



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

September 1, 2023

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State Court Administrator
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MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Keisa Williams
RE: Rules for Public Comment

The Policy, Planning, and Technology Committee recommends that the following rules be approved for a 45-day public comment period.

CJA 6-301. Authority of court commissioner as magistrate.

The Judicial Council approved a budget request from the Third Judicial District Court for assistance with criminal calendars. The proposed amendments to Rule 6-301 broaden commissioners' magistrate authority while ensuring commissioners' actions remain within the bounds of Utah Code section 78A-5-107 and constitutional limitations on the delegation of judicial authority. The rule identifies the types of cases and matters court commissioners are authorized to hear and the types of relief and orders they may recommend. The rule also establishes timely judicial review of recommendations and orders made by a court commissioner.

CJA 4-202.08. Fees for records, information, and services.

The proposed amendments:

- (lines 48-50) clarify that personnel time may be charged to "copy" records (i.e., download and convert recordings, etc.);
- (lines 59-71) remove individual hourly rates so that rule doesn't have to be updated every time rates fluctuate, authorizing the State Court Administrator to set the rates, which would then be posted on the courts' website or intranet page;
- (lines 90-93) add a provision regarding fees for bulk data, authorizing the State Court Administrator to set the fees; and
- (lines 110-1150) clarify that court appointed attorneys qualify for a fee waiver if they are requesting records on behalf of an indigent client and the client would qualify for a waiver under (10)(A)(ii).

**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

CJA 4-202.02. Records classification.

CJA 4-202.03. Records access.

The proposed amendments classify video records of court proceedings, other than security video, (i.e., Webex recordings) as sealed and limits access to: 1) official court transcribers for the purposes outlined in Rule [5-202](#), 2) court employees if needed to fulfill official court duties, and 3) anyone by court order. Individuals denied access may file a motion with the court under Rule [4-202.04](#).

**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

1 **Rule 4-202.08. Fees for records, information, and services.**

2

3 **Intent:**

4 To establish uniform fees for requests for records, information, and services.

5

6 **Applicability:**

7 This rule applies to all courts of record and not of record and to the Administrative Office of the
8 Courts. This rule does not apply to the Self Help Center.

9

10 **Statement of the Rule:**

11 (1) **Fees payable.** Fees are payable to the court or office that provides the record, information,
12 or service at the time the record, information, or service is provided. The initial and monthly
13 subscription fee for public online services is due in advance. The connect-time fee is due upon
14 receipt of an invoice. If a public online services account is more than 60 days overdue, the
15 subscription may be terminated. If a subscription is terminated for nonpayment, the subscription
16 will be reinstated only upon payment of past due amounts and a reconnect fee equal to the
17 subscription fee.

18

19 (2) **Use of fees.** Fees received are credited to the court or office providing the record,
20 information, or service in the account from which expenditures were made. Fees for public
21 online services are credited to the Administrative Office of the Courts to improve data quality
22 control, information services, and information technology.

23

24 (3) **Copies.** Copies are made of court records only. The term "copies" includes the original
25 production. Fees for copies are based on the number of record sources to be copied or the
26 means by which copies are delivered and are as follows:

27

28 (3)(A) paper except as provided in (E): \$.25 per sheet;

29

30 (3)(B) electronic storage medium other than of court hearings: \$15.00 per unit;

31

32 (3)(C) electronic copy of court reporter stenographic text: \$25.00 for each one-half day of
33 testimony or part thereof;

34

35 (3)(D) electronic copy of audio record or video record of court proceeding: \$15.00 for
36 each one-half day of testimony or part thereof; and

37

38 (3)(E) pre-printed forms and associated information: an amount for each packet
39 established by the state court administrator.

40

41 (4) **Mailing.** The fee for mailing is the actual cost. The fee for mailing shall include necessary
42 transmittal between courts or offices for which a public or private carrier is used.

43

44 (5) **Fax or e-mail.** The fee to fax or e-mail a document is \$5.00 for 10 pages or less. The fee for
 45 additional pages is \$.50 per page. Records available on Xchange will not be faxed or e-mailed.

46
 47 (6) **Personnel time.**

48 (6)(A) ~~Personnel time to copy the record of a court proceeding is included in the copy~~
 49 ~~fee. For other matters, t~~here is no fee for the first 15 minutes of personnel time required
 50 to provide the copy, record, information, or service, unless the person who submits the
 51 request:

52 (6)(A)(i) is not a Utah media representative; and

53
 54 (6)(A)(ii) has submitted a separate records request within the 10-day period
 55 immediately prior to the date of the request to which the court or office is
 56 responding.

