

STORAGE NAME: h0861a.cp

DATE: February 21, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME AND PUNISHMENT
ANALYSIS**

BILL #: HB 861

RELATING TO: Sexual Abuse Cases

SPONSOR(S): Representative Detert

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME AND PUNISHMENT YEAS 6 NAYS 0
 - (2) JUDICIARY
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The "corpus delicti" rule evolved out of common law to protect persons from conviction of crimes they confessed to out of mistake, derangement or fabrication. It requires independent proof that a crime has been committed before a defendant's statement can be introduced at trial. In recent years the rule has been abandoned or significantly modified in other states and in federal courts. Under the Federal approach, the defendant's confession may be introduced "if corroboration supports the essential facts admitted sufficiently to justify a jury inference of their truth."

HB 861 allows the defendant's confession or admission to certain crimes to be admissible at trial without the state having to prove the "corpus delicti" of the crime. In order to admit such evidence the court must conduct a hearing outside the presence of the jury and find that the confession or admission is trustworthy.

The bill would apply to prosecutions for sex crimes committed against children, aggravated child abuse, sexual battery, contributing to the delinquency or dependency of a minor, or an attempt, conspiracy or solicitation to commit any of these crimes.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The term "corpus delicti" refers to proof independent of a confession that a crime charged was in fact committed. See, Meyers v. State, 704 So.2d 1368 (Fla. 1997), Bassett v. State, 449 So.2d 803 (Fla. 1984). In order to admit a defendant's confession in a criminal trial, the state must first prove the corpus delicti of the crime either by direct or circumstantial evidence. See, State v. Allen, 335 So.2d 823, 825 (Fla.1976). It is enough if the evidence tends to show that the crime was committed. Although proof beyond a reasonable doubt is not required, the evidence must at least show each element of the crime before the confession is admissible. See, Meyers, *supra*, and Burks v. State, 613 So.2d 441 (Fla.1993).

The corpus delicti rule evolved out of common law to protect persons from conviction of crimes they confessed to out of mistake, derangement or fabrication. See, Burks, *supra*.

In recent years the rule has been abandoned or significantly modified in other states and in federal courts.¹ Under the Federal approach, the defendant's confession may be introduced "if corroboration supports the essential facts admitted sufficiently to justify a jury inference of their truth." Opper v. United States, 348 U.S. 84 (1954).

Justice Leander Shaw of the Florida Supreme Court has commented:

The rule requiring that the corpus delicti be proved before a confession can be admitted is an anachronism. It is a technicality that impedes rather than fosters the search for truth. I would therefore recede from cases requiring that the corpus delicti be proved before a confession can be admitted into evidence and adopt the "trustworthiness" test announced in the above cases.

Burks, *supra*, (Shaw concurring and dissenting) at 446.

¹

New Jersey, North Carolina, New Hampshire, New Mexico, and Hawaii are examples of states which have abandoned the rule.

C. EFFECT OF PROPOSED CHANGES:

HB 861 eliminates the requirement, that the state must produce independent evidence of a crime to allow a jury to hear a criminal defendant's confession. The bill would only apply to prosecutions for the following crimes:

1. Sexual Battery, under s. 794.011;
2. Unlawful Sexual Activity With Certain Minors, under s. 794.05;
3. Lewd, lascivious, or indecent assault or act upon or in the presence of a child, under s. 800.04;
4. Incest, under s. 826.04;
5. Aggravated Child Abuse, under 827.03;
6. Contributing to the Delinquency or Dependency of a Child, under s. 827.04;
7. Sexual Performance by a Child, under s. 827.071; or
8. Any other crime involving sexual abuse of another.

HB 861 allows the defendant's confession or admission to any of the above crimes, or an attempt, conspiracy or solicitation to commit any of the above listed crimes, to be admissible at trial without the state having to prove the "corpus delicti" of the crime. In order to admit such evidence the court must conduct a hearing outside the presence of the jury and find that the confession or admission is trustworthy. Before making a finding that a defendant's statement is trustworthy, the state must prove by a preponderance of the evidence that there is sufficient corroborating evidence which tends to establish the statement's trustworthiness. The bill authorizes the use of hearsay evidence at the hearing.

In addition, the bill requires the court to provide the factual basis for its ruling on the record.

D. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

There may be some minor fiscal impact caused by this bill as a result of the increased likelihood of conviction at trial of persons accused of the enumerated crimes who would have escaped conviction under the current law.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

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A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

This bill modifies the requirements for admission, during trial, of the defendant's confession or admissions to specific crimes. It does not affect the burden required to convict a defendant accused of these crimes. A jury must find the defendant guilty beyond a reasonable doubt based on the confession and any other evidence before the defendant could be convicted.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

Staff Director:

David M. De La Paz

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