

LEGISLATIVE BILL 598

Approved by the Governor June 4, 1993

Introduced by Hall, 7; Lindsay, 9

AN ACT relating to courts; to amend section 27-404, Reissue Revised Statutes of Nebraska, 1943; to change the admissibility of evidence of certain crimes, wrongs, or acts as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 27-404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

27-404. (1) Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that he or she acted in conformity therewith on a particular occasion, except:

(a) Evidence of a pertinent trait of his or her character offered by an accused, or by the prosecution to rebut the same;

(b) Evidence of a pertinent trait of character of the victim of the crime offered by an accused or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor. In the case of sexual assault, reputation or opinion evidence of the past sexual behavior of the victim of the sexual assault will not be admissible; or

(c) Evidence of the character of a witness as provided in sections 27-607 to 27-609.

(2) Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he or she acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

(3) When such evidence is admissible pursuant to this section, in criminal cases evidence of other crimes, wrongs, or acts of the accused may be offered in evidence by the prosecution if the prosecution proves to the court by clear and convincing evidence that the accused committed the crime, wrong, or act. Such proof shall first be made outside the presence of any jury.

Sec. 2. That original section 27-404, Reissue Revised Statutes of Nebraska, 1943, is repealed.