

RULE CHANGE 2025(05)

COLORADO RULES OF EVIDENCE

**Rules 104, 404, 411, 602, 603, 604, 606, 607, 610, 611, 612, 613, 615, 706, 801, 803, 804, 806, 902, 1004,
and 1007**

Rule 104. Preliminary Questions

(a) – (b) [NO CHANGE]

(c) **Hearing of Jury.** Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require or, when an accused is a witness, if ~~he~~ the accused witness so requests.

(d) **Testimony by Accused.** ~~The accused does not, by testifying~~ Testimony by the accused upon a preliminary matter, ~~subject himself~~ does not subject the accused to cross-examination as to other issues in the case.

(e) [NO CHANGE]

Rule 404. Character Evidence; Other Crimes, Wrongs, or Acts

(a) Character Evidence Generally. Evidence of a person's character or a trait of ~~his~~that person's character is not admissible for the purpose of proving that ~~he~~the person acted in conformity therewith on a particular occasion, except:

(1) *Character of accused.* In a criminal case, evidence of a pertinent trait of ~~his~~the character of an accused character offered by an accused, or by the prosecution to rebut the same or if evidence of the alleged victim's character for aggressiveness or violence is offered by an accused and admitted under Rule 404 (a) (2), evidence of the same trait of character of the accused offered by the prosecution;

(2) - (3) [NO CHANGE]

(b) [NO CHANGE]

Rule 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible upon the issue whether ~~he~~ the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that ~~he~~ the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness ~~himself~~. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that ~~he~~the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken ~~his~~the witness's conscience and impress ~~his~~on the witness's mind ~~with his~~the duty to do so.

Rule 604. Interpreters

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that ~~he~~the interpreter will make a true translation.

Rule 606. Competency of Juror as Witness

(a) [NO CHANGE]

(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~~that juror's or any other juror's mind or emotions as influencing ~~him~~the juror to assent to or dissent from the verdict or indictment or concerning ~~his~~the juror's mental processes in connection therewith. But a juror may testify about (1) whether extraneous prejudicial information was improperly brought to the jurors' attention, (2) whether any outside influence was improperly brought to bear upon any juror, or (3) whether there was a mistake in entering the verdict onto the verdict form. A juror's affidavit or evidence of any statement by the juror may not be received on a matter about which the juror would be precluded from testifying.

COMMITTEE COMMENT [NO CHANGE]

Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including the party calling ~~him~~the witness. Leading questions may be used for the purpose of attacking such credibility.

COMMITTEE COMMENT [NO CHANGE]

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purposes of showing that by reason of their nature ~~his~~ the witness's credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) - (b) [NO CHANGE]

(c) **Leading Questions.** Leading questions should not be used on the direct examination of a witness except as may be necessary to develop ~~his~~the witness's testimony. Leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 612. Writing Used to Refresh Memory

If a witness uses a writing to refresh ~~his~~ the witness's memory for the purpose of testifying, either--

(1) while testifying, or

(2) [NO CHANGE]

Rule 613. Prior Statements of Witnesses

(a) Examining Witness Concerning Prior Inconsistent Statements for Impeachment

Purposes. Before a witness may be examined for impeachment by prior inconsistent statement the examiner must call the attention of the witness to the particular time and occasion when, the place where, and the person to whom ~~he~~the witness made the statement. As a part of that foundation, the examiner may refer to the witness statement to bring to the attention of the witness any purported prior inconsistent statement. The exact language of the prior statement may be given.

Where the witness denies or does not remember making the prior statement, extrinsic evidence, such as a deposition, proving the utterance of the prior evidence is admissible. However, if a witness admits making the prior statement, additional extrinsic evidence that the prior statement was made is inadmissible.

Denial or failure to remember the prior statement is a prerequisite for the introduction of extrinsic evidence to prove that the prior inconsistent statement was made.

COMMITTEE COMMENT [NO CHANGE]

Rule 615. Exclusion of Witnesses from the Courtroom: Preventing an Excluded Witness's Access to Trial Testimony

(a) Excluding Witnesses. At the request of a party the court shall order witnesses excluded from the courtroom so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) one officer or employee of a party which is not a natural person if that officer or employee has been designated as its representative by its attorney, (3) any person whose presence is shown by a party to be essential to the presentation of ~~his~~the party's cause, or (4) a person authorized by statute to be present.

Rule 706. Court Appointed Experts

(a) Appointment. The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection. An expert witness shall not be appointed by the court unless ~~he~~the expert consents to act. A witness so appointed shall be informed of ~~his~~the witness's duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of ~~his~~the witness's findings, if any; ~~his~~the witness's deposition may be taken by any party; and ~~he~~the witness may be called to testify by the court or any party. ~~He~~The witness shall be subject to cross-examination by each party, including a party calling ~~him as a~~the witness.

