

Table of Contents

Volume 1

CHAPTER 1. EVIDENCE IN GENERAL

- § 1:1 Direct and circumstantial evidence, generally
- § 1:2 Direct evidence
- § 1:3 Circumstantial evidence
- § 1:4 Limited admissibility of evidence
- § 1:5 Laying foundation generally
- § 1:6 Exclusionary rule generally

CHAPTER 2. JUDICIAL NOTICE

A. IN GENERAL

- § 2:1 Nature and scope
- § 2:2 Taking of notice by the trial court
- § 2:3 Taking of notice by the reviewing court

B. SPECIFIC MATTERS JUDICIALLY NOTICED

- § 2:4 State laws
- § 2:5 Laws of other states
- § 2:6 Laws of foreign countries
- § 2:7 Governmental matters
- § 2:8 Municipal ordinances
- § 2:9 Judicial proceedings and records
- § 2:10 Public records
- § 2:11 Facts related to business customs and usages
- § 2:12 Facts related to human life, health, habits, and acts
- § 2:13 Historical matters
- § 2:14 Statistical facts
- § 2:15 Geographical facts
- § 2:16 Scientific facts
- § 2:17 Operation and effect of natural forces
- § 2:18 Meaning of words and phrases

CHAPTER 3. PRESUMPTIONS AND INFERENCES

A. PRESUMPTIONS AND INFERENCES IN GENERAL

- § 3:1 Presumptions versus inferences
- § 3:2 Mandatory presumptions
- § 3:3 —Effect of presumptions
- § 3:4 —Conflicting presumptions
- § 3:5 —Irrebuttable presumptions
- § 3:6 —Rebuttable presumptions
- § 3:7 Permissive inferences
- § 3:8 —Inference based upon another inference
- § 3:9 —Res ipsa loquitur

B. SPECIFIC STATUTORY AND COMMON LAW PRESUMPTIONS AND INFERENCES

1. IN GENERAL

- § 3:10 Knowledge of law
- § 3:11 Presumption of innocence

2. OFFICIAL MATTERS

- § 3:12 Regularity of judicial proceedings
- § 3:13 Validity and regularity of official acts

3. FAMILY MATTERS

- § 3:14 Presumption from the fact of marriage
- § 3:15 Legitimacy of a child
- § 3:16 Miscellaneous presumptions

4. NEGLIGENCE

- § 3:17 Negligence generally not presumed
- § 3:18 Carriers and bailees
- § 3:19 Res ipsa loquitur
- § 3:20 —Specific applications

5. FRAUD OR SIMILAR MISCONDUCT

- § 3:21 Fraud and similar misconduct, generally
- § 3:22 Undue influence in confidential relationships

TABLE OF CONTENTS

6. EVIDENCE RELATED

- § 3:23 Suppression, fabrication, alteration, or destruction of physical evidence
- § 3:24 Withholding or failing to produce evidence
- § 3:25 Missing-witness inference

7. COMMERCIAL MATTERS

- § 3:26 Regularity of business transactions and corporate acts
- § 3:27 General course of business dealings
- § 3:28 Payment
- § 3:29 Law governing contracts
- § 3:30 Agency

8. CRIMINAL CASES

- § 3:31 Consciousness of guilt, defendant's flight
- § 3:32 Consciousness of guilt, attempts to influence witnesses
- § 3:33 Consciousness of guilt, miscellaneous
- § 3:34 Miscellaneous presumptions

9. PROPERTY

- § 3:35 Possession and ownership of property
- § 3:36 Claims regarding work on real property

10. MISCELLANEOUS

- § 3:37 Continuance of a fact or condition
- § 3:38 Identity based upon similarity of names
- § 3:39 Intoxication
- § 3:40 Sanity and insanity
- § 3:41 Malice implied from conduct
- § 3:42 Wills
- § 3:43 Presumption of delivery or receipt of correspondence
- § 3:44 Freedom of Information Act
- § 3:45 An individual's death
- § 3:46 Therapist's good faith
- § 3:47 Damages
- § 3:48 Other miscellaneous presumptions

