

SUBJECT: Informant exception for contributing to delinquency of a narcotic addict

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Hinojosa, Dunnam, Keel, Smith, Talton, Wise  
0 nays  
1 present, not voting — Garcia  
2 absent — Green, Nixon

SENATE VOTE: On final passage, April 22 — 30-0

WITNESSES: None

BACKGROUND: Under Health and Safety Code, sec. 463.011, contributing to the delinquency of a narcotic addict is a criminal offense punishable by a fine of up to \$500, a jail term of up to one year, or both.

DIGEST: SB 1116 would specify that sec. 463.011 does not apply to a law enforcement official working with a narcotic addict who is an informant. The bill would define “informant” as a person who has communicated information to a law enforcement official in connection with a law enforcement function.

This bill would take effect September 1, 1999, and would apply to an offense committed before, on, or after that date. It would not affect a final conviction for an offense under sec. 463.011 that existed on the effective date.

SUPPORTERS SAY: SB 1116 would be a boost to law enforcement by formally authorizing law enforcement officers to use informants who are narcotic addicts. Under current law, a police officer who uses a narcotic addict as an informant to penetrate a drug ring potentially could be subject to a fine or a jail term for encouraging a narcotic addict to enter a bar or associate with thieves or immoral persons. In Victoria County, the threat of prosecution has chilled the efforts of law enforcement officers to use informants to break up illegal drug operations.

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Because narcotic addicts have legitimate entrée into the illegal drug world, limiting their use as informants would impede effective drug surveillance. SB 1116 would enable police to use this tool to fight the illicit drug trade without changing the existing prohibition against contributing to the delinquency of a narcotic addict.

OPPONENTS  
SAY:

Rather than rely on the tainted evidence provided by drug addicts, more funding should be allocated to law enforcement for the use of undercover police officers. In time, an effective undercover police officer may penetrate a drug ring and provide the same information about drug operations that a drug addict could provide.