
GRAHAM'S
HANDBOOK
OF
ILLINOIS
EVIDENCE

2017 Edition

MICHAEL H. GRAHAM



Wolters Kluwer

HANDBOOK
of
ILLINOIS EVIDENCE

2017 Edition

Current through 399 Ill. Dec.

MICHAEL H. GRAHAM

Member, Illinois Bar



Wolters Kluwer

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher and the author(s) are not engaged in rendering legal, accounting, or other professional services. If legal advice or other professional assistance is required, the services of a competent professional should be sought.

—From a *Declaration of Principles* jointly adopted by
a Committee of the American Bar Association and
a Committee of Publishers and Associations

Copyright © 2017 Michael H. Graham. All Rights Reserved

No part of this publication may be reproduced or transmitted in any form or by any means, including electronic, mechanical, photocopying, recording, or utilized by any information storage or retrieval system, without written permission from the publisher. For information about permissions or to request permissions online, visit us at <http://www.wklawbusiness.com/footer-pages/permissions>, or a written request may be faxed to our permissions department at 212-771-0803.

Published by Wolters Kluwer in New York.

Wolters Kluwer Legal & Regulatory US serves customers worldwide with CCH, Aspen Publishers and Kluwer Law International products.

Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Graham, Michael H.

Graham's Handbook of Illinois Evidence / Michael H. Graham.—10th ed.
p. cm.

Cleary and Graham's handbook of Illinois evidence / Michael H. Graham.
Includes index.

ISBN 978-1-4548-7226-9 (alk. paper)

I. Evidence (Law)—Illinois. I. Graham, Michael H. Cleary and Graham's handbook of Illinois Evidence II. Title. III. Title: Handbook of Illinois Evidence.

KFI1740.C58 2010
347.773'06—dc22

2010033471



Graham's Handbook of Illinois Evidence

2017 Edition

by Michael H. Graham

Graham's Handbook of Illinois Evidence is a comprehensive and practical guide to the Illinois Rules of Evidence and related issues. Providing clear explanations of the settled law and expert advice on more complicated evidentiary problems, this one-volume compendium provides in-depth coverage of everything litigators need for citing cases, justifying objections, planning litigation strategy, and analyzing or weighing evidence. The Handbook of Illinois Evidence, most cited by the Illinois bench and most relied on by the Illinois bar, is an invaluable aid in determining the admissibility of evidence in Illinois courts. 2016 marked the conversion of the Handbook, first published in 1956, to an annual softcover format.

As of January 1, 2011, by order of the Illinois Supreme Court, the Illinois Rules of Evidence govern proceedings in the courts of Illinois except as otherwise provided in Ill.R.Evid. 1101. The Illinois Rules of Evidence, with Committee Comments, as amended effective October 15, 2015, are presented in full in an Appendix.

Highlights of the 2017 Edition

The 2017 Edition brings you up to date on the latest Ill.R.Evid. amendments, cases, statutes, and other developments, including:

- Updated *Crawford* and progeny, including *Bryant*, *Bullcoming*, *Williams*, and *Clark*, confrontation clause analysis together with national and Illinois-specific applications including *Leach*.
- Critique of *People v. Burnett* incorrectly concluding that a witness who lacks recollection is not subject to cross-examination in satisfaction of the confrontation clause.
- Eyewitness identification expert witness opinion testimony moving in the eyes of the Illinois Supreme Court over 25 years from "caution" in admitting to in "appropriate" cases a perfectly proper subject of expert testimony."



Wolters Kluwer

- Prior sexual activity or reputation of child or adult alleged victim evidence pursuant to Ill.R.Evid. 412.
- Other sexual acts of accused evidence pursuant to Ill.R.Evid. 413(a).
- Domestic violence case evidence pursuant to Ill.R.Evid. 413(b).
- Prior conviction for batter of family member or for stalking evidence pursuant to Ill.R.Evid. 413(c).
- Preserving a claim of error for appeal in civil and criminal trials pursuant to Ill.R.Evid. 103(b).
- Prior consistent statements for rehabilitative purposes only pursuant to Ill.R.Evid. 613(c).
- Illinois Rules of Evidence do not apply to the granting or revoking of probation.
- Juvenile adjudications may be employed to impeach solely as provided in Ill.R.Evid. 609(d).

