

## HOUSE BILL No. 2630

By Committee on Corrections and Juvenile Justice

Requested by Abraham Pfannenstiel on behalf of the Kansas County and District Attorneys Association

1-30

---

1 AN ACT concerning the rules of evidence; relating to extrinsic policies  
2 affecting admissibility; evidence of other crimes or civil wrongs;  
3 allowing evidence of previous domestic violence offenses to be  
4 admitted during a prosecution of a domestic violence offense;  
5 amending K.S.A. 2023 Supp. 60-455 and repealing the existing section.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2023 Supp. 60-455 is hereby amended to read as  
9 follows: 60-455. (a) Subject to K.S.A. 60-447, and amendments thereto,  
10 evidence that a person committed a crime or civil wrong on a specified  
11 occasion, is inadmissible to prove such person's disposition to commit  
12 crime or civil wrong as the basis for an inference that the person  
13 committed another crime or civil wrong on another specified occasion.

14 (b) (1) Subject to K.S.A. 60-445 and 60-448, and amendments  
15 thereto, such evidence is admissible when relevant to prove some other  
16 material fact including motive, opportunity, intent, preparation, plan,  
17 knowledge, identity or absence of mistake or accident.

18 ~~(e)~~(2) Subject to K.S.A. 60-445 and 60-448, and amendments thereto,  
19 in any criminal action other than a criminal action in which the defendant  
20 is accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the  
21 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of  
22 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325,  
23 21-6326 or 21-6419 through 21-6422, and amendments thereto, such  
24 evidence is admissible to show the modus operandi or general method  
25 used by a defendant to perpetrate similar but totally unrelated crimes when  
26 the method of committing the prior acts is so similar to that utilized in the  
27 current case before the court that it is reasonable to conclude the same  
28 individual committed both acts.

29 ~~(d)~~(3) Except as provided in K.S.A. 60-445, and amendments thereto,  
30 in a criminal action in which the defendant is accused of a sex offense  
31 under articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated,  
32 prior to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas  
33 Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6419  
34 through 21-6422, and amendments thereto, evidence of the defendant's

1 commission of another act or offense of sexual misconduct is admissible;  
 2 and may be considered for its bearing on any matter to which it is relevant  
 3 and probative.

4 ~~(e)~~(4) *Except as provided in K.S.A. 60-445, and amendments thereto,*  
 5 *in a criminal action in which the defendant is accused of a domestic*  
 6 *violence offense, evidence of the defendant's commission of another*  
 7 *domestic violence offense is admissible and may be considered for its*  
 8 *bearing on any matter to which it is relevant and probative.*

9 (c) In a criminal action in which the prosecution intends to offer  
 10 evidence under this rule, the prosecuting attorney shall disclose the  
 11 evidence to the defendant, including statements of witnesses, at least 10  
 12 days before the scheduled date of trial or at such later time as the court  
 13 may allow for good cause.

14 ~~(f)~~(d) This rule shall not be construed to limit the admission or  
 15 consideration of evidence under any other rule or to limit the admissibility  
 16 of the evidence of other crimes or civil wrongs in a criminal action under a  
 17 criminal statute other than in articles 34, 35 or 36 of chapter 21 of the  
 18 Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of  
 19 chapter 21 of the Kansas Statutes Annotated, ~~or~~ K.S.A. 21-6104, 21-6325,  
 20 21-6326 or 21-6419 through 21-6422, and amendments thereto.

21 ~~(g)~~(e) As used in this section, ~~an~~:

22 (1) "Act or offense of sexual misconduct" includes:

23 ~~(1)~~(A) Any conduct proscribed by article 35 of chapter 21 of the  
 24 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21  
 25 of the Kansas Statutes Annotated, or K.S.A. 21-6419 through 21-6422, and  
 26 amendments thereto;

27 ~~(2)~~(B) the sexual gratification component of aggravated human  
 28 trafficking, as described in K.S.A. 21-3447(a)(1)(B) or (a)(2), prior to its  
 29 repeal, or K.S.A. 21-5426(b)(1)(B) or (b)(2), and amendments thereto;

30 ~~(3)~~(C) exposing another to a life threatening communicable disease,  
 31 as described in K.S.A. 21-3435(a)(1), prior to its repeal, or K.S.A. 21-  
 32 5424(a)(1), and amendments thereto;

33 ~~(4)~~(D) incest, as described in K.S.A. 21-3602, prior to its repeal, or  
 34 K.S.A. 21-5604(a), and amendments thereto;

35 ~~(5)~~(E) aggravated incest, as described in K.S.A. 21-3603, prior to its  
 36 repeal, or K.S.A. 21-5604(b), and amendments thereto;

37 ~~(6)~~(F) contact, without consent, between any part of the defendant's  
 38 body or an object and the genitals, mouth or anus of the victim;

39 ~~(7)~~(G) contact, without consent, between the genitals, mouth or anus  
 40 of the defendant and any part of the victim's body;

41 ~~(8)~~(H) deriving sexual pleasure or gratification from the infliction of  
 42 death, bodily injury or physical pain to the victim;

43 ~~(9)~~(I) an attempt, solicitation or conspiracy to engage in conduct

1 described in paragraphs ~~(1)~~ (1)(A) through ~~(8)~~ (1)(H); or  
2 ~~(10)~~(J) any federal or other state conviction of an offense, or any  
3 violation of a city ordinance or county resolution, that would constitute an  
4 offense under article 35 of chapter 21 of the Kansas Statutes Annotated,  
5 prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
6 Annotated, or K.S.A. 21-6419 through 21-6422, and amendments thereto,  
7 the sexual gratification component of aggravated human trafficking, as  
8 described in K.S.A. 21-3447(a)(1)(B) or (a)(2), prior to its repeal, or  
9 K.S.A. 21-5426(b)(1)(B) or (b)(2), and amendments thereto; incest, as  
10 described in K.S.A. 21-3602, prior to its repeal, or K.S.A. 21-5604(a), and  
11 amendments thereto; or aggravated incest, as described in K.S.A. 21-3603,  
12 prior to its repeal, or K.S.A. 21-5604(b), and amendments thereto, or  
13 involved conduct described in paragraphs (6) through (9).

14 (2) *"Domestic violence offense" means the same as defined in K.S.A.*  
15 *21-5111, and amendments thereto.*

16 ~~(h)~~(f) If any provisions of this section or the application thereof to any  
17 person or circumstances is held invalid, the invalidity does not affect other  
18 provisions or applications of this section which can be given effect without  
19 the invalid provisions or application. To this end the provisions of this  
20 section are severable.

21 Sec. 2. K.S.A. 2023 Supp. 60-455 is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its  
23 publication in the statute book.