

# Electronic Filing Deadlines in State Courts

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## Introduction

This report presents the results of an analysis of electronic filing practices in state courts to identify courts that require attorneys to complete electronic filings by a certain time (other than midnight local time) on the due date. In 2018, the Delaware Supreme Court ordered Delaware courts to amend their rules and/or electronic-filing policies to require that all electronic filings in nonexpedited matters, except for initial pleadings and notices of appeal, be completed by 5:00 p.m. Eastern Time in order to be considered timely filed that day.<sup>1</sup> Four federal courts have a filing deadline other than 12:00 midnight for electronic documents filed on the date they are due: before 5:00 p.m. (EST) in the district courts for the Eastern District of Arkansas and the District of Delaware (except for initial pleadings), before 6:00 p.m. (EST) in the District of Massachusetts, and before 4:30 p.m. (EST) in the District of Massachusetts Bankruptcy Court.<sup>2</sup>

To determine whether electronic filing deadlines other than 12:00 midnight on the filing due date are a more frequent occurrence in state courts, we examined state court systems in thirty states, arbitrarily chosen from the states that comprise each of the eleven federal numbered circuits to avoid overrepresentation of a geographic region. In circuits with an even number of states, half of the states were selected by choosing every other state from a list of all states in the circuit in arbitrary order. In circuits with an odd number of states, one more than half of the states were selected by choosing every other state from an arbitrary list of all states in the circuit. The number of states selected from each of the eleven circuits is proportionate to the total number of states located within each circuit. For example, five of the state court systems studied are geographically located within the Ninth Circuit, and two state court systems represent the Third Circuit.

Our findings are summarized below, and the appendix provides a state-by-state description of the relevant court rules.<sup>3</sup>

## Description of Electronic Filing Systems in State Courts

Although some variation exists in the electronic filing systems and practices of individual federal courts, the implementation of electronic filing in state courts can differ greatly from one state to another. Therefore, filing deadlines identified in state courts should be considered within the context of the e-filing system and filing practices operational in each court. Except for specific, narrow exceptions for certain types of cases (e.g., grand jury matters, sealed cases) or kinds of documents (e.g., complaints, notices of removal, charging documents in a criminal case, under seal filings),

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1. See Chief Justice Delaware Supreme Court, [Work Life Balance Final Order](#) (issued July 18, 2018, effective Sept. 14, 2018) (Delaware Supreme Court ordered all Delaware courts to adopt a new 5:00 p.m. electronic filing deadline and recommended additional policies and practices to improve work-life balance for Delaware legal professionals and their staff).

2. See Eastern District of Arkansas, [CM/ECF Administrative Policies and Procedures Manual for Civil Filings](#) § III.A.3 (rev. June 8, 2022) (applies to documents electronically filed on the last day of any given deadline); District of Delaware, [Standing Order Regarding Revision to Electronic Case Filing Policies and Procedures](#) (adopted Aug. 16, 2022; effective Sept. 1, 2022) (deadline for filing and service of documents in the U.S. District Court for the District of Delaware moved to 5:00 p.m. ET from the prior deadline of 6:00 p.m. ET for all documents other than initial pleadings); District of Massachusetts, [CM/ECF Case Management/Electronic Case Files Administrative Procedures](#) § K (July 2011) (applies to a document electronically filed on the date on which it is due); [D. Mass. Bankr. R.](#), App. 8, R. 3(c)(2) (applies to documents where the court orders that filing must be completed by a specific date but does not specify the time).

3. Also available at <https://www.fjc.gov/sites/default/files/materials/01/ElectronicFilingStateCourtsAppendix.pdf>.

all federal courts (courts of appeals, district courts, and bankruptcy courts) require attorneys to file all documents in all civil and criminal cases electronically using the federal judiciary's Case Management/Electronic Case Files (CM/ECF) system.<sup>4</sup> And although each federal court has the authority to establish for itself local rules governing e-filing,<sup>5</sup> components of federal e-filing such as having only one electronic filing and case-management service used by all courts and filers, and federal rules that provide electronic filing requirements common to all CM/ECF users regardless of the court, establish a degree of uniformity in federal e-filing not present when describing electronic filing in state courts. State courts in all thirty states were found to have an electronic court document filing system. However, these systems vary widely in the degree to which they are implemented in only a few courts or statewide, the approach adopted to create and structure their filing systems, the individuals authorized to register and e-file documents through system, the rules and procedures governing electronic filing, and the case types and documents for which e-filing is mandated or voluntary.

**Limited and Statewide Implementation.** Despite the differences described below, court systems in all thirty selected states were found to authorize electronic filing in all or some of their courts by means of an "electronic filing system." Such systems share the common characteristics of being a web-based system established for the purpose of filing documents with or by the court, integrating documents into the court's case-management system, and electronically serving notice to the parties who have registered with the electronic filing system. For all thirty states, the term "electronic filing" or "e-filing" does not encompass the submission or transmission of documents to or from the court through other electronic means such as e-mail, facsimile, or computer discs.

Except for New Hampshire, Montana, and Wyoming, which have no intermediate appellate courts, the state court systems studied had at least two appellate-level courts and one or more trial-level courts. In twelve states, electronic filing is implemented in all appellate- and trial-level courts.<sup>6</sup> Twelve additional states authorize e-filing in all appellate-level courts and have extended e-filing to most but not all trial-level courts.<sup>7</sup> In three states, e-filing is authorized in courts at one appellate level but not the other, and to some trial-level courts but not others.<sup>8</sup> One state has implemented e-filing in one appellate-level court and in all trial-level courts.<sup>9</sup> And in two states e-filing is only authorized in trial-level courts.<sup>10</sup>

**Types of Court Electronic Filing Systems.** The state court systems studied appear to have used several different approaches to establish electronic filing. Courts in thirteen states have electronic filing systems developed internally within the court system itself.<sup>11</sup> Outside vendors may have

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4. See Fed. R. App. P. 25; Fed. R. Civ. P. 5; Fed R. Crim. P. 49; Fed. R. Bankr. P. 5005.

