

# Rules of Evidence

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## **Rule 702. Testimony by Expert Witnesses**

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

## **Rule 703. Bases of an Expert's Opinion Testimony**

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

## **Rule 801. Definitions That Apply to This Article; Exclusions from Hearsay**

(d) Statements That Are Not Hearsay. A statement that meets the following conditions is not hearsay:

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(2) *An Opposing Party's Statement.* The statement is offered against an opposing party and:

(A) was made by the party in an individual or representative capacity;

## **Juvenile Court Rule 45. Admissibility of evidence.**

**A. Admissibility.** Except as provided in these rules, the admissibility of evidence shall be governed by the Arizona Rules of Evidence, 17A A.R.S.

**B. Definition of report.** For purposes of this rule, a written report by a child safety worker shall mean a narrative report setting forth, as appropriate to the hearing, the following:

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1. The reasons the child was removed from the custody of the parent, guardian or Indian custodian;
2. The services provided to prevent removal;
3. The case plan goal and the services provided to achieve the goal;
4. Steps taken by the parent, guardian or Indian custodian to comply with the case plan;
5. The child's current placement and, in the case of an Indian child, whether the placement falls within the preferences as set forth in the Act or whether good cause exists to deviate from the preferences;
6. The services provided to meet the child's needs;
7. The efforts made to ensure the educational stability of a child including, but not limited to the appropriateness of the child's current school placement, school attendance, services to help them achieve their educational potential, special education services (when indicated), and grade level progress or progress toward graduation;
8. Recommended dispositional orders;
9. Recommended changes to the case plan goal, services or placement; and
10. Recommended permanent plan.

The report may include any appendices or reports prepared by persons other than the child safety worker. The term report does not include a social study prepared pursuant to A.R.S. 8-536 or by order of the court in termination proceedings, or the report required by A.R.S. 8-872(E) and Rule 61(D).

**C. Admissibility of reports.** Prior to any dependency hearing, the court may review reports prepared by the child safety worker and shall admit those reports into evidence if the worker who prepared the report is available for cross-examination and the report was disclosed to the parties no later than:

1. One (1) day prior to the preliminary protective hearing; or
2. Ten (10) days prior to any other hearing.

**D. Reports of evaluation.** Prior to any dependency hearing, a report of any psychological, psychiatric, medical, neurological, psycho-educational, psycho-sexual, substance abuse or similar evaluation of any party or participant, or any person with whom a child is or may be residing shall be admitted into evidence if the report has been disclosed to the parties pursuant to Rule 44(B)(1) and the author of the report is available for cross-examination.

**E. Statement of child.** Evidence of the out-of-court statements or nonverbal conduct of a child regarding acts of abuse or neglect perpetrated on the child is admissible for all purposes in any hearing subject to these rules if the time, content and circumstances of such statement or conduct provide sufficient indicia of its reliability.