88R8038 EAS-F

By:  Cook H.B. No. 1940

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of evidence of certain extraneous offenses or acts in the prosecution of sexual assault or aggravated sexual assault or an attempt or conspiracy to commit sexual assault or aggravated sexual assault.

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

SECTION 1.  Section 1, Article 38.37, Code of Criminal Procedure, is amended to read as follows:

Sec. 1.  (a)  Subsection (b) 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), subject to Subdivision (3); 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); or

(C)  Section 43.05(a)(2) (Compelling Prostitution); or

(3)  if committed against a person of any age:

(A)  Section 22.011 (Sexual Assault); or

(B)  Section 22.021 (Aggravated Sexual Assault).

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

(1)  the state of mind of the defendant and the victim [~~child~~]; and

(2)  the previous and subsequent relationship between the defendant and the victim [~~child~~].

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

(a)  Subsection (b) applies only to the trial of a defendant for:

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

(A)  Section 20A.02, if punishable as a felony of the first degree under Section 20A.02(b)(1) (Sex Trafficking of a Child);

(B)  Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual);

(C)  Section 21.11 (Indecency With a Child);

(D)  Section 22.011 [~~22.011(a)(2)~~] (Sexual Assault [~~of a Child~~]);

(E)  Section 22.021 [~~Sections 22.021(a)(1)(B) and (2)~~] (Aggravated Sexual Assault [~~of a Child~~]);

(F)  Section 33.021 (Online Solicitation of a Minor);

(G)  Section 43.25 (Sexual Performance by a Child); or

(H)  Section 43.26 (Possession or Promotion of Child Pornography), Penal Code; or

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

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

SECTION 4.  This Act takes effect September 1, 2023.