

## **BILL ANALYSIS**

H.B. 1367  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The recent federal PROTECT Act amended the Federal Rules of Evidence to include the ability to admit sexual propensity (Prior evidence of the defendant's commission of another offense or offenses against any child) evidence into criminal cases.

Under current law, the Code of Criminal Procedure, as well as the Texas Rules of Criminal Evidence only allow admission of evidence of prior bad acts against the child who is the victim in the alleged offense.

Texas needs to be brought into line with federal law in order to greater protect children, especially in these types of cases, which can often be difficult to prove due to lack of physical evidence.

H.B. 1367 amends Article 38.37 of the Code of Criminal Procedure, to conform with federal law, allowing prior bad acts against any child to be admitted into evidence in a criminal case.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Article 38.37, Code of Criminal Procedure is amended by adding that notwithstanding Rules 404 and 405, Texas Rules of Evidence, evidence of similar offenses committed by the defendant is required to be admitted in the trial of the alleged offense for any bearing the evidence has on matters relevant to the current trial. This evidence includes the character of the defendant and acts performed in conformity with the character of the defendant.

In the trial of an offense of Sexual Assault, Aggravated Sexual Assault, Indecency with a Child, Sexual Assault of a Child, Aggravated Sexual Assault of a Child, Sexual Performance by a Child, or Possession or Promotion of Child Pornography, or an attempt to commit any of those offenses, the commission of another offense or an attempt or conspiracy to commit another offense under any of those sections is required to be admitted as evidence in the trial.

The change in law made by this Act applies to the admissibility of evidence in a criminal proceeding that commences on or after the effective date of this Act.

### **EFFECTIVE DATE**

September 1, 2005.