

ACT No. 357

2016 Regular Session

HOUSE BILL NO. 398

BY REPRESENTATIVE MORENO

1 AN ACT

2 To amend and reenact Code of Evidence Articles 404(A)(introductory paragraph) and 412.1
3 and to enact Code of Evidence Article 412(G), relative to the admissibility of certain
4 evidence; to extend to civil proceedings the prohibition on admissibility of certain
5 evidence of victim conduct or behavior; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Evidence Articles 404(A)(introductory paragraph) and 412.1 are
8 hereby amended and reenacted and Code of Evidence Article 412(G) is hereby enacted to
9 read as follows:

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

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

16 * * *

17 Art. 412. Victim's past sexual behavior in sexual assault cases; trafficking offenses

18 * * *

19 G. The rules of admissibility of evidence provided by this Article shall also
20 apply to civil actions brought by the victim which are alleged to arise from sexually
21 assaultive behavior, human trafficking, or trafficking of children for sexual purposes
22 by the defendant, whether or not convicted of such crimes.

1 Art. 412.1. Victim's attire in sexual assault cases

2 A. When an accused is charged with the crime of aggravated or first degree
3 rape, forcible or second degree rape, simple or third degree rape, sexual battery, or
4 second degree sexual battery, the manner and style of the victim's attire shall not be
5 admissible as evidence that the victim encouraged or consented to the offense;
6 however, items of clothing or parts thereof may be introduced in order to establish
7 the presence or absence of the elements of the offense and the proof of its
8 occurrence.

9 B. The rules of admissibility of evidence provided by this Article shall also
10 apply to civil actions brought by the victim which are alleged to arise from the
11 crimes of aggravated or first degree rape, forcible or second degree rape, simple or
12 third degree rape, sexual battery, or second degree sexual battery committed by the
13 defendant, whether or not convicted of such crimes.

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ACT No. 399

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HOUSE BILL NO. 590

BY REPRESENTATIVE LEOPOLD

1 AN ACT

2 To enact Code of Evidence Article 412.4, relative to evidence of prior acts in domestic
3 abuse cases; to provide that previous acts may be admissible as long as the probative
4 value of the evidence outweighs any prejudicial effect it may have on the case; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Evidence Article 412.4 is hereby enacted to read as follows:

8 Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases,
9 cruelty against juveniles cases

10 A. When an accused is charged with a crime involving abusive behavior
11 against a family member, household member, or with acts which constitute cruelty
12 involving a victim who was under the age of seventeen at the time of the offense,
13 evidence of the accused's commission of another crime, wrong, or act involving
14 assaultive behavior against a family member, or household member or acts which
15 constitute cruelty involving a victim who was under the age of seventeen at the time
16 of the offense, may be admissible and may be considered for its bearing on any
17 matter to which it is relevant, subject to the balancing test provided in Article 403.

18 B. In a case in which the state intends to offer evidence under the provisions
19 of this Article, the prosecution shall, upon request of the accused, provide reasonable
20 notice in advance of trial of the nature of any such evidence it intends to introduce
21 at trial for such purposes.

1 C. This Article shall not be construed to limit the admissibility or
2 consideration of evidence under any other rule.

3 D. For purposes of this Article:

4 (1) "Abusive behavior" means any behavior of the offender involving the use
5 or threatened use of force against the person or property of a family member or
6 household member of the alleged offender.

7 (2) "Family member" means spouses, former spouses, parents and children,
8 stepparents, stepchildren, foster parents, and foster children.

9 (3) "Household member" means any person having reached the age of
10 majority presently or formerly living in the same residence with the offender as a
11 spouse, whether married or not, or any child presently or formerly living in the same
12 residence with the offender, or any child of the offender regardless of where the child
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