

**PROPOSED AMENDMENTS TO THE  
UNIFORM RULES FOR SUPERIOR COURT,  
APPROVED FOR FIRST READING, JANUARY 19, 2017**

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<b>Approved for First Reading</b>		<b>page 2</b>
<b>Rule 22</b>	<b>Recording and Coverage of Judicial Proceedings</b>	<b>page 2</b>
<b>Rule 45</b>	<b>Court Security and Emergency Operations</b>	<b>page 10</b>

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**UNIFORM SUPERIOR COURT RULE 22. ELECTRONIC AND PHOTOGRAPHIC NEWS  
RECORDING AND COVERAGE OF JUDICIAL PROCEEDINGS.**

**(a) Purpose.** Unless otherwise required by statutory or decisional law or rule of the Supreme Court, this rule specifies the permitted and prohibited uses of recording devices in a courtroom and comports with the standards provided in O.C.G.A. § 15-1-10.1 for determining how the use of a recording device would impact the public interest and the rights of the parties in open judicial proceedings. A court must use reasonable means to advise courtroom visitors of the provisions of this rule. A violation of this rule may be punishable as contempt. Violators may be removed or excluded from the courtroom.

**(b) Definitions.** The following definitions apply in this rule:

(1) A “recording device” is a device capable of electronically or mechanically storing, accessing, or transmitting sounds or images. The term encompasses, among other things, a computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone or other wireless phone; a camera and other audio or video recording devices; a personal digital assistant (PDA); or other devices including those that provide internet access; and any similar items.

(2) “Recording” means photographing, audio or video recording, retaining, broadcasting, or disseminating. “Record” means to photograph, to make an audio or video recording, to retain, to broadcast, or to disseminate. Nothing in this rule prohibits making written notes and sketches pertaining to any judicial proceedings in the superior courts.

(3) “Courtroom” means the room in which a judge will conduct a court proceeding and the areas immediately outside the courtroom entrances.

**(c) Recording devices inside a courtroom.** By order of the court or the Supreme Court of Georgia, recording devices may be items that jurors, witnesses, spectators, or attorneys may not possess or use inside a courtroom except as provided in O.C.G.A. § 15-1-10.1.

**(d) Jurors, witnesses and spectators.** In the circuits that allow the possession of a recording device inside a courtroom, the following restrictions apply to use of recording devices by jurors, including grand jurors and prospective jurors, by witnesses, and by spectators.

(1) Jurors: Jurors must turn the power off to any recording devices while present in a courtroom and while present in a jury room during the jury's deliberations and discussions concerning a case. Jurors may use their devices for allowable purposes during breaks if authorized by the judge. Jurors may not photograph, record, retain, broadcast, or disseminate proceedings.

(2) Witnesses: A witness must turn the power off to any recording device while present in a courtroom, and may use a device while testifying only with permission of the judge. Witnesses may not photograph, record, retain, broadcast, or disseminate proceedings.

(3) Spectators: All spectators while in a courtroom must turn the power off to any recording device while present in a courtroom. No use of any recording device is permitted unless authorized by the court.

**(e) Attorneys representing parties in a case.** In the circuits that allow the possession of a recording device inside a courtroom, the following provisions apply to use of recording devices in a courtroom by attorneys representing parties in a case. Any allowed use of a recording device under this paragraph is subject to the authority of a judge to terminate activity that is disruptive or distracting to a court proceeding, or that is otherwise contrary to the administration of justice.

(1) Allowed uses: Attorneys may use a recording device in a courtroom to store or retrieve information, to access the Internet, and to send or receive messages or information. In a criminal case, unless otherwise ordered by the court, if there is no official court reporter making a record of a proceeding, attorneys may make audio recordings of proceedings in a nondisruptive manner after announcing to the court and all parties that they are doing so. Pro se parties must apply to the court in writing for permission to record. Recordings may be used only in litigating the case or as otherwise allowed by the court or as provided by law.

(2) Prohibited uses: A recording device may not be used, without permission of the court, to make or receive telephone calls or for other audible functions while court is in session. Recording devices must be silenced while court is in session.

