

CHAPTER 50 - WITNESSES

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GENERAL PROVISIONS

SECTION 50.015 General rule of competency. Every person is competent to be a witness except as otherwise provided in this title.

SECTION 50.025 Lack of personal knowledge.

1. A witness may not testify to a matter unless:
 - (a) Evidence is introduced sufficient to support a finding that he has personal knowledge of the matter;or
 - (b) He states his opinion or inference as an expert.
2. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself.

SECTION 50.035 Oath or affirmation.

1. 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.
2. An affirmation is sufficient if the witness is addressed in the following terms: "You do solemnly affirm that the evidence you shall give in this issue (or matter), pending between and, shall be the truth, the whole truth, and nothing but the truth." Assent to this affirmation shall be made by the answer, "I do."

SECTION 50.045 Interpreters. Interpreters are subject to the provisions of this chapter relating to qualification as an expert.

SECTION 50.050 Interpreters for person with communications disability: Definitions; appointment required in judicial proceedings; compensation.

1. As used in [SECTION 50.050](#) to [50.053](#), inclusive, unless the context requires otherwise:
 - (a) "Interpreter" means a:
 - (1) Registered interpreter;
 - (2) Registered legal interpreter; or
 - (3) Person who is appointed as an interpreter pursuant to subsection 2 of [SECTION 50.0515](#).
 - (b) "Person with a communications disability" means a person who, because he is deaf or has a physical speaking impairment, cannot readily understand or communicate in the English language or cannot understand the proceedings.
 - (c) "Registered interpreter" means a person registered with the Office of Disability Services of the Department of Health and Human Services pursuant to [SECTION 656A.100](#) of the Nevada Revised Statutes to engage in the practice of interpreting.
 - (d) "Registered legal interpreter" means a person registered with the Office of Disability Services of the Department of Health and Human Services pursuant to [SECTION 656A.100](#) of the Nevada Revised Statutes to engage in the practice of interpreting in a legal setting.
2. In all judicial proceedings in which a person with a communications disability appears as a witness, the court, magistrate or other person presiding over the proceedings shall appoint an interpreter to interpret the proceedings to that person and to interpret the testimony of that person to the court, magistrate or other person presiding.
3. The tribal judge over the proceedings shall fix a reasonable compensation for the services and expenses of the interpreter appointed pursuant to this section. If the judicial proceeding is civil in nature, the compensation of the interpreter may be taxed as costs and must not be charged as a public expense.
4. Claims the tribe or any agency thereof for the compensation of an interpreter in a criminal proceeding or other proceeding for which an interpreter must be provided at public expense must be paid in the same manner as other claims against the respective entities are paid. Payment may be made only upon the certificate of the judge that the interpreter has performed the services required and incurred the expenses claimed.

SECTION 50.051 Interpreters for person with communications disability: Appointment required in criminal proceedings. An interpreter must be appointed at public expense for a person with a communications disability who is a party to or a witness in a criminal proceeding.

SECTION 50.0515 Interpreters for person with communications disability: Appointment of registered legal interpreter required; exceptions.

1. Except as otherwise provided in this section, in any judicial or other proceeding in which the court, magistrate or other person presiding over the proceeding is required to appoint an interpreter for a person with a communications disability, the court, magistrate or other person presiding over the proceeding shall appoint a registered legal interpreter to interpret the proceeding to that person and to interpret the testimony of that person to the court, magistrate or other person presiding over the proceeding.

2. If a registered legal interpreter cannot be found or is otherwise unavailable, or if the appointment of a registered legal interpreter will cause a substantial delay in the proceeding, the tribal judge may, after making a finding to that effect and conducting a voir dire examination of prospective interpreters, appoint a registered interpreter or any other interpreter that the court, magistrate or other person presiding over the proceeding determines is readily able to communicate with the person with a communications disability, translate the proceeding for him, and accurately repeat and translate the statements of the person with a communications disability to the court, magistrate or other person presiding over the proceeding.

SECTION 50.052 Interpreters for person with communications disability: Replacement; persons ineligible for appointment; selection and approval by person with communications disability.

1. If an interpreter appointed for a person with a communications disability is not effectively or accurately communicating with or on behalf of the person with a communications disability, and that fact becomes known to the person who appointed him, another interpreter must be appointed.

