

## **My Witness and Impeachment IQ**

1. A person must promise, swear, or affirm to tell the truth before he or she may be allowed to testify.
2. Before a child witness testifies, I must make a threshold finding that the child witness is competent.
3. All witnesses must have personal knowledge concerning the subject matter of their testimony.
4. A witness who is uncertain as to what he or she saw or experienced does not have personal knowledge and is barred from testifying.
5. Unless a witness is associated with an adverse party, the witness may not be considered hostile for purposes of allowing leading questions.
6. When an adverse party is called as a witness, cross-examination is limited to the scope of direct.
7. The state is considered a non-natural party for purposes of being allowed to designate a witness to be exempted from the rule of sequestration.
8. The rule of sequestration applies to rebuttal witnesses in Tennessee.
9. Ordinarily, a judge should not call witnesses in Tennessee, except as provided for expert witnesses.
10. A witness who has a memory lapse may read portions of notes or other documents into the trial record.
11. A witness may only refresh her memory with writings or documents that are admissible.
12. An adverse party is entitled to see any writing that a witness uses to refresh memory.
13. If a witness testifies from a recorded recollection, the recorded recollection may be admitted in evidence by the offering party.
14. Impeachment by bias, motive, or interest is always noncollateral and may be proved by extrinsic evidence.
15. A witness' mental impairment may not form the basis for impeachment.
16. Extrinsic evidence of a witness' prior inconsistent statement may not be admitted until the witness has been given an opportunity to explain or deny the statement.
17. If a witness admits to a prior inconsistent statement, extrinsic evidence of the prior inconsistent statement may not be introduced.

18. The Rule 608 balancing test which applies to the admission of evidence of specific instances of untruthfulness to impeach is the same as the balancing test under Rule 403.
19. The Rule 608 balancing test which applies to the admission of evidence of specific instances of untruthfulness disfavors admission of the evidence.
20. The Rule 609 balancing test applicable to admission of criminal convictions to impeach is the same as the balancing test under Rule 403.
21. The Rule 609 balancing test which applies to the admission of criminal convictions to impeach the accused disfavors admission of the evidence.
22. Statements contained in learned treatises may be used to impeach the testimony of a testifying expert but may not be admitted as substantive evidence.
23. A qualified expert witness must testify that a learned treatise is reliable authority before the learned treatise may be used to impeach.
24. Interpreters must take an oath as prescribed by Rule 603 and be qualified as an expert.
25. Witnesses offering opinion or reputation evidence of another witness' character for truthfulness may relate specific instances that establish truthfulness.