Table of Contents

Volume 1

PART 1. INTRODUCTION

CHAPTER 1. HISTORY AND SCOPE OF GEORGIA EVIDENCE LAW

- § 1:1 History and sources of Georgia's evidence rules
- § 1:2 Scope; applicability
- § 1:3 Implementation of the 2013 Evidence Code

CHAPTER 2. TRIAL ROLES OF COUNSEL, JUDGE, AND JURY

- § 2:1 Introduction
- § 2:2 Role of counsel
- § 2:3 Role of trial judge
- § 2:4 Role of the jury

PART 2. EVIDENTIARY PROCEDURE

CHAPTER 3. OBJECTIONS AND RULINGS ON EVIDENCE

- § 3:1 Objections at trial—In general
- § 3:2 —Specificity—"On the record"
- § 3:3 —Timeliness
- § 3:4 —Limiting instructions, curative instructions, motion for mistrial
- § 3:5 Offers of proof
- § 3:6 Motions in limine
- § 3:7 Trial court rulings on evidence
- § 3:8 Appellate review of evidentiary issues
- § 3:9 "Plain error"

CHAPTER 4. DISPENSING WITH PROOF

- § 4:1 Stipulations
- § 4:2 Judicial notice

CHAPTER 5. PRESUMPTIONS

- § 5:1 Presumptions—In general
- § 5:2 —Criminal cases
- § 5:3 —Civil cases

PART 3. RELEVANCY

CHAPTER 6. GENERAL CONCEPTS OF RELEVANCY

- § 6:1 Relevance—In general
- § 6:2 —"Connecting up"
- § 6:3 —"Opening the door" and the "rule of completeness"
- § 6:4 —Balanced against negative effects
- § 6:5 —Exclusion of relevant evidence for abuse of discovery or other rules

CHAPTER 7. AUTHENTICATION OF EVIDENCE

- § 7:1 Authentication
- § 7:2 —Things
- § 7:3 —Voices, phone conversation
- § 7:4 —Photos, films, audio and video recordings
- § 7:5 —Documents—In general
- § 7:6 ——Public
- § 7:7 ——Nonpublic
- § 7:8 —Electronic documents

CHAPTER 8. BEST EVIDENCE RULE

- § 8:1 Best evidence rule—In general
- § 8:2 When must a writing be produced
- § 8:3 Copies of writings
- § 8:4 Summaries

CHAPTER 9. FINANCIAL AND INSURANCE STATUS OF PARTIES

- § 9:1 Financial and insurance status of parties—In general
- § 9:2 —Liability insurance
- § 9:3 —Collateral sources

CHAPTER 10. DEMONSTRATIVE EXHIBITS AND OTHER TRIAL AIDS

§ 10:1 Demonstrative exhibits—In general

§ 10:2 —Computer graphics and simulations

§ 10:3	"Day-in-the-life" videos
§ 10:4	Jury views
	·
CHA	PTER 11. CHARACTER EVIDENCE
§ 11:1	Character evidence—In general
§ 11:2	—Georgia's rules
§ 11:3	—Facts "intrinsic" to or "inextricably intertwined"
	with the subject events
§ 11:4	Character of the accused—Opening the door
§ 11:5	Character of the victim
§ 11:6	Rape victim shield law
§ 11:7	Character witnesses
§ 11:8	Evidence of habit or routine practice
§ 11:9	Character evidence—Civil cases
§ 11:10	—Independent crimes or acts—In general
§ 11:11	——Pretrial notice requirement
§ 11:12	——Prosecution's burden at pretrial hearing—
	Overview
§ 11:13	——Identifying the relevant noncharacter use
§ 11:14	— —Motive
§ 11:15	——Intent
§ 11:16	——Preparation, plan, opportunity
§ 11:17	— —Knowledge
§ 11:18	— —Identity
§ 11:19	 —Prior difficulties between victim and accused
§ 11:20	 —Absence of mistake or accident
§ 11:21	— —Coverup, rebuttal, impeachment
§ 11:22	— —Lustful disposition, bent of mind, course of
	conduct
§ 11:23	 — Balancing probative value against danger of
	unfair prejudice
§ 11:24	——Proof that defendant committed the prior crime
	or act
§ 11:25	
§ 11:26	
§ 11:27	———DUI cases
§ 11:28	——Gang activity

PART 4. WITNESSES

CHAPTER 12. COMPETENCY TO TESTIFY

 $\S 12:1$ Witness competency—In general

- § 12:2 —Children
- § 12:3 —Jurors
- § 12:4 —Trial judge
- § 12:5 —Trial counsel
- § 12:6 —Hypnotically refreshed testimony

