

By Senator Brown-Waite

10-936-00

See HB

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A bill to be entitled
An act relating to the Florida Evidence Code;
amending s. 90.404, F.S.; revising a provision
of law governing character evidence to permit
the admission of certain evidence of the
defendant's commission of acts of child
molestation under certain circumstances;
providing a definition; providing an effective
date.

WHEREAS, the Legislature finds that in cases of child
sexual abuse, the credibility of the victim is frequently a
focal issue of the case, and

WHEREAS, the Legislature finds that evidence showing
that an accused child molester has molested children at other
times is relevant to corroborate the victim's testimony, and

WHEREAS, the Legislature finds that evidence showing
that an accused child molester has molested children at other
times has a probative value that outweighs its prejudicial
effect, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 90.404, Florida
Statutes, is amended to read:

90.404 Character evidence; when admissible.--

(2) OTHER CRIMES, WRONGS, OR ACTS.--

(a) ~~Similar fact~~ Evidence of other crimes, wrongs, or
acts is admissible when relevant to prove a material fact in
issue, including, but not limited to,~~such as~~ proof of motive,
opportunity, intent, preparation, plan, knowledge, identity,

1 or absence of mistake or accident, but it is inadmissible when
2 the evidence is relevant solely to prove bad character or
3 propensity.

4 (b)1. In a criminal case in which the defendant is
5 charged with a crime involving child molestation, evidence of
6 the defendant's commission of other acts of child molestation
7 is admissible, and may be considered for its bearing on any
8 matter to which it is relevant. Such evidence is admissible
9 under this subsection, notwithstanding s. 90.403 when, in the
10 discretion of the court, such evidence does not become a
11 feature of the trial.

12 2. For the purposes of this paragraph, the term "child
13 molestation" means conduct proscribed by s. 794.011 or s.
14 800.04 when committed against a person 16 years of age or
15 younger.

16 (c)~~(b)~~1. When the state in a criminal action intends
17 to offer evidence of other criminal offenses under paragraph
18 (a) or (b), no fewer than 10 days before trial, the state
19 shall furnish to the defendant or to the defendant's counsel
20 ~~accused~~ a written statement of the acts or offenses it intends
21 to offer, describing them with the particularity required of
22 an indictment or information. No notice is required for
23 evidence of offenses used for impeachment or on rebuttal.

24 2. When the evidence is admitted, the court shall, if
25 requested, charge the jury on the limited purpose for which
26 the evidence is received and is to be considered. After the
27 close of the evidence, the jury shall be instructed on the
28 limited purpose for which the evidence was received and that
29 the defendant cannot be convicted for a charge not included in
30 the indictment or information.

31 Section 2. This act shall take effect July 1, 2000.

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LEGISLATIVE SUMMARY

Revises a provision of law under the Florida Evidence Code relating to character evidence to provide that in a criminal case in which the defendant is charged with a crime involving child molestation, evidence of the defendant's commission of other acts of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant. (See bill for details.)