



WYOMING LEGISLATIVE SERVICE OFFICE

Remote Access to Court Records

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Re: Remote Access to Court Records

INTRODUCTION

This introductory brief provides a high-level summary from the Legislative Service Office (LSO) describing the status of remote access to public court records in Wyoming. This topic was added to the interim work of the Joint Appropriations Committee (JAC) by Management Council at its March 22, 2019 meeting. Specifically, the approved topic states:

The Committee will review the status of storage and access to public court records and documents, especially within the district and circuit courts, to improve access, including access for documents necessary for background checks. The Committee will review and consider the revenues used to fund implementation of needed and desired technology upgrades, including subscription-based funding models utilized in other states, i.e., Utah, as a means of providing a sustained source of funding for court record automation and the Judicial Branch IT budget.

Historically, all public court records were retained at courthouses and open to any member of the public willing to visit the courthouse in person. Technological advancements have resulted in changes to document management and access in courts

around the nation. The Wyoming Judicial Branch has undertaken multiple and ongoing efforts to implement and upgrade technology in the courts including eFiling,¹ automated jury notification, and courtroom technology. These efforts, although related, are distinct from the JAC interim topic, which focuses on remote access to court records. The following definitions from the Wyoming Supreme Court's *Rules Governing Access to Court Records* help illustrate the scope of this interim topic:

- "Court records" means case records and administrative records, in whatever format, **except** personnel records, judicial or judicial staff work product, internal electronic or physical mail, memoranda or drafts, appellate case assignments, and records made confidential by statute, administrative rule, court rule, or court order. (*Emphasis added.*)
- "Public access" means that the public may inspect and obtain a copy of the information in a court record unless prohibited by statute, administrative rule, court rule, or court order.
- "Remote access" means the ability electronically to search, inspect, or copy information in a court record without the

¹ eFiling refers to the method attorneys use to file documents with the court. eFiling means the attorney files briefs, motions, notices, responses, affidavits, and any other written document with a court electronically over the internet by uploading documents from the attorney's computer.

need to physically visit the court facility where the record is maintained.

STATUS OF PUBLIC AND REMOTE ACCESS TO COURT RECORDS²

In Wyoming, public access to court records varies by court. Currently, only the Wyoming Supreme Court has implemented remote access to its records through its online public docket.³ These records are searchable and available online without a fee charged to the user. The records exclude most lower court documents for appellate cases. Opinions issued by the Wyoming Supreme Court are also available online.

State district courts currently do not provide remote access to court records. Public access to district court records is available through computer terminals that the public may use by visiting the local courthouse. The district courts do not charge a fee to use the public access terminal. Through this terminal, the public may review any court record that is not confidential held by a district court clerk in Wyoming. The user cannot print from a terminal, but the district court will produce copies of court records for a fee set by statute and rule. The Wyoming Supreme Court is in the process of replacing the existing case management system in district courts, WyUser, with FullCourt Enterprise produced by the vendor Justice Systems, Inc.

Circuit courts currently do not provide remote access to court records. Like the district courts, public access to circuit court records is available through computer terminals. The terminals provide for access to a more limited scope of circuit court information than that of

the district court terminals. The information available from the circuit court terminal includes summary information for cases such as the names of parties and the judgment but excludes images of documents. The public may access physical copies of court records that are not confidential from the circuit court clerk for a fee. The Wyoming Supreme Court is also in the process of upgrading the case management system for circuit courts to FullCourt Enterprise, the same system that will be utilized in district courts.

RECENT EFFORTS ON REMOTE ACCESS

The Board of Judicial Policy and Administration (BJPA) formed the District Court Automation Committee and Circuit Court Automation Committee to address policy decisions which arise in the implementation of the new statewide case management system, FullCourt Enterprise. The Court Automation Committees created a public access subcommittee to consider remote access. The subcommittee has proposed several options, including policies outlining the records that would not be remotely available and options to establish a paywall for records.

In recent years, the Joint Judiciary Interim Committee has actively monitored the status of remote access to court records and other court technology projects. During the 2018 interim, the Joint Judiciary Interim Committee received testimony at its public meetings on "Confidentiality and Electronic Public Access

² Access to municipal court records is not discussed in this introductory brief.

