

For Immediate Release

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Contact: [v360-lcj@vision360partners.com](mailto:v360-lcj@vision360partners.com)



## **Five States Enact Expert Evidence Rule Reform Only Months After Adoption of Amended Federal Rule 702**

*Arizona, Kentucky, Louisiana, Michigan, and Ohio Lead in Reform*

**WASHINGTON, D.C.** – July 10, 2024 – Lawyers for Civil Justice (LCJ) today applauded the five states which have promptly adopted amendments to their expert evidence admissibility rules to conform with the amended Federal Rule 702, which took effect on December 1<sup>st</sup> of 2023. The amended federal rule makes clear that judges bear the gatekeeping responsibility for ensuring expert testimony is based on reliable facts and methods, and that the testimony is correctly applied to the case, before it is presented in a courtroom. Several more states have initiated the amendment process or are expected to begin consideration of an amendment in the coming months.

While the amendment to FRE 702 was an essential step towards a fairer application of justice in both civil and criminal federal courts, the process of updating state rules of evidence is separate and unique to each state. [Research](#) performed by the Court Statistics Project found that 98.5% of all litigation in the U.S. is conducted in state courts, demonstrating the importance of modernizing state rules of evidence in accordance with the FRE 702 amendment.

“Reforming state rules governing expert evidence is critical to ensuring juries are presented with reliable and scientifically sound evidence. LCJ recognizes Arizona, Kentucky, Louisiana, Michigan, and Ohio for promptly enacting this reform, and commends the lawyers whose leadership made these efforts successful,” said Dan Steen, LCJ’s Executive Director. “LCJ continues to work with in-state advocates to support essential improvements to expert evidence admissibility rules across the country.”

Prior to the adoption of the FRE 702 amendment, [analysis](#) by LCJ demonstrated that federal judges often failed to apply the correct expert evidence admissibility standards. Following adoption of Rule 702, federal judges have dramatically increased their adherence to the standards in the amended rule to analyze expert evidence admissibility issues.

While efforts to ensure effective implementation of FRE 702 in federal courts continue, state adoption of the federal rules is picking up momentum.

### **States Which Have Enacted Reform**

**Arizona**

The Arizona Supreme Court issued an order conforming Arizona's state expert testimony standard with Rule 702. The order, issued before the federal rule was formally adopted, which went into effect on January 1<sup>st</sup>.

### **Kentucky**

The Kentucky Supreme Court finalized an amendment to the Kentucky Rule of Evidence 702 on June 24th, making it essentially identical to the FRE 702. The amendment took effect on July 1<sup>st</sup>.

### **Louisiana**

Legislation bringing Louisiana Code of Evidence Article 702 into alignment with the federal rule was unanimously adopted by the legislature and signed into law by Governor Jeff Landry on May 21st. It will take effect on August 1<sup>st</sup>.

### **Michigan**

The Michigan Supreme Court, following a comment period, adopted an amendment aligning state expert admission standards with FRE 702. The amendment became effective on May 1<sup>st</sup>.

### **Ohio**

Ohio's Supreme Court adopted an amendment to Ohio Rule of Evidence 702, bringing it into conformity with FRE 702. Following a comment period and consideration by the legislature, the amended rule took effect on July 1<sup>st</sup>.

**Additionally, efforts are underway in several other states to implement reforms to state level evidentiary rules. States where advocacy efforts are underway include:**

### **Alabama**

A proposal to amend Alabama Rule of Evidence 702 was submitted to the Supreme Court's Evidentiary Rules Committee. Concurrently, legislation amending Alabama Rule of Evidence 702 was introduced in the state legislature near the end of the recent session.

### **Florida**

The Florida State Bar is considering recommendations to the legislature regarding changes to the Florida Code of Evidence. Briefing materials were submitted to the Bar seeking to include in that package of recommendations an amendment to the Florida Code on expert evidence admissibility.

While the progress to date on state adoption of the improved expert evidence admissibility standards is impressive, LCJ is working with its members and allies to expand the number of states considering rule amendments and will continue to support in-state advocates supporting rule changes. For more information on Lawyers for Civil Justice's efforts to bring fairness, clarity and consistency to procedures in all civil cases, please visit [dontsaydaubert.com](http://dontsaydaubert.com) and [www.lfcj.com](http://www.lfcj.com).

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