

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1036

Introduced by Dungan, 26.

Read first time January 14, 2026

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Evidence Rules; to amend
- 2 section 27-404, Revised Statutes Cumulative Supplement, 2024; to
- 3 provide for consideration of extrinsic evidence that is inextricably
- 4 intertwined with the charged crime; to eliminate an unnecessary
- 5 reference; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 27-404, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 27-404 (1) Evidence of a person's character or a trait of his or her
4 character is not admissible for the purpose of proving that he or she
5 acted in conformity therewith on a particular occasion, except:

6 (a) Evidence of a pertinent trait of his or her character offered by
7 an accused, or by the prosecution to rebut the same;

8 (b) Evidence of a pertinent trait of character of the victim of the
9 crime offered by an accused or by the prosecution to rebut the same, or
10 evidence of a character trait of peacefulness of the victim offered by
11 the prosecution in a homicide case to rebut evidence that the victim was
12 the first aggressor. In a sexual assault case, reputation, opinion, or
13 other evidence of past sexual behavior of the victim is governed by
14 section 27-412; or

15 (c) Evidence of the character of a witness as provided in sections
16 27-607 to 27-609.

17 (2) Evidence of other crimes, wrongs, or acts is not admissible to
18 prove the character of a person in order to show that he or she acted in
19 conformity therewith. It may, however, be admissible:

20 (a) When it is inextricably intertwined with the charged crime; or

21 (b) For ~~for~~ other purposes, such as proof of motive, opportunity,
22 intent, preparation, plan, knowledge, identity, or absence of mistake or
23 accident.

24 (3) Evidence of other crimes, wrongs, or acts is inextricably
25 intertwined with the charged crime when such evidence:

26 (a) Forms part of the factual setting of the charged crime;

27 (b) Is so blended or connected to the charged crime that proof of
28 the charged crime will necessarily require proof of the other crimes,
29 wrong, or bad acts; or

30 (c) Is necessary for the prosecution to present a coherent picture
31 of the charged crime.

1 ~~(4)(a) In (3) When such evidence is admissible pursuant to this~~
2 ~~section, in criminal cases,~~ evidence of other crimes, wrongs, or acts of
3 the accused may be offered in evidence by the prosecution if the
4 prosecution proves to the court by clear and convincing evidence that:

5 (i) The ~~the~~ accused committed the crime, wrong, or act; and -

6 (ii) If the evidence is offered under subdivision (2)(a) of this
7 section, that such evidence is inextricably intertwined with the charged
8 crime.

9 (b) Such proof shall first be made outside the presence of any jury.

10 (c) Upon request by the accused, the court shall instruct the jury
11 to consider such evidence only for the limited purpose for which it was
12 admitted.

13 ~~(4) Regarding the admissibility in a civil or criminal action of~~
14 ~~evidence of a person's commission of another offense or offenses of~~
15 ~~sexual assault under sections 28-316.01 and 28-319 to 28-322.05, see~~
16 ~~sections 27-413 to 27-415.~~

17 **Sec. 2.** Original section 27-404, Revised Statutes Cumulative
18 Supplement, 2024, is repealed.