CHAPTER 4. RELEVANCY

A. RELEVANCY AND ITS LIMITS

- § 4:1 When evidence is relevant

§ 4:2 —General statements regarding relevancy

B. RELEVANCY ISSUES IN CIVIL CASES

- § 4:3 Relevancy issues in civil cases
- § 4:4 —Medical malpractice
- § 4:5 —Same part of the body cases
- § 4:6 —Cases involving consumption of alcohol and other drugs
- § 4:7 —Dissolution cases
- § 4:8 —Damages
- § 4:9 —Auto accident

C. RELEVANCY ISSUES IN CRIMINAL AND JUVENILE DELINQUENCY CASES

- § 4:10 Relevancy issues in juvenile neglect and termination cases
- § 4:11 Relevancy issues in criminal and juvenile delinquency cases
- § 4:12 —Homicide cases
- § 4:13 —Sex offense cases
- § 4:14 —Drug cases
- § 4:15 —Criminal sentencing cases
- § 4:16 —Death penalty cases
- § 4:17 —Relevance of third party's acts to accused's innocence

D. EXCLUSION OF OTHERWISE ADMISSIBLE EVIDENCE

- § 4:18 Exclusion of otherwise admissible evidence
- § 4:19 —Prejudicial effect of the evidence substantially outweighs its probative value
- § 4:20 —Probative value of the evidence is remote or uncertain
- § 4:21 —Evidence might confuse the issues or mislead the jury
- § 4:22 —Evidence is redundant
- § 4:23 —Criminal defendant is willing to stipulate

E. ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE

- § 4:24 Admission of evidence made relevant by adverse party, "opening the door"
- § 4:25 Admission of evidence made relevant by the adverse party, "the completeness doctrine"

F. OTHER CRIMES EVIDENCE

- § 4:26 Other-crimes evidence
- § 4:27 —No mini-trials

TABLE OF CONTENTS

- § 4:28 —The need for a limiting instruction
- § 4:29 —Example of erroneous admission
- § 4:30 —Statutes that apply
- § 4:31 —Civil cases
- § 4:32 Exceptions to the general rule against the admissibility of
other-crimes evidence
- § 4:33 —The modus operandi exception
- § 4:34 — —In homicide cases
- § 4:35 — —In sex-offense cases
- § 4:36 — —In armed robbery cases
- § 4:37 — —In burglary cases
- § 4:38 —Intent exception
- § 4:39 —Motive exception
- § 4:40 —Knowledge exception
- § 4:41 —Common design exception
- § 4:42 —Continuing narrative exception
- § 4:43 —Identification exception
- § 4:44 —Absence of mistake exception
- § 4:45 —Consciousness of guilt
- § 4:46 —Rebuttal to the defendant's evidence exception
- § 4:47 —Miscellaneous exceptions

G. CHARACTER AND REPUTATION

- § 4:48 Character and reputation
- § 4:49 —Proving reputation
- § 4:50 —Homicide victim's character (the *Lynch* rule)
- § 4:51 Admissibility of gang membership or affiliation

H. THE RAPE-SHIELD STATUTE

- § 4:52 The rape-shield statute

I. FINANCIAL CONDITIONS

- § 4:53 Financial condition of the parties
- § 4:54 Liability insurance
- § 4:55 Other sales of real property to prove value

J. SIMILAR CONDITIONS OR OCCURRENCES

- § 4:56 Customs and usages
- § 4:57 Rules of employment, safety codes
- § 4:58 Previous conduct of employees
- § 4:59 Habits of persons
- § 4:60 Habits of animals

- § 4:61 Similarity of conditions
- § 4:62 Other accidents or injuries

K. OTHER MATTERS

- § 4:63 Cause and effect, generally
- § 4:64 Cause and effect, negligence cases
- § 4:65 Direct testimony to show the witness' state of mind
- § 4:66 Failure to use seat belt
- § 4:67 Conduct of third parties