CHAPTER 13. EXAMINATION OF WITNESSES AT TRIAL

- § 13:1 Examination of witnesses—In general—Oath or affirmation
- § 13:2 Direct examination
- § 13:3 Cross-examination
- § 13:4 Redirect, recross, rebuttal, recall, reopen
- § 13:5 Refreshing witness recollection
- § 13:6 Witness sequestration

CHAPTER 14. WITNESS IMPEACHMENT

- § 14:1 Witness impeachment—In general
- § 14:2 —Contradiction, incompetence
- § 14:3 —Bias, influence
- § 14:4 —Prior inconsistent statements
- § 14:5 —Prior convictions
- § 14:6 —Character witnesses
- § 14:7 —Rule 608(b); specific instances of untruthful conduct
- § 14:8 Rehabilitating an impeached witness
- § 14:9 Witness impeachment—The vouching rule

CHAPTER 15. OPINION EVIDENCE

- § 15:1 The ultimate issue rule
- § 15:2 Lay opinion testimony
- § 15:3 Expert opinion
- § 15:4 —Qualifying the expert
- § 15:5 ——Medical malpractice cases
- § 15:6 —Basis of the expert's opinion
- § 15:7 —Direct examination
- § 15:8 —Expert's level of certainty
- § 15:9 —Cross-examination
- § 15:10 —Court-appointed experts
- § 15:11 Novel and controversial scientific and technical evidence—Introduction
- § 15:12 —The Daubert standard
- § 15:13 Polygraphs
- § 15:14 Value
- § 15:15 Psychological syndromes and profiles

PART 5. HEARSAY

CHAPTER 16. HEARSAY IN GENERAL

- § 16:1 Introduction
- § 16:2 Brief history of the hearsay rule
- § 16:3 The problem with hearsay
- § 16:4 Defining hearsay
- § 16:5 Recognizing hearsay
- § 16:6 Hearsay as legally insufficient evidence
- § 16:7 Hearsay and cross-examination
- § 16:8 "Self-serving" statements
- § 16:9 Confrontation Clause—Overview
- § 16:10 —What is "testimonial hearsay"?
- § 16:11 —Opportunity to cross-examine

Volume 2

CHAPTER 17. NONHEARSAY

- § 17:1 Nonhearsay—In general
- § 17:2 —"Original evidence"
- § 17:3 "Explaining conduct"—Materiality requirement
- § 17:4 —Admissible for objective effect—In general
- § 17:5 ——Effect on hearer/reader
- § 17:6 Verbal acts
- § 17:7 —Verbal part of an act/declarations accompanying an act
- § 17:8 ——Reputation evidence
- § 17:9 ——Explaining basis of expert's opinion
- § 17:10 —Declarant's state of mind—In general—Testator's statements
- § 17:11 ——Proof that declarant knew some fact
- 17:12 Proof of intent
- § 17:13 ——Proof of the declarant's feelings or beliefs when relevant to motive
- § 17:14 Witness's out-of-court statements—In general
- § 17:15 —Prior consistent statements
- § 17:16 —Prior inconsistent statements
- § 17:17 —Admissible under a hearsay exception
- § 17:18 —Out-of-court identification of the accused
- § 17:19 ——Due process concerns

§ 17:20 Complaint of rape or other sexual assault

CHAPTER 18. ADMISSIONS

- § 18:1 Admissions—In general
- § 18:2 —In judicio
- § 18:3 —Out-of-court statements of a party
- § 18:4 —Adoptive—Admissions by silence
- § 18:5 —Conduct
- § 18:6 —Subsequent remedial measures
- § 18:7 —Offers to compromise in civil cases
- § 18:8 —Confessions—Voluntariness
- § 18:9 ——Police promises and plea bargains
- § 18:10 ——*Miranda*
- § 18:11 —Pleas in criminal cases
- § 18:12 Admissions by agents
- § 18:13 Coconspirator's statements
- § 18:14 —Bruton

CHAPTER 19. HEARSAY EXCEPTIONS

- § 19:1 Hearsay exceptions—In general
- § 19:2 Res gestae
- § 19:3 Present sense impressions
- § 19:4 Excited utterances
- § 19:5 Statements of then existing mental, physical, or emotional conditions
- § 19:6 Statements made for the purpose of medical diagnosis or treatment
- § 19:7 Past recollections recorded
- § 19:8 Documents and records—In general
- § 19:9 Business-records exception—In general
- § 19:10 —Facts and opinions
- § 19:11 —"Made in the regular course"
- § 19:12 —Hearsay in the record
- § 19:13 —Tangible form
- § 19:14 —Made at or near the time of the event
- § 19:15 —Laying foundation
- § 19:16 ——Integrated records
- § 19:17 Written declaration under Rule 902(11)
- § 19:18 Medical records, reports, and bills
- § 19:19 Public records—In general
- § 19:20 —Administrative records
- § 19:21 —Matters observed pursuant to duty
- § 19:22 —Factual findings of public agencies
- § 19:23 Absence of records

