86R5546 MAW-D

By:  Watson S.B. No. 736

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.  Section 2(b), Article 38.37, Code of Criminal Procedure, is amended to read as follows:

(b)  Notwithstanding Rules 404 and 405, Texas Rules of Evidence, and subject to Section 2-b [~~2-a~~], evidence that the defendant has committed a separate offense described by Subsection (a)(1) or (2) may be admitted in the trial of an alleged offense described by Subsection (a)(1) or (2) for any bearing the evidence has on relevant matters, including the character of the defendant and acts performed in conformity with the character of the defendant.

SECTION 2.  Article 38.37, Code of Criminal Procedure, is amended by amending Sections 2-a and 3 and adding Section 2-b to read as follows:

Sec. 2-a.  (a) Subsection (b) applies only to the trial of a defendant for an offense, or an attempt or conspiracy to commit an offense, under Section 22.011 or 22.021, Penal Code.

(b)  Notwithstanding Rules 404 and 405, Texas Rules of Evidence, and subject to Section 2-b, evidence that the defendant has committed two or more separate offenses described by Subsection (a) may be admitted in the trial of an alleged offense described by that subsection for any bearing the evidence has on relevant matters, including the character of the defendant and acts performed in conformity with the character of the defendant.

Sec. 2-b.  Before evidence described by Section 2 or 2-a may be introduced, the trial judge must:

(1)  determine that the evidence likely to be admitted at trial will be adequate to support a finding by the jury that the defendant committed beyond a reasonable doubt a [~~the~~] separate offense as provided by the applicable section [~~beyond a reasonable doubt~~]; and

(2)  conduct a hearing out of the presence of the jury for that purpose.

Sec. 3.  The state shall give the defendant notice of the state's intent to introduce in the case in chief evidence described by Section 1, [~~or~~] 2, or 2-a not later than the 30th day before the date of the defendant's trial.

SECTION 3.  The change in law made by this Act applies to the admissibility of evidence in a criminal proceeding that commences on or after the effective date of this Act. The admissibility of evidence in a criminal proceeding that commences before the effective date of this Act is governed by the law in effect when the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2019.