57
 58 (6)(B) The fee for time beyond the first 15 minutes is charged in 15 minute increments
 59 for any part thereof. The fees for personnel time may be set by the State Court
 60 Administrator and the rates charged should be ~~is charged at the following rates~~ for the
 61 least expensive group capable of providing the record, information, or service.;

62
 63 ~~(6)(B)(i) clerical assistant: \$15.00 per hour; (6)(B)(ii) technician: \$22.00 per hour;~~

64
 65 ~~(6)(B)(iii) senior clerical: \$21.00 per hour~~

66
 67 ~~(6)(B)(iv) programmer/analyst: \$32.00 per hour;~~

68
 69 ~~(6)(B)(v) manager: \$37.00 per hour; and~~

70
 71 ~~(6)(B)(vi) consultant: actual cost as billed by the consultant.~~

72
 73 (7) **Public online services.**

74 (7)(A) The fee to subscribe to Xchange shall be as follows:

75
 76 (7)(A)(i) a set-up fee of \$25.00;

77
 78 (7)(A)(ii) a subscription fee of \$40.00 per month for any portion of a calendar
 79 month; and

80
 81 (7)(A)(iii) \$.15 for each search over 500 during a billing cycle. A search is
 82 counted each time the search button is clicked.

83
 84 (7)(B) When non-subscription access becomes available, the fee to access public online
 85 services without subscribing shall be a transaction fee of \$5.00, which will allow up to 10
 86 searches during a session.

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(7)(C) The fee to access a document shall be \$.50 per document.

(8) Bulk Data. If approved, individuals or entities may subscribe to receive indexed court data authorized under rule 4-202.02(2)(L) electronically in bulk. The fee to receive bulk data may be set by the State Court Administrator. Requests for bulk data should be made to the Office of Judicial Data and Research.

(98) No interference. Records, information, and services shall be provided at a time and in a manner that does not interfere with the regular business of the courts. The Administrative Office of the Courts may disconnect a user of public online services whose use interferes with computer performance or access by other users.

(109) Waiver of fees.

(109)(A) Subject to (109)(B), fees established by this rule, other than fees for public online services, shall be waived for:

(109)(A)(i) any government entity of Utah or its political subdivisions if the fee is minimal;

(109)(A)(ii) any person who is the subject of the record and who is indigent;

(10)(A)(iii) any court appointed attorney acting on behalf of a client, if the client would qualify for a fee waiver under (10)(A)(ii); and

(109)(A)(iv#) a student engaged in research for an academic purpose.

(109)(B) Individuals who qualify for a fee waiver under (109)(A)(ii) and (10)(A)(iii) are entitled to one free copy of the record requested. The State Court Administrator may waive the one free copy limit under this rule for good cause.

(109)(C) Fees for public online services shall be waived for:

(109)(C)(i) up to 10,000 searches per year for a news organization that gathers information for the primary purpose of disseminating news to the public and that requests a record to obtain information for a story or report for publication or broadcast to the general public;

(109)(C)(ii) any government entity of Utah or its political subdivisions;

(109)(C)(iii) the Utah State Bar;

|130 (109)(C)(iv) public defenders for searches performed in connection with their
|131 duties as public defenders; and
|132

|133 (109)(C)(v) any person or organization who the XChange administrator
|134 determines offers significant legal services to a substantial portion of the public at
|135 no charge.
|136

|137 *Effective: ~~January-May/November~~ 1, 202_3*

1 **Rule 6-301. Authority of Court Commissioner as Magistrate**

2

3 **Intent:**

4 To identify, as required by Utah Code Section 78A-5-107, the types of cases and matters
5 commissioners are authorized to hear, to identify the types of relief and orders commissioners
6 may recommend, and to establish procedures for timely judicial review of recommendations and
7 orders made by court commissioners. To provide for the authority of a court commissioner to act
8 as a magistrate as required by § 77-1-3.

9

10 **Applicability:**

11 This rule shall apply to court commissioners acting as magistrate judges in criminal cases in the
12 district courts.

13

14 **Statement of the Rule:**

15 ~~A court commissioner may exercise the following authority conferred upon magistrates by the~~
16 ~~Legislature:~~

17 ~~(1) issue warrants and summonses in traffic cases; and~~

18

19 ~~(2) set fines in traffic cases.~~

20 (1) **Types of cases and matters.** All felony and misdemeanor cases filed in the district court in
21 counties where court commissioners are appointed and serving in accordance with Rule 3-201.

