

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 S2/8/05

A Bill

HOUSE BILL 1028

5 By: Representative Thompson
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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

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

11 (7) Transportation of minors for prohibited sexual conduct, § 5-
12 27-305;

13 (8) Employing or consenting to use of a child in sexual
14 performance, § 5-27-402;

15 (9) Pandering or possessing visual or print medium depicting
16 sexually explicit conduct involving a child, § 5-27-304;

17 (10) Producing, directing, or promoting sexual performance, § 5-
18 27-403;

19 (11) Computer child pornography, § 5-27-603;

20 (12) Computer exploitation of a child in the first degree, § 5-
21 27-605(a); and

22 (13) Distributing, possessing, or viewing matter depicting
23 sexually explicit conduct involving a child, § 5-27-602.

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

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

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

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

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/s/ Thompson