

8.08 Business Records (CPLR 4518)

(a) Generally. Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence or event, shall be admissible in evidence in proof of that act, transaction, occurrence or event, if the judge finds that it was made in the regular course of any business and that it was the regular course of such business to make it, at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter.

In addition, the writing or record must have been made upon the recorder's own personal knowledge or from information given to the recorder by someone with personal knowledge and a business duty to transmit the information accurately.

For a hospital or medical office record the entry must be germane to the patient's treatment or diagnosis.

The admission of an out-of-court statement that is included within a properly admitted business record is itself admissible for the truth of its contents only if the statement meets the requirements of an exception to the hearsay rule; otherwise the statement is admissible for having been made and not for its truth.

An electronic record, as defined in section three hundred two of the state technology law, used or stored as such a memorandum or record, shall be admissible in a tangible exhibit that is a true and accurate representation of such electronic record. The court may consider the method or manner by which the electronic record was stored, maintained or retrieved

in determining whether the exhibit is a true and accurate representation of such electronic record.

All other circumstances of the making of the memorandum or record, including lack of personal knowledge by the maker, may be proved to affect its weight, but they shall not affect its admissibility. The term business includes a business, profession, occupation and calling of every kind.

(b) Hospital bills. A hospital bill is admissible in evidence under this rule and is prima facie evidence of the facts contained, provided it bears a certification by the head of the hospital or by a responsible employee in the controller's or accounting office that the bill is correct, that each of the items was necessarily supplied and that the amount charged is reasonable. This subdivision shall not apply to any proceeding in a surrogate's court nor in any action instituted by or on behalf of a hospital to recover payment for accommodations or supplies furnished or for services rendered by or in such hospital, except that in a proceeding pursuant to section one hundred eighty-nine of the lien law to determine the validity and extent of the lien of a hospital, such certified hospital bills are prima facie evidence of the fact of services and of the reasonableness of any charges which do not exceed the comparable charges made by the hospital in the care of workmen's compensation patients.

(c) Other records. All records, writings and other things referred to in [CPLR] section 2306 and 2307 are admissible in evidence under this rule and are prima facie evidence of the facts contained, provided they bear a certification or authentication by the head of the hospital, laboratory, department or bureau of a municipal corporation or of the state, or by an employee delegated for that purpose or by a qualified physician.

Where a hospital record is in the custody of a

warehouse as that term is defined by paragraph (thirteen) of subsection (a) of section 7-102 of the uniform commercial code, pursuant to a plan approved in writing by the state commissioner of health, admissibility under this subdivision may be established by a certification made by the manager of the warehouse that sets forth (i) the authority by which the record is held, including but not limited to a court order, order of the commissioner, or order or resolution of the governing body or official of the hospital, and (ii) that the record has been in the exclusive custody of such warehouse or warehousemen since its receipt from the hospital or, if another has had access to it, the name and address of such person and the date on which and the circumstances under which such access was had. Any warehouse providing a certification as required by this subdivision shall have no liability for acts or omissions relating thereto, except for intentional misconduct, and the warehouse is authorized to assess and collect a reasonable charge for providing the certification described by this subdivision. Where a hospital record is located in a jurisdiction other than this state, admissibility under this subdivision may be established by either a certification or authentication by the head of the hospital, laboratory, department or bureau of a municipal corporation or of the state or by an employee delegated for that purpose, or by a qualified physician.

(d) Any records or reports relating to the administration and analysis of a genetic marker or DNA test, including records or reports of the costs of such tests, administered pursuant to sections four hundred eighteen and five hundred thirty-two of the family court act or section one hundred eleven-k of the social services law are admissible in evidence under this rule and are prima facie evidence of the facts contained therein provided they bear a certification or authentication by the head of the hospital, laboratory, department or bureau of a municipal corporation or

the state or by an employee delegated for that purpose, or by a qualified physician. If such record or report relating to the administration and analysis of a genetic marker test or DNA test or tests administered pursuant to sections four hundred eighteen and five hundred thirty-two of the family court act or section one hundred eleven-k of the social services law indicates at least a ninety-five percent probability of paternity, the admission of such record or report shall create a rebuttable presumption of paternity, and shall, if unrebutted, establish the paternity of and liability for the support of a child pursuant to articles four and five of the family court act.