5. See Fed. R. App. P. 25(a); Fed. R. Civ. P. 5(e); Fed R. Crim. P. 49(d); Fed. R. Bankr. P. 5005(a) (each authorizing courts to establish local rules requiring or allowing e-filing).

6. See Appendix: California, Colorado, Connecticut, Florida, Illinois, Maryland, Massachusetts, Minnesota, Nebraska, New Hampshire, Ohio, Rhode Island.

7. See Appendix: Alabama, Arizona, Arkansas, Delaware, Hawaii, New Mexico, North Carolina, Mississippi, Montana, Texas, Virginia, Wyoming.

8. See Appendix: New York, North Dakota, Wisconsin.

9. See Appendix: New Jersey.

10. See Appendix: Alaska, Kentucky.

11. See Appendix: Colorado, Florida, Hawaii, Kentucky, Massachusetts, Mississippi, Montana, Nebraska, New Jersey, New York, Ohio, Virginia, Wisconsin.

assisted with designing the system, but authorized users file directly with the court through a portal maintained and supported by the court. Fourteen state court systems have contracted with private-sector providers (often referred to as electronic filing service providers or EFSPs) to design, build, maintain, and support their electronic court systems.<sup>12</sup> An electronic filing service provider is generally a third party who, for a fee, provides software that allows users to prepare and submit e-filings, pay the filing fees related to their submissions, and receive notifications from the court. Three states contract directly with an electronic service provider referred to as an e-filing manager that receives and processes e-filing submissions directly from registered users and from court-approved or certified secondary or alternative electronic filing service providers.<sup>13</sup> Using multiple competing EFSPs allows the courts to offer varying service levels to users who are able to choose between EFSPs based on their needs and price. The remaining four states use both approaches in their courts, implementing an internally developed filing system for some of its courts (e.g., appellate courts only) while using a private sector provider for the remaining courts (e.g., all trial-level courts).<sup>14</sup>

Adopting either the first or second approach described above, court systems in sixteen states have implemented a statewide electronic filing system using a single portal.<sup>15</sup> This portal acts as a central hub, allowing courts and filers throughout the state to link to one website where documents are filed and then forwarded to the appropriate courts and clerks across the state. Nine of the electronic filing systems with one universal filing portal for all active courts are court-created, while the remaining seven require registered users to file through a single approved e-filing service provider.<sup>16</sup> Eleven of the fourteen state court systems with more than one electronic filing system have two e-filing portals, one portal for appellate court filings and another for trial court filings.<sup>17</sup> The remaining three state court systems have three e-filing portals, with each representing a distinct electronic filing system.<sup>18</sup>

**Mandatory and Permissive/Voluntary Electronic Filing.** As stated previously, except for certain types of proceedings or documents, attorneys must e-file any document in federal district courts and courts of appeals that they conventionally would have filed with the clerk's office in paper format, including most pleadings, motions, and notices. Although state courts are moving in the direction of eliminating paper filings, e-filing is not mandatory in all state courts that are authorized to accept electronic filings. In addition, even state courts for which e-filing is mandatory may not accept electronic filing of all documents in all civil and criminal cases or appeals. In thirteen of the thirty state courts studied,<sup>19</sup> electronic filing is mandatory for attorneys in all state

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12. *See* Appendix: Alaska, Arizona, Arkansas, California, Delaware, Illinois, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Texas, Wyoming.

13. *See* Appendix: Illinois, Maryland, and Texas.

14. *See* Appendix: Alabama, Connecticut, North Carolina, North Dakota.

15. *See* Appendix: Alaska, Arkansas, Colorado, Florida, Hawaii, Illinois, Kentucky, Maryland, Massachusetts, Mississippi, Montana, New Mexico, New York, Ohio, Rhode Island, Texas.

16. *Id.*

17. *See* Appendix: Alabama, Arizona, California, Connecticut, Minnesota, New Jersey, North Carolina, North Dakota, Virginia, Wisconsin, Wyoming.

18. *See* Appendix: Delaware, Nebraska, New Hampshire.

19. *See* Appendix: Alaska, Arkansas, Florida, Hawaii, Maryland, Minnesota, Mississippi, Nebraska, New Jersey, North Carolina, North Dakota, Rhode Island, Wisconsin.

courts authorized to accept electronic filings pursuant to the rules governing electronic filing. Electronic filing is either fully or partially mandatory in the active courts of five states,<sup>20</sup> and mandatory in part in all of the courts authorized to accept electronic filings in one state.<sup>21</sup> Ten states have made e-filing mandatory in some of the courts authorized to accept documents electronically and optional or voluntary in others.<sup>22</sup> And in one state, electronic filing is optional in all appellate and trial courts authorized to participate in the state court's electronic filing system.<sup>23</sup>

For purposes of this study, electronic filing authorized in a trial or appellate court is considered “*mandatory*” if registered attorneys are required to submit documents in civil and criminal cases electronically as provided by the governing rules. These rules may provide for exceptions prohibiting e-filing of certain categories of civil and/or criminal cases.<sup>24</sup> In addition to exempting categories of cases that can be e-filed, state courts with mandatory e-filing rules may also limit the types of documents that can be filed in civil and/or criminal cases.<sup>25</sup> Electronic filing authorized in a trial or appellate court is designated “*mandatory in part*” if registered attorneys are required to submit documents electronically only for specific types of cases as provided by the governing rules. Ten states in our study have one or more courts where attorneys are required to e-file documents in civil appeals or civil cases only.<sup>26</sup> And one state court mandates electronic filing in all criminal cases while e-filing documents in civil cases is optional.<sup>27</sup> Electronic filing authorized in a trial or appellate court is “*optional*” (also labeled voluntary or permissive in state court rules) if registered attorneys are permitted to voluntarily file cases and documents electronically as provided by the governing rules or file their documents conventionally in paper format as provided by court rules and procedures that would apply in the absence of electronic filing. Eleven states have one or more courts where registered attorneys are permitted to file documents electronically in civil and/or criminal cases, but are not required to do so.<sup>28</sup>

