

EXHIBIT 1

ALASKA COURT SYSTEM
OFFICE OF THE ADMINISTRATIVE DIRECTOR
ADMINISTRATIVE BULLETIN NO. 12
FEBRUARY 15, 2008 (AMENDED)

TO: ALL HOLDERS OF ADMINISTRATIVE BULLETIN SETS:

All Justices	Senior Staff/Court Analysts
All Judges	General Services Manager
Area Court Administrators	Judicial Services
Clerk of the Appellate Courts	APD Warrants
Rural Court Training Assistants	
All Clerks of Court	
All Magistrates	
Law Libraries at Anchorage, Fairbanks, Juneau, and Ketchikan	

SUBJECT: Guidelines for Inspecting and Obtaining Copies of Public Records

This bulletin is promulgated pursuant to Supreme Court Order No. 503 and establishes a procedure for inspecting and obtaining copies of public records, including the time, place and manner of inspection, together with fees that may be required for production of records.

I. DEFINITIONS (Administrative Rule 37.5(c))

"Administrative record" means any document, information, data, or other item created, collected, received, or maintained by the court system pertaining to the administration of the judicial branch of government and not associated with any particular case.

"Case record" means any document, information, data, or other item created, collected, received, or maintained by the court system in connection with a particular case.

"Court record" means both case records and administrative records, but does not include records that may be in the court's possession that do not relate to the conduct of the court's business.

II. GENERAL ACCESS TO COURT RECORDS (Administrative Rule 37.5(d))

Court records, regardless of the manner of creation, method of collection, form of storage, or the form in which the records are maintained, are accessible to the public, except as provided below.

A. Case Records NOT Accessible. The following case records and case-related documents are not accessible to the public:

1. memoranda, notes, or preliminary drafts prepared by or under the direction of any judicial officer of the Alaska Court System that

relate to the adjudication, resolution, or disposition of any past, present, or future case, controversy, or legal issue;

2. legal research and analysis prepared or circulated by judges or law clerks regardless of whether it relates to a particular case and written discussions relating to procedural, administrative, or legal issues that are or may be before the court; and
3. documents, information, data, or other items sealed or confidential pursuant to statute, court rule, case law, or court order.

B. Administrative Records NOT Accessible. The following administrative records are not accessible to the public:

1. personal information, performance evaluations, and disciplinary matters relating to any past or present employee of the Alaska Court System or any other person who has applied for employment with the Alaska Court System, and personnel records that are confidential under Alaska Court System Personnel Rules C1.07 and PX1.08;
2. the work product of any attorney or law clerk employed by or representing the Alaska Court System if the work product is produced in the regular course of business or representation of the Alaska Court System;
3. individual direct work access telephone numbers and email addresses of judges and law clerks;
4. documents or information that could compromise the safety of judges, court staff, jurors, or the public, or jeopardize the integrity of the court's facilities or the court's information technology or recordkeeping systems;
5. records or information collected and notes, drafts, and work product generated during the process of developing policy relating to the court's administration of justice and its operations;
6. email messages that are created primarily for the informal communication of information and that do not set policy, establish guidelines or procedures, memorialize transactions, or establish receipts; and
7. records that are confidential, privileged, or otherwise protected by law, rule, or order from disclosure.

III. CUSTODIAN OF COURT RECORDS

- A. The clerk is the custodian of case records of judicial proceedings within the court where the records are located.
- B. The area court administrator is the custodian of administrative records for the judicial district in which the records are located.
- C. The administrative director is the custodian of administrative records relating to overall administration of the Alaska Court System.
- D. The custodian may appoint a designee to respond to inspection and copy requests.

IV. FORM OF REQUEST

A. Administrative Records

- 1. A request to inspect or to obtain copies of administrative records shall be made in writing to the custodian of the records unless otherwise allowed by the custodian.
- 2. A written request to inspect or to obtain copies of administrative records shall include:
 - (a) The name, mailing address, and telephone number of the requesting person.
 - (b) The specific documents that the person wishes to inspect or to have copied.
 - (c) The date of the request.

B. Case Records

- 1. A request to inspect or to obtain copies of case records, including case files, case-related documents, exhibits, and audio tapes, must be made in the manner designated by the clerk of each court.
- 2. A request to inspect a case file must specify the case number.
- 3. A request must be made in person during working hours to the custodian of those records, unless letter inquiries are allowed by the area court administrator.
- 4. Court clerks are not obligated to answer questions, whether made in person, by letter, or by telephone, about the content of court files.

A clerk may not answer such an inquiry unless the time required to ascertain the answer is minimal, the answer is obvious from the face of the file documents, and the area court administrator has authorized answering such inquiries.

V. RESPONSE TO REQUEST

A. Case Files: Parties and Attorneys of Record. Upon request, a case file must be made available for inspection to an attorney or party or record as follows:

1. Immediately, if the case file is located in the clerk's office and if it is not being processed or used for research by a court employee.
2. If the case file is located outside the clerk's office, and the requestor is an attorney or party of record, the clerk will determine if the file is available for immediate inspection and, if so, make necessary arrangements for the immediate inspection of the file. If the case file is not available for immediate inspection because it is being processed or used for research by a court employee, the clerk will determine and notify the requestor of a time within 24 hours of the request when the case file will be available for inspection.
3. If the case is closed, response must be made as provided in paragraph C below.

B. Case Files: General Public.

1. Upon request, a case file must be made available for inspection to a member of the general public within one working day after the request is made. Exception: If a case file is checked out of the clerk's office, is being processed by the clerk's office, or cannot be located, response must be made as provided in paragraph C below.
2. A court clerk is not required to extract information from any case file, or compile information from multiple case files, or perform other research of information in any case file.
3. A court clerk is not permitted to respond to a customer's request by extracting from a case file or from the court's electronic case management system any case-related information listed in Administrative Rule 37.8(a)(1)-(9). This includes contact information for parties, witnesses, and victims, social security numbers, driver and vehicle license numbers, financial account numbers, names of minor children in domestic relations cases, juror information, party names protected under Administrative Rule 40(b)

and (c), and any information that is confidential or sealed.

C. All Other Court Records and Administrative Records.

The custodian shall acknowledge a request for inspection or copying of records verbally or in writing no later than five working days after the request is made.

D. The response shall indicate whether the records are accessible to the public, and if so, when and where inspection may take place or copies may be obtained. The custodian must inform the requestor that the records will be available for inspection for no fewer than five working days.

1. If the custodian determines the records can be made available for inspection or can be copied without unreasonable disruption to ongoing court or administrative activities, inspection or copying shall take place within five days after the custodian receives the request.
2. If the custodian determines the records cannot be made available for inspection or cannot be copied within five days after the custodian receives the request, the custodian shall notify the requestor of when and where inspection may take place or copies will be provided, and shall inform the requestor of the reasons for the delay. Inspection must be permitted or copies provided within a reasonable time from the date of the request.
3. If the records do not exist, the response shall so indicate.
4. If the request does not provide sufficient information to locate the records, the request shall be returned, and the requestor notified.
5. If access to the records is not permitted under Rule 37.5(e) of the Rules Governing the Administration of All Courts, the response shall indicate the basis for denial of the inspection request.
6. If the custodian cannot determine whether access is permitted, the response shall state that the inspection request has been referred to the office of the administrative director for determination. A response from the administrative director shall be forwarded to the custodian or the person making the request no later than five working days after the director receives the referral.
7. If the custodian determines that the number of records requested is so great that inspection or reproduction would create an unreasonable disruption to ongoing court or administrative activities, the custodian may require that the request be limited, or

the custodian may limit the request.

8. If the person making the request does not inspect or obtain the copies of the records during the time period permitted by the custodian, the request shall be deemed withdrawn, but may be renewed.
 9. The custodian shall charge a research fee, as provided in Administrative Rule 9(e), if a response to any request or to multiple similar requests from the same customer within a 30-day period requires more than 30 minutes of the custodian's or other court staff person's time.
- E. If a request is made to inspect records concerning a court employee, the custodian will make a reasonable effort to notify the court employee and to provide the employee with an opportunity to examine the records before the custodian makes the records available to the requestor.

VI. INSPECTION AND PHOTOCOPYING

Inspection and copying shall be conducted in a manner which will not disrupt ongoing court or administrative activities.

The requesting person shall be allowed to inspect or to obtain copies of original versions of public records in the court facility where such records are normally kept, during regular working hours. However, if access to the original records would result in disclosure of information to which access is not permitted, jeopardize the security of the records, or prove otherwise impractical, copies, edited copies, reasonable facsimiles, or other appropriate formats may be produced for inspection. Unless expressly allowed by the custodian, records shall not be removed from the area where they are normally kept.

VII. APPEAL

Any denial of or limitation upon a request to inspect public records may be appealed in writing to the administrative director, and a written response will be sent to the requesting person no later than five working days after the director receives the appeal.

VIII. COPIES OF RECORDS

The court may provide a photocopy, a certified copy, or an authenticated (sometimes called exemplified) copy.

A. Photocopy

A photocopy of a court document requires no action by the clerk other than making a photocopy of the original document.

B. Certified Copy

1. A certified copy of a document is one on which there is a certification by the clerk that the document is a full, true, and correct copy of the original document which is on file with the court. A clerk, deputy clerk or judicial officer may issue a certified copy of a court document.
2. A court can certify a copy of a document only if the original of the document is on file with or recorded with the court. Administrative Rule 9(e)(2). A court may not certify a copy of a document if the original document is on file in another court location.
3. If the document to be certified incorporates by reference other documents, either the referenced documents must be attached to the certified document or the certification must indicate that the referenced documents are not attached to the certified document.

C. Authenticated Copy

1. An authenticated copy is a copy to which is attached an authentication in which (a) the clerk of court attests that the document is a true and correct copy of the original document which is on file with the court; and (b) a judge certifies that the clerk signing the attestation is the clerk of court and that the attestation is in proper form. (Authenticated copies are sometimes referred to as exemplified copies.)
2. A court can authenticate a copy of a document only if the original of the document is on file with or recorded with the court. A court may not authenticate a copy of the document if the original document is on file in another court location. Only the clerk of court or acting clerk of court may sign the attestation part of the authentication. Deputy clerks are not authorized to sign attestations.
3. Authentications will be made on either form TF-315, Authentication Form for Alaska Court Records, or on forms that incorporate substantially similar language.
4. If the document to be authenticated incorporates by reference other documents, either the referenced documents must be attached and listed in the authentication or the authentication must indicate that the referenced documents are not attached.

D. Costs

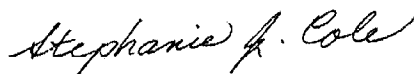
1. The cost of providing copies of records is governed by Administrative Rule 9. The custodian of the record may require pre-payment of the copying fee before providing the copies.
2. If copies are requested in a format for which a fee has not been established under Administrative Rule 9, the administrative director may determine the fee to be charged.

E. The custodian may, in his or her discretion, allow the person requesting copies to make the copies, and may specify reasonable conditions under which this copying will be permitted.

F. Documents need not be reproduced in the exact form or medium in which they are stored. However, any alteration of the form or medium of public records must not change the substantive content of the information contained in the public record. When the actual content is changed, the nature of the change and why it was necessary must be communicated to the requesting person.

IX. REQUEST FOR INFORMATION

A request for information to be provided in writing after a search of records, or a request to compile statistics concerning information that is not maintained in tangible form by the Alaska Court System, must be made to the area court administrator or administrative director. Such requests are subject to the provisions of this bulletin and to the fee established in Administrative Rule 9(e)(5).



Dated: February 15, 2008

Stephanie Cole
Administrative Director

History: Originally issued as 85-2 effective May 22, 1985 superseding Bulletin No. 82-1; reissued as Bulletin No. 12 on April 6, 1987; revised on February 15, 1988; revised on February 23, 1990; revised on October 15, 2006; revised on February 15, 2008.

Original Distribution:
Presiding Judges
Area Court Administrators
Clerks of Court
Magistrates
Senior Staff

EXHIBIT 2

West's Annotated California Codes
Government Code (Refs & Annos)
Title 8. The Organization and Government of Courts (Refs & Annos)
Chapter 1.4. Management of Trial Court Records (Refs & Annos)

West's Ann.Cal.Gov.Code § 68150

§ 68150. Creation, maintenance and preservation of trial court records; application; Judicial Council to adopt rules; indexing of records; certified copies; disposal, storage and review

Effective: January 1, 2014
Currentness

(a) Trial court records may be created, maintained, and preserved in any form or forms of communication or representation, including paper, optical, electronic, magnetic, micrographic, or photographic media or other technology, if the form or forms of representation or communication satisfy the rules adopted by the Judicial Council pursuant to subdivision (c), once those rules have been adopted. Until those rules are adopted, the court may continue to create, maintain, and preserve records according to the minimum standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management.

(b)(1) This section shall not apply to court reporters' transcripts or to specifications for electronic recordings made as the official record of oral proceedings. These records shall be governed by the California Rules of Court.

(2) This section shall not apply to original wills and codicils delivered to the clerk of the court under Section 8200 of the Probate Code. Original wills and codicils shall be retained as provided in Section 26810.

(c) The Judicial Council shall adopt rules to establish the standards or guidelines for the creation, maintenance, reproduction, or preservation of court records, including records that must be preserved permanently. The standards or guidelines shall reflect industry standards for each medium used, if those standards exist. The standards or guidelines shall ensure that court records are created and maintained in a manner that ensures accuracy and preserves the integrity of the records throughout their maintenance. They shall also ensure that the records are stored and preserved in a manner that will protect them against loss and ensure preservation for the required period of time. Standards and guidelines for the electronic creation, maintenance, and preservation of court records shall ensure that the public can access and reproduce records with at least the same amount of convenience as paper records previously provided.

(d) No additions, deletions, or changes shall be made to the content of court records, except as authorized by statute or the California Rules of Court.

(e) Court records shall be indexed for convenient access.

(f) A copy of a court record created, maintained, preserved, or reproduced according to subdivisions (a) and (c) shall be deemed an original court record and may be certified as a true and correct copy of the original record. The clerk of the court may certify a copy of the record by electronic or other technological means, if the means adopted by the court reasonably ensures that the certified copy is a true and correct copy of the original record, or of a specified part of the original record.

(g) Any notice, order, judgment, decree, decision, ruling, opinion, memorandum, warrant, certificate of service, writ, subpoena, or other legal process or similar document issued by a trial court or by a judicial officer of a trial court may be signed, subscribed, or verified using a computer or other technology in accordance with procedures, standards, and guidelines established by the Judicial Council pursuant to this section. Notwithstanding any other provision of law, all notices, orders, judgments, decrees, decisions, rulings, opinions, memoranda, warrants, certificates of service, writs, subpoenas, or other legal process or similar documents that are signed, subscribed, or verified by computer or other technological means pursuant to this subdivision shall have the same validity, and the same legal force and effect, as paper documents signed, subscribed, or verified by a trial court or a judicial officer of the court.

(h) A court record created, maintained, preserved, or reproduced in accordance with subdivisions (a) and (c) shall be stored in a manner and in a place that reasonably ensures its preservation against loss, theft, defacement, or destruction for the prescribed retention period under Section 68152.

(i) A court record that was created, maintained, preserved, or reproduced in accordance with subdivisions (a) and (c) may be disposed of in accordance with the procedure under Section 68153, unless it is either of the following:

(1) A comprehensive historical and sample superior court record preserved for research under the California Rules of Court.

(2) A court record that is required to be preserved permanently.

(j) Instructions for access to data stored on a medium other than paper shall be documented.

(k) Each court shall conduct a periodic review of the media in which the court records are stored to ensure that the storage medium is not obsolete and that current technology is capable of accessing and reproducing the records. The court shall reproduce records before the expiration of their estimated lifespan for the medium in which they are stored according to the standards or guidelines established by the Judicial Council.

(l) Unless access is otherwise restricted by law, court records created, maintained, preserved, or reproduced under subdivisions (a) and (c) shall be made reasonably accessible to all members of the public for viewing and duplication as the paper records would have been accessible. Unless access is otherwise restricted by law, court records maintained in electronic form shall be viewable at the court, regardless of whether they are also accessible remotely. Reasonable provision shall be made for duplicating the records at cost. Cost shall consist of all costs associated with duplicating the records as determined by the court.

Credits

(Added by Stats.1994, c. 1030 (A.B.1374), § 1. Amended by Stats.1996, c. 1159 (A.B.3471), § 13; Stats.2010, c. 167 (A.B.1926), § 1; Stats.2013, c. 156 (A.B.1167), § 2; Stats.2013, c. 274 (A.B.1352), § 1.5.)

Notes of Decisions (3)

West's Ann. Cal. Gov. Code § 68150, CA GOVT § 68150

§ 68150. Creation, maintenance and preservation of trial court..., CA GOVT § 68150

Current with urgency legislation through Ch. 185 of 2014 Reg.Sess., Res. Ch. 1 of 2013-2014 2nd Ex.Sess., and all propositions on the 6/3/2014 ballot

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EXHIBIT 3



California
Rules of
Court
(Revised
July 1,
2014)

Rule 2.500. Statement of purpose

(a) Intent

The rules in this chapter are intended to provide the public with reasonable access to trial court records that are maintained in electronic form, while protecting privacy interests.

(b) Benefits of electronic access

Improved technologies provide courts with many alternatives to the historical paper-based record receipt and retention process, including the creation and use of court records maintained in electronic form. Providing public access to trial court records that are maintained in electronic form may save the courts and the public time, money, and effort and encourage courts to be more efficient in their operations. Improved access to trial court records may also foster in the public a more comprehensive understanding of the trial court system.

(c) No creation of rights

The rules in this chapter are not intended to give the public a right of access to any record that they are not otherwise entitled to access. The rules do not create any right of access to records that are sealed by court order or confidential as a matter of law.

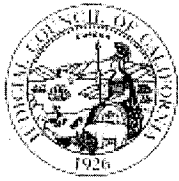
(Subd (c) amended effective January 1, 2007.)

Rule 2.500 amended and renumbered effective January 1, 2007; adopted as rule 2070 effective July 1, 2002.

Advisory Committee Comment

The rules in this chapter acknowledge the benefits that electronic court records provide but attempt to limit the potential for unjustified intrusions into the privacy of individuals involved in litigation that can occur as a result of remote access to electronic court records. The proposed rules take into account the limited resources currently available in the trial courts. It is contemplated that the rules may be modified to provide greater electronic access as the courts' technical capabilities improve and with the knowledge gained from the experience of the courts in providing electronic access under these rules.

EXHIBIT 4



California
Rules of
Court
(Revised
July 1,
2014)

Rule 2.250. Construction and definitions

(a) Construction of rules

The rules in this chapter must be construed to authorize and permit filing and service by electronic means to the extent feasible.

(Subd (a) adopted effective January 1, 2011.)

(b) Definitions

As used in this chapter, unless the context otherwise requires:

- (1) A "document" is a pleading, a paper, a declaration, an exhibit, or another filing submitted by a party or by an agent of a party on the party's behalf. A document may be in paper or electronic form.
- (2) "Electronic service" is service of a document on a party or other person by either electronic transmission or electronic notification. Electronic service may be performed directly by a party, by an agent of a party including the party's attorney, through an electronic filing service provider, or by a court.
- (3) "Electronic transmission" means the transmission of a document by electronic means to the electronic service address at or through which a party or other person has authorized electronic service.
- (4) "Electronic notification" means the notification of a party or other person that a document is served by sending an electronic message to the electronic service address at or through which the party or other person has authorized electronic service, specifying the exact name of the document served and providing a hyperlink at which the served document can be viewed and downloaded.
- (5) "Electronic service address" of a party means the electronic address at or through which the party has authorized electronic service.
- (6) An "electronic filer" is a party filing a document in electronic form directly with the court, by an agent, or through an electronic filing service provider.
- (7) "Electronic filing" is the electronic transmission to a court of a document in electronic form. For the purposes of this chapter, this definition concerns the activity of filing and does not include the processing and review of the document, and its entry into the court records, which are necessary for a document to be officially filed.
- (8) An "electronic filing service provider" is a person or entity that receives an electronic filing from a party for retransmission to the court or for electronic service on other parties, or both. In submission of filings, the electronic filing service provider does so on behalf of the electronic filer and not as an agent of the court.
- (9) "Regular filing hours" are the hours during which a court accepts documents for filing at its filing counter.
- (10) "Close of business" is 5 p.m. or any other time on a court day at which the court stops accepting documents for filing at its filing counter, whichever is earlier. The court must provide notice of its close-of-business time electronically. The court may give this notice in any additional manner it deems appropriate.

(Subd (b) amended effective July 1, 2013; adopted as unlettered subd effective January 1, 2003; previously amended and lettered effective January 1, 2011.)

Rule 2.250 amended effective July 1, 2013; adopted as rule 2050 effective January 1, 2003; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2006, January 1, 2008, and January 1, 2011.

Advisory Committee Comment

The definition of "electronic service" has been amended to provide that a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded. This amendment is intended to modify the rules on electronic service to expressly authorize electronic notification as a legally effective alternative means of service to electronic transmission. This rules amendment is consistent with the amendment of Code of Civil Procedure section 1010.6, effective January 1, 2011, to authorize service by electronic notification. (See Stats. 2010, ch. 156 (Sen. Bill 1274).) The amendments change the law on electronic service as understood by the appellate court in *Insys, Ltd. v. Applied Materials, Inc.* (2009) 170 Cal.App.4th 1129, which interpreted the rules as authorizing electronic transmission as the only effective means of electronic service.

EXHIBIT 5

West's Colorado Revised Statutes Annotated
Title 24. Government--State
Public (Open) Records
Article 72. Public Records (Refs & Annos)
Part 3. Criminal Justice Records (Refs & Annos)

C.R.S.A. § 24-72-303

§ 24-72-303. Records of official actions required--open to inspection

Currentness

(1) Each official action as defined in this part 3 shall be recorded by the particular criminal justice agency taking the official action. Such records of official actions shall be maintained by the particular criminal justice agency which took the action and shall be open for inspection by any person at reasonable times, except as provided in this part 3 or as otherwise provided by law. The official custodian of any records of official actions may make such rules and regulations with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

(2) If the requested record of official action of a criminal justice agency is not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact in writing, if requested by the applicant. In such notification, he shall state, in detail to the best of his knowledge and belief, the agency which has custody or control of the record in question.

(3) If the requested record of official action of a criminal justice agency is in the custody and control of the person to whom application is made but is in active use or in storage and therefore not available at the time an applicant asks to examine it, the custodian shall forthwith notify the applicant of this fact in writing, if requested by the applicant. If requested by the applicant, the custodian shall set a date and hour within three working days at which time the record will be available for inspection.

Credits

Added by Laws 1977, H.B.1597, § 1.

Notes of Decisions (14)

C. R. S. A. § 24-72-303, CO ST § 24-72-303

Current through laws effective August 1, 2014, see scope for further details

EXHIBIT 6

West's Delaware Code Annotated Delaware Rules of Court Chancery Court Rules II. Commencement of Action; Service of Process, Pleadings, Motions, and Orders; Deposit and Security for Costs

Chancery Court Rules, Rule 5.1

RULE 5.1. PUBLIC ACCESS TO DOCUMENTS FILED WITH THE COURT IN CIVIL ACTIONS

Currentness

(a) General Principle of Public Access. Except as otherwise provided in this Rule, proceedings in a civil action are a matter of public record. All pleadings and other materials of any sort, including motions, briefs, letters, affidavits, exhibits, deposition transcripts, answers to interrogatories, answers to requests for admissions, and hearing transcripts, that are filed with the Register in Chancery, provided to the Court, or otherwise part of the record in a civil action (“Documents”) shall be available for public access.

(b) Obtaining Confidential Treatment. After the commencement of an action pursuant to Rule 3(a), any person may request that the Court order the Register in Chancery to permit Documents to be filed confidentially and not available for public access (“Confidential Treatment”).

(1) Except as otherwise provided in this Rule, a Document shall not receive Confidential Treatment unless the person seeking Confidential Treatment shall have first obtained an order of this Court specifying the information or categories of information for which good cause exists for Confidential Treatment (“Confidential Information”). A Document shall receive Confidential Treatment only if and to the extent that it contains Confidential Information.

(2) For purposes of this Rule, “good cause” for Confidential Treatment shall exist only if the public interest in access to Court proceedings is outweighed by the harm that public disclosure of sensitive, non-public information would cause. Examples of categories of information that may qualify as Confidential Information include trade secrets; sensitive proprietary information; sensitive financial, business, or personnel information; sensitive personal information such as medical records; and personally identifying information such as social security numbers, financial account numbers, and the names of minor children.

(3) The party or person seeking to obtain or maintain Confidential Treatment always bears the burden of establishing good cause for Confidential Treatment. The designation of material as Confidential Information constitutes a certification that the designating lawyer, party, or person has reviewed the Document and believes that good cause exists for Confidential Treatment.

(4) In connection with the entry of an order pursuant to this Rule, the Court may determine the manner and extent of Confidential Treatment for any Document, category of Documents, or type of Confidential Information, including limiting access to attorneys of record in the civil action. The Court may, in its discretion, review any Document *in camera* to determine whether good cause exists for Confidential Treatment.

(c) Filing A Document Entitled To Confidential Treatment. Any Document entitled to Confidential Treatment shall be filed confidentially (a “Confidential Filing”).

(1) The Register in Chancery shall maintain a docket system for civil actions that permits a Confidential Filing to be viewed only by the Court, the filer, and those participants in the case who have been served with the Confidential Filing. The title of the document, the identity of the filer, and the identities of the participants in the case who have been served with the Confidential Filing shall be available for public access.

(2) Every Confidential Filing shall have a cover page bearing the caption of the case, the title of the Document, and stating:

YOU ARE IN POSSESSION OF A CONFIDENTIAL FILING FROM THE COURT OF CHANCERY OF THE STATE OF DELAWARE.

If you are not authorized by Court Order to view or retrieve this document, read no further than this page. You should contact the following person:

**[Filing Attorney or Party's Name]
[Filing Attorney's Law Firm]
[Filing Attorney or Party's Address]
[Filing Attorney or Party's Telephone Number]**

If a public version of the Document will be filed in accordance with Rule 5.1(d), then the cover page shall also state:

A public version of this document will be filed on or before [DATE].

In lieu of the text “[DATE],” insert the calendar date on or before which the public version will be filed pursuant to this Rule.

No other information should appear on the cover page.

(3) If a Confidential Filing includes multiple Documents, such as an appendix of exhibits or a brief or affidavit with exhibits attached, then the Confidential Filing shall be filed with a single cover page for the document as a whole.

(4) Every page of a Confidential Filing shall have a footer stating “THIS DOCUMENT IS A CONFIDENTIAL FILING. ACCESS IS PROHIBITED EXCEPT AS AUTHORIZED BY COURT ORDER.” A party may omit the footer for voluminous exhibits.

(d) Filing a Public Version. Except as otherwise provided in this Rule, the filer of a Confidential Filing shall file a public version within five days after making the Confidential Filing. In the absence of timely compliance with this Rule, the Confidential Filing shall become part of the public record, and the Register in Chancery shall make the Confidential Filing available for public access on the docket system to the same extent as any other public filing.

(1) Not later than 3:00 p.m. on the next business day after a Confidential Filing is filed, and contemporaneously whenever reasonably practicable, the filer shall give notice to each attorney who has entered an appearance on behalf of each person who has designated information in the Confidential Filing as Confidential Information. The notice shall not be filed with the Register in Chancery. The notice shall attach a proposed public version of the Confidential Filing (“filer's proposed public version”) that redacts only the information the filer believes qualifies as Confidential Information. The notice shall refer to this Rule and state that the filer's proposed public version shall be filed in compliance with this Rule if no one designates Confidential Information

in response to the notice by 3:00 p.m. on the fifth day after the Confidential Filing. If no one has designated Confidential Information in response to the notice by that time, then the public version filed shall be the filer's proposed public version; otherwise, the public version filed shall be a version that redacts only the filer's Confidential Information and the Confidential Information designated in response to the filer's notice.

(2) For administrative convenience, the filer need not file a public version of documentary exhibits or deposition transcripts. If there is a challenge to the Confidential Treatment of an exhibit or deposition transcript for which no public version has been filed, then the filer shall file a public version of the exhibit or deposition transcript in compliance with Rule 5.1(f).

(e) Confidential Treatment for Complaints. A plaintiff may file a complaint and any related Documents as a Confidential Filing without first obtaining an order as required by this Rule according to the following procedure.

(1) The plaintiff shall file as a Confidential Filing (i) the complaint and any related Documents and (ii) a cover letter addressed to the Register in Chancery that certifies compliance with this Rule in accordance with Rule 5.1(c). When filing a complaint as a Confidential Filing in accordance with this Rule, the plaintiff (i) shall file publicly the covering sheet referenced in Rule 3(a)(2) and (ii) the covering sheet shall summarize the claims asserted in the complaint in sufficient detail to inform the public of the nature of the dispute.

(2) On the same day that the plaintiff files the complaint and any Documents as a Confidential Filing, and contemporaneously whenever reasonably practicable, the plaintiff shall use its best efforts to give actual notice to each person who could have a legitimate interest in designating information in the foregoing materials as Confidential Information. The notice shall not be filed with the Register in Chancery. If the person has a registered agent in this State, the plaintiff shall both give notice to the registered agent and use its best efforts to give notice to the person at its principal place of business, through counsel, or in accordance with the notice provision in any agreement giving rise to the confidentiality obligation. The notice shall include a copy of this Rule and a proposed public version of the complaint and any related Documents redacting only the information that the plaintiff believes qualifies as Confidential Information ("plaintiff's public versions"). The notice shall state that the plaintiff's public versions shall be filed in compliance with this Rule if no one designates Confidential Information in response to the notice by 3:00 p.m. on the third day after the giving of notice.

(3) The plaintiff shall file public versions of the complaint and any related Documents within three days after filing the Confidential Filings. If no one has designated Confidential Information by 3:00 p.m. on the third day after giving of notice, then the public versions filed shall be the plaintiff's public versions; otherwise, the public versions filed shall be versions that redact only the plaintiff's Confidential Information and the Confidential Information designated in response to the notice.

(f) Challenges to Confidential Treatment. Any person may challenge the Confidential Treatment of a Confidential Filing by filing a notice raising the challenge with the Register in Chancery.

(1) If the Confidential Filing is a Document for which the filing of a public version was not required under Rule 5.1(d), then within five days after the filing of the challenger's notice, the person who filed the Confidential Filing shall give notice to each attorney who has entered an appearance for each person who designated Confidential Information in the Confidential Filing. The filer's notice shall not be filed with the Register in Chancery. The filer's notice shall attach a proposed public version of the Confidential Filing ("filer's public version") that redacts only the material that the filer believes qualifies as Confidential Information. The filer's notice shall refer to this Rule and state that the filer's public version shall be filed in compliance with this Rule unless additional Confidential Information is timely designated. If no one has designated additional Confidential

Information within 10 days of the filing of the challenger's notice, then the filer shall file the filer's public version; otherwise the filer shall file a public version that redacts the filer's Confidential Information and any Confidential Information designated in response to the filer's notice. Once a public version is accessible, any person may challenge the omission of material from the public version by filing a notice in accordance with this Rule.

