

# Proposed Supreme Court Rules 20 through 24 and Amended Supreme Court Rule 111

The Kansas Supreme Court is accepting public comment on rules that address the Kansas eCourt project to develop a centralized case management system for Kansas courts.

Five new rules are proposed and they are referred to collectively as the Kansas eCourt Rules:

- Rule 20 is a Prefatory Rule explaining the purpose for developing a centralized case management system;
- Rule 21 defines terms used in the eCourt Rules;
- Rule 22 establishes the framework for providing public access to electronic case records;
- Rule 23 discusses requirements for efilings documents in Kansas district courts;
- Rule 24 describes protections afforded personally identifiable information.

The Supreme Court is also accepting comment on amendments Rule 111, which governs the physical characteristics of pleadings and other documents. Because Rule 111 is an existing rule, changes are shown by underlining new content and using strikethrough to show deleted content.

Comments may be made by email to [publiccomments@kscourts.org](mailto:publiccomments@kscourts.org) until 5 p.m. Monday, May 13, 2019. The subject line must read "eCourt Rules."

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## RULES RELATING TO KANSAS ECOURT

### Rule 20

#### PREFATORY RULE

- (a) **Kansas eCourt Rules.** This set of rules when referred to as a whole will be identified as the Kansas eCourt Rules.
- (b) **Purpose.** The Kansas Supreme Court has developed a centralized case management system that maintains case records of the Kansas judicial branch. The case management system provides efficient, effective court operations and increases access to justice for the people of Kansas. This set of rules standardizes the processing of case filings to provide consistent user experience and allow for workshare among judicial branch employees. These rules expand access to case records available publicly through an Internet, browser-based access point using a public access portal. These rules balance the importance of protecting the interests of parties participating in the judicial system, including personally identifiable information and proprietary business information, with the goal to expand access to case records and increase transparency of the judicial branch.

- (c) **Statutory References.** In these rules, a reference to a statute includes any subsequent amendment to the statute.
- (d) **Applicability.** Unless otherwise indicated, these rules apply to courts as the Kansas eCourt case management system is implemented.

## **Rule 21**

### **DEFINITIONS**

- (a) **"Attachment"** means a document attached in support of a pleading.
- (b) **"Business hours"** means the hours of the day the court is open to the public to conduct court-related business.
- (c) **"Case management system"** means the Kansas judicial branch system to receive, maintain, and store electronic case records in an Internet, browser-based format.
- (d) **"Case record"** means all electronic documents filed in a case. Each document in a case record must either be certified by the filer as compliant with Rule 24 or be filed under Rule 23(b).
- (e) **"Certification"** means that an attorney or a party if not represented by an attorney certifies that, to the best of the person's knowledge, the document being submitted for filing complies with requirements of K.S.A. 60-211(b).
- (f) **"Citation"** means:
  - (1) a Uniform Notice to Appear and Complaint issued by a law enforcement officer to a person alleged to have violated any of the statutes, rules, or regulations listed in, or authorized by, K.S.A. 8-2106 when signed by the officer and filed with a court having jurisdiction over the alleged offense, and
  - (2) a citation, as defined by K.S.A. 32-1049a(b), by a conservation officer or employee of the Kansas Department of Wildlife, Parks, and Tourism having law enforcement authority as described in K.S.A. 32-808 to a person alleged to have violated any of the wildlife, parks, or tourism statutes, rules, or regulations listed in, or authorized by, K.S.A. 32-1049(a) when signed by the officer or employee and filed with a court having jurisdiction.

- (g) **"Courthouse terminal"** means a computer terminal available to the public to access public case records at a courthouse. The courthouse terminal may be in a kiosk.
- (h) **"Efiling"** means the submission of a document through the use of either an approved district court electronic filing system as defined in Rule 122 or the appellate courts' electronic filing system as mandated by Rule 1.14.
- (i) **"Efiling interface"** means the contact point where a filing user submits an electronic document into the case management system which software then routes to appropriate court personnel for review, response, generation of additional documents, or further action.
- (j) **"Electronic access"** means access to case records available to the public through a courthouse terminal or remotely through the public access portal, unless otherwise specified in these rules.
- (k) **"Events index"** means items listed in a chronological index of filings, actions, and events in a specific case, which may include identifying information of the parties and counsel; a brief description or summary of the filings, actions, and events; and other case information. The events index, also referred to as the register of actions, is a record created and maintained by the judicial branch only for administrative purposes that is not part of the case record. The events index must comply with Rule 24.
- (l) **"Filing user"** means any individual who is authorized to submit a document through the Kansas Court eFiling System.
- (m) **"Judicial branch"** means the judicial branch of government, which includes all district and appellate courts, judicial officers, offices of the clerks of the district and appellate courts, the Office of Judicial Administration, court services offices, and judicial branch employees.
- (n) **"Kansas Court eFiling System"** means the Kansas Court Electronic Filing System that the Kansas Supreme Court has approved for use to submit documents in an electronic format to the case management system for Kansas district and appellate courts. The Kansas Court eFiling System (also referred to as the eFiling system) provides a means to view case histories, check the status of submissions, send follow-up documents, and access service lists.
- (o) **"Nondocketable event"** means a note, memorandum, draft, worksheet, or work product of a judge or court personnel that does not record court action taken in a case.
- (p) **"Nonpublic case record"** means any case record that is sealed or made confidential by statute, caselaw, Supreme Court rule, or court order.

