**11-415. Evidence of immigration status.**

A. **Criminal or delinquency matters; evidence generally inadmissible.** In any criminal or delinquency matter, evidence of a party's or a witness's immigration status shall not be admissible unless immigration status is an essential fact to prove an element of, or a defense to, the offense, to show motive, or to show bias or prejudice of a witness under Rule 11-607 NMRA. This paragraph shall not be construed to exclude evidence that would result in the violation of a defendant's or a juvenile's constitutional rights.

B. **Civil matters; evidence generally inadmissible.** In any civil matter, evidence of a party's or a witness's immigration status shall not be admissible unless immigration status is an essential fact to prove an element of, or a defense to, the action, or to show bias or prejudice of a witness under Rule 11-607.

C. **Procedure.** Unless a party did not know, and with due diligence could not have known, that evidence of immigration status would be necessary, the following procedure shall apply before any proposed use of immigration status evidence:

(1) The proponent shall file under seal and serve a written pretrial motion containing an offer of proof of the relevancy of the proposed evidence supported by an affidavit.

(2) If the court finds that the offer of proof is sufficient, the court shall order an in-camera hearing.

(3) The court may admit evidence of immigration status under Paragraph A or Paragraph B of this rule if it finds the evidence is reliable and relevant, and that its probative value outweighs the prejudicial nature of evidence of immigration status.

D. **Voluntary revelation.** This rule shall not prohibit a person, or the person's attorney, from voluntarily revealing the person's immigration status to the court.

[Adopted by Supreme Court Order No. S-1-RCR-2024-00115, effective for all cases pending or filed on or after December 31, 2026.]

**Committee commentary. —** This rule is modeled after Pennsylvania Rule of Evidence 413.

[Adopted by Supreme Court Order No. S-1-RCR-2024-00115.]