(2) If a public version of the Confidential Filing is accessible, any person may seek continued Confidential Treatment for the Confidential Information redacted from the public version by filing a motion within five days after the filing of the challenger's notice. The filing of the motion constitutes a certification that the signer of the motion personally reviewed the Confidential Filing and that continued Confidential Treatment is appropriate. The person challenging Confidential Treatment shall have five days to file an opposition. The Court shall then determine whether Confidential Treatment will be maintained, or whether a reply, hearing or further proceedings are warranted. If a motion seeking continued Confidential Treatment is not timely filed, then the Confidential Filing shall become part of the public record, and the Register in Chancery shall permit access to the Confidential Filing on the docket system to the same extent as any other public filing. If an opposition to the motion is not timely filed, then the challenge shall be deemed withdrawn and the Confidential Filing shall continue to receive Confidential Treatment.

(g) Treatment of Confidential Filings Three Years After Final Disposition. The Confidential Treatment afforded to any Document in a civil action shall expire three years after the final disposition of the civil action.

(1) At least 90 days before the expiration of the three-year period, the Register in Chancery shall file a notice on the docket advising the parties of the expiration of the order providing for Confidential Treatment. Unless the Court further extends the period of Confidential Treatment by separate order issued after the filing of the Register in Chancery's notice, every Confidential Filing shall become a part of the public record three years after final disposition, and the Register in Chancery shall make all Confidential Filings available for public access on the docket system to the same extent as other public filings.

(2) Any person seeking continued Confidential Treatment must move for continued Confidential Treatment within 30 days after the filing of the Register in Chancery's notice. The motion for continued Confidential Treatment must demonstrate that the particularized harm from public disclosure of the Confidential Information in the Confidential Filing clearly outweighs the public interest in access to Court records. The movant must file a supporting brief and affidavits providing an evidentiary basis for the particularized harm on which the movant relies for each Document for which continued Confidential Treatment is sought. The Court shall then determine whether or to what extent Confidential Treatment will be maintained, or whether a hearing or other proceedings are warranted.

(h) Time Periods Not Subject to Rule 6(e). The additional time after service by mail or e-File permitted by Rule 6(e) shall not apply to the time periods-described in this Rule for the parties to take action, regardless of the method of service.

Credits

[Adopted effective January 1, 2013.]

Chancery Court Rules, Rule 5.1, DE R CH CT Rule 5.1

State and Local court rules are current with amendments received through March 1, 2014. Federal local district and bankruptcy court rules are current with amendments received through February 1, 2014.

EXHIBIT 7

disqualification, unless good cause is shown for a delay in moving for reconsideration or other grounds for reconsideration exist.

(i) **Judge's Initiative.** Nothing in this rule limits the judge's authority to enter an order of disqualification on the judge's own initiative.

(j) **Time for Determination.** The judge shall rule on a motion to disqualify immediately, but no later than 30 days after the service of the motion as set forth in subdivision (c). If not ruled on within 30 days of service, the motion shall be deemed granted and the moving party may seek an order from the court directing the clerk to reassign the case.

PART IV. JUDICIAL PROCEEDINGS AND RECORDS

RULE 2.410. POSSESSION OF COURT RECORDS

No person other than judges and authorized court employees shall remove court records as defined in rule 2.430 from the clerk's office except by order of the chief judge or chief justice upon a showing of good cause.

Court Commentary

1996 Adoption. This rule was written as a result of the problems being encountered in the removal of files from clerks' offices. While the purpose of the rule is to discourage the removal of court files, it is not intended to prohibit chief judges or the chief justice from issuing for good cause a general order providing that attorneys or authorized individuals may be allowed to check out files on a routine basis to assist in the administrative efficiency of a court. We note that section 28.13, Florida Statutes (1995), similarly prohibits the removal of files from clerks' offices.

RULE 2.420. PUBLIC ACCESS TO JUDICIAL BRANCH RECORDS

(a) **Scope and Purpose.** Subject to the rulemaking power of the Florida Supreme Court provided by article V, section 2, Florida Constitution, the following rule shall govern public access to the records of the judicial branch of government. The public shall have access to all records of the judicial branch of government, except as provided below.

(b) **Definitions.**

(1) "Records of the judicial branch" are all records, regardless of physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business by any judicial branch entity and consist of:

(A) “court records,” which are the contents of the court file, including the progress docket and other similar records generated to document activity in a case, transcripts filed with the clerk, documentary exhibits in the custody of the clerk, and electronic records, videotapes, or stenographic tapes of depositions or other proceedings filed with the clerk, and electronic records, videotapes, or stenographic tapes of court proceedings; and

(B) “administrative records,” which are all other records made or received pursuant to court rule, law, or ordinance, or in connection with the transaction of official business by any judicial branch entity.

(2) “Judicial branch” means the judicial branch of government, which includes the state courts system, the clerk of court when acting as an arm of the court, The Florida Bar, the Florida Board of Bar Examiners, the Judicial Qualifications Commission, and all other entities established by or operating under the authority of the supreme court or the chief justice.

(3) “Custodian.” The custodian of all administrative records of any court is the chief justice or chief judge of that court, except that each judge is the custodian of all records that are solely within the possession and control of that judge. As to all other records, the custodian is the official charged with the responsibility of maintaining the office having the care, keeping, and supervision of such records. All references to “custodian” mean the custodian or the custodian’s designee.

(4) “Confidential,” as applied to information contained within a record of the judicial branch, means that such information is exempt from the public right of access under article I, section 24(a) of the Florida Constitution and may be released only to the persons or organizations designated by law, statute, or court order. As applied to information contained within a court record, the term “exempt” means that such information is confidential. Confidential information includes information that is confidential under this rule or under a court order entered pursuant to this rule. To the extent reasonably practicable, restriction of access to confidential information shall be implemented in a manner that does not restrict access to any portion of the record that is not confidential.

(5) “Affected non-party” means any non-party identified by name in a court record that contains confidential information pertaining to that non-party.

(6) “Filer” means any person who files a document in court records, except “filer” does not include the clerk of court or designee of the clerk, a

judge, magistrate, hearing officer, or designee of a judge, magistrate or hearing officer.

(c) Confidential and Exempt Records. The following records of the judicial branch shall be confidential:

(1) Trial and appellate court memoranda, drafts of opinions and orders, court conference records, notes, and other written materials of a similar nature prepared by judges or court staff acting on behalf of or at the direction of the court as part of the court's judicial decision-making process utilized in disposing of cases and controversies before Florida courts unless filed as a part of the court record;

(2) Memoranda or advisory opinions that relate to the administration of the court and that require confidentiality to protect a compelling governmental interest, including, but not limited to, maintaining court security, facilitating a criminal investigation, or protecting public safety, which cannot be adequately protected by less restrictive measures. The degree, duration, and manner of confidentiality imposed shall be no broader than necessary to protect the compelling governmental interest involved, and a finding shall be made that no less restrictive measures are available to protect this interest. The decision that confidentiality is required with respect to such administrative memorandum or written advisory opinion shall be made by the chief judge;

(3) (A) Complaints alleging misconduct against judges until probable cause is established;

(B) Complaints alleging misconduct against other entities or individuals licensed or regulated by the courts, until a finding of probable cause or no probable cause is established, unless otherwise provided. Such finding should be made within the time limit set by law or rule. If no time limit is set, the finding should be made within a reasonable period of time;

(4) Periodic evaluations implemented solely to assist judges in improving their performance, all information gathered to form the bases for the evaluations, and the results generated therefrom;

(5) Only the names and qualifications of persons applying to serve or serving as unpaid volunteers to assist the court, at the court's request and direction, shall be accessible to the public. All other information contained in the applications by and evaluations of persons applying to serve or serving as unpaid

volunteers shall be confidential unless made public by court order based upon a showing of materiality in a pending court proceeding or upon a showing of good cause;

(6) Copies of arrest and search warrants and supporting affidavits retained by judges, clerks, or other court personnel until execution of said warrants or until a determination is made by law enforcement authorities that execution cannot be made;

(7) All records made confidential under the Florida and United States Constitutions and Florida and federal law;

(8) All records presently deemed to be confidential by court rule, including the Rules for Admission to the Bar, by Florida Statutes, by prior case law of the State of Florida, and by the rules of the Judicial Qualifications Commission;

(9) Any court record determined to be confidential in case decision or court rule on the grounds that

(A) confidentiality is required to

(i) prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;

(ii) protect trade secrets;

(iii) protect a compelling governmental interest;

(iv) obtain evidence to determine legal issues in a case;

(v) avoid substantial injury to innocent third parties;

(vi) avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of proceeding sought to be closed;

(vii) comply with established public policy set forth in the Florida or United States Constitution or statutes or Florida rules or case law;

(B) the degree, duration, and manner of confidentiality ordered by the court shall be no broader than necessary to protect the interests set forth in subdivision (A); and

(C) no less restrictive measures are available to protect the interests set forth in subdivision (A).

(10) The names and any identifying information of judges mentioned in an advisory opinion of the Judicial Ethics Advisory Committee.

(d) Procedures for Determining Confidentiality of Court Records.

(1) The clerk of the court shall designate and maintain the confidentiality of any information contained within a court record that is described in subdivision (d)(1)(A) or (d)(1)(B) of this rule. The following information shall be maintained as confidential:

(A) information described by any of subdivisions (c)(1) through (c)(6) of this rule; and

(B) except as provided by court order, information subject to subdivision (c)(7) or (c)(8) of this rule that is currently confidential or exempt from section 119.07, Florida Statutes, and article I, section 24(a) of the Florida Constitution as specifically stated in any of the following statutes or as they may be amended or renumbered:

(i) Chapter 39 records relating to dependency matters, termination of parental rights, guardians ad litem, child abuse, neglect, and abandonment. §§ 39.0132(3), 39.0132(4)(a), Fla. Stat.

(ii) Adoption records. § 63.162, Fla. Stat.

(iii) Social Security, bank account, charge, debit, and credit card numbers. § 119.0714(1)(i)–(j), (2)(a)–(e), Fla. Stat. (Unless redaction is requested pursuant to § 119.0714(2), Fla. Stat., this information is exempt only as of January 1, 2012.)

(iv) HIV test results and the identity of any person upon whom an HIV test has been performed. § 381.004(3)(e), Fla. Stat.

(v) Records, including test results, held by the Department of Health or its authorized representatives relating to sexually transmissible diseases. § 384.29, Fla. Stat.

(vi) Birth records and portions of death and fetal death records. §§ 382.008(6), 382.025(1), Fla. Stat.

(vii) Information that can be used to identify a minor petitioning for a waiver of parental notice when seeking to terminate pregnancy. § 390.01116, Fla. Stat.

(viii) Clinical records under the Baker Act. § 394.4615(7), Fla. Stat.

(ix) Records of substance abuse service providers which pertain to the identity, diagnosis, and prognosis of and service provision to individuals. § 397.501(7), Fla. Stat.

(x) Clinical records of criminal defendants found incompetent to proceed or acquitted by reason of insanity. § 916.107(8), Fla. Stat.

(xi) Estate inventories and accountings. § 733.604(1), Fla. Stat.

(xii) The victim's address in a domestic violence action on petitioner's request. § 741.30(3)(b), Fla. Stat.

(xiii) Protected information regarding victims of child abuse or sexual offenses. §§ 119.071(2)(h), 119.0714(1)(h), Fla. Stat.

(xiv) Gestational surrogacy records. § 742.16(9), Fla. Stat.

(xv) Guardianship reports, orders appointing court monitors, and orders relating to findings of no probable cause in guardianship cases. §§ 744.1076, 744.3701, Fla. Stat.

(xvi) Grand jury records. §§ 905.17, 905.28(1), Fla. Stat.

(xvii) Records acquired by courts and law enforcement regarding family services for children. § 984.06(3)-(4), Fla. Stat.

(xviii) Juvenile delinquency records. §§ 985.04(1), 985.045(2), Fla. Stat.

(xix) Records disclosing the identity of persons subject to tuberculosis proceedings and records held by the Department of Health or its authorized representatives relating to known or suspected cases of tuberculosis or exposure to tuberculosis. §§ 392.545, 392.65, Fla. Stat.

(xx) Complete presentence investigation reports. Fla. R. Crim. P. 3.712.

(2) The filer of any document containing confidential information described in subdivision (d)(1)(B) shall, at the time of filing, file with the clerk a “Notice of Confidential Information within Court Filing” in order to indicate that confidential information described in subdivision (d)(1)(B) of this rule is included within the document being filed and also indicate that either the entire document is confidential or identify the precise location of the confidential information within the document being filed. If an entire court file is maintained as confidential, the filer of a document in such a file is not required to file the notice form. A form Notice of Confidential Information within Court Filing accompanies this rule.

(A) If any document in a court file contains confidential information as described in subdivision (d)(1)(B), the filer, a party, or any affected non-party may file the Notice of Confidential Information within Court Filing if the document was not initially filed with a Notice of Confidential Information within Court Filing and the confidential information is not maintained as confidential by the clerk. The Notice of Confidential Information within Court Filing filed pursuant to this subdivision must also state the title and type of document, date of filing (if known), date of document, docket entry number, indicate that either the entire document is confidential or identify the precise location of the confidential information within the document, and provide any other information the clerk may require to locate the confidential information.

(B) The clerk of court shall review filings identified as containing confidential information to determine whether the purported confidential information is facially subject to confidentiality under subdivision (d)(1)(B). If the clerk determines that filed information is not subject to confidentiality under subdivision (d)(1)(B), the clerk shall notify the filer of the Notice of Confidential Information within Court Filing in writing within 5 days of filing the notice and thereafter shall maintain the information as confidential for 10

days from the date such notification by the clerk is served. The information shall not be held as confidential for more than that 10 day period, unless a motion has been filed pursuant to subdivision (d)(3).

(3) The filer of a document with the court shall ascertain whether any information contained within the document may be confidential under subdivision (c) of this rule notwithstanding that such information is not itemized at subdivision (d)(1) of this rule. If the filer believes in good faith that information is confidential but is not described in subdivision (d)(1) of this rule, the filer shall request that the information be maintained as confidential by filing a “Motion to Determine Confidentiality of Court Records” under the procedures set forth in subdivision (e), (f), or (g), unless

(A) the filer is the only individual whose confidential information is included in the document to be filed or is the attorney representing all such individuals; and

(B) a knowing waiver of the confidential status of that information is intended by the filer. Any interested person may request that information within a court file be maintained as confidential by filing a motion as provided in subdivision (e), (f), or (g).

(4) If a notice of confidential information is filed pursuant to subdivision (d)(2), or a motion is filed pursuant to subdivision (e)(1) or (g)(1) seeking to determine that information contained in court records is confidential, or pursuant to subdivision (e)(5) or (g)(5) seeking to vacate an order that has determined that information in a court record is confidential or seeking to unseal information designated as confidential by the clerk of court, then the person filing the notice or motion shall give notice of such filing to any affected non-party. Notice pursuant to this provision must:

(A) be filed with the court;

(B) identify the case by docket number;

(C) describe the confidential information with as much specificity as possible without revealing the confidential information, including specifying the precise location of the information within the court record; and

(D) include:

(i) in the case of a motion to determine confidentiality of court records, a statement that if the motion is denied then the subject material will not be treated as confidential by the clerk; and

(ii) in the case of a motion to unseal confidential records or a motion to vacate an order deeming records confidential, a statement that if the motion is granted, the subject material will no longer be treated as confidential by the clerk.

Any notice described herein must be served pursuant to subdivision (k), if applicable, together with the motion that gave rise to the notice in accordance with subdivision (e)(5) or (g)(5).

(5) Except when the entire court file is maintained as confidential, if a judge, magistrate, or hearing officer files any document containing confidential information, the confidential information within the document must be identified as “confidential” and the title of the document must include the word “confidential.” The clerk must maintain the confidentiality of the identified confidential information. A copy of the document edited to omit the confidential information shall be provided to the clerk for filing and recording purposes.

(e) Request to Determine Confidentiality of Trial Court Records in Noncriminal Cases.

(1) A request to determine the confidentiality of trial court records in noncriminal cases under subdivision (c) must be made in the form of a written motion captioned “Motion to Determine Confidentiality of Court Records.” A motion made under this subdivision must:

(A) identify the particular court records or a portion of a record that the movant seeks to have determined as confidential with as much specificity as possible without revealing the information subject to the confidentiality determination;

(B) specify the bases for determining that such court records are confidential without revealing confidential information; and

(C) set forth the specific legal authority and any applicable legal standards for determining such court records to be confidential without revealing confidential information.

Any written motion made under this subdivision must include a signed certification by the party or the attorney for the party making the request that the motion is made in good faith and is supported by a sound factual and legal basis. Information that is subject to such a motion must be treated as confidential by the clerk pending the court's ruling on the motion. A response to a written motion filed under this subdivision may be served within 10 days of service of the motion. Notwithstanding any of the foregoing, the court may not determine that the case number, docket number, or other number used by the clerk's office to identify the case file is confidential.

(2) Except when a motion filed under subdivision (e)(1) represents that all parties agree to all of the relief requested, the court must, as soon as practicable but no later than 30 days after the filing of a motion under this subdivision, hold a hearing before ruling on the motion. Whether or not any motion filed under subdivision (e)(1) is agreed to by the parties, the court may in its discretion hold a hearing on such motion. Any hearing held under this subdivision must be an open proceeding, except that any person may request that the court conduct all or part of the hearing in camera to protect the interests set forth in subdivision (c). Any person may request expedited consideration of and ruling on the motion. The movant shall be responsible for ensuring that a complete record of any hearing held pursuant to this subdivision is created, either by use of a court reporter or by any recording device that is provided as a matter of right by the court. The court may in its discretion require prior public notice of the hearing on such a motion in accordance with the procedure for providing public notice of court orders set forth in subdivision (e)(4) or by providing such other public notice as the court deems appropriate. The court must issue a ruling on the motion within 30 days of the hearing.

(3) Any order granting in whole or in part a motion filed under subdivision (e) must state the following with as much specificity as possible without revealing the confidential information:

- (A) The type of case in which the order is being entered;
- (B) The particular grounds under subdivision (c) for determining the information is confidential;
- (C) Whether any party's name determined to be confidential and, if so, the particular pseudonym or other term to be substituted for the party's name;

(D) Whether the progress docket or similar records generated to document activity in the case are determined to be confidential;

(E) The particular information that is determined to be confidential;

(F) Identification of persons who are permitted to view the confidential information;

(G) That the court finds that: (i) the degree, duration, and manner of confidentiality ordered by the court are no broader than necessary to protect the interests set forth in subdivision (c); and (ii) no less restrictive measures are available to protect the interests set forth in subdivision (c); and

(H) That the clerk of the court is directed to publish the order in accordance with subdivision (e)(4).

(4) Except as provided by law or court rule, notice must be given of any written order granting in whole or in part a motion made under subdivision (e)(1) as follows:

(A) within 10 days following the entry of the order, the clerk of court must post a copy of the order on the clerk's website and in a prominent public location in the courthouse; and

(B) the order must remain posted in both locations for no less than 30 days. This subdivision shall not apply to orders determining that court records are confidential under subdivision (c)(7) or (c)(8).

(5) If a nonparty requests that the court vacate all or part of an order issued under subdivision (e) or requests that the court order the unsealing of records designated as confidential under subdivision (d), the request must be made by a written motion, filed in that court, that states with as much specificity as possible the bases for the motion. The motion must set forth the specific legal authority and any applicable legal standards supporting the motion. The movant must serve all parties and all affected non-parties with a copy of the motion. Except when a motion filed under this subdivision represents that all parties and affected non-parties agree to all of the relief requested, the court must, as soon as practicable but no later than 30 days after the filing of a motion under this subdivision, hold a hearing on the motion. Regardless of whether any motion filed under this subdivision is agreed to by the parties and affected non-parties, the court

may in its discretion hold a hearing on such motion. Any person may request expedited consideration of and ruling on the motion. Any hearing held under this subdivision must be an open proceeding, except that any person may request that the court conduct all or part of the hearing in camera to protect the interests set forth in subdivision (c). The court must issue a ruling on the motion within 30 days of the hearing. The movant shall be responsible for ensuring that a complete record of any hearing held under this subdivision be created, either by use of a court reporter or by any recording device that is provided as a matter of right by the court. This subdivision shall not apply to orders determining that court records are confidential under subdivision (c)(7) or (c)(8).

(f) Request to Determine Confidentiality of Court Records in Criminal Cases.

(1) Subdivisions (e) and (h) shall apply to any motion by the state, a defendant, or an affected non-party to determine the confidentiality of trial court records in criminal cases under subdivision (c), except as provided in subdivision (f)(3). As to any motion filed in the trial court under subdivision (f)(3), the following procedure shall apply:

(A) Unless the motion represents that the State, defendant(s), and all affected non-parties subject to the motion agree to all of the relief requested, the court must hold a hearing on the motion filed under this subdivision within 15 days of the filing of the motion. Any hearing held under this subdivision must be an open proceeding, except that any person may request that the court conduct all or part of the hearing in camera to protect the interests set forth in subdivision (c)(9)(A).

(B) The court shall issue a written ruling on a motion filed under this subdivision within 10 days of the hearing on a contested motion or within 10 days of the filing of an agreed motion.

(2) Subdivision (g) shall apply to any motion to determine the confidentiality of appellate court records under subdivision (c), except as provided in subdivision (f)(3). As to any motion filed in the appellate court under subdivision (f)(3), the following procedure shall apply:

(A) The motion may be made with respect to a record that was presented or presentable to a lower tribunal, but no determination concerning confidentiality was made by the lower tribunal, or a record presented to an appellate court in an original proceeding.

(B) A response to a motion filed under this subdivision may be served within 10 days of service of the motion.

(C) The court shall issue a written ruling on a motion filed under this subdivision within 10 days of the filing of a response on a contested motion or within 10 days of the filing of an uncontested motion.

(3) Any motion to determine whether a court record that pertains to a plea agreement, substantial assistance agreement, or other court record that reveals the identity of a confidential informant or active criminal investigative information is confidential under subdivision (c)(9)(A)(i), (c)(9)(A)(iii), (c)(9)(A)(v), or (c)(9)(A)(vii) of this rule may be made in the form of a written motion captioned “Motion to Determine Confidentiality of Court Records.” Any motion made pursuant to this subdivision must be treated as confidential and indicated on the docket by generic title only, pending a ruling on the motion or further order of the court. As to any motion made under this subdivision, the following procedure shall apply:

(A) Information that is the subject of such motion must be treated as confidential by the clerk pending the court’s ruling on the motion. Filings containing the information must be indicated on the docket in a manner that does not reveal the confidential nature of the information.

(B) The provisions of subdivisions (e)(3)(A)–(G), (g)(7), (h), and (j), shall apply to motions made under this subdivision. The provisions of subdivisions (e)(1), (e)(2), (e)(3)(H), (e)(4), and (e)(5) shall not apply to motions made under this subdivision.

(C) No order entered under this subdivision may authorize or approve the sealing of court records for any period longer than is necessary to achieve the objective of the motion, and in no event longer than 120 days. Extensions of an order issued hereunder may be granted for 60-day periods, but each such extension may be ordered only upon the filing of another motion in accordance with the procedures set forth under this subdivision. In the event of an appeal or review of a matter in which an order is entered under this subdivision, the lower tribunal shall retain jurisdiction to consider motions to extend orders issued hereunder during the course of the appeal or review proceeding.

(D) The clerk of the court shall not publish any order of the court issued hereunder in accordance with subdivision (e)(4) or (g)(4) unless directed by the court. The docket shall indicate only the entry of the order.

(4) This subdivision does not authorize the falsification of court records or progress dockets.

(g) Request to Determine Confidentiality of Appellate Court Records in Noncriminal Cases.

(1) Subdivision (e)(1) shall apply to any motion filed in the appellate court to determine the confidentiality of appellate court records in noncriminal cases under subdivision (c). Such a motion may be made with respect to a record that was presented or presentable to a lower tribunal, but no determination concerning confidentiality was made by the lower tribunal, or a record presented to an appellate court in an original proceeding.

(2) A response to a motion filed under subdivision (g)(1) may be served within 10 days of service of the motion. The court shall issue a written ruling on a written motion filed under this subdivision within 30 days of the filing of a response on a contested motion or within 30 days of the filing of an uncontested written motion.

(3) Any order granting in whole or in part a motion filed under subdivision (g)(1) must be in compliance with the guidelines set forth in subdivisions (e)(3)(A)-(H). Any order requiring the sealing of an appellate court record operates to also make those same records confidential in the lower tribunal during the pendency of the appellate proceeding.

(4) Except as provided by law, within 10 days following the entry of an order granting a motion under subdivision (g)(1), the clerk of the appellate court must post a copy of the order on the clerk's website and must provide a copy of the order to the clerk of the lower tribunal, with directions that the clerk of the lower tribunal shall seal the records identified in the order. The order must remain posted by the clerk of the appellate court for no less than 30 days.

(5) If a nonparty requests that the court vacate all or part of an order issued under subdivision (g)(3), or requests that the court order the unsealing of records designated as confidential under subdivision (d), the request must be made by a written motion, filed in that court, that states with as much specificity as possible the bases for the request. The motion must set forth the specific legal authority and any applicable legal standards supporting the motion. The movant must serve all parties and all affected non-parties with a copy of the motion. A response to a motion may be served within 10 days of service of the motion.

(6) The party seeking to have an appellate record sealed under this subdivision has the responsibility to ensure that the clerk of the lower tribunal is alerted to the issuance of the order sealing the records and to ensure that the clerk takes appropriate steps to seal the records in the lower tribunal.

(7) Upon conclusion of the appellate proceeding, the lower tribunal may, upon appropriate motion showing changed circumstances, revisit the appellate court's order directing that the records be sealed.

(8) Records of a lower tribunal determined to be confidential by that tribunal must be treated as confidential during any review proceedings. In any case where information has been determined to be confidential under this rule, the clerk of the lower tribunal shall so indicate in the index transmitted to the appellate court. If the information was determined to be confidential in an order, the clerk's index must identify such order by date or docket number. This subdivision does not preclude review by an appellate court, under Florida Rule of Appellate Procedure 9.100(d), or affect the standard of review by an appellate court, of an order by a lower tribunal determining that a court record is confidential.

(h) Oral Motions to Determine Confidentiality of Trial Court Records.

(1) Notwithstanding the written notice requirements of subdivision (d)(2) and written motion requirements of subdivisions (d)(3), (e)(1), and (f), the movant may make an oral motion to determine the confidentiality of trial court records under subdivision (c), provided:

(A) except for oral motions under subdivision (f)(3), the oral motion otherwise complies with subdivision (e)(1);

(B) all parties and affected non-parties are present or properly noticed or the movant otherwise demonstrates reasonable efforts made to obtain the attendance or any absent party or affected non-party;

(C) the movant shows good cause why the movant was unable to timely comply with the written notice requirements as set forth in subdivision (d)(2) or the written motion requirement as set forth in subdivision (d)(3), (e)(1), or (f), as applicable;

(D) the oral motion is reduced to written form in compliance with subdivision (d), (e)(1), or (f), as applicable, and is filed within 5 days following the date of making the oral motion;

(E) except for oral motions under subdivisions (f)(3), the provisions of subdivision (e)(2) shall apply to the oral motion, procedure and hearing;

(F) the provisions of subdivision (f)(1)(A) and (B) and (f)(3) shall apply to any oral motion under subdivision (f)(3); and

(G) oral motions are not applicable to subdivision (f)(2) or (g) or extensions of orders under subdivision (f)(3)(C).

(2) The court may deny any oral motion made pursuant to subdivision (h)(1) if the court finds that that movant had the ability to timely comply with the written notice requirements in subdivision (d) or the written motion requirements of (d)(3), (e)(1), or (f), as applicable, or the movant failed to provide adequate notice to the parties and affected non-parties of the confidentiality issues to be presented to the court.

(3) Until the court renders a decision regarding the confidentiality issues raised in any oral motion, all references to purported confidential information as set forth in the oral motion shall occur in a manner that does not allow public access to such information.

(4) If the court grants in whole or in part any oral motion to determine confidentiality, the court shall issue a written order that does not reveal the confidential information and complies with the applicable subdivision of this rule as follows:

(A) For any oral motion under subdivision (e) or (f)(1), except subdivisions (f)(1)(A) and (B), the written order must be issued within 30 days of the hearing and must comply with subdivision (e)(3).

(B) For any oral motion under subdivision (f)(3), the written order must be issued within 10 days of the hearing on a contested motion or filing of an agreed motion and must comply with subdivision (f)(3).

(i) **Sanctions.** After notice and an opportunity to respond, and upon determining that a motion, filing, or other activity described below was not made

in good faith and was not supported by a sound legal or factual basis, the court may impose sanctions against any party or non-party and/or their attorney, if that party or non-party and/or their attorney, in violation of the applicable provisions of this rule:

- (1) seeks confidential status for non-confidential information by filing a notice under subdivision (d)(2);
- (2) seeks confidential status for non-confidential information by making any oral or written motion under subdivision (d)(3), (e), (f), (g), or (h);
- (3) seeks access to confidential information under subdivision (j) or otherwise;
- (4) fails to file a Notice of Confidential Information within Court Filing in compliance with subdivision (d)(2);
- (5) makes public or attempts to make public by motion or otherwise information that should be maintained as confidential under subdivision (c), (d), (e), (f), (g) or (h); or
- (6) otherwise makes or attempts to make confidential information part of a non-confidential court record.

Nothing in this subdivision is intended to limit the authority of a court to enforce any court order entered pursuant to this rule.

(j) Procedure for Obtaining Access to Confidential Court Records.

- (1) The clerk of the court must allow access to confidential court records to persons authorized by law, or any person authorized by court order.
- (2) A court order allowing access to confidential court records may be obtained by filing a written motion which must:
 - (A) identify the particular court record(s) or a portion of the court record(s) to which the movant seeks to obtain access with as much specificity as possible without revealing the confidential information;
 - (B) specify the bases for obtaining access to such court records;

(C) set forth the specific legal authority for obtaining access to such court records; and

(D) contain a certification that the motion is made in good faith and is supported by a sound factual and legal basis.

(3) The movant must serve a copy of the written motion to obtain access to confidential court records on all parties and reasonably ascertainable affected non-parties and the court must hold a hearing on the written motion within a reasonable period of time.

(4) Any order granting access to confidential court records must:

(A) describe the confidential information with as much specificity as possible without revealing the confidential information, including specifying the precise location of the information within the court records;

(B) identify the persons who are permitted to view the confidential information in the court records;

(C) identify any person who is permitted to obtain copies of the confidential court records; and

(D) state the time limits imposed on such access, if any, and any other applicable terms or limitations to such access.