**(f) Approving use of a recording device for celebratory or ceremonial proceedings, or when court is not in session.** Notwithstanding other provisions of this rule, a person may verbally request, and a judge or judge's designee may verbally approve, use of a recording device in a courtroom to photograph or record a celebratory or ceremonial proceeding or to use a recording when that courtroom is not in session.

**(g) Other persons or organizations desiring to record.** Any other persons or organizations, including representatives of the news media, desiring to record a court proceeding shall make application to the judge on the form in Exhibit A following this rule.

(1) Requirements for submission of a request: The person or organization must submit the request to the judge or to an officer of the court designated to receive requests under this rule. The request should address any logistical issues that may arise.

(2) Time limit for submission of a request: A person or organization must submit a request sufficiently in advance of the proceeding to allow the judge to consider it in a timely manner.

(3) Court action upon receiving a request: The court will notify the parties of its receipt of a request for recording. Parties shall notify their witnesses. The prosecutor of a criminal case shall notify victims. The judge will promptly hold a hearing if the judge intends to deny the request or a

portion of the request, or if a party, witness, or victim objects to a request. The hearing under this paragraph shall be part of the official record of the proceeding.

(4) Time for a party, witness, or victim to object to a request: A properly notified party, witness, or victim waives an objection to a request for recording of a proceeding if the party, witness, or victim does not object to the request in writing or on the record before or at the start of the underlying proceeding.

**(h) Denial or limitation of recording.** A properly submitted request for recording should generally be approved, but a judge may deny or limit the request as provided in this paragraph. A judge's decision on a request, or on an objection to a request, is reviewable as provided by law.

(1) Denial of recording. A judge may deny a request for recording, or may sustain a party's objection, only after making specific findings on the record that there is a likelihood of harm arising from one or more of the following factors, that the harm outweighs the benefit of recording to the public, and that the judge has considered more narrow restrictions on recording than a complete denial of the request:

- (A) The nature of the particular proceeding at issue;
- (B) The consent or objection of the parties, witnesses, or victims whose testimony will be presented in the proceedings;
- (C) Whether the proposed recording will promote increased public access to the courts and openness of judicial proceedings;
- (D) The impact upon the integrity and dignity of the court;
- (E) The impact upon the administration of the court;
- (F) The impact upon due process and the truth finding function of the judicial proceeding;
- (G) Whether the proposed recording would contribute to the enhancement of or detract from the ends of justice;
- (H) Any special circumstances of the parties, victims, witnesses, or other participants such as the need to protect children or factors involving the safety of participants in the judicial proceeding; and
- (I) any other factors affecting the administration of justice or which the court may determine to be important under the circumstances of the case.

(2) Limitation of recording: Upon his or her own motion or upon the request of a party, victim, or witness, a judge may allow recording as requested or may, after making specific findings on the record based on the factors in paragraph (1), impose the least restrictive possible limitations as follows:

- (A) order that no one may photograph, record, retain, broadcast, or disseminate images or recordings of a criminal defendant, a law enforcement officer, a party, a juror, a victim, or a witness;
- (B) order that recording must effectively obscure the face and identity of a criminal defendant, a law enforcement officer, a party, a juror, a victim, or a witness, or that there be only audio recording of the testimony of a criminal defendant, a law enforcement officer, a party, a juror, a victim, or a witness;

(C) prohibit recording of the testimony of a criminal defendant, a law enforcement officer, a party, a juror, a victim, or a witness.

(i) **Manner of recording.** The judge should preserve the dignity of the proceeding by designating the placement of equipment and personnel for recording the proceeding. All persons and affiliated individuals engaged in recording must avoid conduct or appearance that may disrupt or detract from the dignity of the proceeding.

(j) **Use of recording devices.** A person must not use any recording device in a manner which disrupts a proceeding.

(k) **Pooling of recording devices.** The court may require pooling of recording devices if appropriate. The persons or organizations authorized to record have the responsibility to implement proper pooling procedures which meet the approval of the court.

