

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO RULE 2.430, CASE NO. SC06-
FLORIDA RULES OF JUDICIAL
ADMINISTRATION

**Report and Recommendations of the Judicial Branch
Records Management Workgroup**

The Judicial Branch Records Management Workgroup files this report and out-of-cycle petition requesting amendments to rule 2.430, Retention of Court Records, Florida Rules of Judicial Administration. The workgroup recommendations and proposed amendments to rule 2.430 involve matters relating to internal court operations with respect to the retention, maintenance and disposal of judicial branch administrative and court records.

Committee Charge and Membership

The workgroup was created by Administrative Order No. SC04-1, In Re: Judicial Branch Records Management Workgroup, entered on January 6, 2004, by former Chief Justice Harry Lee Anstead. The following individuals were appointed to the workgroup:

The Honorable Robert K. Rouse, Jr., Chair
Circuit Judge, Seventh Judicial Circuit
DeLand, Florida

The Honorable Mary Cay Blanks
Clerk, Third District Court of Appeal
Miami, Florida

The Honorable Nikki Ann Clark
Circuit Judge, Second Judicial Circuit
Tallahassee, Florida

Mr. Tom Long
General Services Manager, Office of the State Courts Administrator
Tallahassee, Florida

Mr. Thomas McKendree
Records Management Liaison Officer, Leon County Clerk's Office
Tallahassee, Florida

Mr. Lynn Rawls
Government Operations Consultant, Florida Department of State
Tallahassee, Florida

The Honorable Cheryl Strickland
Clerk, St. Johns County
St. Augustine, Florida

The workgroup was charged with the following tasks:

- (1) Address and resolve questions from trial and appellate clerks of court and other court personnel concerning retention and destruction of judicial branch records.
- (2) Develop procedures for adding record categories to the retention schedule and notifying trial and appellate clerks of court and other court personnel about changes to the retention schedule.
- (3) Create a protocol, including training of trial and appellate clerk of court and court personnel, to ensure that record categories are interpreted consistently and uniformly throughout in all state courts.
- (4) Define responsibilities of the judicial branch records management liaison officer within the Office of the State Courts Administrator, and the responsibilities of records management liaison officers within the trial and appellate courts.
- (5) Recommend rule changes needed to implement retention schedule requirements.
- (6) Advise the chief justice and Supreme Court, the Office of the State Courts Administrator, and state trial and appellate courts about records management, retention, and destruction issues.

The workgroup met five times during 2004 and 2005, on February 23, 2004, May 14, 2004, July 23, 2004, October 15, 2004, and January 14, 2005.

At the final meeting on January 14, 2005, the workgroup members voted unanimously for each recommendation stated below.

Summary of Committee Recommendations

1. Judicial Branch Records Management Committee

The workgroup recommends creation of a standing Judicial Branch Records Management Committee charged with the following responsibilities:

- oversight of the judicial branch records management and retention program;
- creation of new record categories and amendment of existing retention schedules as needed, with approval of the Florida Supreme Court;
- development of records management and retention policies and procedures;
- proposal of amendments to court rules governing records management and retention issues;
- oversight and coordination of training for judicial branch records management officers and other court employees; and
- Provision of guidance through informal advisory opinions to branch records management officers at the trial and appellate levels.

2. Establishment of records management officer positions

The workgroup recommends appointment by the Supreme Court of a judicial branch records management officer within the Office of the State Courts Administrator. The records management officer will provide advice to the Judicial Branch Records Management Committee, serve as a member of that committee and oversee the management of administrative records of the Florida Supreme Court and Office of the State Courts Administrator. The workgroup also recommends that each appellate and trial court chief judge appoint an administrative records management officer to oversee the administrative records management function in that court. The workgroup recommends that the clerk of the Florida Supreme Court, clerks of the district courts of appeal, and clerks of the circuit and county courts, or their designees, serve as records management officers and oversee management of courts records of which they are custodians.

