

SB1814



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1814

Introduced 2/15/2013, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

725 ILCS 5/115-7.3

Amends the Code of Criminal Procedure of 1963. Adds child abduction involving luring of a child to the list of offenses for which evidence of the prior commission of that offense or other listed offense may be introduced in the trial or retrial of the accused for a listed offense to prove a propensity of the accused.

LRB098 08055 MRW 38146 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 115-7.3 as follows:

6 (725 ILCS 5/115-7.3)

7 Sec. 115-7.3. Evidence in certain cases.

8 (a) This Section applies to criminal cases in which:

9 (1) the defendant is accused of predatory criminal
10 sexual assault of a child, aggravated criminal sexual
11 assault, criminal sexual assault, aggravated criminal
12 sexual abuse, criminal sexual abuse, child pornography,
13 aggravated child pornography, ~~or~~ criminal transmission of
14 HIV, or child abduction as defined in paragraph (10) of
15 subsection (b) of Section 10-5 of the Criminal Code of 1961
16 or the Criminal Code of 2012;

17 (2) the defendant is accused of battery, aggravated
18 battery, first degree murder, or second degree murder when
19 the commission of the offense involves sexual penetration
20 or sexual conduct as defined in Section 11-0.1 of the
21 Criminal Code of 2012; or

22 (3) the defendant is tried or retried for any of the
23 offenses formerly known as rape, deviate sexual assault,

1 indecent liberties with a child, or aggravated indecent
2 liberties with a child.

3 (b) If the defendant is accused of an offense set forth in
4 paragraph (1) or (2) of subsection (a) or the defendant is
5 tried or retried for any of the offenses set forth in paragraph
6 (3) of subsection (a), evidence of the defendant's commission
7 of another offense or offenses set forth in paragraph (1), (2),
8 or (3) of subsection (a), or evidence to rebut that proof or an
9 inference from that proof, may be admissible (if that evidence
10 is otherwise admissible under the rules of evidence) and may be
11 considered for its bearing on any matter to which it is
12 relevant.

13 (c) In weighing the probative value of the evidence against
14 undue prejudice to the defendant, the court may consider:

15 (1) the proximity in time to the charged or predicate
16 offense;

17 (2) the degree of factual similarity to the charged or
18 predicate offense; or

19 (3) other relevant facts and circumstances.

20 (d) In a criminal case in which the prosecution intends to
21 offer evidence under this Section, it must disclose the
22 evidence, including statements of witnesses or a summary of the
23 substance of any testimony, at a reasonable time in advance of
24 trial, or during trial if the court excuses pretrial notice on
25 good cause shown.

26 (e) In a criminal case in which evidence is offered under

1 this Section, proof may be made by specific instances of
2 conduct, testimony as to reputation, or testimony in the form
3 of an expert opinion, except that the prosecution may offer
4 reputation testimony only after the opposing party has offered
5 that testimony.

6 (f) In prosecutions for a violation of Section 10-2,
7 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-3.05, 12-4,
8 12-13, 12-14, 12-14.1, 12-15, 12-16, or 18-5 of the Criminal
9 Code of 1961 or the Criminal Code of 2012, involving the
10 involuntary delivery of a controlled substance to a victim, no
11 inference may be made about the fact that a victim did not
12 consent to a test for the presence of controlled substances.

13 (Source: P.A. 96-1551, eff. 7-1-11; 97-1109, eff. 1-1-13;
14 97-1150, eff. 1-25-13.)