

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 367
SPONSOR(S): Carroll
TIED BILLS:

Accessories to a Crime

IDEN./SIM. BILLS: SB 730

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	_____	Ferguson	Kramer
2) Justice Appropriations Committee	_____	_____	_____
3) Justice Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 367 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 first or second degree felony. HB 367 maintains the exemption for family members if the offender's underlying crime is a third degree felony.

HB 367 appears to have an insignificant fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility- HB 367 imposes criminal penalties for a family member who acts as an accessory after the fact.

Empower families- HB 367 would allow prosecution of family members as an accessory after the fact if they know that the family members underlying crime is a first or second degree felony.

B. EFFECT OF PROPOSED CHANGES:

Current law:

Section 777.03 (1)(a), F.S., 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. Family member includes any person standing in the relationship of husband or wife, parent or grandparent, child or grandchild, brother or sister, by *consanguinity* or *affinity* to the offender. Consanguinity and affinity are synonymous with blood and marriage.² The underlying legislative purpose is to safeguard the family unit.³ "In other words, the phrase 'by consanguinity or affinity' is merely a substitute for a cumbersome list of 'in-laws' and 'step-relatives' who are entitled to . . . protection."⁴ Thus, 777.03 (1)(a) provides an exhaustive list of protected family members.⁵

Background:

Jason Anthony Gucwa, 29, was found murdered in March of 2003 in Flagler County. Investigators from the Flagler Sheriff's Office, Daytona Beach Police Department, Florida Department of Law Enforcement, and the 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 for prosecution.

Proposed changes:

HB 367 would remove the prohibition that prevents family members from being charged as an accessory after the fact if they assist a family member that they know has committed a felony. This would allow law enforcement to prosecute family members that participate as an accessory after the fact if they know that the family members underlying crime is a first or second degree felony. The exemption for family members would remain intact if the offender's underlying crime is a third degree felony.

C. SECTION DIRECTORY:

Section 1. Names HB 367 the "Jason A. Gucwa Act."

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

¹ This prohibition does not currently apply in cases involving child abuse. See 777.03 (1)(b) F.S.

² See State v. C.H., 421 So.2nd 62, 64 (Fla. 4th DCA 1982).

³ Id.

⁴ Id.

⁵ See Brown v. State, 672 So.2nd 861, 863-64 (Fla. 3rd DCA 1996) (holding immunity does not extend to persons whose sole familial relationship to the offender is that of cousin).

Section 3. Provides an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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 Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. This bill will allow a family member to be convicted of accessory after the fact for aiding a known felony offender. In 2004, the conference determined that HB 125, which was substantially similar to this bill, would have 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 & COMBINED BILL CHANGES