(e) Notwithstanding any other provision of law, a record or report relating to the administration and analysis of a genetic marker test or DNA test certified in accordance with subdivision (d) of this rule and administered pursuant to sections four hundred eighteen and five hundred thirty-two of the family court act or section one hundred eleven-k of the social services law is admissible in evidence under this rule without the need for foundation testimony or further proof of authenticity or accuracy unless objections to the record or report are made in writing no later than twenty days before a hearing at which the record or report may be introduced into evidence or thirty days after receipt of the test results, whichever is earlier.

(f) Notwithstanding any other provision of law, records or reports of support payments and disbursements maintained pursuant to title six-A of article three of the social services law by the office of temporary and disability assistance or the fiscal agent under contract to the office for the provision of centralized collection and disbursement functions are admissible in evidence under this rule, provided that they bear a certification by an official of a social services district attesting to the accuracy of the content of the record or report of support payments and that in attesting to the accuracy

of the record or report such official has received confirmation from the office of temporary and disability assistance or the fiscal agent under contract to the office for the provision of centralized collection and disbursement functions pursuant to section one hundred eleven-h of the social services law that the record or report of support payments reflects the processing of all support payments in the possession of the office or the fiscal agent as of a specified date, and that the document is a record or report of support payments maintained pursuant to title six-A of article three of the social services law. If so certified, such record or report shall be admitted into evidence under this rule without the need for additional foundation testimony. Such records shall be the basis for a permissive inference of the facts contained therein unless the trier of fact finds good cause not to draw such inference.

(g) Pregnancy and childbirth costs. Any hospital bills or records relating to the costs of pregnancy or birth of a child for whom proceedings to establish paternity, pursuant to sections four hundred eighteen and five hundred thirty-two of the family court act or section one hundred eleven-k of the social services law have been or are being undertaken, are admissible in evidence under this rule and are prima facie evidence of the facts contained therein, provided they bear a certification or authentication by the head of the hospital, laboratory, department or bureau of a municipal corporation or the state or by an employee designated for that purpose, or by a qualified physician.

Note

Introduction. This rule restates verbatim CPLR 4518, except for paragraphs two, three, and four of subdivision (a) which incorporate the holdings of decisional law discussed in the “subdivision (a)” section of this Note.

The key *statutory* provisions governing the hearsay exception for the

admissibility of business records are contained in CPLR 4518 (a), as set forth in paragraphs one and six of subdivision (a). The fifth paragraph of this subdivision (as set forth in CPLR 4518 [a]) addresses the admissibility of an “electronic record,” i.e., “information, evidencing any act, transaction, occurrence, event, or other activity, produced or stored by electronic means and capable of being accurately reproduced in forms perceptible by human sensory capabilities” (State Technology Law § 302 [2]).

Paragraphs two, three and four of subdivision (a), as noted, set forth additional *decisional law* rules governing business records.

The remaining subdivisions of this rule and CPLR 4518 provide separate hearsay exceptions for specified records as well as certification procedures that make it unnecessary to call a witness to lay the foundation for their admissibility.

Subdivision (a) initially sets forth the scope of the business records exception to the general prohibition on the admission of hearsay. (*See* Guide to NY Evid rule 8.01, Admissibility of Hearsay.) The exception encompasses any record of a business “made as a memorandum or record of any act, transaction, occurrence or event” (CPLR 4518 [a] [first sentence]). The term, “business,” is broadly defined as a “business, profession, occupation and calling of every kind” (CPLR 4518 [a] [last sentence]).

