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Federal Rules Update: Technology-Related Rules

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24 CRIM. JUST. 72 (2009).

In June 2009, the Standing Committee on the Federal Rules of Procedure and Evidence authorized publication for comment on a number of technology-related rules of criminal procedure. Criminal Rule 1 would state that the terms “telephone,” “telephonic,” or “telephonically” mean any form of live electronic voice communication. Rule 3 would allow officers to submit a complaint and supporting material electronically. Changes to Rule 4 would address electronically processed and submitted arrest warrants. Proposed new Rule 4.1 would permit magistrate judges to consider information presented electronically in deciding whether to issue a warrant or summons or approve a complaint. The amendment to Rule 9 would permit a court to issue a summons or arrest warrant based on information supplied by telephone or other reliable electronic means. Under the amendment to Rule 32.1, a court may allow use of video conferencing in a proceeding to decide whether to revoke or modify the defendant’s probation or supervised release. Rule 40 would permit video conferencing for appearances under the rule. Rule 41 would move the current provisions dealing with requesting warrants by electronic means to proposed Rule 4.1. Rule 43 would be changed to permit the court to use video conferencing for the arraignment, plea, trial, and sentencing in misdemeanor cases. Finally, the Rule 49 amendment addresses electronic service and filing.

Keywords: Rules Enabling Act, Federal Rules of Procedure and Evidence, United States Judicial Conference, Standing Committee on the Rules, Criminal Rule 1, telephone, telephonic, telephonically, Rule 3, electronic complaint submission, Rule 4, Rule 4.1, electronic arrest warrant submission, electronic summons submission, Rule 9, Rule 32.1, revoking or modifying probation or supervised release, video conferencing, Rule 40, Rule 41, search and seizure, electronic warrant requests, Rule 43, arraignment, plea, trial, sentencing, misdemeanor, defendant presence, Rule 49, electronic service and filing of papers.