

By: Herrero

H.B. No. 2777

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of certain evidence in the prosecution of offenses involving family violence and other similar offenses committed against a member of the defendant's family or household.

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

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.371 to read as follows:

Art. 38.371. EVIDENCE IN PROSECUTIONS OF OFFENSES INVOLVING FAMILY VIOLENCE AND OTHER SIMILAR OFFENSES. (a) This article applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, that is committed under the following provisions of the Penal Code against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code:

(1) Chapter 19 (Criminal Homicide);

(2) Chapter 20 (Kidnapping, Unlawful Restraint, and Smuggling of Persons);

(3) Chapter 20A (Trafficking of Persons);

(4) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(5) Section 21.11 (Indecency with a Child);

(6) Section 22.01 (Assault);

- 1 (7) Section 22.011 (Sexual Assault);
- 2 (8) Section 22.02 (Aggravated Assault);
- 3 (9) Section 22.021 (Aggravated Sexual Assault);
- 4 (10) Section 22.04 (Injury to a Child, Elderly
5 Individual, or Disabled Individual);
- 6 (11) Section 25.07 (Violation of Certain Court Orders
7 or Conditions of Bond in a Family Violence, Sexual Assault or Abuse,
8 or Stalking Case);
- 9 (12) Section 25.072 (Repeated Violation of Certain
10 Court Orders or Conditions of Bond in Family Violence Case);
- 11 (13) Section 25.11 (Continuous Violence Against the
12 Family);
- 13 (14) Section 36.05 (Tampering with Witness);
- 14 (15) Section 36.06 (Obstruction or Retaliation);
- 15 (16) Section 38.112 (Violation of Protective Order
16 Issued on Basis of Sexual Assault or Abuse, Stalking, or
17 Trafficking);
- 18 (17) Section 42.07 (Harassment);
- 19 (18) Section 42.072 (Stalking);
- 20 (19) Section 43.05 (Compelling Prostitution); or
- 21 (20) Section 43.25 (Sexual Performance by a Child).

22 (b) Notwithstanding Rules 404 and 405, Texas Rules of
23 Evidence, evidence of other crimes, wrongs, or acts committed by
24 the defendant against the victim of the alleged offense shall be
25 admitted for its bearing on relevant matters, including:

- 26 (1) the state of mind of the defendant and the victim;
- 27 (2) the previous and subsequent relationship between

1 the defendant and the victim; and

2 (3) the character of the defendant and acts performed
3 in conformity with the character of the defendant.

4 (c) Notwithstanding Rules 404 and 405, Texas Rules of
5 Evidence, in the trial of an alleged offense described by
6 Subsection (a), evidence that the defendant has committed a
7 separate offense described by Subsection (a) against an individual
8 other than the victim of the instant alleged offense may be admitted
9 for any bearing the evidence has on relevant matters, including the
10 character of the defendant and acts performed in conformity with
11 the character of the defendant.

12 (d) On timely request by the defendant within a reasonable
13 period before trial, the state shall, within a reasonable period
14 after the defendant's request, provide the defendant with notice of
15 the state's intent to introduce in the case in chief evidence
16 described by Subsection (b) or (c), except that the state is not
17 required to provide the defendant with notice under this subsection
18 if the applicable evidence arose in the same criminal transaction
19 as the instant alleged offense.

20 (e) This article does not limit the admissibility of
21 evidence of extraneous crimes, wrongs, or acts under any other
22 applicable law.

23 SECTION 2. The change in law made by this Act applies to the
24 admissibility of evidence in a criminal proceeding that commences
25 on or after the effective date of this Act. The admissibility of
26 evidence in a criminal proceeding that commences before the
27 effective date of this Act is governed by the law in effect on the

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1 date the proceeding commenced, and the former law is continued in
2 effect for that purpose.

3 SECTION 3. This Act takes effect September 1, 2015.