

Impeachment with Past Convictions

1) Rule 609

a) *Generally permits use of witness's criminal convictions to impeach that witness*

i) *Exception to general rule you can use propensity**

b) (a) General Rule:

i) Rules that apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) *NOT GENERAL CHARACTER - CHARACTER FOR TRUTHFULNESS ONLY*****

(2) *CONVICTIONS NOT ARRESTS*

ii) (1) For a **crime** that, in the convicting jurisdiction, was **punishable by death or by imprisonment for more than one year**, the evidence:

(1) (A) Must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the **witness is not a D**; and

(2) (B) Must be admitted in a criminal case in which the **witness is a D**, if the probative value of the evidence outweighs its prejudicial effect to that D; and

(a) *Special rule for criminal D's***

(b) *Reverse 403 rule—presumption it stays out unless = more stringent!!*

(3) *Punishable → what could the witness have been punished with? [not what they actually got]*

(4) *Extrinsic Evidence is allowed to rebut answers where witness denies having a criminal conviction!!!!*

iii) (2) For **any crime regardless of the punishment**, the evidence must be admitted if the court can *readily determine* that establishing the **elements of the crime required** proving - or the witness's admitting - **a dishonest act or false statement**

Past Convictions

Jesper Ryberg



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