22

23 (2) **Duties of court commissioner.** Under the general supervision of the presiding judge, a
24 commissioner has the following duties:

25 (2)(A) To handle procedural aspects of criminal cases up to and including bind over; and

26

27 (2)(B) To conduct initial appearances, preliminary hearings, and other hearings consistent
28 with applicable statutes and rules.

29

30 (3) **Authority of court commissioner.** Subject to the limitations outlined in this rule, court
31 commissioners shall have the following authority:

32 (3)(A) All duties and responsibilities conferred upon magistrates by statute, the Rules of
33 Criminal Procedure, and this rule;

34

35 (3)(B) Upon notice, to require the personal appearance of parties and their counsel at
36 hearings before the commissioner or district court;

37

38 (3)(C) To conduct initial appearances in accordance with Rule 7 of the Utah Rules of
39 Criminal Procedure;

40

41 (3)(D) To require defendants to disclose information necessary to ensure notice, compliance
42 with pretrial release conditions, and appearance at court hearings;

43

44 (3)(E) To require defendants to make financial disclosures and complete forms necessary to
45 determine indigency and appoint counsel;

46

47 (3)(F) To reassign cases in accordance with written policies of the district court;

48
49 (3)(G) To modify the terms of a temporary pretrial status order, subject to de novo review by
50 the district court;

51
52 (3)(H) To enter pretrial protective orders, no contact orders, temporary civil protective
53 orders, and stalking injunctions, subject to de novo review by the district court;

54
55 (3)(I) To recommend the issuance of arrest warrants based on probable cause or failure to
56 appear;

57
58 (3)(J) To recommend the issuance of material witness warrants in accordance with Rule 7C
59 of the Utah Rules of Criminal Procedure;

60
61 (3)(K) To conduct preliminary hearings in accordance with Rule 7B of the Utah Rules of
62 Criminal Procedure;

63
64 (3)(L) To impose sanctions for contempt of court, subject to de novo review by the district
65 court;

66
67 (3)(M) To issue temporary or ex parte orders, subject to de novo review by the district court;

68
69 (3)(N) To issue warrants and summonses in traffic cases;

70
71 (3)(O) To set fines in traffic cases; and

72
73 (3)(P) To make recommendations to the district court regarding any issue, including a
74 recommendation for entry of final judgment.

75
76 (4) **Dismissals.** If a court commissioner dismisses a case at a preliminary hearing or other
77 proceeding prior to bindover, the dismissal shall be without prejudice and subject to de novo
78 review by the district court.

79 (5) **Prohibitions.**

80 (5)(A) Commissioners shall not make final adjudications or enter final, appealable orders.

81
82 (5)(B) Commissioners shall not serve as pro tempore judges in any matter, except as
83 provided by Rule of the Supreme Court.

84
85 (5)(C) Commissioners shall not conduct trials, accept guilty pleas, or impose sentences,
86 even with consent of all parties.

87
88 (5)(D) Commissioners shall not enter final pretrial status orders in accordance with Utah
89 Code Section 77-20-205.

90
91 (6) **Judicial review.**

92 (6)(A) All orders made by a commissioner are subject to review by the district court pursuant
93 to this rule, applicable rules of criminal procedure, or local rules. Review by the district court
94 is de novo, neither party is required to show a change in circumstances, and no deference

95 may be given to the commissioner's decision. Countersigning a recommendation by a
96 commissioner does not constitute de novo review.

97
98 (6)(B) A recommendation or order of a court commissioner is the order of the court until
99 modified by the court. A party may make an oral objection or file a written objection to the
100 recommendation within 14 days after the recommendation is made in open court or, if the
101 court commissioner takes the matter under advisement, within 14 days after the minute
102 entry of the recommendation is served. A judge's counter-signature on the commissioner's
103 recommendation does not affect the review of an objection.

104
105 (6)(C) The objection must be made in accordance with Rule 12 of the Utah Rules of Criminal
106 Procedure and must identify succinctly and with particularity the findings of fact, the
107 conclusions of law, or the part of the recommendation or order to which the objection is
108 made and state the relief sought.

109
110

111 *Effective: May/~~November~~ 12, 202_0*

1 **Rule 4-202.02. Records Classification.**

2

3 **Intent:**

4 To classify court records as public or non-public.

5

6 **Applicability:**

7 This rule applies to the judicial branch.

8

9 **Statement of the Rule:**

10 (1) **Presumption of Public Court Records.** Court records are public unless otherwise
11 classified by this rule.