CHAPTER 5. BURDEN OF PROOF

A. IN GENERAL

- § 5:1 Nature and scope
- § 5:2 Shifting of the burden

B. CRIMINAL CASES

- § 5:3 Criminal cases, generally
- § 5:4 Motions to suppress
- § 5:5 —Confessions
- § 5:6 —Identification
- § 5:7 Affirmative defenses
- § 5:8 —Self-defense
- § 5:9 —Insanity
- § 5:10 —Intoxication

C. CIVIL CASES

- § 5:11 Civil cases, generally
- § 5:12 Affirmative defenses
- § 5:13 Fiduciary relationships
- § 5:14 Fraud and similar misconduct
- § 5:15 Tax cases
- § 5:16 Insurance cases
- § 5:17 Negligence and strict-liability cases
- § 5:18 Family and child-related matters
- § 5:19 Miscellaneous cases

CHAPTER 6. BEST AND SECONDARY EVIDENCE

A. BEST EVIDENCE RULE

- § 6:1 Generally

TABLE OF CONTENTS

- § 6:2 Circumstances under which the best evidence rule does not apply

B. SECONDARY EVIDENCE

- § 6:3 Admissibility of secondary evidence, generally
- § 6:4 Quality and degree of secondary evidence
- § 6:5 Public records and inscribed objects
- § 6:6 Summaries of multiple writings

CHAPTER 7. OPINION TESTIMONY

A. NON-EXPERT OPINION TESTIMONY

- § 7:1 When non-expert opinion testimony is admissible
- § 7:2 —Testimony regarding identification
- § 7:3 —Testimony regarding intoxication
- § 7:4 —Testimony regarding sanity and mental condition
- § 7:5 —Testimony regarding speed
- § 7:6 —Testimony regarding value of property
- § 7:7 —Testimony regarding handwriting
- § 7:8 —Testimony regarding the customs, habits, or practices of a business
- § 7:9 —Testimony regarding the effect of drugs
- § 7:10 —Testimony regarding whether an accident or a certain action caused a specific injury
- § 7:11 —Testimony regarding whether certain property was public housing or a public park
- § 7:12 —Testimony regarding miscellaneous subjects

B. EXPERT OPINION TESTIMONY

- § 7:13 When expert testimony is admissible
- § 7:14 —Whether the proffered expert testimony will assist the trier of fact
- § 7:15 —Whether the subject of the proffered expert testimony is beyond the ken of the average juror
- § 7:16 —Cases where proffered expert testimony was rejected because either (1) it would not assist the trier of fact or (2) it concerned a subject not beyond the ken of the average juror
- § 7:17 When a witness is qualified to testify as an expert, generally
- § 7:18 When a witness is qualified to testify as an expert—Trial court has discretion to determine witness' competency to testify as an expert
- § 7:19 —Party offering witness has burden to show his competency to testify as an expert
- § 7:20 Basis of expert testimony

- § 7:21 —Personal knowledge or observation
- § 7:22 —Information customarily and reasonably relied upon
- § 7:23 —Information received in court
- § 7:24 Expert witness' disclosure of facts or data underlying his or her opinion
- § 7:25 Expert testimony may not be based on guess or conjecture
- § 7:26 Degree of certainty expert must express for his or her opinion to be admissible
- § 7:27 The *Frye* test, not *Daubert*, governs admission of scientific evidence in Illinois
- § 7:28 An analytical framework for dealing with *Frye* issues
- § 7:29 Hypothetical questions
- § 7:30 Expert or lay opinion on ultimate issue
- § 7:31 Cross-examination of expert witness
- § 7:32 —To challenge the basis for witness opinion
- § 7:33 —Use of recognized textbook or other authoritative source
- § 7:34 —Use of other documents
- § 7:35 —To demonstrate possible bias or financial interest
- § 7:36 Weight of expert testimony

