



House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

TAMPERING WITH WITNESSES

House Bill 5930

Sponsor: Rep. Ken Bradstreet

House Bill 5931

Sponsor: Rep. Gerald Van Woerkom

Committee: Criminal Law and Corrections

Complete to 8-22-00

A SUMMARY OF HOUSE BILLS 5930 AND 5931 AS INTRODUCED 6-21-00

House Bill 5930 would amend the Penal Code (MCL 750.122) to prohibit and penalize tampering with witnesses. The bill would prohibit two types of tampering with witnesses, through the use of threats or by offering money or other items of value.

More specifically, the bill would prohibit giving, promising, or offering anything of value to an individual in order to influence his or her testimony (this could include encouraging the individual to avoid legal process, to withhold or give false testimony, or discouraging him or her from attending, testifying, or giving information at an official proceeding). The bill would also prohibit threatening or intimidating any person in order to influence his or her or someone else's testimony.

Tampering with a witness would be a felony, generally punishable by imprisonment for up to four years and/or a fine of up to \$2,000. However, if the violation was committed as part of a criminal case where the maximum term of imprisonment was more than ten years or was for life or any term of years, the crime of tampering with a witness would be punishable by up to ten years imprisonment. Furthermore, if the violation involved a threat to kill or cause serious physical injury, the crime would be punishable by up to 20 years imprisonment and/or a fine of up to \$5,000.

Anyone who violated any of the bill's provisions could also be charged with, convicted of, or punished for any other violation of law that arose during the same incident as the witness tampering. If a defendant was convicted of witness tampering in a criminal case where the maximum term of imprisonment was more than ten years or for life or any term of years, the term of imprisonment for that crime could be ordered to be served consecutively to any term of imprisonment imposed for any other crime that arose from the same transaction.

Finally, the bill would also make it a felony, punishable by up to four years imprisonment and/or a fine of up to \$2,000, for a person to retaliate, or attempt or threaten to retaliate, against a person for being a witness in an official proceeding. Retaliation would include threats to kill, injure, or cause property damage, and committing or attempting to commit a crime against the person who reported or tried to report the crime.

House Bills 5930 and 5931 (8-22-00)

House Bill 5930 is tie-barred to House Bill 5925, which would increase penalties for intimidating jurors; House Bill 5928, which would prohibit obstruction of justice; and House Bill 5932, which would increase the penalties for bribing jurors.

House Bill 5931, which would not take effect unless House Bill 5930 was also enacted, would amend the Code of Criminal Procedure's statutory sentencing guidelines (MCL 777.16f) to include tampering with or intimidating witnesses - a Class F crime against a public order with a 4 year statutory maximum; tampering with or intimidating a witness in a criminal case punishable by more than ten years imprisonment - a Class D crime against public order with a 10 year statutory maximum; and tampering with or intimidating a witness through the use of a threat to kill or cause serious physical injury - a Class B crime against a person with a 20 year statutory maximum; and retaliation against a witness - a Class F crime against a person with a 4 year statutory maximum.

Both bills would take effect on January 1, 2001.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.