(5) The filer of confidential court records, that filer's attorney of record, or that filer's agent as authorized by that filer in writing may obtain access to such confidential records pursuant to this subdivision.

(6) Unless otherwise provided, an order granting access to confidential court records under this subdivision shall not alter the confidential status of the record.

(k) Procedure for Service on Victims and Affected Non-parties and When Addresses Are Confidential.

(1) In criminal cases, when the defendant is required to serve any notice or motion described in this rule on an alleged victim of a crime, service shall be on the state attorney, who shall send or forward the notice or motion to the alleged victim.

(2) Except as set forth in subdivision (k)(1), when serving any notice or motion described in this rule on any affected non-party whose name or address is not confidential, the filer or movant shall use reasonable efforts to locate the affected non-party and may serve such affected non-party by any method set forth in Florida Rule of Judicial Administration 2.516.

(3) Except as set forth in subdivision (k)(1), when serving any notice or motion described in this rule and the name or address of any party or affected non-party is confidential, the filer or movant must state prominently in the caption of the notice or motion “Confidential Party or Confidential Affected Non-Party — Court Service Requested.” When a notice or motion so designated is filed, the court shall be responsible for providing a copy of the notice or motion to the party or affected non-party, by any method permitted in Florida Rule of Judicial Administration 2.516, in such a way as to not reveal the confidential information.

(l) Denial of Access Request for Administrative Records. Expedited review of denials of access to administrative records of the judicial branch shall be provided through an action for mandamus or other appropriate relief, in the following manner:

(1) When a judge who has denied a request for access to records is the custodian, the action shall be filed in the court having appellate jurisdiction to review the decisions of the judge denying access. Upon order issued by the appellate court, the judge denying access to records shall file a sealed copy of the requested records with the appellate court.

(2) All other actions under this rule shall be filed in the circuit court of the circuit in which such denial of access occurs.

(m) Procedure for Public Access to Judicial Branch Records. Requests and responses to requests for access to records under this rule shall be made in a reasonable manner.

(1) Requests for access to judicial branch records shall be in writing and shall be directed to the custodian. The request shall provide sufficient specificity to enable the custodian to identify the requested records. The reason for the request is not required to be disclosed.

(2) The custodian shall be solely responsible for providing access to the records of the custodian’s entity. The custodian shall determine whether the requested record is subject to this rule and, if so, whether the record or portions of

the record are exempt from disclosure. The custodian shall determine the form in which the record is provided. If the request is denied, the custodian shall state in writing the basis for the denial.

(3) Fees for copies of records in all entities in the judicial branch of government, except for copies of court records, shall be the same as those provided in section 119.07, Florida Statutes.

Committee Note

1995 Amendment. This rule was adopted to conform to the 1992 addition of article I, section 24, to the Florida Constitution. Amendments to this rule were adopted in response to the 1994 recommendations of the Study Committee on Confidentiality of Records of the Judicial Branch.

Subdivision (b) has been added by amendment and provides a definition of “judicial records” that is consistent with the definition of “court records” contained in rule 2.075(a)(1) [renumbered as 2.430(a)(1) in 2006] and the definition of “public records” contained in chapter 119, Florida Statutes. The word “exhibits” used in this definition of judicial records is intended to refer only to documentary evidence and does not refer to tangible items of evidence such as firearms, narcotics, etc. Judicial records within this definition include all judicial records and data regardless of the form in which they are kept. Reformatting of information may be necessary to protect copyrighted material. *Seigle v. Barry*, 422 So. 2d 63 (Fla. 4th DCA 1982), *review denied*, 431 So. 2d 988 (Fla. 1983).

The definition of “judicial records” also includes official business information transmitted via an electronic mail (e-mail) system. The judicial branch is presently experimenting with this new technology. For example, e-mail is currently being used by the judicial branch to transmit between judges and staff multiple matters in the courts including direct communications between judges and staff and other judges, proposed drafts of opinions and orders, memoranda concerning pending cases, proposed jury instructions, and even votes on proposed opinions. All of this type of information is exempt from public disclosure under rules 2.051(c)(1) and (c)(2) [renumbered as 2.420(c)(1) and (c)(2) in 2006]. With few exceptions, these examples of e-mail transmissions are sent and received between judicial officials and employees within a particular court’s jurisdiction. This type of e-mail is by its very nature almost always exempt from public record disclosure pursuant to rule 2.051(c). In addition, official business e-mail transmissions sent to or received by judicial officials or employees using dial-in equipment, as well as the use of on-line outside research facilities such as Westlaw, would also be exempt e-mail under rule 2.051(c). On the other hand, we recognize that not all e-mail sent and received within a particular court’s jurisdiction will fall into an exception under rule 2.051(c). The fact that a non-exempt e-mail message made or received in connection with official court business is transmitted intra-court does not relieve judicial officials or employees from the obligation of properly having a record made of such messages so they will be available to the public similar to any other written communications. It appears that official business e-mail that is sent or received by persons outside a particular court’s jurisdiction is largely non-exempt and is subject to recording in some form as a public record. Each court should develop a means to properly make a record of non-exempt official business e-mail by either electronically storing the mail or by making a hard copy. It is important to note that, although official business communicated by e-mail transmissions is a matter of public record under the rule, the exemptions provided in rule 2.051(c) exempt many of these judge/staff transmissions from the public record. E-mail may also include transmissions that are clearly not official business and are, consequently, not required to be recorded as a public record. Each court should also publish an e-mail address for public access. The individual e-mail addresses of judicial officials and staff are exempt under rule 2.051(c)(2) to protect the compelling interests of maintaining the uninterrupted use of the computer for research, word-processing, preparation of opinions, and communication during trials, and to ensure computer security.

Subdivision (c)(3) was amended by creating subparts (a) and (b) to distinguish between the provisions governing the confidentiality of complaints against judges and complaints against other individuals or entities licensed or regulated by the Supreme Court.

Subdivision (c)(5) was amended to make public the qualifications of persons applying to serve or serving the court as unpaid volunteers such as guardians ad litem, mediators, and arbitrators and to make public the applications and evaluations of such persons upon a showing of materiality in a pending court proceeding or upon a showing of good cause.

Subdivision (c)(9) has also been amended. Subdivision (c)(9) was adopted to incorporate the holdings of judicial decisions establishing that confidentiality may be required to protect the rights of defendants, litigants, or third parties; to further the administration of justice; or to otherwise promote a compelling governmental interest. *Barron v. Florida Freedom Newspapers, Inc.*, 531 So.2d 113 (Fla.1988); *Miami Herald Publishing Co. v. Lewis*, 426 So.2d 1 (Fla.1982). Such confidentiality may be implemented by court rule, as well as by judicial decision, where necessary for the effective administration of justice. *See, e.g.*, Fla.R.Crim.P. 3.470, (Sealed Verdict); Fla.R.Crim.P. 3.712, (Presentence Investigation Reports); Fla.R.Civ.P. 1.280(c), (Protective Orders).

Subdivision (c)(9)(D) requires that, except where otherwise provided by law or rule of court, reasonable notice shall be given to the public of any order closing a court record. This subdivision is not applicable to court proceedings. Unlike the closure of court proceedings, which has been held to require notice and hearing prior to closure, *see Miami Herald Publishing Co. v. Lewis*, 426 So. 2d 1 (Fla.1982), the closure of court records has not required prior notice. Requiring prior notice of closure of a court record may be impractical and burdensome in emergency circumstances or when closure of a court record requiring confidentiality is requested during a judicial proceeding. Providing reasonable notice to the public of the entry of a closure order and an opportunity to be heard on the closure issue adequately protects the competing interests of confidentiality and public access to judicial records. *See Florida Freedom Newspapers, Inc. v. Sirmons*, 508 So.2d 462 (Fla. 1st DCA 1987), approved, *Barron v. Florida Freedom Newspapers, Inc.*, 531 So.2d 113 (Fla.1988); *State ex rel. Tallahassee Democrat v. Cooksey*, 371 So.2d 207 (Fla. 1st DCA 1979). Subdivision (c)(9)(D), however, does not preclude the giving of prior notice of closure of a court record, and the court may elect to give prior notice in appropriate cases.

2002 Court Commentary

The custodian is required to provide access to or copies of records but is not required either to provide information from records or to create new records in response to a request. Op. Atty. Gen. Fla. 80-57 (1980); *Wootton v. Cook*, 590 So.2d 1039 (Fla. 1st DCA 1991); *Seigle v. Barry*, 422 So.2d 63 (Fla. 4th DCA 1982).

The writing requirement is not intended to disadvantage any person who may have difficulty writing a request; if any difficulty exists, the custodian should aid the requestor in reducing the request to writing.

It is anticipated that each judicial branch entity will have policies and procedures for responding to public records requests.

The 1995 commentary notes that the definition of “judicial records” added at that time is consistent with the definition of “court records” contained in rule 2.075(a)(1) [renumbered as 2.430(a)(1) in 2006] and the definition of “public records” contained in chapter 119, Florida Statutes. Despite the commentary, these definitions are not the same. The definitions added in 2002 are intended to clarify that records of the judicial branch include court records as defined in rule 2.075(a)(1) and administrative records. The definition of records of the judicial branch is consistent with the definition of “public records” in chapter 119, Florida Statutes.

2005 Court Commentary

Under courts’ inherent authority, appellate courts may appoint a special magistrate to serve as commissioner for the court to make findings of fact and oversee discovery in review proceedings under subdivision (d) of this rule. Cf. *State ex rel. Davis v. City of Avon Park*, 158 So. 159 (Fla. 1934) (recognizing appellate courts’ inherent authority to do all things reasonably necessary for administration of justice within the scope of courts’ jurisdiction, including the appointment of a commissioner to make findings of fact); *Wessells v. State*, 737 So. 2d 1103 (Fla. 1st DCA 1998) (relinquishing jurisdiction to circuit court for appointment of a special master to serve as commissioner for court to make findings of fact).

2007 Court Commentary

New subdivision (d) applies only to motions that seek to make court records in noncriminal cases confidential in accordance with subdivision (c)(9).

2007 Committee Commentary

Subdivision (d)(2) is intended to permit a party to make use of any court-provided recording device or system that is available generally for litigants' use, but is not intended to require the court system to make such devices available where they are not already in use and is not intended to eliminate any cost for use of such system that is generally borne by a party requesting use of such system.

APPENDIX TO RULE 2.420

IN THE(NAME OF COURT).....,
FLORIDA

CASE NO.: _____

Plaintiff/Petitioner,

v.

Defendant/Respondent.
_____ /

NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING

Pursuant to Florida Rule of Judicial Administration 2.420(d)(2), I hereby certify:

() (1) I am filing herewith a document containing confidential information as described in Rule 2.420(d)(1)(B) and that:

(a) The title/type of document is _____, and :

(b) () the entire document is confidential, or

() the confidential information within the document is precisely located at :

OR

() (2) A document was previously filed in this case that contains confidential information as described in Rule 2.420(d)(1)(B), but a Notice of Confidential Information within Court Filing was not filed with the document and the confidential information was not maintained as confidential by the clerk of the court. I her[e]by notify the clerk that this confidential information is located as follows:

(a) Title/type of document: _____;

(b) Date of filing (if known): _____;

(c) Date of document: _____;

(d) Docket entry number: _____;

(e) () Entire document is confidential, or

() Precise location of confidential information in document: _____

Filer's Signature

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by (e-mail) (delivery) (mail) (fax) on: (All parties and Affected Non-Parties. Note: If the name or address of a Party or Affected Non-Party is confidential DO NOT include such information in this Certificate of Service. Instead, serve the State Attorney or request Court Service. See Rule 2.420(k)) _____, on _____, 20____.

Name

Address
Phone
Florida Bar No. (if applicable).....
E-mail address

Note: The clerk of court shall review filings identified as containing confidential information to determine whether the information is facially subject to confidentiality under subdivision (d)(1)(B). The clerk shall notify the filer in writing within 5 days if the clerk determines that the information is NOT subject to confidentiality, and the records shall not be held as confidential for more than 10 days, unless a motion is filed pursuant to subdivision (d)(3) of the Rule. Fla. R. Jud. Admin. 2.420(d)(2).

RULE 2.425. MINIMIZATION OF THE FILING OF SENSITIVE INFORMATION

(a) **Limitation for Court Filings.** Unless authorized by subdivision (b), statute, another rule of court, or the court orders otherwise, designated sensitive information filed with the court must be limited to the following format:

- (1) The initials of a person known to be a minor;
- (2) The year of birth of a person's birth date;
- (3) No portion of any
 - (A) social security number,
 - (B) bank account number,
 - (C) credit card account number,
 - (D) charge account number, or
 - (E) debit account number;
- (4) The last four digits of any
 - (A) taxpayer identification number (TIN),
 - (B) employee identification number,

EXHIBIT 8

West's Code of Georgia Annotated
Title 50. State Government
Chapter 18. State Printing and Documents
Article 4. Inspection of Public Records (Refs & Annos)

Ga. Code Ann., § 50-18-71

§ 50-18-71. Inspection and copies of public records; request procedures; fees and charges

Effective: April 24, 2013
Currentness

(a) All public records shall be open for personal inspection and copying, except those which by order of a court of this state or by law are specifically exempted from disclosure. Records shall be maintained by agencies to the extent and in the manner required by Article 5 of this chapter.

(b)(1)(A) Agencies shall produce for inspection all records responsive to a request within a reasonable amount of time not to exceed three business days of receipt of a request; provided, however, that nothing in this chapter shall require agencies to produce records in response to a request if such records did not exist at the time of the request. In those instances where some, but not all, records are available within three business days, an agency shall make available within that period those records that can be located and produced. In any instance where records are unavailable within three business days of receipt of the request, and responsive records exist, the agency shall, within such time period, provide the requester with a description of such records and a timeline for when the records will be available for inspection or copying and provide the responsive records or access thereto as soon as practicable.

(B) A request made pursuant to this article may be made to the custodian of a public record orally or in writing. An agency may, but shall not be obligated to, require that all written requests be made upon the responder's choice of one of the following: the agency's director, chairperson, or chief executive officer, however denominated; the senior official at any satellite office of an agency; a clerk specifically designated by an agency as the custodian of agency records; or a duly designated open records officer of an agency; provided, however, that the absence or unavailability of the designated agency officer or employee shall not be permitted to delay the agency's response. At the time of inspection, any person may make photographic copies or other electronic reproductions of the records using suitable portable devices brought to the place of inspection. Notwithstanding any other provision of this chapter, an agency may, in its discretion, provide copies of a record in lieu of providing access to the record when portions of the record contain confidential information that must be redacted.

(2) Any agency that designates one or more open records officers upon whom requests for inspection or copying of records may be delivered shall make such designation in writing and shall immediately provide notice to any person upon request, orally or in writing, of those open records officers. If the agency has elected to designate an open records officer, the agency shall so notify the legal organ of the county in which the agency's principal offices reside and, if the agency has a website, shall also prominently display such designation on the agency's website. In the event an agency requires that requests be made upon the individuals identified in subparagraph (B) of paragraph (1) of this subsection, the three-day period for response to a written request shall not begin to run until the request is made in writing upon such individuals. An agency shall permit receipt of written requests by e-mail or facsimile transmission in addition to any other methods of transmission approved by the agency, provided such agency uses e-mail or facsimile in the normal course of its business.

(3) The enforcement provisions of Code Sections 50-18-73 and 50-18-74 shall be available only to enforce compliance and punish noncompliance when a written request is made consistent with this subsection and shall not be available when such request is made orally.

(c)(1) An agency may impose a reasonable charge for the search, retrieval, redaction, and production or copying costs for the production of records pursuant to this article. An agency shall utilize the most economical means reasonably calculated to identify and produce responsive, nonexcluded documents. Where fees for certified copies or other copies or records are specifically authorized or otherwise prescribed by law, such specific fee shall apply when certified copies or other records to which a specific fee may apply are sought. In all other instances, the charge for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid full-time employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request; provided, however, that no charge shall be made for the first quarter hour.

(2) In addition to a charge for the search, retrieval, or redaction of records, an agency may charge a fee for the copying of records or data, not to exceed 10¢ per page for letter or legal size documents or, in the case of other documents, the actual cost of producing the copy. In the case of electronic records, the agency may charge the actual cost of the media on which the records or data are produced.

(3) Whenever any person has requested to inspect or copy a public record and does not pay the cost for search, retrieval, redaction, or copying of such records when such charges have been lawfully estimated and agreed to pursuant to this article, and the agency has incurred the agreed-upon costs to make the records available, regardless of whether the requester inspects or accepts copies of the records, the agency shall be authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments by such agency.

(d) In any instance in which an agency is required to or has decided to withhold all or part of a requested record, the agency shall notify the requester of the specific legal authority exempting the requested record or records from disclosure by Code section, subsection, and paragraph within a reasonable amount of time not to exceed three business days or in the event the search and retrieval of records is delayed pursuant to this subsection or pursuant to subparagraph (b)(1)(A) of this Code section, then no later than three business days after the records have been retrieved. In any instance in which an agency will seek costs in excess of \$25.00 for responding to a request, the agency shall notify the requester within a reasonable amount of time not to exceed three business days and inform the requester of the estimate of the costs, and the agency may defer search and retrieval of the records until the requester agrees to pay the estimated costs unless the requester has stated in his or her request a willingness to pay an amount that exceeds the search and retrieval costs. In any instance in which the estimated costs for production of the records exceeds \$500.00, an agency may insist on prepayment of the costs prior to beginning search, retrieval, review, or production of the records. Whenever any person who has requested to inspect or copy a public record has not paid the cost for search, retrieval, redaction, or copying of such records when such charges have been lawfully incurred, an agency may require prepayment for compliance with all future requests for production of records from that person until the costs for the prior production of records have been paid or the dispute regarding payment resolved.

(e) Requests by civil litigants for records that are sought as part of or for use in any ongoing civil or administrative litigation against an agency shall be made in writing and copied to counsel of record for that agency contemporaneously with their submission to that agency. The agency shall provide, at no cost, duplicate sets of all records produced in response to the request to counsel of record for that agency unless the counsel of record for that agency elects not to receive the records.

(f) As provided in this subsection, an agency's use of electronic record-keeping systems must not erode the public's right of access to records under this article. Agencies shall produce electronic copies of or, if the requester prefers, printouts of electronic records or data from data base fields that the agency maintains using the computer programs that the agency has in its possession. An agency shall not refuse to produce such electronic records, data, or data fields on the grounds that exporting data or redaction of exempted information will require inputting range, search, filter, report parameters, or similar commands or instructions into an agency's computer system so long as such commands or instructions can be executed using existing computer programs that the agency uses in the ordinary course of business to access, support, or otherwise manage the records or data. A requester may request that electronic records, data, or data fields be produced in the format in which such data or electronic records are kept by the agency, or in a standard export format such as a flat file electronic American Standard Code for Information Interchange (ASCII) format, if the agency's existing computer programs support such an export format. In such instance, the data or electronic records shall be downloaded in such format onto suitable electronic media by the agency.

(g) Requests to inspect or copy electronic messages, whether in the form of e-mail, text message, or other format, should contain information about the messages that is reasonably calculated to allow the recipient of the request to locate the messages sought, including, if known, the name, title, or office of the specific person or persons whose electronic messages are sought and, to the extent possible, the specific data bases to be searched for such messages.

(h) In lieu of providing separate printouts or copies of records or data, an agency may provide access to records through a website accessible by the public. However, if an agency receives a request for data fields, an agency shall not refuse to provide the responsive data on the grounds that the data is available in whole or in its constituent parts through a website if the requester seeks the data in the electronic format in which it is kept. Additionally, if an agency contracts with a private vendor to collect or maintain public records, the agency shall ensure that the arrangement does not limit public access to those records and that the vendor does not impede public record access and method of delivery as established by the agency or as otherwise provided for in this Code section.

(i) Any computerized index of county real estate deed records shall be printed for purposes of public inspection no less than every 30 days, and any correction made on such index shall be made a part of the printout and shall reflect the time and date that such index was corrected.

(j) No public officer or agency shall be required to prepare new reports, summaries, or compilations not in existence at the time of the request.

Credits

Laws 1959, p. 88, § 2; Laws 1982, p. 1789, § 1; Laws 1988, p. 243, § 2; Laws 1992, p. 1061, § 6; Laws 1996, p. 313, § 1; Laws 2012, Act 605, § 2, eff. April 17, 2012; Laws 2013, Act 33, § 50, eff. April 24, 2013.

Notes of Decisions (16)

Ga. Code Ann., § 50-18-71, GA ST § 50-18-71

Current through Acts 343 to 346, 348 to 631, and 633 to 669 of the 2014 Regular Session.

EXHIBIT 9

West's Hawai'i Revised Statutes Annotated
Hawai'i Court Rules
Hawai'i Court Records Rules

HI Court Records Rules (HCRR) Rule 10

Rule 10. Access to Court and ADLRO Records

Currentness

10.1. Generally. Except as otherwise provided by statute, rule, or order, court and ADLRO records shall be accessible during regular business hours, subject to priority use by the court, court staff, ADLRO, and ADLRO staff. Closed and archived records shall be accessible within a reasonable time after a request is made, unless the records have been deleted, destroyed, or transferred to another custodian. If the requested record information or documents are available by remote access without fee, the requestor shall be directed to the access site, and no other action need be taken to comply with the request, provided that, when certified copies of documents are requested, the Clerk shall copy or print the documents from the paper or electronic record and shall physically or electronically certify the copies.

10.2. Electronic Records, Manner Provided. Information from electronic case management systems, including imaged documents, may be made available by electronic or paper reports, print outs, electronic files, imaged files, internal or external link to a primary or secondary data base, internet access, or by other means that provide the information or copies of documents without compromising the integrity of the electronic case management systems and data bases.

10.3. Electronic Records, Custom Request. When information in an electronic record is requested or sought in a form or in a manner other than the form or manner maintained by the Judiciary and made readily or routinely available, the Judiciary shall make a reasonable effort to provide the information in the form or manner requested or sought; provided that (A) direct access to any computer system or data base need not be granted, (B) the reporting or transmitting of data and/or the technical and administrative preparation to provide the data will not unreasonably interfere with the Judiciary's operations and/or governmental functions, and (C) the requestor pays all charges for programming the computer systems to report the data, run the reports, and/or link and/or transmit the data to the requestor.

10.4. Confidential Records and Documents. Except as otherwise provided by statute or court rule or as ordered by (a) the court that has jurisdiction over a court case, (b) the Administrative Director or the hearing officer's designee having jurisdiction over an ADLRO case, (c) the court that has jurisdiction over an appeal from a court or ADLRO case, or (d) the supreme court, access to confidential records, documents, exhibits, and information shall be limited to the court and court personnel in the performance of their duties, the Administrative Director and his or her subordinates in the performance of their duties, the hearing officer, attorneys of record, parties to the court or ADLRO case, and duly authorized service providers.

10.5. Documents or Evidence Submitted for *In Camera* Review. Until such time as a court of competent jurisdiction orders otherwise, only the judge and the judge's staff, and the appellate courts and the appellate courts' staff, shall have access to documents or evidence submitted for *in camera* review.

10.6. Requests to Inspect or Copy Records; Description; Writing. Requests to inspect or copy records may be made orally, in writing, or electronically. Requests shall include a reasonable description of the record, including the name of at least one

party, the case number (if known), the case type, and the court or ADLRO office in which the case was filed. The Clerk may request additional information to identify or locate the requested record. The Clerk may require that a request be made in writing or on a form that substantially complies with HCRR Form 3 of these rules.

10.7. Requests to Inspect or Copy Records; Identification Required. The Clerk may require the individual requesting a record to provide identification, including a postal mailing address or email address and telephone number.

10.8. Records Shall Not be Removed From Legal Custody; Exceptions. Records shall not be removed from the legal custody of the Clerk or the Administrative Director except (A) upon order of the court or agency for which the record is maintained, (B) upon appeal, (C) upon order of the supreme court or intermediate court of appeals, (D) in accordance with rules governing retention of exhibits and transcripts, or (E) in accordance with retention schedules adopted by the supreme court.

10.9. Duty to Report Damage or Alteration. If a record is damaged or altered while being accessed, inspected, or copied, the Clerk shall document the damage and report it to the administrative/chief judge, the Clerk, or the Administrative Director who may take such action as is appropriate.

10.10. Time to Make Record Available; Notice. Upon receipt of a request for an accessible record, the Clerk shall make the record available for inspection and copying within a reasonable time, subject to the court's or ADLRO's priority use of the record and the payment of fees, if any. If the request to inspect or copy cannot be accommodated within 10 business days, the Clerk shall notify the requestor and provide an estimated date when the record will be available for inspection or copying. If the request is for a confidential record and the requestor is not of the class of persons having a right of access to the confidential record under Rule 10.4 of these rules, the Clerk shall notify the requestor forthwith that the Clerk cannot provide the record without an order of the court for court records, or an order of the Administrative Director for ADLRO records. No later than 10 days after the Clerk's denial of a request for a confidential record, the requestor may move for access. The Clerk shall notify all parties of the motion. Within 10 days after notice of the motion for access any party may file opposition to the request.

10.11. Inspection and Copying Fees; Court Records. Fees for inspecting, copying, and transmitting copies of court records shall be charged in accordance with the provisions of Rule 2.2 of the Rules of the Circuit Courts, Rule 2.2 of the Rules of the District Courts, and Rule 45 of the Hawai'i Rules of Appellate Procedure. A court may waive costs and fees for copies of its record when justice so requires. Unless a waiver is granted or an exemption applies, no records or copies of records shall be released until full payment of fees for the current request, and any previous unpaid fees, are received.

10.12. Inspection and Copying Fees; ADLRO Records. Fees for inspecting, copying, and transmitting copies of ADLRO records shall be in accordance with the Judiciary's Schedule of Administrative Fees.

10.13. Fees for Electronic Records. Fees for electronic access, for electronic downloading, bulk distribution, or compilation of electronic information shall be determined by the Administrative Director.

10.14. Judiciary Contractors. Where access to electronic or paper case records is necessary to the performance of any contract with the Judiciary, the Chief Justice or the Administrative Director may authorize access in accordance with the terms of the contract and applicable law.

10.15. Review of Action on Request for Record. A person or entity may seek review of a denial or grant of access to a record by petitioning the supreme court, in accordance with Rule 21 of the Hawai'i Rules of Appellate Procedure. If the record is confidential, the Clerk of the trial court or ADLRO, upon notice of the petition, shall provide notice of the petition to all parties to the case, shall file a copy of the Clerk's certificate of service on each party, and shall designate the certificate of service as confidential in the record of proceeding before the supreme court.

10.16. Requests for Bulk, Discrete, or Compiled Electronic Information. Requests for bulk, discrete, or compiled electronic information shall be made to the Administrative Director in accordance with Rules 10.17, 10.18, and 10.19 of these rules.

10.17. Electronic Court and ADLRO Records: Requests for Bulk or Discrete Data and Compiled Information.

(a) The Administrative Director may grant requests for bulk, discrete, or compiled information from accessible electronic court and ADLRO records or from confidential records, provided (1) the bulk or discrete data distribution, compiling of information, and/or transmission of data will not unreasonably interfere with the Judiciary's operations and/or governmental functions, (2) the requestor pays all charges for programming the computers, linking systems, and transmitting the data, and (3) when required by law, access is approved by a court of competent jurisdiction. A requestor should not be granted direct access to any production computer system or data base in the usual course. The Administrative Director may take such actions as are necessary to protect the Judiciary's computer systems, data bases, and web sites from automated data mining or other threats to the integrity of the systems.

(b) Requests for bulk or discrete data or compiled information from electronic court and ADLRO records shall be made in writing to the Administrative Director or to the Administrative Director's designee.

(c) Requests for bulk, discrete, or compiled information shall be acted upon or responded to within a reasonable time.

(d) The Administrative Director may approve a request for bulk, discrete, or compiled information upon finding that (1) approving the request is consistent with these rules and any statutes that govern access to court records, (2) resources and technical capacity are available to prepare the information, (3) fulfilling the request is an appropriate use of public resources, and (4) distributing or compiling the information will not interfere with the Judiciary's operations and/or governmental functions. In lieu of the process set out in this Rule 10.17, the Administrative Director may require that requests for bulk, discrete, or compiled information be made to, and processed by, the Hawai'i Information Consortium.

(e) The Administrative Director shall require a requestor to pay reasonable charges to distribute bulk, discrete, or compiled information.

(f) Personal information shall be safeguarded. Except for data transmission to law enforcement agencies, a bulk, discrete, or compiled data distribution shall not contain complete personal information. A bulk, discrete, or compiled data distribution may provide the last four digits of social security numbers, and zip codes of home addresses. The restriction on the release of personal information from court and ADLRO records may be waived only by the Administrative Director or the Administrative Director's designee.

10.18. Electronic Court and ADLRO Records: Delivery Methods.

(a) **Electronic Formats.** Administrators or Clerks shall attempt to accommodate requests for information in electronic records or information in electronic format.

(b) **Electronic Data Transfer.** Electronic data transfers of bulk, discrete, or compiled information shall comply with security protocols established by the Administrative Director.

(c) **Direct Connection to Judiciary Data Bases/Network.** Requests to directly access data bases, other than access provided to individuals through the Judiciary's website or in the Clerks' offices, shall be referred to the Administrative Director.

(d) **Extracting Information.** The Judiciary need not extract specific information from records maintained in electronic format when the Judiciary does not have the capacity or capability to do so. The Judiciary need not create reports to extract information from electronic resources, but, where such reports exist, the Judiciary shall provide them, unless providing the reports violates another part of these rules, court orders, or other law.

10.19. Electronic Court and ADLRO Records: Service Providers. The Judiciary may provide information through service providers subject to the following conditions:

(a) *Contract Compliance with Security Protocols.* Contracts between the Judiciary and information service providers shall comply with security protocols established by the Administrative Director. Contracts may not preclude the Judiciary from contracting with other information service providers or providing public access to records.

(b) *Review and Segregation of Records.* Before records are provided to information service providers, the Judiciary may review, redact, and/or segregate records to filter confidential information from disclosure.

(c) *Disclaimer Required.* Contracts with information service providers shall state the Judiciary does not warrant the accuracy, currentness or completeness of the data.

(d) *Release and Indemnification.* Any contract with an information service provider shall include a release and indemnification clause, (A) releasing the Judiciary and its officers and employees from liability for any information supplied and (B) indemnifying the Judiciary and its officers and employees in any lawsuit.

(e) *Insurance Required.* All information service providers who contract with the Judiciary shall be required to obtain liability insurance satisfactory to the Judiciary.

(f) *Confidentiality.* Any contract with an information service provider shall include a provision that agrees to maintain confidentiality in accordance with the terms of the contract.

