

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S2/1/05
A Bill

HOUSE BILL 1028

5 By: Representative Thompson
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8 **For An Act To Be Entitled**

9 AN ACT TO ALLOW INTRODUCTION OF EVIDENCE OF OTHER
10 CRIMES IN SEX OFFENSE CASES; AND FOR OTHER
11 PURPOSES.
12

13 **Subtitle**

14 AN ACT TO ALLOW INTRODUCTION OF EVIDENCE
15 OF OTHER CRIMES IN SEX OFFENSE CASES.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 16, Chapter 42, Subchapter 1 is amended
21 to add an additional section to read as follows:

22 16-42-103. Admissibility of evidence of similar crimes in sex offense
23 cases.

24 (a) In a criminal case where the defendant is accused of a sex
25 offense, evidence of the defendant's commission of another sex offense is
26 admissible and may be considered for its bearing on any matter to which it is
27 relevant, subject to the circuit court's consideration of the admissibility
28 of any such evidence under Rule 403 of the Arkansas Rules of Evidence.

29 (b) In a case where the prosecuting attorney intends to offer evidence
30 under this section, the prosecuting attorney shall disclose the evidence to
31 the defendant or the defendant's attorney if an attorney is representing the
32 defendant, including statements of witnesses or a summary of the substance of
33 any testimony at least forty-five (45) days before the scheduled date of
34 trial or at such later time as the court may allow for good cause.

35 (c) This section shall not be construed to limit the admission or
36 consideration of evidence under any rule of the Arkansas Rules of Evidence,



1 the Arkansas Rules of Criminal Procedure, or any law.

2 (d) For purposes of this section, the term "sex offense" includes the
3 following offenses:

4 (1) Rape, § 5-14-103;

5 (2) Sexual indecency with a child, § 5-14-110;

6 (3) Sexual assault in the first degree, § 5-14-124;

7 (4) Sexual assault in the second degree, § 5-14-125;

8 (5) Sexual assault in the third degree, § 5-14-126;

9 (6) Sexual assault in the fourth degree, § 5-14-127;

10 (7) Incest, § 5-26-202;

11 (8) Engaging children in sexually explicit conduct for use in
12 visual or print medium, § 5-27-303;

13 (9) Transportation of minors for prohibited sexual conduct, § 5-
14 27-305;

15 (10) Employing or consenting to use of a child in sexual
16 performance, § 5-27-402;

17 (11) Pandering or possessing visual or print medium depicting
18 sexually explicit conduct involving a child, § 5-27-304;

19 (12) Producing, directing, or promoting sexual performance, § 5-
20 27-403;

21 (13) Promoting prostitution in the first degree, § 5-70-104;

22 (14) Stalking when ordered by the sentencing court to register
23 as a sex offender, § 5-71-229;

24 (15) Indecent exposure, § 5-14-112, if a felony level offense;

25 (16) Exposing another person to human immunodeficiency virus
26 when ordered by the sentencing court to register as a sex offender, § 5-14-
27 123;

28 (17) Kidnapping pursuant to § 5-11-102(a) when the victim is a
29 minor and the offender is not the parent of the victim;

30 (18) False imprisonment in the first degree and false
31 imprisonment in the second degree, §§ 5-11-103 and 5-11-104, when the victim
32 is a minor and the offender is not the parent of the victim;

33 (19) Permitting abuse of a child pursuant to § 5-27-221;

34 (20) Computer child pornography, § 5-27-603;

35 (21) Computer exploitation of a child in the first degree, § 5-
36 27-605(a);

1 (22) Permanent detention or restraint when the offender is not
2 the parent of the victim, § 5-11-106;

3 (23) Distributing, possessing, or viewing matter depicting
4 sexually explicit conduct involving a child, § 5-27-602;

5 (24) Computer child pornography, § 5-27-603; and

6 (25) Computer exploitation of a child, § 5-27-605.

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8 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly of the State of Arkansas that there is no rule or statute
10 that allows the introduction of evidence of a defendant's commission of
11 another sex offense in a criminal case; and that such a rule or statute is
12 necessary to assist in the prosecution of sex offenses. Therefore, an
13 emergency is declared to exist and this act being immediately necessary for
14 the preservation of the public peace, health, and safety shall become
15 effective on:

16 (1) The date of its approval by the Governor;

17 (2) If the bill is neither approved nor vetoed by the Governor,
18 the expiration of the period of time during which the Governor may veto the
19 bill; or

20 (3) If the bill is vetoed by the Governor and the veto is
21 overridden, the date the last house overrides the veto.

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23 */s/ Thompson*
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