3. Amendments to rule 2.430, Retention of Court Records, Florida Rules of Judicial Administration

The workgroup recommends that the court records retention schedule presently included within the body of rule 2.430 be deleted from the rule and established separately as the Judicial Branch Records Retention Schedule for Court Records to facilitate ease of amendment to the schedule. The Court in 2002 approved a similar free-standing Judicial Branch Records Retention Schedule for Administrative Records, as well as new rule 2.440 [formerly 2.076], Retention of Judicial Branch Administrative Records, Florida Rules of Judicial Administration. See *Report of the Supreme Court Workgroup on Public Records*, 825 So.2d 889 (Fla. 2002). The workgroup also recommends deletion of all references in rule 2.430 to the Division of Library and Information Services of the Department of State in light of the Court's 2002 adoption of its own administrative records retention rule and retention schedule for judicial branch administrative records.¹ Implicit in the Court's adoption of the rule and retention schedule was a determination that the executive branch Division of Library and Information Services no longer should oversee of the judicial branch's maintenance and disposal of records.

The workgroup in 2005 advised The Florida Bar's Rules of Judicial Administration Committee, through its then chair, Thirteenth Judicial Circuit Judge Claudia Isom, about the workgroup's recommendations for amendments to rule 2.430.

Issues and Recommendations

The following issues address each of the charges stated in AOSC04-1.

¹ Among the recommendations of the Supreme Court Workgroup on Public Records adopted by the Court in 2002 were numerous revisions to rule 2.430 [formerly 2.075], adoption of new rule 2.440 [formerly 2.076], and adoption of a retention schedule for administrative records. See *In Re: Report of the Supreme Court Workgroup on Public Records*. While the report of the workgroup on public records discussed the judicial branch's authority to manage its own records, the workgroup did not recommend deletion of reference to the Division of Library and Information Services in rule 2.430, although the report noted that the legislature in 2000 deleted from section 257.36(6), Florida Statutes, a requirement for approval from the division for destruction of public records in the executive branch.

Issue 1

Address and resolve questions from trial and appellate clerks of court and other court personnel concerning retention and destruction of judicial branch records.

Discussion

The workgroup concluded that record retention and destruction questions should be addressed and answered by a centralized body. The workgroup has addressed numerous questions from clerks and court personnel throughout the state since it was created in January 2004. A permanent committee should be established to respond to record management inquiries on an ongoing basis through issuance of informal advisory opinions. These opinions should be catalogued and made available for review electronically. The Judicial Ethics Advisory Committee has for many years issues similar advisory opinions in response to ethics inquiries submitted by Florida judges. In at least eight states a committee manages judicial records. The workgroup believes that the membership of a permanent Records Management Committee should include individuals from all courts, as well as a representative of the Department of State's Division of Library and Information Services with expertise in addressing records management issues.

Recommendation

The workgroup recommends establishment of a permanent Judicial Branch Records Management Committee. The proposed committee would be charged with the following responsibilities:

- 1) Oversee the judicial branch records management and retention program.
- 2) Create new record categories and amend existing schedules as needed, subject to approval by the Florida Supreme Court.
- 3) Develop records management and records retention policies and procedures.
- 4) Recommend to the Supreme Court amendments to court rules governing records management and retention issues.
- 5) Oversee and coordinate training provided to records management officers and judicial employees.
- 6) Provide guidance to the branch records management officers at the trial and appellate levels through issuance of informal advisory opinions.

The suggested composition and membership terms for the proposed committee are stated in Appendix A.

Issue 2

Develop procedures for adding record categories to the retention schedule, and for notifying trial and appellate clerks of court and other court personnel about changes to the retention schedule.

Discussion

The workgroup recognizes that record retention schedules will need to be amended from time to time, and that, due to the purely administrative nature of the records retention schedule, these amendments should be addressed in an efficient administrative process separate and independent from the rule amendment process provided for under rule 2.140, Florida Rules of Judicial Administration.

Recommendation

The workgroup recommends that the proposed Judicial Branch Records Management Committee consider and make needed changes to the records retention schedules for court and administrative records, subject to the approval of the Florida Supreme Court.

Issue 3

Create a protocol, including training of trial and appellate clerks of court and court personnel, to ensure that record categories are interpreted consistently and uniformly in all state courts.

Discussion

The workgroup concluded that training of court personnel in the area of records management and retention is essential for an effective records management program.

