

[No. 451]

(HB 5928)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 483a.

The People of the State of Michigan enact:

750.483a Prohibited acts; penalties; "retaliate," "official proceeding," and "threaten or intimidate" defined. [M.S.A. 28.751(1)]

Sec. 483a. (1) A person shall not do any of the following:

(a) Withhold or refuse to produce any testimony, information, document, or thing after the court has ordered it to be produced following a hearing.

(b) Prevent or attempt to prevent through the unlawful use of physical force another person from reporting a crime committed or attempted by another person.

(c) Retaliate or attempt to retaliate against another person for having reported or attempted to report a crime committed or attempted by another person. As used in this subsection, "retaliate" means to do any of the following:

(i) Commit or attempt to commit a crime against any person.

(ii) Threaten to kill or injure any person or threaten to cause property damage.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the violation involves committing or attempting to commit a crime or a threat to kill or injure any person or to cause property damage, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(3) A person shall not do any of the following:

(a) Give, offer to give, or promise anything of value to any person to influence a person's statement to a police officer conducting a lawful investigation of a crime or the presentation of evidence to a police officer conducting a lawful investigation of a crime.

(b) Threaten or intimidate any person to influence a person's statement to a police officer conducting a lawful investigation of a crime or the presentation of evidence to a police officer conducting a lawful investigation of a crime.

(4) A person who violates subsection (3) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the violation involves committing or attempting to commit a crime or a threat to kill or injure any person or to cause property damage, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(5) A person shall not do any of the following:

(a) Knowingly and intentionally remove, alter, conceal, destroy, or otherwise tamper with evidence to be offered in a present or future official proceeding.

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(b) Offer evidence at an official proceeding that he or she recklessly disregards as false.

(6) A person who violates subsection (5) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(b) If the violation is committed in a criminal case for which the maximum term of imprisonment for the violation is more than 10 years, or the violation is punishable by imprisonment for life or any term of years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(7) It is an affirmative defense under subsection (3), for which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to provide a statement or evidence truthfully.

(8) Subsections (1)(a), (3)(b), and (5)(b) do not apply to any of the following:

(a) The lawful conduct of an attorney in the performance of his or her duties, such as advising a client.

(b) The lawful conduct or communications of a person as permitted by statute or other lawful privilege.

(9) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(10) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(11) As used in this section:

(a) "Official proceeding" means a proceeding heard before a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath, including a referee, prosecuting attorney, hearing examiner, commissioner, notary, or other person taking testimony or deposition in that proceeding.

(b) "Threaten or intimidate" does not mean a communication regarding the otherwise lawful access to courts or other branches of government, such as the lawful filing of any civil action or police report of which the purpose is not to harass the other person in violation of section 2907 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2907.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

(a) House Bill No. 5925.

(b) House Bill No. 5930.

(c) House Bill No. 5932.

Approved January 9, 2001.

Filed with Secretary of State January 9, 2001.

Compiler's note: House Bill No. 5925, referred to in enacting section 1, was filed with the Secretary of State January 9, 2001, and became P.A. 2000, No. 450, Eff. Mar. 28, 2001.

House Bill No. 5930, referred to in enacting section 1, was filed with the Secretary of State January 9, 2001, and became P.A. 2000, No. 452, Eff. Mar. 28, 2001.

House Bill No. 5932, referred to in enacting section 1, was filed with the Secretary of State January 9, 2001, and became P.A. 2000, No. 453, Eff. Mar. 28, 2001.