C. SUBJECTS OF EXPERT TESTIMONY

- § 7:37 Accident reconstruction
- § 7:38 —Automobiles
- § 7:39 Agriculture
- § 7:40 Damages
- § 7:41 Value of personal property and services
- § 7:42 Value of real property
- § 7:43 Expert medical testimony
- § 7:44 —Trial court's discretion
- § 7:45 —Qualifications, generally
- § 7:46 —Qualifications—Need for familiarity with standards of medical care in a particular community
- § 7:47 —Need for witness' specialization in a particular field
- § 7:48 —Basis of opinion
- § 7:49 —Timeliness of information relied upon
- § 7:50 —Information customarily and reasonably relied upon: medical records and reports
- § 7:51 —Patient's subjective history
- § 7:52 —Degree of certainty regarding opinion
- § 7:53 —Testifying using particular phrasing
- § 7:54 —Testifying using percentages
- § 7:55 —The scope of the medical expert's testimony regarding the following subjects
- § 7:56 —The cause of the injury

TABLE OF CONTENTS

§ 7:57	—The extent of the injury
§ 7:58	—The permanency of the injury
§ 7:59	—The injured person's future problems or need for future care
§ 7:60	— —The ultimate issue in the case
§ 7:61	—Hypothetical questions
§ 7:62	—Cross-examination and impeachment
§ 7:63	—The witness' or a party's disqualifying conduct
§ 7:64	—Weight of expert medical testimony
§ 7:65	—Sanity or mental condition
§ 7:66	—Child abuse and syndrome cases
§ 7:67	—Circumstances in which expert medical testimony may be required
§ 7:68	—Examples of such testimony that should have been rejected
§ 7:69	—Miscellaneous subjects
§ 7:70	Drugs and poisons
§ 7:71	Identification: ballistics, fingerprints, blood tests, etc.
§ 7:72	—DNA
§ 7:73	—Blood tests
§ 7:74	— —To determine if blood was present
§ 7:75	— —To determine the presence of alcohol or drugs within blood
§ 7:76	—Fingerprints
§ 7:77	—Handwriting
§ 7:78	—Ballistics
§ 7:79	—Eyewitness identification
§ 7:80	—Hair
§ 7:81	—Shoe prints
§ 7:82	—Bite marks and lip prints
§ 7:83	—Use of dogs
§ 7:84	Insurance matters
§ 7:85	Lie detector tests
§ 7:86	Mechanical subjects
§ 7:87	Surveyors, engineers, and miners
§ 7:88	Additional subjects
§ 7:89	Circumstances in which expert testimony may be required
§ 7:90	Subjects about which expert testimony may not be admissible

Volume 2

CHAPTER 8. DEMONSTRATIVE EVIDENCE

§ 8:1	Purpose
§ 8:2	Admissibility and inspection of articles and objects
§ 8:3	Chain of custody

- § 8:4 —Burden of proof
- § 8:5 —Situations when it is not required
- § 8:6 —When it is required, the amount and quality of evidence needed
- § 8:7 In-court display of injuries or conditions
- § 8:8 In-court display of physical characteristics
- § 8:9 In-court experiments and tests
- § 8:10 Out-of-court experiments and tests
- § 8:11 —Identification
- § 8:12 —Intoxication
- § 8:13 Maps, diagrams, and charts
- § 8:14 Models, casts, and samples
- § 8:15 Authentication of photographs, videotapes, and motion pictures
- § 8:16 Photographs
- § 8:17 —Uses and limitations
- § 8:18 Videotapes and motion pictures
- § 8:19 Sound recordings
- § 8:20 View of the scene of the incident or objects at issue by the trier of fact
- § 8:21 Independent inquiry by the trier of fact
- § 8:22 Use of exhibits by the jury during deliberations

CHAPTER 9. DOCUMENTARY EVIDENCE

A. IN GENERAL

- § 9:1 Definition and admissibility of documents

B. SELF-AUTHENTICATION

- § 9:2 Certified copies of public records
- § 9:3 —State and federal statutes
- § 9:4 —Municipal ordinances and records
- § 9:5 —Recorded or recordable documents
- § 9:6 —Foreign documents
- § 9:7 Certified copies of corporate records
- § 9:8 Official publications
- § 9:9 Newspapers, magazines, journals, and periodicals
- § 9:10 Acknowledged or notarized documents
- § 9:11 Commercial papers and trade inscriptions
- § 9:12 Testimony of a subscribing witness is not necessary to authenticate a writing