Recommendation

The workgroup recommends that records management training should be the permanent responsibility of the proposed Judicial Branch Records Management Committee.

Issue 4

Define the responsibilities of a judicial branch records management

officer within the Office of the State Courts Administrator, and the responsibilities of records management officers within the trial and appellate courts.

Discussion

The Department of State Division of Library and Information Services requires all executive branch agencies to designate a records management liaison officer to coordinate records management and records destruction activities in each agency. The workgroup reviewed this model and concluded that each trial and appellate court should designate a records management officer to coordinate the records management and retention function in that court. The workgroup further concluded that a judicial branch records management officer is needed to advise the proposed Judicial Branch Records Management Committee.

Recommendation

The workgroup recommends that:

- 1) The chief justice appoint a judicial branch records management officer to advise the Judicial Branch Records Management Committee, serve as a member of that committee, and oversee the management of administrative records of the Florida Supreme Court and Office of the State Courts Administrator.
- 2) The chief judge of each appellate court should appoint an administrative records management officer to oversee the administrative record management function.
- 3) The chief judge of each circuit court should appoint a records management officer to oversee the administrative record management function in that court.
4. The clerk of the Florida Supreme Court, clerks of the District Courts of Appeal and clerks of the circuit and county courts serve as Records Management Officers and oversee the management of court records of which they are the custodian.

Responsibilities of records management officers are stated in Appendix B.

Issue 5

Recommend rule changes needed to implement retention schedule requirements.

Discussion

Rule 2.430 currently includes a detailed retention schedule for court records. Amendments or additions to these requirements require formal amendment to the rule. This process is cumbersome and time-consuming.

Recommendation

The workgroup recommends the creation of the Judicial Branch Records Retention Schedule for Court Records. *See* Appendix D. The workgroup recommends that all references to oversight by the Department of State's Division of Library and Information Services be deleted from Rule 2.430. The workgroup's proposed amendments to rule 2.430 are stated in Appendix C.

Issue 6

Advise the Chief Justice and Supreme Court, the Office the State Courts Administrator, and state trial and appellate courts about records management, retention, and destruction issues.

Discussion

The workgroup recognized the need for courts and court personnel to be able to seek advice from knowledgeable sources regarding records retention issues.

Recommendation

The proposed Judicial Branch Records Management Committee and proposed judicial branch records management officer will provide records management advice to all courts and related entities and officials, including the circuit and county clerks of court.

Issue 7

Authority of the Judicial Branch Records Management Committee to create new records categories or amend records retention schedules.

Discussion

The workgroup discussed three alternatives that address the committee's authority:

- 1) The Records Management Committee will have the authority to amend administrative and court records retention schedules.
- 2) The Records Management Committee will submit to the Florida Supreme Court proposed amendments to

administrative and court records retention schedules. Within 90 days the court may accept, reject, or modify any proposed amendment. If the Court chooses not to act, the amendment(s) will become effective after 90 days.

3) The Records Management Committee will make recommendations to the Florida Supreme Court regarding proposed amendments to administrative and court records retention schedules. Any proposed amendment will be effective only upon affirmative adoption by the court.

Recommendation

The workgroup recommends option 2: The Records Management Committee will submit to the Florida Supreme Court proposed amendments to administrative and court records retention schedules. The Court may accept, reject, or modify any proposed amendment within 90 days. If the Court chooses not to act, the amendment(s) will become effective after 90 days.

Respectfully submitted,

Robert K. Rouse
Circuit Judge, Seventh Judicial Circuit
Volusia County Courthouse
101 North Alabama Avenue
DeLand, FL 32724

Chair, Judicial Branch Records
Management Workgroup

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the report and petition of the Judicial Branch Records Management Workgroup is submitted in Times New Roman 14-point font, in compliance with rule 9.210(a)(2), Florida Rules of Appellate Procedure.

Robert K. Rouse
Chair
Judicial Branch Records Management
Workgroup

APPENDIX A

JUDICIAL BRANCH RECORDS MANAGEMENT COMMITTEE

SECTION I. ENABLING AUTHORITY:

Pursuant to the administrative authority conferred in Article V, sections 2(a) and (b), Florida Constitution, there is created a Judicial Branch Records Management Committee.

