

By Senator Brown-Waite

10-328-01

See HB

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A bill to be entitled  
An act relating to character evidence; amending  
s. 90.404, F.S.; providing that in certain  
criminal prosecutions involving domestic  
violence, evidence of prior acts of domestic  
violence by the defendant may be admissible;  
providing an effective date.

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)1. Similar fact evidence of other crimes, wrongs,  
or acts is admissible when relevant to prove a material fact  
in issue, such as proof of motive, opportunity, intent,  
preparation, plan, knowledge, identity, or absence of mistake  
or accident, but it is inadmissible when the evidence is  
relevant solely to prove bad character or propensity.

2. In criminal prosecutions involving domestic  
violence wherein the defendant and the victim named in the  
information or indictment are family or household members as  
defined in s. 741.28(2), evidence of prior acts of domestic  
violence by the defendant may be admissible if the probative  
value of such evidence is not outweighed by the danger of  
unfair prejudice, confusion of the issues, or misleading the  
jury. Upon admitting the evidence of prior acts of domestic  
violence, the court shall instruct the jury as to the limited  
purpose for which the evidence is admitted.

1 (b)1. When the state in a criminal action intends to  
2 offer evidence of other criminal offenses under paragraph (a),  
3 no fewer than 10 days before trial, the state shall furnish to  
4 the accused a written statement of the acts or offenses it  
5 intends to offer, describing them with the particularity  
6 required of an indictment or information. No notice is  
7 required for evidence of offenses used for impeachment or on  
8 rebuttal.

9 2. When the evidence is admitted, the court shall, if  
10 requested, charge the jury on the limited purpose for which  
11 the evidence is received and is to be considered. After the  
12 close of the evidence, the jury shall be instructed on the  
13 limited purpose for which the evidence was received and that  
14 the defendant cannot be convicted for a charge not included in  
15 the indictment or information.

16 Section 2. This act shall take effect October 1, 2001.

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LEGISLATIVE SUMMARY

Provides that in described criminal prosecutions  
involving domestic violence, evidence of prior acts of  
domestic violence by the defendant may be admissible.  
(See bill for details.)