

An abstract graphic featuring a teal wireframe mesh that forms a series of flowing, interconnected loops and curves. The background is dark, and the mesh is overlaid with a pattern of small, light-colored numbers (0-9) scattered across the surface.

APPENDIX 1

FRYE/DAUBERT—STATE-BY-STATE

State	Rule of Evidence	Standard
Alabama	Rule of Evidence 702	<p><i>Daubert</i> and <i>Frye</i>, depending on circumstances.</p> <p><i>See</i> Turner v. State, 746 So.2d 355 (Ala. 1998); Barber v. State, 952 So.2d 393 (Ala. Crim. App. 2005); ArvinMeritor, Inc. v. Johnson, 1 So.3d 77 (Ala. Civ. App. 2008); Mazda Motor Corporation v. Hurst, 261 So.3d 167 (Ala. 2017).</p>
Alaska	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> State v. Coon, 974 P.2d 386 (Alaska 1999).</p>
Arizona	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> State v. Tankersley, 956 P.2d 486 (Ariz. 1998); State v. Romero, 341 P.3d 493 (Ariz. Ct. App. 2014).</p>
Arkansas	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> Farm Bureau Mut. Ins. Co. of Arkansas, Inc. v. Foote, 14 S.W.3d 512 (Ark. 2000); Coca-Cola Bottling Co. of Memphis, Tennessee v. Gill, 100 S.W.3d 715 (Ark. 2003).</p>

State	Rule of Evidence	Standard
California	Rule of Evidence 702	<p><i>Kelly/Frye</i></p> <p><i>See</i> People v. Kelly, 549 P.2d 1240 (Cal. 1976); People v. Venegas, 954 P.2d 525 (1998); <i>See also</i> Sargon Enterprises Inc. v. University of Southern California, 288 P.3d 1237 (Cal. 2012) (Recognizing the role of judges as gatekeepers and their ability to step outside the <i>Frye</i> standard, but declined to explicitly adopt the <i>Daubert</i> standard.).</p>
Colorado	Rule of Evidence 702	<p><i>Shreck/Daubert</i></p> <p><i>See</i> People v. Shreck, 22 P.3d 68 (Colo. 2001).</p>
Connecticut	Code of Evidence 7-2	<p><i>Porter/Daubert</i></p> <p><i>See</i> State v. Porter, 698 A.2d 793 (Conn. 1997).</p>
District of Columbia	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> Murray v. Motorola, Inc., 982 A.2d 764 (D.C. 2009).</p>
Delaware	Uniform Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> Minner v. American Mortgage & Guarantee Company 791 A.2d 826 (2000).</p>

State	Rule of Evidence	Standard
Florida	Fla. Stat. § 90.702	<i>Daubert</i> <i>See</i> In Re: Amendments to the Florida Evidence Code, No. SC19-107 (Fl. May 23, 2019).
Georgia	Rule of Evidence 702	<i>Daubert</i> <i>See</i> HNTB Georgia, Inc. v. Hamilton-King, 697 S.E.2d 770 (Ga. 2010).
Hawaii	Rule of Evidence 702	<i>Frye</i> <i>See</i> State v. Montalbo, 828 P.2d 1274, 1279-1280 (Haw. 1992) Reliability of scientific evidence depends on: the validity of the underlying principle, and the proper application of the technique on the particular occasion Although general acceptance in the scientific field is highly probative of the reliability of a scientific procedure, there are other indicators of suitability for admission at trial.
Idaho	Rule of Evidence 702	<i>Daubert</i> (instructive) * <i>See</i> State v. Merwin, 962 P.2d 1026 (Idaho 1998).