SECTION II. PURPOSE:

The Records Management Committee shall:

- A) Oversee the Judicial Branch records management and retention program.
- B) Create new records retention schedules and amend existing schedules as needed.
- C) Develop records management and records retention policies and procedures.
- D) Recommend to the Supreme Court amendments to court rules governing records management and retention issues.
- E) Oversee and coordinate training provided to records management officers and court employees.
- F) Provide guidance to records management officers through issuance of advisory opinions.

SECTION III. COMPOSITION:

The Records Management Committee shall be composed of the following persons:

- A) the judicial branch records management officer
- B) a circuit judge
- C) a county judge
- D) a clerk of the circuit and county court
- E) a clerk of a district court of appeal
- F) a representative of The Florida Bar
- G) a trial court administrator
- H) a representative from the Department of State, Division of Library and Information Services
- I) a person appointed by the chief justice

SECTION IV. CHAIR AND VICE-CHAIR:

The members of the Committee shall elect a chair and a vice-chair and each shall serve for a term of one calendar year. A majority vote of all of the members of the Committee shall be required to elect the chair and vice-chair.

SECTION V. TERMS:

- A) The circuit judge, county judge, and clerk of the circuit and county court shall serve three-year terms.
- B) The trial court administrator, clerk of the district court of appeal, and Florida Bar Representative shall serve two-year terms.
- C) All other members shall serve at the pleasure of the Chief Justice.

SECTION VI. COMPLIANCE WITH COMMITTEE OPINIONS

The Judicial Branch Records Management Committee is charged with issuing advisory opinions concerning the retention of records of the judicial branch. The committee's opinions are advisory to the inquiring party and to judicial branch records custodians at large. Conduct that is consistent with an advisory opinion issued by the committee is evidence of good faith on the part of the records custodian.

SECTION VII. STAFFING:

The Office of the State Courts Administrator shall provide staff to the Committee as needed.

APPENDIX B

RECORDS MANAGEMENT OFFICERS

I. DESCRIPTION

A Judicial Branch Judicial Records Management Officer shall be appointed to advise the Judicial Branch Records Management Committee, serve as a member of that committee, and oversee the management of administrative records of the Florida Supreme Court and the Office of the State Courts Administrator. Each district court shall appoint a records management officer to oversee the administrative records management function. Each circuit shall appoint a records management officer to oversee the administrative record management function for that court. The clerk of the Florida Supreme Court, clerks of the district courts of appeal and clerks of the circuit and county courts, or their designees, shall serve as records management officers and oversee the management of court records of which they are the custodian.

II. RESPONSIBILITIES

Records Management Officers shall:

- 1) Authorize the destruction of judicial branch records.
- 2) Recommend the creation of new schedules and amendments to existing judicial branch retention schedules.
- 3) Provide training and guidance regarding records retention and management practices.

III. APPOINTMENTS

- 1) The chief justice of the Florida Supreme Court shall appoint the judicial branch records management officer.
- 2) The chief judge of each district court of appeal shall appoint an administrative records management officer.
- 3) The chief judge of each circuit shall appoint an administrative records management officer.

APPENDIX C

PROPOSED RULE AMENDMENTS

RULE 2.430. RETENTION OF COURT RECORDS

(a) **Definitions.** The following definitions apply to this rule:

(1) “Court records” mean the contents of the court file, including the progress docket and other similar records generated to document activity in a case, transcripts filed with the clerk, documentary exhibits in the custody of the clerk, and electronic records, video tapes, or stenographic tapes of depositions or other proceedings filed with the clerk, and electronic records, videotapes or stenographic tapes of court proceedings.

(2) “After a judgment has become final” means:

(A) when a final order, final judgment, final docket entry, final dismissal, or nolle prosequi has been entered as to all parties, no appeal has been taken, and the time for appeal has expired; or

(B) when a final order, final judgment, or final docket entry has been entered, an appeal has been taken, the appeal has been disposed of, and the time for any further appellate proceedings has expired.