12

13 (2) **Public Court Records.** Public court records include but are not limited to:

14

15 (2)(A) abstract of a citation that redacts all non-public information;

16

17 (2)(B) aggregate records without non-public information and without personal identifying
18 information;

19

20 (2)(C) appellate filings, including briefs;

21

22 (2)(D) arrest warrants, but a court may restrict access before service;

23

24 (2)(E) audit reports;

25

26 (2)(F) case files;

27

28 (2)(G) committee reports after release by the Judicial Council or the court that requested
29 the study;

30

31 (2)(H) contracts entered into by the judicial branch and records of compliance with the
32 terms of a contract;

33

34 (2)(I) drafts that were never finalized but were relied upon in carrying out an action or
35 policy;

36

37 (2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the
38 exhibit, a fair trial or interests favoring closure;

39

40 (2)(K) financial records;

41

42 (2)(L) indexes approved by the Management Committee of the Judicial Council,
43 including the following, in courts other than the juvenile court; an index may contain any
44 other index information:

45

46 (2)(L)(i) amount in controversy;

47

48 (2)(L)(ii) attorney name;

49

- 50 (2)(L)(iii) licensed paralegal practitioner name;
51
52 (2)(L)(iv) case number;
53
54 (2)(L)(v) case status;
55
56 (2)(L)(vi) civil case type or criminal violation;
57
58 (2)(L)(vii) civil judgment or criminal disposition;
59
60 (2)(L)(viii) daily calendar;
61
62 (2)(L)(ix) file date;
63
64 (2)(L)(x) party name;
65
66 (2)(M) name, business address, business telephone number, and business email
67 address of an adult person or business entity other than a party or a victim or witness of
68 a crime;
69
70 (2)(N) name, address, telephone number, email address, date of birth, and last four
71 digits of the following: driver's license number; social security number; or account
72 number of a party;
73
74 (2)(O) name, business address, business telephone number, and business email
75 address of a lawyer or licensed paralegal practitioner appearing in a case;
76
77 (2)(P) name, business address, business telephone number, and business email
78 address of court personnel other than judges;
79
80 (2)(Q) name, business address, and business telephone number of judges;
81
82 (2)(R) name, gender, gross salary and benefits, job title and description, number of
83 hours worked per pay period, dates of employment, and relevant qualifications of a
84 current or former court personnel;
85
86 (2)(S) unless classified by the judge as private or safeguarded to protect the personal
87 safety of the juror or the juror's family, the name of a juror empaneled to try a case, but
88 only 10 days after the jury is discharged;
89
90 (2)(T) opinions, including concurring and dissenting opinions, and orders entered in open
91 hearings;
92
93 (2)(U) order or decision classifying a record as not public;
94
95 (2)(V) private record if the subject of the record has given written permission to make the
96 record public;
97
98 (2)(W) probation progress/violation reports;
99
100 (2)(X) publications of the administrative office of the courts;

101
102 (2)(Y) record in which the judicial branch determines or states an opinion on the rights of
103 the state, a political subdivision, the public, or a person;

104
105 (2)(Z) record of the receipt or expenditure of public funds;

106
107 (2)(AA) record ~~of~~ minutes or transcript of an open meeting; ~~or~~

108
109 (2)(BB) official audio record, minutes, or transcript of an open hearing ~~and the transcript~~
110 ~~of them~~;

111
112 (2)(CCBB) record of formal discipline of current or former court personnel or of a person
113 regulated by the judicial branch if the disciplinary action has been completed, and all
114 time periods for administrative appeal have expired, and the disciplinary action was
115 sustained;

116
117 (2)(DDGG) record of a request for a record;

118
119 (2)(EEDD) reports used by the judiciary if all of the data in the report is public or the
120 Judicial Council designates the report as a public record;

121
122 (2)(FFEE) rules of the Supreme Court and Judicial Council;

123
124 (2)(GGFF) search warrants, the application and all affidavits or other recorded testimony
125 on which a warrant is based are public after they are unsealed under Utah Rule of
126 Criminal Procedure 40;

127
128 (2)(HHGG) statistical data derived from public and non-public records but that disclose
129 only public data; and

130
131 (2)(IHHH) notwithstanding subsections (6) and (7), if a petition, indictment, or information
132 is filed charging a person 14 years of age or older with a felony or an offense that would
133 be a felony if committed by an adult, the petition, indictment or information, the
134 adjudication order, the disposition order, and the delinquency history summary of the
135 person are public records. The delinquency history summary shall contain the name of
136 the person, a listing of the offenses for which the person was adjudged to be within the
137 jurisdiction of the juvenile court, and the disposition of the court in each of those
138 offenses.

