

1-1 By: Huffman S.B. No. 535
1-2 (In the Senate - Filed December 5, 2024; February 3, 2025,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 19, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 19, 2025,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 535 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the admissibility of evidence regarding a victim's past
1-20 sexual behavior in prosecutions of certain trafficking, sexual, or
1-21 assaultive offenses.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 38, Code of Criminal Procedure, is
1-24 amended by adding Article 38.372 to read as follows:

1-25 Art. 38.372. EVIDENCE OF VICTIM'S PAST SEXUAL BEHAVIOR.

1-26 (a) In this article, "victim" includes the victim of an extraneous
1-27 offense or act with respect to which evidence is introduced during
1-28 the prosecution of an offense described by Subsection (b).

1-29 (b) This article applies to a proceeding in the prosecution
1-30 of a defendant for an offense, or for an attempt or conspiracy to
1-31 commit an offense, under any of the following provisions of the
1-32 Penal Code:

1-33 (1) Section 20A.02(a)(3), (4), (7), or (8)
1-34 (Trafficking of Persons);

1-35 (2) Section 20A.03 (Continuous Trafficking of
1-36 Persons), if the offense is based partly or wholly on conduct that
1-37 constitutes an offense under Section 20A.02(a)(3), (4), (7), or
1-38 (8);

1-39 (3) Section 21.02 (Continuous Sexual Abuse of Young
1-40 Child or Disabled Individual);

1-41 (4) Section 21.11 (Indecency with a Child);

1-42 (5) Section 22.011 (Sexual Assault); or

1-43 (6) Section 22.021 (Aggravated Sexual Assault).

1-44 (c) In the prosecution of an offense described by Subsection
1-45 (b), reputation or opinion evidence of a victim's past sexual
1-46 behavior is not admissible.

1-47 (d) Except as provided by Subsection (e), in the prosecution
1-48 of an offense described by Subsection (b), evidence of a specific
1-49 instance of a victim's past sexual behavior is not admissible.

1-50 (e) A defendant may not offer evidence of a specific
1-51 instance of a victim's past sexual behavior unless the court:

1-52 (1) on a motion by the defendant made outside the
1-53 presence of the jury, conducts an in camera examination of the
1-54 evidence in the presence of the court reporter; and

1-55 (2) determines that the probative value of the
1-56 evidence outweighs the danger of unfair prejudice to the victim and
1-57 that the evidence:

1-58 (A) is necessary to rebut or explain scientific
1-59 or medical evidence offered by the attorney representing the state;

1-60 (B) concerns past sexual behavior with the

2-1 defendant and is offered by the defendant to prove consent, if the
 2-2 lack of consent is an element of the offense;
 2-3 (C) relates to the victim's motive or bias;
 2-4 (D) is admissible under Rule 609, Texas Rules of
 2-5 Evidence; or
 2-6 (E) is constitutionally required to be admitted.
 2-7 (f) The court shall seal the record of the in camera
 2-8 examination conducted under Subsection (e)(1) and preserve the
 2-9 examination record as part of the record in the case.

2-10 SECTION 2. Under the terms of Section 22.109(b), Government
 2-11 Code, Rule 412, Texas Rules of Evidence, is disapproved.

2-12 SECTION 3. The change in law made by this Act applies to the
 2-13 admissibility of evidence in a criminal proceeding that commences
 2-14 on or after the effective date of this Act. The admissibility of
 2-15 evidence in a criminal proceeding that commences before the
 2-16 effective date of this Act is governed by the law in effect on the
 2-17 date the proceeding commenced, and the former law is continued in
 2-18 effect for that purpose.

2-19 SECTION 4. This Act takes effect September 1, 2025.

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