Credits

[Adopted effective September 27, 2010. Amended effective September 1, 2012.]

HI Court Records Rule 10, HI R CT REC Rule 10
Current with amendments received through 1/1/2014

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EXHIBIT 10

Iowa Code Annotated

Title I. State Sovereignty and Management [Chs. 1-38D]

Subtitle 9. Restraints on Government [Chs. 21-27A]

Chapter 22. Examination of Public Records (Open Records) (Refs & Annos)

I.C.A. § 22.2

22.2. Right to examine public records--exceptions

Currentness

1. Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record. The right to copy a public record shall include the right to make photographs or photographic copies while the public record is in the possession of the custodian of the public record. All rights under this section are in addition to the right to obtain a certified copy of a public record under section 622.46.

2. A government body shall not prevent the examination or copying of a public record by contracting with a nongovernment body to perform any of its duties or functions.

3. However, notwithstanding subsections 1 and 2, a government body is not required to permit access to or use of the following:

a. A geographic computer database by any person except upon terms and conditions acceptable to the governing body. The governing body shall establish reasonable rates and procedures for the retrieval of specified records, which are not confidential records, stored in the database upon the request of any person.

b. Data processing software developed by the government body, as provided in section 22.3A.

Credits

Transferred from § 68A.2 by the Code Editor for Code 1985. Amended by Acts 1989 (73 G.A.) ch. 189, § 1; Acts 1996 (76 G.A.) ch. 1099, § 14; Acts 1998 (77 G.A.) ch. 1224, § 17.

Notes of Decisions (38)

I. C. A. § 22.2, IA ST § 22.2

Current with legislation from the 2014 Reg.Sess.

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EXHIBIT 11

Iowa Code Annotated

Title I. State Sovereignty and Management [Chs. 1-38D]

Subtitle 9. Restraints on Government [Chs. 21-27A]

Chapter 22. Examination of Public Records (Open Records) (Refs & Annos)

I.C.A. § 22.4

22.4. Hours when available

Currentness

The rights of persons under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time.

Credits

Transferred from § 68A.4 by the Code Editor for Code 1985.

I. C. A. § 22.4, IA ST § 22.4

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EXHIBIT 12

West's Kansas Statutes Annotated
Chapter 45. Public Records, Documents and Information
Article 2. Records Open to Public

K.S.A. 45-218

45-218. Inspection of records; request; response; refusal, when; fees

Currentness

(a) All public records shall be open for inspection by any person, except as otherwise provided by this act, and suitable facilities shall be made available by each public agency for this purpose. No person shall removal¹ original copies of public records from the office of any public agency without the written permission of the custodian of the record.

(b) Upon request in accordance with procedures adopted under K.S.A. 45-220, any person may inspect public records during the regular office hours of the public agency and during any additional hours established by the public agency pursuant to K.S.A. 45-220.

(c) If the person to whom the request is directed is not the custodian of the public record requested, such person shall so notify the requester and shall furnish the name and location of the custodian of the public record, if known to or readily ascertainable by such person.

(d) Each request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third business day following the date that the request is received. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. If the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of the third business day following the date that the request for the statement is received.

(e) The custodian may refuse to provide access to a public record, or to permit inspection, if a request places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. However, refusal under this subsection must be sustained by preponderance of the evidence.

(f) A public agency may charge and require advance payment of a fee for providing access to or furnishing copies of public records, subject to K.S.A. 45-219.

Credits

Laws 1984, ch. 187, § 4.

Notes of Decisions (11)

Footnotes

1 So in enrolled bill; text should probably read: "shall remove".

K. S. A. 45-218, KS ST 45-218

Statutes are current through laws effective July 1, 2014, including Chapters 4, 23, 27, 60, 73, 74, 75, 87, 91, 93, 98, 100, 103, 122, 127, 131 and 142 of the 2014 Regular Session of the Kansas Legislature.

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EXHIBIT 13

Baldwin's Kentucky Revised Statutes Annotated

Title VIII. Offices and Officers

Chapter 61. General Provisions as to Offices and Officers; Social Security for Public Employees;
Employees Retirement System (Refs & Annos)

Open Records

KRS § 61.872

61.872 Right to inspection; limitation

Currentness

- (1) All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.
- (2) Any person shall have the right to inspect public records. The official custodian may require written application, signed by the applicant and with his name printed legibly on the application, describing the records to be inspected. The application shall be hand delivered, mailed, or sent via facsimile to the public agency.
- (3) A person may inspect the public records:
 - (a) During the regular office hours of the public agency; or
 - (b) By receiving copies of the public records from the public agency through the mail. The public agency shall mail copies of the public records to a person whose residence or principal place of business is outside the county in which the public records are located after he precisely describes the public records which are readily available within the public agency. If the person requesting the public records requests that copies of the records be mailed, the official custodian shall mail the copies upon receipt of all fees and the cost of mailing.
- (4) If the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.
- (5) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection.
- (6) If the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section shall be sustained by clear and convincing evidence.

Credits

HISTORY: 1994 c 262, § 3, eff. 7-15-94; 1992 c 163, § 3, eff. 7-14-92; 1976 c 273, § 2

Notes of Decisions (191)

KRS § 61.872, KY ST § 61.872

Current with emergency effective legislation through the 2014 Regular Session.

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EXHIBIT 14

West's Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 44. Public Records and Recordors (Refs & Annos)
Chapter 1. Public Records (Refs & Annos)
Part II. General Provisions

LSA-R.S. 44:33

§ 33. Availability of records

Currentness

A. (1) When a request is made for a public record to which the public is entitled, the official, clerks of court and the custodian of notarial records in and for the parish of Orleans excepted, who has responsibility for the record shall have the record segregated from other records under his custody so that the public can reasonably view the record.

(2) If, however, segregating the record would be unreasonably burdensome or expensive, or if the record requested is maintained in a fashion that makes it readily identifiable and renders further segregation unnecessary, the official shall so state in writing and shall state the location of the requested record.

B. (1) If the public record applied for is immediately available, because of its not being in active use at the time of the application, the public record shall be immediately presented to the authorized person applying for it. If the public record applied for is not immediately available, because of its being in active use at the time of the application, the custodian shall promptly certify this in writing to the applicant, and in his certificate shall fix a day and hour within three days, exclusive of Saturdays, Sundays, and legal public holidays, for the exercise of the right granted by this Chapter.

(2) The fact that the public records are being audited shall in no case be construed as a reason or justification for a refusal to allow inspection of the records except when the public records are in active use by the auditor.

Credits

Amended by Acts 1978, No. 686, § 1; Acts 1982, No. 567, § 1.

Notes of Decisions (24)

LSA-R.S. 44:33, LA R.S. 44:33

Current through the 2014 Regular Session.

EXHIBIT 15

- P. "Scheduling information" means information listing or pertaining to the scheduling of a judicial activity related to a pending case.
- Q. "Standing request" means a request for information or record or a type of information or record that is intended to be a continuing request, with supplementary responses as new information becomes available.

III. RECORDS MAINTAINED AT OR BY COURTS

A. In Person or Mail Requests

1. Information and records relating to cases that are maintained in case files, dockets, indices, lists, or schedules by and at the District, Superior, or Supreme Judicial Courts are generally public and access will be provided to a person who requests to inspect them or have copies made by clerk's office staff unless the information or a portion of it is confidential as provided in Part II, ¶ G..

Clerks will endeavor to provide the information requested using the following timetable:

- 1-5 names within 5 working days
- 6-10 names within 30 working days
- 11-15 names within 45 working days
- 16-20 names within 60 working days
- 21+ names to be determined by the Clerk

Persons making requests for information for multiple names or cases for which both case name and case docket are not provided will be charged a research fee as provided in the Judicial Branch fee schedule.

2. Records that are confidential or that contain information designated as confidential, materials that have been impounded or sealed by a judge, materials that are subject to a pending motion or other request for impoundment or sealing; or judge's, magistrate's, and law clerk's notes and work papers will be placed in a separate sealed envelope in the file, and the file or record must have a label conspicuously affixed to it indicating that the file or record contains confidential materials. If a request for access is made concerning the non-confidential portion of a record, the clerk will remove the confidential materials before making the record available for inspection. Requests for inspection of confidential materials contained within a case file must be made by motion with notice to

all parties of record as provided in the Maine Rules of Civil Procedure or Maine Rules of Criminal Procedure.

3. Individual criminal history records containing both conviction and non-conviction data maintained by and at a clerk's office are open to public inspection and copying, and will be supplied if the records or indexes are not located in a publicly accessible place.
4. If there is any doubt whether information is confidential information, Judicial Branch personnel should proceed cautiously in responding to the information request and provide access to information only when it is clearly appropriate to do so, or after consultation with a judge or the Director of the Office of Clerks of Court. Non-routine requests should be referred to the appropriate administrator.
5. Requests for information that would require clerk's office staff to perform research or provide aggregate information and standing requests must be declined, unless the Chief Judge or Justice has preauthorized a response, and the requestor should be informed that the requestor may conduct the research by examining the dockets themselves, or by using the public access terminal where one is available.
6. Admitted and proffered exhibits, including both documents and physical items, are part of the public record of a case, and while in the custody of the clerk's office, are available for inspection and copying unless they are otherwise confidential. Exhibits submitted to the clerk, but never proffered or admitted, will be made available to the submitting party, but are subject to inspection or copying while in the custody of the clerk's office. Public copying or inspection may be limited by the terms of a protective order or by a judicial order or administrative order governing the handling of contraband or dangerous materials.
7. Juror questionnaires, the records and information used in connection with the juror selection process, and the names drawn are confidential and may not be disclosed to any person, except by judicial order. During the period of service of jurors and prospective jurors, the names of the members of the jury pool are confidential and may not be disclosed, except to the attorneys and their agents and investigators and the pro se parties.

Once the period of juror service has expired, a person may file a written request for disclosure of the names of the jurors and an affidavit stating the basis for the request. The court may disclose the names of the jurors only if the court determines that the disclosure is in the interests of justice.

B. Telephone Requests for Information

1. Due to the risks of misunderstanding, misinterpretation, or incorrect quotation of oral information, it is the policy of the Judicial Branch to carefully limit the release of information by telephone. Clerks' office staff may respond to telephone requests for information **only** in the following circumstances:
 - a. Information about the status of a particular case may be given to parties, counsel, or other agencies with an interest in that matter,[5] and
 - b. Scheduling information on non-confidential cases may be released to any caller.
 - c. Information may be given to criminal justice agencies as follows:
 - i. Police emergencies or other urgent legitimate needs. If information is needed to respond to an emergency or for another situation in which an immediate response is needed, such as a patrol stop, border check, suspect in custody, check of imposed sentencing conditions, including conditions of probation, or a check of pending charges against a person under investigation, court personnel may provide the requested information by telephone, with a caution that it is partial information and that it only reflects the information maintained at that court.
 - ii. Other criminal justice agency requests. Court personnel should evaluate the nature of the requested information and the need for a quick response against the other workload considerations in the court. The general rule is not to respond by phone, but to refer the requestor to SBI or to tell the requestor to get the information when next in court. However, for one-time requests when common sense dictates it, court personnel may provide the information over the telephone.

- d. Information may be given to noncriminal justice governmental agencies (i.e., Health and Human Services, Department of Environmental Protection, military recruiters, etc.) in limited circumstances. These requests, in general, should not be responded to over the phone and should be responded to in the same manner as other telephone requests. However, all situations cannot be anticipated and clerks will sometimes be presented with an urgent need for information by a noncriminal justice agency (i.e., a request from the Department of Health and Human Services about a criminal record when they are in the process of preparing an emergency child protective matter). In those limited situations, clerks have the discretion to respond by telephone, with the caution that the provided information is partial and reflects only the information maintained at that court.
2. Telephone requests for comprehensive criminal history record information must be referred to the State Bureau of Investigation pursuant to Title 16, section 616, of the Maine Revised Statutes. Telephone requests for traffic record information must be referred to the Bureau of Motor Vehicles, which maintains records of motor vehicle violations pursuant to Title 29-A, section 2607, of the Maine Revised Statutes. Telephone requests for Fish and Wildlife offense information should be referred to the Maine Warden's Service, which maintains records of violations of related portions of Title 12 of the Maine Revised Statutes. Telephone requests for Marine Resources offense information should be referred to the Marine Patrol, which maintains records of violations of related portions of Title 12 of the Maine Revised Statutes.
 3. In order to eliminate the dangers of misunderstanding or inaccuracy, telephone requestors of other information about a specific case should be told to make a written inquiry or to visit the court to examine the records themselves.
 4. Telephone requests for information that would require clerk's office staff to perform research or provide aggregate information and standing requests for categories of information must be declined, and the requestor informed that the requestor may conduct the research at the clerk's office.

C. Transcripts or Recordings of Court Hearings

Requests for transcripts or recordings of court hearings are governed by Administrative Order JB-05-15.

IV. RECORDS MAINTAINED AT OR BY AOC OR OIT

A. Routine Information Requests

Staff members may respond to routine requests for non-confidential information if the information can be provided without a material expenditure of staff time to compile or aggregate the requested information and if the request does not involve personnel information or other sensitive or controversial issues. The staff member shall notify the State Court Administrator of the nature of the request and the type of information provided.

B. Non routine Information Requests

If,

- (1) a formal request for information is made, or
- (2) responding to a request will require a material expenditure of staff time, or
- (3) a request involves confidential information or information that the receiving staff member considers potentially sensitive or controversial in light of the identity of the requestor, the content of the information, or the nature of the request,

the staff member shall consult with the appropriate Administrative Team member.

C. Routine Personnel Information Requests

Personnel information is not generally available to the public. An employee may request information from that employee's personnel file or employment records by contacting the Director of Human Resources. An employee may also authorize a third party to verify employment or to obtain specified information from the employee's file or records through the Director of Human Resources. A union may request information about an employee or group of employees, to the extent authorized by statute or an applicable collective bargaining agreement, from the Director of Human Resources. The Director shall provide the requested information unless the request is not properly authorized, or violates the affected employee's rights to privacy, and in those circumstances the

EXHIBIT 16

West's Annotated Code of Maryland
Maryland Rules (Refs & Annos)
Title 16. Courts, Judges, and Attorneys
Chapter 1000. Access to Court Records

MD Rules, Rule 16-1002

RULE 16-1002. GENERAL POLICY

Currentness

(a) Presumption of Openness. Court records maintained by a court or by another judicial agency are presumed to be open to the public for inspection. Except as otherwise provided by or pursuant to the Rules in this Chapter, the custodian of a court record shall permit a person, upon personal appearance in the office of the custodian during normal business hours, to inspect the record.

(b) Protection of Records. To protect court records and prevent unnecessary interference with the official business and duties of the custodian and other court personnel,

(1) a clerk is not required to permit in-person inspection of a case record filed with the clerk for docketing in a judicial action or a notice record filed for recording and indexing until the document has been docketed or recorded and indexed; and

(2) the Chief Judge of the Court of Appeals, by administrative order, a copy of which shall be filed with and maintained by the clerk of each court, may adopt procedures and conditions, not inconsistent with the Rules in this Chapter, governing the timely production, inspection, and copying of court records.

Committee note: It is anticipated that, by Administrative Order, entered pursuant to section (b) of this Rule, the Chief Judge of the Court of Appeals will direct that, if the clerk does not permit inspection of a notice record prior to recording and indexing of the record, (1) persons filing a notice record for recording and indexing include a separate legible copy of those pages of the document necessary to identify the parties to the transaction and the property that is the subject of the transaction and (2) the clerk date stamp that copy and maintain it in a separate book that is subject to inspection by the public.

(c) Exhibit Attached to Motion or Marked for Identification. Unless a judicial action is not open to the public or the court expressly orders otherwise, a court record that consists of an exhibit (1) attached to a motion that has been ruled upon by the court or (2) marked for identification at trial, whether or not offered in evidence, and if offered, whether or not admitted, is subject to inspection, notwithstanding that the record otherwise would not have been subject to inspection under the Rules in this Chapter.

Cross reference: Rule 2-516.

(d) Fees.

(1) In this Rule, “reasonable fee” means a fee that bears a reasonable relationship to the actual or estimated costs incurred or likely to be incurred in providing the requested access.

(2) Unless otherwise expressly permitted by the Rules in this Chapter, a custodian may not charge a fee for providing access to a court record that can be made available for inspection, in paper form or by electronic access, with the expenditure of less than two hours of effort by the custodian or other judicial employee.

(3) A custodian may charge a reasonable fee if two hours or more of effort is required to provide the requested access.

(4) The custodian may charge a reasonable fee for making or supervising the making of a copy or printout of a court record.

(5) The custodian may waive a fee if, after consideration of the ability of the person requesting access to pay the fee and other relevant factors, the custodian determines that the waiver is in the public interest.

(e) New Court Records.

(1) Except as expressly required by other law and subject to Rule 16-1008, neither a custodian nor a court or other judicial agency is required by the Rules in this Chapter to index, compile, re-format, program, or reorganize existing court records or other documents or information to create a new court record not necessary to be maintained in the ordinary course of business. The removal, deletion, or redaction from a court record of information not subject to inspection under the Rules in this Chapter in order to make the court record subject to inspection does not create a new record within the meaning of this Rule.

(2) If a custodian, court, or other judicial agency (A) indexes, compiles, re-formats, programs, or reorganizes existing court records or other documents or information to create a new court record, or (B) comes into possession of a new court record created by another from the indexing, compilation, re-formatting, programming, or reorganization of other court records, documents, or information, and there is no basis under the Rules in this Chapter to deny inspection of that new court record or some part of that court record, the new court record or a part for which there is no basis to deny inspection shall be subject to inspection.

(f) Access by Judicial Employees, Parties, and Counsel of Record. The Rules in this Chapter address access to court records by the public at large. The Rules do not limit access to court records by judicial officials or employees in the performance of their official duties, or to a case record by a party or counsel of record in the action.

Source: This Rule is new.

Credits

Adopted March 4, 2004, eff. Oct. 1, 2004. Amended March 7, 2006, eff. July 1, 2006; amended May 8, 2007, eff. July 1, 2007; amended May 1, 2013, eff. July 1, 2013.

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MD Rules, Rule 16-1002, MD R CTS J AND ATTYS Rule 16-1002
Current with amendments received through 2/1/14

EXHIBIT 17



COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURT DEPARTMENT OF THE TRIAL COURT

A GUIDE TO
PUBLIC ACCESS,
SEALING &
EXPUNGEMENT
OF DISTRICT COURT RECORDS

REVISED SEPTEMBER, 2013

“Every inhabitant of the Country shall have free liberty to search and review any rolls, records or registers of any Court or office”

MASSACHUSETTS BODY OF LIBERTIES, art. 48 (1641)

ADMINISTRATIVE OFFICE OF THE DISTRICT COURT

5. **THE RIGHT OF ACCESS INCLUDES THE RIGHT TO COPY.** The public's presumptive right of access generally includes the right to make notes and the right to obtain photocopies¹¹ at normal rates.¹²

6. **CLERK-MAGISTRATES MUST FACILITATE THE RIGHT OF ACCESS, SUBJECT TO REASONABLE TIME AND PLACE LIMITS.** Clerk-magistrates and assistant clerks have an ethical obligation "to facilitate public access to court records that, by law or court rule, are available to the public and [to] take appropriate steps to safeguard the security and confidentiality of court records that are not open to the public."¹³ The public's presumptive right of access is subject to reasonable limitations as to time and place that clerk-magistrates may impose to avoid disrupting the orderly functioning of their offices or courtroom proceedings, to protect the physical security of court records, and to guarantee equal access to all inquirers. Such issues can be particularly complex when an inquirer requests access to large volumes of records, but this does not justify denying access at reasonable times and places.¹⁴ District

¹¹ *Nixon*, 435 U.S. at 597, 98 S.Ct. 1312 (common law guarantees general right to "inspect and copy"); *New Boston Garden Corp. v. Board of Assessors of Boston*, 24 Mass. App. Ct. 122, 125, 507 N.E.2d 756, 759 (1987) ("In this day and age, the right of access to a document generally includes the right to make a copy of it."); *Direct-Mail Svce., Inc. v. Registrar of Motor Vehicles*, 296 Mass. 353, 356, 5 N.E.2d 545, 546-547 (1937) (statutory "right to inspect commonly carries with it the right to make copies without which the right to inspect would be practically valueless."). Trial Court Administrative Directive No. 1-89 (November 13, 1989) ("Subject to any applicable fee, the public, the defendant, and the defendant's attorney are entitled to copies of unimpounded documents filed in connection with [an] abuse prevention petition under G.L. c. 209A . . .") See e.g. *United States v. Criden*, 648 F.2d 814, 823 (3d Cir. 1981) (abuse of discretion to forbid photocopying of publicly-available court record); *United States v. Beckham*, 789 F.2d 401, 412 (6th Cir. 1986) (same). Cf. District Court Administrative Regulation 1-75 (February 7, 1975) ("Any person attending a judicial proceeding which is open to the public may, as a matter of right, make written notes in an unobtrusive manner during the course of the proceedings").

District Court clerk-magistrates have been requested to honor reasonable requests from other Commonwealth agencies to be mailed certified copies of publicly-accessible criminal records, without requiring their personnel to come to the court. District Court Memorandum, "Division of Registration Requests for Certified Copies of Convictions" (Trans. 625, December 4, 1996).

¹² The current fee for photocopies is \$1.00 per page for unattested copies and \$2.50 per page for attested copies. Administrative Office of the Trial Court, "Uniform Schedule of Fees for the Trial Court as Provided for by Massachusetts General Laws Chapter 262, Section 4B" (revised December 1, 2005). Waivers for indigent litigants may be available under G.L. c. 261, §§ 27A-29.

¹³ Code of Professional Responsibility for Clerks of the Courts, S.J.C. Rule 3:12, Canon 3(A)(6).

¹⁴ *Direct-Mail Svce., Inc.*, 296 Mass. at 357, 5 N.E.2d at 547 ("In order to avoid any misapprehension perhaps we ought to add that the right of an applicant to copy a great mass of records may be circumscribed by physical limitations which are unavoidable if the right itself is to be preserved both for the applicant and for others. No one person can take possession of the [office] or monopolize the record books so as to interfere unduly with the work of the office or with the exercise of equal rights by others, and the applicant must submit to such reasonable supervision on the part of the custodian as will safeguard the safety of the records and secure equal opportunity for all."). See e.g. *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 505 (1st Cir. 1989) (First Amendment permits reasonable time, place and manner limitations); *United States v. Gurney*, 558 F.2d 1202, 1210 & n.13 (5th Cir. 1977), cert. denied, 435 U.S. 968 (1978) (permissible for judge to condition inspection of trial exhibits upon clerk's availability); *United States v. Peters*, 754 F.2d 753, 763-764 (7th Cir. 1985) (judge may control mid-trial access to exhibits to extent needed for orderly trial but may not arbitrarily exclude a single reporter from access); *United States v. Edwards*, 672 F.2d 1289, 1296 (7th Cir. 1982) (judge may consider administrative burden and potential trial disruption in evaluating mid-trial request for immediate copies of videotapes introduced as evidence); *United States v. Webbe*, 791 F.2d 103, 107 (8th Cir. 1986) (same); *United States v. Rosenthal*, 763 F.2d 1291, 194-1295 (11th Cir. 1985) (same); *Bend Pub. Co. v. Haner*, 118 Or. 105, 244 P. 868 (1926) (access to clerk's records may be subject to limitations necessary to safeguard records and avoid interference with clerk's other duties). See also G.L. c. 268A, § 23(b)(3) (state employee may not give reasonable impression that any person can "unduly enjoy his favor in the performance of his official duties").

Clerk-magistrates often receive correspondence, many times from out of state, asking whether one or more named persons have criminal records in that court. Such requests should be fulfilled when they are from government agencies. See n.11, second par., *supra*. Where available resources make it impossible to fulfill such requests from members of the general public, a response such as the following may be utilized:

"Dear _____:

"This office has received your inquiry about Massachusetts criminal records.

Court employees may not accept outside compensation to search the records of their own court during their off-hours.¹⁵

7. FIRST EXCEPTION TO PRESUMPTION OF PUBLIC ACCESS: GENERAL STATUTORY IMPOUNDMENTS OR SEALINGS. The presumptive common law right of access is subject to general statutory exceptions for certain classes of cases or records¹⁶ if these are constitutionally permissible.¹⁷

8. SECOND EXCEPTION TO PRESUMPTION OF PUBLIC ACCESS: SPECIFIC JUDICIAL IMPOUNDMENTS OR SEALINGS. The presumptive common law right of access is also subject to particular exceptions created by a judge's impoundment or sealing of particular records or information in individual cases. While such power is inherent in

"As required by statute, this office maintains an alphabetical index of adult criminal defendants against whom criminal complaints have been issued in this court, except for sealed or impounded cases. That index is available in this office for public inspection during normal business hours from 8:30 A.M. to 4:30 P.M. daily. The index indicates the docket number for each case, which may then be used to request access to or photocopies of the docket sheet or other documents in our file for that case. In fairness to other inquirers and to avoid disrupting the other work of the court, we request that advance arrangements be made by large-volume inquirers.

"Because of the volume of such inquiries, we regret that normally we are not able to answer telephone or written inquiries from the general public about specific names.

"Please note that our index is confined to criminal cases in this court, and does not include cases from any other Massachusetts court. Massachusetts law (G. L. c. 6, § 172 and 803 Code Mass. Regs. § 2.05) permits limited public access to compiled, statewide criminal records. Such public access is available through the:

Department of Criminal Justice Information Services
200 Arlington Street, Suite 2200, Chelsea, MA 02150
(617) 660-4600 website: www.mass.gov/eopss/agencies/dcjis

"Sincerely,
"Mary M. Moe
"Clerk-Magistrate."

¹⁵ "*Personnel: Working for credit reporting services.* Personnel in some courts have been approached by credit reporting services seeking to hire them on a piecework basis. These services gather and summarize information on civil litigants, and are seeking to hire court employees to fill out in the courthouse, during their lunch breaks or after work, a questionnaire on each recent civil judgment.

"Court employees may not accept such employment. It may be that such lunchtime employment would violate G.L. c. 30, § 43, which makes it a misdemeanor for a public employee to 'receive for his own use any fee for copying public records or documents, or for other services during office hours.' Such employment may also violate the code of conduct in the State Ethics Act (G.L. c. 268A, § 23) if it involves access to parts of the courthouse, or during hours, not open to the general public.

"In any case, such employment, even if limited to lunchtime or after hours, is bound to raise an appearance that such credit reporting services have a favored relationship to the clerk-magistrate's office. The Trial Court's *Personnel Policies and Procedures Manual*, § 8.100 forbids Trial Court employees from maintaining outside employment that will 'result in a conflict of interest' or 'subject the Trial Court to public criticism or embarrassment.'

"Because of the high potential for conflict of interest, no court employee should accept any outside employment that involves work during the lunch hour, or in the courthouse, without written permission from the Trial Court's personnel department. Clerk-magistrates should bring this matter to their subordinates' attention." Dist. Ct. Bltn. 3-90, item 43 (Trans. 360, October 4, 1990).

¹⁶ *New Bedford Standard-Times*, 377 Mass. at 410-412, 387 N.E.2d at 113-115 (statutes limiting public access to court records do not violate separation of powers if they do not interfere impermissibly with the internal functioning of the court); *Ottaway Newspapers*, 372 Mass. at 546, 362 N.E.2d at 1194 ("At the same time there are statutes which, for a variety of reasons that can be surmised, limit, or authorize limitation of access to court proceedings and official records.") For the difference between impounding and sealing a record, see n.31, *infra*.

¹⁷ For an example of a Massachusetts statutory sealing that was held, in part, to violate the First Amendment, see *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497 (1st Cir. 1989) (First Amendment bars sealing of criminal acquittals and dismissals under G.L. c. 276, § 100C except where a compelling government interest is shown.).

EXHIBIT 18



Michigan Trial Court Case File Management Standards

Adopted: November 1999

Updated: May 2001

December 2006

January 2008

October 2008

December 2009

November 2010

February 2011

December 2011

March 2012

April 2012

November 2012

April 2014

June 2014

Produced by the

Michigan Supreme Court,

State Court Administrative Office

On the Recommendations of the

Michigan Trial Court Case File Management Standards Committee

Case File Management Standards (rev. 11/12)

1.1.6: Providing Public Access to
Records; Confidential Records

Court records are public records, except for those records designated by statute, court rule, case law, or court order as having restricted access. Common terms used to describe restricted-access records include nonpublic, confidential, and sealed. This component summarizes the requirements for keeping restricted-access records, how to handle requests by the public to view those records, and the possibilities for obtaining access to them. Policies for accessing all records, whether open to the public or not, should be documented, and appropriate references to statutes or court rules should be included in the documentation.

Component 19	Phases of File Management Where Used
Access to Records and Case Folders	Case initiation, maintenance, disposition to closing, postadjudication

Standard:

Procedures in General:

- Court records are not subject to Freedom of Information Act requests. MCL 15.232(d)(v).
- Only case records as defined in MCR 8.119(D) are public unless specifically restricted by law or court order. Any person may inspect any public case record or information contained in a record as defined in MCR 8.119(D) unless access is restricted by statute, court rule, case law, or an order entered pursuant to MCR 8.119(I). MCR 8.119(E).
- Except as otherwise provided by statute or court rule, a court may not enter an order that seals court records, in whole or in part, in any action or proceeding unless certain conditions exist. MCR 8.119(I).
- The clerk may not permit any case record to be taken from the court without the order of the court. If so ordered, the original case folder and a copy of the register of actions shall be maintained until the records or case files are returned. MCR 8.119(E).
Note: Transfer of the file for the purposes of appeal pursuant to Component 26 is not the *taking or removal* of the case file, and an order of the court is not required for the case file, including confidential information, to be sent to an appellate court.
- Every court must adopt an administrative order outlining specific procedures for obtaining access to records. See Model LAO 8 - Inspection, Reproduction, and Creation of Records and Section 8 of the *Michigan Court Administration Reference Guide*.
- When public inquiry is made about a record, the access to which is restricted, court personnel should respond that “No public record exists.” To ensure that procedures are carried out uniformly and correctly, only authorized personnel should be assigned the responsibility of processing requests for restricted-access records. If court staff is able to acknowledge that a requested record exists, inquiries regarding these records should be referred to authorized personnel. See *Nonpublic and Limited-Access Court Records* at http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cf_chart.pdf for details on the records that are restricted, the authority for restriction, and how the court is to respond to inquiries.

Case File Management Standards (rev. 11/12)

1.1.6: Providing Public Access to
Records; Confidential Records

Component 19 (continued)	Phases of File Management Where Used
Access to Records and Case Folders	Case initiation, maintenance, disposition to closing, postadjudication

Procedures for Indexes:

- The clerk of the court must take precautions to maintain the confidentiality of pieces of information found in public indexes. This information includes confidential information regulated by Michigan or federal statute, federal regulation, or Michigan court rule.
- In automated systems, public indexes must omit all entries for restricted-access cases. In manual systems, the court should make some other arrangements to ensure public access to entries is restricted.