10/16

For questions concerning this shipment, billing, or other customer service matters, call our Customer Service Department at 1-800-234-1660.

For toll-free ordering, please call 1-800-638-8437.

Copyright © 2017 CCH Incorporated. All Rights Reserved.

About Wolters Kluwer Legal & Regulatory US

Wolters Kluwer Legal & Regulatory US delivers expert content and solutions in the areas of law, corporate compliance, health compliance, reimbursement, and legal education. Its practical solutions help customers successfully navigate the demands of a changing environment to drive their daily activities, enhance decision quality and inspire confident outcomes.

Serving customers worldwide, its legal and regulatory portfolio includes products under the Aspen Publishers, CCH Incorporated, Kluwer Law International, ftwilliam.com and MediRegs names. They are regarded as exceptional and trusted resources for general legal and practice-specific knowledge, compliance and risk management, dynamic workflow solutions, and expert commentary.

WOLTERS KLUWER SUPPLEMENT NOTICE

This product is updated on a periodic basis with supplements and/or new editions to reflect important changes in the subject matter.

If you would like information about enrolling this product in the update service, or wish to receive updates billed separately with a 30-day examination review, please contact our Customer Service Department at 1-800-234-1660 or email us at: *customer.service@wolterskluwer.com*. You can also contact us at:

**Wolters Kluwer
Distribution Center
7201 McKinney Circle
Frederick, MD 21704**

Important Contact Information

- To order any title, go to *www.wklawbusiness.com* or call 1-800-638-8437.
- To reinstate your manual update service, call 1-800-638-8437.
- To contact Customer Service, e-mail *customer.service@wolterskluwer.com*, call 1-800-234-1660, fax 1-800-901-9075, or mail correspondence to: Order Department—Wolters Kluwer, PO Box 990, Frederick, MD 21705.
- To review your account history or pay an invoice online, visit *www.WKLawBusiness.com/payinvoices*.



Wolters Kluwer

*To the Judiciary,
the Attorneys,
and the Legislature of the Great State of Illinois*

Preface

As of January 1, 2011, by order of the Illinois Supreme Court, the Illinois Rules of Evidence govern proceedings in the courts of Illinois except as otherwise provided in Ill.R.Evid. 1101. The Illinois Rules of Evidence, with Committee Commentary, as amended effective October 15, 2015, are presented in full in an Appendix.

On November 24, 2008, the Illinois Supreme Court created the Illinois Supreme Court Special Committee on Illinois Evidence (Committee) and charged it with codifying the law of evidence in the state of Illinois. The Honorable Donald C. Hudson served as Chair and the Honorable Warren D. Wolfson (retired) served as Vice Chair. Professor Ralph Ruebner was the Reporter. Professor Michael H. Graham acted as Advisor. A four-person subcommittee provided important insight: Wolfson, Honorable Robert L. Carter, Honorable Gino L. DiVito (retired), and Honorable Heidi Ladd. Also serving on the Committee were Honorable Tom Cross, Illinois State Representative; Honorable John J. Cullerton, President of the Illinois State Senate; Honorable Nathaniel R. Howse, Jr.; Eileen Letts, Esquire; Shannon M. McNulty, Esquire; Robert Neiryneck, Esquire; Honorable Dennis J. Porter; Michael Scodro, Solicitor General; Todd Smith, Esquire; Brian K. Trentman, Esquire; Michael J. Warner, Esquire; and Honorable Arthur J. Wilhelmi, Illinois State Senator.

