

LOUISIANA CODE OF EVIDENCE

== 2019 ==



NICHOLAS M. GRAPHIA, ESQ.

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LOUISIANA CODE OF EVIDENCE 2019

The goal of this 2019 edition of the Louisiana Code of Evidence¹ is to provide the practitioner with a convenient copy to bring to court or the office. It contains all articles as amended through the 2018 legislative sessions. Other titles such as Louisiana Civil Code, Louisiana Code of Civil Procedure, Louisiana Code of Criminal Procedure, and Federal Rules of Evidence and Civil Procedure are available at www.gulfcoastlegalpublishing.com. For bulk and academic discount inquiries, email info@gulfcoastlegalpublishing.com.

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Nicholas M. Graphia, Attorney/Publisher
Gulf Coast Legal Publishing, LLC

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CHAPTER 1. GENERAL PROVISIONS

Art. 101. Scope

This Code governs proceedings in the courts of Louisiana to the extent and with the exceptions stated in Article 1101.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 102. Purpose and construction

These articles shall be construed to secure fairness and efficiency in administration of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 103. Rulings on evidence

A. Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Ruling admitting evidence. When the ruling is one admitting evidence, a timely objection or motion to admonish the jury to limit or disregard appears of record, stating the specific ground of objection; or

(2) Ruling excluding evidence. When the ruling is one excluding evidence, the substance of the evidence was made known to the court by counsel.

B. Record of ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon.

C. Hearing of jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or asking questions in the hearing of the jury.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 104. Preliminary questions

NOTE: SEE C.E. ART. 1103.

A. Questions of admissibility generally. Preliminary questions concerning the competency or qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of Paragraph

B. In making its determination it is not bound by the rules of evidence except those with respect to privileges.

B. Relevancy conditioned on fact. Subject to other provisions of this Code, when the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

C. Hearing of jury. Hearings on matters to be decided by the judge alone shall be conducted out of the hearing of the jury when the interests of justice require. Hearings on the admissibility of confessions or admissions by the accused or evidence allegedly unlawfully

obtained shall in all cases be conducted out of the hearing of the jury, but when there has been a ruling prior to trial, it shall not be necessary to conduct another hearing as to admissibility before presentation of the evidence to a jury.

D. Weight and credibility. The preliminary determination by the court that evidence is admissible does not limit the right of a party to introduce evidence relevant to weight or credibility at the trial.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 105. Limited admissibility

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly. Failure to restrict the evidence and instruct the jury shall not constitute error absent a request to do so.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

ABSTRACT

CHAPTER 11. MISCELLANEOUS RULES

Art. 1101. Applicability

A. Proceedings generally; rule of privilege.

(1) Except as otherwise provided by legislation, the provisions of this Code shall be applicable to the determination of questions of fact in all contradictory judicial proceedings and in proceedings to confirm a default judgment. Juvenile adjudication hearings in delinquency proceedings shall be governed by the provisions of this Code applicable to civil cases. Juvenile adjudication hearings in delinquency proceedings shall be governed by the provisions of this Code applicable to criminal cases.

(2) Furthermore, except as otherwise provided by legislation, Chapter 5 of this Code with respect to testimonial privileges applies to all stages of all actions, cases, and proceedings where there is power to subpoena witnesses, including administrative, juvenile, legislative, military courts-martial, grand jury, arbitration, medical review panel, and judicial proceedings, and the proceedings enumerated in Paragraphs B and C of this Article.

B. Limited applicability. Except as otherwise provided by Article 1101(A)(2) and other legislation, in the following proceedings, the principles underlying this Code shall serve as guides to the admissibility of evidence. The specific exclusionary rules and other provisions, however, shall be applied only to the extent that they tend to promote the purposes of the proceeding.

(1) Worker's compensation cases.

(2) Child custody cases.

(3) Revocation of probation hearings.

(4) Preliminary examinations in criminal cases, and the court may consider evidence that would otherwise be barred by the hearsay rule.

(5) All proceedings before mayors' courts and justice of the peace courts.

(6) Peace bond hearings.

(7) Extradition hearings.

(8) Hearings on motions and other summary proceedings involving questions of fact not dispositive of or central to the disposition of the case on the merits, or to the dismissal of the case, excluding in criminal cases hearings on motions to suppress evidence and hearings to determine mental capacity to proceed.

C. Rules inapplicable. Except as otherwise provided by Article 1101(A)(2) and other legislation, the provisions of this Code shall not apply to the following:

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

(2) Proceedings with respect to release on bail.

(3) Disposition hearings in juvenile cases.

(4) Sentencing hearings except as provided in Code of Criminal Procedure Article 905.2 in capital cases.

(5) Small claims court proceedings except as provided in R.S. 13:5203 and 13:5207.

(6) Proceedings before grand juries except as provided by Code of Criminal Procedure Article 442.

D. Discretionary applicability. Notwithstanding the limitations on the applicability of this Code stated in Paragraphs A, B, and C of this Article, in all judicial proceedings a court may rely upon the provisions of this Code with respect to judicial notice, authentication and identification, and proof of contents of writings, recordings, and photographs as a basis for admitting evidence or making a finding of fact.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989; Acts 1988, 2nd Ex. Sess. No. 7, §1, eff. Jan. 1, 1989; Acts 1992, No. 376, §3, eff. Jan. 1, 1993.

{{NOTE: SECTION 12 OF ACTS 1988, NO. 515, PROVIDES AS FOLLOWS:

Section 12.(1) The provisions of this Act shall govern and regulate all civil proceedings commenced and criminal prosecutions instituted on or after the effective date of this Act.

(2) Furthermore, it shall govern and regulate all hearings, trials or retrials, and other proceedings to which it is applicable which are commenced on or after the effective date of this Act, except to the extent that its application in a particular action pending when the Act takes effect would not be feasible or would work injustice, in which event former evidentiary rules apply.

(3) All of the provisions of this Act shall become effective on January 1, 1989.}}

Art. 1102. Title

This Code may be known and cited as the "Louisiana Code of Evidence."
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 1103. Repealed by Acts 1995, No. 1300, §2

Art. 1104. State v. Prieur; pretrial; burden of proof

The burden of proof in a pretrial hearing held in accordance with State v. Prieur, 277 So.2d 126 (La. 1973), shall be identical to the burden of proof required by Federal Rules of Evidence Article IV, Rule 404.

Acts 1994, 3rd Ex. Sess., No. 51, §2.