

# HOUSE BILL REPORT

## HB 2362

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**As Reported By House Committee On:**  
Law & Justice

**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 Mastin and Sheahan.

**Brief History:**

**Committee Activity:**

Law & Justice: 1/16/98, 1/20/98 [DP].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

**Staff:** Edie Adams (786-7180).

**Background:** In a prosecution for a crime, the prosecution has to prove that a crime has been committed and that the particular defendant charged is responsible for committing the crime. The first requirement, proving that a crime has been committed, is often referred to as the "corpus delicti," which literally means "the body of the crime." For example, to establish the corpus delicti in a murder case, the prosecution has to show that a person died and that the person died by criminal means.

Long ago, courts in the United States established a common law doctrine known as the corpus delicti doctrine. This doctrine provides that the prosecution in a criminal case may not establish the corpus delicti solely by the confession or admission of the defendant. The corpus delicti doctrine requires that a confession or admission may only be admitted if there is independent, corroborating evidence of the corpus delicti.

The corpus delicti doctrine developed as a result of distrust of the reliability of a confession coupled with the view that juries are likely to accept confessions uncritically. The distrust of the reliability of confessions was founded on a number of concerns, including the possibilities that the confession was: elicited by coercion or force; misreported or misconstrued; based on a mistaken perception of the facts or law; or falsely given by a mentally disturbed individual.

The level of independent, corroborative evidence that is required under the corpus delicti doctrine varies between the federal courts and many state courts. Washington follows the traditional and stricter corpus delicti doctrine which provides that the independent, corroborative evidence must, by itself, establish a prima facie case of the corpus delicti.

In 1954, the United States Supreme Court, in Opper v. United States, adopted what is referred to as the "trustworthiness" doctrine. The "trustworthiness" doctrine provides that a defendant's confession or admission may be admitted to establish the corpus delicti if there is substantial independent evidence that tends to establish the trustworthiness of the confession or admission. The independent evidence does not need to establish, by itself, the corpus delicti. It need only support the essential facts of the confession or admission sufficiently to justify a jury inference that the confession or admission is true. In Smith v. United States, the Court elaborated on the trustworthiness doctrine, requiring corroboration for elements of the offense established only by the confession or admission.

The corpus delicti doctrine has been criticized by legal scholars and commentators on a number of grounds, including that: it has outlived its usefulness now that many other safeguards exist to protect against unreliable confessions; and it places an unrealistic burden on the prosecution since modern criminal law has made crimes more numerous and complex. A majority of states continue to follow the traditional corpus delicti doctrine that a confession or admission may not be admitted unless there is independent evidence that, by itself, establishes a prima facie case of the corpus delicti. However, many states now follow the "trustworthiness" doctrine of corpus delicti as adopted by the United States Supreme Court.

**Summary of Bill:** Legislative findings are made that: the "corpus delicti" doctrine originated when there were few legal protections against coerced confessions and that these protections are now available; the jury system provides strong protections against convictions based upon unreliable confessions; the corpus delicti doctrine can result in severe injustice; and the doctrine has been widely criticized by legal scholars and repudiated by the United States Supreme Court.

A lawfully obtained admission or confession of a defendant in a criminal or juvenile offense proceeding shall be admitted into evidence if there is substantial independent evidence that tends to establish the trustworthiness of the confession or admission. It is not necessary that the independent evidence, by itself, establish the corpus delicti.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** The corpus delicti doctrine can result in the injustice of letting a guilty criminal go free. The Washington Supreme Court recently adopted an even stricter standard that is extremely burdensome on the prosecution and in some cases impossible to comply with. This decision makes it impossible to convict in an infanticide case involving suffocation. The doctrine is ancient, and we don't face the same dangers now that the doctrine was designed to protect against, such as coerced confessions. This bill provides a more flexible rule that still protects the rights of the defendant.

**Testimony Against:** None.

**Testified:** Representative Mastin, prime sponsor; Art Curtis, Clark County Prosecuting Attorney (pro); Greg Canova, Office of the Attorney General, Criminal Justice Division (pro); Seth Fine, Snohomish County Prosecuting Attorney (pro); and Russ Hauge, Kitsap County Prosecuting Attorney and Washington Association of Prosecuting Attorneys (pro).