2. Unless otherwise agreed upon by the parties, a person may not be appointed as an interpreter of a person with a communications disability in a proceeding if he is:

- (a) The spouse of the person with a communications disability or related to him; or
- (b) Otherwise interested in the outcome of the proceeding or biased for or against one of the parties.

3. Whenever possible, a person with a communications disability must be given an interpreter of his choice or one of whom he approves.

SECTION 50.053 Interpreters for person with communications disability: Oath; rights and privileges.

1. Before undertaking his duties, the interpreter shall swear or affirm that he will make a true interpretation in an understandable manner to the person for whom he has been appointed, and that he will repeat the statements of the person with a communications disability in the English language to the best of his ability.

2. While in the proper performance of his duties, an interpreter acts in the place of the person with a communications disability and to that extent has all of the rights and privileges of that person for purposes of the proceeding, including access to all relevant material.

SECTION 50.054 Interpreters for persons who do not speak English: Eligibility; oath; rights and privileges.

1. Except as otherwise provided by a regulation of the Court Clerk adopted pursuant to [SECTION 1.510](#) and [1.520](#), of the Nevada Revised Statutes a person shall not act as an interpreter in a proceeding if he is:

- (a) The spouse of a witness;
- (b) Otherwise related to a witness;
- (c) Biased for or against one of the parties; or
- (d) Otherwise interested in the outcome of the proceeding.

2. Before undertaking his duties, the interpreter shall swear or affirm that he will:

(a) To the best of his ability, translate accurately to the witness, in the language of the witness, questions and statements addressed to the witness;

(b) Make a true interpretation of the statements of the witness in an understandable manner; and

(c) Repeat the statements of the witness in the English language to the best of his ability.

3. While in the proper performance of his duties, an interpreter has the same rights and privileges as the witness, including the right to examine all relevant material, but is not entitled to waive or exercise any of those rights or privileges on behalf of the witness.

4. As used in this section, “interpreter” means a person who is readily able to communicate with a person who speaks a language other than English and does not know the English language, translate the proceedings for him and accurately repeat and translate the statements of the person in a language other than English to the court, magistrate or other person presiding. The term does not include an interpreter for a person with a communications disability as that term is defined in [SECTION 50.050](#).

SECTION 50.055 Competency: Judge as witness.

1. The judge presiding at the trial shall not testify in that trial as a witness.

2. If he is called to testify, no objection need be made in order to preserve the point.

SECTION 50.065 Competency: Juror as witness.

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

2. Upon an inquiry into the validity of a verdict or indictment:

(a) A juror shall not testify concerning 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.

(b) The affidavit or evidence of any statement by a juror indicating an effect of this kind is inadmissible for any purpose.

SECTION 50.067 Competency: Receipt of certain care or counseling.

1. A person is not incompetent to be a witness solely by reason of the fact that he or a member of his family has received medical, psychiatric, or psychological care or counseling in connection with the act or event giving rise to the proceeding.

2. Evidence relating to such care or counseling is not inadmissible by reason of this section, if otherwise admissible under the provisions of this title.

SECTION 50.068 Competency: Defendant who agrees to testify against another defendant pursuant to plea bargain.

1. A defendant is not incompetent to be a witness solely by reason of the fact that he enters into an agreement with the tribal prosecuting attorney in which he agrees to testify against another defendant in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for a recommendation of a reduced sentence.

2. The testimony of the defendant who is testifying may be admitted whether or not he has entered his plea or been sentenced pursuant to the agreement with the tribal prosecuting attorney.

SECTION 50.070 Termination or threat of termination of employment because of service as witness prohibited; penalty; remedies.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment,

↪ of a person who is a witness or who has received a summons to appear as a witness in a judicial or administrative proceeding, who deprives the witness or person summoned of his employment, as a

consequence of his service as a witness or prospective witness, or who asserts to the witness or person summoned that his service as a witness or prospective witness will result in termination of his employment, is guilty of a misdemeanor.

2. A person discharged from employment in violation of subsection 1 may commence a civil action against his employer and obtain:

- (a) Wages and benefits lost as a result of the violation;
- (b) An order of reinstatement without loss of position, seniority or benefits;
- (c) Damages equal to the amount of the lost wages and benefits; and
- (d) Reasonable attorney's fees fixed by the court.

IMPEACHMENT

SECTION 50.075 Who may impeach. The credibility of a witness may be attacked by any party, including the party calling him.