## Electronic Filing Issues in State Courts

The nonuniformity among state courts in the structure and implementation of their electronic filing systems appears to extend to the rules that govern the core formatting, service, and filing requirements for e-filed documents, including rules addressing whether the filing of an electronic document must be completed before a specific time of day (other than before midnight) on the due date for the court to consider the document to be “timely filed.” Rules addressing e-filing deadlines in

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20. See Appendix: California, Connecticut, Delaware, New Hampshire, Texas.

21. See Appendix: Illinois.

22. See Appendix: Arizona, Colorado, Kentucky, Ohio, Massachusetts, Montana (if trial courts designate case types for which electronic filing is mandatory), New Mexico, New York, Virginia, Wyoming.

23. See Appendix: Alabama.

24. See, e.g., State of New Hampshire Superior Court, [Administrative Order 2022-01: Case Type Exemptions from Electronic Filing in Superior Court](#) (Jan. 20, 2022).

25. See, e.g., [Administrative Procedures for Mississippi Electronic Courts](#) (Oct. 2018, effective Oct. 25, 2018) (mandatory electronic filing in Mississippi trial courts applies to subsequent filings in all civil and criminal cases; civil complaints, criminal complaints, bills of information, indictments, summonses and subpoenas must be filed conventionally on paper with the court).

26. See Appendix: California, Colorado, Connecticut, Delaware, Kentucky, Massachusetts, Montana (if implemented by individual trial courts), New Hampshire, New Mexico, New York.

27. See Appendix: Texas Justice of the Peace Courts.

28. See Appendix: Alabama, Arizona, Colorado, Kentucky, Massachusetts, Montana, New Mexico, New York, Ohio, Virginia, Wyoming.

the state courts studied were usually located near or in the same section as rules addressing separate but related filing issues, such as when electronic documents are considered filed by the court, how the date and time of filing is determined, and when the court's electronic filing system is available for e-filing. Although the legal basis for electronic filing and the source of rules that govern e-filing procedures are different in each court system studied, rules addressing these issues to some degree were identified for each state court electronic filing system.

The majority of state court systems address these filing-related issues in amendments to the sections of statewide procedural rules (e.g., rules of appellate, civil, or criminal procedure) that directly relate to filing for each of the state's participating courts.<sup>29</sup> Some states with one e-filing system for appellate courts and another for trial courts establish procedural rules applicable to all active courts at each level.<sup>30</sup> In at least seven states, these rules were included in a separate, stand-alone compilation of rules establishing electronic filing procedures that govern e-filing in every court throughout the state required or choosing to implement electronic filing.<sup>31</sup> These electronic filing rules were adopted by the state supreme court and included within the court's rules or published as general orders.<sup>32</sup> Several state supreme courts have established minimum requirements for electronic filing that all e-filing courts within the state must incorporate, including provisions addressing time and date of filing and filing deadlines.<sup>33</sup> Local rules and administrative orders of the lower courts may cover additional aspects of e-filing not addressed by the minimum standards as long as e-filing occurs consistent with the policies, guidelines, and/or standards authorized by the supreme court.<sup>34</sup> Several court systems that permit some or all of the courts throughout the state to implement electronic filing by local rule require these courts to follow the date and time of filing as set forth in statewide procedural rules; inconsistent local rules setting forth a different time deadline for filing electronic documents are superseded.<sup>35</sup> When these primary sources did not address, or did not clearly address, the state court's requirements for filing, timely filing, or filing deadlines, secondary resources were used to fill the informational gaps, including e-filing frequently asked questions (FAQs), e-filing user's manuals or guides, and a court's e-filing webpage.

In order to satisfy a deadline fixed by statute, rule, or order of the court by submitting a document electronically to a state court, the filer must know when the court's authorized electronic filing system is available to receive documents, what the court's requirements are for a submission to be deemed "filed," and whether the court requires that a document be filed by a certain time of day or before midnight (in the court's time zone) on or before the date on which the document is due to be considered "timely filed" by the court. Thus, the extent to which the state courts' electronic filing rules and/or supplemental resources of the state court electronic filing systems address the following issues is considered separately:

- (1) the days and hours during which electronically transmitted documents will be received by the court (or when the court's electronic filing system is available to accept documents);

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29. *See, e.g.*, Appendix: Colorado, Delaware, New Mexico, North Carolina, Texas.

30. *See, e.g.*, Appendix: California, Mississippi, Virginia.

31. *See* Appendix, Arkansas, Hawaii, Illinois, Maryland, Massachusetts, Nebraska, Rhode Island.

32. *Id.*

33. *See* Appendix: Florida, Illinois, Texas.

34. *Id.*

35. *See* Appendix: California, Massachusetts.

- (2) when (date and time) documents received electronically will be considered by the court to be “filed” as part of the official court record of a case; and
- (3) whether an electronically submitted document is required to be filed by a certain time of day (other than midnight in the court’s time zone) on or before the date on which the document is due to be considered “timely filed” by the court in order to satisfy a deadline.