(3) “Permanently recorded” means that a document has been microfilmed, optically imaged, or recorded onto an electronic record keeping system in accordance with standards adopted by the ~~Division of Library and Information Services of the Department of State~~ judicial branch.

~~(b) **Required Consent.** Disposal of court records under this rule is subject to obtaining any consent required by law from the Division of Library and Information Services of the Department of State.~~

~~(e)~~ **(b) Permanently Recorded Records.** Court records, except exhibits, that have been permanently recorded ~~in accordance with standards adopted by the Division of Library and Information Services of the Department of State~~, may be destroyed or otherwise disposed of by the clerk at any time after a judgment has become final.

~~(d)~~ **(c) Records Not Permanently Recorded.** No court records under this subdivision shall be destroyed or disposed of until the final order, final

docket entry, or final judgment is permanently recorded for, or recorded in, the public records. The time periods shall not apply to any action in which the court orders the court records to be kept until the court orders otherwise. When an order is entered to that effect, the progress docket and the court file shall be marked by the clerk with a legend showing that the court records are not to be destroyed or disposed of without a further order of court. Any person may apply for an order suspending or prohibiting destruction or disposition of court records in any proceeding. Court records, except exhibits, that are not permanently recorded may be destroyed or disposed of by the clerk after a judgment has become final in accordance with the following schedule: Judicial Branch Records Retention Schedule for Court Records.

(1) ~~For trial courts~~

~~(A) 60 days — Parking tickets and noncriminal traffic infractions after required audits have been completed.~~

~~(B) 2 years — Proceedings under the Small Claims Rules, Medical Mediation Proceedings.~~

~~(C) 5 years — Misdemeanor actions, criminal traffic violations, ordinance violations, civil litigation proceedings in county court other than those under the Small Claims Rules, and civil proceedings in circuit court except marriage dissolutions and adoptions.~~

~~(D) 10 years — Probate, guardianship, and mental health proceedings.~~

~~(E) 10 years — Felony cases in which no information or indictment was filed or in which all charges were dismissed, or in which the state announced a nolle prosequi, or in which the defendant was adjudicated not guilty.~~

~~(F) 75 years — Juvenile proceedings containing an order permanently depriving a parent of custody of a child, and adoptions, and all felony cases not previously destroyed.~~

~~(G) Juvenile proceedings not otherwise provided for in this subdivision shall be kept for 5 years after the last entry or until the child reaches the age of majority, whichever is later.~~

~~(H) Marriage dissolutions — 10 years from the last record activity. The court may authorize destruction of court records not involving alimony, support, or custody of children 5 years from the last record activity.~~

- (2) For district courts of appeal
 - (A) 2 years — noncriminal court records.
 - (B) 5 years — Criminal court records.

- (3) For the Supreme Court
 - (A) 5 years — All cases disposed of by order not otherwise provided for in this rule.
 - (B) 10 years — Cases disposed of by order involving individuals licensed or regulated by the court and noncriminal court records involving the unauthorized practice of law.

~~(e) **Records to be retained permanently.** The following court records shall be permanently recorded or permanently retained.:~~

- ~~(1) progress dockets, and other similar records generated to document activity in a case, and~~
- ~~(2) court records of the supreme court in which the case was disposed of by opinion.~~

~~(f) **Court Reporters' Notes.** Court reporters or persons acting as court reporters for judicial or discovery proceedings shall retain the original notes or electronic records of the proceedings or depositions until the times specified below:~~

- ~~(1) 2 years from the date of preparing the transcript — Judicial proceedings, arbitration hearings, and discovery proceedings when an original transcript has been prepared.~~
- ~~(2) 10 years — Judicial proceedings in felony cases when a transcript has not been prepared.~~
- ~~(3) 5 years — All other judicial proceedings, arbitration hearings, and discovery proceedings when a transcript has not been prepared.~~

~~When an agreement has been made between the reporter and any other person and the person has paid the reasonable charges for storage and retention of the notes, the notes or records shall be kept for any longer time agreed on. All reporters' notes shall be retained in a secure place in Florida.~~

~~(g) **Exhibits.**~~

- ~~(1) Exhibits in criminal proceedings shall be disposed of as provided by law.~~

