

S-5167

1 Amend House File 2397, as passed by the House, as follows:

2 1. Page 1, by striking lines 1 through 18 and inserting:

3 <Sec. _____. NEW SECTION. **671A.1 Limitation on admissibility**
4 **of evidence.**

5 1. *Witness's character for truthfulness or untruthfulness.*

6 *a. Reputation or opinion evidence.* A witness's credibility
7 may be attacked or supported by testimony about the witness's
8 reputation for having a character for truthfulness or
9 untruthfulness, or by testimony in the form of an opinion
10 about that character. But evidence of truthful character is
11 admissible only after the witness's character for truthfulness
12 has been attacked.

13 *b. Specific instances of conduct.* Except for a criminal
14 conviction under subsection 2, extrinsic evidence is not
15 admissible to prove specific instances of a witness's conduct
16 in order to attack or support the witness's character for
17 truthfulness. But the court may, on cross-examination, allow
18 them to be inquired into if they are probative of the character
19 for truthfulness or untruthfulness of:

20 (1) The witness; or

21 (2) Another witness whose character the witness being
22 cross-examined has testified about.

23 By testifying on another matter, a witness does not waive any
24 privilege against self-incrimination for testimony that relates
25 only to the witness's character for truthfulness.

26 2. *Impeachment by evidence of a criminal conviction.*

27 *a. In general.* The following apply to attacking a
28 witness's character for truthfulness by evidence of a criminal
29 conviction:

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

33 (a) Must be admitted, unless the court determines it must be
34 excused on grounds of prejudice, confusion, waste of time, or
35 other reasons, in a civil case or in a criminal case in which

1 the witness is not a defendant.

2 (b) Must be admitted in a criminal case in which the
3 witness is a defendant, if the probative value of the evidence
4 outweighs its prejudicial effect to that defendant.

5 (2) For any crime regardless of the punishment, the evidence
6 must be admitted if the crime involved dishonesty or false
7 statement.

8 *b. Limit on using the evidence after ten years.* This
9 paragraph applies if more than ten years have passed since
10 the witness's conviction or release from confinement for it,
11 whichever is later. Evidence of the conviction is admissible
12 only if:

13 (1) Its probative value, supported by specific facts and
14 circumstances, substantially outweighs its prejudicial effect;
15 and

16 (2) The proponent gives an adverse party reasonable written
17 notice of the intent to use it so that the party has a fair
18 opportunity to contest its use.

19 *c. Effect of pardon, annulment, or certificate of*
20 *rehabilitation.* Evidence of a conviction is not admissible if:

21 (1) The conviction has been the subject of a pardon,
22 annulment, certificate of rehabilitation, or other equivalent
23 procedure based on a finding that the person has been
24 rehabilitated, and the person has not been convicted of a later
25 crime punishable by death or by imprisonment for more than one
26 year; or

27 (2) The conviction has been the subject of a pardon,
28 annulment, or other equivalent procedure based on a finding of
29 innocence.

30 *d. Juvenile adjudications.* Evidence of a juvenile
31 adjudication is admissible under this rule only if:

32 (1) It is offered in a criminal case;

33 (2) The adjudication was of a witness other than the
34 defendant;

35 (3) An adult's conviction for that offense would be

1 admissible to attack the adult's credibility; and

2 (4) Admitting the evidence is necessary to fairly determine
3 guilt or innocence.

4 *e. Pendency of an appeal.* A conviction that satisfies this
5 rule is admissible even if an appeal is pending. Evidence of
6 the pendency of the appeal is also admissible.

7 2. Title page, lines 1 and 2 by striking <of an employee's
8 criminal history in civil actions>

9 3. By renumbering as necessary.

NATE BOULTON