

Introduction to Court Operating Rule 2 Public Review Draft

The draft of Court Operating Rule 2, below, is being distributed for public review and comment by the State Judicial Records Committee (SJRC), established by the Supreme Court of Missouri. Comments received in writing and during public testimony will be taken under consideration by the SJRC when preparing their final recommendation to the Supreme Court of Missouri. The Supreme Court of Missouri has final authority over the content of Court Operating Rule 2.

All proposed changes to the current rule are underlined and in red print.

Court Operating Rule 2

PUBLIC ACCESS TO RECORDS OF THE JUDICIAL DEPARTMENT

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RULE 2.01 SCOPE OF RULE

This Court Operating Rule 2 governs public access to the records of the judicial department of Missouri. Litigants or their lawyers who are involved in a case or persons authorized by the court shall have the same access to individual case records as the public does under this Court Operating Rule 2 and may have additional access as authorized by law or court order.

RULE 2.02 GENERAL POLICY

Records of all courts are presumed to be open to any member of the public for purposes of inspection or copying during the regular business hours of the court having custody of the records. This policy does not apply to records that are confidential pursuant to statute, court rules or court order; judicial or judicial staff work product; internal electronic mail; memoranda or drafts; or appellate judicial case assignments.

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 clerk or court is not required to review the case document to confirm that the party has omitted personal identifiers and shall not refuse to accept or file the document on that basis.

The responsibility for redacting personal information rests solely with counsel, the parties or any other person preparing or filing the document. The Clerk will not review each document for compliance with this policy.

This Court Operating Rule 2 imposes no obligation upon the judiciary to create a data element, make a data element available electronically, or produce non-standard reports.

RULE 2.03 DEFINITIONS

As used in this Court Operating Rule 2, the following terms mean:

- (a) "Administrative records," all records, including reports and correspondence, pertaining to the administration of the courts;
- (b) "Bulk distribution," the distribution of all, or a significant subset, of the information in court records, as is and without modification or compilation;
- (c) "Case records," all records relating to a specific case or controversy;
- (d) "Custodian of records," the person designated by the appointing authority as responsible for the safekeeping of any records held in the clerk's office;
- (e) "Compiled information," 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, including statistical reports and information that is not already available in an existing record or report;
- (f) "Data element," information contained in a field in the computer database;
- (g) "Electronic records," digital records, whether created by data entry, electronic filing, or digital imaging.
- (h) "Person," any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization;
- (i) "Personnel records," any and all records relating to the employment of persons within the judiciary, with the exception of name, position and salary;

(j) "Public" includes:

- (1) any person and any business or non-profit entity, organization or association;
- (2) any governmental agency for which there is not existing policy defining the agency's access to court records;
- (3) media organizations; and
- (4) entities that gather and disseminate information for whatever reason, regardless of whether it is done with the intent of making a profit, and without distinction as to nature or extent of access.

(k) "Public Access" means that the public may inspect and obtain a copy of the information in a court record either by direct access in the court house or remote access over the Internet if and when Internet access becomes available.

(1) "Record," information produced or available to the court regardless of physical form or storage medium used;

RULE 2.04 ACCESS TO CASE RECORDS

(a) Public records from which a person can be identified will be made available upon request only by inquiry of a single case or by accessing any public index. Electronic public indexes will be available on the Internet by:

- (1) Case number;
- (2) File date;
- (3) Party name;
- (4) Calendar date;
- (5) Judgment against.

An index may contain the above elements plus case title, case type, and status.

(b) Internet access to electronic records that are public and from which a person can be identified will include only the following data elements, if not confidential by statute or rule:

Civil Cases

- (1) Attorneys' addresses;
- (2) Attorneys' names;
- (3) Calendar dates;
- (4) Case number;
- (5) Case type;
- (6) ~~Date of birth:~~ Year of birth:
- (7) Disposition type;
- (8) Docket entries;
- (9) File date;
- (10) General execution, garnishment, and sequestration information as provided in Court Operating Rule 4.19.1 and indexing number if available;
- (11) Trial judge currently assigned;
- (12) Trial judge at disposition;
- (13) Judgment or appellate decision;
- (14) Judgment or appellate mandate date;
- (15) Party address – city, state, and zip code only;
- (16) Party name and party type, except the names of victims of domestic violence shall not be available, pursuant to 18 USC 2265(d)(3);
- (17) Satisfaction of judgment date.

Notwithstanding the provisions of this section, no case filed under Chapter 455 RSMo, (adult and child protection orders) shall be publicly available electronically either through a public index under 2.03(a) or single case display under this section unless a full order of protection has been granted by the court.