- (q) **"Public"** means any person, business, nonprofit entity, organization, association, and member of the media.
- (r) **"Public access portal"** means an Internet, browser-based access point for the public to freely and conveniently access certain public case records. At the discretion of the Kansas judicial branch, the public access portal may require user registration, email or identity verification, or other protocol and may restrict bulk record access.
- (s) **"Public case record"** means any case record that is not sealed or made confidential by statute, caselaw, Supreme Court rule, or court order.
- (t) **"Sealed"** means a case type or document to which access is limited by statute, Supreme Court rule, or court order.
- (u) **"Standard operating procedures"** means those procedures adopted by the judicial administrator, with input from stakeholders, that ensure documents submitted electronically are processed efficiently, increase effectiveness of court operations, and enhance access to justice for the people of Kansas.
- (v) **"Trial exhibit"** means a document or object introduced or admitted into evidence in a court proceeding.

## **Rule 22**

### **ACCESS TO ELECTRONIC DISTRICT COURT CASE RECORDS**

- (a) **Purpose.** Members of the public may access a public case record and the events index through multiple outlets, including a courthouse terminal and the public access portal. Allowing use of the public access portal, an Internet, browser-based access point, expands access to public case records and events indices and increases transparency of the judicial branch. Not all public case records and events indices will be available using the public access portal due to their sensitive nature. This rule identifies the types of cases and documents that will not be accessible through the public access portal. These cases and documents may still be accessible through alternative means, such as at a courthouse terminal.
- (b) **Access.** The ability of the public to access a case record and the events index will depend on the type of case; the nature of the document; and the applicable statutes, caselaw, Supreme Court rules, and court orders. Access to a case record and the event index by an

attorney of record or a party if not represented by an attorney is not governed by this rule. Two levels of public access are possible.

- (1) **Public Access Through the Public Access Portal.** Unless excluded under subsections (c) or (d), a public case record and the events index are accessible for viewing using the public access portal as permitted by statutes, caselaw, Supreme Court rules, and court orders.
  - (2) **Public Access at a Courthouse Terminal.** A public case record and the events index are accessible for viewing at a courthouse terminal as permitted by statutes, caselaw, Supreme Court rules, and court orders.
    - (A) Each district court must maintain a courthouse terminal accessible to the public for viewing and obtaining case records and events indices.
    - (B) A clerk will not compile information or provide bulk distribution of information under Rule 196(e).
    - (C) A request for documents is subject to the Kansas Open Records Act, K.S.A. 45-215 et seq., and other statutes, caselaw, Supreme Court rules, and court orders.
- (c) **Inaccessible Cases.** The following case types are not accessible through the public access portal:
- (1) **Adoptions:** a case filed under the Kansas Adoption and Relinquishment Act, K.S.A. 59-2111 et seq.;
  - (2) **Care and Treatment:** a case filed under the Care and Treatment Act for Mentally Ill Persons, K.S.A. 59-2945 et seq., or under the Care and Treatment Act for Persons with an Alcohol or Substance Abuse Problem, K.S.A. 50-29b45;
  - (3) **Child custody proceedings:** a child custody proceeding under the Kansas Family Law Code, K.S.A. 23-2101 et seq.;
  - (4) **Child in need of care:** a case filed under the Revised Kansas Code for Care of Children, K.S.A. 38-2201 et seq.;
  - (5) **Coroner inquests:** a coroner inquest under K.S.A. 22a-230;
  - (6) **Divorces:** a dissolution of marriage case filed under the Kansas Family Law Code, K.S.A. 23-2101 et seq.;

