

8.35. Prior Judgment of Conviction

(1) Civil proceeding. In a civil proceeding, evidence of a final judgment adjudging a person guilty of a crime is admissible as *prima facie* evidence of the facts involved in the criminal judgment.

(2) Criminal proceeding. If in the course of a criminal proceeding, any witness, including a defendant, is properly asked whether he or she was previously convicted of a specified offense and answers in the negative or in an equivocal manner, the party adverse to the one who called him or her may independently prove such conviction. If in response to proper inquiry whether he or she has ever been convicted of any offense the witness answers in the negative or in an equivocal manner, the adverse party may independently prove any previous conviction of the witness.

Note

Subdivision (1) is derived from *Schindler v Royal Ins. Co.* (258 NY 310, 314 [1932]) wherein the Court of Appeals held a party's prior conviction of a crime was admissible in a later civil action and the conviction was "*prima facie* evidence of the facts involved," i.e., the facts upon which the conviction rested.

Where a conviction is entered upon a guilty plea, the plea is admissible as a party admission. (*Ando v Woodberry*, 8 NY2d 165 [1960] [plea of guilty to a traffic violation admissible as an admission].)

Subdivision (2) is taken verbatim from CPL 60.40 (1).