

Court of Criminal Appeals of Texas

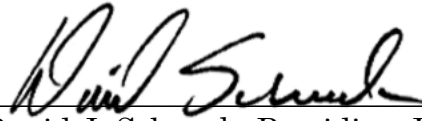
Misc. Docket No. 25-005

Repeal of Current Texas Rule of Evidence 412 and Adoption of New Texas Rule of Evidence 412

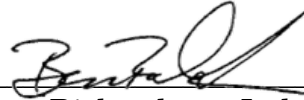
ORDERED that:

1. The Court invites public comments on the proposed repeal of current Texas Rule of Evidence 412 and the adoption of new Texas Rule of Evidence 412. New Rule 412 is demonstrated in clean form.
2. To effectuate the Act of May 24, 2025, 89th Leg., R.S., ch. 979 (S.B. 535), the repeal and adoption are effective September 1, 2025. Additional changes may be made in response to public comments. The Court requests public comments be submitted in writing to txccarulescomments@txcourts.gov or by mail to the Clerk of the Court of Criminal Appeals at P.O. Box 12308, Austin, Texas 78711 by December 1, 2025.
3. New Rule 412 applies to the admissibility of evidence in a criminal proceeding commencing on or after September 1, 2025. For criminal proceedings commencing before September 1, 2025, the rule in effect on the date the proceeding commenced governs.
4. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to the Governor, the Lieutenant Governor, and each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

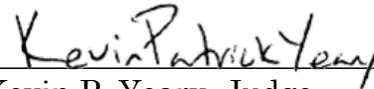
Dated: August 29, 2025.



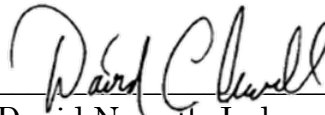
David J. Schenck, Presiding Judge



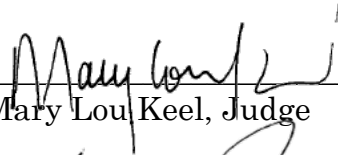
Bert Richardson, Judge



Kevin P. Yeary, Judge



David Newell, Judge



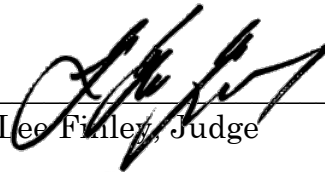
Mary Lou Keel, Judge



Scott Walker, Judge



Jesse F. McClure, Judge



Lee Finley, Judge



Gina G. Parker, Judge

Supreme Court of Texas

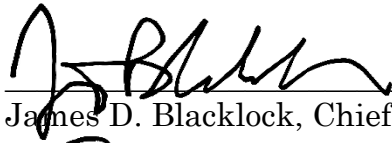
Misc. Docket No. 25-9064

Repeal of Current Texas Rule of Evidence 412 and Adoption of New Texas Rule of Evidence 412

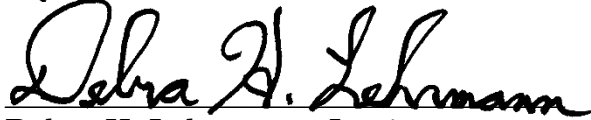
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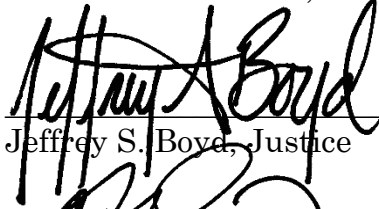
Dated: August 29, 2025.



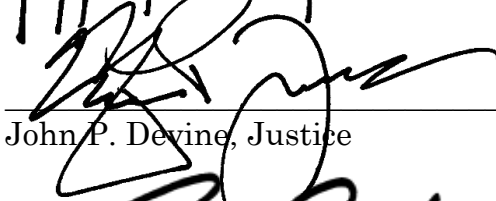
James D. Blacklock, Chief Justice



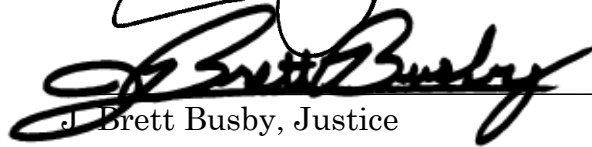
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



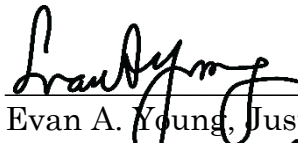
J. Brett Busby, Justice



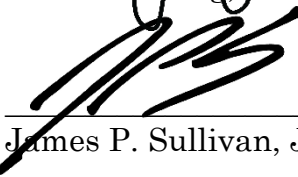
Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice



James P. Sullivan, Justice

TEXAS RULES OF EVIDENCE

Rule 412. Evidence of Previous Sexual Conduct in Criminal Cases (New Rule; Clean Form)

- (a) **Definition of “Victim.”** In this rule, “victim” includes the alleged victim of an extraneous offense or act with respect to which evidence is introduced during the prosecution of an offense described in paragraph (b).
- (b) **Applicable Offenses.** This rule applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, under any of the following provisions of the Texas Penal Code:

 - (1) Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of Persons);
 - (2) Section 20A.03 (Continuous Trafficking of Persons), if the offense is based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(3), (4), (7), or (8);
 - (3) Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual);
 - (4) Section 21.11 (Indecency with a Child);
 - (5) Section 22.011 (Sexual Assault);
 - (6) Section 22.012 (Indecent Assault); or
 - (7) Section 22.021 (Aggravated Sexual Assault).
- (c) **Reputation or Opinion Evidence.** In the prosecution of an offense described in paragraph (b), reputation or opinion evidence of an alleged victim’s past sexual behavior is not admissible.
- (d) **Evidence of a Specific Instance of Past Sexual Behavior.**

 - (1) ***In General.*** Except as provided in paragraph (2), in the prosecution of an offense described in paragraph (b), evidence of a specific instance of an alleged victim’s past sexual behavior is not admissible.
 - (2) ***Exceptions; Procedure for Offering Evidence.*** A defendant may not offer evidence of a specific instance of an alleged victim’s past sexual behavior unless the court:

- (A) on a motion by the defendant made outside the presence of the jury, conducts an in camera examination of the evidence in the presence of the court reporter; and
- (B) determines that the probative value of the evidence outweighs the danger of unfair prejudice to the alleged victim and that the evidence:
 - (i) is necessary to rebut or explain scientific or medical evidence offered by the attorney representing the state;
 - (ii) concerns past sexual behavior with the defendant and is offered by the defendant to prove consent, if the lack of consent is an element of the offense;
 - (iii) relates to the alleged victim's motive or bias;
 - (iv) is admissible under Rule 609; or
 - (v) is constitutionally required to be admitted.
- (e) **Record Sealed.** The court must seal the record of the in camera examination conducted under paragraph (d)(1) and preserve the examination record as part of the record in the case.

Notes and Comments

Comment to 2025 Change: Former Rule 412 is repealed and replaced with this rule to implement Senate Bill 535, enacted by the 89th Legislature, and article 38.872 of the Texas Code of Criminal Procedure.