

1-1 By: Huffman, et al. S.B. No. 152
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 7, 2011, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 7, 2011, sent to printer.)

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

1-8 relating to the admissibility of evidence of other similar offenses
1-9 in the prosecution of certain sexual offenses.

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

1-11 SECTION 1. Sections 1, 2, and 3, Article 38.37, Code of
1-12 Criminal Procedure, are amended to read as follows:

1-13 Sec. 1. (a) Subsection (b) [~~This article~~] applies to a
1-14 proceeding in the prosecution of a defendant for an offense under
1-15 the following provisions of the Penal Code, if committed against a
1-16 child under 17 years of age:

- 1-17 (1) Chapter 21 (Sexual Offenses);
- 1-18 (2) Chapter 22 (Assaultive Offenses);
- 1-19 (3) Section 25.02 (Prohibited Sexual Conduct);
- 1-20 (4) Section 43.25 (Sexual Performance by a Child); or
- 1-21 (5) an attempt or conspiracy to commit an offense

1-22 listed in this subsection [~~section~~].

1-23 (b) [~~Sec. 2.~~] Notwithstanding Rules 404 and 405, Texas
1-24 Rules of Evidence, evidence of other crimes, wrongs, or acts
1-25 committed by the defendant against the child who is the victim of
1-26 the alleged offense shall be admitted for its bearing on relevant
1-27 matters, including:

- 1-28 (1) the state of mind of the defendant and the child;
- 1-29 and
- 1-30 (2) the previous and subsequent relationship between

1-31 the defendant and the child.

1-32 Sec. 2. Notwithstanding Rules 404 and 405, Texas Rules of
1-33 Evidence, evidence of other similar offenses committed by the
1-34 defendant shall be admitted in the trial of the alleged offense for
1-35 any bearing the evidence has on relevant matters, including the
1-36 character of the defendant and acts performed in conformity with
1-37 the character of the defendant, as follows:

1-38 (1) in the trial of an offense under Section 22.011
1-39 (Sexual Assault) or 22.021 (Aggravated Sexual Assault), Penal Code,
1-40 or an attempt or conspiracy to commit an offense under either of
1-41 those sections, evidence of:

1-42 (A) the commission of another offense under
1-43 either of those sections; or

1-44 (B) an attempt or conspiracy to commit an offense
1-45 under either of those sections; and

1-46 (2) in the trial of an offense under Section 21.02
1-47 (Continuous Sexual Abuse of Young Child or Children), 21.11
1-48 (Indecency With a Child), 22.011(a)(2) (Sexual Assault of a Child),
1-49 22.021(a)(1)(B) and (2) (Aggravated Sexual Assault of a Child),
1-50 33.021 (Online Solicitation of a Minor), 43.25 (Sexual Performance
1-51 by a Child), or 43.26 (Possession or Promotion of Child
1-52 Pornography), Penal Code, or an attempt or conspiracy to commit an
1-53 offense under any of those sections, evidence of:

1-54 (A) the commission of another offense under any
1-55 of those sections; or

1-56 (B) an attempt or conspiracy to commit an offense
1-57 under any of those sections.

1-58 Sec. 3. On timely request by the defendant, the state shall
1-59 give the defendant notice of the state's intent to introduce in the
1-60 case in chief evidence described by Section 1 or 2 in the same
1-61 manner as the state is required to give notice under Rule 404(b),
1-62 Texas Rules of Evidence.

1-63 SECTION 2. The change in law made by this Act applies to the
1-64 admissibility of evidence in a criminal proceeding that commences

2-1 on or after the effective date of this Act. The admissibility of
2-2 evidence in a criminal proceeding that commences before the
2-3 effective date of this Act is covered by the law in effect when the
2-4 proceeding commenced, and the former law is continued in effect for
2-5 that purpose.

2-6 SECTION 3. This Act takes effect September 1, 2011.

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