The Court of Appeals has included within the scope of this exception: government records (*Kelly v Wasserman*, 5 NY2d 425, 429 [1959] [welfare department records]; *Johnson v Lutz*, 253 NY 124 [1930] [police accident report]); hospital records (*Williams v Alexander*, 309 NY 283, 286 [1955]); and criminal enterprise records (*People v Kennedy*, 68 NY2d 569, 577 [1986] [loan shark records]). A record falls outside the scope of the exception if it contains purely personal, nonbusiness related activity (*Kennedy* at 577).

As to the form of the record, the subdivision provides that “[a]ny writing or record, whether in the form of an entry in a book or otherwise” may be admissible. The Appellate Division has interpreted that language broadly, holding that “ ‘[a]ny record designed to retain information and otherwise possessed of the characteristics of a business record should be admitted under the rule regardless of the form which the record takes,’ ” provided the record is intelligible (*Wilson v Bodian*, 130 AD2d 221, 231 [2d Dept 1987] [citation omitted]).

A business record stored in computerized format in a database is admissible

under the exception through a computer printout of the stored information, provided it is shown that the printout is a fair and accurate representation of the electronic record (CPLR 4518 [a] [second sentence]). In *People v Kangas* (28 NY3d 984 [2016]), the Court of Appeals held that CPLR 4539 (b)'s requirement that reproductions of an original record must be authenticated by testimony or an affidavit does not apply when the record was created electronically in the first instance, that "CPLR 4539 (b) applies only when a document that originally existed in hard copy form is scanned to store a digital 'image' of the hard copy document, and then a 'reproduction' of the digital image is printed in the ordinary course of business" (28 NY3d at 985).

Admissibility of a business record requires proof of four foundation elements. Three of those foundation elements are set forth in CPLR 4518 (a) and in the first paragraph of subdivision (a) of this rule. The fourth element is established in *Johnson v Lutz* (253 NY 124 [1930]) and is set forth in the second paragraph of subdivision (a) of this rule. *Williams v Alexander* (309 NY 283 [1955]) sets forth an additional requirement for hospital and medical records and that requirement is set forth in the third paragraph of subdivision (a) of this rule.

The three statutory elements as recited in *Kennedy* (68 NY2d at 579-580) are

"*first*, that the record be made in the regular course of business—essentially, that it reflect a routine, regularly conducted business activity, and that it be needed and relied on in the performance of functions of the business; *second*, that it be the regular course of such business to make the record (a double requirement of regularity)—essentially, that the record be made pursuant to established procedures for the routine, habitual, systematic making of such a record; and *third*, that the record be made at or about the time of the event being recorded—essentially, that recollection be fairly accurate and the habit or routine of making the entries assured."

Notably, these elements provide the "probability of [the record's] trustworthiness . . . , which justifies admission of the writing or record without the necessity of calling all the persons who may have had a hand in preparing it" (*Williams*, 309 NY at 286-287). Since the entry is routine, the regularity and continuity of making such entries develop habits of precision; the temporal requirement assures that the recollection of the information recorded is fairly accurate; and the existence of the recorder's duty to record the information ensures that it is in the recorder's own

interest to accurately record the information (*Kennedy*, 68 NY2d at 579).

In *Johnson v Lutz*, the Court of Appeals imposed the fourth foundation requirement, namely that there must be a showing that the record was made upon the recorder's own personal knowledge, or from information given to the recorder by someone with personal knowledge and a business duty to transmit the information accurately (253 NY at 128 [business records statute "was not intended to permit the receipt in evidence of entries based upon voluntary hearsay statements made by third parties not engaged in the business or under any duty in relation thereto"]; see *People v Patterson*, 28 NY3d 544, 550 [2016] [reaffirming *Lutz*'s requirement that " 'admission may only be granted where it is demonstrated that the informant has personal knowledge of the act, event or condition and he (or she) is under a business duty to report it to the entrant' "]). This fourth requirement enhances the trustworthiness of the record (*Matter of Leon RR*, 48 NY2d 117, 123 [1979] ["it is essential to emphasize that the mere fact that the recording of third-party statements by the caseworker might be routine, imports no guarantee of the truth, or even reliability, of those statements. To construe these statements as admissible simply because the caseworker is under a business duty to record would be to open the floodgates for the introduction of random, irresponsible material beyond the reach of the usual tests for accuracy—cross-examination and impeachment of the declarant"]).