**When the Court’s Electronic Filing System Is Available.** Except for courts in four states, the state court electronic filing systems studied are available to receive electronically submitted documents for the purpose of filing with the court as part of an existing case and/or to commence a new case twenty-four hours a day, seven days a week, with the exception of when the system is unavailable due to scheduled or other maintenance or repair.<sup>36</sup> Electronic filing systems in the courts of four states are unavailable for several hours each day, some providing system maintenance as the reason.<sup>37</sup> During this time, registered users are not able to log into the system. Only one state with daily restrictions on the accessibility of its electronic filing system, however, appears to require documents to be electronically submitted earlier than midnight. In Virginia Circuit Courts, the Virginia Judiciary E-Filing System (VJEFS) is regularly available on weekdays, not including holidays, from 7:00 a.m. to 7:00 p.m. EST.<sup>38</sup> Although 7:00 p.m. EST on weekdays is not presented as a deadline for filing, but as a “shut off” time after which VJEFS goes offline, the result is the same in that a document must be submitted to the court before a certain time of day (earlier than midnight) for the court to consider the document received that day.

Because a document that has been electronically submitted to a court will not be considered to be officially filed by the court without some degree of clerk review to determine if it meets the requirements for using the court’s electronic filing system, most courts are careful when describing the availability of their electronic filing system using phrases such as “a document can be submitted electronically” or the “court shall receive electronic documents.” Courts using the term “filed” to describe the availability of their filing system (e.g., “documents can be filed electronically 24 hours a day, 7 days a week”) may inadvertently convey that a court considers an electronic document, submitted at any time on any day of the week, to be “filed” without further court review.<sup>39</sup> Although documents can be submitted electronically twenty-four hours a day, some courts encourage e-filers to submit documents in advance of filing deadlines, cautioning that the electronic filing system may not always be available due to scheduled maintenance or technical difficulties experienced by the e-filer or the system.<sup>40</sup> In addition, courts encourage filers to submit all documents during normal court business hours in the event telephone or online assistance or support is needed.

**When the Court Deems an Electronic Document “Filed.”** In order to meet filing deadlines, it is necessary to know when a court deems a document received through its authorized electronic

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36. An electronic filing system is considered available twenty-four hours a day, seven days a week with no daily restrictions preventing users from logging into the system if this has been stated in any rules, procedures, etc., or if any time before midnight is the stated deadline for submitting a document that will be considered filed that day and no restrictions on the e-filing system’s availability were located in any rules, procedures, etc.

37. See Appendix: Connecticut, Hawaii, New Jersey (Tax Court), Virginia (VACES—appellate courts, VJEFS—trial court).

38. See Appendix: Virginia (VJEFS—trial court).

39. See Appendix: Alaska, Mississippi, North Carolina.

40. See, e.g., Appendix: California, Kentucky, Mississippi.

filing system “filed” and part of the official court record in a case. Although all state courts that allow electronic filing consider an electronic document to be filed when the electronic filing process is complete, the definition of when this occurs was found to differ between courts in different states, and in a few states, between courts within the same state. All active courts, or courts that are currently authorized to participate in a state court system’s electronic filing system, in almost half of the states in the study (fourteen) consider electronic filing complete when a document is submitted and received by the court’s authorized electronic filing system, unless the court rejects the document upon review.<sup>41</sup> If accepted after review for compliance with all applicable rules, the document is deemed filed as of the date and time it was originally received by the electronic filing system. In seven states, all active or participating courts consider electronic filing complete when a document submitted to the authorized electronic filing system is accepted by the clerk’s office after review for compliance with all applicable rules.<sup>42</sup> If accepted, the document is deemed filed as of the time and date of its original submission. This is true even when the document is not reviewed and accepted by the clerk’s office on the same day it was received. All active or participating courts in six states consider electronic filing complete when a document is submitted to the authorized electronic filing system *and* electronically received by the clerk’s office, unless the court rejects the document upon review.<sup>43</sup> This differs from courts that deem a document to be filed when received by the court’s authorized electronic filing system, regardless of when it was received by the clerk’s office. If accepted, the document is deemed filed as of the date and time it was received in the clerk’s office.

Active or participating courts in three states do not all apply the same rule for when e-filing is complete and electronic documents are considered filed.<sup>44</sup> For example, electronic documents submitted to the New Hampshire Supreme Court are deemed filed the date and time of original submission upon acceptance, while documents electronically transmitted to New Hampshire superior and circuit courts are considered filed the date and time received upon receipt by the authorized electronic filing system. In addition to the requirements described above, courts in five states do not consider e-filing to be complete until all required fees are paid at the time of filing, or an appropriate waiver of fees is submitted with the document to be filed.<sup>45</sup>

Regardless of when filing is deemed complete initially, electronic documents in all state courts are required to pass clerk review for compliance with all applicable rules, procedures, and standards before the document is file-stamped or docketed and considered part of the official record of a case. Some reasons given for why a court may reject a document for filing include that the filing was not signed by the party, it was not in a digitized format approved by the clerk, it was in violation of the rules governing redactions from court records, or it was filed in the wrong case or with an incorrect case number or caption. Although some courts that allow the filing party to correct the filing and resubmit the document will consider the corrected document filed on the original filing date,<sup>46</sup> others assign the resubmitted document a new submission date and time on the date

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41. *See* Appendix: Alabama, Arkansas, Colorado, Delaware, Florida, Kentucky, Maryland, Nebraska, New Mexico, New York, North Carolina, Texas, Virginia, Wyoming.

42. *See* Appendix: Alaska, Illinois, Massachusetts, Montana, New Jersey, Rhode Island, Wisconsin.

43. *See* Appendix: Arizona, California, Connecticut, Hawaii, Mississippi, North Dakota.

44. *See* Appendix: Minnesota, New Hampshire, Ohio.

45. *See* Appendix: Connecticut, New Hampshire (superior and circuit courts), New York, North Dakota (district courts), Wisconsin (circuit courts, except notice of appeal cannot be rejected for failure to pay fee).

