

2023 Updates to the Louisiana code of Evidence

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Art. 404. Character evidence generally not admissible in civil or criminal trial to prove conduct; exceptions; other criminal acts

A. Character evidence generally. Evidence of a person's character or a trait of his character, such as a moral quality, is not admissible in a civil or criminal proceeding for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of his character, such as a moral quality, offered by an accused, or by the prosecution to rebut the character evidence; provided that such evidence shall be restricted to showing those moral qualities pertinent to the crime with which he is charged, and that character evidence cannot destroy conclusive evidence of guilt.

(2) Character of victim. (a) Except as provided in Article 412, evidence of a pertinent trait of character, such as a moral quality, of the victim of the crime offered by an accused, or by the prosecution to rebut the character evidence; provided that in the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of his dangerous character is not admissible; provided further that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible; or

(b) 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;

(3) Character of witness. Evidence of the character of a witness, as provided in Articles 607, 608, and 609.

B. Other crimes, wrongs, or acts; creative or artistic expression. (1)(a) Except as provided in Article 412 or as otherwise provided by law, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.

(b)(i) For purposes of this Subparagraph, "creative or artistic expression" means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including music, dance, performance art, visual art, poetry, literature, film, and other such objects or media.

(ii) Except as provided in Article 412 or as otherwise provided by law, creative or artistic expression is not admissible in a criminal case to prove the character of a person in order to show that he acted in conformity therewith, provided that the accused provides reasonable notice to the prosecution in advance of trial asserting that the evidence is creative or artistic expression. Evidence of creative or artistic expression may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.

(c) This Paragraph shall not be construed to limit the admission or consideration of evidence under any other rule.

(2) In the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of the victim's prior threats against the accused or the accused's state of mind as to the victim's dangerous character is not admissible; provided that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible.

Acts 1988, No. 515, §1, eff. Jan. 1, 1989; Acts 1994, 3rd Ex. Sess., No. 51, §1; Acts 2016, No. 357, §1; Acts 2023, No. 354, §1.

Art. 518. Trained peer support member privilege

A.(1) A trained peer support member shall not, without consent of the emergency responder making the communication, be compelled to testify about any communication made to the trained peer support member by the emergency responder while receiving peer support services. The trained peer support member shall be designated as such by the emergency service agency or entity, prior to the incident that results in receiving peer support services. The privilege only applies when the communication was made to the trained peer support member.

(2) The privilege does not apply to any of the following if:

(a) The trained peer support member was an initial responding emergency responder, a witness, or a party to the incident which prompted the delivery of peer support services to the emergency responder.

(b) A communication reveals the intended commission of a crime or harmful act and such disclosure is determined to be necessary by the trained peer support member to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety.

B. For purposes of this Section, a "trained peer support member" is any of the following persons or entities that provide emotional and moral support or counseling to an emergency responder who needs those services as a result of an incident in which the emergency responder was involved while acting in his official capacity:

(1) An emergency responder or civilian volunteer of an emergency service agency or entity, who has received training in Critical Incident Stress Management.

(2) A volunteer counselor or other mental health services provider who has been designated by the emergency service agency or entity.

(3) A firefighter who has received peer support training from the International Association of Fire Fighters.

Acts 2003, No. 1137, §1; Acts 2023, No. 23, §1.