

## Impeachment with Past Convictions

### 1) Rule 609

*a) Generally permits use of witness's criminal convictions to impeach that witness*

*i) Exception to general rule you can use propensity\**

b) (a) General Rule:

i) Rules that apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(1) *NOT GENERAL CHARACTER - CHARACTER FOR TRUTHFULNESS ONLY\*\*\*\**

(2) *CONVICTIONS NOT ARRESTS*

ii) (1) For a **crime** that, in the convicting jurisdiction, was **punishable by death or by imprisonment for more than one year**, the evidence:

(1) (A) Must be admitted, subject to Rule 403, in a civil case or in a criminal case in which the **witness is not a D**; and

(2) (B) Must be admitted in a criminal case in which the **witness is a D**, if the probative value of the evidence outweighs its prejudicial effect to that D; and

(a) *Special rule for criminal D's\*\**

(b) *Reverse 403 rule—presumption it stays out unless = more stringent!!*

(3) *Punishable → what could the witness have been punished with? [not what they actually got]*

(4) *Extrinsic Evidence is allowed to rebut answers where witness denies having a criminal conviction!!!!*

iii) (2) For **any crime regardless of the punishment**, the evidence must be admitted if the court can *readily determine* that establishing the **elements of the crime required** proving - or the witness's admitting - **a dishonest act or false statement**

# Past Convictions

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## **Table of Contents Past Convictions**

1. Understanding the eBook Past Convictions
  - The Rise of Digital Reading Past Convictions
  - Advantages of eBooks Over Traditional Books
2. Identifying Past Convictions
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Past Convictions
  - User-Friendly Interface
4. Exploring eBook Recommendations from Past Convictions
  - Personalized Recommendations
  - Past Convictions User Reviews and Ratings
  - Past Convictions and Bestseller Lists
5. Accessing Past Convictions Free and Paid eBooks
  - Past Convictions Public Domain eBooks

- Past Convictions eBook Subscription Services
- Past Convictions Budget-Friendly Options
- 6. Navigating Past Convictions eBook Formats
  - ePub, PDF, MOBI, and More
  - Past Convictions Compatibility with Devices
  - Past Convictions Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Past Convictions
  - Highlighting and Note-Taking Past Convictions
  - Interactive Elements Past Convictions
- 8. Staying Engaged with Past Convictions
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Past Convictions
- 9. Balancing eBooks and Physical Books Past Convictions
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Past Convictions
- 10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
- 11. Cultivating a Reading Routine Past Convictions
  - Setting Reading Goals Past Convictions
  - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Past Convictions
  - Fact-Checking eBook Content of Past Convictions
  - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks

## 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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