46. *See, e.g.*, Appendix: Illinois, North Dakota, Rhode Island, Wyoming (chancery court).

it was resubmitted for filing.<sup>47</sup> Once the document is electronically file-stamped and entered on the docket, it is considered a permanent part of the case record.

Similar to the date and time stated on the Notice of Electronic Filing transmitted when a document is submitted to a federal court via CM/ECF, some state courts consider the date and time stated on a notification sent to the filer automatically by the electronic filing system when a document is submitted as the date and time of original submission.<sup>48</sup> However, several state courts that consider an electronically submitted document filed upon receipt by the clerk's office make clear in their electronic filing rules that the date and time stated on the confirmation of receipt or notice of electronic filing sent to the filer upon submission is the date and time the document was received by the clerk's office and not the date and time the document was submitted by the filer.<sup>49</sup> Although this is not likely to affect the date of filing if the document is accepted after court review, the time of filing may be important if a statute, rule, or court order requires that a document be filed by a certain time of day.

### **When the Court Deems an Electronic Document “Timely Filed” to Satisfy Filing Deadlines.**

Electronic versions of documents are filed within the same deadlines as paper documents. Filing a document electronically does not alter or extend any filing deadline. Attorneys, pro se filers, or anyone the court has authorized to register to file documents using the court's authorized electronic filing system are responsible for timely filing of electronic documents to the same extent as paper documents, with the same consequences for missed deadlines. To meet a filing deadline, a document must be “timely filed,” meaning that filing must be complete by a certain time of day where the court is located on or before the date on which the document is due. Except for the three district courts and one bankruptcy court mentioned previously, in federal courts attorneys must complete electronic filing before midnight local time where the court receiving the document(s) is located for the court to consider the documents timely filed on that day.<sup>50</sup> Except for the rules described below requiring e-filed documents to be stamped by a particular time (earlier than midnight local time) for the documents to be considered timely filed on that day, similar to federal courts most of the state courts studied consider a document that is received electronically to have been filed on the same day it is received if the document is submitted on or before midnight (in the court's time zone) and the document is not rejected by the clerk's office after review for compliance with applicable rules. However, unlike federal courts, several state courts do not consider documents to be received if such documents are submitted before the midnight deadline on a Saturday, Sunday, legal holiday, or any other day that the clerk's office is closed for business.<sup>51</sup> These documents

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47. See Appendix: Minnesota (appellate courts), Ohio (Ashland County Court of Common Pleas).

48. See, e.g., Appendix: Alabama, Arkansas, Florida, Kentucky (a document will not be considered filed until the eFiling system generates a Notice of Electronic Filing with a hyperlink to the electronically filed document), Massachusetts, Nebraska, New Hampshire (supreme court), Ohio Tenth District Court of Appeals, Virginia, Wyoming.

49. See, e.g., Appendix: Arizona, California, Connecticut, Hawaii, Mississippi (for the filing of an electronic document to be completed, all active courts require that the filer must have received the Notice of Electronic Filing from the court).

50. See Fed. R. App. P. 26(a)(4)(B); Fed. R. Civ. P. 6(a)(4)(A); Fed. R. Crim. P. 45(a)(4)(A); Fed. R. Bankr. P. 9006(a)(4)(A).

51. See Appendix: California, Illinois, Massachusetts, Montana, New Hampshire (supreme court), New Mexico (documents are considered received by the court if submitted before midnight on a day preceding the next business day of the court), New York, Ohio (First & Eighth District Courts of Appeals, Athens County Common Pleas Court), Texas, Virginia, Wyoming.

will be deemed received on the following business day or the next day the clerk's office is open for business. Unless extended pursuant to a court's applicable time-computation rules, in these courts if the last day of a filing deadline is a Saturday, Sunday, or legal holiday, a document must be submitted prior to a weekend or legal holiday for it to be considered timely filed.

In federal courts, if the last day of a filing deadline is a Saturday, Sunday, or legal holiday, the filing deadline is extended to the end of the next business day, which is defined as midnight in the court's time zone unless a different time is set by a statute, local rule, or court order.<sup>52</sup> Time-computation rules in all state courts studied include a similar provision specifying that the last day of a deadline should be included when computing any period of time unless the last day is a Saturday, a Sunday, or a legal holiday, in which event the deadline is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. Like the federal rule, several state courts specify that the last day ends for electronic filing at midnight unless a different time is set by a statute, local rule, or court order.<sup>53</sup> However, most rules governing time computation in state courts must be applied in conjunction with any time-of-day deadlines for filing provided in rules governing electronic filing to determine what time the last day of a time period ends. Also similar to time-computation rules applicable in federal courts, state time-computation rules do not apply to a court order requiring a party to file papers on a specific date. If a filing deadline is a date certain (for example, a court order requiring the parties to file all summary judgment motions no later than September 20) and that date falls on a weekend or holiday, the deadline does not move to the next business day.

**State Courts with Filing Deadlines Earlier than Midnight in the Courts' Time Zone.** In addition to Delaware, courts in Connecticut, Ohio, North Carolina, Alaska, New Mexico, and New York have adopted rules that require electronic documents to be submitted or received by a particular time of day for the documents to be considered timely filed on that day. Electronic filing is mandatory for attorneys in all civil and criminal cases in the Connecticut Supreme Court and appellate court, including the filing of all appeals, applications, motions, and documents. Except for certain civil case types and documents, electronic filing of most civil, family, housing, and small-claims case types is mandatory for attorneys in Connecticut superior courts, and in Connecticut probate courts with respect to all case types. Procedural rules for Connecticut's appellate courts and superior courts contain similar provisions establishing that a document that is electronically received by the clerk's office for filing after 5 p.m. on a day on which that office was open, or is electronically received by that office for filing at any time on a day on which that office is closed, shall be deemed filed on the next business day that office is open.<sup>54</sup> Deadlines for filing are determined in relation to each probate court's scheduled hours, and a document received by the court through its authorized electronic filing system after the court's posted closing time is deemed filed on the next day that the court is open.<sup>55</sup>

Electronic filing is optional in the Ohio Supreme Court, and Ohio courts of appeal and trial-level courts can individually choose whether to authorize by local rules the filing of documents by electronic means. If the court adopts such local rules, they must include a provision specifying the

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52. See Fed. R. App. P. 26(a)(1)(C), (a)(4)(B); Fed. R. Civ. P. 6(a)(1)(C), (a)(4)(A); Fed. R. Crim. P. 45(a)(1)(C), (a)(4)(A); Fed. R. Bankr. P. 9006(a)(1)(C), (a)(4)(A).