³ The online public docket is accessible at: <https://efiling.courts.state.wy.us/public/caseSearch.do>. Supreme Court opinions are accessible at: <https://www.courts.state.wy.us/opinions/>. According to its staff, the Supreme Court contracted for eFiling and remote public access in 2006 for approximately \$1.6 million. Of the total, \$160,000 was for remote access to appellate court records. The system for publishing Supreme Court opinions was created in-house and associated costs include development tools and the salary of the developer position. Note that the Wyoming Supreme Court caseload is more limited than that of the lower courts with 300 cases filed in 2018.

to Court Dockets."⁴ It convened a working group consisting of members of the Committee and representatives of the Judicial Branch to further consider remote access to court documents, funding, and protecting confidential information in court records. The working group reported back to the Committee in September that remote access was several years away and encouraged the Committee to continue to consider issues related to confidentiality and remote access. The Committee did not sponsor any legislation related to the topic during the 2019 legislative session.

Staff members of the Wyoming Supreme Court report that the Judicial Branch, based on its understanding of legislative direction, has focused its efforts on eFiling and implementing the unified case management system, FullCourt Enterprise, in circuit courts and district courts. Absent judicial policy changes or new legislative direction, remote access remains a priority but is slated to occur after other efforts are completed.

Estimated costs, timelines, fees, other supporting revenue, and statutory or rule changes necessary to fully implement remote access to state district and circuit court records have not yet been determined.

FUNDING AND APPROPRIATIONS FOR COURT INFORMATION TECHNOLOGY

Generally, the Legislature appropriates funds for court information technology from the

General Fund and the Supreme Court's special revenue account, the Judicial Systems Automation Account.⁵ Under W.S. 5-2-120, the funds in the Judicial System Automation Account may only be expended for the "purchase, maintenance and operation of computer hardware, including court information technology equipment,⁶ and software to enhance the communication, records and management needs of the courts of the judicial branch of the state of Wyoming." The Judicial Systems Automation Account is funded through the imposition of a court automation filing fee for most Supreme, district, and circuit court cases. The Legislature increased the court automation fee from \$10.00 to \$25.00 in 2017 and increased the fee in certain district court cases again in 2019 from \$25.00 to \$30.00.⁷

Total appropriations approved for statewide Supreme Court information technology expenditures have varied from a low of \$9.4 million per biennium to a high of \$12.5 million since the 2009-2010 biennium. While total statewide judicial information technology expenditures administered by the Supreme Court have hovered around 20 percent of the total Supreme Court appropriation, a larger portion of the funding is supported by special revenue as opposed to state General Funds. See Table 1 for additional information.

⁴ A memorandum from the LSO prepared for the Joint Interim Judiciary Committee describing the topic and the court rules that govern public access to court records is available on LSO's website at: <https://wyoleg.gov/InterimCommittee/2018/01-201805072-01JudicialUpdatesMemorandum.pdf>.

⁵ The Judicial Systems Automation Account was created in 2000 Wyo. Sess. Laws, ch. 25; 2000 House Bill 31.

⁶ W.S. 5-2-120(d)(i) defines court information technology equipment to mean hardware equipment located in state court facilities necessary to meet, but not exceed, court information technology equipment standards adopted by the board of judicial policy and administration.

⁷ 2017 Wyo. Sess. Laws, ch. 105; 2017 House Bill 192 and 2019 Wyo. Sess. Laws, ch. 171; 2019 House Bill 125.

Table 1. History of Supreme Court Information Technology Appropriations.

Biennium	Total IT Appropriation	% of Total Budget for Supreme Court	General Funds	Special Revenue
2009-2010	\$10,693,138	22.9%	\$4,850,468	\$5,842,670
2011-2012	\$10,690,706	21.6%	\$2,774,369	\$7,916,337
2013-2014	\$9,274,611	18.5%	\$6,953,646	\$2,320,965
2015-2016	\$9,639,006	17.4%	\$5,356,220	\$4,282,786
2017-2018	\$9,425,648	17.0%	\$4,682,503	\$4,743,145
2019-2020	\$12,467,153	20.1%	\$2,349,714	\$10,117,439

Source: LSO Budget and Fiscal Section review of appropriations bills.

UTAH FUNDING MODEL

As part of the interim topic, the JAC is directed to review revenues that may be used to fund technology upgrades, including subscription-based funding models.

Utah district court and justice court records are available through a subscription-based online repository called XChange.⁸ XChange provides summary information about cases such as the names of parties, party addresses (if available), assigned judges, attorneys of record, documents filed, hearings held, judgments entered, and the outcome of completed cases. Images of public documents filed in district court cases are available for purchase on XChange.

To access XChange, users must complete a subscription agreement and pay an initial fee of \$25.00. The subscription fee for each month is \$30.00 for up to 200 searches. After 200 searches in a month, the cost of a search is \$0.10 per search. A search is defined as each time the user searches by a specific parameter, such as name, case number, or other criteria. The cost of accessing images of public documents is \$0.50 per document.

⁸ The XChange is accessible at: <https://www.utcourts.gov/xchange/>.