

Rule 43. Evidence

(a) IN GENERAL. The admissibility of evidence and the competency and privileges of witnesses are governed by the principles of the common law as they may be interpreted by the courts in the light of reason and experience, except when a statute or these rules otherwise provide.

(b) IN OPEN COURT. At trial, the witnesses' testimony must be taken in open court unless otherwise provided by these rules. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

(c) MODE AND ORDER OF EXAMINING WITNESSES AND PRESENTING EVIDENCE. *Federal Rule of Evidence 611* is incorporated herein.

(d) RULINGS ON EVIDENCE. *Federal Rule of Evidence 103* is incorporated herein.

(e) AFFIRMATION INSTEAD OF AN OATH. When these rules require an oath, a solemn affirmation suffices.

(f) EVIDENCE ON A MOTION. When a motion relies on facts outside the record, the court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

COMMENT TO 2018 AMENDMENTS

This rule was amended to make it more consistent with Civil Rule 43. Section (b) has been amended to provide for testimony by contemporaneous transmission from a different location in exceptional circumstances.

In accordance with D.C. Code § 16-4601.10 (b) (2012 Repl.), which is based on § 111 of the Uniform Child Custody Jurisdiction and Enforcement Act, the court may permit an individual residing in another state to testify by telephone or electronic means.

COMMENT

This Rule is intended to be consistent with D.C. Code § 14-102 (Impeachment of Witnesses). Pursuant to SCR-Dom. Rel. 2(b)(5), whenever a person is required to take an oath, the person may make a solemn affirmation instead. For provisions on the admissibility of business records, see SCR-General Family Q.