

**60-408. Preliminary inquiry by judge.** When the qualification of a person to be a witness, or the admissibility of evidence, or the existence of a privilege is stated in this article to be subject to a condition, and the fulfillment of the condition is in issue, the issue is to be determined by the judge, and he or she shall indicate to the parties which one has the burden of producing evidence and the burden of proof on such issue as implied by the section under which the question arises. The judge may hear and determine such matters out of the presence or hearing of the jury, except that on the admissibility of a confession of the accused in a criminal case, the judge, if requested, shall hear and determine the question out of the presence and hearing of the jury. But this section shall not be construed to limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

**History:** L. 1963, ch. 303, 60-408; Jan. 1, 1964.