

H.191

Introduced by Representatives Wright of Burlington, Brennan of Colchester,
Clark of Vergennes, Devereux of Mount Holly, Donaghy of
Poultney, Evans of Essex, Jerman of Essex, Komline of Dorset,
McDonald of Berlin, Morrissey of Bennington, Scheuermann of
Stowe, Townsend of Randolph, Waite-Simpson of Essex and
Young of St. Albans City

Referred to Committee on

Date:

Subject: Evidence; prior bad acts; sex offenders

Statement of purpose: This bill proposes to permit the introduction of
evidence at trial of a defendant's prior bad acts in cases involving sexual
abuse.

An act relating to permitting evidence of prior bad acts in sexual abuse trials

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. Rule 413 of the Vermont Rules of Evidence is added to read:

RULE 413. EVIDENCE OF SIMILAR CRIMES IN PROSECUTIONS OF
SEXUAL CRIMES

(a) In a criminal case in which the defendant is accused of a crime set forth
in chapter 59 (lewdness and prostitution), chapter 64 (sexual exploitation of

1 children), chapter 72 (sexual assault) of Title 13 or §§ 2802 (disseminating
2 indecent material to a minor in the presence of the minor), 2802a
3 (disseminating indecent material to a minor outside the presence of the minor)
4 and 2804b (displaying obscene material to minors) of chapter 63 (obscenity) of
5 Title 13, evidence of the defendant's commission of another offense may be
6 considered for its bearing on any matter to which it is relevant.

7 (b) In a case in which the state intends to offer evidence under this rule, the
8 prosecutor or attorney for the state shall disclose the evidence to the defendant,
9 including statements of witnesses or a summary of the substance of any
10 testimony that is expected to be offered, at least 15 days before the scheduled
11 date of trial or at such later time as the court may allow for good cause.

12 (c) This rule shall not be construed to limit the admission or consideration
13 of evidence under any other rule.

14 (d) For purposes of this rule, "offense" means a crime or delinquent act, or
15 attempt or conspiracy to commit any crime or delinquent act of this state or of
16 any jurisdiction of the United States, including a state, territory,
17 commonwealth, the District of Columbia, or military, federal, or tribal territory
18 and crimes or delinquent acts that involved:

19 (1) any conduct proscribed by chapter 109A of Title 18, United States
20 Code;

- 1 (2) contact, without consent, between any part of the defendant's body or
- 2 an object and the genitals or anus of another person;
- 3 (3) contact, without consent, between the genitals or anus of the
- 4 defendant and any part of another person's body;
- 5 (4) deriving sexual pleasure or gratification from the infliction of death,
- 6 bodily injury, or physical pain on another person; or
- 7 (5) an attempt or conspiracy to engage in conduct described in
- 8 paragraphs (d)(1)-(4) of this rule.