLs to e-file, they need to be able to connect to the internet. There are many rural areas in the United States that do not currently have reliable broadband readily available. Further, many SRLs in urban and rural communities cannot afford personal internet services or have very limited data they can afford on their service plans. During the COVID-19 pandemic, many courts and community partners came up with innovative solutions to this problem. Some communities provided mobile hotspots that would travel to certain areas for use by the public. Community locations such as libraries, communities centers, or even courthouses themselves are also options that can provide not only access to the internet but access to safe devices such as tablets or computers for SRLs who either do not have a device or who have concerns that their devices may be compromised by the abuser.<sup>45</sup>
- **Mobile Compatibility:** Even litigants with reliable internet may not have access to a safe computer they can use to e-file. More and more, people are depending on their smartphones to do all their online business. It is important that courts ask whether their fillable

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<sup>44</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation, at 27 (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>45</sup> For more information on technology safety for survivors of cyber violence, including who suspect their devices or accounts are being monitored or otherwise compromised by their abuser, see Safety Net, *Technology Safety & Privacy: A Toolkit for Survivors*, National Network to End Domestic Violence, <https://www.techsafety.org/resources-survivors> (last visited Dec. 13, 2021).

forms, guided interviews, and other e-filing services are practically accessible from a tablet or smartphone.<sup>46</sup>

- **Email:** Requiring email addresses to register and use e-filing systems can also be a barrier for those that do not have them. Courts should consider whether there are other options for these litigants. Even SRLs that do have email accounts may not have regular access to the internet or regularly use their email leading to notices and other communication from the court being lost in a sea of spam. Courts should consider providing alternatives for receiving case related information and notices such as by telephone or SMS texting services.<sup>47</sup>
- **Format Requirements:** Along with having access to the internet and a device that can connect to it, SRLs must also be able to submit documents in the format required by the court. When developing e-filing systems and procedures, courts should avoid requiring complex formatting that is not easily accessible to those using mobile devices, tablets, or public computers.
- **Physical Alternatives:** Another important way to address the digital divide is to provide filing options for SRLs in a variety of ways, including filing at physical locations like the courthouse. Mandatory policies for all litigants to e-file can be detrimental to access to justice for all and can widen the barriers created by the digital divide.

## What Safety Information Should Be Linked to E-filing Systems?

- **Court Website Information on the Use of Safe Devices and Contact Information and “Escape” Buttons:** When designing a system that is safe for victims of family violence and stalking, it is important to acknowledge that often these victims may be

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<sup>46</sup> Richard Zorza, *Principles and Best Practices for Access-Friendly Court Electronic Filing*, Legal Services Corporation (2013) <https://www.srln.org/node/36/best-practices-best-practices-e-filing-lsc-srln-2013>.

<sup>47</sup> Washington State Access to Justice Board, *Access to Justice Technology Principles*, adopted by the State of Washington Supreme Court in order no. 25700-B-627 (June 4, 2020) <https://www.srln.org/node/1497/resource-washington-courts-access-justice-technology-principles-washington-state-courts>.

electronically monitored or surveilled by their abuser. Therefore, it can be important to provide information on how to file safely with the court when a victim suspects their personal devices, such as mobile phones, tablets, or computers, or their email accounts are compromised. Further, courts should provide information for users on what to do should they believe their e-filing account has been compromised.<sup>48</sup> This can be an important time to provide referrals to victim advocacy programs or legal aid offices that may be able to help victims safety plan and secure safe devices or accounts for the purposes of seeking services, talking to their attorneys, or communicating with the court. Victims also may still be in the same residence as their abuser when they seek court relief such as a protection order or custody determination, especially during the COVID-19 pandemic. Filing systems of portals can include “escape” buttons to their website pages that, when clicked, take the user to a new website entirely.<sup>49</sup>

- **Safety Planning Information Regarding Technology Abuse for Survivors of Family Abuse and Stalking and Referrals to Local Community Services and Victim Advocacy Programs:** For victims of family violence or stalking, seeking relief from the court while also in crisis can be an overwhelming experience and can sometimes put a victim at increased risk of physical danger or other unintended consequences. Because of this, providing victims with referrals to community services, legal aid, and especially victim advocacy programs can be crucial. Often, the court may be the first place a victim reaches out for help. This is why it is so important for the court to also include information about these services and how they may be able to help with SRL e-filing information, particularly for protection orders, divorce, and custody matters.

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<sup>48</sup> For an example see New Hampshire Judicial Branch Superior Court, *TurboCourt Frequently Asked Questions*, <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-07/turbocourt-faq-superior.pdf>, includes the following, “Q: What should I do if my username or password becomes compromised? A: If you are able to log in, click on the “Profile” link to change your username and password. If you believe that your credentials have been used inappropriately, please contact the NH Judicial Branch at [court phone number]” (last visited Dec. 13, 2021).

<sup>49</sup> National Center for State Courts et al., *Protection Order Repositories, Web Portals, and Beyond: Technology Solutions to Increase Access and Enforcement* (2020) <https://ncsc.contentdm.oclc.org/digital/collection/tech/id/947>.

- **Transparency:** One of the most important safety features an e-filing system can provide is transparency. Privacy policies and user agreements from the court or third party vendors should be in plain language and easily accessible. Each litigant's situation will be unique, but providing concrete information in writing in a manner that is easily understandable allows litigants to make informed decisions about how they interact with the court and how to best keep themselves and their information safe. While it may be impossible to eliminate all safety risks and unintended consequences of certain e-filing systems for victims of abuse, providing a variety of options and digestible information and instruction for each option can make a significant difference.

## Resources:

Limited English Proficiency Committee, [Improving Access to Public Websites and Digital Services for Limited English Proficient \(LEP\) Persons](#), (Dec. 2021).

Richard Zorza, [Principles and Best Practices for Access-Friendly Court Electronic Filing](#), Legal Services Corporation (2013).

National Center for State Courts et al., [Protection Order Repositories, Web Portals, and Beyond: Technology Solutions to Increase Access and Enforcement](#) (2020).

National Center for State Courts, [Guiding Principles for Post-Pandemic Court Technology: A Pandemic Resource from CCJ/COSCA](#) (July 2020).

Washington State Access to Justice Board, [Access to Justice Technology Principles](#), adopted by the State of Washington Supreme Court in order no. 25700-B-627 (June 4, 2020).

Webinar: Washington State Bar Association, [Justice and Technology: An Overview of the Updated Access to Justice Technology Principles](#), Access to Justice Board (Sept. 29, 2020).

Safety Net, [Technology Safety & Privacy: A Toolkit for Survivors](#), National Network to End Domestic Violence, (last visited Dec. 13, 2021).

## **Examples of E-Filing Systems and E-Document Preparation Systems:**

- [Law Help Interactive](#)
- [Access to Justice Author](#) (A2J Author)
- [Indiana Courts- E-filing Protection Orders](#)
- [AZ Point- Arizona Protection Order Initiation and Notification Tool](#)

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