

Rule 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

All relevant evidence is admissible, except as otherwise provided by Constitution, by statute, by these rules, or by other rules prescribed pursuant to statutory authority. Evidence which is not relevant is inadmissible.

This definition includes two main components. First, the evidence must be material, i.e., that the proposition for which the evidence is offered must be of consequence to the determination of the case. Second, the evidence must be probative, i.e., it must make the existence of the fact more probable or less probable than it would be without the evidence. *Tennison v. State*, 969 S.W.2d 578 (Tex. App. -- Texarkana 1998, no pet.).

In determining relevancy, the appellate court looks at the purpose for offering the evidence and whether there is a direct or logical connection between the offered evidence and the proposition to be proved. If there is a reasonable logical nexus, the evidence passes the relevancy test. *Fletcher v. State*, 852 S.W.2d 271, 271-77 (Tex.App.--Dallas 1993, pet. ref'd). In reviewing a trial court's determination that evidence is relevant, the ruling will be upheld absent an abuse of discretion. *Montgomery v. State*, 810 S.W.2d 372, 390-91 (Tex.Crim.App.1990) (op. on reh'g). An appellate court should hold that a trial court has abused its discretion only in those instances where the court can say with confidence that by no reasonable perception of common experience could the trial court have concluded that the contested evidence had a tendency to make the existence of a fact or consequence more or less probable than it would have been without the evidence. *Id.* Relevance is not an inherent characteristic of any item of evidence but exists as a relation between an item of evidence and a matter properly provable in the case. *Montgomery*, 810 S.W.2d at 375. Moreover, the evidence need not by itself prove or disprove a particular fact to be relevant; it is sufficient if the evidence provides a small nudge toward proving or disproving some fact of consequence. *Id.* at 376.

The Texas Rules of Criminal Evidence (now "Texas Rules of Evidence") favor the admission of all logically relevant evidence. *Hawkins v. State*, 871 S.W.2d 539, 541 (Tex.App.--Fort Worth 1994, no pet.), citing *Montgomery v. State*, 810 S.W.2d 372, 375 (Tex.Crim.App.1990)

Facts and circumstances surrounding commission of an offense are relevant. Evidence of how the offense developed and progressed is necessary for jury to have complete picture of what occurred. *Yates v. State*, 941 S.W.2d 357 (Tex. App. -- Waco 1997, pet. ref'd).