- (7) **Expunged cases:** a case expunged under K.S.A. 21-6614 or K.S.A. 22-2410;
  - (8) **Grand jury proceedings:** a grand jury proceeding under K.S.A. 22-3001 through K.S.A. 22-3006;
  - (9) **Inquisitions:** an inquisition proceeding under K.S.A. 22-3101 through K.S.A. 22-3105;
  - (10) **Juvenile offender:** a juvenile offender proceeding under the Revised Kansas Juvenile Justice Code, K.S.A. 38-2301 et seq.;
  - (11) **Parentage:** a case filed under the Kansas Parentage Act, K.S.A. 23-2201 et seq.;
  - (12) **Parental bypass:** a parental bypass proceeding under K.S.A. 65-6705;
  - (13) **Protection from abuse:** a case filed under the Protection from Abuse Act, K.S.A. 60-3101 et seq.;
  - (14) **Protection from stalking, sexual assault, or human trafficking:** a case filed under the Protection from Stalking, Sexual Assault, or Human Trafficking Act, K.S.A. 60-31a01 et seq.; and
  - (15) **Uniform Interstate Enforcement of Domestic Violence Protection Orders Act:** a case filed under the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, K.S.A. 60-31b01 et seq.
- (d) **Inaccessible Documents.** The following documents are not accessible through the public access portal:
- (1) **Child Death Review Board:** a Child Death Review Board document filed under K.S.A. 22a-244;
  - (2) **Citations:** a citation filed under K.S.A. 8-2106 or K.S.A. 32-1049;
  - (3) **Coroner reports:** a coroner report filed under K.S.A. 22a-232;
  - (4) **Marriage license documents:** a marriage license document other than the limited marriage license record the district court clerk creates under Supreme Court Rule 106(d);
  - (5) **Poverty affidavits:** a poverty affidavit prepared under K.S.A. 22-4504 or K.S.A. 60-2001;

- (6) **Presentence investigation reports:** a presentence investigation report prepared under K.S.A. 21-6813;
- (7) **Probable cause affidavits:** a probable cause affidavit prepared under K.S.A. 22-2502;
- (8) **Record of an agency proceeding:** a record of an agency proceeding under the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq., or the Kansas Judicial Review Act, K.S.A. 77-601 et seq.;
- (9) **Trial exhibits;** and
- (10) **Warrants:** an arrest warrant issued under K.S.A. 22-2302, a search warrant issued under K.S.A. 22-2502, and any bench warrant.

### **Rule 23**

#### **FILING IN A DISTRICT COURT**

- (a) **Filing User's Obligations.** When filing a document with the district court, at the efiling interface, a filing user must correctly designate the case and document type and indicate if the document is submitted under subsection (b) or certify that the document complies with Rule 24.
  - (1) A court employee is not required to review a document that a filing user submits to ensure that the filing user appropriately designated a case, document, or information.
  - (2) If a document does not comply with these rules, the court may order that the document be segregated from public view until a ruling has been made on its noncompliance.
- (b) **Filing Under Seal.**
  - (1) If a filing user submits a document under a pre-existing seal order, the filing user must affirm by certification on the efiling interface that such an order exists.
  - (2) If at time of filing a filing user believes that a document not covered by a pre-existing seal order should be sealed, the filing user must separately submit a motion to seal that includes a general description of the document at issue. The filing user must affirm by certification on the efiling interface that a motion to

seal has been submitted. The clerk then must designate the document nonpublic until the court rules on the motion to seal.

- (3) A filing user may file a motion to seal a document already on file. The motion must specify the document to be sealed. When a motion to seal is filed, the identified document must be deemed nonpublic until the court rules on the motion to seal.

(c) **District Court Clerk Processing of an eFiled Document.**

- (1) **Document Review.** Upon receipt of a document submitted to a district court using the Kansas Court eFiling System, a clerk of the district court is authorized to return the document only for the following reasons:
  - (A) the document is illegible or in a format that prevents it from being opened;
  - (B) the document does not leave a margin sufficient to affix a file stamp, as required by Rule 111;
  - (C) the document does not have the correct county designation, case number, or case caption; and
  - (D) the applicable fee has not been paid or no poverty affidavit is submitted with the document or already on file in the case.
- (2) **Timeline for a Clerk to Process a Document.** A clerk of the district court must process a document for filing as quickly as possible but not more than four business hours after the filing user submits the document for filing.
- (3) **Return of Document.** If a clerk determines that a document must be returned for any of the reasons listed in subsection (c)(1), the clerk must designate the reason for its return.
- (4) **Quality Review.** If a document is not rejected under subsection (c)(1), a clerk will approve the document for filing in the case management system. The clerk may flag the document for further review as authorized by the standard operating procedures adopted by the judicial administrator.
- (5) **File Stamping a Document.** A document submitted through the Kansas Court eFiling System will be marked with the date and time of original submission.

- (d) **Inclusion of a Paper Document.** If a clerk is authorized to accept a paper document for filing in a case record under a standard operating procedure adopted by the judicial

administrator, the clerk must follow the requirements of that procedure for including the document in the case management system.

## **Rule 24**

### **PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION**

- (a) **Obligation to Redact Personally Identifiable Information.** In all filings, an attorney, or a party if not represented by an attorney, is solely obligated to protect the confidentiality of personally identifiable information as identified in this rule by ensuring that the filing contains no personally identifiable information. A district court clerk has no duty to review a document to ensure compliance with this rule.
  
