What's New in the 2026–2027 Edition

This is my first year as author of the Evidence volume of the Iowa Practice Series. It is an honor to succeed Laurie Kratky Doré, my friend and retired colleague, as the author of this treatise. During her 17 years as the author, Laurie expertly built on the core work of her predecessors, James A. Adams and Joseph P. Weeg. I too will carefully build on the work of my predecessors. Above all, I will strive to maintain the standard of excellence that Laurie, Jim, and Joe have set for the Evidence volume.

I. Scope and Coverage

This volume includes evidence decisions and developments in the year since the last edition—July 1, 2025 through June 30, 2026—a period that coincides with the Iowa Supreme Court's adjudicative term.

II. Rule Amendments

No amendments to the Iowa Rules of Evidence became effective in 2025 or 2026.

A significant amendment to Fed. R. Evid. 801(d)(1)(A) (prior inconsistent statements) will become effective on December 1, 2026, absent contrary Congressional action. The amendment expands Fed. R. Evid. 801(d)(1)(A) to make admissible all prior inconsistent statements of a testifying witness as substantive evidence. The amendment thus eliminates the requirement that the prior inconsistent statement must have been "given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition" to be admitted as substantive evidence. The amended version of Fed. R. Evid. 801(d)(1)(A) tracks the 2014 change to Fed. R. Evid. 801(d)(1)(B), which made admissible as substantive evidence all prior consistent statements of a witness offered to rehabilitate the witness. In its report on Fed. R. Evid. 801(d)(1)(A), the Advisory Committee on Evidence Rules explained that by converging substantive and credibility uses of prior inconsistent statements, the amended rule "dispenses with the need for confusing limiting instructions." However, the amendment would still permit courts to exclude prior inconsistent statements under Rule 403.

III. IOWA EVIDENCE DECISIONS

The Iowa Supreme Court issued several important evidence rulings during the 2025-26 term. They include:

■ Exclusion of Relevant Evidence under 5.403

Risk of Juror Confusion: In *Northwest Bank & Trust Co. v. Pershing Hill Lofts, LLC*, 31 N.W.3d 740, 745–746 (Iowa 2026), the Supreme Court affirmed the trial court's exclusion of a financing proposal that terminated prior to the defendants' alleged fraudulent misrepresentations. The Supreme Court emphasized that the task of assessing the probative value of evidence against the risk of prejudicial effect " 'is not an exact science,' so 'we give a great deal of leeway to the trial judge who must make this judgment call.' " See infra § 5.403:1.

Admissibility of Police Department Policies: In *Mormann v. City of Manchester*, 27 N.W.3d 820, 840–842 (Iowa 2025), the Court held that evidence of an officer's failure to comply with police department policies regarding dashcam and bodycam video recordings was admissible as evidence of officer intent and was not unfairly prejudicial. See infra § 5.403:1.

■ Privileges

Marital Communications Privilege: In *State v. Lindaman*, 30 N.W.3d 547, 561–563 (Iowa 2025), the Court held that supervision of a child constitutes caretaking under Iowa Code § 232.68(8)(d) and thus triggers the § 232.74 statutory exception to the marital communication privilege. See infra § 5.501:4(C).

Attorney-Client Privilege: In *City of Davenport v. Office of Auditor*, 34 N.W.3d 248, 253–255 (Iowa 2026), the Court held that the State Auditor's right to information under Iowa Code § 11.41 "does not extend to attorney-client privileged materials." See infra §§ 5.502:1, 5.502:2.

■ Confrontation Clause

Testimony via One-Way Closed-Circuit Television: In *State v. Lindaman*, 30 N.W.3d 547, 556–557 (Iowa 2025), the Court held that witness testimony via one-way closed-circuit television violates the confrontation clause of the Iowa Constitution and "is in significant tension" with "the constitutional presumption of innocence." See infra § 5.611.3(A).

■ Opinion Testimony

Expert Testimony regarding Firearm Toolmarks and Footwear Comparison: In *Wyldes v. Iowa*, 36 N.W.3d 72, 86–88

(Iowa 2026), the Court held that firearm toolmark evidence and footwear comparison remain admissible in Iowa. The Court also reiterated that although Iowa courts may consider "the Daubert factors in certain types of cases, we have never adopted or required the stricter Daubert test" [omitting internal citations]. See infra § 5.702:2.

Expert Testimony regarding Credibility of Eyewitness: In *State v. Kepner*, 27 N.W.3d 545, 557 (Iowa 2025), the Court held that the general rule that a witness should not testify about the credibility of another witness "does not categorically bar expert testimony about the psychological factors that can impact the accuracy of eyewitness identifications or the confidence that eyewitnesses have in their identifications." See infra § 5.702:2.

SnapChat User as Expert: In *McQuillen v. West Side Transport, Inc.*, 33 N.W.3d 577, 584–585 (Iowa 2026) the Court held that an experienced Snapchat user could be qualified as an expert on Snapchat. See infra § 5.702:3.

Qualifications of Experts under Iowa Code 147.139: In *Jones v. Lindell*, 32 N.W.3d 445, 453–455 (Iowa 2026), the Supreme Court affirmed the district court's conclusion that a board-certified urologist was not qualified to testify as an expert on the standard of care or breach of the standard of care in a suit brought against a board-certified obstetrician gynecologist. See infra § 5.702:3.

■ Hearsay

Dying Declaration under Iowa Rule 5.804(b)(2): In *Mormann v. City of Manchester*, 27 N.W.3d 820, 839–840 (Iowa 2025), the Court held that a declarant's statement about the causes and circumstances of his lethal injuries—made after his decision to turn off life-supporting measures—was a statement under the belief of imminent death that qualified for the "dying declaration" exception to the general prohibition on hearsay. The Court reserved for another day whether suicide notes are covered by Rule 5.804(b)(2). See infra § 5.804:2.

■ Authentication and Identification

Authentication of Video Evidence: In *State v. Manning*, 26 N.W.3d 385, 390–393 (2025), the Court held that an assault victim properly authenticated a police bodycam recording of a store surveillance video as accurately depicting the assault. See infra § 5.901:1.

■ Contents of Writings, Recordings, and Photographs

Best Evidence Rule: In *State v. Manning*, 26 N.W.3d 385, 393 (2025), the Court held that the "best evidence rule does not apply when the content of the evidence is not in dispute." See infra § 5.1002:2.

IV. FEDERAL EVIDENCE DECISIONS

Confrontation Clause: In *Pitts v. Mississippi*, 607 U.S. 1, 2, 5–6 (2025), the United States Supreme Court reiterated that child-abuse victims may testify through screening only if the trial court first hears evidence and issues case-specific findings of necessity.