

## **I.R.E. 609. Impeachment by Evidence of Conviction of Crime.**

Idaho Rules of Evidence Rule 609. Impeachment by Evidence of Conviction of Crime.

(a) General rule. For the purpose of attacking a witness's character for truthfulness, evidence of the fact that the witness has been convicted of a felony and the nature of the felony shall be admitted if elicited from the witness or established by public record, but only if the court determines in a hearing outside the presence of the jury that the fact of the prior conviction or the nature of the prior conviction, or both, are relevant to the witness's character for truthfulness and that the probative value of admitting this evidence outweighs its prejudicial effect to the party offering the witness. If the evidence of the fact of a prior felony conviction, but not the nature of the conviction, is admitted for the purpose of impeachment of a party to the action or proceeding, the party shall have the option to present evidence of the nature of the conviction, but evidence of the circumstances of the conviction shall not be admissible.

(b) Time limit. Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Withheld or vacated judgment; pardon for innocence. Evidence of a withheld judgment or a vacated judgment shall not be admitted as a conviction. Nor shall a conviction that has been the subject of a pardon, annulment or other equivalent procedure based on a finding of innocence be admissible under this rule.

(d) Pardon, annulment or certificate of rehabilitation not based on innocence; pendency of an appeal. If the conviction has been the subject of a pardon, annulment or certificate of rehabilitation or other equivalent procedure not based on a finding of innocence, or is the subject of a pending appeal, the evidence of a conviction is not rendered inadmissible, but shall be considered by the court in determining admissibility. Evidence of the pardon, annulment, certificate of rehabilitation or other equivalent procedure, or pendency of an appeal is admissible if evidence of the conviction is admitted.

Comment Subsection (a): The 2016 amendment substitutes the term “character for truthfulness” for the term “credibility” in the first sentence of the Rule. The limitations of Rule 609 are not applicable if a conviction is admitted for a purpose other than to prove the witness’s character for untruthfulness.

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