SECTION 50.085 Evidence of character and conduct of witness.

1. Opinion evidence as to the character of a witness is admissible to attack or support his credibility but subject to these limitations:

- (a) Opinions are limited to truthfulness or untruthfulness; and
- (b) Opinions of truthful character are admissible only after the introduction of opinion evidence of untruthfulness or other evidence impugning his character for truthfulness.

2. Evidence of the reputation of a witness for truthfulness or untruthfulness is inadmissible.

3. Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime, may not be proved by extrinsic evidence. They may, however, if relevant to truthfulness, be inquired into on cross-examination of the witness himself or on cross-examination of a witness who testifies to an opinion of his character for truthfulness or untruthfulness, subject to the general limitations upon relevant evidence and the limitations upon interrogation and subject to the provisions of [SECTION 50.090](#).

SECTION 50.090 Evidence of previous sexual conduct of victim of sexual assault or statutory sexual seduction inadmissible to challenge victim's credibility; exceptions. In any prosecution for sexual assault or statutory sexual seduction or for attempt to commit or conspiracy to commit either crime, the accused may not present evidence of any previous sexual conduct of the victim of the crime to challenge the victim's credibility as a witness unless the prosecutor has presented evidence or the victim has testified concerning such conduct, or the absence of such conduct, in which case the scope of the accused's cross-examination of the victim or rebuttal must be limited to the evidence presented by the prosecutor or victim.

SECTION 50.095 Impeachment by evidence of conviction of crime.

1. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible but only if the crime was punishable by death or imprisonment for more than 1 year under the law under which he was convicted.

2. Evidence of a conviction is inadmissible under this section if a period of more than 10 years has elapsed since:

- (a) The date of the release of the witness from confinement; or
- (b) The expiration of the period of his parole, probation or sentence, whichever is the later date.

3. Evidence of a conviction is inadmissible under this section if the conviction has been the subject of a pardon.

4. Evidence of juvenile adjudications is inadmissible under this section.

5. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

6. A certified copy of a conviction is prima facie evidence of the conviction.

SECTION 50.105 Religious beliefs or opinions. Evidence of the beliefs or opinions of a witness on matters of religion is inadmissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced.

EXAMINATION OF WITNESSES

SECTION 50.115 Mode and order of interrogation and presentation.

1. The judge shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence:

- (a) To make the interrogation and presentation effective for the ascertainment of the truth;
- (b) To avoid needless consumption of time; and
- (c) To protect witnesses from undue harassment or embarrassment.

2. Cross-examination is limited to the subject matter of the direct examination and matters affecting the credibility of the witness, unless the judge in the exercise of discretion permits inquiry into additional matters as if on direct examination.

3. Except as provided in subsection 4:

(a) Leading questions may not be used on the direct examination of a witness without the permission of the court.

(b) Leading questions are permitted on cross-examination.

4. Except that the prosecution may not call the accused in a criminal case, a party is entitled to call:

- (a) An adverse party; or
- (b) A witness identified with an adverse party,

↳ and interrogate by leading questions. The attorney for the adverse party may employ leading questions in cross-examining the party or witness so called only to the extent permissible if he had called that person on direct examination.

SECTION 50.125 Writing used to refresh memory.

1. If a witness uses a writing to refresh his memory, either before or while testifying, an adverse party is entitled:

- (a) To have it produced at the hearing;
- (b) To inspect it;
- (c) To cross-examine the witness thereon; and
- (d) To introduce in evidence those portions which relate to the testimony of the witness for the purpose of affecting his credibility.

2. If it is claimed that the writing contains matters not related to the subject matter of the testimony, the judge shall examine the writing in chambers, 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.

3. If a writing is not produced or delivered pursuant to order under this section, the judge shall make any order which justice requires, except that in criminal cases when the Tribe elects not to comply, the order shall be one:

- (a) Striking the testimony; or
- (b) If the judge in his discretion determines that the interests of justice so require, declaring a mistrial.

SECTION 50.135 Prior statements of witness.

1. In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown or its contents disclosed to him, but on request the statement shall be shown or disclosed to opposing counsel.

2. Extrinsic evidence of a prior contradictory statement by a witness is inadmissible unless:

- (a) The statement fulfills all the conditions required by subsection 3 of [SECTION 51.035](#); or
- (b) The witness is afforded an opportunity to explain or deny the statement and the opposite party is afforded an opportunity to interrogate him thereon.

