

1 **SSB 5627** - H COMM AMD
2 By Committee on Judiciary

3 Strike everything after the enacting clause and insert the
4 following:

5 "NEW SECTION. **Sec. 1.** A new section is added to chapter 10.58
6 RCW to read as follows:

7 (1) In criminal and juvenile offense proceedings where
8 independent proof of the corpus delicti is absent, and the alleged
9 victim of the crime is dead or incompetent to testify, a lawfully
10 obtained and otherwise admissible confession, admission, or other
11 statement of the defendant shall be admissible into evidence if
12 there is substantial independent evidence that would tend to
13 establish the trustworthiness of the confession, admission, or
14 other statement of the defendant.

15 (2) In determining whether there is substantial independent
16 evidence that the confession, admission, or other statement of the
17 defendant is trustworthy, the court shall consider, but is not
18 limited to:

19 (a) Whether there is any evidence corroborating or
20 contradicting the facts set out in the statement, including the
21 elements of the offense;

22 (b) The character of the witness reporting the statement and
23 the number of witnesses to the statement;

24 (c) Whether a record of the statement was made and the timing
25 of the making of the record in relation to the making of the
26 statement; and/or

27 (d) The relationship between the witness and the defendant.

28 (3) Where the court finds that the confession, admission, or
29 other statement of the defendant is sufficiently trustworthy to be
30 admitted, the court shall issue a written order setting forth the
31 rationale for admission.

1 (4) Nothing in this section may be construed to prevent the
2 defendant from arguing to the jury or judge in a bench trial that
3 the statement is not trustworthy or that the evidence is otherwise
4 insufficient to convict."

EFFECT: Limits application of the bill to criminal proceedings where the victim is either dead or incompetent to testify. Specifically provides that the court must consider whether there is any evidence corroborating or contradicting the elements of the offense set out in the statement in determining whether the statement is trustworthy. Combines two of the other factors the court must consider into one subsection. (These changes make the bill identical to EHB 1427.)