

HISTORICAL NOTE

The Supreme Court prescribes Federal Rules of Appellate Procedure pursuant to section 2072 of Title 28, United States Code, as enacted by Title IV "Rules Enabling Act" of Pub. L. 100-702 (approved Nov. 19, 1988, 102 Stat. 4648), effective December 1, 1988, and section 2075 of Title 28. Pursuant to section 2074 of Title 28, the Supreme Court transmits to Congress (not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective) a copy of the proposed rule. The rule takes effect no earlier than December 1 of the year in which the rule is transmitted unless otherwise provided by law.

Prior to enactment of Pub. L. 100-702, the Supreme Court promulgated Federal Rules of Appellate Procedure pursuant to section 3772 of Title 18 and sections 2072 and 2075 of Title 28 of the United States Code. Pursuant to this authority the Rules of Appellate Procedure were adopted by order of the Court on December 4, 1967, transmitted to Congress by the Chief Justice on January 15, 1968, and became effective on July 1, 1968 (389 U.S. 1063; Cong. Rec., vol. 114, pt. 1, p. 113, Exec. Comm. 1361; H. Doc. 204, 90th Cong.). Effective December 1, 1988, section 3772 of Title 18 and former section 2072 of Title 28 were repealed and supplanted by new sections 2072 and 2074 of Title 28, see first paragraph of Historical Note above.

By the same order, the Court abrogated several rules relating to appellate procedure formerly contained in the Rules of Criminal Procedure for the District Courts and the Rules of Civil Procedure for the District Courts.

Amendments were adopted by the Court by order dated March 30, 1970, transmitted to Congress by the Chief Justice on the same day, and became effective July 1, 1970 (398 U.S. 971; Cong. Rec., vol. 116, pt. 7, p. 9861, Exec. Comm. 1838; H. Doc. 91-290). The amendments affected Rules 30(a), (c) and 31(a).

Additional amendments were adopted by the Court by order dated March 1, 1971, transmitted to Congress by the Chief Justice on the same day, and became effective July 1, 1971 (401 U.S. 1029; Cong. Rec., vol. 117, pt. 4, p. 4629, Exec. Comm. 341; H. Doc. 92-57). The amendments affected Rules 26(a) and 45(a).

An additional amendment was adopted by the Court by order dated April 24, 1972, transmitted to Congress by the Chief Justice on the same day, and became effective October 1, 1972 (406 U.S. 1005;



Cong. Rec., vol. 118, pt. 11, p. 14262, Exec. Comm. 1903; H. Doc. 92-285). The amendment affected Rule 9(c).

Additional amendments were adopted by the Court by order dated April 30, 1979, transmitted to Congress by the Chief Justice on the same day, and became effective August 1, 1979 (441 U.S. 969; Cong. Rec., vol. 125, pt. 8, p. 9366, Exec. Comm. 1456; H. Doc. 96-112). The amendments affected Rules 1(a), 3(c), (d), (e), 4(a), 5(d), 6(d), 7, 10(b), 11(a), (b), (c), (d), 12, 13(a), 24(b), 27(b), 28(g), (j), 34(a), (b), 35(b), (c), 39(c), (d), and 40.

Section 210 of Public Law 98-473 (approved October 12, 1984, 98 Stat. 1987) amended Rule 9(c).

Additional amendments were adopted by the Court by order dated March 10, 1986, transmitted to Congress by the Chief Justice on the same day (475 U.S. 1153; Cong. Rec., vol. 132, pt. 3, p. 4267, Exec. Comm. 2971; H. Doc. 99-179), and became effective July 1, 1986. The amendments included new Rules 3.1, 5.1, and 15.1, and affected Rules 3(d), 8(b), 10(b), (c), 11(b), 12(a), 19, 23(b), (c), 24(a), 25(a), (b), 26(a), (c), 28(c), (j), 30(a), (b), (c), 31(a), (c), 34(a), (e), 39(c), (d), 43(a), (c), 45(a), (b), (d), and 46(a), (b).