139
140 **(3) Sealed Court Records.** The following court records are sealed:

141
142 (3)(A) records in the following actions:

143
144 (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the
145 conclusion of proceedings, which are private until sealed;

146
147 (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months after
148 the conclusion of proceedings, which are private until sealed;

149
150 (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on
151 minors; and

- 152
153 (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
154
155 (3)(B) expunged records;
156
157 (3)(C) orders authorizing installation of pen register or trap and trace device under Utah
158 Code Section 77-23a-15;
159
160 (3)(D) records showing the identity of a confidential informant;
161
162 (3)(E) records relating to the possession of a financial institution by the commissioner of
163 financial institutions under Utah Code Section 7-2-6;
164
165 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
166
167 (3)(G) records designated as sealed by rule of the Supreme Court;
168
169 (3)(H) record of a Children's Justice Center investigative interview after the conclusion of
170 any legal proceedings;
171
172 (3)(I) on appeal, any record previously designated as sealed by another court;
173
174 (3)(J) video record of a court proceeding, other than security video; and
175
176 (3)(~~K~~) other records as ordered by the court under Rule 4-202.04.
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178 **(4) Private Court Records.** The following court records are private:
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180 (4)(A) records in the following actions:
181

182 (4)(A)(i) Section 26B-5-332, Involuntary commitment under court order;
183

184 (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System
185 database;
186

187 (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are
188 sealed;
189

190 (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records
191 are sealed;
192

193 (4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court
194 restitution judgment; and
195

196 (4)(A)(vi) Section 26B-8-111, Sex designation changes, and name changes
197 combined with sex designation changes for both minors and adults, except that:
198

199 (4)(A)(vi)(a) the case history is public for minors; and
200

201 (4)(A)(vi)(b) the case history and record of public hearings are public for
202 adults.

203
204 (4)(B) records in the following actions, except that the case history, judgments, orders,
205 decrees, letters of appointment, and the record of public hearings are public records:
206
207 (4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations
208 orders, except that an action for consortium due to personal injury under Section
209 30-2-11 is public;
210
211 (4)(B)(ii) Title 75, Chapter 5, Protection of Persons Under Disability and their
212 Property;
213
214 (4)(B)(iii) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
215
216 (4)(B)(iv) Title 78B, Chapter 12, Utah Child Support Act;
217
218 (4)(B)(v) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and
219 Enforcement Act;
220
221 (4)(B)(vi) Title 78B, Chapter 14, Uniform Interstate Family Support Act;
222
223 (4)(B)(vii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
224
225 (4)(B)(viii) an action to modify or enforce a judgment in any of the actions in this
226 subparagraph (B);
227
228 (4)(C) records related to determinations of indigency;
229
230 (4)(D) an affidavit supporting a motion to waive fees;
231
232 (4)(E) aggregate records other than public aggregate records under subsection (2);
233
234 (4)(F) alternative dispute resolution records;
235
236 (4)(G) applications for accommodation under the Americans with Disabilities Act;
237
238 (4)(H) jail booking sheets;
239
240 (4)(I) citation, but an abstract of a citation that redacts all non-public information is public;
241
242 (4)(J) judgment information statement;
243
244 (4)(K) judicial review of final agency action under Utah Code Section 80-2-707;
245
246 (4)(L) the following personal identifying information about a party: driver's license
247 number, social security number, account description and number, password,
248 identification number, maiden name and mother's maiden name, and similar personal
249 identifying information;
250
251 (4)(M) the following personal identifying information about a person other than a party or
252 a victim or witness of a crime: residential address, personal email address, personal
253 telephone number; date of birth, driver's license number, social security number,