Procedures for Restricted-Access Files:

- Access to an entire file may be restricted by court rule, statute, or order under certain circumstances.
- Case files and related records (registers of action, indexes, court reporter notes, audio or video recordings, calendars, public calendars, etc.) of certain types should be marked confidential. See the *Nonpublic and Limited-Access Court Records* chart at http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cf_chart.pdf.
- The file area containing frequently accessed restricted-access files should be supervised and separate from the area accessible to the general public and unauthorized personnel.
- Each file should be clearly identified to warn court personnel that access to the file is restricted.
- The procedures and policies for restricted-access files should be explicitly stated for the clerk of the court and periodically reviewed with all staff who come into contact with such files.
- The clerk of the court must notify the court reporter or recorder, or the clerk of any other court that may have had the case at one time, that access to the file is restricted.

Procedures for Restricted-Access Records within Files:

- The clerk of the court must take precautions to maintain the confidentiality of pieces of information in restricted-access case files and other court records. This information includes confidential information regulated by Michigan or federal statute, federal regulation, or Michigan court rule. See *Nonpublic and Limited-Access Court Records* at http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cf_chart.pdf.
- When access to a record is restricted by statute, court rule, or order, the trial court should clearly mark the record “NONPUBLIC RECORD.” The confidential information should be maintained in a manner that easily permits the removal of the nonpublic information so a clerk may easily identify and remove that nonpublic information.

Case File Management Standards (rev. 11/12)

1.1.6: Providing Public Access to
Records; Confidential Records

Component 19 (continued)	Phases of File Management Where Used
Access to Records and Case Folders	Case initiation, maintenance, disposition to closing, postadjudication

Procedures for Records Sealed by Court Order:

- When a court has ordered a record to be sealed pursuant to MCR 8.119(I), all orders and opinions must remain public records. Any person may file an objection to entry of the proposed order or a motion to set aside the order. If the court denies a motion to set aside the order or enter the order after objection is filed, the moving or objecting party may file an application for leave to appeal in the same manner as a party to the action. MCR 8.119(I).
- When public inquiry is made about documents, the access to which is restricted by court order, court personnel should state, “Only court orders and opinions in this case are accessible to the public.”

Procedures Regarding Social Security Numbers:

- Michigan Supreme Court Administrative Order No. 2006-2 directs courts to limit the collection and use of social security numbers to the last four digits for party or court file identification purposes and to eliminate the collection of social security numbers for purposes other than those required or allowed by statute, court rule, court order, or collection activity when it is required for purposes of identification.
- A person whose social security number is included in any document filed in a court file on or after March 1, 2006, may file a motion to protect the social security number as follows:
 - 1) If a person’s social security number is included on a court document and it is not required or allowed to be collected by statute, court rule, or for purposes of collection activity when it is required for identification, the person may file a motion asking the court to direct the clerk to redact the number on the original document.
 - 2) If a person’s social security number is included on a court document and it is required or allowed to be collected by statute, court rule, or for purposes of collection activity when it is required for identification, the person may file a motion asking the court to direct the clerk to maintain the document in a separate, nonpublic file.

Case File Management Standards (rev. 11/12)

1.1.6: Providing Public Access to
Records; Confidential Records

Component 19 (continued)	Phases of File Management Where Used
Access to Records and Case Folders	Case initiation, maintenance, disposition to closing, postadjudication

- Dissemination of social security numbers by the courts is restricted to the purposes for which their use is authorized by federal or state law. When a court receives a request for copies of any public document filed on or after March 1, 2006, the court must review the document and redact all social security numbers on the copy. This requirement does not apply to certified copies, true copies when they are required by law, or copies made for those uses for which the social security number was provided.
- Courts may redact social security numbers on original documents filed after March 1, 2006, only when there is a court order directing the clerk to redact the social security number. Courts may not redact social security numbers from either original or copied documents filed before March 1, 2006, because there is no authority for the court to enter an order to do so.
- Administrative Order No. 2006-2 does not apply to requests to view or inspect files. Courts are not required to remove documents containing social security numbers from court files before allowing a person to inspect them.
- Courts must take steps to restrict access to social security numbers appearing in court databases. Courts must not allow social security numbers contained in their databases to be made available by public inquiry via the Internet or by any other electronic means. Access to databases should be restricted to court staff and to other specifically authorized persons, such as child-support enforcement agencies for whose use the information was gathered.
- When court automated records include social security numbers in order to identify parties, court staff should not provide those numbers to persons who inquire at the public counter or by telephone. Staff may confirm that a party to a case is the person with a particular social security number when the inquirer already has the social security number and provides it to court staff.

Cross References: See also Component 8 - Case Files and Other Documents Maintained Separately, Component 12 - Making Copies of Case Files, and Component 16 - Numerical and Alphabetical Indexes for additional information about public access.

Other Related Cites: MCR 2.302(C)(6), (8)(9); MCR 3.903(A)(3); MCL 600.832; MCL 712A.28.

EXHIBIT 19

West's Annotated Mississippi Code

Title 25. Public Officers and Employees; Public Records

Chapter 61. Public Access to Public Records (Refs & Annos)

Miss. Code Ann. § 25-61-5

§ 25-61-5. Public access to records; redaction; maximum waiting period; explanation of delay; denials

Currentness

(1)(a) Except as otherwise provided by Sections 25-61-9 and 25-61-11, all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body, or, if a public body has not adopted written procedures, the right to inspect, copy or mechanically reproduce or obtain a reproduction of a public record of the public body shall be provided within one (1) working day after a written request for a public record is made. No public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than seven (7) working days from the date of the receipt of the request for the production of the record.

(b) If a public body is unable to produce a public record by the seventh working day after the request is made, the public body must provide a written explanation to the person making the request stating that the record requested will be produced and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is mutual agreement of the parties, in no event shall the date for the public body's production of the requested records be any later than fourteen (14) working days from the receipt by the public body of the original request.

(2) If any public record contains material which is not exempted under this chapter, the public agency shall redact the exempted and make the nonexempted material available for examination. Such public agency shall be entitled to charge a reasonable fee for the redaction of any exempted material, not to exceed the agency's actual cost.

(3) Denial by a public body of a request for access to or copies of public records under this chapter shall be in writing and shall contain a statement of the specific exemption relied upon by the public body for the denial. Each public body shall maintain a file of all denials of requests for public records. Public bodies shall be required to preserve such denials on file for not less than three (3) years from the date such denials are made. This file shall be made available for inspection or copying or both during regular office hours to any person upon written request.

Credits

Laws 1983, Ch. 424, § 3, eff. July 1, 1983. Amended by Laws 2008, Ch. 392, § 2, eff. July 1, 2008; Laws 2010, Ch. 501, § 1, eff. July 1, 2010.

Notes of Decisions (72)

Miss. Code Ann. § 25-61-5, MS ST § 25-61-5

Current through 2014 Regular (End) and First and Second Extraordinary (End) Sessions.

End of Document

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EXHIBIT 20

Vernon's Annotated Missouri Rules
Supreme Court Rules
Supreme Court Operating Rules
Rule 2. Public Access to Records of the Judicial Department

Supreme Court Operating Rules Rule 2.08

2.08. Access Procedures

Currentness

A custodian of records shall be named for each clerk's office to approve or reject requests for records. If a custodian of records has not been named, the appointing authority for that office shall be the custodian of records.

The court may:

- (a) Develop and make available to the public the procedures that are to be followed to obtain access to electronic and paper records;
- (b) Develop procedures to ensure that confidential records are protected from disclosure to the public; and
- (c) Provide appropriate training to court staff concerning the provisions of this COR 2.

Requests for access may be submitted orally or in writing, as determined by the custodian of records. However, requests for administrative records shall be in writing. The requesting person shall not be required to disclose the purpose of the request.

The custodian of records shall respond to the request as promptly as practical.

Denials of access requests shall be in writing if desired by the requesting person.

The following information in a court record will only be publicly accessible at a court facility in the jurisdiction in which the case was filed:

- (1) Findings of non-paternity under section 210.846, RSMo;
- (2) Pleadings and orders in child abuse and neglect cases under section 211.319, RSMo;
- (3) Pleadings and orders in termination of parental rights cases under section 211.319, RSMo;
- (4) All records in felony A and B delinquency cases under section 211.321, RSMo; and
- (5) Final disposition of criminal case under section 610.105, RSMo.

2.08. Access Procedures, MO R S.CT. OP. RULES Rule 2.08

Credits

(Adopted Aug. 24, 1998, eff. Oct. 1, 1998. Amended Nov. 17, 2004, eff. Jan. 1, 2005; amended April 13, 2011, eff. Jan. 1, 2012.)

MO. S.Ct. Op. Rules Rule 2.08, MO R S.CT. OP. RULES Rule 2.08

current with amendments received through July 1, 2014

End of Document

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EXHIBIT 21

West's North Carolina General Statutes Annotated
Chapter 132. Public Records (Refs & Annos)

N.C.G.S.A. § 132-6

§ 132-6. Inspection and examination of records

Effective: July 1, 2014
Currentness

(a) Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. As used herein, "custodian" does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.

(b) No person requesting to inspect and examine public records, or to obtain copies thereof, shall be required to disclose the purpose or motive for the request.

(c) No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation on the following schedule:

State agencies after June 30, 1996;

Municipalities with populations of 10,000 or more, counties with populations of 25,000 or more, as determined by the 1990 U.S. Census, and public hospitals in those counties, after June 30, 1997;

Municipalities with populations of less than 10,000, counties with populations of less than 25,000, as determined by the 1990 U.S. Census, and public hospitals in those counties, after June 30, 1998;

Political subdivisions and their agencies that are not otherwise covered by this schedule, after June 30, 1998.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities. Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State and that the business will receive a discretionary incentive for the project pursuant to Chapter 143B of the General Statutes, the provisions of this subsection allowing public records to be withheld by the agency no longer apply. If the specific business has requested discretionary incentives for the project pursuant to Chapter 143B of the General Statutes, but decides to not expand or locate the project in this State or does not receive such discretionary incentives, then the only records that are subject to disclosure pursuant to this Chapter are the records submitted to the Department of Commerce by the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431A. If a business decides to expand or locate a specific project in this State, but the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431A does not submit any documentation to the Department regarding a request for any discretionary incentives by the State pursuant to Chapter 143B

§ 132-6. Inspection and examination of records, NC ST § 132-6

of the General Statutes, and the business does not receive any such discretionary incentives, then any records regarding such project are not subject to disclosure pursuant to this Chapter. Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law. An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project.

(e) The application of this Chapter is subject to the provisions of Article 1 of Chapter 121 of the General Statutes, the North Carolina Archives and History Act.

(f) Notwithstanding the provisions of subsection (a) of this section, the inspection or copying of any public record which, because of its age or condition could be damaged during inspection or copying, may be made subject to reasonable restrictions intended to preserve the particular record.

Credits

Amended by Laws 1987, c. 835, § 1; Laws 1995, c. 388, § 2, eff. Oct. 1, 1995; S.L. 2005-429, § 1.1, eff. Sept. 22, 2005; S.L. 2014-18, § 1.1(c), eff. July 1, 2014.

Notes of Decisions (24)

N.C.G.S.A. § 132-6, NC ST § 132-6

The statutes and Constitution are current through Chapters 1-38 of the 2014 Regular Session of the General Assembly.

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EXHIBIT 22

New Jersey Statutes Annotated

Title 47. Public Records (Refs & Annos)

Chapter 1A. Examination and Copies of Public Records (Refs & Annos)

N.J.S.A. 47:1A-5

47:1A-5. Custodian of government records to permit inspection, examination and copying; certain information to be redacted; purchase of records; immediate access in certain circumstances

Effective: November 9, 2010

Currentness

a. The custodian of a government record shall permit the record to be inspected, examined, and copied by any person during regular business hours; or in the case of a municipality having a population of 5,000 or fewer according to the most recent federal decennial census, a board of education having a total district enrollment of 500 or fewer, or a public authority having less than \$10 million in assets, during not less than six regular business hours over not less than three business days per week or the entity's regularly-scheduled business hours, whichever is less; unless a government record is exempt from public access by: P.L.1963, c. 73 (C.47:1A-1 et seq.) as amended and supplemented; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order. Prior to allowing access to any government record, the custodian thereof shall redact from that record any information which discloses the social security number, credit card number, unlisted telephone number, or driver license number of any person; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c. 188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor. Except where an agency can demonstrate an emergent need, a regulation that limits access to government records shall not be retroactive in effect or applied to deny a request for access to a government record that is pending before the agency, the council or a court at the time of the adoption of the regulation.

b. A copy or copies of a government record may be purchased by any person upon payment of the fee prescribed by law or regulation. Except as otherwise provided by law or regulation, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be \$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger. If a public agency can demonstrate that its actual costs for duplication of a government record exceed the foregoing rates, the public agency shall be permitted to charge the actual cost of duplicating the record. The actual cost of duplicating the record, upon which all copy fees are based, shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy except as provided for in subsection c. of this section. Access to electronic records and non-printed materials shall be provided free of charge, but the public agency may charge for the actual costs of any needed supplies such as computer discs.

c. Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the

request, the public agency may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be reasonable and shall be based upon the actual direct cost of providing the copy or copies; provided, however, that in the case of a municipality, rates for the duplication of particular records when the actual cost of copying exceeds the foregoing rates shall be established in advance by ordinance. The requestor shall have the opportunity to review and object to the charge prior to it being incurred.

d. A custodian shall permit access to a government record and provide a copy thereof in the medium requested if the public agency maintains the record in that medium. If the public agency does not maintain the record in the medium requested, the custodian shall either convert the record to the medium requested or provide a copy in some other meaningful medium. If a request is for a record: (1) in a medium not routinely used by the agency; (2) not routinely developed or maintained by an agency; or (3) requiring a substantial amount of manipulation or programming of information technology, the agency may charge, in addition to the actual cost of duplication, a special charge that shall be reasonable and shall be based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the agency or attributable to the agency for the programming, clerical, and supervisory assistance required, or both.

e. Immediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.

f. The custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following: (1) specific directions and procedures for requesting a record; (2) a statement as to whether prepayment of fees or a deposit is required; (3) the time period within which the public agency is required by P.L.1963, c. 73 (C.47:1A-1 et seq.) as amended and supplemented, to make the record available; (4) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal; (5) space for the custodian to list reasons if a request is denied in whole or in part; (6) space for the requestor to sign and date the form; (7) space for the custodian to sign and date the form if the request is fulfilled or denied. The custodian may require a deposit against costs for reproducing documents sought through an anonymous request whenever the custodian anticipates that the information thus requested will cost in excess of \$5 to reproduce.

g. A request for access to a government record shall be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. A custodian shall promptly comply with a request to inspect, examine, copy, or provide a copy of a government record. If the custodian is unable to comply with a request for access, the custodian shall indicate the specific basis therefor on the request form and promptly return it to the requestor. The custodian shall sign and date the form and provide the requestor with a copy thereof. If the custodian of a government record asserts that part of a particular record is exempt from public access pursuant to P.L.1963, c. 73 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall delete or excise from a copy of the record that portion which the custodian asserts is exempt from access and shall promptly permit access to the remainder of the record. If the government record requested is temporarily unavailable because it is in use or in storage, the custodian shall so advise the requestor and shall make arrangements to promptly make available a copy of the record. If a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency.

h. Any officer or employee of a public agency who receives a request for access to a government record shall forward the request to the custodian of the record or direct the requestor to the custodian of the record.

i. Unless a shorter time period is otherwise provided by statute, regulation, or executive order, a custodian of a government record shall grant access to a government record or deny a request for access to a government record as soon as possible, but not later than seven business days after receiving the request, provided that the record is currently available and not in storage or archived. In the event a custodian fails to respond within seven business days after receiving a request, the failure to respond shall be deemed a denial of the request, unless the requestor has elected not to provide a name, address or telephone number, or other means of contacting the requestor. If the requestor has elected not to provide a name, address, or telephone number, or other means of contacting the requestor, the custodian shall not be required to respond until the requestor reappears before the custodian seeking a response to the original request. If the government record is in storage or archived, the requestor shall be so advised within seven business days after the custodian receives the request. The requestor shall be advised by the custodian when the record can be made available. If the record is not made available by that time, access shall be deemed denied.

j. A custodian shall post prominently in public view in the part or parts of the office or offices of the custodian that are open to or frequented by the public a statement that sets forth in clear, concise and specific terms the right to appeal a denial of, or failure to provide, access to a government record by any person for inspection, examination, or copying or for purchase of copies thereof and the procedure by which an appeal may be filed.

k. The files maintained by the Office of the Public Defender that relate to the handling of any case shall be considered confidential and shall not be open to inspection by any person unless authorized by law, court order, or the State Public Defender.

Credits

L.2001, c. 404, § 6. Amended by L.2010, c. 75, § 5, eff. Sept. 10, 2010, operative Nov. 9, 2010.

Notes of Decisions (97)

N. J. S. A. 47:1A-5, NJ ST 47:1A-5

Current with laws effective through L.2014, c. 18 and J.R. No. 1.

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EXHIBIT 23

West's Revised Statutes of Nebraska Annotated
Chapter 84. State Officers
Article 7. General Provisions as to State Officers

Neb.Rev.St. § 84-712

84-712. Public records; free examination; memorandum and abstracts; copies; fees

Currentness

(1) Except as otherwise expressly provided by statute, all citizens of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(2) Copies made by citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (1) (a) of this section shall be made on the premises of the custodian of the public record or at a location mutually agreed to by the requester and the custodian.

(3)(a) Copies may be obtained pursuant to subdivision (1)(b) of this section only if the custodian has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including, but not limited to, printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require a custodian to copy any public record that is available to the requester on the custodian's web site on the Internet. The custodian of the public record is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the custodian shall produce copies for the requester.

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision, (i) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies, (ii) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.

(c) The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large a request may cause some delay or disruption of the other responsibilities of the custodian's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.

(d) State agencies which provide electronic access to public records through a portal established under section 84-1204 shall obtain approval of their proposed reasonable fees for such records pursuant to sections 84-1205.02 and 84-1205.03, if applicable, and the actual added cost of making the copies available may include the approved fee for the portal.

(e) This section shall not be construed to require a public body or custodian of a public record to produce or generate any public record in a new or different form or format modified from that of the original public record.

(f) If copies requested in accordance with subdivision (1)(b) of this section are estimated by the custodian of such public records to cost more than fifty dollars, the custodian may require the requester to furnish a deposit prior to fulfilling such request.

(4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

Credits

Laws 1925, ch. 146, § 1, p. 381; Laws 1927, ch. 193, § 1, p. 551; Laws 1961, ch. 454, § 3, p. 1383; Laws 1979, LB 86, § 1; Laws 2000, LB 628, § 1; Laws 2012, LB 719, § 6, eff. July 19, 2012; Laws 2013, LB 363, § 1, eff. Sept. 6, 2013.

Codifications: R.S. 1866, ch. 44, § 1, p. 297; R.S. 1913, § 5595; C.S. 1922, § 4902; C.S. 1929, § 84-712; R.S. 1943, § 84-712.

Notes of Decisions (23)

Neb. Rev. St. § 84-712, NE ST § 84-712
Current through End of 2013 Regular Session

EXHIBIT 24

West's Revised Statutes of Nebraska Annotated
Rules of the Supreme Court/Court of Appeals of the State of Nebraska
Chapter 1. Administrative Operations
Article 8. Public Access to Electronic Court Information

Neb Ct. R. § 1-809
Formerly Cited as NE R AD OP §1-809

§ 1-809. When Court Records are Available

Currentness

(A) Court records will be available for public access in the courthouse during regular office hours.

(B) Court records in electronic form which can be accessed remotely will be available for access at least during the hours established by the court for courthouse access, subject to unexpected technical failures or normal system maintenance.

(C) Upon receiving a request for access to information, the court will respond within a reasonable time regarding the availability of the information and provide the information within a reasonable time.

Credits

Recodified effective July 18, 2008.

Neb Ct. R. § 1-809, NE R CT § 1-809

Current with amendments received through 2/15/14

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EXHIBIT 25

PUBLIC ACCESS TO COURT RECORDS

**REPORT OF THE NEW HAMPSHIRE SUPREME COURT
TASK FORCE ON PUBLIC ACCESS TO COURT RECORDS**



FEBRUARY 2006

**STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

Section 4.50 – Court Records That Are Only Publicly Accessible At a Court Facility

(a) The following information in a court record will be publicly accessible only at a court facility in the jurisdiction, unless access is prohibited pursuant to 4.60 or 4.70:

- **All pleading, other filing and data entries made within ten (10) days of filing or entry to allow parties or other affected persons a ten (10) day opportunity to request sealing or other public access treatment**
- **Names of jurors**
- **Exhibits**
- **Pre-trial statements in civil proceedings and witness lists in all proceedings**
- **Documents containing the name, address, telephone number, and place of employment of any non-party in a criminal or civil case, including victims in criminal cases, non-party witnesses, and informants, but not including expert witnesses**
- **All pleadings not otherwise addressed in these rules in all cases until the court system has the means to redact certain information or exclude certain documents in some automated fashion**

Commentary

The Task Force recognizes that paper pleadings are, for the most part, already public and does not intend these rules to provide for any additional restrictions. A majority of the Task Force favors maintaining the “practical obscurity” inherent in paper records by ensuring that the information and documents described in Section 4.50 are available only at the courthouse, and not on the Internet. A strong minority of the Task Force favors recommending that pleadings and, in particular, court orders and opinions, be made available on the Internet as soon as the technology is available to do so with appropriate redactions for private or confidential information.

EXHIBIT 26

NYCOURTS.GOV

RULES

Administrative Rules of the Unified Court System & Uniform Rules of the Trial Courts

Rules of the Chief Administrative Judge

PART 124. Public Access To Records

Commercial reuse of the Rules as they appear on this web site is prohibited. The official version of the Rules published in the NYCRR is available on Westlaw .

- 124.1 [Purpose and scope](#)
- 124.2 [Designation of records access officer](#)
- 124.3 [Subject matter list](#)
- 124.4 [List of officers and employees](#)
- 124.5 [Requests for public access to records](#)
- 124.6 [Response to requests](#)
- 124.7 [Inspection and copying of records](#)
- 124.8 [Fees](#)
- 124.9 [Appeals](#)

Section 124.1 Purpose and scope.

This Part sets forth the procedures governing public access to the administrative records of the Office of Court Administration, pursuant to the Freedom of Information Law (Public Officers Law, article 6).

Historical Note

Sec. filed July 12, 1985 eff. July 1, 1985.

Section 124.2 Designation of records access officer.

- (a) The Director of Public Affairs of the Office of Court Administration shall be designated as the records access officer of the Office of Court Administration.
- (b) The records access officer shall:
 - (1) maintain a current list, by subject matter, of all administrative records in the possession of the Office of Court Administration, whether or not available to the public under the Freedom of Information Law;
 - (2) maintain a list setting forth the name, public office address, title and salary of every officer or employee of the Office of Court Administration; and
 - (3) respond on behalf of the Office of Court Administration to public requests for access to its records.
- (c) The business address of the records access officer is: Records Access Officer, Office of Court Administration, 25 Beaver Street, New York, NY 10004; (212) 428-2116.

(d) The Chief Administrator of the Courts may authorize other officers or employees of the Office of Court Administration to perform any of the duties of records access officer as set forth in this Part.

Historical Note

Sec. filed July 12, 1985; amd. filed Oct. 5, 2001 eff. Sept. 26, 2001. Amended (a), (c), added (d).

Section 124.3 Subject matter list.

A reasonably detailed list, by subject matter, of all records in the possession of the Office of Court Administration, whether or not the records are subject to public inspection and copying pursuant to the Freedom of Information Law, shall be available for public inspection and copying at the business office of the records access officer. The subject matter list shall be updated not less than twice per year, and the date of the most recent revision shall be indicated on the first page of the list.

Historical Note

Sec. filed July 12, 1985 eff. July 1, 1985.

Section 124.4 List of officers and employees.

A list setting forth the name, public office address, title and salary of every officer or employee of the Office of Court Administration shall be available for public inspection and copying at the business office of the records access officer.

Historical Note

Sec. filed July 12, 1985 eff. July 1, 1985.

Section 124.5 Requests for public access to records.

(a) A person wishing to inspect or copy a record contained within the subject matter list shall file a written application with the records access officer, which shall reasonably describe the record sought. The application shall contain all available data concerning date, title, file designation, department or unit within the Office of Court Administration, and any other information that may help identify the record. If the information supplied by the applicant is not sufficiently detailed to enable the records access officer to determine whether or not the Office of Court Administration maintains the record, the records access officer shall so notify the applicant and may request further identifying information.

(b) A written request shall not be required for materials, such as civil service examination announcements and informational brochures, which customarily have been made available by the Office of Court Administration to the public in the regular course of business, and for any other material which the records access officer deems to be proper to release without a written request.

Historical Note

Sec. filed July 12, 1985 eff. July 1, 1985.

Section 124.6 Response to requests.

(a) The records access officer shall, within five business days of the receipt of a request for access to a record, provide written notification to the applicant:

- (1) approving the request and authorizing inspection and copying of the record;
- (2) denying the request in whole or in part, indicating the reason for the denial and advising the applicant of his right to appeal such denial; or

(3) acknowledging receipt of the request and providing the applicant with a statement of the approximate date on which the request will be approved or denied.

(b) Except as provided in paragraph (a)(3) of this section, failure to either approve, deny or acknowledge receipt within 10 business days of receipt of a request may be construed as a denial of the request and may be appealed.

(c) If the record cannot be located, the records access officer shall certify to the applicant that:

(1) the Office of Court Administration does not maintain the record; or

(2) the Office of Court Administration does maintain the record but, after diligent search, it cannot be found.

Historical Note

Sec. filed July 12, 1985; amd. filed Oct. 5, 2001 eff. Sept. 26, 2001. Amended (a)(3).



Section 124.7 Inspection and copying of records.

Where a request for inspection or copying of a record is approved, the following provisions shall apply:

(a) Location. The record shall be made available for inspection and copying at a location specified by the records access officer, which may include the business office of the records access officer or the office where the record is normally maintained. No record shall be removed, by any person granted access to it, from any office of the Office of Court Administration without the express written consent of the records access officer.

(b) Hours for inspection and copying. The record shall be made available for inspection and copying at a time specified by the records access officer on any regular business day between the hours of 9:30 a.m. and 5 p.m.

(c) Photocopies of records. Upon request by the applicant, the records access officer shall certify the correctness of any photocopy made from a record of the Office of Court Administration. If, at the request of the applicant, only part of a record is photocopied, a statement to that effect shall be clearly marked on the first page of the photocopy.

(d) Transcripts of records. If a record cannot be photocopied, the applicant may request that a transcript of it be made by the Office of Court Administration. The transcript may, in the discretion of the records access officer, be either typewritten or handwritten.

Historical Note

Sec. filed July 12, 1985 eff. July 1, 1985.



Section 124.8 Fees.

(a) Except as otherwise provided by statute:

(1) the fee for photocopies of records shall be 25 cents per page for photocopies not exceeding 9 inches by 14 inches;

(2) the fee for photocopies of records exceeding 9 inches by 14 inches shall be the actual copying cost, which shall be the average unit cost for photocopying a record, excluding fixed costs such as operator salaries;

(3) if a transcript of a record has been made by the Office of Court Administration at the request of the applicant pursuant to section 124.7 of this Part, the applicant may be charged for the clerical time and

personal expenses involved in producing the transcript.

(b) All fees authorized herein shall be paid in advance by check or money order payable to the Office of Court Administration.

(c) There shall be no fee for:

(1) searching for a record;

(2) inspection of a record;

(3) certification of a photocopy of a record;

(4) certification that a record cannot be located; or

(5) photocopying five or fewer pages of a record, not exceeding 9 inches by 14 inches.

Historical Note

Sec. filed July 12, 1985 eff. July 1, 1985.

Section 124.9 Appeals.

(a) The Chief Administrator of the Courts or his designee shall be the appeals officer. The business address of the appeals officer is: Office of Court Administration, 25 Beaver Street, New York, NY 10004.

(b) An applicant whose request to inspect or copy a record has been denied may, within 30 days of that denial, appeal that determination in writing to the appeals officer at his business address.

(c) The appeal shall set forth:

(1) the name and return address of the applicant;

(2) the date upon which the request for inspection or copying of the record was made;

(3) the record to which the applicant was denied access; and

(4) whether there was a written denial of the request and, if there was, the date upon which the request was denied and the reason for the denial.

(d) Upon receipt of an appeal made in compliance with this section, the appeals officer shall review the denial of the request for inspection or copying of the record. Within 10 business days of receipt of an appeal, the appellant shall be notified in writing of the determination of the appeals officer and the reasons therefor.

(e) A copy of every appeal and the determination thereon shall be transmitted to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, NY 12231.

Historical Note

Sec. filed July 12, 1985; amd. filed Oct. 5, 2001 eff. Sept. 26, 2001. Amended (a).

Web page updated: March 11, 2009

EXHIBIT 27

West's North Dakota Century Code Annotated North Dakota State Court Rules North Dakota Supreme Court Administrative Rules (N.D. Sup. Ct. Admin. R.) and Administrative Orders (N.D. Sup. Ct. Admin. Order) Administrative Rules

AR 41, N.D.R.Sup. Ct. Admin. R.,

AR 41. Access to Court Records

Currentness

Section 1. Purpose.

The purpose of this rule is to provide a comprehensive framework for public access to court records. Every member of the public will have access to court records as provided in this rule.

Section 2. Definitions.

(a) "Court record," regardless of the form, includes:

- (1) any document, information, or other thing that is collected, received, or maintained by court personnel in connection with a judicial proceeding;
- (2) any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created by or prepared by court personnel that is related to a judicial proceeding; and
- (3) information maintained by court personnel pertaining to the administration of the court or clerk of court office and not associated with any particular case.

(b) "Court record" does not include:

- (1) other records maintained by the public official who also serves as clerk of court;
- (2) information gathered, maintained or stored by a governmental agency or other entity to which the court has access but which is not part of the court record as defined in this rule; and
- (3) a record that has been disposed of under court records management rules.

(c) "Public access" means that the public may inspect and obtain a copy of the information in a court record.

(d) "Remote access" means the ability to electronically search, inspect, or copy information in a court record without the need to physically visit the court facility where the court record is maintained.

(e) "Bulk distribution" means the distribution of all, or a significant subset, of the information in court records, as is and without modification or compilation.

(f) "Compiled information" means information that is derived from the selection, aggregation or reformulation by the court of some of the information from more than one individual court record.

