REPORT OF THE TASK FORCE ON ALACOURT/ALAFILE AND PERSONAL INDENTIFYING INFORMATION:

Alabama State Bar Annual Meeting 2019

Mike Ermert
Hare, Wynn, Newell & Newton, LLP

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News Stories Highlight AlaCourt Privacy Issues

AP NewsBreak: Victim info on state website alarms advocates

Victim advocates say they're alarmed by the disclosure that an Alabama courts website lists the names, home addresses and other personal details of crime victims.

Those things should remain private, they say, noting that victims of crimes such as rape could be attacked again if offenders know where they live.

"If they know where they are, that will be devastating to victims. We do have a law that protects the victim," said Janette Grantham, director of Victims of Crime and Leniency in Montgomery, Alabama, which helps victims of sexual assault and other crimes.

ID theft case reveals security weaknesses in Alabama court system

2 Posted on April 12, 2017 at 12:06 PM

30 shares

BY THE ASSOCIATED PRESS

A man used Alabama's publicly accessible online court records to steal the identities of dozens of people, highlighting the system's vulnerability to identity thieves, federal prosecutors said.

Brian Colby Alexander is accused of obtaining names, birth dates and Social Security numbers of about 43 people from Alacourt.com, the state's website for trial court records.

People's Social Security numbers are listed in numerous publicly accessible court records in Alabama's online system.

More news stories

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Alabama crime victims angry personal information shared on court system website

11 Updated on April 24, 2017 at 6:47 AM, Posted on April 24, 2017 at 6:44 AM

This photograph taken Friday, April 21, 2017, shows crime victim Tiffany Lawson in a park in downtown Birmingham, Ala. Lawson's ex-friend is imprisoned after dousing her with hot grease, but information identifying Lawson and providing contact information is available on the state of Alabama's online court filing system. Lawson said having so much identifying information available to the public makes her feel less safe. (AP Photo/Jay Reeves)(Jay Reeves)

And even more news stories

Alabama forming task force to review court website privacy

2 Posted on April 27, 2017 at 11:26 AM

In this Wednesday, March 14, 2012, file photo, attorney Wendy Murphy poses for a photo in the law library at the New England School of Law in Boston. Alabama officials said they're forming a task force to address concerns about private information about victims and others being posted to a state website for court records. Alabama's crime victims' rights law states that addresses, phone numbers and "other related information" about victims will not be included in public records. "You're saying in writing that your personal

The Bar Responds

The Bar's AlaCourt Task Force

Mike Ermert, Chair Tom Heflin, Vice-Chair
Eric Anderson Judge Monet Gaines Judge Daryl Burt Aaron Chastain
Chris Colee Judge Lang Floyd Todd Higey Suzi Huffaker
Ainka Jackson Judge Stephanie Kemmer AG Steve Marshall
David Martin Sheree Martin Barry Matson Kirk Mattei
Phillip McCallum Rachel Miller Judge Bert Rice Mary Roberson
Alyce Spruell Andrew Stanley Jon Townsend Hays Webb
Julia Weller Nathan Wilson

Alabama Code 36-12-40

Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute. Provided however, registration and circulation records and information concerning the use of the public, public school or college and university libraries of this state shall be exempted from this section. Provided further, any parent of a minor child shall have the right to inspect the registration and circulation records of any school or public library that pertain to his or her child. Notwithstanding the foregoing, records concerning security plans, procedures, assessments, measures, or systems, and any other records relating to, or having an impact upon, the security or safety of persons, structures, facilities, or other infrastructures, including without limitation information concerning critical infrastructure (as defined at 42 U.S.C. § 5195c(e) as amended) and critical energy infrastructure information (as defined at 18 C.F.R. § 388.113(c)(1) as amended) the public disclosure of which could reasonably be expected to be detrimental to the public safety or welfare, and records the disclosure of which would otherwise be detrimental to the best interests of the public shall be exempted from this section. Any public officer who receives a request for records that may appear to relate to critical infrastructure or critical energy infrastructure information, shall notify the owner of such infrastructure in writing of the request and provide the owner an opportunity to comment on the request and on the threats to public safety or welfare that could reasonably be expected from public disclosure on the records.

Alabama Code Section 41-13-1

As used in this article, **the term "public records" shall include** all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business **and shall also include any record** authorized to be made by any law of this state **belonging or pertaining to any court of record** or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer.

Alabama Rules of Judicial Administration Rule 31

(l) ***Protection of identifying information and confidential records***. Unless otherwise provided by law, any data, report, or compilation of information produced by the clerk or other official custodian of court records for **public disclosure shall exclude the personal identifying information of any individual. Identifying information may include all nine (9) digits of an individual's Social Security number, an individual's date of birth, credit card numbers, bank account numbers, other personal financial information, or any other information declared to be identifying information by the ADC.** The ADC may promulgate policies and procedures for the clerk or other official custodians of court records to follow in order to safeguard identifying information or other personal information that the ADC determines should be protected from public disclosure. The clerk or other official custodian of court records shall not be responsible for identifying information included on any document filed in the clerk's office. Any individual filing a document that requires or contains an individual's personal identifying information may make proper request under these Rules or other applicable rules to protect the contents of such documents from public disclosure.

