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## DIGEST

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Smith

HB No. 154

**Abstract:** Adds "aider and abettor" to the list of possible parties to a crime, provides penalties for aiding and abetting in a criminal offense, and provides for the procedure by which an aider and abettor 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 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 "aider and abettor" to the list of possible parties to a crime, and amends the definition of "principal" to no longer include persons who "aid and abet" in the commission of the act.

Proposed law defines "aider and abettor" as a person concerned in the commission of a crime who assists in the commission of the act constituting the offense but who does not directly commit the act and does not counsel or direct another person with the intent of causing that person to commit the offense.

Provides that an aider and abettor shall be sentenced pursuant to the provisions of proposed law, unless the person aids and abets in the commission of a sex offense in which case the person shall be punished as a principal in the commission of the offense.

Proposed law provides for the following penalties for an "aider and abettor":

- (1) If the offense is punishable by death or life imprisonment, the aider and abettor shall be imprisoned at hard labor for 10 to 50 years.
- (2) If the offense is punishable by death or life imprisonment and is against an individual who is a peace officer engaged in the performance of his lawful duty, the aider and abettor shall be imprisoned at hard labor for 20 to 50 years.
- (3) If the offense is theft or receiving stolen things, and is not punishable as a felony, the aider and abettor shall be fined not more than \$200, imprisoned for not more than six months, or both.

- (4) If the offense is receiving stolen things, and is punishable as a felony, the aider and abettor shall be fined not more than \$200, imprisoned for not more than one year, or both.
- (5) If the offense is theft of an amount not less than \$500 nor more than \$5,000, the aider and abettor shall be fined not more than \$500, imprisoned for not more than one year, or both.
- (6) If the offense is theft of an amount over \$5,000, the aider and abettor shall be fined not more than \$2,000, imprisoned, with or without hard labor, for not more than five years, or both.
- (7) In all other cases the aider and abettor 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 aider and abettor shall not exceed  $\frac{1}{2}$  of the maximum fine prescribed for the offense nor shall it exceed  $\frac{1}{2}$  of the maximum term of imprisonment prescribed for the offense.

Proposed law authorizes a defendant who is incarcerated after having been convicted as a principal in the commission of a crime, but who actually aided and abetted in the commission of the crime as defined by proposed law, to file a motion to reconsider the sentence if he served at least  $\frac{1}{3}$  of the sentence imposed upon conviction as a principal in the commission of the crime. Proposed law further provides 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 27.1 and C.Cr.P. Art. 881.1(A)(5))