254 account description and number, password, identification number, maiden name,
255 mother's maiden name, and similar personal identifying information;
256
257 (4)(N) medical, psychiatric, or psychological records;
258
259 (4)(O) name of a minor, except that the name of a minor party is public in the following
260 district and justice court proceedings:
261
262 (4)(O)(i) name change of a minor, unless the name change is combined with a
263 sex designation change;
264
265 (4)(O)(ii) guardianship or conservatorship for a minor;
266
267 (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;
268
269 (4)(O)(iv) protective orders and stalking injunctions; and
270
271 (4)(O)(v) custody orders and decrees;
272
273 (4)(P) nonresident violator notice of noncompliance;
274
275 (4)(Q) personnel file of a current or former court personnel or applicant for employment;
276
277 (4)(R) photograph, film, or video of a crime victim;
278
279 (4)(S) record of a court hearing closed to the public or of a child's testimony taken under
280 URCrP 15.5:
281
282 (4)(S)(i) permanently if the hearing is not traditionally open to the public and
283 public access does not play a significant positive role in the process; or
284
285 (4)(S)(ii) if the hearing is traditionally open to the public, until the judge
286 determines it is possible to release the record without prejudice to the interests
287 that justified the closure;
288
289 (4)(T) record submitted by a senior judge or court commissioner regarding performance
290 evaluation and certification;
291
292 (4)(U) record submitted for in camera review until its public availability is determined;
293
294 (4)(V) reports of investigations by Child Protective Services;
295
296 (4)(W) statement in support of petition to determine competency;
297
298 (4)(X) victim impact statements;
299
300 (4)(Y) name of a prospective juror summoned to attend court, unless classified by the
301 judge as safeguarded to protect the personal safety of the prospective juror or the
302 prospective juror's family;
303

304 (4)(Z) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure,
305 except briefs filed pursuant to court order;

306
307 (4)(AA) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;
308

309 (4)(BB) records related to Court Commissioner Conduct Committee and Council actions
310 under Rule 3-201.02, other than a public censure by the Council, and

311
312 (4)(CC) other records as ordered by the court under Rule 4-202.04.
313

314 **(5) Protected Court Records.** The following court records are protected:

315
316 (5)(A) attorney's work product, including the mental impressions or legal theories of an
317 attorney or other representative of the courts concerning litigation, privileged
318 communication between the courts and an attorney representing, retained, or employed
319 by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-
320 judicial, or administrative proceeding;

321
322 (5)(B) records that are subject to the attorney client privilege;

323
324 (5)(C) bids or proposals until the deadline for submitting them has closed;

325
326 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation
327 before issuance of the final recommendations in these areas;

328
329 (5)(E) budget recommendations, legislative proposals, and policy statements, that if
330 disclosed would reveal the court's contemplated policies or contemplated courses of
331 action;

332
333 (5)(F) court security plans;

334
335 (5)(G) investigation and analysis of loss covered by the risk management fund;

336
337 (5)(H) memorandum prepared by staff for a member of any body charged by law with
338 performing a judicial function and used in the decision-making process;

339
340 (5)(I) confidential business records under Utah Code Section 63G-2-309;

341
342 (5)(J) record created or maintained for civil, criminal, or administrative enforcement
343 purposes, audit or discipline purposes, or licensing, certification or registration purposes,
344 if the record reasonably could be expected to:

345
346 (5)(J)(i) interfere with an investigation;

347
348 (5)(J)(ii) interfere with a fair hearing or trial;

349
350 (5)(J)(iii) disclose the identity of a confidential source; or

351
352 (5)(J)(iv) concern the security of a court facility;

353

- 354 (5)(K) record identifying property under consideration for sale or acquisition by the court
 355 or its appraised or estimated value unless the information has been disclosed to
 356 someone not under a duty of confidentiality to the courts;
 357
- 358 (5)(L) record that would reveal the contents of settlement negotiations other than the
 359 final settlement agreement;
 360
- 361 (5)(M) record the disclosure of which would impair governmental procurement or give an
 362 unfair advantage to any person;
 363
- 364 (5)(N) record the disclosure of which would interfere with supervision of an offender's
 365 incarceration, probation, or parole;
 366
- 367 (5)(O) record the disclosure of which would jeopardize life, safety, or property;
 368
- 369 (5)(P) strategy about collective bargaining or pending litigation;
 370
- 371 (5)(Q) test questions and answers;
 372
- 373 (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
 374
- 375 (5)(S) record of a Children's Justice Center investigative interview before the conclusion
 376 of any legal proceedings;
 377
- 378 (5)(T) presentence investigation report;
 379
- 380 (5)(U) except for those filed with the court, records maintained and prepared by juvenile
 381 probation; and
 382
- 383 (5)(V) other records as ordered by the court under Rule 4-202.04.
 384

385 **(6) Juvenile Court Social Records.** The following are juvenile court social records:
 386

- 387 (6)(A) correspondence relating to juvenile social records;
 388
- 389 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations,
 390 substance abuse evaluations, domestic violence evaluations;
 391
- 392 (6)(C) medical, psychological, psychiatric evaluations;
 393
- 394 (6)(D) pre-disposition and social summary reports;
 395
- 396 (6)(E) probation agency and institutional reports or evaluations;
 397
- 398 (6)(F) referral reports;
 399
- 400 (6)(G) report of preliminary inquiries; and
 401
- 402 (6)(H) treatment or service plans.
 403

