

1-1 By: Huffman S.B. No. 535
1-2 (In the Senate - Filed December 5, 2024; February 3, 2025,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 19, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 19, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Flores	X			
1-10	Parker	X			
1-11	Hagenbuch	X			
1-12	Hinojosa of Hidalgo	X			
1-13	Huffman	X			
1-14	King	X			
1-15	Miles	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 535 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the admissibility of evidence regarding a victim's past
1-20 sexual behavior in prosecutions of certain trafficking, sexual, or
1-21 assaultive offenses.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Chapter 38, Code of Criminal Procedure, is
1-24 amended by adding Article 38.372 to read as follows:

1-25 Art. 38.372. EVIDENCE OF VICTIM'S PAST SEXUAL BEHAVIOR.
1-26 (a) In this article, "victim" includes the victim of an extraneous
1-27 offense or act with respect to which evidence is introduced during
1-28 the prosecution of an offense described by Subsection (b).

1-29 (b) This article applies to a proceeding in the prosecution
1-30 of a defendant for an offense, or for an attempt or conspiracy to
1-31 commit an offense, under any of the following provisions of the
1-32 Penal Code:

1-33 (1) Section 20A.02(a)(3), (4), (7), or (8)
1-34 (Trafficking of Persons);

1-35 (2) Section 20A.03 (Continuous Trafficking of
1-36 Persons), if the offense is based partly or wholly on conduct that
1-37 constitutes an offense under Section 20A.02(a)(3), (4), (7), or
1-38 (8);

1-39 (3) Section 21.02 (Continuous Sexual Abuse of Young
1-40 Child or Disabled Individual);

1-41 (4) Section 21.11 (Indecency with a Child);

1-42 (5) Section 22.011 (Sexual Assault); or

1-43 (6) Section 22.021 (Aggravated Sexual Assault).

1-44 (c) In the prosecution of an offense described by Subsection
1-45 (b), reputation or opinion evidence of a victim's past sexual
1-46 behavior is not admissible.

1-47 (d) Except as provided by Subsection (e), in the prosecution
1-48 of an offense described by Subsection (b), evidence of a specific
1-49 instance of a victim's past sexual behavior is not admissible.

1-50 (e) A defendant may not offer evidence of a specific
1-51 instance of a victim's past sexual behavior unless the court:

1-52 (1) on a motion by the defendant made outside the
1-53 presence of the jury, conducts an in camera examination of the
1-54 evidence in the presence of the court reporter; and

1-55 (2) determines that the probative value of the
1-56 evidence outweighs the danger of unfair prejudice to the victim and
1-57 that the evidence:

1-58 (A) is necessary to rebut or explain scientific
1-59 or medical evidence offered by the attorney representing the state;

1-60 (B) concerns past sexual behavior with the

defendant and is offered by the defendant to prove consent, if the
lack of consent is an element of the offense;

(C) relates to the victim's motive or bias;

(D) is admissible under Rule 609, Texas Rules of
Evidence; or

(E) is constitutionally required to be admitted.

(f) The court shall seal the record of the in camera
examination conducted under Subsection (e)(1) and preserve the
examination record as part of the record in the case.

SECTION 2. Under the terms of Section 22.109(b), Government
Code, Rule 412, Texas Rules of Evidence, is disapproved.

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, 2025.

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