Thus, if the recorder had no personal knowledge about the information being recorded and the source of the information being recorded had no business duty to transmit the information accurately to the recorder, the record is inadmissible (*Cover v Cohen*, 61 NY2d 261, 274 [1984] [the investigating police officer's accident report of the statement of the driver of a vehicle involved in an accident that "his accelerator stuck on him" was not admissible as the driver was under no duty to report to the police officer]; *Cox v State of New York*, 3 NY2d 693, 699 [1958] [hospital record containing an entry that a hospital patient stated she pushed another patient excluded on ground the declarant inmate was under no duty to impart such information]).

In essence, the rule derived from *Johnson v Lutz* and its progeny is an application of New York's double hearsay rule (see *Patterson*, 28 NY3d at 550-551; Barker & Alexander, *Evidence in New York State and Federal Courts* § 8:94 at 204-205 [2d ed West's NY Prac Series]; Guide to NY Evid rule 8.21, Hearsay or Nonhearsay Within Hearsay). That rule as applied to a business record is set forth in the fourth paragraph of subdivision (a) of this rule. The first level of hearsay is the record containing the statement; the second level of hearsay is the statement itself.

The business records exception covers the first level; that is, if the four foundation elements are met, then the record comes in as proof that the statement was made. As to the admissibility of the statement itself (second level), if the maker of the record either had personal knowledge of the information being recorded or prepared the record with information provided by another person who had a duty to transmit the information accurately, then the record also comes in as some proof that the statement is true. The double hearsay is excused by the business records exception. However, if the source had no such duty, the information provided to the recorder must fall within another hearsay exception in order to overcome the double hearsay to be admissible for its truth. Alternatively, the statement itself could be admissible for a relevant non-truth purpose.

Where the record being offered is a hospital or medical office record, the Court of Appeals has imposed a special requirement in addition to the four foundation elements discussed thus far. As originally imposed in *Williams* (309 NY at 286-287) and reaffirmed in *People v Ortega (Benston)* (15 NY3d 610, 617-618 [2010]), the medical record entry must be germane to the patient's treatment or diagnosis, that is, being germane to treatment or diagnosis is what makes the record a business record in the first instance. If the entry is not germane to treatment or diagnosis, it is not admissible under the exception.

In *Ortega (Benston)*, a consolidation of two appeals, an entry in a hospital record was in issue in each case. In the *Ortega* case, which involved a charge of drug possession, the entry stated the patient-complainant "was forced to smoke [a] white substance from [a] pipe"; that entry was found to be germane because "complainant would not have been in control over either the amount or the nature of the substance he ingested[.]" and "treatment of a patient who is the victim of coercion may differ from a patient who has intentionally taken drugs" (15 NY3d at 616, 620). In the *Benston* case, which involved a charge of assault of the defendant's former girlfriend, the entry contained references to domestic violence committed against the patient-complainant and the existence of a safety plan for her; that entry was found to be germane because a victim of domestic violence will have a "host of . . . issues" that need to be treated in addition to the treatment of physical injuries (15 NY3d at 619).

As expressed in the Note to Guide to NY Evidence rule 8.43 (Statement Made for Medical Diagnosis or Treatment), care must be exercised in determining whether an entry is germane because some details recorded in a medical record may not relate to treatment or diagnosis. For example, in *Williams*, the Court of Appeals held that information that the patient was struck by a motor vehicle was germane to his treatment but not the statement that the car that struck the patient was

propelled into him when it was struck by another car (*Williams*, 309 NY at 288). As stated by the Court: “[W]hether the patient was hit by car A or car B, by car A under its own power or propelled forward by car B, or whether the injuries were caused by the negligence of the defendant or of another, cannot possibly bear on diagnosis or aid in determining treatment.” (*Id.*) Medical testimony about whether the information is germane to treatment or diagnosis will be helpful in making the determination. (See *People v Pham*, 118 AD3d 1159, 1162 [3d Dept 2014]; *Wright v New York City Hous. Auth.*, 273 AD2d 378, 379 [2d Dept 2000]; *Sanchez v Manhattan & Bronx Surface Tr. Operating Auth.*, 170 AD2d 402, 404 [1st Dept 1991].)

