
AMENDMENT TO
FEDERAL RULES OF EVIDENCE

The following amendment to the Federal Rules of Evidence was prescribed by the Supreme Court of the United States on April 16, 2013, pursuant to 28 U.S.C. §2072, and was reported to Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *post*, p. 1168. The Judicial Conference report referred to in that letter is not reproduced herein.

Note that under 28 U.S.C. §2074, such amendments shall take effect no earlier than December 1 of the year in which they are transmitted to Congress unless otherwise provided by law.

For earlier reference to the Federal Rules of Evidence, see 409 U.S. 1132. For earlier publication of the Federal Rules of Evidence and amendments thereto, see 441 U.S. 1005, 480 U.S. 1023, 485 U.S. 1049, 493 U.S. 1173, 500 U.S. 1001, 507 U.S. 1187, 511 U.S. 1187, 520 U.S. 1323, 523 U.S. 1235, 529 U.S. 1189, 538 U.S. 1097, 547 U.S. 1281, 559 U.S. 1157, and 563 U.S. 1075.

LETTER OF TRANSMITTAL

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

APRIL 16, 2013

*To the Senate and House of Representatives of the United
States of America in Congress Assembled:*

I have the honor to submit to the Congress the amendment to the Federal Rules of Evidence that has been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying this rule are excerpts from the report of the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

(Signed) JOHN G. ROBERTS, JR.
Chief Justice of the United States

SUPREME COURT OF THE UNITED STATES

APRIL 16, 2013

ORDERED:

1. That the Federal Rules of Evidence be, and they hereby are, amended by including therein an amendment to Evidence Rule 803.

[See *infra*, p. 1171.]

2. That the foregoing amendment to the Federal Rules of Evidence shall take effect on December 1, 2013, and shall govern in all proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendment to the Federal Rules of Evidence in accordance with the provisions of Section 2072 of Title 28, United States Code.

AMENDMENT TO THE FEDERAL RULES
OF EVIDENCE

Rule 803. Exceptions to the rule against hearsay—regardless of whether the declarant is available as a witness.

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(10) *Absence of a public record.*—Testimony—or a certification under Rule 902—that a diligent search failed to disclose a public record or statement if:

(A) the testimony or certification is admitted to prove that

(i) the record or statement does not exist; or

(ii) a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind; and

(B) in a criminal case, a prosecutor who intends to offer a certification provides written notice of that intent at least 14 days before trial, and the defendant does not object in writing within 7 days of receiving the notice—unless the court sets a different time for the notice or the objection.