~~(2) All other exhibits shall be retained by the clerk until 90 days after a judgment has become final. If an exhibit is not withdrawn pursuant to subdivision (i) within 90 days, the clerk may destroy or dispose of the exhibits after giving the parties or their attorneys of record 30 days' notice of the clerk's intention to do so. Exhibits shall be delivered to any party or attorney of record calling for them during the 30-day time period.~~

~~(h)~~ **(d) Disposition Other Than Destruction.** Before destruction or disposition of court records under this rule, any person may apply to the court for an order requiring the clerk to deliver to the applicant the court records that are to be destroyed or disposed of. All parties ~~and the Division of Library and Information Services of the Department of State~~ shall be given notice of the application, ~~by the applicant.~~ The court shall dispose of that court record as appropriate.

~~(i)~~ **(e) Release of Court Records.** This rule does not limit the power of the court to release exhibits or other parts of court records that are the property of the person or party initially placing the items in the court records. The court may require copies to be substituted as a condition to releasing the court records under this subdivision.

~~(j)~~ **(f) Right to Expunge Records.** Nothing in this rule shall affect the power of the court to order records expunged.

~~(k)~~ **(g) Sealed Records.** No record which has been sealed from public examination by order of court shall be destroyed without hearing after such notice as the court shall require.

APPENDIX D

PROPOSED JUDICIAL BRANCH RECORDS RETENTION SCHEDULE FOR COURT RECORDS

I. SUPREME COURT

A) All cases disposed of by order not otherwise provided for in this schedule.

RETENTION: 5 years

B) Cases disposed of by order involving individuals licensed or regulated by the court and noncriminal court records involving the unauthorized practice of law.

RETENTION: 10 years

II. DISTRICT COURTS OF APPEAL

A) Noncriminal court records

RETENTION: 2 years

B) Criminal court records

RETENTION: 5 years

III. TRIAL COURTS

A) Parking tickets and noncriminal traffic infractions after required audits have been completed.

RETENTION: 60 days

B) Proceedings under the Small Claims Rules, Medical Mediation Proceedings.

RETENTION: 2 years

C) Misdemeanor actions, criminal traffic violations, ordinance violations, civil litigation proceedings in county court other than those under the Small Claims Rules, and civil proceedings in circuit court except marriage dissolutions and adoptions.

RETENTION: 5 years

D) Probate, guardianship, and mental health proceedings.

RETENTION: 10 years

E) Felony cases in which no information or indictment was filed or in which all charges were dismissed, or in which the state announced a nolle prosequi, or in which the defendant was adjudicated not guilty.

RETENTION: 10 years

F) Juvenile proceedings containing an order permanently depriving a parent of custody of a child, and adoptions, and all felony cases not previously destroyed.

RETENTION: 75 years

G) Juvenile proceedings not otherwise provided for in this subdivision shall be kept for 5 years after the last entry or until the child reaches the age of majority, whichever is later.

H) Marriage dissolutions — 10 years from the last record activity. The court may authorize destruction of court records not involving alimony, support, or custody of children 5 years from the last record activity.

IV. RECORDS TO BE RETAINED PERMENTLY

The following court records shall be permanently recorded or permanently retained:

A) progress dockets, and other similar records generated to document activity in a case, and

B) court records of the Supreme Court in which the case was disposed of by opinion.

V. COURT REPORTERS' NOTES

Court reporters or persons acting as court reporters for judicial or discovery proceedings shall retain the original notes or electronic records of the proceedings or depositions until the times specified below:

A) Judicial proceedings, arbitration hearings, and discovery proceedings when an original transcript has been prepared.

RETENTION: 2 years from the date of preparing the transcript.

B) Judicial proceedings in felony cases when a transcript has not been prepared.

RETENTION: 10 years

C) All other judicial proceedings, arbitration hearings, and discovery proceedings when a transcript has not been prepared.

RETENTION: 5 years

When an agreement has been made between the reporter and any other person and the person has paid the reasonable charges for storage and retention of the notes, the notes or records shall be kept for any longer time agreed on. All reporters' notes shall be retained in a secure place in Florida.

