

Invitation to Comment

Title	Access to Electronic Records: Records in Proceedings to Compromise the Claims of Minors or Persons with a Disability (amend Cal. Rules of Court, rule 2.503)
Summary	Rule 2.503(c) of the California Rules of Court contains a list of the types of records in electronic form that must be available at the courthouse, but not by remote electronic access. The list would be expanded to include records in proceedings to compromise the claims of a minor or person with a disability.
Source	<p>Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair</p> <p>Probate and Mental Health Advisory Committee Hon. Marjorie Laird Carter, Chair</p>
Staff	<p>Patrick O’Donnell, Supervising Attorney, 415-865-7665, patrick.o’donnell@jud.ca.gov</p> <p>Douglas C. Miller, Senior Attorney, 415-865-7535, Douglas.miller@jud.ca.gov</p>
Discussion	<p>The California Office of Privacy Protection has characterized the balancing of the competing values of public access to government records with individual privacy rights “as one of the most significant public policy issues Americans face today.” This issue is addressed in the current California Rules of Court on access to electronic trial court records. These rules “are intended to provide the public with reasonable access to trial court records that are maintained in electronic form, while protecting privacy interests.” (Cal. Rules of Court, rule 2.500(a).)</p> <p>To provide reasonable public access and yet protect privacy, the rules on electronic access currently provide for access to many records by remote electronic means, but limit access to records in certain types of cases to the courthouse only. The records available only at the courthouse under rule 2.503(c) include records in family, juvenile, criminal, civil harassment, workplace violence, and elder abuse proceedings.</p> <p>The records that are listed in rule 2.503(c) often contain personal and financial information about family members, juveniles, victims of crime, and victims of harassment and abuse. Because</p>

of the sensitive nature of the information in these records, it is appropriate to limit the availability of these types of records over the Internet.

This proposal would add to the list in rule 2.503(c) records in court proceedings to compromise the claims of a minor or a person with a disability. The reason for adding these additional types of records to the list is straightforward: the documents filed in these proceedings often contain sensitive financial, medical and other personal information of the same or similar types as are already included on the list in (c). Hence, it is appropriate that these records not be made too readily accessible through the Internet.

This proposal would not in any manner change or modify the rules relating to the records on compromises of claims that are available at the courthouse. However, to further protect the privacy of minors and persons with a disability, some further provisions for greater confidentiality of records, or portions of records, relating to the compromise of claims located at courthouses also may be appropriate. Hence, in addition to comments on this specific proposal to amend rule 2.503(c), comments are invited on what additional measures, if any, should be considered in the future to protect the privacy interests of minors and persons with a disability who seek court approval of the compromise of their claims.

Attachment

Rule 2.503 would be amended, effective January 1, 2010, to read as follows:

1 **Rule 2.503. Public access**

2
3 (a) * * *

4
5 (b) **Electronic access required to extent feasible**

6
7 A court that maintains the following records in electronic form must provide
8 electronic access to them, both remotely and at the courthouse, to the extent it is
9 feasible to do so:

- 10
11 (1) Registers of actions (as defined in Gov. Code, § 69845), calendars, and indexes
12 in all cases; and
13
14 (2) All records in civil cases, except those listed in (c)(1)–~~(8)~~(9).

15
16 (c) **Courthouse electronic access only**

17
18 A court that maintains the following records in electronic form must provide
19 electronic access to them at the courthouse, to the extent it is feasible to do so, but
20 may provide remote electronic access only to the records governed by (b):

- 21
22 (1) Records in a proceeding under the Family Code, including proceedings for
23 dissolution, legal separation, and nullity of marriage; child and spousal support
24 proceedings; ~~and~~ child custody proceedings; and domestic violence prevention
25 proceedings;
26
27 (2) Records in a juvenile court proceeding;
28
29 (3) Records in a guardianship or conservatorship proceeding;
30
31 (4) Records in a mental health proceeding;
32
33 (5) Records in a criminal proceeding; ~~and~~
34
35 (6) Records in a civil harassment proceeding under Code of Civil Procedure section
36 527.6;
37
38 (7) Records in a workplace violence prevention proceeding under Code of Civil
39 Procedure section 527.8; ~~and~~
40
41 (8) Records in an elder or dependent adult abuse prevention proceeding under
42 Welfare and Institutions Code section 15657.03; and
43

1 (9) Records in proceedings to compromise the claims of a minor or a person with a
2 disability under Probate Code section 3600 et seq.

3

4 **(d)-(i) * * ***

Item SPR09-42 Response Form

Title: Access to Electronic Records: Records in Proceedings to Compromise the Claims of Minors or Persons with a Disability (amend Cal. Rules of Court, rule 2.503)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

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DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 17, 2009

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.