Alabama Code Section 15-23-69

(a) Based upon the reasonable apprehension of the victim of acts or threats of physical violence or intimidation by the defendant, the family of the defendant, or by anyone at the direction of the defendant, against the victim or the immediate family of the victim, the prosecutor may petition the court to direct that the victim or any other witness not be compelled to testify during pre-trial proceedings or to any trial, facts that could divulge the identity, residence, or place of employment of the victim, or other related information without consent of the victim unless necessary to the prosecution of the criminal proceeding. If the court schedules a hearing on the merits of the petition, it shall be held in camera.

(b) The address, phone number, place of employment, and other related information about the victim contained in the court file shall not be public record.

ARCP Rule 5.1
Privacy Protection for Court Filings

(a) *Redacted Filings.* Unless the court orders otherwise, in an electronic or paper filing with the court that contains a **Social Security number, a taxpayer-identification number, or a financial-account number, a party or nonparty making the filing may include only the last four digits of any such Social Security number, taxpayer-identification number, or financial-account number.**

ARCP Rule 5.1
Privacy Protection for Court Filings

(f) Responsibility for Privacy Protection. The **attorney**, party, or nonparty filing documents in the clerk's office or the electronic court record is responsible for making the redactions required by this rule. Neither the clerk nor any other official custodian of court records shall be responsible for reviewing documents filed with the court for compliance with this rule.

ARCP Rule 5.1
Privacy Protection for Court Filings
Committee Comments

This rule is modeled on Rule 5.2 of the Federal Rules of Civil Procedure. A significant change is the omission of the provisions in the federal rule for **including only the year of an individual's birth date and only the initials of a minor**.
Many state-court filings require this information, and the information may affect jurisdictional matters, such as when child-support obligations expire. The risk of unauthorized and unwanted access to minors' names and people's birthdates via electronic searching of court records does not warrant a routine redaction requirement. In cases where such redaction is needed and appropriate, a party may proceed under Rule 5.1(e).

AOC Responds

Message Board

ATTENTION: REDACT PERSONAL IDENTIFYING INFORMATION.

AlaFile FAQ

All filers should redact all personal identifying information included on any document before uploading the document to AlaFile. Social Security Numbers should be limited to the last four digits only. It is highly recommended that the names of minors be limited to initials where appropriate. Extreme caution should be exercised when documents include other information such as bank account numbers, driver's license numbers, telephone numbers, inter alia. The address, phone number, place of employment, and other related information about the victims of crime must be omitted or redacted. See **Section 15-23-69, Ala. Code 1975.** The Circuit Clerk or other official custodian of court records is not responsible for any identifying information that a filer includes on any document filed. Redactions must be made by the filing party. See **Rule 31(I), Ala. R. Jud. Admin** and **Rule 5.1, Ala. R. Civ. P.**

WARNING: Do not file any of the following electronically!
If you do, you risk your Legal Action being ruled against procedurally.

- Criminal Rule 32 Petitions for Post-Conviction Remedies
- Documents filed under seal
- Documents or exhibits that cannot be scanned and converted to a PDF (i.e. video or audio tapes, large maps, etc.).
- Elections Contests
- Exhibits offered at trial or hearing
- Expungements
- Notices of Appeal
- Petitions for Minor Name Change
- Post-judgment filings (i.e. execution of judgments, etc.), other than garnishments and motion practice
- Pro Ami Complaints filed by defendant instead of plaintiff
- Summons for service by publication
- Worker's Compensation "Walk-Through" Complaints filed by defendant instead of plaintiff
- Miscellaneous Filings:
  - Genetic Test Results (Confidential)
  - Guardian Ad Litem Report

Note: Routine server maintenance takes place the third Tuesday of each month between 5 p.m. and 9 p.m. Consequently, brief service interruptions may be experienced during this maintenance window.

More Warnings from AOC

Add Document(s) - New Motion

Attach Document

Browse...

This Filing:
Plaintiff - Motion/Response - Amend

C001 - ODOM CANDACE HARRISON

Title: MOTION

Description: Motion to Amend

Title	Description	MB	File Type
MOTION_COVER_SHEET	Motion Cover Sheet	.077	pdf

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☑ By checking here I am agreeing that I have read this notice and understand my responsibility to redact information that should not be made public.

