

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

2 **Intent:**

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

4 **Applicability:**

5 This rule applies to the judicial branch.

6 **Statement of the Rule:**

7
8 (1) **Presumption of Public Court Records.** Court records are public unless otherwise
9 classified by this rule.

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

- 11 (2)(A) abstract of a citation that redacts all non-public information;
12 (2)(B) aggregate records without non-public information and without personal
13 identifying information;
14 (2)(C) appellate filings, including briefs;
15 (2)(D) arrest warrants, but a court may restrict access before service;
16 (2)(E) audit reports;
17 (2)(F) case files;
18 (2)(G) committee reports after release by the Judicial Council or the court that
19 requested the study;
20 (2)(H) contracts entered into by the judicial branch and records of compliance with
21 the terms of a contract;
22 (2)(I) drafts that were never finalized but were relied upon in carrying out an
23 action or policy;
24 (2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity
25 of the exhibit, a fair trial or interests favoring closure;
26 (2)(K) financial records;
27 (2)(L) indexes approved by the Management Committee of the Judicial Council,
28 including the following, in courts other than the juvenile court; an index may
29 contain any other index information:
30 (2)(L)(i) amount in controversy;
31 (2)(L)(ii) attorney name;
32 (2)(L)(iii) licensed paralegal practitioner name;
33 (2)(L)(iv) case number;
34 (2)(L)(v) case status;
35 (2)(L)(vi) civil case type or criminal violation;
36 (2)(L)(vii) civil judgment or criminal disposition;
37 (2)(L)(viii) daily calendar;

- 38 (2)(L)(ix) file date;
- 39 (2)(L)(x) party name;
- 40 (2)(M) name, business address, business telephone number, and business email
41 address of an adult person or business entity other than a party or a victim
42 or witness of a crime;
- 43 (2)(N) name, address, telephone number, email address, date of birth, and last
44 four digits of the following: driver's license number; social security number;
45 or account number of a party;
- 46 (2)(O) name, business address, business telephone number, and business email
47 address of a lawyer or licensed paralegal practitioner appearing in a case;
- 48 (2)(P) name, business address, business telephone number, and business email
49 address of court personnel other than judges;
- 50 (2)(Q) name, business address, and business telephone number of judges;
- 51 (2)(R) name, gender, gross salary and benefits, job title and description, number
52 of hours worked per pay period, dates of employment, and relevant
53 qualifications of a current or former court personnel;
- 54 (2)(S) unless classified by the judge as private or safeguarded to protect the
55 personal safety of the juror or the juror's family, the name of a juror
56 empaneled to try a case, but only 10 days after the jury is discharged;
- 57 (2)(T) opinions, including concurring and dissenting opinions, and orders entered
58 in open hearings;
- 59 (2)(U) order or decision classifying a record as not public;
- 60 (2)(V) private record if the subject of the record has given written permission to
61 make the record public;
- 62 (2)(W) probation progress/violation reports;
- 63 (2)(X) publications of the administrative office of the courts;
- 64 (2)(Y) record in which the judicial branch determines or states an opinion on the
65 rights of the state, a political subdivision, the public, or a person;
- 66 (2)(Z) record of the receipt or expenditure of public funds;
- 67 (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;
- 68 (2)(BB) record of formal discipline of current or former court personnel or of a
69 person regulated by the judicial branch if the disciplinary action has been
70 completed, and all time periods for administrative appeal have expired, and
71 the disciplinary action was sustained;
- 72 (2)(CC) record of a request for a record;
- 73 (2)(DD) reports used by the judiciary if all of the data in the report is public or the
74 Judicial Council designates the report as a public record;
- 75 (2)(EE) rules of the Supreme Court and Judicial Council;

- 76 (2)(FF) search warrants, the application and all affidavits or other recorded
77 testimony on which a warrant is based are public after they are unsealed
78 under Utah Rule of Criminal Procedure 40;
- 79 (2)(GG) statistical data derived from public and non-public records but that disclose
80 only public data; and
- 81 (2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or
82 information is filed charging a person 14 years of age or older with a felony
83 or an offense that would be a felony if committed by an adult, the petition,
84 indictment or information, the adjudication order, the disposition order, and
85 the delinquency history summary of the person are public records. The
86 delinquency history summary shall contain the name of the person, a listing
87 of the offenses for which the person was adjudged to be within the
88 jurisdiction of the juvenile court, and the disposition of the court in each of
89 those offenses.

