

By the Committee on Judiciary and Senator Brown-Waite

308-1721-00

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

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.

9 2. For the purposes of this paragraph, the term "child  
10 molestation" means conduct proscribed by s. 794.011 or s.  
11 800.04 when committed against a person 16 years of age or  
12 younger.

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

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

28 Section 2. This act shall take effect July 1, 2000.  
29  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 1316

Reinstates the existing phrase "Similar fact" to paragraph (a) of subsection (2) of s. 90.404, F.S.

Deletes from the bill the provision stating that evidence of other acts of child molestation is admissible notwithstanding s. 90.403, F.S.