C. AUTHENTICATION REQUIRED

- § 9:13 Authentication generally

TABLE OF CONTENTS

- § 9:14 Public records
- § 9:15 Private writings
- § 9:16 Photographs, videotapes, and motion pictures
- § 9:17 Sound recordings
- § 9:18 Nonexpert opinion on handwriting
- § 9:19 Expert opinion on handwriting
- § 9:20 Comparison of handwriting by the trier of fact
- § 9:21 Ancient documents

CHAPTER 10. HEARSAY

A. HEARSAY IN GENERAL

- § 10:1 Definition of hearsay
- § 10:2 Reasons for the exclusion of hearsay
- § 10:3 Examples of statements and actions that constitute hearsay
- § 10:4 Criminal and civil proceedings in which hearsay is admissible
- § 10:5 Hearsay in administrative hearings
- § 10:6 Weight of hearsay admitted without objection
- § 10:7 Multiple hearsay or hearsay within hearsay
- § 10:8 Competency of hearsay declarant

B. STATEMENTS NOT OFFERED TO PROVE THE TRUTH OF THE MATTER ASSERTED

- § 10:9 Out-of-Court statements offered for some purpose other than to prove the truth of the matter asserted are not hearsay
- § 10:10 —To explain police conduct or describe the progress of a police investigation
- § 10:11 —To explain the subsequent behavior of the person hearing the statement
- § 10:12 —To explain the basis of an expert's opinion
- § 10:13 —To show knowledge of the content of the statement on the part of the person hearing it

C. TESTIMONIAL HEARSAY AND THE CONFRONTATION CLAUSE: *CRAWFORD V. WASHINGTON* AND ITS PROGENY

- § 10:14 An analysis of *Crawford*
- § 10:15 An update and a framework for analyzing *Crawford* issues
- § 10:16 Further United States Supreme Court decisions applying *Crawford*
- § 10:17 Illinois cases applying *Crawford*

D. HEARSAY EXCEPTIONS IN GENERAL

- § 10:18 Spontaneous declarations

- § 10:19 —Questioning of the declarant
- § 10:20 —Time lapse
- § 10:21 —Unknown declarant
- § 10:22 —Crime victim
- § 10:23 — —Rape victim
- § 10:24 —Declarant’s competency
- § 10:25 —Civil cases
- § 10:26 —Present sense impression
- § 10:27 Dying declarations
- § 10:28 Declarations against penal interest
- § 10:29 Declarations against pecuniary interest
- § 10:30 Financial affidavits in divorce cases
- § 10:31 Statements of personal or family history
- § 10:32 Statements of a party opponent
- § 10:33 Statements of agents
- § 10:34 Declarant’s state of mind
- § 10:35 Former testimony
- § 10:36 Private boundary lines
- § 10:37 Statements by persons in possession of property
- § 10:38 Prior consistent statements
- § 10:39 Statements concerning a declarant’s physical condition for
medical diagnosis or treatment
- § 10:40 Residual hearsay exception
- § 10:41 Declarations against social or moral interest
- § 10:42 Res gestae

E. STATUTORY HEARSAY EXCEPTIONS

- § 10:43 Prior inconsistent statements admissible as substantive
evidence in criminal cases (725 ILCS 5/115-10.1)
- § 10:44 Substantive admissibility of prior identification (725 ILCS
5/115-12)
- § 10:45 Statements concerning a declarant’s physical condition for
medical diagnosis or treatment (725 ILCS 5/115-13)
- § 10:46 Statements of children in criminal cases (725 ILCS 5/115-10)
- § 10:47 Statements of children in divorce cases (750 ILCS 5/606(e))
- § 10:48 Statements of children in civil and juvenile abuse cases (725
ILCS 5/8-2601(a)(1); 705 ILCS 405/2-18(4)(c))
- § 10:49 Chemical tests performed upon the blood, breath, or urine of
drivers under the Vehicle Code (625 ILCS 5/11-501.4, 625
ILCS 5/11-501.4-1, 625 ILCS 5/11-501.2, 625 ILCS
5/11-501.5)
- § 10:50 Safe-zone testimony (725 ILCS 5/115-10.5)
- § 10:51 Other statutory hearsay exceptions