53. See Appendix: Florida, Minnesota, Montana, New Mexico, North Dakota.

54. See Appendix: Connecticut (supreme court, appellate court, superior court).

55. See Appendix: Connecticut (probate court).

days and hours during which electronically transmitted documents will be received by the court, and a provision specifying when documents received electronically will be considered to have been filed. The Ohio Court of Claims implemented optional electronic filing for all case types and established by local rule that in order for a document submitted electronically to the court to be considered timely filed on the same day that it is submitted: (1) the document must be submitted on a business day that is not a Saturday, a Sunday, or legal holiday; (2) the document must be submitted prior to 4:59 p.m. Eastern Standard Time, unless the hearing officer has ordered the document filed by an earlier time; and (3) the document must be deemed filed and stamped with the date and time it was submitted upon acceptance after clerk review for compliance with the applicable court rules, policies, and procedures.<sup>56</sup> Documents submitted on a Saturday, or Sunday, or court holiday will be deemed submitted on the following business day, and documents filed later than 4:59 p.m. Eastern Standard Time shall be deemed to have been filed the following business day. The Lima Municipal Court, one of Ohio's 88 municipal courts, one located in each county, implemented optional electronic filing for pleadings, motions, and other documents in criminal and traffic cases.<sup>57</sup> In order to be file-stamped on the date of transmission pursuant to the Lima Municipal Court's electronic-filing policy, the document must be received and time-stamped by the clerk by 4:00 p.m. Eastern Time on a business day in the time zone where the court is located. Documents received after 4:00 p.m. or at times when the clerk's office is closed shall be file-stamped the next business day. For a definitive determination of whether there are any Ohio common pleas courts or additional municipal courts that have adopted a filing deadline earlier than midnight, it may be necessary to contact the clerk's office for each court. Although the Ohio Tenth District Court of Appeals, one of the three courts of appeals currently active or participating in the state court's electronic filing system, adopted an 11:59 deadline for attorneys required to file all documents electronically, an earlier deadline was implemented for documents submitted to the e-filing system by the court of appeals or any lower court or tribunal for purposes of proceedings before the Tenth District Court of Appeals.<sup>58</sup> If such documents are submitted to the e-filing system after 4:59 p.m. on a business day or on a Saturday, Sunday, or legal holiday, these documents are deemed to have been filed on the next business day irrespective of the time stamp applied to the document.

The Alaska Court system is in the process of deploying electronic filing to superior and district courts throughout the state.<sup>59</sup> Attorneys must file all case documents in eFiling courts in applicable case types, for cases filed after the implementation of the authorized electronic filing system in that court location. Provisional rules for electronic filing establish that a document submitted to the authorized electronic filing system before 11:59 p.m. Alaska Time is deemed filed that day, except that complaints for forcible entry and detainer must be filed during regular court business hours (8:00 a.m.–4:30 p.m. Monday through Thursday; 8 a.m.–12:00 noon Friday) to be considered filed that day. Complaints for forcible entry and detainer filed outside of regular court business hours will be considered filed on the next business day following electronic filing.

In July 2021, the North Carolina Supreme Court began the process of phasing out the optional Pilot Electronic Filing Portal and implementing a statewide electronic-filing and case-management system developed by Tyler Technologies (Odyssey) for North Carolina superior and district

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56. *See* Appendix: Ohio (court of claims).

57. *See* Appendix: Ohio (Lima Municipal Court).

58. *See* Appendix: Ohio (Tenth District Court of Appeals).

59. *See* Appendix: Alaska (superior and district courts).

courts.<sup>60</sup> Beginning in 2022, every three to four months superior and district courts in a new group of counties have switched over to Odyssey, thus Odyssey should be implemented statewide by June 2024. Amendments to the North Carolina General Rules of Practice for the superior and district courts mandate electronic filing for pleadings and other documents filed in all case types by attorneys in counties with the new Odyssey electronic filing system. In addition, new rules establish that a document is filed when it is received by the court's electronic-filing system, and if a document is due on a date certain, then the document must be filed by 5:00 p.m. Eastern Time on that date. The new rule defining the time of day by which electronic documents due on a certain date must be filed in order to be considered timely filed on that date follows recent amendments to the North Carolina Business Court Rules. Pursuant to these amendments, electronic filing is mandatory for attorneys in all actions designated as a mandatory complex business case, and a document due on a date certain must be filed by 5:00 p.m. Eastern Time on that date, unless the court orders otherwise.<sup>61</sup>