The Committee had its initial meeting on December 18, 2008, and additional meetings followed through October 2009. Chief Justice Thomas R. Fitzgerald met with the Committee at its initial meeting and attended subsequent meetings as well.

Each Committee member was furnished a copy of Cleary and Graham's *Handbook of Illinois Evidence* (Ninth Edition 2009) (courtesy of Aspen Publishing) and a compilation of 44 surveyed jurisdictions that have adopted evidentiary rules modeled on the Federal Rules of Evidence.

As Advisor, Professor Graham prepared, pursuant to the Chair's direction, suggested draft rules, sometimes in the alternative, to be included in the Illinois Rules of Evidence. The full Committee

conscientiously and thoroughly debated each proposed evidence rule in light of the principles, charge, and mandate presented to the Committee by Chief Justice Fitzgerald on behalf of the Illinois Supreme Court.

The Committee's initial Illinois Rules of Evidence proposals were approved by the Illinois Supreme Court for presentation to bench, bar, and the general public for comment in mid-February 2010. Public hearings were held in Chicago on May 18, 2010 and in Springfield on May 20, 2010. After those hearings, the Committee met and, after agreeing to a few revisions, furnished the Court its final proposed rules. In September 2010, the Illinois Supreme Court promulgated the Illinois Rules of Evidence effective January 1, 2011.

(1) Codification: With the exception of the two areas discussed below under "Recommendation," the Committee incorporated into the Illinois Rules of Evidence the current law of evidence in Illinois whenever the Illinois Supreme Court or the Illinois Appellate Court had clearly spoken on a principle of evidentiary law within the last 50 or so years. Thus, Ill.R.Evid. 702 retains the *Frye* standard for expert opinion evidence pursuant to the holding in *Donaldson v. Central Illinois Public Service Co.* The Committee reserved Ill.R.Evid. 407, related to subsequent remedial measures, because Appellate Court opinions are sufficiently in conflict concerning a core issue that is now under review by the Supreme Court. Also reserved are Ill.R.Evid. 803(1) and 803(18), because Illinois common law does not recognize either a present sense impression or a learned treatise hearsay exception.

(2) Statute Validity: The Committee believes it avoided affecting the validity of existing statutes promulgated by the Illinois legislature. There is a possible conflict between Ill.R.Evid. 609(d) and section 5-150(1)(c) of the Juvenile Court Act (705 ILCS 405/5-150(1)(c)) with respect to the use of juvenile adjudications for impeachment purposes. That possible conflict, however, is not the result of promulgation of Rule 609(d) because that rule simply codifies the Illinois Supreme Court's adoption of the 1971 draft of Fed.R.Evid. 609 in *People v. Montgomery*. As noted in the Comment to Ill.R.Evid. 609(d), the present codification is not intended to resolve the issue concerning the effect of the statute. Moreover, the Illinois Rules of Evidence permit the Illinois legislature to act in the future with respect to the law of evidence as long as the particular legislative enactment is not in conflict with an Illinois Supreme Court rule or an Illinois Supreme Court decision. See Ill.R.Evid. 101.

(3) Modernization: Where there was no conflict with statutes or recent Illinois Supreme Court or Illinois Appellate Court decisions,

and where it was determined to be beneficial and uniformly or almost uniformly accepted elsewhere, the Committee incorporated into the Illinois Rules of Evidence uncontroversial developments with respect to the law of evidence as reflected in the Federal Rules of Evidence and the 44 surveyed jurisdictions. The 14 instances of modernization of note are as follows:

