

By the Committee on Judiciary and Senator Crist

308-1934-01

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A bill to be entitled  
An act relating to character evidence; 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 may be 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 may have 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 crimes, wrongs, or acts of  
8 child molestation is admissible, and may be considered for its  
9 bearing on any matter to which it is relevant.

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

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

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

30 Section 2. This act shall take effect July 1, 2001.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 2012

Restores current law in paragraph (a) of subsection (2) of s. 90.404, F.S., by removing the bill's deletion of the phrase "Similar fact".

Modifies new paragraph (b) of subsection (2) of s. 90.404, F.S., by stating that evidence of other crimes or wrongs, in addition to other acts, of child molestation is admissible in criminal cases.