

## **BILL ANALYSIS**

H.B. 1264  
By: Pena  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Federal Rules of Evidence allow prosecutors to admit prior evidence of the defendant's commission of another offense or offenses against another child into criminal cases. Under Texas law however, 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.

H.B. 1264 amends Article 38.37 of the Code of Criminal Procedure to conform with federal law, allowing certain prior bad acts against another child to be admitted into evidence in certain criminal cases.

### **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**

House Bill 1264 amends the Code of Criminal Procedure clarifies that evidence of other crimes, wrongs, or acts committed by the defendant against the child who is the alleged victim must be admitted for its bearing on relevant matters, and that this applies to a proceeding in the prosecution of a defendant for certain offenses, if it was committed against a child under 17 years of age.

The bill provides that notwithstanding Rules 404 and 405, Texas Rules of Evidence, evidence of other 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 relevant matters, including 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, Online Solicitation of a Minor, Sexual Performance by a Child, or Possession or Promotion of Child Pornography, or an attempt to commit any of those offenses, evidence of the commission of another offense under any of these sections or an attempt or conspiracy to commit an offense under any of these sections is admissible as outlined above.

On timely request by the defendant, the state must give the defendant notice of the state's intent to introduce in the case in chief evidence described by Section 1 or 2 in the same manner as the state is required to give notice under Rule 404(b), Texas Rules of Evidence. This article does not limit the admissibility of evidence of extraneous crimes, wrongs, or acts under any other applicable law. Makes application of this Act prospective.

### **EFFECTIVE DATE**

September 1, 2007.