

# STATE OF NEW HAMPSHIRE

## PROBATE COURT

### ADMINISTRATIVE ORDER 3

#### RELATIVE TO: Records Management and Retention Policy

Pursuant to RSA 548:6, all Registers of Probate shall adhere to the following records management and retention policy.

- (1) **HISTORICAL DETERMINATION:** The Administrative Judge of the Probate Court, after consultation with the state archivist, may direct that any original court file having the potential for historical significance be transferred to the state archivist for preservation and storage as the state archivist deems appropriate. These files shall also be stored on imaging technology or microfilm and be maintained both in the court of record and at an off-site storage facility.
- (2) **FILE MAINTENANCE AND STORAGE:** Other files not having historical significance, as determined in paragraph (1) above, shall be maintained in their original paper form for the periods of time specified for each case type in this order. These files shall also be stored on imaging technology or microfilm if equipment is available, with two copies being produced for each file: one copy shall be maintained in the court of record and one copy shall be stored off-site in a secured area. The Administrative Office of the Courts may provide other alternative storage mediums.
- (3) **ADMINISTRATION, ESTATE, TRUST AND PROBATE FILES:** Files related to administrations, estates, trusts and probate of a will shall be maintained indefinitely in the manner specified in paragraph (2) above. Tape recordings shall be retained for three (3) years from the disposition of the case, after which the tapes may be destroyed. If a transcript has been made, it shall become part of the file and maintained indefinitely.
- (4) **CONSERVATORSHIP AND GUARDIANSHIP FILES:** Files related to conservatorships and guardianships (of adults and minors) shall be destroyed five (5) years after termination of the conservatorship or guardianship, unless real estate is part of the conservatorship or guardianship. If real estate is included in the estate, the files shall be maintained indefinitely in the manner specified in paragraph (2) above. Tape recordings shall be retained for three (3) years from the date of the hearing, after which the tapes may be destroyed. If a transcript has been made, it shall become part of the file and maintained in the same manner as the file.

- (5) **NAME CHANGE, ADOPTION, TERMINATION OF PARENTAL RIGHTS AND RELINQUISHMENT OF PARENTAL RIGHTS FILES:** Files related to name changes, adoptions, termination of parental rights, and relinquishment of parental rights shall be maintained indefinitely in the manner specified in paragraph (2) above. Tape recordings shall be retained for three (3) years from the date of disposition of the case, after which the tapes may be destroyed. If a transcript has been made, it shall become part of the file and maintained indefinitely.
- (6) **INVOLUNTARY COMMITMENTS AND MARRIAGE WAIVERS:** Files related to involuntary commitments and marriage waivers shall be destroyed five (5) years after termination of the involuntary commitment and five (5) years after granting the marriage waiver. Tape recordings shall be retained for three (3) years from the date of disposition of the case, after which the tapes may be destroyed. If a transcript has been made, it shall become part of the file and destroyed five (5) years after termination of the involuntary commitment and five (5) years after granting the marriage waiver.
- (7) **EQUITY:** Equity files shall be maintained for ten (10) years in the manner specified in paragraph (2) above. Tape recordings shall be retained for three (3) years from the date of disposition of the case, after which the tapes may be destroyed. If a transcript has been made, it shall become part of the file and maintained in the same manner as the file.
- (8) **EXHIBITS:** As required by Supreme Court Rule 57, upon the final conclusion of a case in the Probate Court, exhibits will be held at the court until such time as the appeal period has expired. At that time, the Register shall notify counsel and/or parties in writing that they have thirty (30) days from the date of the notice to retrieve the exhibits from the Court. The notice shall indicate that if the exhibits are not retrieved within that time, the Register will dispose of them in such manner as the Register deems appropriate, which include destruction of same. If the exhibits are not retrieved by the time specified in the notice, the Register shall dispose of the exhibits by destruction or in some other appropriate manner.

If an appeal is filed, the exhibits shall remain in the custody of the Probate Court pending resolution of the appeal unless the Supreme Court orders that the exhibits be transferred for the purpose of the appeal. Upon receipt of the mandate from the Supreme Court, and if no further proceedings are required, the Register shall follow the procedure set forth in the preceding paragraph to notify counsel and/or the parties that exhibits may be disposed of if they are not retrieved within thirty (30) days.