SECTION 50.145 Calling and interrogation of witness by judge.

1. The judge may, on his own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

2. The judge may interrogate witnesses, whether called by himself or by a party. The parties may object to questions so asked and to evidence thus adduced at any time prior to the submission of the cause.

SECTION 50.155 Exclusion and sequestration of witnesses.

1. Except as otherwise provided in subsections 2 and 3, at the request of a party the judge shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and he may make the order of his own motion.

2. This section does not authorize the exclusion of:

(a) A party who is a natural person;

(b) An officer or employee of a party which is not a natural person designated as its representative by its attorney;

(c) A person whose presence is shown by a party to be essential to the presentation of his cause; or

(d) Except as otherwise provided in [SECTION 171.204](#), any of the persons listed in subsection 1 of that section.

3. A person who is called as a witness primarily for the purpose of identifying the victim may not be excluded except in the discretion of the judge.

ATTENDANCE OF WITNESSES

SECTION 50.165 Duty to appear and testify.

1. A witness, duly served with a subpoena, shall attend at the time appointed, with any papers under his control required by the subpoena, to answer all pertinent and legal questions, and, unless sooner discharged, to remain till the testimony is closed.

2. A person present in court or before a judicial officer may be required to testify in the same manner as if he were in attendance upon a subpoena issued by such court or officer.

SECTION 50.175 Witness protected from arrest when attending, going to and returning from court or other place of attendance. Every person who has been, in good faith, served with a subpoena to attend as a witness before a tribal court, judge, or other person, in a case where the disobedience of the witness may be punished as a contempt, is exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining there, and returning therefrom.

SECTION 50.185 Arrest of protected witness void; liability of arresting officer; affidavit of witness.

1. The arrest of a witness contrary to [SECTION 50.175](#) is void.

2. An officer is not liable to the party for making the arrest in ignorance of the facts creating the exoneration, but is liable for any subsequent detention of the party, if such party claims the exemption and makes an affidavit, stating:

(a) That he has been served with a subpoena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpoena was issued; and

(b) That he has not been thus served by his own procurement, with the intention of avoiding an arrest.

SECTION 50.195 Penalties for disobedience.

1. Refusal to be sworn or to answer as a witness may be punished as a contempt by the court. In a civil action, if the person so refusing is a party, the court may strike any pleading on his behalf, and may enter judgment against him.

2. A witness disobeying a subpoena in a civil action shall also forfeit to the party aggrieved the sum of \$100 and all damages which he may sustain by the failure of the witness to attend, which forfeiture and damages may be recovered in a civil action.

3. A witness disobeying a subpoena issued on the part of a defendant in a criminal action shall also forfeit to the defendant the sum of \$100, which may be recovered in a civil action, unless good cause can be shown for his nonattendance.

SECTION 50.205 Warrant for arrest of witness failing to attend. In case of failure of a witness to attend, the court or officer issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the county to arrest the witness and bring him before the court or officer where his attendance was required.

SECTION 50.215 Examination of prisoner as witness; notification of Department of Corrections required.

1. A person imprisoned in the state prison or in a county or tribal jail may be examined as a witness in the tribal court pursuant to this section. The examination may only be made on motion of a party upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality.

2. In a civil action, if the witness is imprisoned in the county where the action or proceeding is pending, his production may be required by the tribal judge. In all other cases, his examination, when allowed, must be taken upon deposition.

3. In a criminal action, an order for that purpose may be made by the tribal court or tribal judge, at chambers, and executed by the tribal police. Except as otherwise provided by [SECTION 209.274](#), the judge may order the tribal officer to bring the prisoner before the court at the expense of the Tribe or at the expense of the defendant.

4. If a person imprisoned in the state prison is required or requested to appear as a witness in any action, the Department of Corrections must be notified in writing:

(a) Not less than 7 business days before the date scheduled for his appearance in court if the offender is incarcerated:

(b) Not less than 14 business days before the date scheduled for his appearance in court if the offender is incarcerated in a prison which is located at a distance which exceeds those specified in paragraph (a).

FEES OF WITNESSES

SECTION 50.225 Fees and expenses of witnesses.

1. For attending the courts of this Tribe in any criminal case, or civil suit or proceeding before a court of record, in obedience to a subpoena, each witness is entitled:

(a) To be paid a fee of \$25 for each day's attendance, including Sundays and holidays.

