

1 **5-509. Habitual criminal proceedings; notice of attack on prior sentence.**

2 A. **Notice.** If the defense in ~~[an]~~ a habitual criminal sentencing proceeding intends to  
3 attack the validity of any prior conviction, unless a ~~[shorter]~~ different period of time is ordered by  
4 the court, no later than ten (10) days before the habitual criminal sentencing proceeding, the  
5 defendant shall provide the state with a written notice of ~~[such]~~ this intention. The defendant's  
6 notice of intent to attack a prior conviction shall contain specific information ~~[as to]~~ about each  
7 conviction the defendant intends to attack as invalid and the names and addresses of the witnesses  
8 by whom the defendant proposes to establish ~~[such]~~ this defense. Not less than five (5) days ~~[after~~  
9 ~~receipt of defendant's witness list]~~ before the habitual criminal sentencing proceeding or at ~~[such]~~  
10 any other time as the district court may direct, the district attorney shall serve ~~[upon]~~ on the  
11 defendant the names and addresses, as particularly as known to the district attorney, of the  
12 witnesses the state proposes to offer in rebuttal to discredit the defendant's claim that the prior  
13 conviction was invalid.

14 B. **Continuing duty to give notice.** Both the defendant and the district attorney shall  
15 be under a continuing duty to promptly disclose the names and addresses of additional witnesses  
16 which come to the attention of either party ~~[subsequent to]~~ after filing their respective witness lists  
17 as provided in this rule.

18 C. **Failure to give notice.** If a defendant fails to serve a copy of ~~[such]~~ the notice as  
19 ~~[herein]~~ required by this rule, the court may exclude evidence offered by ~~[such]~~ the defendant for  
20 the purpose of proving a prior conviction was invalid, except the testimony of the defendant  
21 himself. If ~~[such]~~ the notice is given by a defendant, the district court may exclude the testimony  
22 of any witness offered by the defendant for the purpose of proving the invalidity of a prior  
23 conviction if the name and address of ~~[such]~~ the witness was known to defendant or his attorney

1 but was not stated in [~~such~~] the notice. If the district attorney fails to file a list of witnesses and  
2 serve a copy [~~thereof~~] of it on the defendant as provided in this rule, the court may exclude evidence  
3 offered by the state to contradict the defendant's evidence. If [~~such~~] the notice is given by the  
4 district attorney, the court may exclude the testimony of any witnesses offered by the district  
5 attorney for the purpose of contradicting the defendant's claim that a prior conviction was invalid  
6 if the name and address of [~~such~~] the witness is known to the district attorney but was not stated  
7 in [~~such~~] the notice. For good cause shown, the court may waive the requirements of this rule.  
8 [As adopted, effective August 1, 1989; as amended by Supreme Court Order No. S-1-RCR-2025-  
9 00121, effective for all cases pending or filed on or after December 31, 2025.]