Three New Mexico trial courts require a document submitted electronically to be received before the close of the business day of the court in which it is being filed in order for the document to be considered filed on the date submitted.<sup>62</sup> If electronic transmission is received after the close of business, the document will be considered filed on the next business day of the court. For any questions of timeliness, the time and date registered by the court's computer will be determinative. This time of filing deadline applies to documents voluntarily submitted electronically for filing in New Mexico magistrate courts and in the New Mexico Bernalillo metropolitan court in criminal cases only.<sup>63</sup> In civil cases, electronic filing is mandatory for attorneys representing parties in the New Mexico magistrate courts and the New Mexico Bernalillo metropolitan court, and an e-filed document received before midnight on the day preceding the next business day of the court will be considered filed on the immediately preceding business day of the court.<sup>64</sup> Pursuant to the time-computation rules for criminal cases filed in New Mexico magistrate courts and the New Mexico Bernalillo Metropolitan Court, the time for filing is extended to midnight for a document electronically submitted on the last day of a filing deadline unless a different time is set by a court order.<sup>65</sup> Electronic filing is optional for attorneys representing parties in civil and criminal cases in New Mexico municipal courts.<sup>66</sup> If documents are submitted electronically, they must be received before the close of the business day of the municipal court in which it is being filed in order to be considered filed on the date submitted. And pursuant to the time-computation rule applicable to filing deadlines in New Mexico municipal courts, the time for filing is extended to midnight for a document electronically submitted on the last day of a filing deadline unless a different time is set by a court order.<sup>67</sup>

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60. See Appendix: North Carolina (superior and district courts).

61. See Appendix: North Carolina (business court).

62. See Appendix: New Mexico (magistrate courts, Bernalillo metropolitan court, municipal courts).

63. See *infra* notes 134, 135.

64. See Appendix: New Mexico (magistrate courts, Bernalillo metropolitan court).

65. [New Mexico Rules of Criminal Procedure for the Magistrate Courts](#), R. 6-104 (time-computation rule for criminal cases filed in N.M. magistrate courts); [New Mexico Rules of Criminal Procedure for the Metropolitan Courts](#), R. 7-104 (time-computation rule for criminal cases filed in N.M. Bernalillo metropolitan court).

66. See Appendix: New Mexico (municipal courts).

67. [New Mexico Rules of Procedure for the Municipal Courts](#), R. 8-104 (time-computation rule for cases filed in N.M. municipal courts).

On August 10, 2022, a pilot program was authorized permitting attorneys admitted to practice in New York and unrepresented litigants to voluntarily file and serve documents in certain proceedings in the New York City Family Court.<sup>68</sup> A document is deemed to be filed when its electronic transmission is recorded at the New York State Electronic Filing System (NYSCEF) site. Although documents may be transmitted at any time of the day or night to the NYSCEF site, documents that are received after 5:00 p.m. or on a Saturday, Sunday, or legal holiday will be considered filed at 9:00 a.m. on the next business day.<sup>69</sup> Pursuant to the applicable rule governing time computation,<sup>70</sup> if a filing deadline falls on a Saturday, Sunday or public holiday and if the deadline ends at a specified hour, the deadline is extended to the next succeeding business day at or before the same hour (5:00 p.m.).

### **Authorized Users of State Court Electronic Filing Systems**

Only registered filing users can e-file documents through state court electronic filing systems. All state court electronic filing systems studied permit attorneys who are formally admitted to and remain in good standing with the state's bar to register as filing users. Delaware e-filing courts also require attorneys who are active members of the Delaware Bar to maintain an office in Delaware for the practice of law.<sup>71</sup> Some e-filing courts permit attorneys admitted pro hac vice to e-file documents.<sup>72</sup> Nebraska appellate and trial courts with electronic filing systems require all electronic filings to be submitted exclusively by Nebraska counsel with whom an attorney admitted pro hac vice in a particular case is associated.<sup>73</sup> Twenty-four states permit pro se (self-represented) parties to e-file if they choose to do so in all or in one or more of their e-filing courts.<sup>74</sup> E-filing courts in eight states require pro se parties to submit documents electronically.<sup>75</sup> Self-represented incarcerated parties (pro se prisoners) are often exempt from mandatory filing requirements for pro se litigants.<sup>76</sup> In three states, e-filing is optional for pro se litigants in all e-filing courts, but if a pro se litigant registers and submits documents electronically in a case, then e-filing is mandatory

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68. [Administrative Order of the Chief Administrative Judge of the Courts](#) (AO/188/22) (Aug. 10, 2022) (details and rules governing a Pilot Program permitting optional or voluntary/consensual E-Filing in N.Y. County (Manhattan) family court only for the filing of new and/or in pending petitions for support, custody/visitation, guardianship, parentage-assisted reproduction, parentage-surrogacy, and paternity proceedings).

69. *See* Appendix: New York (N.Y.C. family court).

70. [N.Y. Gen. Constr. Law](#) §§ 19, 20, 25-A (governs time computation in N.Y. trial and appellate courts).

71. *See* Appendix: Delaware.

72. *See* Appendix: Alabama, Arkansas, Arizona, California, Colorado, Florida, Massachusetts, Minnesota, Montana, Nebraska, New Hampshire, New York, Mississippi, Ohio, Illinois, Wisconsin. Additional e-filing courts that permit attorneys admitted pro hac vice to submit documents electronically may be identified by contacting the clerk's office for each court location.

73. *See* Appendix: Nebraska.

74. *See* Appendix: Alabama (circuit, district, juvenile courts), Alaska, Arizona, Arkansas, California, Colorado (family court cases only), Connecticut (superior, probate courts), Delaware (supreme, Common Pleas, Justice of Peace Courts), Florida, Hawaii, Kentucky (district courts), Maryland, Massachusetts, Minnesota, Nebraska, New Jersey (tax court), New York (optional except specific civil proceedings mandatory in Surrogate's Courts), North Carolina (in counties with Odyssey File & Serve), North Dakota, Ohio (appellate and trial courts where implemented), Rhode Island, Texas, Virginia (Court of Appeals), Wisconsin (court of appeals, circuit courts).

75. *See* Appendix: Connecticut (supreme, appellate court), Illinois, New Hampshire (supreme court, superior court (civil only), Circuit Courts (civil only)), New Jersey (superior, municipal courts), New York (Surrogate's Courts (specific civil proceedings)), North Carolina (business court), Virginia (supreme court), Wyoming (chancery court).