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

- 91 (3)(A) records in the following actions:
- 92 (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months
93 after the conclusion of proceedings, which are private until
94 sealed;
- 95 (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six
96 months after the conclusion of proceedings, which are
97 private until sealed;
- 98 (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions
99 performed on minors; and
- 100 (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
- 101 (3)(B) expunged records;
- 102 (3)(C) orders authorizing installation of pen register or trap and trace device under
103 Utah Code Section 77-23a-15;
- 104 (3)(D) records showing the identity of a confidential informant;
- 105 (3)(E) records relating to the possession of a financial institution by the
106 commissioner of financial institutions under Utah Code Section 7-2-6;
- 107 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- 108 (3)(G) records designated as sealed by rule of the Supreme Court;
- 109 (3)(H) record of a Children's Justice Center investigative interview after the
110 conclusion of any legal proceedings; and
- 111 (3)(I) other records as ordered by the court under Rule 4-202.04.

112

113 **(4) Private Court Records.** The following court records are private:

- 114 (4)(A) records in the following actions:

- 115 (4)(A)(i) Section 62A-15-631, Involuntary commitment under court
116 order;
- 117 (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check
118 System database;
- 119 (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the
120 records are sealed;
- 121 (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until
122 the records are sealed; and
- 123 (4)(A)(v) cases initiated in the district court by filing an abstract of a
124 juvenile court restitution judgment.
- 125 (4)(B) records in the following actions, except that the case history, judgments,
126 orders, decrees, letters of appointment, and the record of public hearings
127 are public records:
- 128 (4)(B)(i) Title 30, Husband and Wife, including qualified domestic
129 relations orders, except that an action for consortium due
130 to personal injury under Section 30-2-11 is public;
- 131 (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
- 132 (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability
133 and their Property;
- 134 (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
- 135 (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
- 136 (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody
137 Jurisdiction and Enforcement Act;
- 138 (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support
139 Act;
- 140 (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
- 141 (4)(B)(ix) an action to modify or enforce a judgment in any of the
142 actions in this subparagraph (B);
- 143 (4)(C) records related to determinations of indigency;
- 144 (4)(D) an affidavit supporting a motion to waive fees;
- 145 (4)(E) aggregate records other than public aggregate records under subsection
146 (2);
- 147 (4)(F) alternative dispute resolution records;
- 148 (4)(G) applications for accommodation under the Americans with Disabilities Act;
- 149 (4)(H) jail booking sheets;
- 150 (4)(I) citation, but an abstract of a citation that redacts all non-public information
151 is public;
- 152 (4)(J) judgment information statement;
- 153 (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-
154 1009;
- 155 (4)(L) the following personal identifying information about a party: driver's license
156 number, social security number, account description and number,
157 password, identification number, maiden name and mother's maiden name,
158 and similar personal identifying information;

- 159 (4)(M) the following personal identifying information about a person other than a
160 party or a victim or witness of a crime: residential address, personal email
161 address, personal telephone number; date of birth, driver's license number,
162 social security number, account description and number, password,
163 identification number, maiden name, mother's maiden name, and similar
164 personal identifying information;
- 165 (4)(N) medical, psychiatric, or psychological records;
- 166 (4)(O) name of a minor, except that the name of a minor party is public in the
167 following district and justice court proceedings:
- 168 (4)(O)(i) name change of a minor;
- 169 (4)(O)(ii) guardianship or conservatorship for a minor;
- 170 (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;
- 171 (4)(O)(iv) protective orders and stalking injunctions; and
- 172 (4)(O)(v) custody orders and decrees;
- 173 (4)(P) nonresident violator notice of noncompliance;
- 174 (4)(Q) personnel file of a current or former court personnel or applicant for
175 employment;
- 176 (4)(R) photograph, film, or video of a crime victim;
- 177 (4)(S) record of a court hearing closed to the public or of a child's testimony taken
178 under URCrP 15.5:
- 179 (4)(S)(i) permanently if the hearing is not traditionally open to the
180 public and public access does not play a significant positive
181 role in the process; or
- 182 (4)(S)(ii) if the hearing is traditionally open to the public, until the
183 judge determines it is possible to release the record without
184 prejudice to the interests that justified the closure;
- 185 (4)(T) record submitted by a senior judge or court commissioner regarding
186 performance evaluation and certification;
- 187 (4)(U) record submitted for in camera review until its public availability is
188 determined;
- 189 (4)(V) reports of investigations by Child Protective Services;
- 190 (4)(W) statement in support of petition to determine competency;
- 191 (4)(~~XW~~) victim impact statements;
- 192 (4)(~~YX~~) name of a prospective juror summoned to attend court, unless classified
193 by the judge as safeguarded to protect the personal safety of the
194 prospective juror or the prospective juror's family;
- 195 (4)(~~ZY~~) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate
196 Procedure, except briefs filed pursuant to court order;
- 197 (4)(~~AAZ~~) records in a proceeding under Rule 60 of the Utah Rules of Appellate
198 Procedure; and
- 199 (4)(~~BBA~~) other records as ordered by the court under Rule 4-202.04.