Add Document | Continue

AlaCourt Task Force

Family Law (includes Domestic and Juvenile Law)

AlaCourt Task Force

Family Law (includes Domestic and Juvenile Law)
Criminal Law

AlaCourt Task Force

Family Law (includes Domestic and Juvenile Law)
Criminal Law
General Civil Law

AOC Addresses "Forms"

Domestic Relations and Child Support Forms

C-57 — Final Judgment of Divorce — SSNs

C- 58 - Notice of Reference and Questionnaire — SSNs, Financial information

Certificate of Divorce — SSNs

Income Withholding Order — SSN, DOB, names and DOBs of children

CS-2 - Petition for Support — Names and DOBs of children

CS-24 — Transmittal of Withholding Order — Defendant's SSN

CS-32 — Affidavit for Service of Withholding Order SSNs

CS-35 — Answer to Order of Withholding

CS-36 — A Notice of Change [of] Defendant's Employment and Request for Service —SSN

CS-37 — Petition for Termination Upon Payment of Arrearages — SSN

CS-38 — Order of Termination Upon Payment of Arrearages — SSN

CS-39 — Conditional Judgment Against Employer — SSN

CS-40 — Final Judgment Against Employer — SSN

CS-41 — Child-Support Obligation Income Statement/Affidavit — SSN

CS-44 — Affidavit for Termination of Withholding Order for Support — SSNs

Criminal Forms

CR-52(f) - Release Questionnaire —SSN, health information, names of children

C-52(g) - Release Order — SSN

C-64 - Complaint and Warrant — Complainant's name, address, and telephone number (possible victim); SSN for accused

C-64(c) — Complaint and Warrant for NWNI — SSN

C-65(a) — Alias Warrant of Arrest for Failure of Defendant to Appear — SSN

C-77 — Summons to Appear — SSN, DOB

CR-55 — Warrant of Arrest for Violation of Release Order — SSN

CR-57 — Deposition — SSN, DL Number, DOB, Victim's name, Possible victim's SSN

CR-58 — Warrant of Arrest -SSN, DOB

C-79 — Order Requiring Defendant to Pay Certain Amounts of Money to the Clerk —Name,SSN

CR-3 — Application to Pead Guilty on Information — SSN

CR-6 — Complaint - Complainant's name, address, and telephone number (possible victim)

CR-7 — Withholding Order — Costs, Fines, Assessments and Restitution — SSN

CR-8 - Employer's Notice to Order of Withholding for Costs, Fines, Assessments,Restitution — SSN

CR-10 — Consolidated Appearance Bond — SSN, DOB, DL number

CR-11 — Appearance Bond - SSN, DOB, DL number

CR-12 & CR-13 — Certificate of Professional Bondsman — SSN

CR- 20 — Bondsman's Process — SSN

C-71 — Oath of Office for Magistrates - C-71 — SSN

C-72 — Application to Be Rescinded as Magistrate — SSNs

C-73 — District Court Magistrate Appointment — SSN

Civil Forms

C-2 - Petition for Protection from Abuse — SSN

C-3 - Protection from Abuse Order — SSN, DL Number

C-4 - Ex Parte Protection Order — SSN, DL Number

C-90 - Petition for Elder Abuse Protection Order - SSN

C-90 - Ex Parte Elder Abuse Protection Order — SSN, DL Number, DOB

C-90 - Elder Abuse Protection Order

C-10 - Affidavit of Substantial Hardship and Order — Financial Information (SSN and DL number are already truncated)

C-10A - Affidavit of Substantial Hardship - Financial Information (SSN and DL number are already truncated)

Alabama Code Section 8-38-2(6)

a. "Except as provided in paragraph b., an Alabama resident's first name or first initial and last name in combination with one or more of the following with respect to the same Alabama resident:

1. A non-truncated Social Security number or tax identification number.
2. A non-truncated driver's license number, state-issued identification card number, passport number, military identification number, or other unique identification number issued on a government document used to verify the identity of a specific individual.
3. A financial account number, including a bank account number, credit card number, or debit card number, in combination with any security code, access code, password, expiration date, or PIN, that is necessary to access the financial account or to conduct a transaction that will credit or debit the financial account.
4. Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.
5. An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
6. A user name or email address, in combination with a password or security question and answer that would permit access to an online account affiliated with the covered entity that is reasonably likely to contain or is used to obtain sensitive personally identifying information.

Alabama Code Section 8-38-2(6)

(b). The term does not include either of the following:

1. Information about an individual which has been lawfully made public by a federal, state, or local government record or a widely distributed media.

2. Information that is truncated, encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable, including encryption of the data, document, or device containing the sensitive personally identifying information, unless the covered entity knows or has reason to know that the encryption key or security credential that could render the personally identifying information readable or useable has been breached together with the information.

The Attorney Guide

Alabama State Bar

Attorney Guide to Protecting Confidential Documents and Information When Filing in Alabama State Courts

Prepared by: Alabama State Bar Alacourt.com & Personal Identifying Information Task Force 2018-19
May 2019

Task Force Recommendations

-Make “The Attorney Guide” broadly available through the Bar and Court-related websites

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-The Supreme Court direct rules committees to do comprehensive review for lingering issues

-Task the Future of Bar Technology Committee to consider technology developments for potential exposure of personal identifying information.

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