

## **Rule 28-I. Interstate Depositions and Discovery Procedures**

(a) IN GENERAL. In seeking to conduct interstate depositions and discovery, parties may proceed under any of the following provisions.

(b) INTERSTATE DEPOSITIONS AND DISCOVERY PROCEDURES UNDER THE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT, D.C. CODE §§ 13-441 to -449.

### *(1) Issuance of Subpoena.*

(A) To request a subpoena under D.C. Code § 13-443, a party must submit a foreign subpoena to the clerk and the written affirmation required by Rule 28-I(b)(2)(A). A request for the issuance of a subpoena under the Uniform Interstate Depositions and Discovery Act does not constitute an appearance in the courts of the District of Columbia.

(B) When a party submits a foreign subpoena to the clerk, the clerk, in accordance with these rules, must promptly issue a subpoena for service on the person to whom the foreign subpoena is directed.

(C) A subpoena under Rule 28-I(b)(1)(B) must:

- (i) incorporate the terms used in the foreign subpoena; and
- (ii) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

### *(2) Affirmation of Noninterference with Bodily Autonomy.*

(A) A party or the party's counsel requesting issuance of a subpoena under Rule 28-I(b)(1) must submit a written statement, signed by the party seeking enforcement or the party's counsel, swearing or affirming under penalty of perjury that no portion of the foreign subpoena is intended or anticipated to further any investigation or proceeding of a type described in D.C. Code § 2-1461.01(a).

(B) A foreign subpoena not conforming to the requirements of Rule 28-I(b)(2)(A) will not be accepted for filing.

(C) If a party or the party's counsel refuses to provide the Affirmation of Noninterference with Bodily Autonomy, the clerk must send to the person to whom the foreign subpoena is directed, by first class mail at the address shown in the subpoena, a copy of the foreign subpoena and a notice that it is not recognized as a valid foreign subpoena because it does not include the affirmation required by Rule 28-I(b)(2)(A).

(3) *Service of Subpoena.* A subpoena issued by a clerk under Rule 28-I(b)(1) must be served in compliance with D.C. Code § 11-942 and Rule 45.

(4) *Deposition, Production, and Inspection.* The rules applicable to compliance with subpoenas to attend and give testimony, produce designated books, documents, records, electronically stored information, or tangible things, or permit inspection of premises apply to subpoenas issued under Rule 28-I(b)(1).

(5) *Motions Regarding Subpoena.* A motion for a protective order or to enforce, quash, or modify a subpoena issued by a clerk under Rule 28-I(b)(1) must comply with these rules and the laws of the District of Columbia and must be submitted to the Superior Court.

(c) ASSISTANCE TO TRIBUNALS AND LITIGANTS OUTSIDE THE DISTRICT OF COLUMBIA UNDER D.C. CODE § 13-434.

(1) *By Court Order*. Upon application by any interested person or in response to letters rogatory issued by a tribunal outside the District of Columbia, the Superior Court may order service on any person who is domiciled or can be found within the District of Columbia of any document issued in connection with a proceeding in a tribunal outside the District of Columbia. The order must direct the manner of service.

(2) *Without Court Order*. Service in connection with a proceeding in a tribunal outside the District of Columbia may be made inside the District of Columbia without an order of the court.

(3) *Effect*. Service under Rule 28-I(c) does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside the District of Columbia.

(d) COMMISSIONS OR NOTICES FOR TESTIMONY UNDER D.C. CODE § 14-103.

When a commission is issued or notice given to take the testimony of a witness found within the District of Columbia, to be used in an action pending in a court of a state, territory, commonwealth, possession, or a place under the jurisdiction of the United States, the party seeking that testimony may file with this court a certified copy of the commission or notice. Upon approval by the judge in chambers of the commission or notice and the proposed subpoena, the clerk must issue a subpoena compelling the designated witness to appear for deposition at a specified time and place. Testimony taken under Rule 28-I(d) must be taken in the manner prescribed by these rules, and the court may entertain any motion, including motions for quashing service of a subpoena and for issuance of protective orders, in the same manner as if the action were pending in this court.

## COMMENT TO 2025 AMENDMENTS

Section (b) of the rule has been amended to implement the Human Rights Sanctuary Amendment Act of 2022, D.C. Law 24-257, § 201, 70 D.C. Reg. 2929 (2023), D.C. Code §§ 13-443, -449, which amended the Uniform Interstate Depositions and Discovery Act to restrict enforcement of foreign subpoenas in interstate investigations and proceedings that interfere with the right of bodily autonomy under section 101(a) of the Act, D.C. Code § 2-1461.01(a). New subsection (b)(2) implements the Act's affirmation requirement, D.C. Code § 13-449. Former subsections (b)(2), b(3), and b(4) have been redesignated (b)(3), (b)(4), and (b)(5), respectively. Section (b) has also been amended to conform with the general restyling of the Superior Court rules.

To the extent the Human Rights Sanctuary Amendment Act of 2022 includes procedural rules, the Court has adopted them pursuant to its exclusive rulemaking authority under D.C. Code § 11-946. See *Woodroof v. Cunningham*, 147 A.3d 777 (D.C. 2016).

## COMMENT TO 2017 AMENDMENTS

This rule was amended to include the procedures for filing under the Uniform Interstate Depositions and Discovery Act (D.C. Code §§ 13-441 to -448 (2012 Repl.)) and D.C. Code § 13-434 (2012 Repl.). The process for obtaining a commission or notice under D.C. Code § 14-103 (2012 Repl.) has been retained from the prior version of the rule, but the provisions related to appointment of an examiner to take testimony of

a witness outside the District of Columbia have been moved to new Rule 28-II. Stylistic changes were also made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure.

#### COMMENT

Paragraphs (c) and (b) of Rule 28-I implement the authority conferred on the Superior Court by § 14-103 and § 14-104, respectively.