

FAIR TRIALS HB 2641

Impeachment with Prior Convictions

What is Prior Conviction Impeachment?

It is a rule of evidence (609) that allows the use of a witness's criminal record to impeach their credibility if they take the stand to testify in trial.

This rule applies to victims, defendants, and all witnesses.

What's the problem?

Prior convictions have no established predictive connection to a witness's truthfulness. It prejudices juries and consequently lowers the burden of proof in a case.

Rule 609 diminishes witness and victim testimony and silences defendants from testifying in their own defense.

In Oregon, judges can't use their discretion to balance what is fair and keep out what's unfair.

Shouldn't prior convictions be considered?

No, not to impeach someone's credibility, unless it is a crime of dishonesty. However, prior convictions can and do come in at trial for other reasons under other rules of evidence.

"... call on the legislature to explicitly align the Oregon rules of evidence with those in other state and federal courts law to ensure defendants' rights to a fair trial."

~ Walters, S.J.

Why now?

This evidence rule was the subject of an Oregon Supreme Court decision, *State v. Aranda*, in May 2024. The Justice who wrote a dissent did so in part to:

How does Oregon compare to other states?

36 states have a duplication or variation of the federal rule of evidence. There are 6 states that really restricts the use of prior convictions. Oregon and 7 other states have a rule that requires the mandatory admission of felony convictions.

What's the solution?

Oregon should join the majority of states by adopting the federal rule of evidence which allows a court to weigh the evidence and keep it out if it's unfairly prejudicial.