TABLE OF CONTENTS

F. HEARSAY EXCEPTIONS—RECORDS AND DOCUMENTS

- § 10:52 Business records
- § 10:53 —Hospital and medical records
- § 10:54 —Police reports
- § 10:55 —Computer printouts
- § 10:56 Public records and reports; certificates and vital statistics
- § 10:57 Past recollection recorded
- § 10:58 Religious organizations' records
- § 10:59 Ancient documents
- § 10:60 Shipping orders; rate schedules; ship registers; log books
- § 10:61 Newspapers; advertisements; market reports
- § 10:62 Historical works; directories and registers
- § 10:63 Scientific treatises; mortality tables; almanacs; public polls
- § 10:64 Charts, plats, diagrams, etc. used to explain testimony
- § 10:65 Judgment in a criminal action as evidence in a civil action and vice versa
- § 10:66 Boundaries and matters of public interest
- § 10:67 Geographical facts; maps and surveys
- § 10:68 Written pedigree declarations

CHAPTER 11. ADMISSIONS

A. ADMISSIONS BY A PARTY OPPONENT

- § 11:1 In general
- § 11:2 Admissibility of the whole statement when only a part is offered
- § 11:3 Self-serving declarations

B. ADMISSIONS BY PARTICULAR PERSONS

- § 11:4 Agents
- § 11:5 Attorneys
- § 11:6 Conspirators
- § 11:7 —Existence of a conspiracy
- § 11:8 —Statements in furtherance of a conspiracy
- § 11:9 Ancestors, insured persons, etc.
- § 11:10 Corporate officers
- § 11:11 Fiduciaries
- § 11:12 Former property owner's admissions
- § 11:13 Infants
- § 11:14 Interpreters
- § 11:15 Joint obligors
- § 11:16 Joint property owners

- § 11:17 Mortgagors
- § 11:18 Nominal parties
- § 11:19 Partners
- § 11:20 Persons referred to for information
- § 11:21 Principal as against surety
- § 11:22 Spouses
- § 11:23 Transferors of property

C. ADMISSIONS IN WRITINGS AND RECORDS

- § 11:24 In general
- § 11:25 Corporate records
- § 11:26 Partnership records
- § 11:27 Pleadings and other judicial admissions
- § 11:28 —Requests to admit
- § 11:29 —Depositions and interrogatories
- § 11:30 —In-court testimony
- § 11:31 —Guilty pleas
- § 11:32 Forms of confession

D. ADMISSIONS IMPLIED FROM CONDUCT

- § 11:33 In general
- § 11:34 Postaccident repairs, subsequent remedial measures, or alterations
- § 11:35 Silence
- § 11:36 —Silence of accused in a criminal case
- § 11:37 Actions showing consciousness of guilt
- § 11:38 Compromise offers
- § 11:39 Plea discussions under Supreme Court Rule 402(f)

CHAPTER 12. PAROL OR EXTRINSIC EVIDENCE AFFECTING WRITINGS

- § 12:1 Parol evidence rule, generally
- § 12:2 Determining whether a writing is ambiguous
- § 12:3 Parol evidence in cases involving wills
- § 12:4 Parol evidence in cases involving deeds and trusts
- § 12:5 Parol evidence in cases involving insurance policies
- § 12:6 Parol evidence in cases involving marital settlement agreements

CHAPTER 13. COMPETENCY OF WITNESSES

A. IN GENERAL

- § 13:1 Competency of witnesses, in general

TABLE OF CONTENTS

- § 13:2 Determining the competency of witnesses
- § 13:3 Affidavits pertaining to motions for summary judgment and involuntary dismissal