- (1) Ill.R.Evid. 106. Remainder of or Related Writings or Recorded Statements. Ill.R.Evid. 106 permits the admission contemporaneously of any other part of a writing or recording or any other writing or recording which “ought in fairness” be considered at the same time. Prior Illinois law appears to have limited the concept of completeness to other parts of the same writing or recording or an addendum thereto. The “ought in fairness” requirement allows admissibility of statements made under separate circumstances.
- (2) Ill.R.Evid. 406. Habit; Routine Practice. Ill.R.Evid. 406 confirms the clear direction of prior Illinois law that evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.
- (3) Ill.R.Evid. 408. Compromise and Offers to Compromise. Prior Illinois law did not preclude admissibility of statements made in compromise negotiations unless stated hypothetically. Because they were considered a trap for the unwary, Ill.R.Evid. 408 makes such statements inadmissible without requiring the presence of qualifying language.
- (4) Ill.R.Evid. 613(a). Examining Witness Concerning Prior Statement. Ill.R.Evid. 613(a) provides that a prior inconsistent statement need not be shown to a witness prior to cross-examination thereon. *Illinois Central Railroad v. Wade*, 206 Ill. 523, 69 N.E. 565 (1903) was to the contrary.
- (5) Ill.R.Evid. 801(d). Statements Which Are Not Hearsay. Ill.R.Evid. 801(d)(1)(A) codifies an Illinois statute (725 ILCS 5/115-10.1) that applies only in criminal cases. It makes admissible as “not hearsay” (rather than as a hearsay exception) a prior inconsistent statement of a declarant who testifies at a trial or a hearing and is subject to cross-examination, when the prior inconsistent statement was given under oath at a trial, hearing, or other proceeding, or in a deposition, or under other

PREFACE

specified circumstances. The rule does not apply in civil cases. Ill.R.Evid. 801(d)(1)(B) also codifies an Illinois statute (725 ILCS 5/115-12). It makes admissible as “not hearsay” a declarant’s prior statement of identification of a person made after perceiving that person, when the declarant testifies at a trial or hearing in a criminal case and is subject to cross-examination concerning the statement. Ill.R.Evid. 801(d)(2) provides substantive admissibility, as “not hearsay,” for admissions of a party-opponent.

- (6) Ill.R.Evid. 801(d)(2)(D). Statement by a Party’s Agent or Servant. Ill.R.Evid. 801(d)(2)(D) confirms the clear direction of prior Illinois law that a statement by a party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, constitutes an admission of a party-opponent.
- (7) Ill.R.Evid. 803(13). Family Records. The requirement that the declarant be unavailable and that the statement be made before the controversy or a motive to misrepresent arose, *Sugrue v. Crilley*, 329 Ill. 458, 160 N.E. 347 (1928), has been eliminated.
- (8) Ill.R.Evid. 803(16) and 901(b)(8). Statements in Ancient Documents. The 30-year limitation to real property, *Reuter v. Stuckart*, 181 Ill. 529, 54 N.E. 1014 (1899), is relaxed in favor of 20 years without subject matter restriction.
- (9) Ill.R.Evid. 804(b)(3). Statement Against Interest. Ill.R.Evid. 804(b)(3) makes applicable to the prosecution as well as the defense the requirement that in a criminal case a statement tending to expose the declarant to criminal liability is not admissible as a hearsay exception unless corroborating circumstances clearly indicate the trustworthiness of the statement.
- (10) Ill.R.Evid. 806. Attacking and Supporting Credibility of Declarant. Ill.R.Evid. 806 dispenses with the requirement of an opportunity to deny or explain an inconsistent statement or conduct of an out-of-court declarant under all circumstances when a hearsay statement is involved. Whether Illinois law had already dispensed with the requirement with respect to a deposition was unclear.
- (11) Ill.R.Evid. 902(11). Certified Records of Regularly Conducted Activity. Self-authentication of business records is provided by Ill.R.Evid. 902(11), following the model of Fed.R.Evid. 902(11) and 902(12) and 18 U.S.C. 3505.
- (12) Ill.R.Evid. 1004. Admissibility of Other Evidence of Contents. Ill.R.Evid. 1004 does not recognize degrees of secondary

PREFACE

evidence previously recognized in Illinois. *Illinois Land & Loan Co. v. Bonner*, 75 Ill. 315 (1874). In addition, it is no longer necessary to show that reasonable efforts were employed beyond available judicial process or procedure to obtain an original possessed by a third party. *Prussing v. Jackson*, 208 Ill. 85, 69 N.E. 771 (1904).

