

IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order

2021-RL-003

Rules Relating to District Courts

FILED

January 19, 2021

DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

The attached Supreme Court Rule 196 is renumbered to Rule 106B without amendment, effective the date of this order.

Dated this 19th day of January 2021.

FOR THE COURT



MARLA LUCKERT
Chief Justice

Rule ~~196~~ 106B

PUBLIC ACCESS TO DISTRICT COURT ELECTRONIC CASE RECORDS

(a) **Definitions.** In this rule:

- (1) “Bulk distribution” means the distribution of all or a significant subset of the information in court case records in electronic form, as is, and without modification or compilation.
- (2) “Case-by-case access” means that each electronic case record is available only individually and that when a search for an individual electronic case record returns multiple results, each result may be viewed only individually.
- (3) “Compiled information” means information that is derived from the selection, aggregation, or reformulation of all or a subset of the information from more than one individual court case record in electronic form.
- (4) “Court case record” means filings or other activity relating to a particular case. The term does not include e-mail, correspondence, notes, or similar papers not filed in a court case.
- (5) “Electronic access” means access to court case records available to the public through a public terminal at a courthouse or remotely, unless otherwise specified in these rules.
- (6) “Electronic case record” means a digital court case record, regardless of the manner in which it has been converted to digital form. The term does not include a case record that is maintained only on microfiche, paper, or any other medium that can be read without the use of an electronic device.
- (7) “Judicial administrator” means the officer responsible to the Kansas Supreme Court for implementing the Court’s policies governing the operation and administration of the district and appellate courts under the chief justice’s supervision.
- (8) “Public access” means the process by which a person may inspect the information in a court case record that is not closed by law or judicial order.
- (9) “Records custodian” means the person responsible for the safekeeping of records held by a court.

- (10) “Records officer” means the person responsible for safeguarding the access under the Kansas Open Records Act (K.S.A. 45-215 et seq. [KORA]), Kansas Supreme Court Rules and Administrative Orders, and relevant state and federal law to records held by a court.
- (11) “Register of action” means basic information about an individual court case provided by the court, consisting of dates of case activity and a brief description of the case activity. Information provided by a register of action does not include all information pertinent to the case and does not include information that is not public.
- (12) “Remote access” means the process by which a person may inspect information in an electronic case record through an electronic means at a location other than the courthouse.

(b) **Scope.**

- (1) This rule governs public access to and confidentiality of electronic case records in district courts. Except as otherwise provided by this rule, access to electronic court records is governed by the KORA, Kansas Supreme Court Rules and Administrative Orders, and relevant state and federal law.
- (2) Non-case records or case records not available in electronic form—which are open records under the KORA, Supreme Court rule or order, or other state or federal law—will be made available in a format determined by the appropriate records officer.
- (3) Information in district court electronic case records available for public access in electronic format will be available at each respective courthouse through the use of a public access terminal. Only information from the county in which the courthouse is located will be available. County information may be available through the Internet at the discretion of the chief judge and the judicial administrator.
- (4) This rule applies only to electronic case records as defined in this rule and does not authorize or prohibit access to information gathered, maintained, or stored by a non-judicial branch governmental agency or other entity.

(c) **Persons Who Have Access.**

- (1) All persons have the access to electronic case records provided in this rule.
- (2) Judges, court employees, and others as determined by the Supreme Court may be granted greater access to electronic case records than the access provided in this rule.

- (3) This rule does not give any person a right of access to any record to which the person is not otherwise entitled.

(d) **Access Provisions and Restrictions.**

- (1) Public access to electronic case records or information contained in electronic case records must be available on a case-by-case basis only and may be conditioned on the user's agreement to access the records only as instructed by the court and the user's consent to monitoring of the user's access to electronic court records.
- (2) A copy of a court record available electronically through a public access method does not constitute the official record of the court.
- (3) Due to privacy concerns, some otherwise public information, as determined by the Supreme Court, may not be available through electronic access. Information generally not available electronically includes—but is not limited to—social security numbers, dates of birth, and street addresses. Except for electronically filed documents, to which adequate public access will be provided as determined by the records custodian, only information contained in the court's registers of action will be available electronically. A district court may seek authority to provide other information by making a written request to the judicial administrator, who will make a recommendation on the request and forward it to the Supreme Court.
- (4) Electronic case records will be available for public access in the courthouse during regular business hours. Access may be disrupted due to unexpected technical failures or normal system maintenance.
- (5) This rule applies to all electronic case records in the district courts; clerks and courts need not redact or restrict information that was otherwise public in court case records created before the effective date of this rule.

(e) **Compiled Information and Bulk Distribution.** Compiled information and bulk distribution will not be available.

(f) **Correction of Electronic Case Records.** Clerical mistakes in electronic case records may be corrected under K.S.A. 60-260.

(g) **Contracts with Vendors Providing Information Technology Services Regarding Public Access Statewide to Electronic Case Records.**

- (1) For purposes of this subsection, the term “vendor” includes a state, county, or local governmental entity that provides information technology services to a court.
- (2) Subject to the Supreme Court’s approval, the judicial administrator has authority to contract with a vendor to provide access statewide to electronic case records under this rule. The Supreme Court retains ownership of all electronic case records and retains the authority to approve or disapprove any other contract by any other records custodian.
- (3) A contract with a vendor to provide information technology support to gather, store, or make accessible electronic case records or information in electronic case records must require the vendor to comply with this rule.
- (4) A contract with a vendor to provide access to statewide electronic case records must require the vendor to assist the Supreme Court in its role of educating litigants and the public about this rule. The vendor will be responsible for training its employees and subcontractors to comply with this rule.
- (5) A contract under paragraph (2) or (3) must require the vendor to acknowledge that:
 - (A) the Supreme Court owns the electronic case records; and
 - (B) handling of and access to the records are subject to the provisions of this rule and the Supreme Court’s direction and order.
- (6) The requirements in this subsection are in addition to those otherwise imposed by law.

(h) **Immunity for Disclosure of Information.** The judicial branch and its employees may not be held liable for monetary damages related to unintentional or unknowing disclosure of confidential or erroneous information.