- (b) **Personally Identifiable Information.** The following is personally identifiable information:
  - (1) the name of a minor and, if applicable, the name of a person whose identity could reveal the name of the minor;
  - (2) the name of an alleged victim of a sex crime;
  - (3) the name of a petitioner in a protection from abuse case;
  - (4) the name of a petitioner in a protection from stalking, sexual assault, or human trafficking case;
  - (5) the name of a juror or venire member;
  - (6) a person's date of birth except for the year;
  - (7) any portion of the following:
    - (A) an email address except when required by statute or rule;
    - (B) a computer user name, password, or PIN; and
    - (C) a DNA profile or other biometric information;
  - (8) the following numbers except for the last four digits:
    - (A) a social security number;

- (B) a financial account number, including a bank, credit card, and debit card account;
  - (C) a taxpayer identification number (TIN);
  - (D) an employee identification number;
  - (E) a driver's license or nondriver's identification number;
  - (F) a passport number;
  - (G) a brokerage account number;
  - (H) an insurance policy account number;
  - (I) a loan account number;
  - (J) a customer account number;
  - (K) a patient or health care number;
  - (L) a student identification number; and
  - (M) a vehicle identification number (VIN); and
- (9) any information identified as personally identifiable information by court order.
- (c) **Exceptions.** The following is not personally identifiable information:
- (1) an account number that identifies the property alleged to be the subject of a proceeding;
  - (2) the name of an emancipated minor;
  - (3) information used by the court for case maintenance purposes that is not accessible by the public;
  - (4) information a party's attorney, or a party if not represented by an attorney, reasonably believes is relevant and material to an issue before the court; and
  - (5) the initials or pseudonym of any person identified in subsections (b)(1) to (b)(5).

- (d) **Administrative Information Required.** When a filing user submits a new case through the Kansas Court eFiling System, the filing user must complete the administrative information requested at the eFiling interface to the extent possible. If an initial pleading in a new case is in paper form, the filer must submit a paper cover sheet that substantially complies with the form located on the judicial council website. The following rules apply.
- (1) Personally identifiable information gathered for administrative purposes when a new case is efiled:
    - (A) if stored electronically, must be accessible only by authorized court personnel and
    - (B) is not subject to reproduction and disposition of court records under Rule 108.
  - (2) Personally identifiable information gathered for administrative purposes using a paper cover sheet:
    - (A) must not be retained in the case file;
    - (B) is not subject to reproduction and disposition of court records under Rule 108; and
    - (C) may be shredded or otherwise destroyed within a reasonable time after the case is entered electronically into the case management system.
  - (3) In an action for divorce, child custody, child support, or maintenance, the administrative information provided must include, to the extent known:
    - (A) the parties' social security numbers;
    - (B) the parties' birth dates; and
    - (C) the parties' child's full name or pseudonym, social security number, and birth date.
- (e) **Certification.** Each document submitted to a court must be accompanied by a certification by an attorney, or by a party if not represented by an attorney, that the document has been reviewed and is submitted under Rule 23(b) or complies with this rule.

- (f) **Remedies and Sanctions.** Failure to comply with this rule is grounds for sanctions against an attorney or a party. Upon motion by a party or interested person, or sua sponte by the court, the court may order remedies for a violation of any requirements of the Kansas eCourt Rules. Following notice and an opportunity to respond, the court may impose sanctions if such filing was not made in good faith.
  - (g) **Motions Not Restricted.** This rule does not restrict a party's right to request a protective order, to move to file a document under seal, or to request the court to seal a document.
  - (h) **Application.** This rule does not affect the application of constitutional provisions, statutes, or court rules regarding confidential information or access to public information.
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## Rule 111

### **FORM OF PLEADINGS AND OTHER PAPERS DOCUMENTS**

~~Unless the court permits otherwise, e~~Every pleading, brief, and other ~~paper~~ document filed with the court must be in ~~black~~ dark ink in a font no smaller than 12-point type that will be legible upon scanning and copying type or print and on only one side of an 8½" x 11" sheet ~~with 1" margins must be of at least 1½ inches, unless otherwise specified by local rule. It~~ The document must include the name, address, telephone number, fax number, and e-mail address of the person filing it. If the document is being filed in an existing case, the case caption, including the case number, must appear on the top of the first page. A ~~paper~~ document filed by an attorney must include the attorney's registration number after the attorney's name. Text must be double-spaced, except that single spacing may be used for a subparagraph, legal description of real estate, itemization, quotation, and similar subsidiary portions of the ~~paper~~ document. Single-spacing may also be used in a form approved by the Supreme Court, the district court in which the document is filed, or the judicial council.