(b) - (d) [NO CHANGE]

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement. A “statement” is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by ~~him~~the person to be communicative.

(b) - (c) [NO CHANGE]

(d) Statements Which Are Not Hearsay. A statement is not hearsay if--

(1) *Prior Statement by Witness.* The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with ~~his~~the declarant witness’s testimony, or (B) consistent with ~~his~~the declarant witness’s testimony and is offered to rebut an express or implied charge against ~~him~~the declarant witness of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving ~~him~~the person, or

(2) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 803. Hearsay Exceptions: Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) - (17) [NO CHANGE]

(18) Learned Treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by ~~him~~ the expert in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence and may be received as exhibits, as the court permits.

COMMITTEE COMMENT [NO CHANGE]

(19) Reputation Concerning Personal or Family History. Reputation among members of ~~his~~ a person's family by blood, adoption, or marriage, or among ~~his~~ the person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of ~~his~~ the person's personal or family history.

COMMITTEE COMMENT [NO CHANGE]

(20) [NO CHANGE]

(21) Reputation as to Character. Reputation of a person's character among ~~his~~ the person's associates or in the community.

(22) - (24) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 804. Hearsay Exceptions: Declarant Unavailable

(a) Definition of Unavailability. “Unavailability as a witness” includes situations in which the declarant--

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of ~~his~~the declarant’s statement; or

(2) persists in refusing to testify concerning the subject matter of ~~his~~the declarant’s statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of ~~his~~the declarant’s statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of ~~his~~the declarant’s statement has been unable to procure ~~his~~the declarant’s attendance (or in the case of a hearsay exception under subdivision (b)(3) or (4) ~~his~~the declarant’s attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if ~~his~~the declarant’s exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of ~~his~~the declarant’s statement for the purpose of preventing the witness from attending or testifying.

(b) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 806. Attacking and Supporting Credibility of Declarant

When a hearsay statement, or a statement defined in Rule 801(d)(2)(C), (D), or (E), has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with ~~his~~ the declarant's hearsay statement, is not subject to any requirement that ~~he~~ the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine ~~him~~ the declarant on the statement as if under cross-examination.

Rule 902. Self-Authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) [NO CHANGE]

(2) **Domestic Public Documents Not Under Seal.** A document purporting to bear the signature of an officer or employee of any entity included in paragraph (1) hereof, in his that person's official capacity ~~of an officer or employee of any entity included in paragraph (1) hereof,~~ having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) **Foreign Public Documents.** A document purporting to be executed or attested ~~in his official capacity~~ by a person who is authorized in the person's official capacity authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) - (12) [NO CHANGE]

Rule 1004. Admissibility of Other Evidence of Contents

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if:

(1) - (2) [NO CHANGE]

(3) Original in Possession of Opponent. At a time when an original was under the control of the party against whom offered, ~~he~~the party was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and ~~he~~the party does not produce the original at the hearing; or

(4) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 1007. Testimony or Written Admission of Party

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by ~~his~~ that party's written admission, without accounting for the nonproduction of the original.

Rule 104. Preliminary Questions

(a) – (b) [NO CHANGE]

(c) Hearing of Jury. Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require or, when an accused is a witness, if the accused witness so requests.

(d) Testimony by Accused. Testimony by the accused upon a preliminary matter, does not subject the accused to cross-examination as to other issues in the case.

(e) [NO CHANGE]

Rule 404. Character Evidence; Other Crimes, Wrongs, or Acts

(a) Character Evidence Generally. Evidence of a person's character or a trait of that person's character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

(1) *Character of accused.* In a criminal case, evidence of a pertinent trait of the character of an accused offered by an accused, or by the prosecution to rebut the same or if evidence of the alleged victim's character for aggressiveness or violence is offered by an accused and admitted under Rule 404 (a) (2), evidence of the same trait of character of the accused offered by the prosecution;

(2) - (3) [NO CHANGE]

(b) [NO CHANGE]

Rule 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness's conscience and impress on the witness's mind the duty to do so.

Rule 604. Interpreters

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that the interpreter will make a true translation.

Rule 606. Competency of Juror as Witness

(a) [NO CHANGE]

(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 that juror's or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith. But a juror may testify about (1) whether extraneous prejudicial information was improperly brought to the jurors' attention, (2) whether any outside influence was improperly brought to bear upon any juror, or (3) whether there was a mistake in entering the verdict onto the verdict form. A juror's affidavit or evidence of any statement by the juror may not be received on a matter about which the juror would be precluded from testifying.

COMMITTEE COMMENT [NO CHANGE]

Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including the party calling the witness. Leading questions may be used for the purpose of attacking such credibility.

