S-1604.1

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**SUBSTITUTE SENATE BILL 5067**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Padden and Darneille)

AN ACT Relating to informant and accomplice evidence and testimony; adding new sections to chapter 10.58 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that evidence and testimony from accomplices and criminal informants are inherently suspect because a system in which accomplices and criminal informants are rewarded by the state produces dangerous incentives to manufacture or fabricate evidence.

The purpose of this act is to keep unreliable accomplice and informant testimony out of court. This act is intended to address the unreliability of accomplice and criminal informant evidence and testimony by ensuring that the jury is fully informed when an accomplice or informant testifies.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accomplice" means a person who knowingly promotes or facilitates the commission of a crime and either solicits, commands, encourages, or requests another person to commit the crime; or aids or agrees to aid another person in planning or committing the crime.

(2) "Consideration" means something of value including, but not limited to, any of the following: Favorable treatment, immunity, a promise that the testimony will not be used in any case against the witness, a plea bargain, bail consideration, reduction or modification of sentence, or any other leniency, compensation, benefit, financial assistance, reward, or amelioration of current or future conditions of incarceration.

(3) "Informant" means any criminal suspect, whether or not he or she is detained or incarcerated, who provides information in exchange for a deal, promise, inducement, or benefit, or expectation thereof. This term does not include victims of the crime being prosecuted or experts.

NEW SECTION. **Sec.**  (1) When a witness who is not an expert witness, receives, expects to receive, or has been promised consideration in exchange for his or her testimony, the judge and jury shall consider the potential that the consideration exchanged may influence the testimony. Juries shall examine the testimony with greater caution than the testimony of other witnesses whether the witness testifies for the state or for the defense.

(2) A jury may not convict a defendant based on the uncorroborated testimony of an accomplice or an informant unless the court cautions the jury to subject the testimony to careful examination in light of other evidence presented and the jury finds the testimony true beyond a reasonable doubt.

NEW SECTION. **Sec.**  When a witness is alleged, or has admitted to be an accomplice, and has pleaded guilty to a crime arising out of the same events for which the defendant is on trial, the jury may only consider the guilty plea in determining the witness's credibility and not as evidence against the defendant.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Sections 2 through 4 of this act are each added to chapter 10.58 RCW.

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