



Judicial Council of California

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File #: 15-354 **Version:** 1

Type: Rules Proposal **Status:** Passed

File created: 9/23/2015 **In control:** Judicial Council

On agenda: 10/27/2015 **Final action:** 10/27/2015

Title: Appellate Procedure: Access to Electronic Appellate Court Records (Action Required)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 20151027itemA1

Date	Ver.	Action By	Action	Result
10/27/2015	1	Judicial Council	approved	Pass

Title

Appellate Procedure: Access to Electronic Appellate Court Records (Action Required)

Summary

The Appellate Advisory Committee and the Information Technology Advisory Committee recommend the adoption of new rules of court to address public access to electronic appellate court records. The proposed appellate rules are based on the existing rules regarding public access to electronic trial court records. The new rules are intended to provide the public with reasonable access to appellate court records that are maintained in electronic form while protecting privacy interests.

Recommendation

The Appellate Advisory Committee and Information Technology Advisory Committee recommend that the Judicial Council, effective January 1, 2016:

1. Adopt rule 8.80 of the California Rules of Court to:
 - a. State the purpose of the rules in the article as providing the public with reasonable access to appellate court records maintained in electronic form while protecting privacy interests; and
 - b. State the benefits of public access to appellate court records maintained in electronic form; and
 - c. State that the rules of the article do not create new rights of access to records.
2. Adopt rule 8.81 to state the application and scope of the new rules, applying only to records of the Supreme Court and Courts of Appeal, and only to access by the public.
3. Adopt rule 8.82 to define terms used in the new rules, including a definition of “court records” to reflect the types of records maintained by the Courts of Appeal.
4. Adopt rule 8.83 to:
 - a. Provide that all electronic records must be made reasonably available to the public in some form; and
 - b. Provide that electronic access, both remote and at the courthouse, will be provided to certain records including dockets or registers of actions, calendars, opinions, certain Supreme Court records, and records in civil actions if maintained in electronic form; and
 - c. Provide that access to certain documents in electronic form will be at the courthouse only, including any reporter’s transcript for which the reporter is entitled to a fee and records in 10

- specified types of proceedings; and
 - d. In extraordinary cases, give appellate courts discretion to allow remote access to records that would not otherwise be available remotely, with requirements for notice to be given to the parties and the public in advance and for certain information to be redacted from the records to be made available remotely; and
 - e. Limit electronic access to most electronic case records to availability only on a case-by-case basis, with bulk distribution allowed only of certain specified types of records.
5. Adopt rule 8.84 to set certain limitations and conditions on electronic access to appellate court records, including requirements for the means of providing access and requirements for notice to persons accessing records.
 6. Adopt rule 8.85 to state that a court may impose fees for the costs of providing copies of electronic records.