

House Bill 3603

Sponsored by Representative TRAN, Senator KNOPP, Representative CATE; Representatives LEVY E, WALTERS, Senators ANDERSON, BONHAM, FINDLEY, HAYDEN, THATCHER, WEBER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that evidence of defendant's commission of other sexual offenses is admissible if relevant in criminal action in which defendant is accused of sexual offense.

Provides that evidence of defendant's commission of other crimes constituting domestic violence is admissible if relevant in criminal action in which defendant is accused of crime constituting domestic violence.

Eliminates provision providing that evidence of all prior bad acts is admissible if relevant in criminal action.

A BILL FOR AN ACT

1
2 Relating to evidence; amending ORS 40.170 and 40.175.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 40.170 is amended to read:

5 40.170. (1) Evidence of a person's character or trait of character is admissible when it is an es-
6 sential element of a charge, claim or defense.

7 (2) Evidence of a person's character is not admissible for the purpose of proving that the person
8 acted in conformity therewith on a particular occasion, except:

9 (a) Evidence of a pertinent trait of character offered by an accused, or by the prosecution to
10 rebut the same;

11 (b) Evidence of a pertinent trait of character of the victim of the crime offered by an accused,
12 or by the prosecution to rebut the same or evidence of a character trait of peacefulness of the victim
13 offered by the prosecution to rebut evidence that the victim was the first aggressor;

14 (c) Evidence of the character of a witness, as provided in ORS 40.345 to 40.355; or

15 (d) Evidence of the character of a party for violent behavior offered in a civil assault and bat-
16 tery case when self-defense is pleaded and there is evidence to support such defense.

17 (3) Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person
18 in order to show that the person acted in conformity therewith. It may, however, be admissible for
19 other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity,
20 or absence of mistake or accident.

21 *[(4) In criminal actions, evidence of other crimes, wrongs or acts by the defendant is admissible if*
22 *relevant except as otherwise provided by:]*

23 *[(a) ORS 40.180, 40.185, 40.190, 40.195, 40.200, 40.205, 40.210 and, to the extent required by the*
24 *United States Constitution or the Oregon Constitution, ORS 40.160;]*

25 *[(b) The rules of evidence relating to privilege and hearsay;]*

26 *[(c) The Oregon Constitution; and]*

27 *[(d) The United States Constitution.]*

28 **(4) In a criminal action in which the defendant is accused of a sexual offense as described**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 in ORS 163.305 to 163.467, 163.427, 163.466 or 163.525, evidence of the defendant's commission
2 of any other sexual offense as described in ORS 163.305 to 163.467, 163.427, 163.466 or 163.525,
3 which has been established by a preponderance of the evidence, is admissible and may be
4 considered for its bearing on any matter to which it is relevant.

5 (5) In a criminal action in which the defendant is accused of a crime constituting do-
6 mestic violence as defined in ORS 135.230, evidence of the defendant's commission of any
7 other crime constituting domestic violence as defined in ORS 135.230, which has been estab-
8 lished by a preponderance of the evidence, is admissible and may be considered for its bear-
9 ing on any matter to which it is relevant.

10 **SECTION 2.** ORS 40.175 is amended to read:

11 40.175. (1) In all cases in which evidence of character or a trait of character of a person is ad-
12 missible, proof may be made by testimony as to reputation or by testimony in the form of an opinion.
13 On cross-examination, inquiry is allowable into relevant specific instances of conduct.

14 (2)(a) In cases in which character or a trait of character of a person is admissible under ORS
15 40.170 (1), proof may also be made of specific instances of the conduct of the person.

16 (b) When evidence is admissible under ORS 40.170 (3), (4) or (5), [*or (4),*] proof may be made of
17 specific instances of the conduct of the person.

18