LOUISIANA CODE OF EVIDENCE 2024

About the Book

Formatted and compiled with the practitioners and law students in mind, this edition of the Louisiana Code of Evidence has easy to read text on letter size pages that reads across the whole page (no dual columns) and a detailed table of contents that allows you to quickly access the provision you need. Contains all articles as amended through the 2023 Legislative Sessions.

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ISBN: 97988664358 7

Contents

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. 1102.

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

CHAPTER 4. RELEVANCY AND ITS LIMITS

Art. 401. Definition of "relevant evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 402. Relevant evidence generally admissible; irrelevant evidence inadmissible

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of Louisiana, this Code of Evidence, or other legislation. Evidence which is not relevant is not admissible.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 403. Exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 404. Character evidence generally not admissible in civil or criminal trial to prove conduct; exceptions; other crimes, acts

A. Character evidence generally. Evidence of a person's character or a trait of his character, such as a moral quality, is not admissible in a civil or criminal proceeding for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of his character, such as a moral quality, offered by an accused, or by the prosecution to rebut the character evidence; provided that such evidence shall be restricted to showing those moral qualities pertinent to the crime with which he is charged, and that character evidence cannot destroy conclusive evidence of guilt.

(2) Character of victim. (a) Except as provided in Article 412, evidence of a pertinent trait of character, such as a moral quality, of the victim of the crime offered by an accused, or by the prosecution to rebut the character evidence; provided that in the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of his dangerous character is not admissible; provided further that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible; or

CHAPTER 6. WITNESSES

Art. 601. General rule of competency

Every person of proper understanding is competent to be a witness except as otherwise provided by legislation.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 602. Lack of personal knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself. This Article is subject to the provisions of Article 703, relating to opinion testimony by expert witnesses.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 603. Oath or affirmation

Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 604. Interpreters

An interpreter is subject to the provisions of this Code relating to qualification as an expert and the administration of an oath or affirmation that he will make a true translation.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 605. Disqualification of judge as witness

The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 606. Disqualification of juror as witness

A. At the trial. A member of the jury may not testify as a witness before that jury in the trial of the case in which he is sitting as a juror. If he is called so to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

B. Inquiry into validity of verdict or indictment. Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith, except that a juror may testify on the question whether any outside influence was improperly brought to bear upon any juror, and, in criminal cases only, whether extraneous prejudicial information was improperly brought to the jury's

attention. Nor may his affidavit or evidence of any statement by him concerning a matter about which he would be precluded from testifying be received for these purposes.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 607. Attacking and supporting credibility generally

A. Who may attack credibility. The credibility of a witness may be attacked by any party, including the party calling him.

B. Time for attacking and supporting credibility. The credibility of a witness may not be attacked until the witness has been sworn, and the credibility of a witness may not be supported unless it has been attacked. However, a party may question any witness as to his relationship to the parties, interest in the lawsuit, or capacity to perceive or to recollect.

C. Attacking credibility intrinsically. Except as otherwise provided by legislation, a party, to attack the credibility of a witness, may examine him concerning any matter having a reasonable tendency to disprove the truthfulness or accuracy of his testimony.

D. Attacking credibility extrinsically. Except as otherwise provided by legislation:

(1) Extrinsic evidence to show a witness' bias, interest, corruption, or defect of capacity is admissible to attack the credibility of the witness.

(2) Other extrinsic evidence, including prior inconsistent statements and evidence contradicting the witness' testimony, is admissible when offered solely to attack the credibility of a witness unless the court determines that the probative value of the evidence on the issue of credibility is substantially outweighed by the risks of undue consumption of time, confusion of the issues, or unfair prejudice.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 608. Attacking or supporting credibility by character evidence

A. Reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of general reputation only, but subject to these limitations:

(1) The evidence may refer only to character for truthfulness or untruthfulness.

(2) A foundation must first be established that the character witness is familiar with the reputation of the witness whose credibility is in issue. The character witness shall not express his personal opinion as to the character of the witness whose credibility is in issue.

(3) Inquiry into specific acts on direct examination while qualifying the character witness or otherwise is prohibited.

B. Particular acts, vices, or courses of conduct. Particular acts, vices, or courses of conduct of a witness may not be inquired into or proved by extrinsic evidence for the purpose of attacking his character for truthfulness, other than conviction of crime as provided in Articles 609 and 609.1 or as constitutionally required.