State	Rule of Evidence	Standard
Illinois	Rule of Evidence 702	<p><i>Frye</i></p> <p>See <i>Donaldson v. Cent. Illinois Pub. Serv. Co.</i>, 767 N.E.2d 314, 323 (Ill. 2002), <i>abrogated on other grounds</i> by <i>In re Commitment of Simons</i>, 821 N.E.2d 1184 (Ill. 2004):</p> <p>Illinois law is unequivocal: the exclusive test for the admission of expert testimony is governed by the standard first expressed in <i>Frye v. United States</i>, 293 F. 1013 (D.C.Cir.1923).;</p> <p><i>In re Commitment of Simons</i>, 821 N.E.2d 1184, 1188 (Ill. 2004):</p> <p>In Illinois, the admission of expert testimony is governed by the standard first expressed in <i>Frye v. United States</i>, 293 F. 1013 (D.C. Cir. 1923).</p>
Indiana	Rule of Evidence 702	<p><i>Daubert</i> (instructive) *</p> <p>See <i>Alsheik v. Guerrero</i>, 956 N.E.2d 1115, 1127 (Ind. Ct. App. 2011), <i>aff'd in part, vacated in part</i>, 979 N.E.2d 151 (Ind. 2012):</p> <p>Though we may consider the <i>Daubert</i> factors in determining reliability, there is no specific test or set of prongs which must be considered in order to satisfy Indiana Evidence Rule 702(b).</p>

State	Rule of Evidence	Standard
Iowa	Rule of Evidence 702	<p><i>Daubert</i> (instructive) *</p> <p><i>See</i> Leaf v. Goodyear Tire & Rubber Co., 590 N.W.2d 525 (Iowa 1999):</p> <p>Trial courts are not required to apply the <i>Daubert</i> analysis in considering the admission of expert testimony . . . but may, in their discretion, consider the following factors if deemed helpful in a particular case: (1) whether the theory or technique is scientific knowledge that can and has been tested; (2) whether the theory or technique has been subjected to peer review or publication; (3) the known or potential rate of error; or (4) whether it is generally accepted within the relevant scientific community.</p> <p>(internal quotation omitted)**</p>
Kansas	Kansas Statute 60 – 456	<p><i>Daubert</i></p> <p><i>See</i> Smart v. BNSF Ry. Co., 369 P.3d 966 (Kan. Ct. App. 2016); City of Topeka v. Lauck, 401 P.3d 1064 (Kan. Ct. App. 2017), <i>review denied</i> (Apr. 26, 2018).</p>

State	Rule of Evidence	Standard
Kentucky	Rule of Evidence 702	<p><i>Daubert</i></p> <p>See <i>Miller v. Eldridge</i>, 146 S.W.3d 909, 913–14 (Ky. 2004):</p> <p>Under <i>Daubert</i>, the trial court functions as a ‘gatekeeper’ charged with keeping out unreliable, pseudoscientific evidence: [T]he trial judge must determine at the outset . . . whether the expert is proposing to testify to (1) scientific knowledge that (2) will assist the trier of fact to understand or determine a fact in issue. This entails a preliminary assessment of whether the reasoning or methodology underlying the testimony is scientifically valid and of whether that reasoning or methodology properly can be applied to the facts in issue.</p>

State	Rule of Evidence	Standard
Louisiana	Rule of Evidence 702	<p><i>Daubert</i></p> <p>See State v. Foret, 628 So.2d 1116, 1123 (La. 1993):</p> <p>Since much of the Louisiana Code of Evidence is patterned after the Federal Rules of Evidence in an attempt to facilitate a ‘movement towards a uniform national law of evidence’, it seems appropriate for Louisiana courts to, “especially where the language of the Louisiana Code is identical or virtually identical with that used . . . in the federal rules” utilize this “body of persuasive authority which may be instructive in interpreting the Louisiana Code . . . As the Louisiana Code of Evidence provision on expert testimony is identical to the federal rule, it follows that this court should carefully consider the <i>Daubert</i> decision that soundly interprets an identical provision in the federal law of evidence.</p>

State	Rule of Evidence	Standard
Maine	Rule of Evidence 702	<p>Other (resembles <i>Daubert</i>)</p> <p><i>See</i> Searles v. Fleetwood Homes of Pennsylvania, Inc., 878 A.2d 509, 516 (Me. 2005); Tolliver v. Dep’t of Transp., 948 A.2d 1223, 1233 (Me. 2008):</p> <p>We have established a two-part test, originally articulated in <i>State v. Williams</i>, 388 A.2d 500, 504 (Me. 1978), for determining when expert testimony is admissible: ‘A proponent of expert testimony must establish that (1) the testimony is relevant pursuant to M.R. Evid. 401, and (2) it will assist the trier of fact in understanding the evidence or determining a fact in issue.’ Further, to meet the two-part test, ‘the testimony must also meet a threshold level of reliability.’ This is because ‘[i]f an expert’s methodology or science is unreliable, then the expert’s opinion has no probative value.’</p> <p>(internal quotation omitted) **</p>
Maryland	Rule of Evidence 702	<p><i>Reed/Frye</i></p> <p><i>See</i> Reed v. State, 391 A.2d 364 (Md. 1978).</p>

