

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RULE PROMULGATION ORDER 23-07

(Amending Super. Ct. Crim. R. 28, 49.1, and 55)

WHEREAS, pursuant to D.C. Code § 11-946 (2012 Repl.), the Board of Judges of the Superior Court approved amendments to Superior Court Rules of Criminal Procedure 28, 49.1, and 55; and

WHEREAS, pursuant to D.C. Code § 11-946 (2012 Repl.), the amendments to these rules, to the extent that they modify the federal rules, have been approved by the District of Columbia Court of Appeals; it is

ORDERED, that Superior Court Rules of Criminal Procedure 28, 49.1, and 55 are hereby amended as set forth below; and it is further

ORDERED, that the amendments shall take effect on August 22, 2023, and shall govern all proceedings thereafter commenced and, insofar as just and practicable, all pending proceedings.

Rule 28. Court-Appointed Expert Witnesses and Interpreters

2023 COMMENT

The comment to the 2016 amendments erroneously cited to *Ko v. United States*, 694 A.2d 73 (D.C. 1997). That opinion was vacated when the Court of Appeals voted to rehear the case en banc. The comment should have cited to the en banc decision that followed: *Ko v. United States*, 722 A.2d 830, 835-36 (D.C. 1998) (en banc).

COMMENT TO 2016 AMENDMENTS

This rule differs from the federal rule in two respects.

Paragraph (a) has no counterpart in the federal rule. Like the former Superior Court rule, this paragraph is substantially identical to *Federal Rule of Evidence 706*.

Paragraph (b) has been redrafted to conform to the general restyling of the federal rules in 2002. In addition, it now omits the provision that interpreters' compensation may also be paid "by the government, as the court may direct." The phrase conflicts with D.C. Code §§ 2-1911 and -1912 (2012 Repl.), which provide that all interpreters shall be paid by the Office of Interpreter Services. See *Ko v. United States*, 694 A.2d 73 (D.C. 1997) (en banc).

The title of the rule has been changed to reflect more accurately the scope of the rule.

Rule 49.1. Privacy Protection for Filings Made with the Court

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number or driver's license or non-driver's license identification card number, the name of an individual known to be a ~~minor~~-child as that term is defined in D.C. Code § 16-2301-(3), a person's birth date, a debit card, credit card or other a financial-account number, or the home address of an individual, a party or nonparty making the filing may include only:

(1) the acronym "SS#", "TID#", "DL#, or NDL#" instead of the social-security number, taxpayer-identification number, driver's license number and non-driver's license identification card number, respectively ;

(2) the ~~minor~~-child's initials;

COMMENT TO 2023 AMENDMENTS

Section (a) has been amended to delete the term "minor" as intended by the 2009 amendment to this rule.

COMMENT TO THE 2009 AMENDMENT

This Rule is identical to the Federal Rule with the following exceptions.

Paragraph (a) of this Rule requires redaction of several categories of information not covered by the Federal Rule: driver's license and non-driver's license identification card numbers, and credit and debit card numbers. See D.C. Code § 28-3851 (3)(A) (defining "Personal information" for purposes of the Consumer Personal Information Security Breach Notification Act of 2006, D.C. Code § 28-3851 *et seq.*) Paragraph (a) also substitutes the term "child" for the term "minor" and refers to a locally applicable definition of that term.

Subparagraph (a)(3) differs from the Federal Rule, which requires redaction of the month and date of birth, but not the year of birth. This Rule requires redaction of the entire date of birth and use of the acronym "DOB" in its place.

Subparagraph (b)(6) refers to post-conviction proceedings under local, rather than federal, law.

Paragraph (c) of the Federal Rule ("Immigration Cases") is omitted from this Rule as locally inapplicable.

Rule 55. Records of the Clerk

(a) Required Entries. The clerk must keep records of criminal proceedings in the form and manner prescribed by the Executive Officer of the District of Columbia Courts, subject to the supervision~~administrative orders~~ of the Chief Judge. The entry of an order or judgment must show the date the entry is made.

COMMENT TO 2023 AMENDMENTS

Section (a) has been amended consistent with Civil Rule 79(a)(1) to provide that records are kept in the form and manner prescribed by the Executive Officer.

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2023 COMMENT

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(1) the acronym "SS#", "TID#", "DL#, or NDL#" instead of the social-security number, taxpayer-identification number, driver's license number and non-driver's license identification card number, respectively ;

(2) the child's initials;

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Rule 55. Records of the Clerk

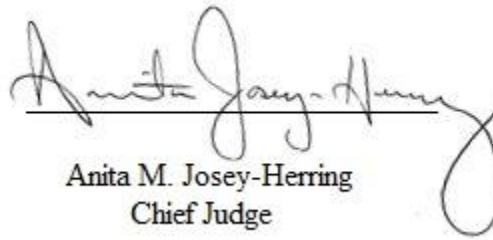
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COMMENT TO 2023 AMENDMENTS

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* * *

SO ORDERED.



Anita M. Josey-Herring
Chief Judge

DATE: August 7, 2023

Copies to:

Judicial Officers
Executive Officer of the Court
Clerk of the Court
Office of General Counsel
Division Directors
District of Columbia Bar
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