

HJR 16 -- ADMISSIBILITY OF EVIDENCE

SPONSOR: McCaherty

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Crime Prevention and Public Safety by a vote of 14 to 0.

Upon voter approval, this proposed constitutional amendment allows relevant evidence of prior criminal acts, whether charged or uncharged, to be admissible in the prosecution for a crime of a sexual nature involving a victim under 18 years of age for the purpose of corroborating the victim's testimony or demonstrating the defendant's propensity to commit the crime with which he or she is presently charged.

The court may exclude relevant evidence of prior criminal acts if the probative value is substantially outweighed by the danger of unfair prejudice.

PROPONENTS: Supporters say that the amendment will help protect children who are victims of sexual abuse and violence by allowing certain propensity evidence in cases of child sexual crimes. The prosecutor will be able to utilize this information in these types of cases, which is especially helpful since having a child victim testify can lead to a difficult situation. Currently, federal law and other states allow this type of evidence. The Missouri Supreme Court has never explicitly stated that this type of evidence is prohibited, but over the years of case law the Supreme Court has interpreted the Missouri Constitution to prohibit it. Section 566.025, RSMo, specifically allows this type of propensity evidence, but a Supreme Court case interpreted this section to violate the Missouri Constitution. The amendment will remedy this conflict.

Testifying for the bill were Representative McCaherty; Missouri Office of Prosecution Services; and Missouri Kids First.

OPPONENTS: There was no opposition voiced to the committee.