

1 **Rule 412. Admissibility of Victim's Sexual Behavior or Predisposition**  
2

3 **(a) Prohibited Uses.** The following evidence is not admissible in a criminal proceeding  
4 involving alleged sexual misconduct:  
5

6 (1) evidence offered to prove that a victim engaged in other sexual behavior; or  
7

8 (2) evidence offered to prove a victim's sexual predisposition.  
9

10 **(b) Exceptions.** The court may admit the following evidence if the evidence is  
11 otherwise admissible under these rules:  
12

13 (1) evidence of specific instances of a victim's sexual behavior, if offered to prove  
14 that someone other than the defendant was the source of semen, injury, or other  
15 physical evidence;  
16

17 (2) evidence of specific instances of a victim's sexual behavior with respect to the  
18 person accused of the sexual misconduct, if offered by the defendant to prove consent  
19 or if offered by the prosecutor; or  
20

21 (3) evidence whose exclusion would violate the defendant's constitutional rights.  
22

23 **(c) Procedure to Determine Admissibility.**  
24

25 (1) Motion. If a party intends to offer evidence under Rule 412(b), the party must:  
26

27 (A) file a motion that specifically describes the evidence and states the  
28 purpose for which it is to be offered;  
29

30 (B) do so at least 14 days before trial unless the court, for good cause, sets a  
31 different time; and  
32

33 (C) serve the motion on all parties.  
34

35 (2) Notice to the Victim. The prosecutor shall timely notify the victim or, when  
36 appropriate, the victim's guardian or representative.  
37

38 (3) Hearing. Before admitting evidence under this rule, the court must conduct an in  
39 camera hearing and give the victim and parties a right to attend and be heard. Unless  
40 the court orders otherwise, the motion, related materials, and the record of the  
41 hearing ~~must be and remain sealed~~ are classified as protected.  
42

43 **(d) Definition of "Victim."** In this rule, "victim" includes an alleged victim.  
44

45 **2016 Advisory Committee Note.** The 2016 amendment changes the classification of  
46 records described in subparagraph (c) (3) from sealed to protected. See CJA Rule 4-202.02.  
47

48 Effective May 1, 2017