(g) "Electronic form" means information in a court record that exists as:

(1) electronic representations of text or graphic documents;

(2) an electronic image, including a video image, of a document, exhibit or other thing;

(3) data in the fields or files of an electronic database; or

(4) an audio or video recording, analog or digital, of an event or notes in an electronic file from which a transcript of an event can be prepared.

Section 3. General Access Rule.

(a) *Public Access to Court Records.*

(1) Information in the court record is accessible to the public except as prohibited by this rule.

(2) There must be a publicly accessible indication of the existence of information in a court record to which access has been prohibited, which indication may not disclose the nature of the information protected.

(3) A court may not adopt a more restrictive access policy or otherwise restrict access beyond that provided for in this rule, nor provide greater access than that provided for in this rule.

(b) *When Court Records May Be Accessed.*

(1) Court records in a court facility must be available for public access during normal business hours. Court records in electronic form to which the court allows remote access will be available for access subject to technical systems availability.

(2) Upon receiving a request for access to information, the clerk of court must respond as promptly as practical. If a request cannot be granted promptly, or at all, an explanation must be given to the requestor as soon as possible. The requestor has a right to at least the following information: the nature of any problem preventing access and the specific statute, federal law, or court or administrative rule that is the basis of the denial. The explanation must be in writing if desired by the requestor.

(c) *Access to Court Records Filed Before March 1, 2009.* Court records filed before the adoption of N.D.R.Ct. 3.4 may contain protected information listed under N.D.R.Ct. 3.4(a). This rule does not require the review and redaction of protected information from a court record that was filed before the adoption of N.D.R.Ct. 3.4 on March 1, 2009.

(d) *Fees for Access.* The court may charge a fee for access to court records in electronic form, for remote access, for bulk distribution or for compiled information. To the extent that public access to information is provided exclusively through a vendor, the court will ensure that any fee imposed by the vendor for the cost of providing access is reasonable.

Section 4. Methods of Access to Court Records.

(a) *Access to Court Records at Court Facility.*

(1) *Request for Access.* Any person desiring to inspect, examine, or copy a court record must make an oral or written request to the clerk of court. If the request is oral, the clerk may require a written request if the clerk determines that the disclosure of the record is questionable or the request is so involved or lengthy as to need further definition. The request must clearly identify the record requested so that the clerk can locate the record without doing extensive research. Continuing requests for a document not yet in existence may not be considered.

(2) *Response to Request.* The clerk of court is not required to allow access to more than ten files per day per requestor, but may do so in the exercise of the clerk's discretion if the access will not disrupt the clerk's primary function. If the request for access and inspection is granted, the clerk may set reasonable time and manner of inspection requirements that ensure timely access while protecting the integrity of the records and preserving the affected office from undue disruption. The inspection area must be within full view of court personnel whenever possible. The person inspecting the records may not leave the court facility until the records are returned and examined for completeness.

(3) *Response by Court.* If a clerk of court determines there is a question about whether a record may be disclosed, or if a written request is made under Section 6(b) for a ruling by the court after the clerk denies or grants an access request, the clerk must refer the request to the court for determination. The court must use the standards listed in Section 6 to determine whether to grant or deny the access request.

(b) *Remote Access to Court Records.* The following information in court records must be made remotely accessible to the public if it exists in electronic form, unless public access is restricted under this rule:

- (1) litigant/party indexes to cases filed with the court;
- (2) listings of new case filings, including the names of the parties;

- (3) register of actions showing what documents have been filed in a case;
- (4) calendars or dockets of court proceedings, including the case number and caption, date and time of hearing, and location of hearing; and
- (5) reports specifically developed for electronic transfer approved by the state court administrator and reports generated in the normal course of business, if the report does not contain information that is excluded from public access under Section 5 or 6.

(c) *Requests for Bulk Distribution of Court Records.*

- (1) Bulk distribution of information in the court record is permitted for court records that are publicly accessible under Section 3(a).
- (2) A request for bulk distribution of information not publicly accessible can be made to the court for scholarly, journalistic, political, governmental, research, evaluation or statistical purposes when the identification of specific individuals is ancillary to the purpose of the inquiry. Prior to the release of information under this subsection the requestor must comply with the provisions of Section 6.
- (3) A court may allow a party to a bulk distribution agreement access to birth date, street address, and social security number information if the party certifies that it will use the data for legitimate purposes as permitted by law.

(d) *Access to Compiled Information From Court Records.*

(1) Any member of the public may request compiled information that consists solely of information that is publicly accessible and that is not already in an existing report. The court may compile and provide the information if it determines, in its discretion, that providing the information meets criteria established by the court, that the resources are available to compile the information and that it is an appropriate use of public resources. The court may delegate to its staff or the clerk of court the authority to make the initial determination to provide compiled information.

(2) Requesting compiled restricted information.

(A) Compiled information that includes information to which public access has been restricted may be requested by any member of the public only for scholarly, journalistic, political, governmental, research, evaluation, or statistical purposes.

(B) The request must:

- (i) identify what information is sought,

(ii) describe the purpose for requesting the information and explain how the information will benefit the public interest or public education, and

(iii) explain provisions for the secure protection of any information requested to which public access is restricted or prohibited.

(C) The court may grant the request and compile the information if it determines that doing so meets criteria established by the court and is consistent with the purposes of this rule, the resources are available to compile the information, and that it is an appropriate use of public resources.

(D) If the request is granted, the court may require the requestor to sign a declaration that:

(i) the data will not be sold or otherwise distributed, directly or indirectly, to third parties, except for journalistic purposes;

(ii) the information will not be used directly or indirectly to sell a product or service to an individual or the general public, except for journalistic purposes; and

(iii) there will be no copying or duplication of information or data provided other than for the stated scholarly, journalistic, political, governmental, research, evaluation, or statistical purpose.

The court may make such additional orders as may be needed to protect information to which access has been restricted or prohibited.

Section 5. Court Records Excluded From Public Access.

The following information in a court record is not accessible to the public:

(a) information that is not accessible to the public under federal law;

(b) information that is not accessible to the public under state law, court rule, case law or court order, including:

(1) affidavits or sworn testimony and records of proceedings in support of the issuance of a search or arrest warrant pending the return of the warrant;

(2) information in a complaint and associated arrest or search warrant to the extent confidentiality is ordered by the court under N.D.C.C. §§ 29-05-32 or 29-29-22;

(3) documents filed with the court for in-camera examination pending disclosure;

- (4) case information and documents in Child Relinquishment to Identified Adoptive Parent cases brought under N.D.C.C. ch. 14-15.1;
 - (5) domestic violence protection order files and disorderly conduct restraining order files when the restraining order is sought due to domestic violence, except for orders of the court;
 - (6) domestic violence protection order and disorderly conduct restraining order cases in which the initial petition was dismissed by the court without further hearing;
 - (7) names of qualified or summoned jurors and contents of jury qualification forms if disclosure is prohibited or restricted by order of the court;
 - (8) records of voir dire of jurors, unless disclosure is permitted by court order or rule;
 - (9) records of deferred impositions of sentences resulting in dismissal;
 - (10) unless exempted from redaction by N.D.R.Ct. 3.4(c), protected information:
 - (A) except for the last four digits, social security numbers, taxpayer identification numbers, and financial account numbers,
 - (B) except for the year, birth dates, and
 - (C) except for the initials, the name of an individual known to be a minor, unless the minor is a party, and there is no statute, regulation, or rule mandating nondisclosure;
 - (11) judge and court personnel work material, including personal calendars, communications from law clerks, bench memoranda, notes, work in progress, draft documents and non-finalized documents.
- (c) This rule does not preclude access to court records by the following persons in the following situations:
- (1) federal, state, and local officials, or their agents, examining a court record in the exercise of their official duties and powers;
 - (2) parties to an action and their attorneys examining the court file of the action, unless restricted by order of the court, but parties and attorneys may not access judge and court personnel work material in the court file.
- (d) A member of the public may request the court to allow access to information excluded under Section 5 as provided in Section 6.

Section 6. Requests to Prohibit Public Access to Information in Court Records or to Obtain Access to Restricted Information.

(a) Request to Prohibit Access.

(1) A request to the court to prohibit public access to information in a court record may be made by any party to a case, by the individual about whom information is present in the court record, or on the court's own motion, on notice as provided in Section 6(c).

(2) The court must decide whether there are sufficient grounds to overcome the presumption of openness of court records and prohibit access according to applicable constitutional, statutory and case law.

(3) In deciding whether to prohibit access the court must consider that the presumption of openness may only be overcome by an overriding interest. The court must articulate this interest along with specific findings sufficient to allow a reviewing court to determine whether the closure order was properly entered.

(4) The closure of the records must be no broader than necessary to protect the articulated interest. The court must consider reasonable alternatives to closure, such as redaction or partial closure, and the court must make findings adequate to support the closure. The court may not deny access only on the ground that the record contains confidential or closed information.

(5) In restricting access the court must use the least restrictive means that will achieve the purposes of this rule and the needs of the requestor.

(6) If the court concludes, after conducting the balancing analysis and making findings as required by paragraphs (1) through (5), that the interest of justice will be served, it may prohibit public Internet access to an individual defendant's electronic court record in a criminal case:

(A) if the charges against the defendant are dismissed; or

(B) if the defendant is acquitted.

If the court grants a request to prohibit public Internet access to an electronic court record in a criminal case, the search result for the record must display the words "Internet Access Prohibited under N.D.Sup.Ct. Admin.R 41."

(b) Request to Obtain Access.

(1) A request to obtain access to information in a court record to which access is prohibited under Section 4(a), 5 or 6(a) may be made to the court by any member of the public or on the court's own motion on notice as provided in Section 6(c).

(2) In deciding whether to allow access, the court must consider whether there are sufficient grounds to overcome the presumption of openness of court records and continue to prohibit access under applicable constitutional, statutory and case law. In deciding this the court must consider the standards outlined in Section 6(a).

(c) Form of Request.

(1) The request must be made by a written motion to the court.

(2) The requestor shall give notice to all parties in the case.

(3) The court may require notice to be given by the requestor or another party to any individuals or entities identified in the information that is the subject of the request. When the request is for access to information to which access was previously prohibited under Section 6(a), the court must provide notice to the individual or entity that requested that access be prohibited.

Section 7. Obligations Of Vendors Providing Information Technology Support To A Court To Maintain Court Records.

(a) If the court contracts with a vendor to provide information technology support to gather, store, or make accessible court records, the contract will require the vendor to comply with the intent and provisions of this rule. For purposes of this section, "vendor" includes a state, county or local governmental agency that provides information technology services to a court.

(b) By contract the vendor will be required to notify the court of any requests for compiled information or bulk distribution of information, including the vendor's requests for such information for its own use.

Credits

[Adopted on an emergency basis effective October 1, 1996. Amended effective November 12, 1997; March 1, 2001; March 1, 2005; July 1, 2006; March 1, 2009; March 15, 2009; March 1, 2010; March 1, 2012.]

Editors' Notes

EXPLANATORY NOTE

Adopted on an emergency basis effective October 1, 1996; Amended and adopted effective November 12, 1997; March 1, 2001; July 1, 2006; March 1, 2009; March 15, 2009; March 1, 2010; March 1, 2012; Appendix amended effective August 1, 2001, to reflect the name change of State Bar Board to State Board of Law Examiners.

Section 3(c) was adopted, effective March 1, 2010, to state that protected information may be contained in court records filed before the adoption of N.D.R.Ct. 3.4.

Section 4(c) was amended, effective March 15, 2009, to allow parties who enter into bulk distribution agreements with the courts to have access to birth date, street address, and social security number information upon certifying compliance with laws governing the security of protected information. Such laws include the Federal Fair Credit Reporting Act, the Gramm Leach Bliley Act, the USA Patriot Act and the Driver's Privacy Protection Act.

Section 5(b)(8) was amended, effective March 15, 2009, to list types of protected information open to the public.

The term “financial-account number” in Section 5(b)(8) includes any credit, debit or electronic fund transfer card number, and any other financial account number.

Section 5(b)(8) was amended, effective March 1, 2010, to incorporate the exemptions from redaction contained in N.D.R.Ct. 3.4(b). A document containing protected information that is exempt from redaction under N.D.R.Ct. 3.4(b) is accessible to the public.

Section 6(a)(6) was added, effective March 1, 2012, to provide a method for the court to prohibit public Internet access to an electronic case record when charges against a defendant are dismissed or the defendant is acquitted. A request under Section 6(a)(1) is required before the court can act to prohibit access under Section 6(a)(6).

Nothing in this rule or N.D.R.Ct. 3.4 precludes a clerk of court or the electronic case management system from identifying nonconfidential records that match a name and date of birth or a name and social security number.

HISTORY: Joint Procedure Committee Minutes of April 28-29, 2011, pages 9-12; September 23-24, 2010, pages 16-20; September 24-25, 2009, pages 8-9; May 21-22, 2009, pages 28-44; January 29-20, 2009, pages 3-4; September 25, 2008, pages 2-6; January 24, 2008, pages 9-12; October 11-12, 2007, pages 28-30; April 26-27, 2007, page 31; September 22-23, 2005, pages 6-16; April 28-29, 2005, pages 22-25; April 29-30, 2004, pages 6-13, January 29-30, 2004, pages 3-8; September 16-17, 2003, pages 2-11; April 24-25, 2003, pages 6-12. Court Technology Committee Minutes of June 18, 2004; March 19, 2004; September 12, 2003; Conference of Chief Justices/Conference of State Court Administrators: Guidelines for Public Access to Court Records.

CROSS REFERENCE: N.D.R.Ct. 3.4 (Privacy Protection for Filings Made With the Court).

Dissent:

Sandstrom, Justice, dissenting. Although the adopted change to N.D. Sup. Ct. Admin. R. 41(6)(a) is much less objectionable than what had been proposed, I do not believe it appropriate to permit court orders denying to the public Internet access to truthful information sought about specific persons, while permitting third parties to buy and sell the information unrestricted, and burdening clerks of court with telephone requests for the information.]

APPENDIX

Statutes, court rules and policies, and federal regulations making certain records confidential, in whole or in part, include:

ND Century Code

12.1-32-07.2(2) Records and papers concerning deferred imposition of sentence when guilty plea is withdrawn or guilty verdict set aside

12.1-32-09(3) Notice specifying defendant as a dangerous special offender for sentencing purposes

12.1-35-03 Information identifying a child victim of a crime

14-02.1-03.1(3), (4), (11) Records involving judicial authorization for abortion for unmarried minor

14-09.1-06 Mediation proceedings concerning contested child support, custody, or visitation

14-09.2-06 Parent Coordinator proceedings

14-15-16(4) Adoption proceedings

14-15.1 Child Relinquishment to Identified Adoptive Parent proceedings

14-20-54 Paternity proceedings

23-07.6-11 Confinement proceedings for those with communicable diseases

23-02.1-27 Certain information in birth and death certificates

25-03.1-43 Mental health commitments

25-03.3-03 Commitment proceedings for sexually dangerous individuals

27-20-51 Juvenile court records

27-09.1-12(4) Jury selection records

29-10.1-30, -31 Grand jury proceedings

30.1-11-01 Wills deposited for safekeeping

37-01-34 Recorded military discharge papers

50-06-05.1(15) Social-psychological evaluations and predisposition reports provided by department of human services

Court Rules and Policies

N.D.R.Civ.P. 26(c) Protective orders

N.D.R.Crim.P. 32(c) Presentence investigation reports

N.D.R.Crim.P. 32.1 Deferred imposition of sentence records

N.D.R.Crim.P. 44(b) Ex parte application for financial assistance

Administrative Rule 40 Audiotapes of closed or confidential proceedings

Administrative Policy 215 Access to computer-based data

Administrative Policy 402 Access to Juvenile Court Records

Federal Regulations

22 C.F.R. Section 51.33 Passport records

AR 41. Access to Court Records, ND R ADMIN AR 41

Boards and commissions governed by rules adopted by the Supreme Court include: Commission for Continuing Legal Education; Disciplinary Board; Judicial Conduct Commission, State Board of Law Examiners.

Sup. Ct. Administrative Rules, AR 41, ND R ADMIN AR 41

Current with amendments received through 1/1/2014

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EXHIBIT 28

Oklahoma Statutes Annotated
Title 51. Officers (Refs & Annos)
Chapter 1. General Provisions
Oklahoma Open Records Act (Refs & Annos)

51 Okl.St. Ann. § 24A.5

§ 24A.5. Inspection, copying and/or mechanical reproduction of records--Exemptions

Currentness

All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title, does not apply to records specifically required by law to be kept confidential including:

- a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,
- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes,
- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or
- d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions; provided however, the Department of Public Safety shall not be required to assemble for the requesting person specific information, in any format, from driving records relating to any person whose name and date of birth or whose driver license number is not furnished by the requesting person.

The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names, dates of birth, and other identifying information required by the Oklahoma State Bureau of Investigation pursuant to administrative rule are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons, and the cost of copying, reproducing or certifying each individual record is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of record copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no

§ 24A.5. Inspection, copying and/or mechanical reproduction of..., OK ST T. 51 § 24A.5

instance shall the record copying fee exceed twenty-five cents (\$0.25) per page for records having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:

- a. is solely for commercial purpose, or
- b. would clearly cause excessive disruption of the essential functions of the public body,

then the public body may charge a reasonable fee to recover the direct cost of record search and copying; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of a record for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy. The fee charged by the Department of Public Safety for a copy in a computerized format of a record of the Department shall not exceed the direct cost of making the copy unless the fee for the record is otherwise set by law.

Any public body establishing fees under this act shall post a written schedule of the fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, the index shall not be copied or mechanically reproduced for the purpose of sale of the information.

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one person shall be available at all times to release records during the regular business hours of the public body.

Credits

Laws 1985, c. 355, § 5, eff. Nov. 1, 1985; Laws 1986, c. 213, § 1, emerg. eff. June 6, 1986; Laws 1986, c. 279, § 29, operative July 1, 1986; Laws 1988, c. 187, § 4, emerg. eff. June 6, 1988; Laws 1992, c. 231, § 2, emerg. eff. May 19, 1992; Laws 1993, c. 97, § 7, eff. Sept. 1, 1993; Laws 1996, c. 209, § 3, eff. Nov. 1, 1996; Laws 2000, c. 342, § 8, eff. July 1, 2000; Laws 2001, c. 137, § 1, emerg. eff. April 24, 2001; Laws 2005, c. 199, § 5, eff. Nov. 1, 2005; Laws 2006, c. 16, § 34, emerg. eff. March 29, 2006.

Notes of Decisions (74)

51 Okl. St. Ann. § 24A.5, OK ST T. 51 § 24A.5

Current with chapters of the Second Regular Session of the 54th Legislature (2014) effective July 1, 2014.

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EXHIBIT 29

West's Oregon Revised Statutes Annotated
Title 19. Miscellaneous Matters Related to Government and Public Affairs
Chapter 192. Records; Public Reports and Meetings (Refs & Annos)
Inspection of Public Records (Refs & Annos)

O.R.S. § 192.430

192.430. Custodian of public records; duties

Currentness

(1) The custodian of any public records, including public records maintained in machine readable or electronic form, unless otherwise expressly provided by statute, shall furnish proper and reasonable opportunities for inspection and examination of the records in the office of the custodian and reasonable facilities for making memoranda or abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them. If the public record is maintained in machine readable or electronic form, the custodian shall furnish proper and reasonable opportunity to assure access.

(2) The custodian of the records may adopt reasonable rules necessary for the protection of the records and to prevent interference with the regular discharge of duties of the custodian.

Credits

Laws 1973, c. 794, § 4; Laws 1989, c. 546, § 1.

Notes of Decisions (1)

O. R. S. § 192.430, OR ST § 192.430

Current with 2014 Reg. Sess. legislation effective through July 1, 2014. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

EXHIBIT 30

West's Oregon Revised Statutes Annotated
Title 19. Miscellaneous Matters Related to Government and Public Affairs
Chapter 192. Records; Public Reports and Meetings (Refs & Annos)
Inspection of Public Records (Refs & Annos)

O.R.S. § 192.440

192.440. Public records; inspection; certified copies

Currentness

- (1) The custodian of any public record that a person has a right to inspect shall give the person, upon request:
 - (a) A copy of the public record if the public record is of a nature permitting copying; or
 - (b) A reasonable opportunity to inspect or copy the public record.

- (2) If a person makes a written request to inspect a public record or to receive a copy of a public record, the public body receiving the request shall respond as soon as practicable and without unreasonable delay. The public body may request additional information or clarification from the requester for the purpose of expediting the public body's response to the request. The response of the public body must acknowledge receipt of the request and must include one of the following:
 - (a) A statement that the public body does not possess, or is not the custodian of, the public record.
 - (b) Copies of all requested public records for which the public body does not claim an exemption from disclosure under ORS 192.410 to 192.505.
 - (c) A statement that the public body is the custodian of at least some of the requested public records, an estimate of the time the public body requires before the public records may be inspected or copies of the records will be provided and an estimate of the fees that the requester must pay under subsection (4) of this section as a condition of receiving the public records.
 - (d) A statement that the public body is the custodian of at least some of the requested public records and that an estimate of the time and fees for disclosure of the public records will be provided by the public body within a reasonable time.
 - (e) A statement that the public body is uncertain whether the public body possesses the public record and that the public body will search for the record and make an appropriate response as soon as practicable.
 - (f) A statement that state or federal law prohibits the public body from acknowledging whether the record exists or that acknowledging whether the record exists would result in the loss of federal benefits or other sanction. A statement under this paragraph must include a citation to the state or federal law relied upon by the public body.

(3) If the public record is maintained in a machine readable or electronic form, the custodian shall provide a copy of the public record in the form requested, if available. If the public record is not available in the form requested, the custodian shall make the public record available in the form in which the custodian maintains the public record.

(4)(a) The public body may establish fees reasonably calculated to reimburse the public body for the public body's actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the person's request.

(b) The public body may include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records. The public body may not include in a fee established under paragraph (a) of this subsection the cost of time spent by an attorney for the public body in determining the application of the provisions of ORS 192.410 to 192.505.

(c) The public body may not establish a fee greater than \$25 under this section unless the public body first provides the requestor with a written notification of the estimated amount of the fee and the requestor confirms that the requestor wants the public body to proceed with making the public record available.

(d) Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for furnishing copies, summaries or compilations of the public records are those established by the Secretary of State by rule, under ORS chapter 79 or ORS 80.100 to 80.130.

(5) The custodian of any public record may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.

(6) A person who believes that there has been an unreasonable denial of a fee waiver or fee reduction may petition the Attorney General or the district attorney in the same manner as a person petitions when inspection of a public record is denied under ORS 192.410 to 192.505. The Attorney General, the district attorney and the court have the same authority in instances when a fee waiver or reduction is denied as it has when inspection of a public record is denied.

(7) A public body shall make available to the public a written procedure for making public record requests that includes:

(a) The name of one or more persons to whom public record requests may be sent, with addresses; and

(b) The amounts of and the manner of calculating fees that the public body charges for responding to requests for public records.

(8) This section does not apply to signatures of individuals submitted under ORS chapter 247 for purposes of registering to vote as provided in ORS 247.973.

192.440. Public records; inspection; certified copies, OR ST § 192.440

Credits

Laws 1973, c. 794, § 5; Laws 1979, c. 548, § 4; Laws 1989, c. 111, § 12; Laws 1989, c. 377, § 2; Laws 1989, c. 546, § 2; Laws 1999, c. 824, § 5; Laws 2001, c. 445, § 168; Laws 2005, c. 272, § 1; Laws 2007, c. 467, § 1, eff. Jan. 1, 2008.

Notes of Decisions (10)

O. R. S. § 192.440, OR ST § 192.440

Current with 2014 Reg. Sess. legislation effective through July 1, 2014. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

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EXHIBIT 31

Purdon's Pennsylvania Statutes and Consolidated Statutes
Title 65 P.S. Public Officers (Refs & Annos)
Chapter 3A. Right-To-Know Law (Refs & Annos)
Chapter 9. Agency Response

65 P.S. § 67.901

§ 67.901. General rule

Effective: January 1, 2009

Currentness

Upon receipt of a written request for access to a record, an agency shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether the agency has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. All applicable fees shall be paid in order to receive access to the record requested. The time for response shall not exceed five business days from the date the written request is received by the open-records officer for an agency. If the agency fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied.

Credits

2008, Feb. 14, P.L. 6, No. 3, § 901, effective Jan. 1, 2009.

Notes of Decisions (11)

65 P.S. § 67.901, PA ST 65 P.S. § 67.901

Current through 2014 Regular Session Acts 1 to 104, 107 to 113, 115, 116, 119 to 121, 123 to 125, 127 to 129

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EXHIBIT 32

West's General Laws of Rhode Island Annotated
Title 38. Public Records
Chapter 2. Access to Public Records (Refs & Annos)

Gen.Laws 1956, § 38-2-3

§ 38-2-3. Right to inspect and copy records--Duty to maintain minutes of meetings--Procedures for access

Currentness

(a) Except as provided in § 38-2-2(4), all records maintained or kept on file by any public body, whether or not those records are required by any law or by any rule or regulation, shall be public records and every person or entity shall have the right to inspect and/or copy those records at such reasonable time as may be determined by the custodian thereof.

(b) Any reasonably segregable portion of a public record excluded by subdivision 38-2-2(4) shall be available for public inspection after the deletion of the information which is the basis of the exclusion. If an entire document or record is deemed non-public, the public body shall state in writing that no portion of the document or record contains reasonable segregable information that is releasable.

(c) Each public body shall make, keep, and maintain written or recorded minutes of all meetings.

(d) Each public body shall establish written procedures regarding access to public records but shall not require written requests for public information available pursuant to R.I.G.L. § 42-35-2 or for other documents prepared for or readily available to the public.

These procedures must include, but need not be limited to, the identification of a designated public records officer or unit, how to make a public records request, and where a public record request should be made, and a copy of these procedures shall be posted on the public body's website if such a website is maintained and be made otherwise readily available to the public. The unavailability of a designated public records officer shall not be deemed good cause for failure to timely comply with a request to inspect and/or copy public records pursuant to subsection (e). A written request for public records need not be made on a form established by a public body if the request is otherwise readily identifiable as a request for public records.

(e) A public body receiving a request shall permit the inspection or copying within ten (10) business days after receiving a request. If the inspection or copying is not permitted within ten (10) business days, the public body shall forthwith explain in writing the need for additional time to comply with the request. Any such explanation must be particularized to the specific request made. In such cases the public body may have up to an additional twenty (20) business days to comply with the request if it can demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the public body.

(f) If a public record is in active use or in storage and, therefore, not available at the time a person or entity requests access, the custodian shall so inform the person or entity and make an appointment for the person or entity to examine such records as expeditiously as they may be made available.

(g) Any person or entity requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. Any public body which maintains its records in a computer storage system shall provide any data properly identified in a printout or other reasonable format, as requested.

(h) Nothing in this section shall be construed as requiring a public body to reorganize, consolidate, or compile data not maintained by the public body in the form requested at the time the request to inspect the public records was made except to the extent that such records are in an electronic format and the public body would not be unduly burdened in providing such data.

(i) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer.

(j) No public records shall be withheld based on the purpose for which the records are sought, nor shall a public body require, as a condition of fulfilling a public records request, that a person or entity provide a reason for the request or provide personally identifiable information about him/herself.

(k) At the election of the person or entity requesting the public records, the public body shall provide copies of the public records electronically, by facsimile, or by mail in accordance with the requesting person or entity's choice, unless complying with that preference would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The person requesting delivery shall be responsible for the actual cost of delivery, if any.

Credits

P.L. 1979, ch. 202, § 1; P.L. 1984, ch. 372, § 2; P.L. 1997, ch. 326, § 168; P.L. 1998, ch. 378, § 1; P.L. 2011, ch. 363, § 41, eff. July 13, 2011; P.L. 2012, ch. 448, § 1, eff. Sept. 1, 2012; P.L. 2012, ch. 454, § 1, eff. Sept. 1, 2012.

Notes of Decisions (8)

Gen. Laws, 1956, § 38-2-3, RI ST § 38-2-3

The statutes and Constitution are current through Chapter 104 of the January 2014 session

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EXHIBIT 33

South Dakota Codified Laws

Title 15. Civil Procedure

Chapter 15-15A. Unified Judicial System Court Records Rule (Refs & Annos)

SDCL § 15-15A-14

15-15A-14. When court records may be accessed

Currentness

- (1) Court records will be available where available for public access in the courthouse during hours established by the court. Court records in electronic form to which the court allows remote access under this rule will be available for access at least during the hours established by the court for courthouse access, subject to unexpected technical failures or normal system maintenance announced in advance.

- (2) Upon receiving a request for access to information the court will respond within a reasonable time regarding the availability of the information and provide the information within a reasonable time.

Credits

Source: SL 2004, ch 333 (Supreme Court Rule 04-06), eff. July 1, 2004; SDCL § 15-15A-11; SL 2005, ch 291 (Supreme Court Rule 05-05), eff. Feb. 25, 2005.

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SDCL § 15-15A-14, SD ST § 15-15A-14

Current through the 2014 Regular Session and Supreme Court Rule 14-10

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EXHIBIT 34

1.13 Information Access

Much of the information filed in the Clerk of Court offices is of interest to the public. ***With few exceptions, these are public records which may be viewed on request.*** Some degree of control, however, must be exercised over when and where materials may be reviewed.

Judgment rolls are in great demand by title searchers, while individual case files may be of interest to individuals or the media. In any event, these are all official records of the court, and the Clerk of Court is responsible for their integrity.

1.13.1 Public Access

As a general rule, the public should not have direct access to active case jackets, and access to closed records should be monitored. In no event should case jackets be removed from the courthouse. Except for review by judges or use in court, case jackets should not be allowed to leave the clerk's office. Records should be retrieved by a staff member, signed out to the individual, and reviewed in a designated area of the clerk's office pursuant to **§ 14-17-570 SC Code**.

1.13.2 Restricted Access

The following records are not subject to general public review and should be filed in a locked file cabinet or restricted access file room:

Sealed Records include:

Abortion for Minors [§ 44-41-34(D)]
Adoptions [§ 63-9-780(B)]
Termination of Parental Rights (§ 63-7-2600)

ACCESS TO SEALED RECORDS REQUIRES A COURT ORDER.

Confidential Records include:

Abuse and Neglect (S.C. Code § 63-7-1990)
Juvenile Delinquency (S.C. Code § 63-19-2010) - This is covered in the section on Juveniles.

ACCESS TO CONFIDENTIAL RECORDS IS LIMITED TO THOSE WITH A LEGITIMATE INTEREST IN THE PROCEEDING.

Reference: 63-7-2600, § 63-9-780(B), § 63-7-1990, § 63-19-2010.

See **7.18.1** for a discussion of the special issues connected with access to Family Court records.

1.13.3 Providing Copies

The clerk's office is frequently requested or required to provide copies of documents and records to the court or to the public. Policies for charging for public copies are set locally, but should be published and applied uniformly. Fees for certified copies are set by statute.

