

Rule 15-42. SDCL 19-19-609. Impeachment by evidence of a criminal conviction.

(a) In general. The following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

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

(A) must be admitted, subject to § 19-19-403, in a civil case or in a criminal case in which the witness is not a defendant; and

(B) must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant; and

(2) for any crime regardless of the punishment, the evidence must be admitted if the court can readily determine that establishing the elements of the crime required proving - or the witness's admitting - a dishonest act or false statement.

(a) Limit on using the evidence after 10 years. This subdivision (b) applies if more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later. Evidence of the conviction is admissible only if:

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

(2) the proponent gives an adverse party reasonable written notice of the intent to use it so that the

party

has a fair opportunity to contest its use.

(c) Effect of a pardon, annulment, or certificate of rehabilitation. Evidence of a conviction is not admissible under subdivisions (a) or (b) if:

(1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the

person

has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

(2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a

finding of innocence.

(a) Juvenile adjudications. Evidence of a juvenile adjudication is admissible under subdivision (a) only if:

(1) it is offered in a criminal case;

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

(3) an adult's conviction for that offense would be admissible to attack the adult's credibility; and

(4) admitting the evidence is necessary to fairly determine guilt or innocence.

(b) Pendency of an appeal. A conviction that satisfies this

rule is admissible even if an appeal is pending. Evidence of the pendency is also admissible.