

By: Carter

H.B. No. 1669

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of evidence of other crimes, wrongs,
or acts 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, or an
attempt or conspiracy to commit an offense, under the following
provisions of the Penal Code:

(1) if committed against a child under 17 years of age:

(A) Chapter 21 (Sexual Offenses);

(B) Chapter 22 (Assaultive Offenses); or

(C) Section 25.02 (Prohibited Sexual Conduct);

or

(2) if committed against a person younger than 18
years of age:

(A) Section 43.25 (Sexual Performance by a
Child);

(B) Section 20A.02(a)(7) or (8) (Trafficking of
Persons) involving trafficking a child for sexual purposes; [or]

(C) Section 20A.03 (Continuous Trafficking of
Persons), if the defendant engaged at least once in conduct
constituting an offense under Section 20A.02(a)(7) or (8); or

1 (D) Section 43.05(a)(2) (Compelling
2 Prostitution).

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

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

10 (2) the previous and subsequent relationship between
11 the defendant and the child.

12 Sec. 2. (a) Subsection (b) applies only to the trial of a
13 defendant for:

14 (1) an offense under any of the following provisions
15 of the Penal Code:

16 (A) Section 20A.02(a)(7) or (8) (Trafficking of
17 Persons) involving trafficking a child for sexual purposes;

18 (B) Section 20A.03 (Continuous Trafficking of
19 Persons), if the defendant engaged at least once in conduct
20 constituting an offense under Section 20A.02(a)(7) or (8);

21 (C) Section 21.02 (Continuous Sexual Abuse of
22 Young Child or Children);

23 (D) Section 21.11 (Indecency With a Child);

24 (E) Section 22.011 (Sexual Assault);

25 (F) Section 22.021 (Aggravated Sexual Assault);

26 (G) Section 25.02 (Prohibited Sexual Conduct);

27 (H) Section 33.021 (Online Solicitation of a

1 Minor);

2 (I) Section 43.05 (Compelling Prostitution);

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

5 (K) Section 43.26 (Possession or Promotion of
6 Child Pornography); or

7 (2) an attempt or conspiracy to commit an offense
8 described by Subdivision (1).

9 (b) Notwithstanding Rules 404 and 405, Texas Rules of
10 Evidence, evidence that the defendant has committed a separate
11 offense described by Subsection (a)(1) or (2) may be admitted in the
12 trial of an alleged offense described by Subsection (a)(1) or (2)
13 for any bearing the evidence has on relevant matters, including the
14 character of the defendant and acts performed in conformity with
15 the character of the defendant.

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

21 SECTION 2. The change in law made by this Act applies to the
22 admissibility of evidence in a criminal proceeding that commences
23 on or after the effective date of this Act. The admissibility of
24 evidence in a criminal proceeding that commences before the
25 effective date of this Act is governed by the law in effect when the
26 proceeding commenced, and the former law is continued in effect for
27 that purpose.

1 SECTION 3. This Act takes effect September 1, 2013.