

By: Cook

H.B. No. 1940

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the admissibility of evidence of certain extraneous  
3 offenses or acts in the prosecution of sexual assault or aggravated  
4 sexual assault or an attempt or conspiracy to commit sexual assault  
5 or aggravated sexual assault.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 1, Article 38.37, Code of Criminal  
8 Procedure, is amended to read as follows:

9 Sec. 1. (a) Subsection (b) applies to a proceeding in the  
10 prosecution of a defendant for an offense, or an attempt or  
11 conspiracy to commit an offense, under the following provisions of  
12 the Penal Code:

13 (1) if committed against a child under 17 years of age:

14 (A) Chapter 21 (Sexual Offenses);

15 (B) Chapter 22 (Assaultive Offenses), subject to  
16 Subdivision (3); or

17 (C) Section 25.02 (Prohibited Sexual Conduct);

18 [~~or~~]

19 (2) if committed against a person younger than 18  
20 years of age:

21 (A) Section 43.25 (Sexual Performance by a  
22 Child);

23 (B) Section 20A.02(a)(7) or (8); or

24 (C) Section 43.05(a)(2) (Compelling

1 Prostitution); or

2 (3) if committed against a person of any age:

3 (A) Section 22.011 (Sexual Assault); or

4 (B) Section 22.021 (Aggravated Sexual Assault).

5 (b) Notwithstanding Rules 404 and 405, Texas Rules of  
6 Evidence, evidence of other crimes, wrongs, or acts committed by  
7 the defendant against the [~~child who is the~~] victim of the alleged  
8 offense shall be admitted for its bearing on relevant matters,  
9 including:

10 (1) the state of mind of the defendant and the victim  
11 [~~child~~]; and

12 (2) the previous and subsequent relationship between  
13 the defendant and the victim [~~child~~].

14 SECTION 2. Section 2(a), Article 38.37, Code of Criminal  
15 Procedure, is amended to read as follows:

16 (a) Subsection (b) applies only to the trial of a defendant  
17 for:

18 (1) an offense under any of the following provisions  
19 of the Penal Code:

20 (A) Section 20A.02, if punishable as a felony of  
21 the first degree under Section 20A.02(b)(1) (Sex Trafficking of a  
22 Child);

23 (B) Section 21.02 (Continuous Sexual Abuse of  
24 Young Child or Disabled Individual);

25 (C) Section 21.11 (Indecency With a Child);

26 (D) Section 22.011 [~~22.011(a)(2)~~] (Sexual  
27 Assault [~~of a Child~~]);

1 (E) Section 22.021 [~~Sections 22.021(a)(1)(B) and~~  
2 ~~(2)~~] (Aggravated Sexual Assault [~~of a Child~~]);

3 (F) Section 33.021 (Online Solicitation of a  
4 Minor);

5 (G) Section 43.25 (Sexual Performance by a  
6 Child); or

7 (H) Section 43.26 (Possession or Promotion of  
8 Child Pornography), Penal Code; or

9 (2) an attempt or conspiracy to commit an offense  
10 described by Subdivision (1).

11 SECTION 3. The change in law made by this Act applies to the  
12 admissibility of evidence in a criminal proceeding that commences  
13 on or after the effective date of this Act. The admissibility of  
14 evidence in a criminal proceeding that commences before the  
15 effective date of this Act is governed by the law in effect on the  
16 date the proceeding commenced, and the former law is continued in  
17 effect for that purpose.

18 SECTION 4. This Act takes effect September 1, 2023.