(l) **Prohibitions.** The following uses of recording devices are prohibited:

(1) *No use of recording devices while the judge is off the bench:* A person may use a recording device in a courtroom only when the judge is on the bench, and use of a recording device must terminate when the judge leaves the bench except for celebratory or ceremonial proceedings as provided in subsection (f) of this rule.

(2) *Recordings of jurors:* Recording devices must be placed to avoid video recording jurors in any manner. Recordings of jurors' statements or conversations are also prohibited, except that the jury foreperson's announcement of the verdict or questions to the judge may be recorded.

(3) *No attorney conferences:* No person shall make a recording of any communication that violates attorney-client privilege.

(4) *No bench conferences:* No one other than the court reporter may record a bench conference.

(m) **Recording not admissible as evidence.** No recording of a judicial proceeding made pursuant to this rule may be used to modify or supplement the official court record of that proceeding without express permission of the judge pursuant to OCGA § 5-6-41(f).

(n) **Disciplinary authorities.** This rule does not apply to disciplinary authorities acting in the course of their official duties.

EXHIBIT "A"

IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

(STYLE OF CASE)

CASE NO.

REQUEST TO INSTALL OR OPERATE RECORDING DEVICE PURSUANT TO RULES AND GUIDELINES FOR RECORDING AND COVERAGE OF JUDICIAL PROCEEDINGS.

Pursuant to Rule 22 of Uniform Rules for Superior Court regarding Recording Coverage of Judicial Proceedings in the Uniform Superior Court Rules, the undersigned hereby requests permission to (install) (operate) a recording device in courtroom \_\_\_\_\_ in order to record, photograph, retain, broadcast, or disseminate all or portions of the proceedings in the above captioned case.

Consistent with the provisions of the rules and guidelines, the undersigned desires to (install) (operate) the following described recording device: \_\_\_\_\_. The proceedings that the undersigned desires to record, photograph, retain, broadcast, or disseminate commence on (date). Subject to direction from the court regarding possible pooled coverage, the undersigned wishes to (install) (operate) this equipment in the courtroom on (date). The personnel who will be responsible for the (installation) (operation) of this recording device during its use are: (identify appropriate personnel).

The undersigned hereby certifies that the equipment to be (installed) (operated) and the locations and operation of such equipment will be in conformity with the rules and guidelines issued by the court.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Individual Signature)

\_\_\_\_\_  
(Representing/Firm)

\_\_\_\_\_  
(Position)

## **~~Rule 22. ELECTRONIC AND PHOTOGRAPHIC NEWS COVERAGE OF JUDICIAL PROCEEDINGS~~**

~~Unless otherwise provided by rule of the Supreme Court or otherwise ordered by the assigned judge after appropriate hearing (conducted after notice to all parties and counsel of record) and findings, representatives of the print and electronic public media may be present at and unobtrusively make written notes and sketches pertaining to any judicial proceedings in the superior courts. However, due to the distractive nature of electronic or photographic equipment, representatives of the public media utilizing such equipment are subject to the following restrictions and conditions:~~

~~(A) Persons desiring to broadcast/record/photograph official court proceedings must file a timely written request (form attached as Exhibit "A") with the judge involved prior to the hearing or trial, specifying the particular calendar/case or proceedings for which such coverage is intended; the type equipment to be used in the courtroom; the trial, hearing or proceeding to be covered; and the person responsible for installation and operation of such equipment.~~

~~(B) Approval of the judge to broadcast/record/photograph a proceeding, if granted, shall be granted without partiality or preference to any person, news agency, or type of electronic or photographic coverage, who agrees to abide by and conform to these rules, up to the capacity of the space designated therefor in the courtroom. Violation of these rules will be grounds for a reporter/technician to be removed or excluded from the courtroom and held in contempt.~~

~~(C) The judge may exercise discretion and require pooled coverage which would allow only one still photographer, one television camera and attendant, and one radio or tape recorder outlet and attendant. Photographers, electronic reporters and technicians shall be expected to arrange among themselves pooled coverage if so directed by the judge and to present the judge with a schedule and description of the pooled coverage. If the covering persons cannot agree on such a schedule or arrangement, the schedule and arrangements for pooled coverage may be designated at the judge's discretion.~~

