

**Rule 1101. Rules Applicable**

**(a)** Except as otherwise provided in subdivisions (b) and (c), these rules apply to all actions and proceedings in the courts of this state.

**(b) Rules inapplicable.** The rules other than those with respect to privileges do not apply in the following situations:

(1) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Rule 104(a).

(2) Proceedings before grand juries.

(3) Proceedings for extradition or rendition; probable cause hearings; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; and criminal expungement proceedings.

(4) Contempt proceedings in which the court may act summarily.

**(c) Restitution hearings.** For restitution hearings held under Minnesota Statutes, section 611A.045, subdivision 3, paragraph (b), these rules apply except that the foundation for admission of documentary evidence offered under Rule 803(6) may be provided by affidavit, or statements signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, in lieu of testimony.

(Amended effective January 1, 2019; amended effective July 1, 2019.)

***Committee Comment - 1977***

*These rules of evidence are not applicable to certain procedures. However, these proceedings may be governed by evidentiary rules set forth in statutes, federal and state constitutions, and other court rules. See e. g., Minn. R. Crim. P. 18.06.*

***Committee Comment - 2018***

*The amendment eliminating the paragraph and clause headers in paragraph (b) is stylistic and is intended to eliminate redundant language, not to alter existing law.*

***Committee Comment - 2019***

*Rule 1101 has been amended to clarify the applicability of the Rules of Evidence to criminal restitution and expungement hearings. In State v. Willis, 898 N.W. 2d 642 (Minn. 2017), the Minnesota Supreme Court held that the Rules of Evidence apply to criminal restitution hearings held under Minnesota Statutes, section 611A.045. It then referred the matter to the advisory committee for review. The advisory committee determined that the Rules of Evidence should continue to apply to restitution hearings, but that the standards for admissibility of hearsay should be relaxed. This approach is intended to ease the burden on victims presenting receipts for expenses, while also ensuring fair and accurate restitution awards.*

*The rule was also amended to clarify that the Rules of Evidence do not apply to criminal expungement proceedings held under Minnesota Statutes, chapter 609A. This amendment is consistent with existing practice in Minnesota.*