C. Cross-examination of character witnesses. A witness who has testified to the character for truthfulness or untruthfulness of another witness may be cross-examined as to whether he has heard about particular acts of that witness bearing upon his credibility.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 609. Attacking credibility by evidence of conviction of crime in civil cases

A. General civil rule. For the purpose of attacking the credibility of a witness in civil cases, no evidence of the details of the crime of which he was convicted is admissible. However, evidence of the name of the crime of which he was convicted and the date of conviction is admissible if the crime:

(1) Was punishable by death or imprisonment in excess of six months under the law under which he was convicted, and the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to a party; or

(2) Involved dishonesty or false statement, regardless of the punishment.

B. Time limit. Evidence of a conviction under this Article is not admissible if a period of more than ten years has elapsed since the date of the conviction.

C. Effect of pardon or annulment. Evidence of a conviction is not admissible under this Article if the conviction has been the subject of a pardon, annulment, or other equivalent procedure explicitly based on a finding of innocence.

D. Juvenile adjudications. Evidence of juvenile adjudications of delinquency is generally not admissible under this Article.

E. Pendency of appeal. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. When evidence of a conviction is admissible, evidence of the pendency of an appeal is also admissible.

F. Arrest, indictment, or prosecution. Evidence of the arrest, indictment, or prosecution of a witness is not admissible for the purpose of attacking his credibility.

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

Art. 609.1. Attacking credibility by evidence of conviction of crime in criminal cases

A. General criminal rule. In a criminal case, every witness by testifying subjects himself to examination relative to his criminal convictions, subject to limitations set forth below.

B. Convictions Generally. All offenses for which the witness has been convicted are admissible upon the issue of his credibility, and no inquiry is permitted into matters for which there has only been an arrest, the issuance of an arrest warrant, an indictment, a prosecution, or an acquittal.

C. Details of convictions. Ordinarily, only the fact of a conviction, the name of the offense, the date thereof, and the sentence imposed is admissible. However, details of the offense may become admissible to show the true nature of the offense:

(1) When the witness has denied the conviction or denied recollection thereof;

(2) When the witness has testified to exculpatory facts or circumstances surrounding the conviction; or

(3) When the probative value thereof outweighs the danger of unfair prejudice, confusion of the issues, or misleading the jury.

D. Effect of pending post-conviction relief procedures. The pendency of an appeal or other post-conviction relief procedures does not render the conviction inadmissible, but may be introduced as bearing upon the weight to be given the evidence of the conviction.

E. Effect of pardon or annulment. When a pardon or annulment, based upon a finding of innocence, has been granted, evidence of that conviction is not admissible to attack the credibility of the witness.

F. Juvenile adjudications. Evidence of juvenile adjudications of delinquency is generally not admissible under this Article, except for use in proceedings brought pursuant to the habitual offender law, R.S. 15:529.1.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989; Acts 1994, 3rd Ex. Sess., No. 23, §3.

Art 610. Religious beliefs or opinions

Except as provided in Article 613, evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the sole purpose of showing that by reason of their nature his credibility is impaired or enhanced.

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

Art. 611. Mode and order of interrogation and presentation

A. Control by court. Except as provided by this Article and Code of Criminal Procedure Article 773, the parties to a proceeding have the primary responsibility for presenting the evidence and examining the witnesses. The court, however, shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

(1) Make the interrogation and presentation effective for the ascertainment of the truth;

(2) Avoid needless consumption of time; and

(3) Protect witnesses from harassment or undue embarrassment.

B. Scope of cross-examination. A witness may be cross-examined on any matter relevant to any issue in the case, including credibility. However, in a civil case, when a party or person identified with a party has been called as a witness by an adverse party to testify only as to particular aspects of the case, the court shall limit the scope of cross-examination to matters testified to on direct examination unless the interests of justice otherwise require.

C. Leading questions. Generally, leading questions should not be used on the direct examination of a witness except as may be necessary to develop his testimony and in examining an expert witness on his opinions and inferences. However, when a party calls a hostile witness, a witness who is unable or unwilling to respond to proper questioning, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions. Generally, leading questions should be permitted on cross-examination. However, the court ordinarily shall prohibit counsel for a party from using leading questions when that party or a person identified with him is examined by his counsel, even when the party or a person identified with him has been called as a witness by another party and tendered for cross-examination.

D. Scope of redirect examination; recross examination. A witness who has been cross-examined is subject to redirect examination as to matters covered on cross-examination and, in the discretion of the court, as to other matters in the case. When the court has allowed a party to bring out new matter on redirect, the other parties shall be provided an opportunity to recross on such matters.