State	Rule of Evidence	Standard
Massachusetts	Rule of Evidence 702	<i>Daubert</i> <i>See</i> Commonwealth v. Lanigan, 641 N.E.2d 1342 (Mass. 1994).
Michigan	Rule of Evidence 702	<i>Daubert</i> <i>See</i> Gilbert v. Daimler Chrysler Corp., 685 N.W.2d 391, 408 (Mich. 2004).



State	Rule of Evidence	Standard
Minnesota	Rule of Evidence 702	<p><i>Mack/Frye</i></p> <p><i>See</i> State v. Mack, 292 N.W.2d 764 (Minn. 1980); State v. MacLennan, 702 N.W.2d 219 (Minn. 2005):</p> <p>The proper standard to apply in assessing the admissibility of novel scientific evidence is the <i>Frye-Mack</i> standard. We recently reaffirmed our adherence to the <i>Frye-Mack</i> standard in <i>Goeb v. Tharaldson</i>, 615 N.W.2d 800, 813-14 (Minn.2000). Under the <i>Frye-Mack</i> standard, a novel scientific theory may be admitted if two requirements are satisfied. The district court must first determine whether the novel scientific evidence offered is generally accepted in the relevant scientific community. <i>Id.</i> Second, the court must determine whether the novel scientific evidence offered is shown to have foundational reliability.</p> <p>(internal quotation omitted) **</p>
Mississippi	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> Miss. Transp. Comm’n v. McLemore, 863 So.2d 31 (Miss. 2003).</p>

State	Rule of Evidence	Standard
Missouri	Mo. Stat. § 490.065	<i>Daubert</i> <i>See</i> State Bd. of Registration of Healing Arts v. McDonagh, 123 S.W.3d 146 (Mo. banc 2003).
Montana	Rule of Evidence 702	<i>Daubert</i> , only in certain circumstances <i>See</i> State v. Moore, 885 P.2d 457 (Mont. 1994); State v. Damon, 119 P.3d 1194, 1198 (Mont. 2005): We have held, however, that the district court's gatekeeper role established by <i>Daubert</i> applies only to the admission of novel scientific evidence in Montana.
Nebraska	Rule of Evidence 702	<i>Daubert</i> <i>See</i> Schafersman v. Agland Coop., 631 N.W.2d 862 (Neb. 2001).
Nevada	Nev. Stat. § 50.275	Other <i>See</i> Higgs v. State, 222 P.3d 648 (Nev. 2010): While Nevada's statute of admissibility tracks the language of its federal counterpart....we decline...to adopt the standard of admissibility set forth in <i>Daubert</i> .

State	Rule of Evidence	Standard
New Hampshire	Rule of Evidence 702	<i>Daubert</i> <i>See</i> Baker Valley Lumber, Inc. v. Ingersoll-Rand Co., 813 A.2d 409 (N.H. 2002).
New Jersey	Rule of Evidence 702	<i>Frye</i> or <i>Daubert</i> , depending on circumstances <i>See</i> State v. Harvey, 699 A.2d 596, (N.J. 1997): In criminal cases we continue to apply the general acceptance or <i>Frye</i> test for determining the scientific reliability of expert testimony.
New Mexico	Rule of Evidence 11-702	<i>Alberico/Daubert</i> <i>See</i> State v. Alberico, 861 P.2d 192 (N.M. 1993).
New York	NYCPLR § 4515	<i>Frye</i> <i>See</i> People v. Wesley, 633 N.E.2d 451 (N.Y. 1994).
North Carolina	Rule of Evidence 702	<i>Daubert</i> <i>See</i> State v. McGrady, 787 S.E.2d 1 (N.C. 2016).
North Dakota	Rule of Evidence 702	Other <i>See</i> State v. Hernandez, 707 N.W.2d 449 (N.D. 2005).