B. FACTORS THAT MAY AFFECT COMPETENCY

- § 13:4 Inability to express oneself so as to be understood
- § 13:5 Mental condition

C. DEAD MAN’S ACT

- § 13:6 In general
- § 13:7 Disqualification of adverse parties or interested persons
- § 13:8 Exceptions under the Dead Man’s Act
- § 13:9 —When a representative “opens the door”
- § 13:10 —Facts relating to the heirship of a decedent

D. COMPETENCY OF PARTICULAR PERSONS

- § 13:11 Children
- § 13:12 Attorneys
- § 13:13 Judges
- § 13:14 Reporters
- § 13:15 Jurors

CHAPTER 14. PRIVILEGES

A. IN GENERAL

- § 14:1 Privileges, generally

B. ATTORNEY-CLIENT PRIVILEGE

- § 14:2 Attorney-client privilege, generally
- § 14:3 Necessity for attorney-client relationship and privileged communications
- § 14:4 Crime-fraud exception
- § 14:5 Duration and waiver of the attorney-client privilege

C. MARITAL PRIVILEGE

- § 14:6 Marital privilege, generally
- § 14:7 Extent to which communications are protected under the marital privilege
- § 14:8 Duration and waiver of the marital privilege

D. OTHER PRIVILEGES

- § 14:9 Judicial deliberation privilege

- § 14:10 Law enforcement investigatory privilege
- § 14:11 —Informant's privilege
- § 14:12 —Surveillance location privilege
- § 14:13 Peer review and self-evaluation privilege
- § 14:14 Physician-patient privilege
- § 14:15 Psychiatrist/mental health therapist-patient privilege
- § 14:16 Public accountant's privilege
- § 14:17 Reporter's privilege
- § 14:18 Clergy/spiritual advisor-communicant privilege
- § 14:19 Rape crisis and violent crime victims counselor's privileges
- § 14:20 Miscellaneous privileges

CHAPTER 15. SELF-INCRIMINATION BY WITNESSES

- § 15:1 Privilege against self-incrimination, generally
- § 15:2 Applicability of the privilege against self-incrimination in noncriminal proceedings
- § 15:3 Duty of a witness to claim the privilege against self-incrimination
- § 15:4 The trial court must determine the propriety of a claim of the privilege against self-incrimination
- § 15:5 The relationship between immunity from prosecution and the privilege against self-incrimination
- § 15:6 Waiver of the privilege against self-incrimination
- § 15:7 Use of evidence related to a witness' privilege against self-incrimination

CHAPTER 16. PRESENTING A CASE AND ATTENDANCE OF WITNESSES

- § 16:1 Presenting a case and attendance of witnesses, generally
- § 16:2 Use of subpoenas and subpoenas duces tecum
- § 16:3 Securing the attendance of out-of-state witnesses
- § 16:4 Compensating witnesses
- § 16:5 Trial court's management of witnesses

CHAPTER 17. EXAMINATION OF WITNESSES

A. IN GENERAL

- § 17:1 Mode and order of interrogation
- § 17:2 Relevancy of questions
- § 17:3 Limiting the number of witnesses
- § 17:4 Questioning by the judge

TABLE OF CONTENTS

- § 17:5 Testimony through interpreter or translator
- § 17:6 Reopening a case
- § 17:7 Child witnesses

B. DIRECT EXAMINATION

- § 17:8 In general
- § 17:9 Leading questions on direct examination
- § 17:10 Redirect examination

C. CROSS-EXAMINATION

- § 17:11 In general
- § 17:12 Leading questions on cross-examination
- § 17:13 Scope
- § 17:14 Opening the door by the other party
- § 17:15 The completeness doctrine
- § 17:16 Cross-examination of a party

D. REBUTTAL AND SURREBUTTAL

- § 17:17 In general
- § 17:18 Collateral matters; when answers on cross-examination may not be controverted

