

1 **Joint Resolution Amending Rules of Evidence on**
Admissibility of Evidence of Crimes or Other Acts

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor:

2
3 **LONG TITLE**

4 **General Description:**

5 This joint resolution amends the Utah Rules of Evidence regarding the admissibility of
6 evidence of crimes or other acts.

7 **Money Appropriated in this Bill:**

8 None

9 **Highlighted Provisions:**

10 This resolution:

- 11 ▶ amends Utah Rules of Evidence 404, to address similar crimes in sexual assault cases.

12 **Other Special Clauses:**

13 This resolution provides a special effective date.

14 **Utah Rules of Evidence Affected:**

15 AMENDS:

16 **Rule 404**, Utah Rules of Evidence

17
18 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
19 *of the two houses voting in favor thereof:*

20 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of
21 procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all
22 members of both houses of the Legislature:

23 Section 1. **Rule 404**, Utah Rules of Evidence is enacted to read:

24 **Rule 404 . Character Evidence; Crimes or Other Acts.**

25 **(a) Character Evidence.**

26 ~~[(a)]~~**(1) Prohibited Uses.** Evidence of a person's character or character trait is not
27 admissible to prove that on a particular occasion the person acted in conformity with the
28 character or trait.

29 ~~[(a)]~~**(2) Exceptions for a Defendant or Victim in a Criminal Case.** The following

30 exceptions apply in a criminal case:

31 [(a)(2)](A) a defendant may offer evidence of the defendant’s pertinent trait, and if
32 the evidence is admitted, the prosecutor may offer evidence to rebut it;

33 [(a)(2)](B) subject to the limitations in Rule 412, a defendant may offer evidence of
34 an alleged victim’s pertinent trait, and if the evidence is admitted, the prosecutor may:

35 [(a)(2)(B)](i) offer evidence to rebut it; and

36 [(a)(2)(B)](ii) offer evidence of the defendant’s same trait; and

37 [(a)(2)](C) in a homicide case, the prosecutor may offer evidence of the alleged
38 victim’s trait of peacefulness to rebut evidence that the victim was the first aggressor.

39 [(a)](3) **Exceptions for a Witness.** Evidence of a witness’s character may be admitted
40 under Rules 607, 608, and 609.

41 **(b) Crimes, Wrongs, or Other Acts.**

42 [(b)](1) **Prohibited Uses.** Evidence of a crime, wrong, or other act is not admissible to
43 prove a person’s character in order to show that on a particular occasion the person acted in
44 conformity with the character.

45 [(b)](2) **Permitted Uses; Notice in a Criminal Case.** This evidence may be admissible
46 for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge,
47 identity, absence of mistake, or lack of accident. On request by a defendant in a criminal case,
48 the prosecutor must:

49 [(b)(2)](A) provide reasonable notice of the general nature of any such evidence
50 that the prosecutor intends to offer at trial; and

51 [(b)(2)](B) do so before trial, or during trial if the court excuses lack of pretrial
52 notice on good cause shown.

53 **(c) Evidence of Similar Crimes in Child-Molestation Cases.**

54 [(e)](1) **Permitted Uses.** In a criminal case in which a defendant is accused of child
55 molestation, the court may admit evidence that the defendant committed any other acts of child
56 molestation to prove a propensity to commit the crime charged.

57 [(e)](2) **Disclosure.** If the prosecution intends to offer this evidence it shall provide
58 reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good
59 cause shown.

60 [(e)](3) For purposes of this rule “child molestation” means an act committed in
61 relation to a child under the age of 14 which would, if committed in this state, be a sexual
62 offense or an attempt to commit a sexual offense.

63 [(e)](4) ~~[Rule 404(e) does not limit the admissibility of evidence otherwise~~

64 ~~admissible under Rule 404(a), 404(b),]~~ This paragraph (c) does not limit the admissibility of
65 evidence otherwise admissible under paragraph (a), paragraph (b), or any other rule of
66 evidence.

67 (d) Evidence of Similar Crimes in Sexual Assault Cases.

68 (1) Definition of "Sexual Assault." As used in this paragraph (d), "sexual assault"
69 means:

70 (A) a sexual offense described in Utah Code Title 76, Chapter 5, Part 4, Sexual
71 Offenses;

72 (B) an attempt to commit a sexual offense described in Utah Code Title 76,
73 Chapter 5, Part 4, Sexual Offenses; or

74 (C) an offense in another jurisdiction that is substantially similar to an offense
75 described in paragraph (d)(1)(A) or (d)(1)(B).

76 (2) Permitted Uses. In a criminal case in which a defendant is accused of sexual
77 assault, the court may admit evidence that the defendant committed any other acts of sexual
78 assault. The evidence may be considered on any matter to which the evidence is relevant,
79 including to prove a propensity to commit the crime charged.

80 (3) Disclosure to the Defendant. If the prosecution intends to offer evidence that the
81 defendant committed any other acts of sexual assault, the prosecution must disclose the
82 evidence to the defendant in accordance with Rule 16(a)(5) of the Utah Rules of Criminal
83 Procedure, including disclosure of a witness's statement or a summary of the witness's
84 expected testimony. This paragraph (d)(3) does not limit any other disclosure requirements
85 described in Rule 16(a)(5) of the Utah Rules of Criminal Procedure.

86 (4) Effect on Other Rules. This paragraph (d) does not limit the admissibility of
87 evidence otherwise admissible under paragraph (a), paragraph (b), paragraph (c), or any other
88 rule of evidence.

89 **Section 2. Effective date.**

90 As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect
91 upon a two-thirds vote of all members elected to each house.