State	Rule of Evidence	Standard
Ohio	Rule of Evidence 702	<i>Daubert</i> <i>See</i> State v. Thomas, 423 N.E.2d 137 (Ohio 1981); State v. Martens, 629 N.E.2d 462 (Ohio Ct. App. 1993).
Oklahoma	Okla. Stat. tit. 12 § 2702	<i>Daubert</i> <i>See</i> Christian v. Gray, 65 P.3d 591 (Okla. 2003).
Oregon	Evidence Code 702	<i>Daubert</i> <i>See</i> State v. O'Key, 899 P.2d 663 (Or. 1995).
Pennsylvania	Rule of Evidence 702	<i>Frye</i> <i>See</i> Grady v. Frito-Lay, Inc. 839 A.2d 1038, 1047 (Pa. 2003).
Rhode Island	Rule of Evidence 702	<i>Daubert</i> <i>See</i> In re Odell, 672 A.2d 457 (R.I. 1996).

State	Rule of Evidence	Standard
South Carolina	Rule of Evidence 702	<p><i>Jones</i></p> <p><i>See</i> State v. Jones, 259 S.E.2d 120 (S.C. 1979)</p> <p>In this case, we think admissibility depends upon . . . the degree to which the trier of fact must accept, on faith, scientific hypotheses not capable of proof or disproof in court and not even generally accepted outside the courtroom.</p> <p>(internal quotation omitted) **</p>
South Dakota	SDLRC 19-19-702	<p><i>Daubert</i></p> <p><i>See</i> State v. Hofer, 512 N.W.2d 482 (S.D. 1994).</p>
Tennessee	Rule of Evidence 702	<p><i>Daubert</i> (instructive) *</p> <p><i>See</i> McDaniel v. CSX Transp., Inc., 955 S.W.2d 257, 265 (Tenn. 1997).</p>
Texas	Rule of Evidence 702	<p><i>Daubert</i> (instructive) *</p> <p><i>See</i> E.I. du Pont de Nemours & Co. v. Robinson, 923 S.W.2d 549 (Tex. 1995).</p>
Utah	Rule of Evidence 702	<p><i>Frye</i></p> <p><i>See</i> State v. Rinmasch, 775 P.2d 388 (Utah 1989); Alder v. Bayer Corp., AGFA Div., 61 P.3d 1068 (Utah 2002).</p>

State	Rule of Evidence	Standard
Vermont	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> State v. Brooks, 643 A.2d 226, 229 (Vt. 1993):</p> <p>Similar principles should apply here because Vermont's rules are essentially identical to the federal ones on admissibility of scientific evidence.</p>
Virginia	Rule of Evidence 702	<p><i>Daubert</i> (instructive) *</p> <p><i>See</i> John v. Im, 559 S.E.2d 694 (Va. 2002) (applicability of <i>Daubert</i> left open for interpretation).</p>
Washington	Rule of Evidence 702	<p><i>Frye</i></p> <p><i>See</i> State v. Riker, 869 P.2d 43 (Wash. 1994).</p>
West Virginia	Rule of Evidence 702	<p><i>Wilt/Daubert</i></p> <p><i>See</i> Wilt v. Buracker, 443 S.E.2d 196 (W. Va. 1994).</p>
Wisconsin	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> In re Commitment of Alger, 858 N.W.2d 346 (Wis. 2015).</p>
Wyoming	Rule of Evidence 702	<p><i>Daubert</i></p> <p><i>See</i> Bunting v. Jamison, 984 P.2d 467 (Wyo. 1999).</p>

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- * “Instructive” means that *Daubert* is persuasive, and used by courts, but it is not necessarily binding or there is not a strict interpretation.
- ** “Internal quotation omitted” means that the quotation included quoted material from another case, but for the ease of reading, the quotation marks and citation(s) were removed. It indicates for the reader that if the person would like to see the quoted material that was omitted, the person can go to the case for that information.