76. *See, e.g.*, Appendix: Connecticut, New Hampshire, Illinois, Virginia (supreme court).

for all future filings.<sup>77</sup> All e-filing courts in three states explicitly prohibit pro se parties from registering for access to their electronic filing systems.<sup>78</sup>

Many e-filing courts extend an attorney registered user's e-filing privileges to authorized agents like paralegals and assistants. However, the registered attorney with authorized access to the electronic filing system is still responsible for the contents of the filing. E-filing courts may permit nonparties with an interest in a particular case to register for access to the filing system, including court reporters, creditors, members of the media, mediators, mental health professionals, process servers, witnesses seeking a protective order, intervenors, amici curiae, and court investigators. However, access to the entire court file is limited for these parties.

## **Maps**

The three maps on the following pages illustrate electronic filing deadlines in state supreme, appellate, and trial courts.<sup>79</sup>

## **Related Documents**

A lengthy appendix collecting rule text may be attached; it is also available separately online:

<https://www.fjc.gov/sites/default/files/materials/01/ElectronicFilingStateCourtsAppendix.pdf>

A report on "Electronic Filing Times in Federal Courts" also is available separately online:

<https://www.fjc.gov/sites/default/files/materials/59/ElectronicFilingDeadlineStudy.pdf>

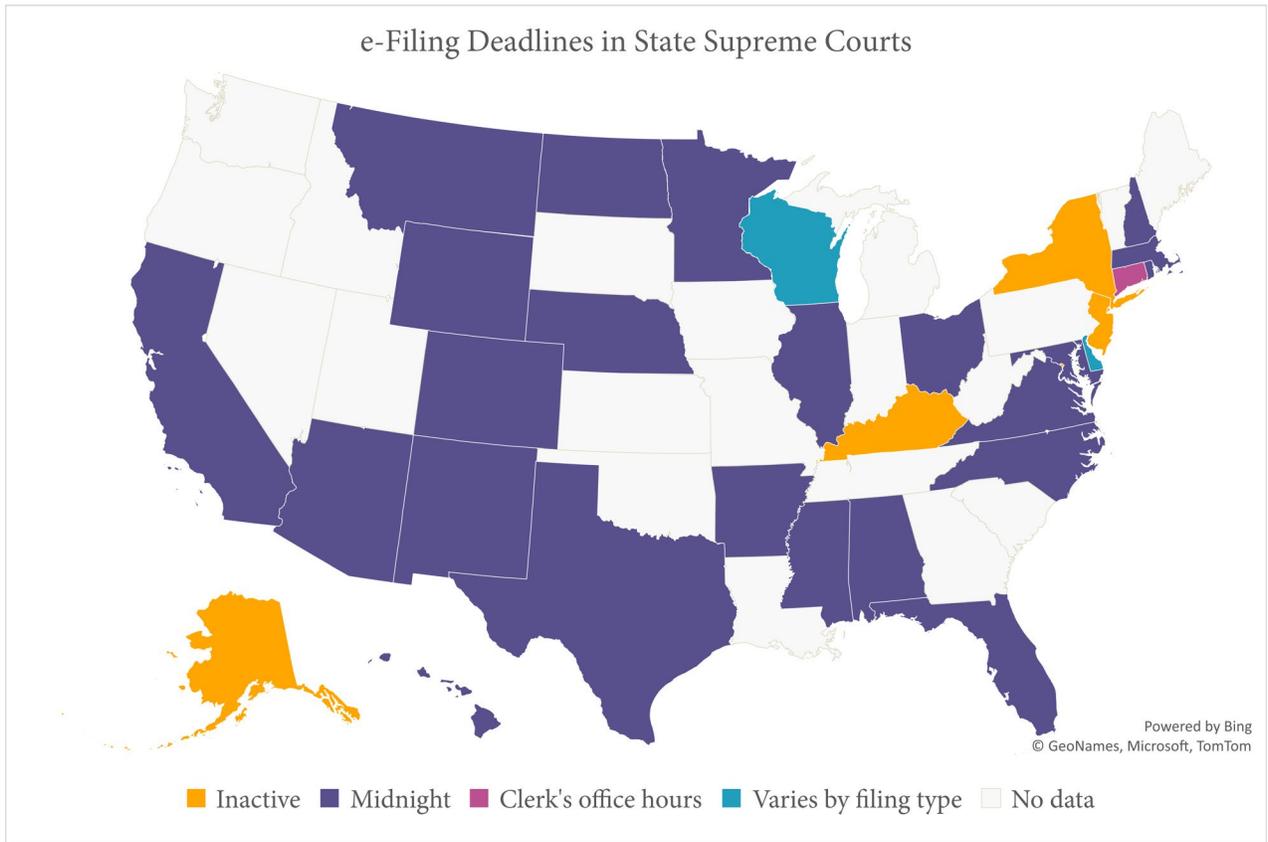
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77. See Appendix: Maryland, Minnesota (e-filing mandatory for all subsequent filings in the case), Nebraska.

78. See Appendix: Mississippi, Montana, New Mexico.

79. Explanation of categories used in maps to illustrate electronic filing deadlines in state supreme, appellate, and trial courts: Midnight (documents filed before midnight are considered filed on that day); Clerk's office hours (documents filed *after* the office hours of the Clerk of Court are considered filed the next business day); Varies by filing type (filing deadlines vary based on case type, e.g., different deadlines for filings in criminal and civil cases); Varies by court (in state trial courts only, filing deadlines vary based on court type, e.g., different deadline for family courts); Inactive (state courts not authorized to implement e-filing or that have chosen not to implement e-filing at this time); No data (information for this state was not analyzed in this report).

*Electronic Filing Deadlines in State Courts*



*Electronic Filing Deadlines in State Courts*