It bears repeating that entries in a medical record will not be admissible merely because they are determined to be germane to the patient’s diagnosis and treatment; like all other business records, the entry must be made upon the recorder’s personal knowledge or from information given by one with personal knowledge and a duty to transmit accurately the information to the recorder, or the information must fall within its own independent hearsay exception (*see Ortega*, 15 NY3d at 620-621 [Smith, J., concurring]).

The subject matter of any business record may be “any act, transaction, occurrence or event.” While opinions are not specifically enumerated as proper subject matter, the Court of Appeals held in *People v Kohlmeyer*, interpreting CPLR 4518 (a)’s predecessor, Civil Practice Act § 374-a, that a hospital entry recording an opinion of a physician is admissible under the business records exception (284 NY 366, 369 [1940]). Consistent with *Kohlmeyer*, the courts routinely admit records containing opinions provided a showing is made that the opinion was rendered by a person qualified to give the opinion and was based on proper data (*see Vincent C. Alexander*, Prac Commentaries, McKinney’s Cons Laws of NY, CPLR C4518:4).

Reports or records received from another business and filed as part of the receiving business’s business records are ordinarily not admissible as business records of the recipient business (*see People v Cratsley*, 86 NY2d 81, 90 [1995]). They may be qualified as business records of the recipient, however, upon a showing that the maker of the report prepared the report on behalf of the recipient and in accordance with its requirements, and the recipient relied on the report in conducting its business (*Cratsley*, 86 NY2d at 89-91; *see also People v DiSalvo*, 284 AD2d 547, 548-549 [2d Dept 2001]).

Records or reports prepared solely for litigation that are offered by the party

responsible for making the record are not admissible under the exception (*People v Foster*, 27 NY2d 47, 52 [1970] [“Of course, records prepared solely for the purpose of litigation should be excluded”]; *Flaherty v American Turners N.Y.*, 291 AD2d 256, 257-258 [1st Dept 2002] [physician’s report prepared for specific litigation purpose]; *Cornier v Spagna*, 101 AD2d 141, 148 [1st Dept 1984] [same]). The reason is that such records or reports are “not the systematic, routine, day-to-day type of record envisioned by the business records exception” (*Wilson v Bodian*, 130 AD2d 221, 229-230 [2d Dept 1987]).

The four foundation elements necessary for the admissibility of a record under the business record exception must be proven to the court’s satisfaction by the offering party (*Kennedy*, 68 NY2d at 580). Traditionally, a witness is called for this purpose. While the person or persons involved in the preparation of the record is not required to be called, the witness must have personal knowledge of the record keeping practices of the business (*see Bank of N.Y. Mellon v Gordon*, 171 AD3d 197, 208-210 [2d Dept 2019]). Alternatively, resort may be had to the certification procedure provided for certain records in the remaining subdivisions.

Where the record or report is offered against the defendant in a criminal action, the defendant’s US Constitution Sixth Amendment right of confrontation may be implicated and the record or report may be inadmissible as a violation of that right (*see* Guide to NY Evid rule 8.02, Admissibility Limited by Confrontation Clause [*Crawford*]).

CPLR 3122-a allows for the certification of business records produced pursuant to a subpoena duces tecum for the discovery and production of documents pursuant to CPLR 3120. The certification’s contents must include an attestation of the statutory foundation for the admission of business records. Once all the content requirements of the certification are fulfilled, the certification “is admissible as to the matters set forth therein and as to such matters shall be presumed true” (CPLR 3122-a [b]). Thus, the certification eliminates the need for foundation testimony for the record. The underlying certification procedure is discussed in detail in Patrick M. Connors, Practice Commentaries to CPLR 3122-a (McKinney’s Cons Laws of NY).