Section 7111 of Public Law 100-690 (approved November 18, 1988, 102 Stat. 4419) amended Rule 4(b).

Additional amendments were adopted by the Court by order dated April 25, 1989, transmitted to Congress by the Chief Justice on the same day (490 U.S. 1125; Cong. Rec., vol. 135, pt. 6, p. 7542, Exec. Comm. 1058; H. Doc. 101-53), and became effective December 1, 1989. The amendments affected Rules 1(a), 3(a), 26(a), 27(a), and 28(g) and included new Rules 6 and 26.1 and a new Official Form 5.

Additional amendments were adopted by the Court by order dated April 30, 1991, transmitted to Congress by the Chief Justice on the same day (500 U.S. 1007; Cong. Rec., vol. 137, pt. 7, p. 9721, Ex. Comm. 1192; H. Doc. 102-79), and became effective December 1, 1991. The amendments affected Rules 4(a), 6, 10(c), 25(a), 26(a), 26.1, 28(a), (b), (h), 30(b), and 34(d).

Additional amendments were adopted by the Court by order dated April 22, 1993, transmitted to Congress by the Chief Justice on the same day (507 U.S. 1059; Cong. Rec., vol. 139, pt. 6, p. 8127, Ex. Comm. 1100; H. Doc. 103-72), and became effective December 1,



1993. The amendments affected Rules 3, 3.1, 4, 5.1, 6, 10, 12, 15, 25, 28, and 34, and Forms 1, 2, and 3.

Additional amendments were adopted by the Court by order dated April 29, 1994, transmitted to Congress by the Chief Justice on the same day (511 U.S. 1155; Cong. Rec., vol. 140, pt. 7, p. 8903, Ex. Comm. 3082; H. Doc. 103-247), and became effective December 1, 1994. The amendments affected Rules 1, 3, 5, 5.1, 9, 13, 21, 25, 26.1, 27, 28, 30, 31, 33, 35, 38, 40, 41, and 48.

Additional amendments were adopted by the Court by order dated April 27, 1995, transmitted to Congress by the Chief Justice on the same day (514 U.S. 1137; Cong. Rec., vol. 141, pt. 8, p. 11745, Ex. Comm. 809; H. Doc. 104-66), and became effective December 1, 1995. The amendments affected Rules 4, 8, 10, and 47.

Additional amendments were adopted by the Court by order dated April 23, 1996, transmitted to Congress by the Chief Justice on the same day (517 U.S. 1255; Cong. Rec., vol. 142, pt. 6, p. 8831, Ex. Comm. 2489; H. Doc. 104-203), and became effective December 1, 1996. The amendments affected Rules 21, 25, and 26.

Section 103 of Public Law 104-132 (approved April 24, 1996, 110 Stat. 1218) amended Rule 22.

Additional amendments were adopted by the Court by order dated April 24, 1998, transmitted to Congress by the Chief Justice on the same day (523 U.S. 1147; Cong. Rec., vol. 144, pt. 6, p. 8652, Ex. Comm. 9072; H. Doc. 105-269), and became effective December 1, 1998. The amendments affected Rules 1 to 48 and Form 4.

Additional amendments were adopted by the Court by order dated April 29, 2002, transmitted to Congress by the Chief Justice on the same day (535 U.S. 1123; Cong. Rec., vol. 148, pt. 5, p. 6813, Ex. Comm. 6622; H. Doc. 107-206), and became effective December 1, 2002. The amendments affected Rules 1, 4, 5, 21, 24, 25, 26, 26.1, 27, 28, 31, 32, 36, 41, 44, and 45 and included a new Official Form 6.

Additional amendments were adopted by the Court by order dated March 27, 2003, transmitted to Congress by the Chief Justice on the same day (538 U.S. 1071; Cong. Rec., vol. 149, pt. 6, p. 7689, Ex. Comm. 1496; H. Doc. 108-59), and became effective December 1, 2003. The amendments affected Forms 1, 2, 3, and 5.