E. Rebuttal evidence. The plaintiff in a civil case and the state in a criminal prosecution shall have the right to rebut evidence adduced by their opponents.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 612. Writing used to refresh memory

A. Civil cases. In a civil case, any writing, recording, or object may be used by a witness to refresh his memory while testifying. If a witness asserts that his memory is refreshed he must then testify from memory independent of the writing, recording, or object. If, before or during testimony, a witness has used or uses a writing, recording, or object to refresh his memory for the purpose of testifying in court, an adverse party is entitled, subject to Paragraph C, to have the writing, recording, or object produced, if practicable, at the hearing, to inspect it, to examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If production of the writing, recording, or object at the hearing is impracticable, the court may make any appropriate order, including one for inspection.

B. Criminal cases. In a criminal case, any writing, recording, or object may be used by a witness to refresh his memory while testifying. If a witness asserts that his memory is refreshed he must then testify from memory independent of the writing, recording, or object. If while testifying a witness uses a writing, recording, or object to refresh his memory an adverse party is entitled, subject to Paragraph C, to inspect it, to examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.

C. Claim of irrelevance. If it is claimed that a writing or recording contains matters not related to the subject matter of the testimony the court shall examine it in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal.

D. Failure to produce. If a writing, recording, or object is not produced or delivered pursuant to an order under this Article the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall only be one excluding the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 613. Foundation for extrinsic attack on credibility

Except as the interests of justice otherwise require, extrinsic evidence of bias, interest, or corruption, prior inconsistent statements, conviction of crime, or defects of capacity is admissible after the proponent has first fairly directed the witness' attention to the statement, act, or matter alleged, and the witness has been given the opportunity to admit the fact and has failed distinctly to do so.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 614. Calling and questioning of witnesses by court

A. Calling by court. The court, at the request of a party or if otherwise authorized by legislation, may call witnesses, and all parties are entitled to examine witnesses thus called.

B. Questioning by court. The court may question witnesses, whether called by itself or by a party.

C. Objections. Objections to the calling of witnesses by the court or to questioning of witnesses by it may be made at the time or at the next available opportunity when the jury is not present.

D. Exception. In a jury trial, the court may not call or examine a witness, except upon the express consent of all parties, which consent shall not be requested within the hearing of the jury.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989.

Art. 615. Exclusion of witnesses

A. As a matter of right. On its own motion the court may, and on request of a party the court shall, order that the witnesses be excluded from the courtroom or from a place where they can see or hear the proceedings, and refrain from discussing the facts of the case with anyone other than counsel in the case. In the interests of justice, the court may except any witness from its order of exclusion.

B. Exceptions. This Article does not authorize exclusion of any of the following:

(1) A party who is a natural person.

(2) A single officer or single employee of a party which is not a natural person designated as its representative or case agent by its attorney.

(3) A person whose presence is shown by a party to be essential to the presentation of his cause such as an expert.

(4) The victim of the offense or the family of the victim.

C. Violation of exclusion order. A court may impose appropriate sanctions for violations of its exclusion order, including contempt, appropriate instructions to the jury, or when such sanctions are insufficient, disqualification of the witness.
Acts 1988, No. 515, §1, eff. Jan. 1, 1989; Acts 1999, No. 783, §2, eff. Jan. 1, 2000.

CHAPTER 10. CONTENTS OF WRITINGS,

RECORDINGS, AND PHOTOGRAPHS

Art. 1001. Definitions

For purposes of this Chapter the following definitions are applicable:

(1) Writings and recordings. "Writings" and "recordings" consist of letters, words, numbers, sounds, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

(2) Photographs. "Photographs" include still photographs, X-ray films, video tapes, motion pictures, and their equivalents.

(3) Original. An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in or copied onto a computer or similar device, including any portable or hand-held computer or electronic storage device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original".

(4) Optical disk imaging system. An "optical disk imaging system" is a storage system that utilizes non-erasable Write Once Read Many (WORM) optical storage technology to record information on an optical disk with the use of laser technology, and that utilizes laser technology to retrieve and read previously stored information.

(5) Duplicate. A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or electronic imaging, or by chemical reproduction, or by an optical disk imaging system, or by other equivalent techniques, which accurately reproduces the original.

(6) Electronic imaging. "Electronic imaging" is the process of storing and retrieving any record, document, data, or other information through the use of electronic data processing, or computerized, digital, or optical scanning, or other electronic imaging system.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989; Acts 1995, No. 346, §1; Acts 2001, No. 941, §1; Acts 2003, No. 1135, §1, eff. July 2, 2003.

Art. 1002. Requirement of original

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided by this Code or other legislation.

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

Art. 1003. Admissibility of duplicates

A duplicate is admissible to the same extent as an original unless:

(1) A genuine question is raised as to the authenticity of the original;

(2) In the circumstances it would be unfair to admit the duplicate in lieu of the original; or