

AN ACT

relating to the admissibility of certain hearsay statements made by a child abuse victim.

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

SECTION 1. Section 1, Article 38.072, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. This article applies to a proceeding in the prosecution of an offense under any of the following provisions of the Penal Code, if committed against a child [~~12 years of age or~~] younger than 14 years of age:

(1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);

(2) Section 25.02 (Prohibited Sexual Conduct); ~~or~~

(3) Section 43.25 (Sexual Performance by a Child); or

(4) Section 15.01 (Criminal Attempt), if the offense attempted is described by Subdivision (1), (2), or (3) of this section.

SECTION 2. Section 2(a), Article 38.072, Code of Criminal Procedure, is amended to read as follows:

(a) This article applies only to statements that:

(1) describe:

(A) the alleged offense; or

(B) if the statement is offered during the punishment phase of the proceeding, a crime, wrong, or act other

1 than the alleged offense that is:

2 (i) described by Section 1;

3 (ii) allegedly committed by the defendant
4 against the child who is the victim of the offense or another child
5 younger than 14 years of age; and

6 (iii) otherwise admissible as evidence
7 under Article 38.37, Rule 404 or 405, Texas Rules of Evidence, or
8 another law or rule of evidence of this state;

9 (2) [~~(1)~~] were made by the child against whom the
10 charged offense or extraneous crime, wrong, or act was allegedly
11 committed; and

12 (3) [~~(2)~~] were made to the first person, 18 years of
13 age or older, other than the defendant, to whom the child made a
14 statement about the offense or extraneous crime, wrong, or act.

15 SECTION 3. The change in law made by this Act applies only
16 to a criminal proceeding that commences on or after the effective
17 date of this Act. A criminal proceeding that commences before the
18 effective date of this Act is governed by the law in effect when the
19 proceeding commenced, and the former law is continued in effect for
20 that purpose.

21 SECTION 4. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 2846 was passed by the House on May 13, 2009, by the following vote: Yeas 140, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2846 was passed by the Senate on May 27, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor