

SUPREME JUDICIAL COURT

Boston, Massachusetts 02108

NOTICE OF APPROVAL

Notice is hereby given that the Supreme Judicial Court has approved and promulgated rules as further indicated below.

RALPH D. GANTS
Chief Justice

1. Court Submitting Rules for Approval:

Superior Court

2. Date Rules Submitted for Approval:

March 10, 2017

3. Date Approved & Promulgated by the Supreme Judicial Court:

July 26, 2017

4. Rule or Rules, or Amendments Thereto, Approved and Promulgated:

New Superior Court Rule 18, as attached hereto; renumbering of existing Rule 18 as Rule 28, and moving the title "Special Provisions for Civil Actions" so that it appears immediately before Rule 19, as described in the attached letter.

5. Effective Date:

September 1, 2017

(The original of this notice is to be filed in the office of the Clerk of the Supreme Judicial Court for the Commonwealth, and a copy to be sent by the Clerk to the court which requested approval of the rules.)

COMMONWEALTH OF MASSACHUSETTS
THE SUPERIOR COURT
THREE PEMBERTON SQUARE
BOSTON, MA 02108



JUDITH FABRICANT
CHIEF JUSTICE

TELEPHONE
(617) 788-7301

March 10, 2017

Honorable Margot Botsford
Chair of the Rules Committee
Supreme Judicial Court
John Adams Courthouse, Suite 2200
One Pemberton Square
Boston, MA 02108

RE: Request for Changes to Superior Court Rules

Dear Justice Botsford:

I submit for approval by the Supreme Judicial Court a new Superior Court Rule 18 on Impoundment and Personal Identifying Information. The new proposed rule sets forth exceptions to the notice requirement of Uniform Rules on Impoundment Procedure Rule 13(b), which ordinarily requires that when a person files impounded material, he or she also must file a notice alerting the clerk to that material.

Specifically, Superior Court Rule 18 provides that, because impoundment of the following materials is required by law, the notice requirement is not necessary for:

- (1) an Affidavit of Indigency and Request for Waiver, Substitution or State Payment of Fees and Costs under G. L. c. 261, § 27B;
- (2) a Petition for Abortion Authorization under G. L. c. 112, § 12S, or any materials in such a matter;
- (3) an action for judicial review of a decision of the Sex Offender Registry Board under G. L. c. 6, § 178M, or any materials in such a matter; or
- (4) any confidential document or other material prepared especially for a pre-indictment judicial hearing concerning a grand jury proceeding.

Since these exceptions are currently found in Superior Court Standing Order 2-15, the Standing Order would be repealed if this rule were approved by the SJC. The Rule 18 also references S.J.C. Rule 1:24, concerning redaction and treatment of personal identifying information.

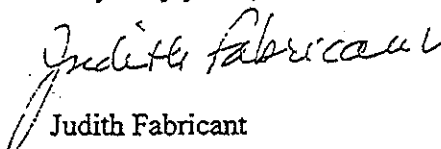
Proposed Rule 18 was posted for comment on the Superior Court's website on August 12, 2016, and notice was sent to Massachusetts Lawyers Weekly on that day. Comments were accepted through September 30, 2016. After review of the comments received, the proposed rule was presented to, and approved by, the Justices of the Superior Court at the Court's semi-annual business meeting on December 2, 2016.

In addition to the proposed new, the Superior Court would also like to make the following changes:

1. Renumber *existing* Rule 18 (Cost and Terms) as Rule 28, without any change in the text; and
2. Move the title "Special Provisions for Civil Actions," so that it appears immediately before Rule 19.

The Superior Court requests that the SJC approve the proposed changes effective June 1, 2017. Please call me if you have any questions or need additional information. Thank you for your consideration.

Very truly yours,



Judith Fabricant

cc: Chief Justice Paula M. Carey
Christine Burak, Esq., Secretary of the Rules Committee
Hon. Douglas H. Wilkins, Chair, Superior Court Rules Committee

PROPOSED

SUPERIOR COURT RULE 18

IMPOUNDMENT AND PERSONAL IDENTIFYING INFORMATION

(Applicable to All Counties)

A. Impoundment

1. Impoundment in the Superior Court shall be governed by Trial Court Rule VIII (Uniform Rules on Impoundment Procedure ("URIP")), as supplemented by paragraph 2(b), below.

2. a. Purpose.

Paragraph 2(b) of this Rule makes exceptions to the notice requirement of URIP Rule 13(b), which ordinarily requires that when a person files impounded material, he or she also must file a notice alerting the clerk to that material.

b. Exceptions to Notice Requirement of URIP Rule 13(b).

Because the following materials are impounded by law, and the clerks' offices impound them in the normal course, no Rule 13(b) notice is necessary when filing any of them:

1. an Affidavit of Indigency and Request for Waiver, Substitution or State Payment of Fees & Costs, on the form prescribed by the Chief Justice of the Supreme Judicial Court under G.L. c. 261, § 27B;
2. a Petition for Abortion Authorization under G.L. c. 112, § 12S, or any materials in such matter;
3. an action for judicial review of a decision of the Sex Offender Registry Board, under G.L. c. 6, § 178M, or any materials in such matter; or
4. any confidential document or other material prepared especially for a pre-indictment judicial hearing concerning a grand jury proceeding.

c. Duty of the Clerk.

The clerk shall maintain the impounded material described above in accordance with the clerk's duties prescribed in URIP Rule 9.

B. Personal Identifying Information

3. Redaction and treatment of personal identifying information shall be governed by Supreme Judicial Court Rule 1:24, as supplemented by paragraph 4 below.

4. Pursuant to Section 5(c) of Supreme Judicial Court 1:24, personal identifying information contained in administrative records filed by agencies shall be treated as may be provided in Standing Order 1-96, as amended from time to time.