404 **(7) Juvenile Court Legal Records.** The following are juvenile court legal records:

- 405
406 (7)(A) accounting records;
407
408 (7)(B) discovery filed with the court;
409
410 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes,
411 findings, orders, decrees;
412
413 (7)(D) name of a party or minor;
414
415 (7)(E) record of a court hearing;
416
417 (7)(F) referral and offense histories
418
419 (7)(G) and any other juvenile court record regarding a minor that is not designated as a
420 social record.
421

422 **(8) Safeguarded Court Records.** The following court records are safeguarded:
423

- 424 (8)(A) upon request, location information, contact information, and identity information,
425 other than the name of a petitioner and other persons to be protected, in an action filed
426 under Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
427
428 (8)(B) upon request, location information, contact information and identity information,
429 other than the name of a party or the party's child, after showing by affidavit that the
430 health, safety, or liberty of the party or child would be jeopardized by disclosure in a
431 proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and
432 Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title
433 78B, Chapter 15, Utah Uniform Parentage Act;
434
435 (8)(C) upon request, if the information has been safeguarded under paragraph (8)(A) or
436 (8)(B), location information, contact information and identity information, other than the
437 name of a party or the party's child, in a proceeding under Title 30, Husband and Wife.
438
439 (8)(D) location information, contact information, and identity information of prospective
440 jurors on the master jury list or the qualified jury list;
441
442 (8)(E) location information, contact information, and identity information other than name
443 of a prospective juror summoned to attend court;
444
445 (8)(F) the following information about a victim or witness of a crime:
446
447 (8)(F)(i) business and personal address, email address, telephone number, and
448 similar information from which the person can be located or contacted;
449
450 (8)(F)(ii) date of birth, driver's license number, social security number, account
451 description and number, password, identification number, maiden name,
452 mother's maiden name, and similar personal identifying information.
453

454 *Effective: ~~November 1~~ April 25, 2023*

Rule 4-202.03. Records Access.

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Intent:

To identify who may access court records.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Public Court Records.** Any person may access a public court record.

(2) **Sealed Court Records.** An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification. A petitioner in an expunged case may obtain certified copies of the expungement order and the case history upon request and in-person presentation of positive identification. An official court transcriber may obtain a video record of a court proceeding for the purposes outlined in Rule 5-202. A court employee may obtain a video record of a court proceeding if needed to fulfill official court duties. Otherwise, no one may access a sealed court record except by order of the court. A judge may review a sealed record when the circumstances warrant.

(3) **Private Court Records.** The following may access a private court record:

(3)(A) the subject of the record;

(3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;

(3)(C) a party, attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;

(3)(D) an interested person to an action under the Uniform Probate Code;

(3)(E) the person who submitted the record;

(3)(F) the attorney or licensed paralegal practitioner for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;

(3)(H) anyone by court order;

42 (3)(I) court personnel, but only to achieve the purpose for which the record was
43 submitted;

44
45 (3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

46
47 (3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

48

49 **(4) Protected Court Records.** The following may access a protected court record:

50 (4)(A) the person or governmental entity whose interests are protected by closure;

51

52 (4)(B) the parent or guardian of the person whose interests are protected by closure if
53 the person is an unemancipated minor or under a legal incapacity;

54

55 (4)(C) the person who submitted the record;

56

57 (4)(D) the attorney or licensed paralegal practitioner for the person who submitted the
58 record or for the person or governmental entity whose interests are protected by closure
59 or for the parent or guardian of the person if the person is an unemancipated minor or
60 under a legal incapacity or an individual who has a power of attorney from such person
61 or governmental entity;

62

63 (4)(E) an individual with a release from the person who submitted the record or from the
64 person or governmental entity whose interests are protected by closure or from the
65 parent or guardian of the person if the person is an unemancipated minor or under a
66 legal incapacity signed and notarized no more than 90 days before the date the request
67 is made;

68

69 (4)(F) a party, attorney for a party, or licensed paralegal practitioner for a party to
70 litigation in which the record is filed;

71

72 (4)(G) anyone by court order;

73

74 (4)(H) court personnel, but only to achieve the purpose for which the record was
75 submitted;

76

77 (4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

78

79 (4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

80

81 **(5) Juvenile Court Social Records.** The following may access a juvenile court social record:

82 (5)(A) the subject of the record, if 18 years of age or over;