SECTION 50.255 Attorney not allowed fee as witness. No attorney or counselor at law, in any case, shall be allowed any fees for attending as a witness in such case.

OPINIONS AND EXPERT TESTIMONY

SECTION 50.260 "Prohibited substance" defined. As used in [SECTION 50.260](#) to [50.345](#), inclusive, unless the context otherwise requires, "prohibited substance" has the meaning ascribed to it in [SECTION 484.1245](#).

SECTION 50.265 Opinions: Lay witnesses. If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are:

1. Rationally based on the perception of the witness; and
2. Helpful to a clear understanding of his testimony or the determination of a fact in issue.

SECTION 50.275 Testimony by experts. If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by special knowledge, skill, experience, training or education may testify to matters within the scope of such knowledge.

SECTION 50.285 Opinions: Experts.

1. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing.
2. If of a type reasonably relied upon by experts in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

SECTION 50.295 Opinions: Ultimate issues. Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

SECTION 50.305 Disclosure of facts and data underlying expert opinion. The expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts or data, unless the judge requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

SECTION 50.310 Admissibility of affidavit or declaration of laboratory director regarding results of test performed by medical laboratory.

1. The affidavit or declaration of a laboratory director who has qualified in the state or tribal court as an expert witness to testify regarding the results of a test of a medical laboratory is admissible in evidence in any civil, criminal or administrative proceeding to prove:

(a) That the affiant or declarant is a laboratory director.

(b) The results of a test that the medical laboratory is licensed to conduct and which is conducted by the medical laboratory of which the affiant or declarant is the laboratory director.

↳ The affidavit or declaration must contain the evidentiary foundation upon which the results of the test are based, including the description of the test, the personnel involved and the controls employed in conducting the test.

2. As used in this section:

(a) "Laboratory director" has the meaning ascribed to it in [SECTION 652.050](#) of the Nevada Revised Statutes.

(b) "Medical laboratory" has the meaning ascribed to it in [SECTION 652.060](#) of the Nevada Revised Statutes.

SECTION 50.315 Admissibility of affidavit or declaration offered to prove certain facts concerning use of certain devices or withdrawal or holding of evidence related to determining presence of alcohol, controlled substance, chemical, poison, organic solvent or another prohibited substance.

1. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person is admissible in evidence in any criminal or administrative proceeding to prove:

(a) That the affiant or declarant has been certified by the Director of the Department of Public Safety as being competent to operate devices of a type certified by the Committee on Testing for Intoxication as accurate and reliable for testing a person's breath to determine the concentration of alcohol in his breath;

(b) The identity of a person from whom the affiant or declarant obtained a sample of breath; and

(c) That the affiant or declarant tested the sample using a device of a type so certified and that the device was functioning properly.

2. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who prepared a chemical solution or gas that has been used in calibrating a device for testing another's breath to determine the concentration of alcohol in his breath is admissible in evidence in any criminal or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant; and
 - (b) That the solution or gas has the chemical composition necessary for accurately calibrating it.
3. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who calibrates a device for testing another's breath to determine the concentration of alcohol in his breath is admissible in evidence in any criminal or administrative proceeding to prove:
- (a) The occupation of the affiant or declarant;
 - (b) That on a specified date the affiant or declarant calibrated the device at a named law enforcement agency by using the procedures and equipment prescribed in the regulations of the Committee on Testing for Intoxication;
 - (c) That the calibration was performed within the period required by the Committee's regulations; and
 - (d) Upon completing the calibration of the device, it was operating properly.
4. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration made under the penalty of perjury of a person who withdraws a sample of blood from another for analysis by an expert as set forth in [SECTION 50.320](#) is admissible in any criminal or administrative proceeding to prove:
- (a) The occupation of the affiant or declarant;
 - (b) The identity of the person from whom the affiant or declarant withdrew the sample;
 - (c) The fact that the affiant or declarant kept the sample in his sole custody or control and in substantially the same condition as when he first obtained it until delivering it to another; and
 - (d) The identity of the person to whom the affiant or declarant delivered it.
5. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who receives from another a sample of blood or urine or other tangible evidence that is alleged to contain alcohol or a controlled substance, chemical, poison, organic solvent or another prohibited substance may be admitted in any criminal or civil or administrative proceeding to prove:
- (a) The occupation of the affiant or declarant;
 - (b) The fact that the affiant or declarant received a sample or other evidence from another person and kept it in his sole custody or control in substantially the same condition as when he first received it until delivering it to another; and
 - (c) The identity of the person to whom the affiant or declarant delivered it.
6. If, at or before the time of trial, the defendant establishes that:
- (a) There is a substantial and bona fide dispute regarding the facts in the affidavit or declaration; and
 - (b) It is in the best interests of justice that the witness who signed the affidavit or declaration be cross-examined,
- ↳ the court may order the prosecution to produce the witness and may continue the trial for any time the court deems reasonably necessary to receive such testimony. The time within which a trial is required is extended by the time of the continuance.
7. During any trial in which the defendant has been accused of committing a felony, the defendant may object in writing to admitting into evidence an affidavit or declaration described in this section. If the defendant makes such an objection, the court shall not admit the affidavit or declaration into evidence and the prosecution may cause the person to testify to any information contained in the affidavit or declaration.
8. The Committee on Testing for Intoxication shall adopt regulations prescribing the form of the affidavits and declarations described in this section.