Regular copies. Depending on the arrangement of the office, copies may be made by members of the public or by a staff person. Procedures should be established so that documents to be copied are returned promptly to their original location.

Certified copies. Certified copies require official **Page 161** on the document that the copy is a true copy of

the original. To prepare certified copies:

Verify that the document being copied is an original document.

Make a copy of the document.

Verify that all pages of the document were copied.

Apply certification stamp to document. Enter Clerk of Court's signature and initials of processing clerk.

Enter date of certification.

Affix seal to document.

Collect certification fee.

Issue receipt for fee.

1.14 Reporting Requirements

The development of the statewide information system has reduced the burden upon the Clerks of Court for reporting various types of information to other agencies. Some direct reporting requirements remain, however, for both financial and non-financial aspects of the clerks' responsibilities.

1.14.1 Non-Financial

Report	To	Timing
Certificates reporting divorces and annulments	Division of Vital Statistics	W/in 30 days of the filing of the decree
Certificates of Adoption (Not handled by child placing agency)	Division of Vital Statistics	W/in 30 days of the filing of the decree

1.14.2 Financial

Monies received by the Clerk of Court are disbursed to a number of different offices and agencies. Monthly reports accounting for various portions of these monies accompany these disbursements. Chapter 2 discusses the details of these transactions.

1.15 Non-Judicial Recording and Other Duties

The Clerk of Court performs various functions or services not directly related to court case activity, but important to state regulation of businesses or services provided to the public. In this capacity, the Clerk of Court's office provides a central repository for certain types of public information. These functions usually include providing the necessary forms, recording appropriate information, maintaining public access to the recorded information, and forwarding copies of recorded forms to the issuing agency.

In addition to state licenses, individual counties may also require licenses that the clerk issues, such as

EXHIBIT 35

West's Tennessee Code Annotated

Title 10. Public Libraries, Archives and Records

Chapter 7. Public Records (Refs & Annos)

Part 5. Miscellaneous Provisions (Refs & Annos)

T. C. A. § 10-7-503

§ 10-7-503. Inspection by citizens; confidentiality; availability; law enforcement personnel records

Effective: July 9, 2012

Currentness

(a)(1)(A) As used in this part and title 8, chapter 4, part 6, "public record or records" or "state record or records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

(B) "Public record or records" or "state record or records" does not include the device or equipment, including, but not limited to, a cell phone, computer or other electronic or mechanical device or equipment, that may have been used to create or store a public record or state record.

(2)(A) All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.

(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven (7) business days:

(i) Make the information available to the requestor;

(ii) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or

(iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce the record or information.

(3) Failure to respond to the request as described in subdivision (a)(2) shall constitute a denial and the person making the request shall have the right to bring an action as provided in § 10-7-505.

(4) This section shall not be construed as requiring a governmental entity or public official to sort through files to compile information; however, a person requesting the information shall be allowed to inspect the nonexempt records.

(5) This section shall not be construed as requiring a governmental entity or public official to create a record that does not exist; however, the redaction of confidential information from a public record or electronic database shall not constitute a new record.

(6) A governmental entity is prohibited from avoiding its disclosure obligations by contractually delegating its responsibility to a private entity.

(7)(A) A records custodian may not require a written request or assess a charge to view a public record unless otherwise required by law; however, a records custodian may require a request for copies of public records to be in writing or that the request be made on a form developed by the office of open records counsel. The records custodian may also require any citizen making a request to view a public record or to make a copy of a public record to present a photo identification, if the person possesses a photo identification, issued by a governmental entity, that includes the person's address. If a person does not possess a photo identification, the records custodian may require other forms of identification acceptable to the records custodian.

(B) Any request for inspection or copying of a public record shall be sufficiently detailed to enable the records custodian to identify the specific records to be located or copied.

(C)(i) A records custodian may require a requestor to pay the custodian's reasonable costs incurred in producing the requested material and to assess the reasonable costs in the manner established by the office of open records counsel pursuant to § 8-4-604.

(ii) The records custodian shall provide a requestor an estimate of the reasonable costs to provide copies of the requested material.

(b) The head of a governmental entity may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to maintain the confidentiality of records concerning adoption proceedings or records required to be kept confidential by federal statute or regulation as a condition for the receipt of federal funds or for participation in a federally funded program.

(c)(1) Except as provided in § 10-7-504(g), all law enforcement personnel records shall be open for inspection as provided in subsection (a); however, whenever the personnel records of a law enforcement officer are inspected as provided in subsection (a), the custodian shall make a record of such inspection and provide notice, within three (3) days from the date of the inspection, to the officer whose personnel records have been inspected:

(A) That such inspection has taken place;

(B) The name, address and telephone number of the person making such inspection;

(C) For whom the inspection was made; and

(D) The date of such inspection.

(2) Information made confidential by this chapter shall be redacted whenever possible, but the costs associated with redacting records or information, including the cost of copies and staff time to provide redacted copies, shall be borne as provided by current law.

(3) Any person making an inspection of such records shall provide such person's name, address, business telephone number, home telephone number, driver license number or other appropriate identification prior to inspecting such records.

(d)(1) All records of any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i) shall be open for inspection as provided in subsection (a); provided, that any such organization shall not be subject to the requirements of this subsection (d) so long as it complies with the following requirements:

(A) The board of directors of the organization shall cause an annual audit to be made of the financial affairs of the organization, including all receipts from every source and every expenditure or disbursement of the money of the organization, made by a disinterested person skilled in such work. Each audit shall cover the period extending back to the date of the last preceding audit and it shall be paid out of the funds of the organization;

(B) Each audit shall be conducted in accordance with the standards established by the comptroller of the treasury pursuant to § 4-3-304(9) for local governments;

(C) The comptroller of the treasury, through the department of audit, shall be responsible for ensuring that the audits are prepared in accordance with generally accepted governmental auditing standards, and determining whether the audits meet minimum audit standards which shall be prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until such audit has been approved by the comptroller of the treasury;

(D) The audits may be prepared by a certified public accountant, a public accountant or by the department of audit. If the governing body of the municipality fails or refuses to have the audit prepared, the comptroller of the treasury may appoint a certified public accountant or public accountant or direct the department to prepare the audit. The cost of such audit shall be paid by the organization;

(E) Each such audit shall be completed as soon as practicable after the end of the fiscal year of the organization. One (1) copy of each audit shall be furnished to the organization and one (1) copy shall be filed with the comptroller of the treasury. The copy of the comptroller of the treasury shall be available for public inspection. Copies of each audit shall also be made available to the press; and

(F) In addition to any other information required by the comptroller of the treasury, each audit shall also contain:

(i) A listing, by name of the recipient, of all compensation, fees or other remuneration paid by the organization during the audit year to, or accrued on behalf of, the organization's directors and officers;

(ii) A listing, by name of recipient, of all compensation and any other remuneration paid by the organization during the audit year to, or accrued on behalf of, any employee of the organization who receives more than twenty-five thousand dollars (\$25,000) in remuneration for such year;

(iii) A listing, by name of beneficiary, of any deferred compensation, salary continuation, retirement or other fringe benefit plan or program (excluding qualified health and life insurance plans available to all employees of the organization on a nondiscriminatory basis) established or maintained by the organization for the benefit of any of the organization's directors, officers or employees, and the amount of any funds paid or accrued to such plan or program during the audit year; and

(iv) A listing, by name of recipient, of all fees paid by the organization during the audit year to any contractor, professional advisor or other personal services provider, which exceeds two thousand five hundred dollars (\$2,500) for such year. Such listing shall also include a statement as to the general effect of each contract, but not the amount paid or payable thereunder.

(2) This subsection (d) shall not apply to any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i), that employs no more than two (2) full-time staff members.

(3) This subsection (d) shall not apply to any association, organization or corporation that was exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(3), as of January 1, 1998, and which makes available to the public its federal return of organization exempt from income tax (Form 990) in accordance with the Internal Revenue Code and related regulations.

(e) All contingency plans of law enforcement agencies prepared to respond to any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident shall not be open for inspection as provided in subsection (a).

(f) All records, employment applications, credentials and similar documents obtained by any person in conjunction with an employment search for a director of schools or any chief public administrative officer shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. For the purposes of this subsection (f), the term "person" includes a natural person, corporation, firm, company, association or any other business entity.

Credits

1957 Pub.Acts, c. 285, § 1; 1981 Pub.Acts, c. 376, § 1; 1984 Pub.Acts, c. 929, §§ 1, 3; 1991 Pub.Acts, c. 369, § 7; 1993 Pub.Acts, c. 475, § 1, eff. May 31, 1993; 1998 Pub.Acts, c. 1102, §§ 2, 4, eff. May 19, 1998; 1999 Pub.Acts, c. 514, § 1, eff. June 17, 1999; 2000 Pub.Acts, c. 714, § 1, eff. May 17, 2000; 2005 Pub.Acts, c. 263, § 1, eff. May 28, 2005; 2007 Pub.Acts, c. 425, § 1, eff. June 13, 2007; 2008 Pub.Acts, c. 1179, § 1, eff. July 1, 2008; 2011 Pub.Acts, c. 353, § 1, eff. May 30, 2011.

Formerly § 15-304.

Notes of Decisions (113)

T. C. A. § 10-7-503, TN ST § 10-7-503

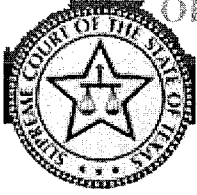
Current with laws from the 2014 Second Reg. Sess., eff. through June 30, 2014

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EXHIBIT 36

THE SUPREME COURT OF TEXAS



Courts Online

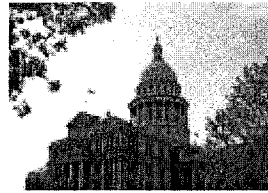
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Rules of Judicial Administration

Updated with Amendments Effective May 1, 2012

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Rule 1. Authority

These rules are promulgated pursuant to Section 74.024 of the Texas Government Code.

Rule 2. Definitions

In these rules:

- a. "Chief Justice" means the Chief Justice of the Supreme Court.
- b. "Presiding Judge" means the presiding judge of an administrative region.
- c. "Administrative region" means an administrative judicial region created by

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parties to the case. An agreement is effective and irrevocable when it is filed with the trial court if:

(1) no pretrial judge has been appointed in the case, or

(2) a pretrial judge has been appointed in the case, and the parties in all related cases to which the same pretrial judge has been assigned have likewise agreed to the application of Rule 13.

(c) *Assignment of Pretrial Judges After September 1, 2003.* An assignment of a pretrial judge to any case after September 1, 2003, must be made in consultation with the Chair of the Multidistrict Litigation Panel.

(d) *Consultation of Pretrial Judges.* In conducting pretrial proceedings and deciding pretrial matters, a pretrial judge assigned under this rule must consult with the judge of a pretrial court to which related cases have been transferred under Rule 13.

Rule 12. Public Access to Judicial Records

12.1 Policy. The purpose of this rule is to provide public access to information in the judiciary consistent with the mandates of the Texas Constitution that the public interests are best served by open courts and by an independent judiciary. The rule should be liberally construed to achieve its purpose.

12.2 Definitions. In this rule:

(a) Judge means a regularly appointed or elected judge or justice.

(b) Judicial agency means an office, board, commission, or other similar entity that is in the Judicial Department and that serves an administrative function for a court. A task force or committee created by a court or judge is a "judicial agency".

(c) Judicial officer means a judge, former or retired visiting judge, referee, commissioner, special master, court-appointed arbitrator, or other person exercising adjudicatory powers in the judiciary. A mediator or other provider of non-binding dispute resolution services is not a "judicial officer".

(d) Judicial record means a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function,

regardless of whether that function relates to a specific case. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record. A record is a document, paper, letter, map, book, tape, photograph, film, recording, or other material, regardless of electronic or physical form, characteristics, or means of transmission.

(e) Records custodian means the person with custody of a judicial record determined as follows:

(1) The judicial records of a court with only one judge, such as any trial court, are in the custody of that judge. Judicial records pertaining to the joint administration of a number of those courts, such as the district courts in a particular county or region, are in the custody of the judge who presides over the joint administration, such as the local or regional administrative judge.

(2) The judicial records of a court with more than one judge, such as any appellate court, are in the custody of the chief justice or presiding judge, who must act under this rule in accordance with the vote of a majority of the judges of the court. But the judicial records relating specifically to the service of one such judge or that judge's own staff are in the custody of that judge.

(3) The judicial records of a judicial officer not covered by subparagraphs (1) and (2) are in the custody of that officer.

(4) The judicial records of a judicial agency are in the custody of its presiding officer, who must act under this rule in accordance with agency policy or the vote of a majority of the members of the agency.

12.3 Applicability. This rule does not apply to:

(a) records or information to which access is controlled by:

(1) a state or federal court rule, including:

(A) a rule of civil or criminal procedure, including Rule 76a, Texas Rules of Civil Procedure;

(B) a rule of appellate procedure;

(C) a rule of evidence;

(D) a rule of administration;

(2) a state or federal court order not issued merely to

thwart the purpose of this rule;

(3) the Code of Judicial Conduct;

(4) Chapter 552, Government Code, or another statute or provision of law;

(b) records or information to which Chapter 552, Government Code, is made inapplicable by statute, rule, or other provision of law, other than Section 552.003(1)(B);

(c) records or information relating to an arrest or search warrant or a supporting affidavit, access to which is controlled by:

(1) a state or federal court rule, including a rule of civil or criminal procedure, appellate procedure, or evidence; or

(2) common law, court order, judicial decision, or another provision of law

(d) elected officials other than judges.

12.4 Access to Judicial Records.

(a) *Generally.* Judicial records other than those covered by Rules 12.3 and 12.5 are open to the general public for inspection and copying during regular business hours. But this rule does not require a court, judicial agency, or records custodian to:

(1) create a record, other than to print information stored in a computer;

(2) retain a judicial record for a specific period of time;

(3) allow the inspection of or provide a copy of information in a book or publication commercially available to the public; or

(4) respond to or comply with a request for a judicial record from or on behalf of an individual who is imprisoned or confined in a correctional facility as defined in Section 1.07(a), Penal Code, or in any other such facility in any state, federal, or foreign jurisdiction.

(b) *Voluntary Disclosure.* A records custodian may voluntarily make part or all of the information in a judicial record available to the public, subject to Rules 12.2(e)(2) and 12.2(e)(4), unless the disclosure is expressly prohibited by law or exempt under this rule, or the

information is confidential under law. Information voluntarily disclosed must be made available to any person who requests it.

12.5 Exemptions from Disclosure. The following records are exempt from disclosure under this rule:

(a) *Judicial Work Product and Drafts.* Any record that relates to a judicial officer's adjudicative decision-making process prepared by that judicial officer, by another judicial officer, or by court staff, an intern, or any other person acting on behalf of or at the direction of the judicial officer.

(b) *Security Plans.* Any record, including a security plan or code, the release of which would jeopardize the security of an individual against physical injury or jeopardize information or property against theft, tampering, improper use, illegal disclosure, trespass, unauthorized access, or physical injury.

(c) *Personnel Information.* Any personnel record that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy.

(d) *Home Address and Family Information.* Any record reflecting any person's home address, home or personal telephone number, social security number, or family members.

(e) *Applicants for Employment or Volunteer Services.* Any records relating to an applicant for employment or volunteer services.

(f) *Internal Deliberations on Court or Judicial Administration Matters.* Any record relating to internal deliberations of a court or judicial agency, or among judicial officers or members of a judicial agency, on matters of court or judicial administration.

(g) *Court Law Library Information.* Any record in a law library that links a patron's name with the materials requested or borrowed by that patron.

(h) *Judicial Calendar Information.* Any record that reflects a judicial officer's appointments or engagements that are in the future or that constitute an invasion of personal privacy.

(i) *Information Confidential Under Other Law.* Any record that is confidential or exempt from disclosure under a state or federal constitutional provision, statute or common law, including information that relates to:

(1) a complaint alleging misconduct against a judicial officer, if the complaint is exempt from disclosure under Chapter 33, Government Code, or other law;

(2) a complaint alleging misconduct against a person who is licensed or regulated by the courts, if the information is confidential under applicable law; or

(3) a trade secret or commercial or financial information made privileged or confidential by statute or judicial decision.

(j) *Litigation or Settlement Negotiations.* Any judicial record relating to civil or criminal litigation or settlement negotiations:

(1) in which a court or judicial agency is or may be a party; or

(2) in which a judicial officer or member of a judicial agency is or may be a party as a consequence of the person's office or employment.

(k) *Investigations of Character or Conduct.* Any record relating to an investigation of any person's character or conduct, unless:

(1) the record is requested by the person being investigated; and

(2) release of the record, in the judgment of the records custodian, would not impair the investigation.

(l) *Examinations.* Any record relating to an examination administered to any person, unless requested by the person after the examination is concluded.

12.6 Procedures for Obtaining Access to Judicial Records.

(a) *Request.* A request to inspect or copy a judicial record must be in writing and must include sufficient information to reasonably identify the record requested. The request must be sent to the records custodian and not to a court clerk or other agent for the records custodian. A requestor need not have detailed knowledge of the records custodian's filing system or procedures in order to obtain the information.

(b) *Time for Inspection and Delivery of Copies.* As soon as practicable--and not more than 14 days--after actual receipt of a request to inspect or copy a judicial record, if the record is available, the records custodian must either:

(1) allow the requestor to inspect the record and provide a copy if one is requested; or

(2) send written notice to the requestor stating that the record cannot within the prescribed period be produced or a copy provided, as applicable, and setting a reasonable date and time when the document will be produced or a copy provided, as applicable.

(c) *Place for Inspection.* A records custodian must produce a requested judicial record at a convenient, public area.

(d) *Part of Record Subject to Disclosure.* If part of a requested record is subject to disclosure under this rule and part is not, the records custodian must redact the portion of the record that is not subject to disclosure, permit the remainder of the record to be inspected, and provide a copy if requested.

(e) *Copying; Mailing.* The records custodian may deliver the record to a court clerk for copying. The records custodian may mail the copy to a requestor who has prepaid the postage.

(f) *Recipient of Request not Custodian of Record.* A judicial officer or a presiding officer of a judicial agency who receives a request for a judicial record not in his or her custody as defined by this rule must promptly attempt to ascertain who the custodian of the record is. If the recipient of the request can ascertain who the custodian of the requested record is, the recipient must promptly refer the request to that person and notify the requestor in writing of the referral. The time for response prescribed in Rule 12.6(b) does not begin to run until the referral is actually received by the records custodian. If the recipient cannot ascertain who the custodian of the requested record is, the recipient must promptly notify the requestor in writing that the recipient is not the custodian of the record and cannot ascertain who the custodian of the record is.

(g) *Inquiry to Requestor.* A person requesting a judicial record may not be asked to disclose the purpose of the request as a condition of obtaining the judicial record. But a records custodian may make inquiry to establish the proper identification of the requestor or to clarify the nature or scope of a request.

(h) *Uniform Treatment of Requests.* A records custodian must treat all requests for information uniformly without regard to the position or occupation of the requestor or the person on whose behalf a request is made, including

whether the requestor or such person is a member of the media.

12.7 Costs for Copies of Judicial Records; Appeal of Assessment.

(a) *Cost.* The cost for a copy of a judicial record is either:

(1) the cost prescribed by statute, or

(2) if no statute prescribes the cost, the cost the Office of the Attorney General prescribes by rule in the Texas Administrative Code.

(b) *Waiver or Reduction of Cost Assessment by Records Custodian.* A records custodian may reduce or waive the charge for a copy of a judicial record if:

(1) doing so is in the public interest because providing the copy of the record primarily benefits the general public, or

(2) the cost of processing collection of a charge will exceed the amount of the charge.

(c) *Appeal of Cost Assessment.* A person who believes that a charge for a copy of a judicial record is excessive may appeal the overcharge in the manner prescribed by Rule 12.9 for the appeal of the denial of access to a judicial record.

(d) *Records Custodian not Personally Responsible for Cost.* A records custodian is not required to incur personal expense in furnishing a copy of a judicial record.

12.8 Denial of Access to a Judicial Record.

(a) *When Request May be Denied.* A records custodian may deny a request for a judicial record under this rule only if the records custodian:

(1) reasonably determines that the requested judicial record is exempt from required disclosure under this rule; or

(2) makes specific, non-conclusory findings that compliance with the request would substantially and unreasonably impede the routine operation of the court or judicial agency.

(b) *Time to Deny.* A records custodian who denies access to a judicial record must notify the person requesting the

record of the denial within a reasonable time--not to exceed 14 days--after receipt of the request, or before the deadline for responding to the request extended under Rule 12.6 (b)(2).

(c) *Contents of Notice of Denial.* A notice of denial must be in writing and must:

- (1) state the reason for the denial;
- (2) inform the person of the right of appeal provided by Rule 12.9; and
- (3) include the name and address of the Administrative Director of the Office of Court Administration.

12.9 Relief from Denial of Access to Judicial Records.

(a) *Appeal.* A person who is denied access to a judicial record may appeal the denial by filing a petition for review with the Administrative Director of the Office of Court Administration.

(b) *Contents of Petition for Review.* The petition for review:

- (1) must include a copy of the request to the record custodian and the records custodian's notice of denial;
- (2) may include any supporting facts, arguments, and authorities that the petitioner believes to be relevant; and
- (3) may contain a request for expedited review, the grounds for which must be stated.

(c) *Time for Filing.* The petition must be filed not later than 30 days after the date that the petitioner receives notice of a denial of access to the judicial record.

(d) *Notification of Records Custodian and Presiding Judges.* Upon receipt of the petition for review, the Administrative Director must promptly notify the records custodian who denied access to the judicial record and the presiding judge of each administrative judicial region of the filing of the petition.

(e) *Response.* A records custodian who denies access to a judicial record and against whom relief is sought under this section may--within 14 days of receipt of notice from the Administrative Director--submit a written response to the petition for review and include supporting facts and

authorities in the response. The records custodian must mail a copy of the response to the petitioner. The records custodian may also submit for in camera inspection any record, or a sample of records, to which access has been denied.

(f) *Formation of Special Committee.* Upon receiving notice under Rule 12.9(d), the presiding judges must refer the petition to a special committee of not less than five of the presiding judges for review. The presiding judges must notify the Administrative Director, the petitioner, and the records custodian of the names of the judges selected to serve on the committee.

(g) *Procedure for Review.* The special committee must review the petition and the records custodian's response and determine whether the requested judicial record should be made available under this rule to the petitioner. The special committee may request the records custodian to submit for in camera inspection a record, or a sample of records, to which access has been denied. The records custodian may respond to the request in whole or in part but it not required to do so.

(h) *Considerations.* When determining whether the requested judicial record should be made available under this rule to petition, the special committee must consider:

- (1) the text and policy of this Rule;
- (2) any supporting and controverting facts, arguments, and authorities in the petition and the response; and
- (3) prior applications of this Rule by other special committees or by courts.

(i) *Expedited Review.* On request of the petitioner, and for good cause shown, the special committee may schedule an expedited review of the petition.

(j) *Decision.* The special committee's determination must be supported by a written decision that must:

- (1) issue within 60 days of the date that the Administrative Director received the petition for review;
- (2) either grant the petition in whole or in part or sustain the denial of access to the requested judicial record;
- (3) state the reasons for the decision, including appropriate citations to this rule; and

(4) identify the record or portions of the record to which access is ordered or denied, but only if the description does not disclose confidential information.

(k) *Notice of Decision.* The special committee must send the decision to the Administrative Director. On receipt of the decision from the special committee, the Administrative Director must:

(1) immediately notify the petitioner and the records custodian of the decision and include a copy of the decision with the notice; and

(2) maintain a copy of the special committee's decision in the Administrative Director's office for public inspection.

(l) *Publication of Decisions.* The Administrative Director must publish periodically to the judiciary and the general public the special committees' decisions.

(m) *Final Decision.* A decision of a special committee under this rule is not appealable but is subject to review by mandamus.

(n) *Appeal to Special Committee Not Exclusive Remedy.* The right of review provided under this subdivision is not exclusive and does not preclude relief by mandamus.

12.10 Sanctions. A records custodian who fails to comply with this rule, knowing that the failure to comply is in violation of the rule, is subject to sanctions under the Code of Judicial Conduct.

Comment to 2008 change:

The Attorney General's rule, adopted in accordance with Section 552.262 of the Government Code, is in Section 70.3 of Title 1 of the Texas Administrative Code.

Comments

1. Although the definition of "judicial agency" in Rule 12.2(b) is comprehensive, applicability of the rule is restricted by Rule 12.3. The rule does not apply to judicial agencies whose records are expressly made subject to disclosure by statute, rule, or law. An example is the State Bar ("an administrative agency of the judicial department", Tex. Gov't Code § 81.011(a)), which is subject to the Public Information Act. Tex. Gov't Code § 81.033. Thus, no judicial agency must comply with both the Act and this rule; at most one can apply. Nor does the rule apply to judicial agencies expressly excepted from the Act by statute (other than by the general judiciary exception in section 552.003(b) of the Act), rule, or law. Examples are the Board of Legal Specialization, Tex. Gov't Code § 81.033, and the Board of Disciplinary Appeals, Tex. R. Disciplinary App. 7.12. Because these boards are expressly excepted from the Act, their records are not subject to disclosure under this rule,

even though no law affirmatively makes their records confidential. The Board of Law Examiners is partly subject to the Act and partly exempt, Tex. Gov't Code § 82.003, and therefore this rule is inapplicable to it. An example of a judicial agency subject to the rule is the Supreme Court Advisory Committee, which is neither subject to nor expressly excepted from the Act, and whose records are not made confidential by any law.

2. As stated in Rule 12.4, this rule does not require the creation or retention of records, but neither does it permit the destruction of records that are required to be maintained by statute or other law, such as Tex. Gov't Code §§ 441.158-.167, .180-.203; Tex. Local Gov't Code ch. 203; and 13 Tex. Admin. Code § 7.122.
3. Rule 12.8 allows a records custodian to deny a record request that would substantially and unreasonably impede the routine operation of the court or judicial agency. As an illustration, and not by way of limitation, a request for "all judicial records" that is submitted every day or even every few days by the same person or persons acting in concert could substantially and unreasonably impede the operations of a court or judicial agency that lacked the staff to respond to such repeated requests.

Rule 13. Multidistrict Litigation

13.1 Authority and Applicability.

(a) *Authority.* This rule is promulgated under sections 74.161-74.164 of the Texas Government Code and chapter 90 of the Texas Civil Practices and Remedies Code.

(b) *Applicability.* This rule applies to:

(1) civil actions that involve one or more common questions of fact and that were filed in a constitutional county court, county court at law, probate court, or district court on or after September 1, 2003;

(2) civil actions filed before September 1, 2003, that involve claims for asbestos- or silica-related injuries, to the extent permitted by chapter 90 of the Texas Civil Practice and Remedies Code.

(c) *Other Cases.* Cases to which this rule does not apply are governed by Rule 11 of these rules.

Comment - 2005

Subsections (a) and (b) are amended and subsection (c) is added to provide procedures for cases covered by chapter 90 of the Texas Civil Practices and Remedies Code, enacted effective September 1, 2005.

13.2 Definitions. As used in this rule:

(a) *MDL Panel* means the judicial panel on multidistrict litigation

EXHIBIT 37

West's Utah Code Annotated
Title 63G. General Government
Chapter 2. Government Records Access and Management Act (Refs & Annos)
Part 2. Access to Records

U.C.A. 1953 § 63G-2-204
Formerly cited as UT ST § 63-2-204

§ 63G-2-204. Requests--Time limit for response and extraordinary circumstances

Currentness

(1) A person making a request for a record shall furnish the governmental entity with a written request containing:

(a) the person's name, mailing address, and daytime telephone number, if available; and

(b) a description of the record requested that identifies the record with reasonable specificity.

(2)(a) Subject to Subsection (2)(b), a person making a request for a record shall submit the request to the governmental entity that prepares, owns, or retains the record.

(b) In response to a request for a record, a governmental entity may not provide a record that it has received under Section 63G-2-206 as a shared record if the record was shared for the purpose of auditing, if the governmental entity is authorized by state statute to conduct an audit.

(c) If a governmental entity is prohibited from providing a record under Subsection (2)(b), it shall:

(i) deny the records request; and

(ii) inform the person making the request that records requests must be submitted to the governmental entity that prepares, owns, or retains the record.

(d) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.

(3) After receiving a request for a record, a governmental entity shall:

(a) review each request that seeks an expedited response and notify, within five business days after receiving the request, each requester that has not demonstrated that their record request benefits the public rather than the person that their response will not be expedited; and

(b) as soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person:

(i) approve the request and provide a copy of the record;

(ii) deny the request in accordance with the procedures and requirements of Section 63G-2-205;

(iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the record; or

(iv) notify the requester that because of one of the extraordinary circumstances listed in Subsection (5), it cannot immediately approve or deny the request, and include with the notice:

(A) a description of the circumstances that constitute the extraordinary circumstances; and

(B) the date when the records will be available, consistent with the requirements of Subsection (6).

(4) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

(5) The following circumstances constitute "extraordinary circumstances" that allow a governmental entity to delay approval or denial by an additional period of time as specified in Subsection (6) if the governmental entity determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection (3):

(a) another governmental entity is using the record, in which case the originating governmental entity shall promptly request that the governmental entity currently in possession return the record;

(b) another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit;

(c)(i) the request is for a voluminous quantity of records or a record series containing a substantial number of records; or

(ii) the requester seeks a substantial number of records or records series in requests filed within five working days of each other;

(d) the governmental entity is currently processing a large number of records requests;

(e) the request requires the governmental entity to review a large number of records to locate the records requested;

(f) the decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;

(g) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or

(h) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

(6) If one of the extraordinary circumstances listed in Subsection (5) precludes approval or denial within the time specified in Subsection (3), the following time limits apply to the extraordinary circumstances:

(a) for claims under Subsection (5)(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;

(b) for claims under Subsection (5)(b), the originating governmental entity shall notify the requester when the record is available for inspection and copying;

(c) for claims under Subsections (5)(c), (d), and (e), the governmental entity shall:

(i) disclose the records that it has located which the requester is entitled to inspect;

(ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request;

(iii) complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible; and

(iv) for any person that does not establish a right to an expedited response as authorized by Subsection (3), a governmental entity may choose to:

(A) require the person to provide for copying of the records as provided in Subsection 63G-2-201(9); or

(B) treat a request for multiple records as separate record requests, and respond sequentially to each request;

(d) for claims under Subsection (5)(f), the governmental entity shall either approve or deny the request within five business days after the response time specified for the original request has expired;

(e) for claims under Subsection (5)(g), the governmental entity shall fulfill the request within 15 business days from the date of the original request; or

(f) for claims under Subsection (5)(h), the governmental entity shall complete its programming and disclose the requested records as soon as reasonably possible.