- (13) Ill.R.Evid. 1007. Testimony or Written Admission of Party. The Ill.R.Evid. 1007 provision that testimony or a written admission may be employed to prove the contents of a document appears never before to have been the law in Illinois. *Bryan v. Smith*, 3 Ill. 47 (1839).
- (14) Ill.R.Evid. 803(14), (15), (19), (20), and (23). With respect to records of or statements in documents affecting an interest in property, reputation concerning personal or family history, and concerning boundaries or general history, and judgments as to personal, family, or general history or boundaries, Illinois law in each area was sparse or nonexistent.

(4) Recommendations: The Committee recommended to the Illinois Supreme Court a limited number of changes to Illinois evidence law (1) where the particularized evidentiary principle was neither addressed by statute nor specifically addressed in a comprehensive manner within recent history by the Illinois Supreme Court, and (2) where prior Illinois law simply did not properly reflect evidentiary policy considerations or raised practical application problems when considered in light of modern developments and evidence rules adopted elsewhere with respect to the identical issue. The Committee identified, and the Illinois Supreme Court approved, recommendations in only two areas:

(a) Opinion testimony is added to reputation testimony as a method of proof in Ill.R.Evid. 405, when character evidence is admissible, and in Ill.R.Evid. 608 with respect to character for truthfulness:

Rule 405. **METHODS OF PROVING CHARACTER**

(a) Reputation or Opinion. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation, or by testimony in the form of an opinion. **(b) Specific Instances of Conduct. (1)** In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's

PREFACE

conduct; and (2) In criminal homicide or battery cases when the accused raises the theory of self-defense and there is conflicting evidence as to whether the alleged victim was the aggressor, proof may also be made of specific instances of the alleged victim's prior violent conduct.

Rule 608.

EVIDENCE OF CHARACTER WITNESS

The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Ill.R.Evid. 803(3) eliminates the requirements currently existing in Illinois law, that do not exist in any other jurisdiction, with respect to statements of then existing mental, emotional, or physical condition, that the statement be made by a declarant found unavailable to testify, and that the trial court find that there is a "reasonable probability" that the statement is truthful:

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: * * * (3) **Then Existing Mental, Emotional, or Physical Condition.** A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including: (A) a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will; or (B) a statement of declarant's then existing state of mind, emotion, sensation, or physical condition to prove the state of mind, emotion, sensation, or physical condition of another declarant at that time or at any other time when such state of the other declarant is an issue in the action.

The initial reference in Illinois to "unavailability" and "reasonable probability" occurred in *People v. Reddock*, 13 Ill. App. 3d 296, 300 N.E.2d 31 (1973), adopting the position taken by the North Carolina Supreme Court in *State v. Vestal*, 278 N.C. 561, 180 S.E.2d 755 (1971), when dealing with statements of intent by a declarant to prove conduct

PREFACE

by the declarant consistent with that intent. Subsequent cases simply incorporated the two qualifications without analysis, evaluation, critique, or discussion. No reference has been made to the fact that the two requirements were initially adopted solely to deal with the *Mutual Life Ins. v. Hillmon*, 145 U.S. 285 (1892), issue as to whether a statement of an out of court declarant expressing her intent to perform a future act was admissible as evidence to prove the doing of the intended act. Interestingly, the North Carolina version of Rule 803(3) in the North Carolina Rules of Evidence is in substance the same as Ill.R.Evid 803(3), i.e., neither a requirement of “unavailability” nor “reasonable probability” is included.

Ill.R.Evid. 803(3) permits admissibility of declarations of intent to do an act as evidence to establish intent and as evidence to prove the doing of the intended act regardless of the availability of the declarant and without the court finding a reasonable probability that the statement is truthful. Consistent with prior Illinois law, Ill.R.Evid 803(3)(B) provides that the hearsay exception for admissibility of a statement of intent as tending to prove the doing of the act intended applies only to the statements of intent by a declarant to prove her future conduct, not the future conduct of another person.

