

1 **URE 1101. Applicability of Rules.**

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3 (a) **Proceedings Generally.** These rules apply to all actions and proceedings in the courts of this
4 state except as otherwise provided in subsections (c) and (d). They apply generally to civil
5 actions and proceedings, criminal cases and contempt proceedings except those in which the
6 court may act summarily.

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8 (b) **Rule of Privilege.** The rule with respect to privileges applies at all stages of all actions, cases
9 and proceedings.

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11 (c) **Rules Inapplicable.** The rules (other than with respect to privileges) do not apply in the
12 following situations:

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14 (c)(1) **Preliminary Questions of Fact.** The determination of questions of fact
15 preliminary to admissibility of evidence when the issue is to be determined by the court
16 under URE 104.

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18 (c)(2) **Grand Jury.** Proceedings before grand juries.

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20 (c)(3) **Revoking Probation.** Proceedings for revoking probation, unless the court for
21 good cause otherwise orders.

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23 (c)(~~3~~4) **Miscellaneous Proceedings.** Proceedings for extradition or rendition; sentencing;
24 ~~or granting or revoking probation~~; issuance of warrants for arrest, criminal summonses,
25 and search warrants; and proceedings with respect to release on bail or otherwise.

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27 (d) **Reliable Hearsay in Criminal Preliminary Examinations.** In a criminal preliminary
28 examination, reliable hearsay shall be admissible as provided under URE 1102.

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30 *Effective ~~December 1, 2011~~ May/November 1, 20*

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33 **2019 Advisory Committee Note:** Regarding subsection (c)(4): In *State v. Weeks*, 2002 UT 98,
34 61 P.3d 1000, the Utah Supreme Court explained the “wisdom” of not applying the evidence
35 rules to sentencing and restitution hearings. *Id.* at ¶ 17. The breadth of information available at
36 such hearings has always been wide. See *Williams v. New York*, 337 U.S. 241, 246 (1949)
37 (“[B]oth before and since the American colonies became a nation, courts . . . practiced a policy
38 under which a sentencing judge could exercise a wide discretion in the sources and types of
39 evidence used to assist him in determining the kind and extent of punishment to be imposed
40 within limits fixed by law.”). Granting flexibility allows trial courts to fashion just sentences—
41 including court-ordered restitution—based on the facts of a given case. It benefits defendants
42 because one form of punishment (restitution) may allow them to avoid a greater fine,
43 incarceration, or both. Finally, it benefits victims by ensuring that they don’t endure a “mini-
44 trial” on restitution, and fines that might have gone to the State may instead go to the victim in
45 the form of restitution. *Weeks*, 2002 UT 98, ¶¶ 17-19.

47 **2011 Advisory Committee Note.** The language of this rule has been amended as part of the
48 restyling of the Evidence Rules to make them more easily understood and to make style and
49 terminology consistent throughout the rules. These changes are intended to be stylistic only.
50 There is no intent to change any result in any ruling on evidence admissibility.

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52 | ~~Original Advisory Committee Note. This rule is the federal rule, verbatim, and is substantially~~
53 | ~~the same as Rule 70(2), Utah Rules of Evidence (1971).~~