

By the Committee on Crime Prevention, Corrections & Safety
and Representative Bilirakis

1 A bill to be entitled
2 An act relating to character evidence; amending
3 s. 90.404, F.S.; revising a provision of law
4 governing character evidence to permit the
5 admission of certain evidence of the
6 defendant's commission of acts of child
7 molestation under certain circumstances;
8 providing a definition; providing an effective
9 date.

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

14 WHEREAS, the Legislature finds that evidence which
15 shows that an accused child molester has molested children at
16 other times may be relevant to corroborate the victim's
17 testimony, and

18 WHEREAS, the Legislature finds that evidence which
19 shows that an accused child molester has molested children at
20 other times may have a probative value which outweighs its
21 prejudicial effect, NOW, THEREFORE,

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

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

27 90.404 Character evidence; when admissible.--

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

29 (a) ~~Similar fact~~ Evidence of other crimes, wrongs, or
30 acts is admissible when relevant to prove a material fact in
31 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.

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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HOUSE SUMMARY

Revises a provision of law governing character evidence to permit the admission of certain evidence of a defendant's commission of acts of child molestation in certain instances. See bill for details.