

# SENATE BILL REPORT

## EHB 1427

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As Reported By Senate Committee On:  
Judiciary, April 4, 2003

**Title:** An act relating to the admissibility of confessions and admissions in criminal and juvenile offense proceedings.

**Brief Description:** Allowing confessions and other admissions to be admitted into evidence if substantial independent evidence establishes the trustworthiness of the statement.

**Sponsors:** Representatives Lantz, Delvin, O'Brien, Boldt, Blake, Hankins, Fromhold, Cody, Pearson, Mastin, Hunt, Roach, Moeller, Kagi, Benson, Rockefeller, McMahan and McDonald.

**Brief History:**

**Committee Activity:** Judiciary: 4/3/03, 4/4/03 [DP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline, Roach and Thibaudeau.

**Staff:** Aldo Melchiori (786-7439)

**Background:** In a criminal prosecution, the state cannot rely solely on the confession of a defendant. There must be proof, independent of the defendant's confession, that a crime was committed. This is known as the "corpus delicti" (the body of a crime). The corpus delicti doctrine holds that if evidence independent of the confession does not exist, then the defendant cannot be prosecuted. Under current Washington law, a defendant's confession may not necessarily be admitted into evidence, even if there is some independent evidence that a criminal act has occurred. The corpus delicti doctrine is designed to prevent convictions based solely on the defendant's sense of guilt. It is meant to protect against confessions made or misinterpreted because of coercion, mistake, or mental incompetency.

In 1954, the federal government adopted a less restrictive "trustworthiness" doctrine. It requires that the state produce substantial independent evidence tending to establish the trustworthiness of the confession. The evidence does not need to establish the entire body of the crime. It only needs to establish that the essential facts of the confession are supported enough to justify an inference that the confession is true. The federal rule has been substantially adopted in Alaska, California, Georgia, Hawaii, Illinois, Minnesota, New Hampshire, New Mexico, North Carolina, Oklahoma, Tennessee, and Wisconsin.

**Summary of Bill:** In a criminal case, if there is substantial independent evidence that tends to establish the trustworthiness of a confession and the alleged victim is dead or incompetent to testify, the confession may be admissible. In making the determination, the court

considers the character of the witness reporting the statement, the number of witnesses to the statement, whether a record of the confession exists and when it was made, and the relationship between the witness and the defendant. The court issues a written order if the confession is admitted.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This issue is a priority for the Washington Association of Prosecuting Attorneys. Prosecutors and the defense bar have worked together to obtain agreement on this language. It will not affect criminal investigations or prosecuting decisions, but it will allow the admission of trustworthy confessions into evidence for homicide and infant abuse cases.

**Testimony Against:** None.

**Testified:** PRO: Tom McBride, WAPA; Seth Dawson, Washington State Association of Child Advocacy Centers; Sherry Appleton, WDA, WACDL.