E. STIPULATIONS

- § 17:19 In general
- § 17:20 Civil cases
- § 17:21 Criminal Cases

Volume 3

CHAPTER 18. IMPEACHMENT

A. IN GENERAL

- § 18:1 Methods of impeachment
- § 18:2 —Collateral matters used to impeach
- § 18:3 —Illegally obtained evidence or the defendant's exercise of a constitutional right
- § 18:4 Who may impeach

B. INCAPACITY

- § 18:5 In general

C. INTEREST, BIAS, OR PREJUDICE

- § 18:6 In general
- § 18:7 Arrest or pending charge
- § 18:8 Fears or threats
- § 18:9 Financial interest; settlements
- § 18:10 Other pending civil action
- § 18:11 Miscellaneous sources of interest, bias, or prejudice

D. PRIOR INCONSISTENT STATEMENTS

- § 18:12 In general
- § 18:13 Nature of a statement's inconsistency
- § 18:14 Laying a foundation
- § 18:15 Effect of a denial of the statement and the need to complete impeachment
- § 18:16 Written inconsistent statements

E. A WITNESS' CHARACTER AND CONDUCT

- § 18:17 Reputation evidence
- § 18:18 Degrading facts
- § 18:19 Previous misconduct

F. IMPEACHMENT BY PRIOR CONVICTION

- § 18:20 In general
- § 18:21 Method of proving
 - § 18:22 —Age of conviction
 - § 18:23 —Appeal pending
 - § 18:24 —Constitutionally tainted convictions
 - § 18:25 —Crime involving dishonesty
 - § 18:26 —Juvenile adjudications
 - § 18:27 —Similarity with charged crime
 - § 18:28 —Miscellaneous

G. REHABILITATION OF AN IMPEACHED WITNESS

- § 18:29 Reputation
- § 18:30 Explanation of inconsistent statements
- § 18:31 Prior consistent statements
- § 18:32 Redirect examination of impeached witness

CHAPTER 19. REFRESHING MEMORY OF WITNESSES

- § 19:1 Refreshing memory, generally

TABLE OF CONTENTS

- § 19:2 Refreshing memory with documents
- § 19:3 Hypnotically enhanced testimony of anyone other than a criminal defendant is inadmissible

CHAPTER 20. OBJECTIONS TO EVIDENCE

A. FAILURE TO MAKE A TIMELY OBJECTION

- § 20:1 In general
- § 20:2 Timeliness of objections
- § 20:3 Procuring, inviting, or acquiescing in admission of improper evidence
- § 20:4 Decisions finding procedural forfeitures in criminal cases
- § 20:5 Decisions finding procedural forfeitures in civil cases
- § 20:6 Miscellaneous failure to object issues

B. STATING REASONS FOR OBJECTIONS

- § 20:7 In general
- § 20:8 Grounds not specified are forfeited
- § 20:9 “Testifying” objections are improper

C. MOTIONS TO STRIKE

- § 20:10 In general
- § 20:11 Nonresponsive answers
- § 20:12 Failure to connect up presented evidence with promised evidence

D. MOTIONS IN LIMINE

- § 20:13 In general
- § 20:14 Timeliness
- § 20:15 Trial court’s discretion whether to address at all
- § 20:16 Preserving the issue for appeal

E. OFFERS OF PROOF

- § 20:17 In general
- § 20:18 The right to make an offer of proof
- § 20:19 Informal offers of proof made through counsel’s representations

F. EVIDENCE RULINGS AS GROUNDS FOR A NEW TRIAL

- § 20:20 In general

- § 20:21 Standards of review
- § 20:22 plain-error in criminal cases

CHAPTER 21. SUFFICIENCY AND WEIGHT OF THE EVIDENCE

- § 21:1 Sufficiency and weight of the evidence, generally
- § 21:2 Circumstantial evidence
- § 21:3 Summary-judgment proceedings
- § 21:4 Weight of the evidence and burden of proof
- § 21:5 Weight of the evidence as measured by the number of witnesses
- § 21:6 Evidence and pleading variances

Table of Laws and Rules

Table of Cases

Index