

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

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3 (a) **Prohibited Uses.** The following evidence is not admissible in ~~a~~-criminal or juvenile  
4 delinquency proceedings involving alleged sexual misconduct:

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

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

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

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

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17 (b)(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

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

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

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

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27 (c)(1)(A) file a motion that specifically describes the evidence and states the  
28 purpose for which it is to be offered;

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30 (c)(1)(B) do so at least 14 days before trial unless the court, for good cause, sets  
31 a different time; and

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33 (c)(1)(C) serve the motion on all parties.

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

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38 (c)(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 hearing  
41 are classified as protected.

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

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45 *Effective May 1, 2017*

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