Table of Contents

§ 19:24	Treatises, publications, market reports
§ 19:25	Judgments
§ 19:26	Ancient writings
§ 19:27	Reputation evidence
§ 19:28	Statements relating to pedigree or land
§ 19:29	Former testimony
§ 19:30	Depositions in civil cases
§ 19:31	Depositions in criminal cases
§ 19:32	Statements against interest
§ 19:33	Dying declarations
§ 19:34	Forfeiture exception
§ 19:35	Child's or mentally incapacitated person's statements
	regarding abuse
§ 19:36	Residual exception
§ 19:37	Multiple hearsay
§ 19:38	"Unavailability of a witness"—Defined

PART 6. EVIDENTIARY PRIVILEGES

CHAPTER 20. EVIDENTIARY PRIVILEGES IN GENERAL

8 20.1	Privileges defined
§ 20:2	Privilege distinguished from confidence and
3 - 3	competency
§ 20:3	Statutory privileges and the accused's constitutional
	rights
§ 20:4	Adverse inference from assertion of a privilege

CHAPTER 21. ATTORNEY-CLIENT PRIVILEGE

§ 21:1	In general
§ 21:2	Defining the privileged relationship
§ 21:3	Agents of the attorney and client: the privileged network
$\S~21:4$	Corporate clients
§ 21:5	Joint defense doctrine
§ 21:6	Confidentiality requirement—In general
§ 21:7	—Overheard or intercepted communications
§ 21:8	—Multiple clients
§ 21:9	—Facts about the client
§ 21:10	—Identity of client and fact of employment
§ 21:11	—Location of client
§ 21:12	—Other facts related to the representation

§ 21:13	—Client documents
§ 21:14	—Physical evidence acquired from the client
§ 21:15	Assertion and waiver of the privilege
§ 21:16	—Implied waiver
§ 21:17	Communication for the purpose of furthering a crime or fraud
§ 21:18	Testamentary exception to the privilege
§ 21:19	Work-product protection

CHAPTER 22. PHYSICIAN-PATIENT CONFIDENCES

- § 22:1 In general
- § 22:2 Medical review boards/peer reviews

CHAPTER 23. MENTAL HEALTH CARE PRIVILEGES

- PRIVILEGES

 § 23:1 Mental health care privileges—In general
- § 23:2 Defining the privileged relationship § 23:3 Confidentiality requirement
- § 25.5 Confidentiality requirement
- $\S~23:4$ Assertion and waiver of the privilege
- § 23:5 Exception for defending the therapist
- § 23:6 Child abuse and "Tarasoff" situations

CHAPTER 24. MARITAL PRIVILEGES

- § 24:1 In general
- § 24:2 Marital confidence privilege
- § 24:3 Spousal witness privilege
- § 24:4 Exception for crimes against a child and interspousal crimes

CHAPTER 25. CLERGY, ACCOUNTANT, AND NEWS REPORTER PRIVILEGES

- § 25:1 Clergy privilege
- § 25:2 Accountant-client privilege
- § 25:3 News reporter's privilege

CHAPTER 26. PRIVILEGE RELATING TO STATE INFORMANTS

- § 26:1 In general
- § 26:2 Applying the Georgia statutes
- § 26:3 Prohibiting the informant's testimony

CHAPTER 27. PRIVILEGES AGAINST SELF-INCRIMINATION

- § 27:1 In general
- § 27:2 Privilege of the accused in a criminal case
- § 27:3 —Psychiatric examinations
- § 27:4 —Assertion and waiver
- § 27:5 Privilege of witnesses
- § 27:6 —Immunity

APPENDICES

- Appendix A. Outline of 2013 Georgia Rules of Evidence
- Appendix B. Georgia's Rules of Evidence (effective January 1, 2013)
- Appendix C. Annotated List of Georgia Evidence Statutes
 - Outside Title 24
- Appendix D. Conversion Table—Pre-2013 Georgia Statutes

that Have Been Retained and Renumbered

 $(some\ with\ modifications)$

Table of Laws and Rules

Table of Cases

Index