As mentioned earlier, a statement inadmissible for its truth as a business record may yet be admissible for a relevant non-truth purpose or pursuant to some other exception to the hearsay rule (*see Patterson*, 28 NY3d at 550-551; *Kelly v Wasserman*, 5 NY2d at 429-430; *People v Aamir*, 203 AD3d 839, 840 [2d Dept 2022]).

In *Patterson*, for example, the Court held that subscriber information in prepaid cell phone records provided by the person purchasing the phone was not admissible to prove the truth of the name of the subscriber because the subscriber was not under a duty to provide accurate information to the phone provider; but the record of the subscriber's name was admissible for the non-truth purpose of permitting other evidence to prove that the name listed as the subscriber in the record was, in fact, that of the defendant (28 NY3d at 552-553).

In *Kelly*, the Court held a welfare investigator's report was admissible even though it contained a statement to the investigator by a welfare recipient's landlord, who had no duty to report, because the statement fell within the hearsay exception for the admission of a party.

In *Aamir*, a tax fraud prosecution, a handwritten business ledger "was admissible under the exception to the hearsay rule for party admissions," and multiple invoices "were admissible as adoptive admissions" (203 AD3d at 840; *see* Guide to NY Evid rules 8.03, Admission by Party, and 8.05, Admission by Adopted Statement or Silence).

Subdivision (b) creates a hearsay exception for hospital bills and also provides a certification procedure for their admission, thereby making it unnecessary to call a foundation witness. The certification must be made by the head of the hospital or by a responsible employee in the controller's office that the bill is correct, that each of the items was necessarily supplied and that the amount charged is reasonable. If properly certified, the hospital bill is "prima facie" evidence of the facts contained therein. As to the evidentiary effect of a hospital bill admitted as "prima facie" evidence, the Court of Appeals has interpreted "prima facie" in CPLR 4518 (c) as creating only a permissive inference (*Matter of Commissioner of Social Servs. v Philip De G.*, 59 NY2d 137, 140 [1983] ["In the absence of contradictory evidence, these hospital entries were sufficient to permit but not require the trier of fact to find in accordance with the record"]; *see also* *People v Mertz*, 68 NY2d 136, 148 [1986] [prima facie evidence is "not a presumption which must be rebutted but rather an inference"]).

Bills for medical services provided by physicians outside of a hospital may be admissible without a witness to lay a foundation pursuant to CPLR 4533-a (*see* *Matter of Haroche v Haroche*, 38 AD2d 957, 957 [2d Dept 1972] ["We note in passing that the evidentiary problem encountered as to the necessity for and reasonable value of most of the medical and dental expenses for which claim was made might have been avoided by the use of CPLR 4533-a"]).

A hospital bill may also be admitted under the hearsay exception provided in subdivision (a). But admissibility under that exception will need to be established by foundation testimony.

By the statute's terms, subdivision (b) does not apply in a Surrogate's Court proceeding or an action commenced by the hospital to recover payments for its services. A certified hospital bill may be sued upon, however, by a hospital in a proceeding pursuant to Lien Law § 189.

Subdivision (c) creates a hearsay exception and a certification procedure for three types of business records described in CPLR 2306 and 2307, i.e., medical records of a hospital or government entity concerning the condition or treatment of a patient; records of a library; and records of a department or bureau of a municipal corporation or of the state. A 2017 amendment provides that out-of-state hospital records are admissible pursuant to the certification procedure (L 2017, ch 229, § 1, amdg CPLR 4518 [c]).

The certification or authentication required must be made by the head of the hospital, laboratory, department, or bureau of a municipal corporation or of the state, or by an employee delegated for the purpose, or by a qualified physician. As to the certificate's contents, the Court of Appeals held in *Mertz* that the "admissibility [under CPLR 4518 (c)] is governed by the same standards as the general business record exception in subdivision (a)" (68 NY2d at 147). Of note, the certificate does not have to be dated near the time of the event reported in the record so long as the record itself was created at or near that time (*People v Kinne*, 71 NY2d 879 [1988]).