SECTION 50.320 Admissibility of affidavit or declaration of chemist or other expert witness regarding presence in breath, blood or urine of alcohol, controlled substance, chemical, poison, organic solvent or another prohibited substance or regarding identity or quantity of controlled substance possessed.

1. The affidavit or declaration of a chemist and any other person who has qualified in the state or tribal court to testify as an expert witness regarding the presence in the breath, blood or urine of a person of alcohol, a controlled substance, or a chemical, poison, organic solvent or another prohibited substance, or the identity or quantity of a controlled substance alleged to have been in the possession of a person, which is submitted to prove:
- (a) The quantity of the purported controlled substance; or
 - (b) The concentration of alcohol or the presence or absence of a controlled substance, chemical, poison, organic solvent or another prohibited substance, as the case may be,
- ↳ is admissible in the manner provided in this section.

2. An affidavit or declaration which is submitted to prove any fact set forth in subsection 1 must be admitted into evidence when submitted during any administrative proceeding, preliminary hearing. The court shall not sustain any objection to the admission of such an affidavit or declaration.

3. The defendant may object in writing to admitting into evidence an affidavit or declaration submitted to prove any fact set forth in subsection 1 during his trial. If the defendant makes such an objection, the court shall not admit the affidavit or declaration into evidence and the prosecuting attorney may cause the person to testify to any information contained in the affidavit or declaration.

4. The Committee on Testing for Intoxication shall adopt regulations prescribing the form of the affidavits and declarations described in this section.

SECTION 50.325 Procedure for admission of affidavit or declaration of expert or other person to prove existence of alcohol, quantity of controlled substance or existence or identity of controlled substance, chemical, poison, organic solvent or another prohibited substance in prosecution of certain criminal offenses.

1. If a person is charged with an offense listed in subsection 4, and it is necessary to prove:

(a) The existence of any alcohol;

(b) The quantity of a controlled substance; or

(c) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance,

↳ the tribal prosecuting attorney may request that the affidavit or declaration of an expert or other person described in [SECTION 50.315](#) and [50.320](#) be admitted into evidence at the trial concerning the offense. Except as otherwise provided in [SECTION 50.315](#) and [50.320](#), the affidavit or declaration must be admitted into evidence at the trial.

2. If the request is to have the affidavit or declaration admitted into evidence at trial, the request must be:

(a) Made at least 10 days before the date set for the trial;

(b) Sent to the defendant's counsel and to the defendant, by registered or certified mail by the prosecuting attorney; and

(c) Accompanied by a copy of the affidavit or declaration and the name, address and telephone number of the affiant or declarant.

3. The provisions of this section do not prohibit either party from producing any witness to offer testimony at trial.

4. The provisions of this section apply to any of the following offenses:

(a) An offense punishable pursuant to [ESTC-202.257](#), [455A.170](#), [455B.080](#) of the Nevada Revised Statutes, [ESTC-493.130](#) or [639.283](#) of the Nevada Revised Statutes.

(b) An offense punishable pursuant to [chapter 453](#) of the NRS, [ESTC-484](#) or [488](#) of the Nevada Revised Statutes.

