



May 5, 2017

The Honorable Rick Scott
Office of the Governor
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

Re: VETO REQUEST CS/HB 111 Exemption/Identity of Witness to a Murder

Dear Governor Scott:

We are writing to request that you veto CS/HB 111, creating a public record exemption for information identifying anyone who has witnessed a murder. This legislation is not only unwarranted, Governor Scott, 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 bill suffers from a host of constitutional problems, both state and federal. The statement of public necessity is based on hypothetical concerns and does not provide any evidence of actual harm that has occurred. Under the standard found in Art. I, s. 24(c), Fla. Con., the necessity statement must be factually specific and concrete; a possible harm or potential threat does not meet the constitutional requirement for the creation of new exemptions. Absent concrete evidence, CS/HB 111 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 CS/HB 111 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.

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We are certainly sympathetic to the concerns raised by those in support of this legislation, Governor. However, CS/HB 111 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/HB 111.

For these reasons, Governor Scott, we respectfully request that you veto CS/HB 111. Thank you for attention to our concerns. If we may be of any assistance or answer any questions you may have, please do not hesitate to contact us.

Sincerely,



Barbara A. Petersen, President

Cc: Jon Kaney, General Counsel, First Amendment Foundation
Sam Morley, General Counsel, Florida Press Association
Gil Thelen, Executive Director, Florida Society of News Editors