
DIGEST

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HB 535 Original

2020 Regular Session

Marcelle

Abstract: Adds "accessory before the fact" to the list of possible parties to a crime, provides penalties for an accessory before the fact, and provides for the procedure by which an accessory before the fact and an accessory after the fact may be resentenced.

Present law provides for the following parties to crimes: principal and accessory after the fact.

Present law provides that "principals" are all persons concerned in the commission of a crime whether present or absent, and whether they directly commit the act, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime.

Proposed law adds "accessory before the fact" to the list of possible parties to a crime, and amends the present law definition of "principal" to no longer include persons who "aid and abet" in the commission of the a crime.

Proposed law defines "accessory before the fact" as any person concerned in the commission of a crime whether present or absent, and who aids and abets the principal in its commission, or who directly or indirectly counsels or procures the principal to commit the crime.

Proposed law provides for the following penalties for an "accessory before the fact":

- (1) If the offense is punishable by life imprisonment, the accessory before the fact shall be imprisoned at hard labor for not less than five years nor more than 15 years.
- (2) If the offense is theft or receiving stolen things and is not punishable as a felony, the accessory before the fact shall be fined not more than \$100, imprisoned for not more than six months, or both.
- (3) If the offense is receiving stolen things, and is punishable as a felony, the accessory before the fact shall be fined not more than \$200, imprisoned for not more than one year, or both.
- (4) If the offense is theft of an amount not less than \$500 nor more than \$5,000, the accessory before the fact shall be fined not more than \$500, imprisoned for not more than one year, or both.
- (5) If the offense is theft of an amount over \$5,000, the accessory before the fact shall be fined not more than \$2,500, imprisoned with or without hard labor for not more than five years,

or both.

- (6) In all other cases, the accessory before the fact shall be fined, imprisoned, or both, in the same manner as the principal of the offense, except that such fine and term of imprisonment for the accessory before the fact shall not exceed half of the maximum fine prescribed for the offense nor shall it exceed half of the maximum term of imprisonment prescribed for the offense.

Present law provides that an accessory after the fact may be tried and punished, notwithstanding the fact that the principal felon may not have been arrested, tried, convicted, or amenable to justice.

Proposed law amends present law to provide that an accessory after the fact may not be tried and punished until the principal felon has been convicted.

Proposed law authorizes a defendant who is incarcerated after having been convicted as a principal in the commission of a crime, but who was actually an accessory before the fact as defined by proposed law or an accessory after the fact as defined by present law, to file a motion to reconsider the sentence if he served at least 1/3 of the sentence imposed upon conviction as a principal in the commission of a crime. Proposed law further provides for the procedure for such motions to reconsider.

(Amends R.S. 14:23, 24, and 25 and C.Cr.P. Art. 881.1(A)(1) and (2); Adds R.S. 14:24.1 and 24.2 and C.Cr.P. Art. 881.1(A)(5))