

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

1 that subsection for any bearing the evidence has on relevant
2 matters, including the character of the defendant and acts
3 performed in conformity with the character of the defendant.

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

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

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

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

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

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