

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 125 w/CS Accessory after the fact
SPONSOR(S): Carroll
TIED BILLS: None **IDEN./SIM. BILLS:** SB 142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety & Crime Prevention</u>	<u>17 Y, 0 N</u>	<u>Cole</u>	<u>De La Paz</u>
2) <u>Public Safety Appropriations Subcommittee</u>	<u></u>	<u>Davis</u>	<u>DeBeaugrine</u>
3) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill removes the prohibition that prevents family members from being charged as an accessory after the fact if they give aid to a known felony offender with the intent that the offender avoids or escapes detection, arrest, trial or punishment, if they know that the family member has committed a crime and that the crime committed is a first or second degree felony. The charge of accessory after the fact is one level less than the charge the offender has committed. The bill maintains the exemption for family members if the crime that was committed was a third degree felony.

This bill appears to have an insignificant fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Jason Anthony Gucwa, 29, was found murdered in March of 2003 in Flagler County. Investigators from the Flagler County Sheriff's Office, Daytona Beach Police Department, Florida Department of Law Enforcement, and State Attorney's Office are continuing to look for Stephen and Wursula Workman as persons of interest in the case. Stephen Workman's mother's home was searched twice for possible evidence linking he and his wife to the crime. Workman was last seen getting off a Greyhound bus in Minnesota. His wife is known to be back in her native Brazil. Stephen Workman's mother is believed to have materially assisted both her son and his wife flee from prosecution.

Current law prohibits family members from being charged as an accessory after the fact if they assist a family member that they know has committed a felony,¹ in avoiding or escaping detection, arrest, trial or punishment. This bill would remove that prohibition and allow law enforcement to prosecute family members that participate in such activity as an accessory after the fact if they know that the family member has committed a crime and that the crime committed is a first or second degree felony. The exemption for family members would remain intact if the crime involved is a third degree felony.

C. SECTION DIRECTORY:

Section 1: Names the legislation the "Jason A. Gucwa Act."

Section 2: Amends s. 777.03, F.S., relating to accessories after the fact.

Section 3: Reenacts paragraph (h) of subsection (3) of s. 921.0022, F.S., to incorporate the amendments to s. 777.03, F.S.

Section 4: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ This prohibition does not currently apply in cases involving child abuse.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Corrections reports that as of October 2003, a review of their offender populations reflected 23 offenders admitted to supervision last year and 25 into the state prison system for the offense of Accessory After the Fact. Therefore any impact would be minimal. The Criminal Justice Impact Conference met on February 16, 2004, and determined the bill has an insignificant prison bed impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill is exempt from the mandates provision because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Three amendments were adopted by the Public Safety & Crime Prevention Committee that reinstated the exemption for family members when the crime is a third degree felony. When the crime involved is a first or second degree felony, the family exemption is removed.