

IN THE SUPREME COURT OF THE STATE OF KANSAS

FILED

September 26, 2023

Administrative Order

DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

2023-RL-070

Order Adopting Supreme Court Rule 160 and Rescinding 2023-RL-018

Effective the date of this order, the court adopts the attached new Supreme Court Rule 160 and rescinds Administrative Order 2023-RL-018, Order Continuing Temporary Rules on Media and Public Access to Court-Initiated Livestreams.

Dated this 26th day of September 2023.

FOR THE COURT



MARLA LUCKERT
Chief Justice

Rule 160

BROADCASTING OR RECORDING A COURT PROCEEDING FOR PUBLIC ACCESS

- (a) **Applicability.** This rule applies to a district court when providing public access to a court proceeding by live broadcasting or by recording the proceeding by any electronic means or method. But this rule does not apply to the following:
- (1) a court electronically recording a proceeding under Rule 360 as part of the court record;
 - (2) a member of the media broadcasting or recording in a court facility as permitted by Rule 1001; and
 - (3) a nonmedia person using an electronic device in a courtroom as permitted by Rule 1002.
- (b) **Permissive Broadcast or Recording; Preservation.** If a court proceeding is open to the public, the court may do one or more of the following:
- (1) broadcast the proceeding live, including by livestreaming over the internet or in a closed-circuit feed;
 - (2) record the proceeding; and
 - (3) preserve any recording of the proceeding.
- (c) **Protecting Integrity of Court Proceeding.** A court should broadcast or record a court proceeding in a manner that protects the integrity of the proceeding. The court may consider any aspect of the broadcasting or recording process that could affect the administration of justice, including whether the process would be inconsistent with the parties' rights and whether the broadcasting or recording activity would unduly distract the parties.
- (d) **Additional Means of Public Access.** The following provisions apply if a broadcast or recording is not the only means for the public to access a court proceeding that is open to the public:
- (1) the court has no duty to stop the proceeding if the broadcast or recording fails for any reason unless the failure impacts the court record; and
 - (2) a party may move the court to prevent public access through a broadcast or recording due to sensitive subject matter or other good cause.

- (e) **Only Means of Public Access.** The following provisions apply if a broadcast is the only means for the public to access a court proceeding that is open to the public:
 - (1) the court must stop the proceeding if the broadcast fails for any reason and must not resume the proceeding until the court either restores the broadcast or provides another means for the public to access the proceeding; and
 - (2) if a party requests to limit public access, the court must comply with applicable law regarding closing a court proceeding, including K.S.A. 60-2617.
- (f) **Initiating and Terminating Broadcast or Recording.** A court must capture the entire proceeding when broadcasting or recording a court proceeding. The court should start the broadcast or recording prior to beginning the proceeding and should continue the broadcast or recording until after terminating the proceeding.
- (g) **Protecting Privileged Attorney-Client Communications.**
 - (1) **Attorney's Responsibility.** An attorney has the ultimate responsibility to prevent privileged attorney-client communications from being broadcast or recorded. The attorney should silence the microphone and be aware of camera angles that could disclose written or oral communications between the attorney and client.
 - (2) **Court's Discretion.** A court should consider taking steps to prevent the broadcasting or recording of privileged attorney-client communications. The court is not required to erase or otherwise change any recording of a privileged communication, but the court may do so on motion of a party.