

1-1 By: Riddle (Senate Sponsor - Huffman) H.B. No. 2846
1-2 (In the Senate - Received from the House May 14, 2009;
1-3 May 15, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 22, 2009, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the admissibility of certain hearsay statements made by
1-9 a child abuse victim.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 1, Article 38.072, Code of Criminal
1-12 Procedure, is amended to read as follows:

1-13 Sec. 1. This article applies to a proceeding in the
1-14 prosecution of an offense under any of the following provisions of
1-15 the Penal Code, if committed against a child [~~12 years of age or~~
1-16 younger than 14 years of age:

1-17 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
1-18 Offenses);

1-19 (2) Section 25.02 (Prohibited Sexual Conduct); ~~or~~

1-20 (3) Section 43.25 (Sexual Performance by a Child); or

1-21 (4) Section 15.01 (Criminal Attempt), if the offense
1-22 attempted is described by Subdivision (1), (2), or (3) of this
1-23 section.

1-24 SECTION 2. Section 2(a), Article 38.072, Code of Criminal
1-25 Procedure, is amended to read as follows:

1-26 (a) This article applies only to statements that:

1-27 (1) describe:

1-28 (A) the alleged offense; or

1-29 (B) if the statement is offered during the
1-30 punishment phase of the proceeding, a crime, wrong, or act other
1-31 than the alleged offense that is:

1-32 (i) described by Section 1;

1-33 (ii) allegedly committed by the defendant
1-34 against the child who is the victim of the offense or another child
1-35 younger than 14 years of age; and

1-36 (iii) otherwise admissible as evidence
1-37 under Article 38.37, Rule 404 or 405, Texas Rules of Evidence, or
1-38 another law or rule of evidence of this state;

1-39 (2) ~~(1)~~ were made by the child against whom the
1-40 charged offense or extraneous crime, wrong, or act was allegedly
1-41 committed; and

1-42 (3) ~~(2)~~ were made to the first person, 18 years of
1-43 age or older, other than the defendant, to whom the child made a
1-44 statement about the offense or extraneous crime, wrong, or act.

1-45 SECTION 3. The change in law made by this Act applies only
1-46 to a criminal proceeding that commences on or after the effective
1-47 date of this Act. A criminal proceeding that commences before the
1-48 effective date of this Act is governed by the law in effect when the
1-49 proceeding commenced, and the former law is continued in effect for
1-50 that purpose.

1-51 SECTION 4. This Act takes effect September 1, 2009.

1-52 * * * * *