(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by [ESTC-484.379](#), [484.3795](#), [484.37955](#), subsection 2 of [SECTION 488.400](#), [SECTION 488.410](#), [488.420](#) or [488.425](#) of the Nevada Revised Statutes.

(d) Any other offense for which it is necessary to prove, as an element of the offense:

(1) The existence of any alcohol;

(2) The quantity of a controlled substance; or

(3) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance.

SECTION 50.330 Testimony given pursuant to [SECTION 50.315](#) or [50.320](#) may be given by use of simultaneous audiovisual transmission; requirements for use. Any testimony given pursuant to [SECTION 50.315](#) or [50.320](#) may be given by means of simultaneous audiovisual transmission accomplished through the use of:

1. One or more cameras at a location other than the courtroom that depict the witness in real time so that the defendant, the defendant's counsel, the prosecutor, the court and the jury, if any, can see the witness in his entirety; and

2. One or more cameras in the courtroom that depict the defendant, the defendant's counsel, the prosecutor, the court and the jury, if any, in real time on a screen visible to the witness who is at another location.

SECTION 50.345 Expert testimony to show victim's behavior or condition is consistent with behavior or condition of victim of sexual assault. In any prosecution for sexual assault, expert testimony is not inadmissible to show that the victim's behavior or mental or physical condition is consistent with the behavior or condition of a victim of sexual assault.

DESIGNATION OF ATTENDANT TO PROVIDE SUPPORT TO VICTIM OF ACT OF DOMESTIC VIOLENCE

SECTION 50.400 Applicability to proceedings in civil actions; qualifications, duties and limitations on conduct of attendant; designation of attendant as witness; "victim of an act of domestic violence pursuant to SECTION 33.018" defined.

1. In any civil action involving a victim of an act of domestic violence pursuant to [SECTION 33.018](#), the victim may designate a person to act as an attendant during any proceeding to provide support to the victim.

2. The victim may designate any person to act as an attendant.

3. An attendant:

(a) Is not required to possess or obtain any special qualifications, such as certification or training, to serve as an attendant pursuant to this section.

(b) Shall be available to provide moral and emotional support to the victim.

(c) Shall be available to assist the victim in feeling more confident that the victim will not be injured or threatened at any time during any proceeding.

(d) Unless otherwise ordered by the court, must be allowed to be present in close proximity to the victim during any proceeding.

4. Unless the attendant is an attorney licensed or tribal advocate otherwise authorized to practice in this tribal court, the attendant shall not provide any legal advice to the victim. Any action taken by the attendant in accordance with this section shall be deemed not to constitute the unauthorized practice of law pursuant to [SECTION 7.285](#) of the Nevada Revised Statutes.

5. The attendant may be designated by a party as a witness and must not be excluded from the proceedings. If a party designates the attendant as a witness, the attendant must be examined and cross-examined before any other witness testifies.

6. For the purposes of this section, "victim of an act of domestic violence pursuant to [SECTION 33.018](#)" includes any person who alleges that he is a victim of an act of domestic violence pursuant to [SECTION 33.018](#), regardless of whether or not the alleged perpetrator of the act of domestic violence has been charged with or convicted of any criminal offense related to that act.

UNIFORM CHILD WITNESS TESTIMONY BY ALTERNATIVE METHODS ACT

SECTION 50.500 Short title. The provisions of [SECTION 50.500](#) to [50.620](#), inclusive, may be cited as the Uniform Child Witness Testimony by Alternative Methods Act.

SECTION 50.510 Definitions. As used in [SECTION 50.500](#) to [50.620](#), inclusive, unless the context otherwise requires, the words and terms defined in [SECTION 50.520](#) to [50.550](#), inclusive, have the meanings ascribed to them in those sections.

SECTION 50.520 "Alternative method" defined. "Alternative method" means a method by which a child witness testifies which does not include all of the following:

1. Having the child testify in person in an open forum;

2. Having the child testify in the presence and full view of the finder of fact and presiding officer; and

3. Allowing all of the parties to be present, to participate and to view and be viewed by the child.

SECTION 50.530 “Child witness” defined. “Child witness” means a child under the age of 14 years who has been or will be called to testify in a proceeding.

SECTION 50.540 “Criminal proceeding” defined. “Criminal proceeding” means:

1. A trial or hearing before a court in a prosecution of a person charged with violating a criminal law of this State; or
2. A delinquency proceeding which is conducted pursuant to title 5 of the Nevada Revised Statutes.

SECTION 50.550 “Noncriminal proceeding” defined. “Noncriminal proceeding” means a trial or hearing before tribal court, other than a criminal proceeding.

SECTION 50.560 Applicability.

1. The provisions of [SECTION 50.500](#) to [50.620](#), inclusive, apply to the testimony of a child witness in a criminal or noncriminal proceeding.
2. The provisions of [SECTION 50.500](#) to [50.620](#), inclusive, do not preclude:
 - (a) In a noncriminal proceeding, any other procedure permitted by law for a child witness to testify; or
 - (b) In a delinquency proceeding which is conducted pursuant to title 5 of the Nevada Revised Statutes, testimony by a child witness in a closed forum as authorized by [SECTION 62D.010](#).

SECTION 50.570 Hearing to determine whether to allow testimony by alternative method.

1. The tribal judge in a criminal or noncriminal proceeding:
 - (a) May order a hearing to determine whether to allow a child witness to testify by an alternative method.
 - (b) For good cause shown, shall order the hearing upon motion of a party, a child witness, or a natural person determined by the presiding officer to have sufficient standing to act on behalf of the child.
2. A hearing to determine whether to allow a child witness to testify by an alternative method must be conducted on the record after reasonable notice to all parties, any nonparty movant, and any other person the presiding officer specifies. The child’s presence is not required at the hearing unless ordered by the presiding officer. In conducting the hearing, the presiding officer is not bound by rules of evidence except the rules of privilege.

SECTION 50.580 Standards for determining whether child witness may testify by alternative method.

1. In a criminal proceeding, the tribal judge may allow a child witness to testify by an alternative method only in the following situations:
 - (a) The child may testify otherwise than in an open forum in the presence and full view of the finder of fact if the tribal judge finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child’s ability to communicate with the finder of fact if required to testify in the open forum.
 - (b) The child may testify other than face-to-face with the defendant if the tribal judge finds by clear and convincing evidence that the child would suffer serious emotional trauma that would substantially impair the child’s ability to communicate with the finder of fact if required to be confronted face-to-face by the defendant.
2. In a noncriminal proceeding, the tribal judge may allow a child witness to testify by an alternative method if the tribal judge finds by a preponderance of the evidence that allowing the child to testify by an alternative method is necessary to serve the best interests of the child or enable the child to communicate with the finder of fact. In making this finding, the tribal judge shall consider:
 - (a) The nature of the proceeding;
 - (b) The age and maturity of the child;
 - (c) The relationship of the child to the parties in the proceeding;

- (d) The nature and degree of emotional trauma that the child may suffer in testifying; and
- (e) Any other relevant factor.

SECTION 50.590 Factors for determining whether to permit alternative method. If the tribal judge determines that a standard pursuant to [SECTION 50.580](#) has been met, the tribal judge shall determine whether to allow a child witness to testify by an alternative method. In making this determination, the tribal judge shall consider:

1. Alternative methods reasonably available;
2. Available means for protecting the interests of or reducing emotional trauma to the child without resorting to an alternative method;
3. The nature of the case;
4. The relative rights of the parties;
5. The importance of the proposed testimony of the child;
6. The nature and degree of emotional trauma that the child may suffer if an alternative method is not used; and
7. Any other relevant factor.

SECTION 50.600 Order regarding testimony by alternative method.

1. An order allowing or disallowing a child witness to testify by an alternative method must state the findings of fact and conclusions of law that support the tribal judge's determination.
2. An order allowing a child witness to testify by an alternative method must:
 - (a) State the method by which the child is to testify;
 - (b) List any natural person or category of natural person allowed to be in, or required to be excluded from, the presence of the child during the testimony;
 - (c) State any special conditions necessary to facilitate a party's right to examine or cross-examine the child;
 - (d) State any condition or limitation upon the participation of natural persons present during the testimony of the child; and
 - (e) State any other condition necessary for taking or presenting the testimony.
3. The alternative method ordered by the presiding officer may be no more restrictive of the rights of the parties than is necessary under the circumstances to serve the purposes of the order.

SECTION 50.610 Right of party to examine child witness. An alternative method ordered by the presiding officer must permit a full and fair opportunity for examination or cross-examination of the child witness by each party.

SECTION 50.620 Uniformity of application and construction. In applying and construing the Uniform Child Witness Testimony by Alternative Methods Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.