Additional amendments were adopted by the Court by order dated April 25, 2005, transmitted to Congress by the Chief Justice on



the same day (544 U.S. 1151; Cong. Rec., vol. 151, pt. 7, p. 8784, Ex. Comm. 1907; H. Doc. 109-24), and became effective December 1, 2005. The amendments affected Rules 4, 26, 27, 28, 32, 34, 35, and 45, and added new Rule 28.1.

Additional amendments were adopted by the Court by order dated April 12, 2006, transmitted to Congress by the Chief Justice on the same day (547 U.S. 1221; Cong. Rec., vol. 152, pt. 6, p. 7213, Ex. Comm. 7318; H. Doc. 109-106), and became effective December 1, 2006. The amendments affected Rule 25 and added new Rule 32.1.

An additional amendment was adopted by the Court by order dated April 30, 2007, transmitted to Congress by the Chief Justice on the same day (550 U.S. 983; Cong. Rec., vol. 153, pt. 8, p. 10611, Ex. Comm. 1374; H. Doc. 110-24), and became effective December 1, 2007. The amendment affected Rule 25.

Additional amendments were adopted by the Court by order dated March 26, 2009, transmitted to Congress by the Chief Justice on March 25, 2009 (556 U.S. 1291; Cong. Rec., vol. 155, pt. 8, p. 10210, Ex. Comm. 1263; H. Doc. 111-28), and became effective December 1, 2009. The amendments affected Rules 4, 5, 6, 10, 12, 15, 19, 22, 25, 26, 27, 28.1, 30, 31, 39, and 41, and added new Rule 12.1.

Additional amendments were adopted by the Court by order dated April 28, 2010, transmitted to Congress by the Chief Justice on the same day (559 U.S. 1119; Cong. Rec., vol. 156, pt. 6, p. 8139, Ex. Comm. 7474; H. Doc. 111-112), and became effective December 1, 2010. The amendments affected Rules 1, 4, 29, and Form 4.

Additional amendments were adopted by the Court by order dated April 26, 2011, transmitted to Congress by the Chief Justice on the same day (563 U.S. 1045; Cong. Rec., vol. 157, pt. 6, p. 7770, Ex. Comm. 1663; H. Doc. 112-30), and became effective December 1, 2011. The amendments affected Rules 4 and 40.

Additional amendments were adopted by the Court by order dated April 16, 2013, transmitted to Congress by the Chief Justice on the same day (569 U.S.—; Cong. Rec., vol. 159, p. H2652, Daily Issue, Ex. Comm. 1493; H. Doc. 113-27), and became effective December 1, 2013. The amendments affected Rules 13, 14, 24, 28, and 28.1 and Form 4.

An additional amendment was adopted by the Court by order dated April 25, 2014, transmitted to Congress by the Chief Justice on the same day (572 U.S. 1161; Cong. Rec., vol. 160, pt. 11, p.



15506, Ex. Comm. 7577; H. Doc. 113-161), and became effective December 1, 2014. The amendment affected Rule 6.

Additional amendments were adopted by the Court by order dated April 28, 2016, transmitted to Congress by the Chief Justice on the same day (578 U.S.—; Cong. Rec., vol. 162, p. H2147, Daily Issue, Ex. Comm. 5234; H. Doc. 114-129), and became effective December 1, 2016. The amendments affected Rules 4, 5, 21, 25, 26, 27, 28, 28.1, 29, 32, 35, and 40, and Forms 1, 5, and 6, added Form 7, and added Appendix: Length Limits Stated in the Federal Rules of Appellate Procedure.

(US Supreme Court // © December 1, 2019

Printed for the use of: The Committee on the Judiciary House of Representatives

US Government Publishing Office

Washington, DC 2019)

Committee Notes

Committee Notes prepared by the Committee on Rules of Practice and Procedure and the Advisory Committee on the Federal Rules of Appellate Procedure, Judicial Conference of the United States, explaining the purpose and intent of the amendments are set out in the Appendix to Title 28, United States Code, following the particular rule to which they relate. In addition, the rules and amendments, together with Committee Notes, are set out in the House documents listed above.

