

By: Woolley

H.B. No. 1049

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of evidence of other similar offenses in the prosecution of certain sexual offenses.

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

SECTION 1. Sections 1, 2, and 3, Article 38.37, Code of Criminal Procedure, are amended to read as follows:

Sec. 1. (a) Subsection (b) [~~This article~~] applies to a proceeding in the prosecution of a defendant for an offense under the following provisions of the Penal Code, if committed against a child under 17 years of age:

(1) Chapter 21 (Sexual Offenses);

(2) Chapter 22 (Assaultive Offenses);

(3) Section 25.02 (Prohibited Sexual Conduct);

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

(5) an attempt or conspiracy to commit an offense listed in this subsection [~~section~~].

(b) [~~Sec. 2.~~] Notwithstanding Rules 404 and 405, Texas Rules of Evidence, evidence of other crimes, wrongs, or acts committed by the defendant against the child who is the victim of the alleged offense shall be admitted for its bearing on relevant matters, including:

(1) the state of mind of the defendant and the child;

and

(2) the previous and subsequent relationship between

1 the defendant and the child.

2 Sec. 2. Notwithstanding Rules 404 and 405, Texas Rules of
3 Evidence, evidence of other similar offenses committed by the
4 defendant shall be admitted in the trial of the alleged offense for
5 any bearing the evidence has on relevant matters, including the
6 character of the defendant and acts performed in conformity with
7 the character of the defendant, as follows:

8 (1) in the trial of an offense under Section 22.011
9 (Sexual Assault) or 22.021 (Aggravated Sexual Assault), Penal Code,
10 or an attempt or conspiracy to commit an offense under either of
11 those sections, evidence of:

12 (A) the commission of another offense under
13 either of those sections; or

14 (B) an attempt or conspiracy to commit an offense
15 under either of those sections; and

16 (2) in the trial of an offense under Section 21.02
17 (Continuous Sexual Abuse of Young Child or Children), 21.11
18 (Indecency With a Child), 22.011(a)(2) (Sexual Assault of a Child),
19 22.021(a)(1)(B) and (2) (Aggravated Sexual Assault of a Child),
20 33.021 (Online Solicitation of a Minor), 43.25 (Sexual Performance
21 by a Child), or 43.26 (Possession or Promotion of Child
22 Pornography), Penal Code, or an attempt or conspiracy to commit an
23 offense under any of those sections, evidence of:

24 (A) the commission of another offense under any
25 of those sections; or

26 (B) an attempt or conspiracy to commit an offense
27 under any of those sections.

1 Sec. 3. On timely request by the defendant, the state shall
2 give the defendant notice of the state's intent to introduce in the
3 case in chief evidence described by Section 1 or 2 in the same
4 manner as the state is required to give notice under Rule 404(b),
5 Texas Rules of Evidence.

6 SECTION 2. The change in law made by this Act applies to the
7 admissibility of evidence in a criminal proceeding that commences
8 on or after the effective date of this Act. The admissibility of
9 evidence in a criminal proceeding that commences before the
10 effective date of this Act is covered by the law in effect when the
11 proceeding commenced, and the former law is continued in effect for
12 that purpose.

13 SECTION 3. This Act takes effect September 1, 2011.