The Probate Court, in its discretion, may refrain from disposing of an exhibit if it is deemed to have some intrinsic, historical or other value of significance. If this is the case, the Register may deliver it to the State Surplus Property Department to be auctioned with proceeds payable to the State.

Any party may move the Court to release exhibits early or to extend the time for their retention.

Nothing in this Order shall be construed to conflict with the procedures established in any general or special law providing for preservation, disposal, forfeiture or destruction of particular types of property.

- (9) **CONTROLLED DRUGS, WEAPONS AND CURRENCY AS EXHIBITS:** In cases where controlled drugs, weapons, currency, other contraband or any evidence which poses a problem of storage or safekeeping is being held by the Court, whether pending trial, appeal or after final judgment is entered, the Court may order such exhibits be maintained in the custody of a law enforcement agency or other appropriate custodian.
- (10) **FINANCIAL RECORDS:** Financial records, including bank statements, cash deposit and cash receipt records, must be retained for the current fiscal year and the preceding five (5) years. Records may be destroyed beyond this time period.
- (11) **COMPUTER RECORDS:** All computer system documents and reports including case specific documents, working documents or reports, letters, memoranda, and managerial or financial reports may be destroyed or caused to be destroyed in accordance with guidelines provided by the Administrative Office of the Courts.
- (12) **GENERAL RECORDS:** All other records shall be maintained according to guidelines established by the Administrative Judge of the Probate Court. All other records destruction shall adhere to the general records destruction notification issued annually by the state archivist.
- (13) **DESTRUCTION METHOD:** Any method of destruction is permissible which reduces the file to an unusable or unreadable state acceptable to the Administrative Judge of the Probate Court. Confidential file destruction shall be done by designated court personnel in accordance with written policy. Recycling materials shall be given consideration.
- (14) **PUBLIC RECORDS ACCESS:** A petition to the court shall be required to view any confidential records transferred to the state archivist pursuant to this policy.

**Last Reviewed:** August 1, 2007

        /s/ David D. King  
David D. King  
Administrative Judge of Probate Court

History:

Revised February 16, 2006

Effective August 1, 2001

Formerly Administrative Order 1994-06 (Revised), Issued 1/1/01

PROBATE COURTS  
FILE RETENTION SCHEDULE

FILE TYPE	RETENTION
<b>CASE FILES</b>	
Administration with previous administration out of state	Forever
Adoption, Consents to	Forever
Adoption, petition for (private or agency)	Forever
Adoption, petition for termination and	Forever
Authenticated copies of will and probate (no administration)	Forever
Change of Name	Forever
Conservatorships (if no real estate)	5 years after conservatorship is terminated
Conservatorships (if real estate)	Forever
Estates (testate and intestate)	Forever
Equity	10 years
Guardianship of incapacitated persons (if no real estate)	5 years after termination of guardianship
Guardianship of incapacitated persons (if real estate)	Forever
Guardianship of minors (if no real estate)	5 years after termination of guardianship
Guardianship of minors (if real estate)	Forever
Involuntary commitments	5 years
Marriage waivers	5 years

Relinquishment of parental rights	Forever
Trusts (named in will and not named in will)	Forever
Voluntary Administrations	Forever
Will filed not probated	Forever

**MISCELLANEOUS OFFICE FILES**

Advance sheets/advances of NH reports	Until volume published
Bank statements and reconciliation	5 preceding years & current year
Budget files	3 years
Case files from other counties	Until original returned
Cash deposit/cash receipt records	5 preceding years & current year
Contested case information	See specific case type
Correspondence/memos (miscellaneous)	2 years
Court Sheets	2 years
Deceased lists by town	5 years
Exhibits	30 days after disposition
Hearing tapes	See specific case type
Judge's old correspondence	5 years or per direction of judge
Minutes of meetings	2 years
Office supplier bills	2 years
Paid bills file	2 years

Personnel records	5 years following termination or retirement
Petty Cash requests (Revolving Fund Reimbursement)	2 years
Publication journal	5 years if separate file
Revenue transfer reports	2 years
RSAs, old sets	Per direction of judge
Statistical report files	3 years
Transcripts	See specific case type