~~(D) The positioning and removal of cameras and electronic devices shall be done quietly and, if possible, before or after the court session or during recesses; in no event shall such disturb the proceedings of the court. In every such case, equipment should be in place and ready to operate before the time court is scheduled to be called to order.~~

~~(E) Overhead lights in the courtroom shall be switched on and off only by court personnel. No other lights, flashbulbs, flashes or sudden light changes may be used unless the judge approves beforehand.~~

~~(F) No adjustment of central audio system shall be made except by persons authorized by the judge. Audio recordings of the court proceedings will be from one source, normally by connection to the courts central audio system. Upon prior approval of the court, other microphones may be added in an unobtrusive manner to the court's public address system.~~

~~(G) All television cameras, still cameras and tape recorders shall be assigned to a specific portion of the public area of the courtroom or specially designed access areas, and such equipment will not be permitted to be removed or relocated during the court proceedings.~~

~~(H) Still cameras must have quiet functioning shutters and advancers. Movie and television cameras and broadcasting and recording devices must be quiet running. If any equipment is determined by the judge to be of such noise as to be distracting to the court proceedings, then such equipment can be excluded from the courtroom by the judge.~~

~~(I) Pictures of the jury, whether by still, movie, or television cameras, shall not be taken except where the jury happens to be in the background of other topics being photographed. Audio recordings of the jury foreperson's announcement of the verdict, statements or questions to the judge may be made. Photographs and televising of the public and the courtroom are allowed, if done without disruption to the court proceedings.~~

~~(J) Reporters, photographers, and technicians must have and produce upon request of court officials credentials identifying them and the media company for which they work.~~

~~(K) Court proceedings shall not be interrupted by a reporter or technician with a technical or an equipment problem.~~

~~(L) Reporters, photographers, and technicians should do everything possible to avoid attracting attention to themselves. Reporters, photographers, and technicians will be accorded full right of access to court proceedings for obtaining public information within the requirements of due process of law, so long as it is done without detracting from the dignity and decorum of the court.~~

~~(M) Other than as permitted by these rules and guidelines, there will be no photographing, radio or television broadcasting, including videotaping pertaining to any judicial proceedings on the courthouse floor where the trial, hearing or proceeding is being held or any other courthouse floor whereon is located a superior court courtroom, whether or not the court is actually in session.~~

~~(N) No interviews pertaining to a particular judicial proceeding will be conducted in the courtroom except with the permission of the judge.~~

~~(O) All media plans heretofore approved by the Supreme Court for superior courts are hereby repealed.~~

~~(P) A request for installation and use of electronic recording, transmission, videotaping or motion picture or still photography of any judicial proceeding shall be evaluated pursuant to the standards set forth in OCGA § 15-1-10.1.~~

~~EXHIBIT "A"~~

~~IN THE SUPERIOR COURT OF~~  
~~\_\_\_\_\_COUNT~~

~~Y STATE OF GEORGIA~~

~~(STYLE OF CASE) \_\_\_\_\_ CASE NO.~~

~~REQUEST TO INSTALL RECORDING AND/OR PHOTOGRAPHING EQUIPMENT  
PURSUANT TO RULES AND GUIDELINES FOR ELECTRONIC AND PHOTOGRAPHIC  
NEWS COVERAGE OF JUDICIAL PROCEEDINGS.~~

~~Pursuant to Rule 22 of the Electronic and Photographic News Coverage of Judicial Proceedings in the Uniform Superior Court Rules, the undersigned hereby requests permission to install equipment in courtroom \_\_\_\_\_ in order to record, photograph or televise all or portions of the proceedings in the above captioned case.~~

~~Consistent with the provisions of the rules and guidelines, the undersigned desires to install the following described equipment: \_\_\_\_\_ in the following locations: \_\_\_\_\_. The proceedings that the undersigned desires to record, photograph or televise commence on (date) . Subject to direction from the court regarding possible pooled coverage, the undersigned wishes to install this equipment in the courtroom on (date) .The personnel who will be responsible for the installation and operation of this equipment during its use are: (identify appropriate personnel).~~

~~The undersigned hereby certifies that the equipment to be installed and the locations and operation of such equipment will be in conformity with the rules and guidelines issued by the court.~~

~~This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.~~

\_\_\_\_\_  
~~(Individual Signature)~~

\_\_\_\_\_  
~~(Representing/Firm)~~

\_\_\_\_\_  
~~(Position)~~

## **Rule 45. COURT SECURITY AND EMERGENCY OPERATIONS MEASURES**

Courts within a judicial circuit shall prepare for emergencies by developing both a security plan to address the safety of the public and employees; and a judicial emergency operations plan to provide for an immediate response to any type of crisis and provide for continuity of operations during such crisis.

