

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

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

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

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

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

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

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

111

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

- 113 (4)(A) records in the following actions:
- 114 (4)(A)(i) Section 62A-15-631, Involuntary commitment under court
115 order;

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

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

Comment [KW1]: July public comment

Comment [KW2]: New proposed amendment

- 200 (5) **Protected Court Records.** The following court records are protected:
201 (5)(A) attorney's work product, including the mental impressions or legal theories
202 of an attorney or other representative of the courts concerning litigation,
203 privileged communication between the courts and an attorney representing,
204 retained, or employed by the courts, and records prepared solely in

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

- 249 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations,
250 substance abuse evaluations, domestic violence evaluations;
251 (6)(C) medical, psychological, psychiatric evaluations;
252 (6)(D) pre-disposition and social summary reports;
253 (6)(E) probation agency and institutional reports or evaluations;
254 (6)(F) referral reports;
255 (6)(G) report of preliminary inquiries; and
256 (6)(H) treatment or service plans.
257
- 258 **(7) Juvenile Court Legal Records.** The following are juvenile court legal records:
259 (7)(A) accounting records;
260 (7)(B) discovery filed with the court;
261 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes,
262 findings, orders, decrees;
263 (7)(D) name of a party or minor;
264 (7)(E) record of a court hearing;
265 (7)(F) referral and offense histories
266 (7)(G) and any other juvenile court record regarding a minor that is not designated
267 as a social record.
268
- 269 **(8) Safeguarded Court Records.** The following court records are safeguarded:
270 (8)(A) upon request, location information, contact information, and identity
271 information other than name of a petitioner and other persons to be
272 protected in an action filed under Title 77, Chapter 3a, Stalking Injunctions
273 or Title 78B, Chapter 7, Protective Orders;
274 (8)(B) upon request, location information, contact information and identity
275 information other than name of a party or the party's child after showing by
276 affidavit that the health, safety, or liberty of the party or child would be
277 jeopardized by disclosure in a proceeding under Title 78B, Chapter 13,
278 Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B,
279 Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15,
280 Utah Uniform Parentage Act;
281 (8)(C) location information, contact information, and identity information of
282 prospective jurors on the master jury list or the qualified jury list;
283 (8)(D) location information, contact information, and identity information other than
284 name of a prospective juror summoned to attend court;
285 (8)(E) the following information about a victim or witness of a crime:
286 (8)(E)(i) business and personal address, email address, telephone
287 number, and similar information from which the person can
288 be located or contacted;
289 (8)(E)(ii) date of birth, driver's license number, social security
290 number, account description and number, password,
291 identification number, maiden name, mother's maiden
292 name, and similar personal identifying information.
293

CJA 4-202.02

DRAFT: May 24, 2021 (out for public comment)
June 4, 2021 (new proposal)

294 | Effective ~~December 5~~May/November 1, 2021