VI. EXHIBITS

A. Exhibits in criminal proceedings shall be disposed of as provided by law.

B. All other exhibits shall be retained by the clerk until 90 days after a judgment has become final. If an exhibit is not withdrawn pursuant to subdivision (i) within 90 days, the clerk may destroy or dispose of the exhibits after giving the parties or their attorneys of record 30 days' notice of the clerk's intention to do so. Exhibits shall be delivered to any party or attorney of record calling for them during the 30-day time period.

APPENDIX E

PROPOSED RULE AMENDMENTS

RULE 2.430, RETENTION OF COURT RECORDS

Proposed Amendments	Reason for Change
<p>(a) Definitions. The following definitions apply to this rule:</p> <p>(1) “Court records” mean the contents of the court file, including the progress docket and other similar records generated to document activity in a case, transcripts filed with the clerk, documentary exhibits in the custody of the clerk, and electronic records, video tapes, or stenographic tapes of depositions or other proceedings filed with the clerk, and electronic records, videotapes or stenographic tapes of court proceedings.</p> <p>(2) “After a judgment has become final” means:</p> <p>(A) when a final order, final judgment, final docket entry, final dismissal, or nolle prosequi has been entered as to all parties, no appeal has been taken, and the time for appeal has expired; or</p> <p>(B) when a final order, final judgment, or final docket entry has been entered, an appeal has been taken, the appeal has been disposed of, and the time for any further appellate proceedings has expired.</p> <p>(3) “Permanently recorded” means that a document has been microfilmed, optically imaged, or recorded onto an electronic record keeping system in accordance with standards adopted by the Division of Library and Information Services</p>	<p>Amend to delete reference to the Division of Library and Information Services of the Department of State and its standards.</p>

<p>of the Department of State <u>judicial branch.</u></p> <p>(b) Required Consent. Disposal of court records under this rule is subject to obtaining any consent required by law from the Division of Library and Information Services of the Department of State.</p> <p>(e) (b) Permanently Recorded Records. Court records, except exhibits, that have been permanently recorded in accordance with standards adopted by the Division of Library and Information Services of the Department of State, may be destroyed or otherwise disposed of by the clerk at any time after a judgment has become final.</p> <p>(d) (c) Records Not Permanently Recorded. No court records under this subdivision shall be destroyed or disposed of until the final order, final docket entry, or final judgment is permanently recorded for, or recorded in, the public records. The time periods shall not apply to any action in which the court orders the court records to be kept until the court orders otherwise. When an order is entered to that effect, the progress docket and the court file shall be marked by the clerk with a legend showing that the court records are not to be destroyed or disposed of without a further order of court. Any person may apply for an order suspending or prohibiting destruction or disposition of court records in any proceeding. Court records, except exhibits, that are not permanently recorded may be destroyed or disposed of by the clerk after a judgment has become final in accordance with the following schedule: <u>Judicial Branch Records Retention Schedule for Court Records.</u></p>	<p>Amend to delete reference to required consent from the Division of Library and Information Services of the Department of State.</p> <p>Amend to re-number subdivision and to delete reference to the Division of Library and Information Services of the Department of State.</p> <p>Amend to re-number subdivision and to reference the Judicial Branch Records Retention Schedule for Court Records.</p>
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<p>(1) For trial courts</p> <p>(A) 60 days — Parking tickets and noncriminal traffic infractions after required audits have been completed.</p> <p>(B) 2 years — Proceedings under the Small Claims Rules, Medical Mediation Proceedings.</p> <p>(C) 5 years — Misdemeanor actions, criminal traffic violations, ordinance violations, civil litigation proceedings in county court other than those under the Small Claims Rules, and civil proceedings in circuit court except marriage dissolutions and adoptions.</p> <p>(D) 10 years — Probate, guardianship, and mental health proceedings.</p> <p>(E) 10 years — Felony cases in which no information or indictment was filed or in which all charges were dismissed, or in which the state announced a nolle prosequi, or in which the defendant was adjudicated not guilty.</p> <p>(F) 75 years — Juvenile proceedings containing an order permanently depriving a parent of custody of a child, and adoptions, and all felony cases not previously destroyed.</p> <p>(G) Juvenile proceedings not otherwise provided for in this subdivision shall be kept for 5 years after the last entry or until the child reaches the age of</p>	<p>Amend to delete retention schedule.</p>
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majority, whichever is later.
~~(H) Marriage dissolutions — 10 years from the last record activity. The court may authorize destruction of court records not involving alimony, support, or custody of children 5 years from the last record activity.~~

