

West's Tennessee Code Annotated  
State and Local Rules Selected from West's Tennessee Rules of Court  
Tennessee Rules of Evidence  
Article VIII. Hearsay

Rules of Evid., Rule 801

Rule 801. Definitions

Currentness

The following definitions apply under this article:

**(a) Statement.** A “statement” is (1) an oral or written assertion or (2) nonverbal conduct of a person if it is intended by the person as an assertion.

**(b) Declarant.** A “declarant” is a person who makes a statement.

**(c) Hearsay.** “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

**Credits**

[Adopted effective January 1, 1990.]

**Editors' Notes**

**ADVISORY COMMISSION COMMENT**

This rule, generally defining hearsay, is the first of a series covering hearsay evidence. The next provision, [Rule 802](#), states the general rule that hearsay evidence is inadmissible unless otherwise provided by law. [Rules 803](#) and [804](#) describe hearsay exceptions. [Rule 805](#) deals with multiple hearsay, and [Rule 806](#) provides a general rule for impeaching hearsay declarants.

Except for the definition of conduct as hearsay, Rule 801 restates Tennessee common law. Part (a) makes hearsay only such nonverbal conduct as the declarant actor intends as an assertion. The common law, stemming from *Wright v. Tatham*, 112 Eng.Rep. 488 (Exch. Ch. 1837), included in the hearsay definition assertions that might be inferred from the conduct but that were unintended by the actor. Consequently, Tennessee has defined flight from a crime scene as hearsay, although the courts admit the evidence through the exception for party admissions. Under the proposed rule, the evidence would be admissible as nonhearsay, the declarant obviously not intending to assert guilt by flight.

[Notes of Decisions \(162\)](#)

Rules of Evid., Rule 801, TN R REV Rule 801  
Current with amendments received through 7/15/13