

Proposed Rule 160: Broadcasting or Recording a Court Proceeding for Public Access

The Kansas Supreme Court is accepting public comment on proposed Rule 160: Broadcasting or Recording a Court Proceeding for Public Access in Rules Relating to District Courts.

The proposed rule permits district courts to broadcast or record a live court proceeding; provides guidance related to the broadcast or recording; and, assigns responsibilities regarding the preservation of protected attorney-client communications.

Comment may be made by email to publiccomments@kscourts.org until noon Saturday, April 8, 2023. The subject line must read "Rule 160."

RULES RELATING TO DISTRICT COURTS

Rule 160

BROADCASTING OR RECORDING A COURT PROCEEDING FOR PUBLIC ACCESS

- (a) **Applicability.** This rule establishes guidelines for a district court to provide public access to a live proceeding by broadcasting or recording the proceeding by any electronic means or method, including livestreaming over the internet and closed-circuit feed. But this rule does not apply to a district court electronically recording a proceeding under Rule 360 as part of the court record.
- (b) **Permissive Broadcast or Recording.** If a court proceeding is open to the public, the court may do any of the following:
 - (1) broadcast the proceeding live;
 - (2) record the proceeding; or
 - (3) preserve any recording of the proceeding.
- (c) **Initiating and Terminating Broadcast or Recording.** When broadcasting or recording a court proceeding, the court should capture the entire proceeding. The court should begin the broadcast or recording prior to convening the proceeding

and should continue the broadcast or recording until after terminating the proceeding. If the broadcast or recording fails for any reason, the court has no duty to stop the proceeding unless the broadcast is the only method of public access to the proceeding.

- (d) **Motion to Limit Broadcast or Recording.** If a party moves to limit public access to a court proceeding in a civil or criminal case, the court must comply with applicable law including K.S.A. 60-2617. If the court closes a proceeding to the public, the court must not broadcast or record the proceeding.
- (e) **Protection of Attorney-Client Communications.** An attorney has the ultimate responsibility to prevent privileged 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. A court should consider taking steps to prevent the broadcasting or recording of attorney-client privileged communications. But the court is not required to erase or otherwise change any recording of a privileged communication.