(7)(a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection (2), the office shall promptly forward the request to the appropriate office.

(b) If the request is forwarded promptly, the time limit for response begins when the record is received by the office specified by rule.

(8) If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.

Credits

Laws 2008, c. 382, § 1323, eff. May 5, 2008; Laws 2010, c. 380, § 2, eff. May 11, 2010; Laws 2011, c. 340, § 38, eff. May 10, 2011.

Notes of Decisions (3)

U.C.A. 1953 § 63G-2-204, UT ST § 63G-2-204
Current through 2014 General Session.

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EXHIBIT 38

West's Vermont Statutes Annotated
Title One. General Provisions
Chapter 5. Common Law; General Rights (Refs & Annos)
Subchapter 3. Access to Public Records

1 V.S.A. § 316

§ 316. Access to public records and documents

Currentness

(a) Any person may inspect or copy any public record of a public agency, as follows:

(1) For any agency, board, department, commission, committee, branch, instrumentality, or authority of the State, a person may inspect a public record on any day other than a Saturday, Sunday, or a legal holiday, between the hours of nine o'clock and 12 o'clock in the forenoon and between one o'clock and four o'clock in the afternoon;

(2) For any agency, board, committee, department, instrumentality, commission, or authority of a political subdivision of the State, a person may inspect a public record during customary business hours.

(b) If copying equipment maintained for use by a public agency is used by the agency to copy the public record or document requested, the agency may charge and collect from the person requesting the copy the actual cost of providing the copy. The agency may also charge and collect from the person making the request, the costs associated with mailing or transmitting the record by facsimile or other electronic means. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of public records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

(c) Unless otherwise provided by law, in the following instances an agency may also charge and collect the cost of staff time associated with complying with a request for a copy of a public record: (1) the time directly involved in complying with the request exceeds 30 minutes; (2) the agency agrees to create a public record; or (3) the agency agrees to provide the public record in a nonstandard format and the time directly involved in complying with the request exceeds 30 minutes. The agency may require that requests subject to staff time charges under this subsection be made in writing and that all charges be paid, in whole or in part, prior to delivery of the copies. Upon request, the agency shall provide an estimate of the charge.

(d) The Secretary of State, after consultation with the Secretary of Administration, shall establish the actual cost of providing a copy of a public record that may be charged by state agencies. The Secretary shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine "actual cost," the Secretary shall consider the following only: the cost of the paper or the electronic media onto which a public record is copied, a prorated amount for maintenance and replacement of the machine or equipment used to copy the record and any utility charges directly associated with copying a record. The Secretary of State shall adopt, by rule, a uniform schedule of public record charges for State agencies.

(e) After public hearing, the legislative body of a political subdivision shall establish actual cost charges for copies of public records. The legislative body shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine actual cost charges, the legislative body shall use the same factors used by the Secretary of

State. If a legislative body fails to establish a uniform schedule of charges, the charges for that political subdivision shall be the uniform schedule of charges established by the Secretary of State until the local legislative body establishes such a schedule. A schedule of public records charges shall be posted in prominent locations in the town offices.

(f) State agencies shall provide receipts for all moneys received under this section. Notwithstanding any provision of law to the contrary, a State agency may retain moneys collected under this section to the extent such charges represent the actual cost incurred to provide copies under this subchapter. Amounts collected by a State agency under this section for the cost of staff time associated with providing copies shall be deposited in the General Fund, unless another disposition or use of revenues received by that agency is specifically authorized by law. Charges collected under this section shall be deposited in the agency's operating account or the General Fund, as appropriate, on a monthly basis or whenever the amount totals \$100.00, whichever occurs first.

(g) A public agency having the equipment necessary to copy its public records shall utilize its equipment to produce copies. If the public agency does not have such equipment, nothing in this section shall be construed to require the public agency to provide or arrange for copying service, to use or permit the use of copying equipment other than its own, to permit operation of its copying equipment by other than its own personnel, to permit removal of the public record by the requesting person for purposes of copying, or to make its own personnel available for making handwritten or typed copies of the public record or document requested.

(h) Standard formats for copies of public records shall be as follows: for copies in paper form, a photocopy of a paper public record or a hard copy print-out of a public record maintained in electronic form; for copies in electronic form, the format in which the record is maintained. Any format other than the formats described in this subsection is a nonstandard format.

(i) If an agency maintains public records in an electronic format, nonexempt public records shall be available for copying in either the standard electronic format or the standard paper format, as designated by the party requesting the records. An agency may, but is not required to, provide copies of public records in a nonstandard format, to create a public record or to convert paper public records to electronic format.

(j) A public agency may make reasonable rules to prevent disruption of operations, to preserve the security of public records or documents, and to protect them from damage.

(k) Information concerning facilities and sites for the treatment, storage, and disposal of hazardous waste shall be made available to the public under this subchapter in substantially the same manner and to the same degree as such information is made available under the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. chapter 82, subchapter 3, and the Federal Freedom of Information Act, 5 U.S.C. section 552 et seq. In the event of a conflict between the provisions of this subchapter and the cited federal laws, federal law shall govern.

Credits

1975, Adj. Sess., No. 231, § 1; 1987, No. 85, § 5; 1995, Adj. Sess., No. 159, § 1; 2003, Adj. Sess., No. 158, § 4; 2011, No. 59, § 2; eff. July 1, 2011.

Editors' Notes

SUNSET

§ 316. Access to public records and documents, VT ST T. 1 § 316

<2003, Adj. Sess., No. 158, § 6, as amended by 2005, No. 71, § 54c and 2005, Adj. Sess., No. 162, § 4a, provides:>

<“This act shall expire on June 30, 2007, and sections of the Vermont Statutes Annotated which are amended by this act shall revert to the language in effect prior to the effective date of this act.”>

Notes of Decisions (45)

1 V.S.A. § 316, VT ST T. 1 § 316

The statutes are current through laws No. 90 to 101, 103, 107, 108, 110, 111 and 116 of the Adjourned Session of the 2013-2014 Vermont General Assembly (2014).

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EXHIBIT 39

West's Vermont Statutes Annotated
Title One. General Provisions
Chapter 5. Common Law; General Rights (Refs & Annos)
Subchapter 3. Access to Public Records

1 V.S.A. § 318

§ 318. Procedure

Currentness

(a) Upon request, the custodian of a public record shall promptly produce the record for inspection, except that:

(1) if the record is in active use or in storage and therefore not available for use at the time the person asks to examine it, the custodian shall so certify this fact in writing to the applicant and set a date and hour within one calendar week of the request when the record will be available for examination;

(2) if the custodian considers the record to be exempt from inspection under the provisions of this subchapter, the custodian shall so certify in writing. Such certification shall identify the records withheld and the basis for the denial. A record shall be produced for inspection or a certification shall be made that a record is exempt within three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection. The certification shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial. The custodian shall also notify the person of his or her right to appeal to the head of the agency any adverse determination;

(3) if appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title;

(4) if a record does not exist, the custodian shall certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian;

(5) in unusual circumstances as herein specified the time limits prescribed in this subsection may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten business days from receipt of the request. As used in this subdivision, "unusual circumstances" means to the extent reasonably necessary to the proper processing of the particular request:

(A) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the Attorney General.

(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set forth the names and titles or positions of each person responsible for the denial of such request.

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal. A written determination shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial.

(2) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.

(d) In responding to a request to inspect or copy a record under this subchapter, a public agency shall consult with the person making the request in order to clarify the request or to obtain additional information that will assist the public agency in responding to the request and, when authorized by this subchapter, in facilitating production of the requested record for inspection or copying. In unusual circumstances, as that term is defined in subdivision (a)(5) of this section, a public agency may request that a person seeking a voluminous amount of separate and distinct records narrow the scope of a public records request.

(e) A public agency shall not withhold any record in its entirety on the basis that it contains some exempt content if the record is otherwise subject to disclosure; instead, the public agency shall redact the information it considers to be exempt and produce the record accompanied by an explanation of the basis for denial of the redacted information.

(f) If a person making the request has a disability which requires accommodation to gain equal access to the public record sought, the person shall notify the public agency of the type of accommodation requested. The public agency shall give primary consideration to the accommodation choice expressed by the requestor, but may propose an alternative accommodation so long as it achieves equal access. The public agency shall provide accommodation to the person making the request unless the agency can demonstrate that accommodation would result in a fundamental alteration in the nature of its service, programs, activities, or in undue financial and administrative burden.

(g) The Secretary of State shall provide municipal public agencies and members of the public information and advice regarding the requirements of the Public Records Act and may utilize informational websites, toll-free telephone numbers, or other methods to provide such information and advice.

Credits

1975, Adj. Sess., No. 231, § 1; 2005, Adj. Sess., No. 132, § 2; 2007, Adj. Sess., No. 110, § 1, eff. July 1, 2008; 2011, No. 59, § 4, eff. July 1, 2011.

Notes of Decisions (11)

1 V.S.A. § 318, VT ST T. 1 § 318

The statutes are current through laws No. 90 to 101, 103, 107, 108, 110, 111 and 116 of the Adjourned Session of the 2013-2014 Vermont General Assembly (2014).

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EXHIBIT 40

West's Annotated Code of West Virginia Chapter 29B. Freedom of Information Article 1. Public Records (Refs & Annos)

W. Va. Code, § 29B-1-3

§ 29B-1-3. Inspection and copying

Currentness

(1) Every person has a right to inspect or copy any public record of a public body in this state, except as otherwise expressly provided by section four of this article.

(2) A request to inspect or copy any public record of a public body shall be made directly to the custodian of such public record.

(3) The custodian of any public records, unless otherwise expressly provided by statute, shall furnish proper and reasonable opportunities for inspection and examination of the records in his or her office and reasonable facilities for making memoranda or abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them. The custodian of the records may make reasonable rules and regulations necessary for the protection of the records and to prevent interference with the regular discharge of his or her duties. If the records requested exist in magnetic, electronic or computer form, the custodian of the records shall make such copies available on magnetic or electronic media, if so requested.

(4) All requests for information must state with reasonable specificity the information sought. The custodian, upon demand for records made under this statute, shall as soon as is practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays:

(a) Furnish copies of the requested information;

(b) Advise the person making the request of the time and place at which he or she may inspect and copy the materials; or

(c) Deny the request stating in writing the reasons for such denial.

Such a denial shall indicate that the responsibility of the custodian of any public records or public body to produce the requested records or documents is at an end, and shall afford the person requesting them the opportunity to institute proceedings for injunctive or declaratory relief in the circuit court in the county where the public record is kept.

(5) The public body may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of such records.

Credits

Acts 1977, c. 147; Acts 1992, c. 85.

Notes of Decisions (1)

W. Va. Code, § 29B-1-3, WV ST § 29B-1-3

Current with laws of the 2014 Second Extraordinary Session.

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EXHIBIT 41

West's Revised Code of Washington Annotated
Part I Rules of General Application
General Rules (Gr)

General Rules, GR 31

RULE 31. ACCESS TO COURT RECORDS

Currentness

(a) Policy and Purpose. It is the policy of the courts to facilitate access to court records as provided by article I, section 10 of the Washington State Constitution. Access to court records is not absolute and shall be consistent with reasonable expectations of personal privacy as provided by article 1, section 7 of the Washington State Constitution and shall not unduly burden the business of the courts.

(b) Scope. This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record or the method of storage of the court record. Administrative records are not within the scope of this rule. Court records are further governed by GR 22.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a court record.

(2) "Administrative record" means any record pertaining to the management, supervision or administration of the judicial branch, including any court, board, or committee appointed by or under the direction of any court or other entity within the judicial branch, or the office of any county clerk.

(3) "Bulk distribution" means distribution of all, or a significant subset, of the information in court records, as is and without modification.

(4) "Court record" includes, but is not limited to: (i) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. Court record does not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained, or stored by a government agency or other entity to which the court has access but which is not entered into the record.

(5) "Criminal justice agencies" are government agencies that perform criminal justice functions pursuant to statute or executive order and that allocate a substantial part of their annual budget to those functions.

(6) "Dissemination contract" means an agreement between a court record provider and any person or entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court or municipal court), that is provided court records. The essential elements of a dissemination contract shall be promulgated by the JIS Committee.

(7) "Judicial Information System (JIS) Committee" is the committee with oversight of the statewide judicial information system. The judicial information system is the automated, centralized, statewide information system that serves the state courts.

(8) "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).

(9) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(10) "Public purpose agency" means governmental agencies included in the definition of "agency" in RCW 42.17.020 and other non-profit organizations whose principal function is to provide services to the public.

(d) Access.

(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law.

(2) Each court by action of a majority of the judges may from time to time make and amend local rules governing access to court records not inconsistent with this rule.

(3) A fee may not be charged to view court records at the courthouse.

(e) Personal Identifiers Omitted or Redacted from Court Records

(1) Except as otherwise provided in GR 22, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(A) Social Security Numbers. If the social security number of an individual must be included in a document, only the last four digits of that number shall be used.

(B) Financial Account Numbers. If financial account numbers are relevant, only the last four digits shall be recited in the document.

(C) Driver's License Numbers.

(2) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may move the Court to order redaction. The court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

COMMENT

This rule does not require any party, attorney, clerk, or judicial officer to redact information from a court record that was filed prior to the adoption of this rule.

(f) Distribution of Court Records Not Publicly Accessible

(1) A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the inquiry. In order to grant such requests, the court or the Administrator for the Courts must:

(A) Consider: (i) the extent to which access will result in efficiencies in the operation of the judiciary; (ii) the extent to which access will fulfill a legislative mandate; (iii) the extent to which access will result in efficiencies in other parts of the justice system; and (iv) the risks created by permitting the access.

(B) Determine, in its discretion, that filling the request will not violate this rule.

(C) Determine the minimum access to restricted court records necessary for the purpose is provided to the requestor.

(D) Assure that prior to the release of court records under section (f) (1), the requestor has executed a dissemination contract that includes terms and conditions which: (i) require the requester to specify provisions for the secure protection of any data that is confidential; (ii) prohibit the disclosure of data in any form which identifies an individual; (iii) prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose; and (iv) maintain a log of any distribution of court records which will be open and available for audit by the court or the Administrator of the Courts. Any audit should verify that the court records are being appropriately used and in a manner consistent with this rule.

(2) Courts, court employees, clerks and clerk employees, and the Commission on Judicial Conduct may access and use court records only for the purpose of conducting official court business.

(3) Criminal justice agencies may request court records not publicly accessible.

(A) The provider of court records shall approve the access level and permitted use for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not included in a class may request access.

(B) Agencies requesting access under this section of the rule shall identify the court records requested and the proposed use for the court records.

(C) Access by criminal justice agencies shall be governed by a dissemination contract. The contract shall: (i) specify the data to which access is granted; (ii) specify the uses which the agency will make of the data; and (iii) include the agency's agreement that its employees will access the data only for the uses specified.

(g) Bulk Distribution of Court Records

(1) A dissemination contract and disclaimer approved by the JIS Committee for JIS records or a dissemination contract and disclaimer approved by the court clerk for local records must accompany all bulk distribution of court records.

(2) A request for bulk distribution of court records may be denied if providing the information will create an undue burden on court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

(3) The use of court records, distributed in bulk form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

(h) Appeals. Appeals of denials of access to JIS records maintained at state level shall be governed by the rules and policies established by the JIS Committee.

(i) Notice. The Administrator for the Courts shall develop a method to notify the public of access to court records and the restrictions on access.

(j) Access to Juror Information. Individual juror information, other than name, is presumed to be private. After the conclusion of a jury trial, the attorney for a party, or party pro se, or member of the public, may petition the trial court for access to individual juror information under the control of court. Upon a showing of good cause, the court may permit the petitioner to have access to relevant information. The court may require that juror information not be disclosed to other persons.

(k) Access to Master Jury Source List. Master jury source list information, other than name and address, is presumed to be private. Upon a showing of good cause, the court may permit a petitioner to have access to relevant information from the list. The court may require that the information not be disclosed to other persons.

Credits

[Adopted effective October 26, 2004; amended effective January 3, 2006.]

Notes of Decisions (10)

GR 31, WA R GEN GR 31

Current with amendments received through 5/1/14

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EXHIBIT 42

West's Wisconsin Statutes Annotated
Organization of State Government (Ch. 13 to 22)
Chapter 19. General Duties of Public Officials
Subchapter II. Public Records and Property (Refs & Annos)

W.S.A. 19.35

19.35. Access to records; fees

Effective: March 29, 2014

Currentness

(1) Right to inspection. (a) Except as otherwise provided by law, any requester has a right to inspect any record. Substantive common law principles construing the right to inspect, copy or receive copies of records shall remain in effect. The exemptions to the requirement of a governmental body to meet in open session under s. 19.85 are indicative of public policy, but may be used as grounds for denying public access to a record only if the authority or legal custodian under s. 19.33 makes a specific demonstration that there is a need to restrict public access at the time that the request to inspect or copy the record is made.

(am) In addition to any right under par. (a), any requester who is an individual or person authorized by the individual has a right to inspect any personally identifiable information pertaining to the individual in a record containing personally identifiable information that is maintained by an authority and to make or receive a copy of any such information. The right to inspect or copy information in a record under this paragraph does not apply to any of the following:

1. Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding.

2. Any record containing personally identifiable information that, if disclosed, would do any of the following:

a. Endanger an individual's life or safety.

b. Identify a confidential informant.

c. Endanger the security, including the security of the population or staff, of any state prison under s. 302.01, jail, as defined in s. 165.85(2)(bg), juvenile correctional facility, as defined in s. 938.02 (10p), secured residential care center for children and youth, as defined in s. 938.02(15g), mental health institute, as defined in s. 51.01(12), center for the developmentally disabled, as defined in s. 51.01(3), or facility, specified under s. 980.065, for the institutional care of sexually violent persons.

d. Compromise the rehabilitation of a person in the custody of the department of corrections or detained in a jail or facility identified in subd. 2. c.

3. Any record that is part of a records series, as defined in s. 19.62(7), that is not indexed, arranged or automated in a way that the record can be retrieved by the authority maintaining the records series by use of an individual's name, address or other identifier.

(b) Except as otherwise provided by law, any requester has a right to inspect a record and to make or receive a copy of a record. If a requester appears personally to request a copy of a record that permits copying, the authority having custody of the record may, at its option, permit the requester to copy the record or provide the requester with a copy substantially as readable as the original.

(c) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a comprehensible audio recording a copy of the recording substantially as audible as the original. The authority may instead provide a transcript of the recording to the requester if he or she requests.

(d) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is in the form of a video recording a copy of the recording substantially as good as the original.

(e) Except as otherwise provided by law, any requester has a right to receive from an authority having custody of a record which is not in a readily comprehensible form a copy of the information contained in the record assembled and reduced to written form on paper.

(em) If an authority receives a request to inspect or copy a record that is in handwritten form or a record that is in the form of a voice recording which the authority is required to withhold or from which the authority is required to delete information under s. 19.36(8)(b) because the handwriting or the recorded voice would identify an informant, the authority shall provide to the requester, upon his or her request, a transcript of the record or the information contained in the record if the record or information is otherwise subject to public inspection and copying under this subsection.

(f) Notwithstanding par. (b) and except as otherwise provided by law, any requester has a right to inspect any record not specified in pars. (c) to (e) the form of which does not permit copying. If a requester requests permission to photograph the record, the authority having custody of the record may permit the requester to photograph the record. If a requester requests that a photograph of the record be provided, the authority shall provide a good quality photograph of the record.

(g) Paragraphs (a) to (c), (e) and (f) do not apply to a record which has been or will be promptly published with copies offered for sale or distribution.

(h) A request under pars. (a) to (f) is deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under s. 19.37.

(i) Except as authorized under this paragraph, no request under pars. (a) and (b) to (f) may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. Except as authorized under this paragraph, no request under pars. (a) to (f) may be refused because the request is received by mail, unless prepayment of a fee is required under sub. (3)(f). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(j) Notwithstanding pars. (a) to (f), a requester shall comply with any regulations or restrictions upon access to or use of information which are specifically prescribed by law.

(k) Notwithstanding pars. (a), (am), (b) and (f), a legal custodian may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(L) Except as necessary to comply with pars. (c) to (e) or s. 19.36(6), this subsection does not require an authority to create a new record by extracting information from existing records and compiling the information in a new format.

(2) Facilities. The authority shall provide any person who is authorized to inspect or copy a record under sub. (1)(a), (am), (b) or (f) with facilities comparable to those used by its employees to inspect, copy and abstract the record during established office hours. An authority is not required by this subsection to purchase or lease photocopying, duplicating, photographic or other equipment or to provide a separate room for the inspection, copying or abstracting of records.

(3) Fees. (a) An authority may impose a fee upon the requester of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.

(b) Except as otherwise provided by law or as authorized to be prescribed by law an authority may impose a fee upon the requester of a copy of a record that does not exceed the actual, necessary and direct cost of photographing and photographic processing if the authority provides a photograph of a record, the form of which does not permit copying.

(c) Except as otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon a requester for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more.

(d) An authority may impose a fee upon a requester for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record which is mailed or shipped to the requester.

(e) An authority may provide copies of a record without charge or at a reduced charge where the authority determines that waiver or reduction of the fee is in the public interest.

(f) An authority may require prepayment by a requester of any fee or fees imposed under this subsection if the total amount exceeds \$5. If the requester is a prisoner, as defined in s. 301.01 (2), or is a person confined in a federal correctional institution located in this state, and he or she has failed to pay any fee that was imposed by the authority for a request made previously by that requester, the authority may require prepayment both of the amount owed for the previous request and the amount owed for the current request.

(g) Notwithstanding par. (a), if a record is produced or collected by a person who is not an authority pursuant to a contract entered into by that person with an authority, the authorized fees for obtaining a copy of the record may not exceed the actual,

necessary, and direct cost of reproduction or transcription of the record incurred by the person who makes the reproduction or transcription, unless a fee is otherwise established or authorized to be established by law.

(4) Time for compliance and procedures. (a) Each authority, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor.

(b) If a request is made orally, the authority may deny the request orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request. Every written denial of a request by an authority shall inform the requester that if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37(1) or upon application to the attorney general or a district attorney.

(c) If an authority receives a request under sub. (1)(a) or (am) from an individual or person authorized by the individual who identifies himself or herself and states that the purpose of the request is to inspect or copy a record containing personally identifiable information pertaining to the individual that is maintained by the authority, the authority shall deny or grant the request in accordance with the following procedure:

1. The authority shall first determine if the requester has a right to inspect or copy the record under sub. (1)(a).
2. If the authority determines that the requester has a right to inspect or copy the record under sub. (1)(a), the authority shall grant the request.
3. If the authority determines that the requester does not have a right to inspect or copy the record under sub. (1)(a), the authority shall then determine if the requester has a right to inspect or copy the record under sub. (1)(am) and grant or deny the request accordingly.

(5) Record destruction. No authority may destroy any record at any time after the receipt of a request for inspection or copying of the record under sub. (1) until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is a committed or incarcerated person, until at least 90 days after the date that the request is denied. If an authority receives written notice that an action relating to a record has been commenced under s. 19.37, the record may not be destroyed until after the order of the court in relation to such record is issued and the deadline for appealing that order has passed, or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record and the order is not appealed, the record may not be destroyed until after the request for inspection or copying is granted.

(6) Elective official responsibilities. No elective official is responsible for the record of any other elective official unless he or she has possession of the record of that other official.

(7) Local information technology authority responsibility for law enforcement records. (a) In this subsection:

1. "Law enforcement agency" has the meaning given s. 165.83(1)(b).

2. "Law enforcement record" means a record that is created or received by a law enforcement agency and that relates to an investigation conducted by a law enforcement agency or a request for a law enforcement agency to provide law enforcement services.

3. "Local information technology authority" means a local public office or local governmental unit whose primary function is information storage, information technology processing, or other information technology usage.

(b) For purposes of requests for access to records under sub. (1), a local information technology authority that has custody of a law enforcement record for the primary purpose of information storage, information technology processing, or other information technology usage is not the legal custodian of the record. For such purposes, the legal custodian of a law enforcement record is the authority for which the record is stored, processed, or otherwise used.

(c) A local information technology authority that receives a request under sub. (1) for access to information in a law enforcement record shall deny any portion of the request that relates to information in a local law enforcement record.

Credits

<<For credits, see Historical Note field.>>

Notes of Decisions (390)

W. S. A. 19.35, WI ST 19.35

Current through 2013 Act 380, published 4/25/2014

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EXHIBIT 43



**Wisconsin
Public Records Law
Wis. Stat. §§ 19.31-19.39**

COMPLIANCE OUTLINE

September 2012

DEPARTMENT OF JUSTICE
ATTORNEY GENERAL J.B. VAN HOLLEN

E. Format.

1. “Magic words” are not required. A request which reasonably describes the information or record requested is sufficient. Wis. Stat. § 19.35(1)(h).
2. A request, reasonably construed, triggers the statutory requirement to respond. For example, a request made under the “Freedom of Information Act” should be interpreted as being made under the Wisconsin public records law. See *ECO, Inc.*, 2002 WI App 302, ¶ 23, 259 Wis. 2d 276, ¶ 23, 655 N.W.2d 510, ¶ 23.
3. A request is sufficient if it is directed at an authority and reasonably describes the records or information requested. *Seifert*, 2007 WI App 207, ¶ 39, 305 Wis. 2d 582, ¶ 39, 740 N.W.2d 177, ¶ 39 (request for records created during investigation or relate to disposition of investigation not construed to include billing records of attorneys involved in investigation).
4. No specific form is required by the public records law.

F. Ongoing requests. “Continuing” requests are not contemplated by the public records law. “The right of access applies only to records that exist at the time the request is made, and the law contemplates custodial decisions being made with respect to a specific request at the time the request is made.” 73 Op. Att’y Gen. 37, 44 (1984).

G. Requests are records. Public records requests received by an authority are themselves “records” for purposes of the public records law. *Nichols*, 199 Wis. 2d at 275, 544 N.W.2d at 431.

VII. The Response to the Request.

A. Mandatory. The records custodian must respond to a public records request. *ECO, Inc.*, 2002 WI App 302, ¶¶ 13-14, 259 Wis. 2d 276, ¶¶ 13-14, 655 N.W.2d 510, ¶¶ 13-14.

B. Timing. Response must be provided “as soon as practicable and without delay.” Wis. Stat. § 19.35(4)(a).

1. The public records law does not require response within any specific time, such as “two weeks” or “48 hours.”
2. DOJ policy is that ten working days generally is a reasonable time for responding to a simple request for a limited number of easily identifiable records. For requests that are broader in scope, or that require location, review or redaction of many documents, a reasonable time for responding may be longer. However, if a response cannot be provided within ten working days, it is DOJ’s practice to send a communication indicating that a response is being prepared.
3. An authority is not obligated to respond within a timeframe unilaterally identified by a requester, such as: “I will consider my request denied if no response is received by Friday and will seek all available legal relief.” To avoid later misunderstandings, it may be prudent for an authority receiving such a request to send a brief acknowledgment indicating when a response reasonably might be anticipated.

4. What constitutes a reasonable time for a response to any specific request depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and related considerations. Whether an authority is acting with reasonable diligence in responding to a particular request will depend on the totality of circumstances surrounding that request. *WIREDATA II*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, ¶ 56, 751 N.W.2d 736, ¶ 56.
 5. Requests for public records should be given high priority.
 6. Compliance at some unspecified future time is not authorized by the public records law. The records custodian has two choices: comply or deny. *WTMJ, Inc. v. Sullivan*, 204 Wis. 2d 452, 457-58, 555 N.W.2d 140, 142 (Ct. App. 1996).
 7. An authority should not be subjected to the burden and expense of a premature public records lawsuit while it is attempting in good faith to respond, or to determine how to respond, to a public records request. *WIREDATA II*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, ¶ 56, 751 N.W.2d 736, ¶ 56.
 8. An arbitrary and capricious delay or denial exposes the records custodian to punitive damages and a \$1,000.00 forfeiture. Wis. Stat. § 19.37. See Section XIII., below.
- C. **Format.** If the request is in writing, a denial or partial denial of access also must be in writing. Wis. Stat. § 19.35(4)(b).
- D. **Content of denials.** Reasons for denial must be *specific* and *sufficient*. Cf. *Hempel*, 2005 WI 120, ¶¶ 25-26, 284 Wis. 2d 162, ¶¶ 25-26, 699 N.W.2d 551, ¶¶ 25-26.
1. A records custodian need not provide facts supporting the reasons it identifies for denying a public records request, but must provide specific reasons for the denial. *Hempel*, 2005 WI 120, ¶ 79, 284 Wis. 2d 162, ¶ 79, 699 N.W.2d 551, ¶ 79.
 2. Just stating a conclusion without explaining specific reasons for denial does not satisfy the requirement of specificity.
 - a. If confidentiality of requested records is guaranteed by statute, citation to that statute is sufficient.
 - b. If further discussion is needed, a records custodian's denial of access to a public record must be accompanied by a statement of the specific public policy reasons for refusal. *Chvala v. Bubolz*, 204 Wis. 2d 82, 86-87, 552 N.W.2d 892, 894 (Ct. App. 1996).
 - i. The records custodian must give a public policy reason why the record warrants confidentiality, but need not provide a detailed analysis of the record and why public policy directs that it be withheld. *Portage Daily Register v. Columbia County Sheriff's Dep't*, 2008 WI App 30, ¶ 14, 308 Wis. 2d 357, ¶ 14, 746 N.W.2d 525, ¶ 14.
 - ii. The specificity requirement is not met by mere citation to the open meetings exemption statute, or bald assertion that release is not in the public interest. *Journal/Sentinel, Inc. v. Aagerup*, 145 Wis. 2d 818, 823, 429 N.W.2d 772, 774 (Ct. App. 1988). But see *State ex rel. Blum v. Bd. of Educ.*, 209 Wis. 2d 377, 386-88, 565 N.W.2d 140, 144-45 (Ct. App. 1997) (failure to cite statutory section that warrants

EXHIBIT 44

West's Wyoming Statutes Annotated Wyoming Rules Governing Access to Court Records (Refs & Annos)

Wyoming Gov Access Ct Rec Rule 4

Rule 4. When Court Records May be Accessed

Currentness

Court records shall be available for public access in the court facilities where the records are kept, during regular business hours. Upon receiving a request for access to court records, the custodian shall respond within a reasonable time regarding the availability of the records, and shall provide or deny access thereto within a reasonable time. Court records shall be provided at a time and in a manner that does not unreasonably interfere with other business of the courts. Electronic records to which the court allows remote access shall be available for public access at any time, subject to normal system maintenance and unexpected technical failures.

Credits

[Adopted August 11, 2010, effective January 1, 2011.]

Gov Access Ct Rec Rule 4, WY R GOV ACCESS CT REC Rule 4
Current with amendments received through 6/1/2014

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