~~(2) For district courts of appeal~~

- ~~—— (A) 2 years — noncriminal court records.~~
- ~~—— (B) 5 years — Criminal court records.~~

~~(3) For the Supreme Court~~

- ~~(A) 5 years — All cases disposed of by order not — otherwise provided for in this rule.~~
- ~~(B) 10 years — Cases disposed of by order involving individuals licensed or regulated by the court and noncriminal court records involving the unauthorized practice of law.~~

~~(e) **Records to be retained permanently.** The following court records shall be permanently recorded or permanently retained:~~

- ~~(1) progress dockets, and other similar records generated to document activity in a case, and~~
- ~~(2) court records of the supreme court in which the case was disposed of by opinion.~~

~~(f) **Court Reporters' Notes.** Court reporters or persons acting~~

Amend to delete retention schedule.

Amend to delete retention schedule.

as court reporters for judicial or discovery proceedings shall retain the original notes or electronic records of the proceedings or depositions until the times specified below:

(1) 2 years from the date of preparing the transcript—Judicial proceedings, arbitration hearings, and discovery proceedings when an original transcript has been prepared.

(2) 10 years—Judicial proceedings in felony cases when a transcript has not been prepared.

3) 5 years—All other judicial proceedings, arbitration hearings, and discovery proceedings when a transcript has not been prepared.

When an agreement has been made between the reporter and any other person and the person has paid the reasonable charges for storage and retention of the notes, the notes or records shall be kept for any longer time agreed on. All reporters' notes shall be retained in a secure place in Florida.

(g) Exhibits.

—(1) Exhibits in criminal proceedings shall be disposed of as provided by law.

—(2) All other exhibits shall be retained by the clerk until 90 days after a judgment has become final. If an exhibit is not

Amend to delete retention schedule.

<p>withdrawn pursuant to subdivision (i) within 90 days, the clerk may destroy or dispose of the exhibits after giving the parties or their attorneys of record 30 days' notice of the clerk's intention to do so. Exhibits shall be delivered to any party or attorney of record calling for them during the 30-day time period</p> <p>(h) (d) Disposition Other Than Destruction. Before destruction or disposition of court records under this rule, any person may apply to the court for an order requiring the clerk to deliver to the applicant the court records that are to be destroyed or disposed of. All parties and the Division of Library and Information Services of the Department of State shall be given notice of the application by the applicant. The court shall dispose of that court record as appropriate.</p> <p>(i) (e) Release of Court Records. This rule does not limit the power of the court to release exhibits or other parts of court records that are the property of the person or party initially placing the items in the court records. The court may require copies to be substituted as a condition to releasing the court records under this subdivision.</p> <p>(j) (f) Right to Expunge Records. Nothing in this rule shall affect the power of the court to order records expunged.</p> <p>(k) (g) Sealed Records. No record which has been sealed from public examination by order of court shall be destroyed without hearing after such notice as the court shall require.</p>	<p>Amend to re-number subdivision and to delete reference to the Division of Library and Information Services of the Department of State.</p> <p>Amend to re-number subdivision.</p> <p>Amend to re-number subdivision.</p> <p>Amend to re-number subdivision.</p>
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APPENDIX F
CERTIFICATION

I certify that I read rule 2.430, Florida Rules of Judicial Administration, contained in Appendices C, D and E of this report and petition, against rule 2.076 [re-numbered rule 2.430 by *In Re: Amendments to the Florida Rules of Judicial Administration –Reorganization of the Rules*, Case No. SC05-1558 (Fla. Sept. 21, 2006)], Florida Rules of Judicial Administration, as published in *Thompson/West Florida Rules of Court, State, 2006*.

Laura Rush
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Office of the State Courts Administrator

