

By the Committee on Crime & Punishment and Representative Ball

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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 which  
shows 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 which  
shows that an accused child molester has molested children at  
other times has a probative value which 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,

1 opportunity, intent, preparation, plan, knowledge, identity,  
2 or absence of mistake or accident, but it is inadmissible when  
3 the evidence is relevant solely to prove bad character or  
4 propensity.

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

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

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

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

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

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HOUSE 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.