COMMITTEE COMMENT [NO CHANGE]

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purposes of showing that by reason of their nature the witness's credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) - (b) [NO CHANGE]

(c) Leading Questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness's testimony. Leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 612. Writing Used to Refresh Memory

If a witness uses a writing to refresh the witness's memory for the purpose of testifying, either--

(1) while testifying, or

(2) [NO CHANGE]

Rule 613. Prior Statements of Witnesses

(a) Examining Witness Concerning Prior Inconsistent Statements for Impeachment

Purposes. Before a witness may be examined for impeachment by prior inconsistent statement the examiner must call the attention of the witness to the particular time and occasion when, the place where, and the person to whom the witness made the statement. As a part of that foundation, the examiner may refer to the witness statement to bring to the attention of the witness any purported prior inconsistent statement. The exact language of the prior statement may be given.

Where the witness denies or does not remember making the prior statement, extrinsic evidence, such as a deposition, proving the utterance of the prior evidence is admissible. However, if a witness admits making the prior statement, additional extrinsic evidence that the prior statement was made is inadmissible.

Denial or failure to remember the prior statement is a prerequisite for the introduction of extrinsic evidence to prove that the prior inconsistent statement was made.

COMMITTEE COMMENT [NO CHANGE]

Rule 615. Exclusion of Witnesses from the Courtroom: Preventing an Excluded Witness's Access to Trial Testimony

(a) Excluding Witnesses. At the request of a party the court shall order witnesses excluded from the courtroom so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) one officer or employee of a party which is not a natural person if that officer or employee has been designated as its representative by its attorney, (3) any person whose presence is shown by a party to be essential to the presentation of the party's cause, or (4) a person authorized by statute to be present.

Rule 706. Court Appointed Experts

(a) Appointment. The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection. An expert witness shall not be appointed by the court unless the expert consents to act. A witness so appointed shall be informed of the witness's duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of the witness's findings, if any; the witness's deposition may be taken by any party; and the witness may be called to testify by the court or any party. The witness shall be subject to cross-examination by each party, including a party calling the witness.

(b) - (d) [NO CHANGE]

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement. A “statement” is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person to be communicative.

(b) - (c) [NO CHANGE]

(d) Statements Which Are Not Hearsay. A statement is not hearsay if--

(1) *Prior Statement by Witness.* The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with the declarant witness’s testimony, or (B) consistent with the declarant witness’s testimony and is offered to rebut an express or implied charge against the declarant witness of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person, or

(2) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 803. Hearsay Exceptions: Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) - (17) [NO CHANGE]

(18) Learned Treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence and may be received as exhibits, as the court permits.

COMMITTEE COMMENT [NO CHANGE]

(19) Reputation Concerning Personal or Family History. Reputation among members of a person's family by blood, adoption, or marriage, or among the person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of the person's personal or family history.

COMMITTEE COMMENT [NO CHANGE]

(20) [NO CHANGE]

(21) Reputation as to Character. Reputation of a person's character among the person's associates or in the community.

(22) - (24) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 804. Hearsay Exceptions: Declarant Unavailable

(a) Definition of Unavailability. “Unavailability as a witness” includes situations in which the declarant--

- (1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant’s statement; or
- (2) persists in refusing to testify concerning the subject matter of the declarant’s statement despite an order of the court to do so; or
- (3) testifies to a lack of memory of the subject matter of the declarant’s statement; or
- (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
- (5) is absent from the hearing and the proponent of the declarant’s statement has been unable to procure the declarant’s attendance (or in the case of a hearsay exception under subdivision (b)(3) or (4) the declarant’s attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if the declarant’s exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of the declarant’s statement for the purpose of preventing the witness from attending or testifying.

(b) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 806. Attacking and Supporting Credibility of Declarant

When a hearsay statement, or a statement defined in Rule 801(d)(2)(C), (D), or (E), has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with the declarant's hearsay statement, is not subject to any requirement that the declarant may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine the declarant on the statement as if under cross-examination.

Rule 902. Self-Authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) [NO CHANGE]

(2) Domestic Public Documents Not Under Seal. A document purporting to bear the signature of an officer or employee of any entity included in paragraph (1) hereof, in that person's official capacity, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) Foreign Public Documents. A document purporting to be executed or attested by a person who is authorized in the person's official capacity by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) - (12) [NO CHANGE]

Rule 1004. Admissibility of Other Evidence of Contents

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if:

(1) - (2) [NO CHANGE]

(3) Original in Possession of Opponent. At a time when an original was under the control of the party against whom offered, the party was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and the party does not produce the original at the hearing; or

(4) [NO CHANGE]

COMMITTEE COMMENT [NO CHANGE]

Rule 1007. Testimony or Written Admission of Party

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by that party's written admission, without accounting for the nonproduction of the original.

Amended and Adopted by the Court, En Banc, January 16, 2025, effective immediately.

By the Court:

**Carlos A. Samour, Jr.
Justice, Colorado Supreme Court**