(5) Structural Change: A hearsay exception in Illinois with respect to both business and public records is recognized in civil cases by Illinois Supreme Court Rule 236, excluding police accident reports, and in criminal cases by section 115 of the Code of Criminal Procedure (725 ILCS 5/115), excluding medical records and police investigative records. The Illinois Rules of Evidence in Rule 803(6), records of regularly conducted activity (i.e., business records), and in Rule 803(8), public records and reports, while retaining the exclusions described above, remove the difference between civil and criminal business and public records in favor of the traditional and otherwise uniformly accepted division between business records, Ill.R.Evid. 803(6), and public records and reports, Ill.R.Evid. 803(8), both applicable in both civil and criminal cases.

RULE 803(6)-(10). HEARSAY EXCEPTIONS; AVAILABILITY OF DECLARANT IMMATERIAL

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

* * *

(6) Records of Regularly Conducted Activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record or data compilation, all as shown by the testimony of the custodian or other qualified witness, or by certification that complies with Rule 902(11), unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, but not including in criminal cases medical records. The term “business” as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Absence of Entry in Records Kept in Accordance with the Provisions of Paragraph (6). Evidence that a matter is not included in the memoranda reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the non-occurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public Records and Reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, police accident reports and in criminal cases medical records and matters observed by police officers and other law enforcement personnel, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records of Vital Statistics. Facts contained in records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of Public Record or Entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(6) Referenced Statutes: Numerous existing statutes, the validity of which are not affected by promulgation of the Illinois Rules of Evidence, Ill.R.Evid. 101, relate in one form or another to the law of evidence. The Table of Illinois Statutes in the Handbook runs roughly eight pages. The Committee felt it was inappropriate, unnecessary, and unwise to refer specifically to the abundance of statutory authority in an Appendix or otherwise. Reference is, however, made in the body of the text of the Illinois Rules of Evidence to certain statutes by citation or verbatim incorporation. Such references and the reasons therefore are as follows:

(1) Ill.R.Evid. 404(a)(2): Character testimony of the alleged victim offered by the accused is specifically made subject to the limitations on character evidence contained in the rape shield statute, 725 ILCS 5/115-7.

(2) Ill.R.Evid. 404(b): The bar to evidence of other crimes, wrongs, or acts to prove character to show conformity is made subject to the provisions of 725 ILCS 5/115-7.3, dealing with enumerated sex-related offenses, along with 725 ILCS 5/115-7.4 and 725 ILCS 5/115-20, dealing with domestic violence and other enumerated offenses, all of which allow admissibility of other crimes, wrongs, or acts under certain circumstances.

(3) Ill.R.Evid. 409: The parallel protection afforded by 735 ILCS 5/8-1901 with respect to payment of medical or similar expenses is specifically referenced in Ill.R.Evid. 409 to preclude any possibility of conflict.

(4) Ill.R.Evid. 611(c): 735 ILCS 5/2-1102 provides a definition of adverse party or agent with respect to hostile witnesses as to whom interrogation may be by leading questions.

(5) Ill.R.Evid. 801(d)(1): The provisions of 725 ILCS 5/115-10.1, dealing with prior inconsistent statements in a criminal case, are incorporated nearly verbatim in Ill.R.Evid. 801(d)(1)(A) in the interests of completeness and convenience. Similar treatment is given to prior statements of identification, 725 ILCS 5/115-12, in Ill.R.Evid. 801(d)(1)(B).

(6) Ill.R.Evid. 803(4)(B): 725 ILCS 5/115-13, dealing with statements by the victim to medical personnel in sexual abuse prosecutions, is included verbatim in recognition that the statute admits statements to examining physicians while the generally applicable provisions of Ill.R.Evid. 803(4)(A) do not.