200

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

- 202 (5)(A) attorney's work product, including the mental impressions or legal theories
203 of an attorney or other representative of the courts concerning litigation,

- 204 privileged communication between the courts and an attorney representing,
205 retained, or employed by the courts, and records prepared solely in
206 anticipation of litigation or a judicial, quasi-judicial, or administrative
207 proceeding;
- 208 (5)(B) records that are subject to the attorney client privilege;
- 209 (5)(C) bids or proposals until the deadline for submitting them has closed;
- 210 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed
211 legislation before issuance of the final recommendations in these areas;
- 212 (5)(E) budget recommendations, legislative proposals, and policy statements, that
213 if disclosed would reveal the court's contemplated policies or contemplated
214 courses of action;
- 215 (5)(F) court security plans;
- 216 (5)(G) investigation and analysis of loss covered by the risk management fund;
- 217 (5)(H) memorandum prepared by staff for a member of any body charged by law
218 with performing a judicial function and used in the decision-making process;
- 219 (5)(I) confidential business records under Utah Code Section 63G-2-309;
- 220 (5)(J) record created or maintained for civil, criminal, or administrative
221 enforcement purposes, audit or discipline purposes, or licensing,
222 certification or registration purposes, if the record reasonably could be
223 expected to:
- 224 (5)(J)(i) interfere with an investigation;
- 225 (5)(J)(ii) interfere with a fair hearing or trial;
- 226 (5)(J)(iii) disclose the identity of a confidential source; or
- 227 (5)(J)(iv) concern the security of a court facility;
- 228 (5)(K) record identifying property under consideration for sale or acquisition by the
229 court or its appraised or estimated value unless the information has been
230 disclosed to someone not under a duty of confidentiality to the courts;
- 231 (5)(L) record that would reveal the contents of settlement negotiations other than
232 the final settlement agreement;
- 233 (5)(M) record the disclosure of which would impair governmental procurement or
234 give an unfair advantage to any person;
- 235 (5)(N) record the disclosure of which would interfere with supervision of an
236 offender's incarceration, probation, or parole;
- 237 (5)(O) record the disclosure of which would jeopardize life, safety, or property;
- 238 (5)(P) strategy about collective bargaining or pending litigation;
- 239 (5)(Q) test questions and answers;
- 240 (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- 241 (5)(S) record of a Children's Justice Center investigative interview before the
242 conclusion of any legal proceedings;
- 243 (5)(T) presentence investigation report;
- 244 (5)(U) except for those filed with the court, records maintained and prepared by
245 juvenile probation; and
- 246 (5)(V) other records as ordered by the court under Rule 4-202.04.

247
248 **(6) Juvenile Court Social Records.** The following are juvenile court social records:

- 249 (6)(A) correspondence relating to juvenile social records;
250 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations,
251 substance abuse evaluations, domestic violence evaluations;
252 (6)(C) medical, psychological, psychiatric evaluations;
253 (6)(D) pre-disposition and social summary reports;
254 (6)(E) probation agency and institutional reports or evaluations;
255 (6)(F) referral reports;
256 (6)(G) report of preliminary inquiries; and
257 (6)(H) treatment or service plans.
258

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

- 260 (7)(A) accounting records;
261 (7)(B) discovery filed with the court;
262 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes,
263 findings, orders, decrees;
264 (7)(D) name of a party or minor;
265 (7)(E) record of a court hearing;
266 (7)(F) referral and offense histories
267 (7)(G) and any other juvenile court record regarding a minor that is not designated
268 as a social record.
269

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

- 271 (8)(A) upon request, location information, contact information, and identity
272 information other than name of a petitioner and other persons to be
273 protected in an action filed under ~~Title 77, Chapter 3a, Stalking Injunctions~~
274 ~~or~~ Title 78B, Chapter 7, Protective Orders;
275 (8)(B) upon request, location information, contact information and identity
276 information other than name of a party or the party's child after showing by
277 affidavit that the health, safety, or liberty of the party or child would be
278 jeopardized by disclosure in a proceeding under Title 78B, Chapter 13,
279 Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B,
280 Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15,
281 Utah Uniform Parentage Act;
282 (8)(C) location information, contact information, and identity information of
283 prospective jurors on the master jury list or the qualified jury list;
284 (8)(D) location information, contact information, and identity information other than
285 name of a prospective juror summoned to attend court;
286 (8)(E) the following information about a victim or witness of a crime:
287 (8)(E)(i) business and personal address, email address, telephone
288 number, and similar information from which the person can
289 be located or contacted;
290 (8)(E)(ii) date of birth, driver's license number, social security
291 number, account description and number, password,
292 identification number, maiden name, mother's maiden
293 name, and similar personal identifying information.

CJA 4-202.02

DRAFT: Line 169 (July public comment)
Line 189 (September public comment)
Lines 272-273 (Non-substantive fix)

294

295 | Effective ~~December 5~~May 1, 2022