

2016 Regular Session

HOUSE BILL NO. 398

BY REPRESENTATIVE MORENO

EVIDENCE: Provides relative to the application of certain limitations on the admissibility of character evidence in civil cases

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

1 assaultive behavior, human trafficking, or trafficking of children for sexual purposes  
2 by the defendant, whether or not convicted of such crimes.

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

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

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

---

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 398 Engrossed

2016 Regular Session

Moreno

**Abstract:** Specifies that the rules of admissibility of evidence relative to the conduct and behavior of the victim of certain sexually related crimes are applicable in both civil and criminal proceedings.

Present law provides that evidence of a person's character or a trait of his character, such as a moral quality, is not admissible for the purpose of proving that he acted in conformity with such character or traits on a particular occasion, but also provides for exceptions from the general rule.

Present law provides that when an accused is charged with a crime involving sexually assaultive behavior or a crime involving human trafficking or trafficking of children for sexual purposes, reputation or opinion evidence of the past sexual behavior of the victim is not admissible, but also provides for exceptions from the general rule.

Present law provides that when an accused is charged with the crime of aggravated or first degree rape, forcible or second degree rape, simple or third degree rape, sexual battery, or second degree sexual battery, the manner and style of the victim's attire shall not be admissible as evidence that the victim encouraged or consented to the offense.

Proposed law specifies that the present law rules of admissibility of evidence are applicable in both civil and criminal proceedings.

(Amends C.E. Arts. 404(A)(intro. para.) and 412.1; Adds C.E. Art. 412(G))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Deletes the phrase "for damages" in order to make proposed law applicable to all civil actions.