



21 February 2017

The Honorable Randolph Bracy
The Florida Senate
404 South Monroe Street, Room 213 SOB
Tallahassee, FL 32399-1100

Re: CS/SB 550 Exemption/Identity of Witness to a Murder

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Dear Senator Bracy:

We are writing to express our opposition to CS/SB 550, creating an exemption for information identifying anyone who has witnessed a murder. This legislation is not only unwarranted, Senator Bracy, it offends our constitutional right of access to government information and is antithetical to our criminal justice system and rights guaranteed under the U.S. Constitution.

The proposed bill suffers from a host of constitutional problems, both state and federal. The statement of public necessity is based on hypothetical concerns and provides not evidence of actual harm that has occurred. Under the standard found in Art. I, s. 24(c), Fla. Con., the necessity standard must be factually specific and concrete; a possible harm or potential threat does not meet the constitutional standard for the creation of new exemptions. Absent concrete evidence, CS/SB 550 simply *alleges* a reduced likelihood of reporting by witnesses. Contrarily, many anonymous crime-reporting agencies like CrimeLine and Crime Stoppers, already exist to alleviate any such concerns.

Moreover, the bill does not define who or what qualifies as a “witness.” Are we to assume a “witness” is the person who filed a police report when the crime occurred? Is a “witness” a person present at the scene of the crime? Or is a “witness” the person called upon to testify at trial, whether or not the person was present at the time the crime occurred? And once that person testifies in an open courtroom, how is his or her identity to be shielded? Not knowing how “witness” is to be interpreted again implicates the impermissibly broad and vague language of this bill.

We are certainly sympathetic to the concerns raised by those in support of this legislation, Senator Bracy. However, CS/SB 550 contains insurmountable constitutional and foundational flaws. Not only does the legislation fail to meet the standard for creating an exemption under the state constitution, there are serious conflicts with the U.S. Constitution and criminal justice jurisprudence as well. Given that judges in criminal trials have the authority to protect the identity of a witness and the insurmountable constitutional flaws, we respectfully request withdrawal of CS/SB 550.

Thank you for considering our concerns, Senator Bracy. If you have any questions or if we can assist you in any way, please do not hesitate to contact us.

Sincerely,



Barbara A. Petersen, President

Cc: The Honorable Joe Negron, President, The Florida Senate
Jon Kaney, General Counsel, First Amendment Foundation
Sam Morley, General Counsel, Florida Press Association