83

- 84 (5)(B) a parent or guardian of the subject of the record if the subject is an
85 unemancipated minor;
86
- 87 (5)(C) an attorney or person with power of attorney for the subject of the record;
88
- 89 (5)(D) a person with a notarized release from the subject of the record or the subject's
90 legal representative dated no more than 90 days before the date the request is made;
91
- 92 (5)(E) the subject of the record's therapists and evaluators;
93
- 94 (5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian
95 ad Litem, and an Attorney General involved in the litigation in which the record is filed;
96
- 97 (5)(G) a governmental entity charged with custody, guardianship, protective supervision,
98 probation or parole of the subject of the record including juvenile probation, Division of
99 Child and Family Services and Juvenile Justice Services;
100
- 101 (5)(H) the Department of Human Services, school districts and vendors with whom they
102 or the courts contract (who shall not permit further access to the record), but only for
103 court business;
104
- 105 (5)(I) court personnel, but only to achieve the purpose for which the record was
106 submitted;
107
- 108 (5)(J) a governmental entity with which the record is shared under Rule 4-202.10;
109
- 110 (5)(K) the person who submitted the record;
111
- 112 (5)(L) public or private individuals or agencies providing services to the subject of the
113 record or to the subject's family, including services provided pursuant to a nonjudicial
114 adjustment, if a probation officer determines that access is necessary to provide
115 effective services; and
116
- 117 (5)(M) anyone by court order.
118
- 119 (5)(N) Juvenile court competency evaluations, psychological evaluations, psychiatric
120 evaluations, psychosexual evaluations, sex behavior risk assessments, and other
121 sensitive mental health and medical records may be accessed only by:
122
- 123 (5)(N)(i) the subject of the record, if age 18 or over;
124
- 125 (5)(N)(ii) an attorney or person with power of attorney for the subject of the
126 record;
127

128 (5)(N)(iii) a self-represented litigant, a prosecuting attorney, a defense attorney, a
129 Guardian ad Litem, and an Attorney General involved in the litigation in which the
130 record is filed;

131
132 (5)(N)(iv) a governmental entity charged with custody, guardianship, protective
133 supervision, probation or parole of the subject of the record including juvenile
134 probation, Division of Child and Family Services and Juvenile Justice Services;

135
136 (5)(N)(v) court personnel, but only to achieve the purpose for which the record
137 was submitted;

138
139 (5)(N)(vi) anyone by court order.

140
141 (5)(O) When records may be accessed only by court order, a juvenile court judge will
142 permit access consistent with Rule 4-202.04 as required by due process of law in a
143 manner that serves the best interest of the child.

144
145 **(6) Juvenile Court Legal Records.** The following may access a juvenile court legal record:

146 (6)(A) all who may access the juvenile court social record;

147
148 (6)(B) a law enforcement agency;

149
150 (6)(C) a children's justice center;

151
152 (6)(D) public or private individuals or agencies providing services to the subject of the
153 record or to the subject's family;

154
155 (6)(E) the victim of a delinquent act may access the disposition order entered against the
156 minor; and

157
158 (6)(F) the parent or guardian of the victim of a delinquent act may access the disposition
159 order entered against the minor if the victim is an unemancipated minor or under legal
160 incapacity.

161
162 **(7) Safeguarded Court Records.** The following may access a safeguarded record:

163 (7)(A) the subject of the record;

164
165 (7)(B) the person who submitted the record;

166
167 (7)(C) the attorney or licensed paralegal practitioner for a person who may access the
168 record or an individual who has a written power of attorney from the person or the
169 person's attorney or licensed paralegal practitioner;

170

171 (7)(D) an individual with a release from a person who may access the record signed and
172 notarized no more than 90 days before the date the request is made;

173
174 (7)(E) anyone by court order;

175
176 (7)(F) court personnel, but only to achieve the purpose for which the record was
177 submitted;

178
179 (7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05;

180
181 (7)(H) a governmental entity with which the record is shared under Rule 4-202.10; and

182
183 (7)(I) a person given access to the record in order for juvenile probation to fulfill a
184 probation responsibility.

185
186 (8) Court personnel shall permit access to court records only by authorized persons. The court
187 may order anyone who accesses a non-public record not to permit further access, the violation
188 of which may be contempt of court.

189
190 (9) If a court or court employee in an official capacity is a party in a case, the records of the
191 party and the party's attorney are subject to the rules of discovery and evidence to the same
192 extent as any other party.

193
194 *Effective: November 1, 202~~3~~²*