Criminal Cases

- (1) Appellate mandate date;
- (2) Appellate opinion;
- (3) Attorneys' addresses;
- (4) Attorneys' names;
- (5) Bail amount;
- (6) Calendar dates;
- (7) Case number;
- (8) Case type;
- (9) Pending charges;
- (10) ~~Date of birth;~~ Year of birth;
- (11) Defendant address – city, state, and zip code only;
- (12) Defendant name;
- (13) Disposition type;
- (14) Docket entries;
- (15) File date;
- (16) Finding and finding date;
- (17) Judgment and judgment date;
- (18) Sentence and sentence date and offenses for which sentenced;
- (19) Trial judge currently assigned;
- (20) Trial judge at disposition;
- (21) Law enforcement agency;
- (22) Offense tracking number;
- (23) Violation code, date and description;
- (24) Suspended imposition of sentence prior to successful completion of probation.

Notwithstanding the provisions of this section, upon initial filing of a criminal case where a warrant is requested, if the defendant is aware of the warrant issuance, and there is a high risk of physical injury to officers or others or of flight of the defendant, the prosecuting attorney may request the courts temporarily remove the case from Internet access. Such removal will be for a period of five calendar days from the case filing.

(c) If available in an electronic format, liens on real estate pursuant to Chapter 429 RSMo, during the time they are enforceable as liens, final civil judgments (excluding post conviction proceedings), probate orders serving as judgments, and decrees may be made remotely accessible to the public on the Internet if not confidential by statute or rule.

RULE 2.05 ACCESS TO PERSONAL INFORMATION NUMBERS

(a) Official court files. Case records containing social security numbers and personal identifiers may be disseminated pursuant to Court Operating Rule 2.02, if such records are otherwise open to the public pursuant to statute. Unless required by statute, court personnel shall not expunge or redact social security numbers or personal identifiers that appear in case records.

(b) Case management databases. Social security numbers and personal identifiers may be collected and used by the courts for internal purposes such as party identification, compilation of jury lists, collection of fees, fines or restitution. Dissemination of social security numbers and personal

identifiers appearing in court databases shall be restricted to court personnel and to those state or federal agencies to which the court has a statutory or constitutional duty to disclose, including, but not limited to, department of social services, social security administration and department of revenue.

(c) Any public inquiries specifically requesting personal information. Except as provided by this Court Operating Rule 2.05(a) for case records, court personnel shall not release personal information including, but not limited to:

- social security numbers;
- Motor vehicle operator license numbers;
- Victim information including name, address, and other contact information;
- Informant information including name, address, and other contact information;
- A party's street address, except the city, state, and zip code, which may be released;
- Witness information including name, address, and other contact information;
- State identification numbers; and
- Financial institution account numbers, credit card numbers, PINs or passwords used to secure accounts.

RULE 2.06 ACCESS TO ADMINISTRATIVE RECORDS

Administrative records are generally considered to be open to the public and are covered by Missouri Sunshine Law, Chapter 610 RSMo. Exceptions include name, position, salary, personnel records and any other record considered confidential pursuant to Chapter 610 RSMo.

RULE 2.07 ACCESS TO COMPILED INFORMATION FROM COURT RECORDS

If a compiled report used within the judiciary is prepared from or contains case management data elements, the report shall be made available only if:

- (a) All of the data elements in the report would have been made available under this Court Operating Rule 2; or
- (b) The report is of summary data consisting of non-identifying information.

There is no obligation for the courts to compile information from court records.

RULE 2.08 ACCESS PROCEDURES

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 Court Operating Rule 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:

- a. Findings of non-paternity under section 210.846, RSMo;
- b. Pleadings and Orders in child abuse and neglect cases under section 211.319, RSMo;
- c. Pleadings and Orders in termination of parental rights cases under section 211.319, RSMo;
- d. All records in Felony A delinquency cases under section 211.321, RSMo;
- e. Dispositional records for all adjudicated felony delinquency cases under section 211.321, RSMo; and
- f. Final disposition of criminal cases under section 610.105, RSMo.

RULE 2.09 ACCESS DENIAL REVIEW

The state judicial records committee, upon receipt of a written request, may review any request for access to information that has been denied. The state judicial records committee shall not review any determination by the custodian of records as to the payment of fees. The request will be reviewed at the next regular meeting of the committee. The requesting person and the custodian of records shall be notified in writing of the committee's decision as soon as possible after a determination has been made.

RULE 2.10 REQUESTS FOR BULK DISTRIBUTION OF COURT RECORDS

Bulk distribution of court records shall be made only upon approval of the state judicial records committee. Under no circumstances shall bulk distribution of court records be made for commercial gain.

RULE 2.11 FEES

Reasonable fees may be charged for services provided.