

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 103

Introduced by DeBoer, 10; Bosn, 25.

Read first time January 10, 2025

Committee:

1 A BILL FOR AN ACT relating to the Nebraska Evidence Rules; to amend
2 section 27-412, Revised Statutes Cumulative Supplement, 2024; to
3 change provisions relating to admissibility of evidence of past
4 sexual assaults; to prohibit questions relating to past sexual
5 behavior or sexual assaults in pretrial proceedings; and to repeal
6 the original section.

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

1 **Section 1.** Section 27-412, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 27-412 (1) The following evidence is not admissible in any civil or
4 criminal proceeding involving alleged sexual misconduct except as
5 provided in subsections (2) and (3) of this section:

6 (a) Evidence offered to prove that any victim engaged in other
7 sexual behavior or has been the victim of any other sexual assault; and

8 (b) Evidence offered to prove any victim's sexual predisposition.

9 (2)(a) In a criminal case, the following evidence is admissible, if
10 otherwise admissible under the Nebraska Evidence Rules:

11 (i) Evidence of specific instances of sexual behavior by the victim
12 offered to prove that a person other than the accused was the source of
13 semen, injury, or other physical evidence;

14 (ii) Evidence of specific instances of sexual behavior of the victim
15 with respect to the accused offered by the accused to prove consent of
16 the victim if it is first established to the court that such behavior is
17 similar to the behavior involved in the case and tends to establish a
18 pattern of behavior of the victim relevant to the issue of consent; and

19 (iii) Evidence, the exclusion of which would violate the
20 constitutional rights of the accused.

21 (b) In a civil case, evidence offered to prove the sexual behavior
22 or sexual predisposition of any victim is admissible if it is otherwise
23 admissible under the Nebraska Evidence Rules and its probative value
24 substantially outweighs the danger of harm to any victim and of unfair
25 prejudice to any party. Evidence of a victim's reputation is admissible
26 only if it has been placed in controversy by the victim.

27 (3)(a) A party intending to offer evidence under subsection (2) of
28 this section shall:

29 (i) File a written motion at least fifteen days before trial
30 specifically describing the evidence and stating the purpose for which it
31 is offered unless the court, for good cause, requires a different time

1 for filing or permits filing during trial; and

2 (ii) Serve the motion on all parties and notify the victim or, when
3 appropriate, the victim's guardian or representative.

4 (b) Before admitting evidence under this section, the court shall
5 conduct a hearing in camera outside the presence of any jury.

6 (4) Evidence of the victim's consent is not admissible in any civil
7 proceeding involving alleged:

8 (a) Sexual penetration when the actor is nineteen years of age or
9 older and the victim is less than sixteen years of age; or

10 (b) Sexual contact when the actor is nineteen years of age or older
11 and the victim is less than fifteen years of age.

12 (5) A victim shall not be questioned during any pretrial hearing or
13 proceeding, including, but not limited to, a deposition, regarding any
14 matter that is inadmissible under this section.

15 **Sec. 2.** Original section 27-412, Revised Statutes Cumulative
16 Supplement, 2024, is repealed.