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SENATE BILL 6503

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State of Washington                      64th Legislature                      2016 Regular Session

By Senators Padden and Frockt

Read first time 01/22/16. Referred to Committee on Law & Justice.

1            AN ACT Relating to the reliability of incentivized evidence and  
2 testimony; and adding new sections to chapter 10.58 RCW.

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

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

6            For the purposes of this section and section 2 of this act, the  
7 following definitions apply:

8            (1) "Benefit" means any deal, payment, promise, leniency,  
9 inducement, or other advantage offered by the state to an informant  
10 in exchange for his or her testimony.

11            (2) "Informant" means any criminal suspect or suspected  
12 accomplice, whether or not he or she is detained or incarcerated, who  
13 provides information or testimony in exchange for, or in expectation  
14 of, a benefit. An informant does not include an expert or a victim of  
15 the crime being prosecuted.

16            (3) "Statement" means an oral, written, or nonverbal  
17 communication related to the crime charged.

18            NEW SECTION.    **Sec. 2.**    A new section is added to chapter 10.58  
19 RCW to read as follows:

1 (1) Unless waived by the defense and at the discretion of the  
2 court, before the state may introduce any live or prior testimony of  
3 an informant in a trial or other criminal proceeding, the court may  
4 assess the informant's statement to determine whether the time and  
5 place, substance, and circumstances provide sufficient indicia of  
6 reliability to be considered by the jury. The court may make this  
7 determination outside the presence of the jury by considering the  
8 following nonexclusive factors:

9 (a) The complete criminal history of the informant, including any  
10 pending criminal charges or investigations in which the informant is  
11 a suspect;

12 (b) Any benefit the state has provided or may provide in the  
13 future to the informant;

14 (c) The substance of any statement allegedly given by the  
15 defendant to the informant and the substance of any informant  
16 statement to law enforcement implicating the defendant in the crime  
17 charged;

18 (d) The time and place of the statement allegedly given by the  
19 defendant to the informant, the time and place of the disclosure of  
20 the informant's statement to law enforcement officials, and the names  
21 of all persons present when the statement was allegedly given by the  
22 defendant to the informant;

23 (e) Whether at any time the informant modified or recanted his or  
24 her testimony or statement and, if so, the time and place of the  
25 modification or recantation, the nature of the modification or  
26 recantation, and the names of the persons who were present at the  
27 modification or recantation;

28 (f) Other cases in which the informant offered to provide  
29 information to or testify for the state in exchange for a benefit,  
30 whether or not a benefit was received;

31 (g) Other cases in which the informant testified, including those  
32 in which the informant received any benefit in exchange for or as a  
33 result of that testimony;

34 (h) If known, the relationship between the defendant and the  
35 informant, including the amount of time they were incarcerated in the  
36 same custodial section of the jail or prison;

37 (i) Whether the informant's statement or prior testimony is  
38 corroborated by other evidence not offered by an informant tending to  
39 connect the defendant with the crime charged; and

1           (j) Any other information the court considers relevant to the  
2 reliability of the informant or the informant's testimony.

3           (2) After considering the factors set forth in subsection (1) of  
4 this section, the court may exclude the informant's testimony unless  
5 the court finds sufficient indicia of its reliability. The court  
6 shall state on the record the basis for its decision.

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