

**Introduced by Senator Leno**

February 18, 2011

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An act to add Section 1111.5 to the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 687, as introduced, Leno. Criminal procedure: informants.

Existing law provides that a conviction cannot be had upon the testimony of an accomplice unless that testimony is corroborated by such other evidence which tends to connect the defendant with the commission of the offense and that corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

This bill would additionally provide that a judge or jury may not enter a judgment of conviction upon a criminal defendant, find a special circumstance true, or use a fact in aggravation based solely on the uncorroborated testimony of an in-custody informant, as defined. The bill would provide that corroboration shall not be deemed sufficient if it merely shows the commission of the offense, the special circumstance, or the circumstance in aggravation. The bill would provide that the corroboration of an in-custody informant shall not be provided by the testimony of another in-custody informant.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1111.5 is added to the Penal Code, to  
2 read:

1 1111.5. (a) A jury or judge may not convict a defendant, find  
2 a special circumstance true, or use a fact in aggravation based on  
3 the uncorroborated testimony of an in-custody informant. The  
4 testimony of an in-custody informant shall be corroborated by  
5 other evidence that connects the defendant with the commission  
6 of the offense, the special circumstance, or the evidence offered  
7 in aggravation to which the in-custody informant testifies.  
8 Corroboration is not sufficient if it merely shows the commission  
9 of the offense or the special circumstance or the circumstance in  
10 aggravation. Corroboration of an in-custody informant shall not  
11 be provided by the testimony of another in-custody informant  
12 unless the party calling the in-custody informant as a witness  
13 establishes by a preponderance of the evidence that the in-custody  
14 informant has not communicated with another in-custody informant  
15 on the subject of the testimony.

16 (b) As used in this section, “in-custody informant” means a  
17 person, other than a codefendant, percipient witness, accomplice,  
18 or coconspirator, whose testimony is based on statements allegedly  
19 made by the defendant while both the defendant and the informant  
20 were held in within a city or county jail, state penal institution, or  
21 correctional institution. Nothing in this section limits or changes  
22 the requirements for corroboration of accomplice testimony  
23 pursuant to Section 1111.