~~Courts within a judicial circuit shall prepare for emergencies and disruptions in court business by adopting and periodically reviewing a consolidated plan addressing the safety and security of employees and the public, continuity of operations and their immediate response to crises.~~

- A. Courthouse Security Plan - The Sheriff, in consultation with the Chief Judge of the Superior Court of the circuit shall develop and implement a comprehensive plan for the security of the county courthouse and any courthouse annex. A comprehensive plan for courthouse security shall be considered a confidential matter of public security and shall not be disseminated except as in accordance with O.C.G.A. §15-16-10(a)(10) . The plan shall be reviewed and updated annually and employees shall be educated annually on their role, if any, in said plan.

### ~~a. Court Security and Facilities~~

~~In coordination with local and/or state public safety officials, courts shall develop and annually update court security policies and procedures and a short term emergency response program that anticipates safeguarding lives and property.~~

- B. Emergency Operations Plan - The Chief Judge, or his/her designee, shall develop and implement an Emergency Operations Plan for each county courthouse and/or courthouse annex in the jurisdiction. The plan shall at a minimum, include:
1. A method for collecting and maintaining contact information for all employees to be utilized during an emergency;
  2. Identification of relocation sites and provisions for preparing such sites;
  3. Identification of essential activities and functions to be performed;
  4. Identification of employees designated to perform essential activities and method for training of said employees at least annually;
  5. A person designated to provide information to the public and the press, during and immediately following an emergency;
  6. Identification of vital records and equipment and provisions for their protection or back up.

The Council of Superior Court Judges shall maintain and make available materials to assist Chief Judges in complying with this rule.

b. ~~Court Operations~~

~~At a minimum, each plan for the continuity of court operations shall identify:~~

- ~~i. Essential activities and functions to be performed;~~
- ~~ii. Vital records, systems and equipment, and provide for their protection;~~
- ~~iii. Automatic succession of leadership and delegation of authority;~~
- ~~iv. One or more relocation sites, and provide for their preparation;~~
- ~~v. Employees to perform essential activities and functions, and provide for their training;~~
- ~~vi. Means for warning employees, the public and the media of potential threats and recommended actions;~~
- ~~vii. Means for identifying the location and status of employees following an emergency;~~
- ~~viii. Means for communicating with employees and the public subsequent to an emergency;~~
- ~~ix. Means for restoring normal functions as soon as is feasible and prudent; and~~
- ~~x. Regular training for employees with specific emergency responsibilities and for all employees that may be affected by disruptions to operations.~~

C. Judicial Operations ~~Court~~ Emergency Order – Upon his or her own motion or after consideration of a request from another judge or court official, the Chief Judge of the Circuit ~~a court~~ experiencing an emergency or disruption in operations may issue an order authorizing relief from time deadlines imposed by statute or court rule until the restoration of normal court operations or as specified.

The emergency order may also designate one or more facilities as temporary courthouses which shall be suitable for court business and located as near as possible to the county seat.

The order shall contain (1) the identity and position of the judge, (2) the ~~time~~, date, time, and place executed, (3) the jurisdiction affected, (4) the nature of the emergency, (5) the period of duration, and (6) other information relevant to the suspension or restoration of court operations. The duration of a court emergency order is limited to a maximum of thirty days. The order may only be extended ~~no more than~~ twice by the issuing judge for additional thirty day periods, and any extensions must ~~shall~~ contain the information required in the original order.

~~The emergency order may also designate one or more facilities as temporary courthouses which shall be suitable for court business and located as near as possible to the county seat.~~

