

RULE CHANGE 2021(03)

COLORADO RULES OF EVIDENCE

Rule 404. Character Evidence; ~~Not Admissible to Prove Conduct; Exceptions; Other Crimes, Wrongs, or Acts~~

(a) [NO CHANGE]

(b) Other Crimes, Wrongs, or Acts.

(1) Prohibited Uses. Evidence of any other crimes, wrongs, or acts is not admissible to prove ~~the~~a person's character ~~of a person~~ in order to show that on a particular occasion the person ~~he~~ acted in conformity with the character ~~therewith~~.

(2) Permitted Uses. This evidence ~~It~~ may, ~~however,~~ be admissible for an other purposes, such as proving ~~of~~ motive, opportunity, intent, preparation, plan, knowledge, identity, ~~or~~ absence of mistake, or lack of accident.

(3) Notice in a Criminal Case. In a criminal case, the prosecutor must; ~~provided that upon request by the accused, the prosecution in a criminal case shall~~

(A) provide reasonable notice in advance of trial, of any such evidence that the prosecutor intends to offer at trial, so that the defendant has a fair opportunity to meet it;

(B) articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose; and

(C) do so in writing before trial—or in any form during trial if the court, excuses— ~~pretrial notice on~~ for good cause, ~~shown, of the general nature of any such evidence it intends to introduce at trial~~ excuses lack of pretrial notice.

Rule 803. Hearsay Exceptions: Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) – (15) [NO CHANGE]

(16) **Statements in Ancient Documents.** A ~~S~~statements in a document that was prepared before January 1, 1998, in existence twenty years or more the and whose authenticity ~~of which~~ is established.

COMMITTEE COMMENT [NO CHANGE]

(17) - (24) [NO CHANGE]

Rule 901. Requirement of Authentication or Identification

(a) - (b)(7) [NO CHANGE]

(8) **Ancient Documents or Data Compilation.** Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) that was prepared before January 1, 1998.~~has been in existence 20 years or more at the time it is offered.~~

(9) - (10) [NO CHANGE]

Rule 404. Character Evidence; Other Crimes, Wrongs, or Acts

(a) [NO CHANGE]

(b) Other Crimes, Wrongs, or Acts.

- (1) Prohibited Uses.** Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in conformity with the character.
- (2) Permitted Uses.** This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.
- (3) Notice in a Criminal Case.** In a criminal case, the prosecutor must:
 - (A) provide reasonable notice of any such evidence that the prosecutor intends to offer at trial, so that the defendant has a fair opportunity to meet it;
 - (B) articulate in the notice the permitted purpose for which the prosecutor intends to offer the evidence and the reasoning that supports the purpose; and
 - (C) do so in writing before trial—or in any form during trial if the court, for good cause, excuses lack of pretrial notice.

Rule 803. Hearsay Exceptions: Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) – (15) [NO CHANGE]

(16) Statements in Ancient Documents. A statement in a document that was prepared before January 1, 1998, and whose authenticity is established.

COMMITTEE COMMENT [NO CHANGE]

(17) - (24) [NO CHANGE]

Rule 901. Requirement of Authentication or Identification

(a) - (b)(7) [NO CHANGE]

(8) **Ancient Documents or Data Compilation.** Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) that was prepared before January 1, 1998.

(9) - (10) [NO CHANGE]

Amended and Adopted by the Court, En Banc, March 29, 2021, effective immediately as to Rules 803 and 901, and effective as to Rule 404 for cases filed on or after July 1, 2021.

By the Court:

**Carlos A. Samour, Jr.
Justice, Colorado Supreme Court**