Records admitted pursuant to the certification procedure constitute "prima facie evidence" of the facts contained in the record. As noted, *supra*, the certification creates a permissive inference of the truth of the facts contained in the record (*see also Rodriguez v Triborough Bridge & Tunnel Auth.*, 276 AD2d 769, 770 [2d Dept 2000] [blood alcohol test results]; *LaDuke v State Farm Ins. Co.*, 158 AD2d 137, 138 [4th Dept 1990] [blood alcohol test result]).

Where the hospital record has been retrieved from a warehouse, as defined in UCC 7-102 (a) (13), a separate certification procedure allowing admission of the retrieved records without foundation evidence is set forth in subdivision (c).

Records encompassed by subdivision (c) may also be admitted under the

hearsay exception provided in subdivision (a). But admissibility under that exception needs to be established by foundation testimony.

Subdivision (d) creates a hearsay exception and provides a certification procedure for the admission of records or reports on genetic marker tests or DNA tests administered pursuant to Family Court Act §§ 418 and 532 or Social Services Law §111-k, thereby making it unnecessary to call a foundation witness. The certification or authentication must be made by the head of the hospital, laboratory, or department or bureau of a municipal corporation or the state, or an employee designated for that purpose, or a qualified physician must make the certification or authorization. If properly certified, the records or reports are “prima facie” evidence of the facts contained therein; and if at least a 95% probability of paternity is shown, the records or reports create a rebuttable presentation of paternity, and if unrebutted, they “shall” establish paternity and liability for child support (*see Matter of Orleans County Dept. of Social Servs. v Aaron S.*, 281 AD2d 931, 931 [4th Dept 2001]). Records encompassed by subdivision (d) may also be admitted under the hearsay exception provided in subdivision (a). But admissibility under that exception needs to be established by foundation testimony.

Subdivision (e) provides that, “notwithstanding any other provision of law,” a record or report on genetic marker or DNA tests administered pursuant to Family Court Act §§ 418 and 532 or Social Services Law § 111-k, and certified in accordance with subdivision (d), is admissible into evidence without the need of a foundation witness or further proof of authenticity or accuracy unless a timely written objection is made. Specifically, any objection must be made no later than 20 days before the hearing at which the report may be introduced into evidence or 30 days after receipt of the test results, whichever is earlier.

Subdivision (f) creates a hearsay exception and provides a certification procedure for the admissibility of records of reports of specified support payments and disbursements maintained by the State Department of Social Services or the fiscal agent under contract to the Department for the provision of centralized collection and disbursement functions, thereby making it unnecessary to call a foundation witness. The certification must be made by an official of a social services district who must attest to the accuracy of the contents of the record or report, that the official has received a specified confirmation from the Office of Temporary and Disability Assistance or the fiscal agent under contract to the Office, and that confirmation is of a record or report maintained pursuant to title 6-A of article 3 of the Social Services Law. If properly certified, and admitted into evidence, a permissive inference of the facts contained therein may be drawn unless the trier of

fact finds good cause not to do so. Records encompassed by subdivision (f) may also be admitted under the hearsay exception provided in subdivision (a). But admissibility under that exception needs to be established by foundation testimony.

Subdivision (g) creates a hearsay exception and provides a certification procedure for the admission of any hospital bill or record relating to the costs of pregnancy or birth of a child as to whom a paternity proceeding has been commenced, thereby making it unnecessary to call a foundation witness. The certification or authentication must be made by the head of the hospital, laboratory, or department or bureau of a municipal corporation or the state, or, by an employee designated for that purpose, or by a “qualified physician.” If properly certified, the bills or record are “prima facie” evidence of the facts contained therein. Bills and records encompassed by subdivision (g) may also be admitted under the hearsay exception provided in subdivision (a). But admissibility under that exception needs to be established by foundation testimony.