

**SUBSTITUTE FOR
HOUSE BILL NO. 5930**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 122.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 122. (1) A PERSON SHALL NOT GIVE, OFFER TO GIVE, OR
2 PROMISE ANYTHING OF VALUE TO AN INDIVIDUAL FOR ANY OF THE FOLLOW-
3 ING PURPOSES:

4 (A) TO DISCOURAGE ANY INDIVIDUAL FROM ATTENDING A PRESENT OR
5 FUTURE OFFICIAL PROCEEDING AS A WITNESS, TESTIFYING AT A PRESENT
6 OR FUTURE OFFICIAL PROCEEDING, OR GIVING INFORMATION AT A PRESENT
7 OR FUTURE OFFICIAL PROCEEDING.

8 (B) TO INFLUENCE ANY INDIVIDUAL'S TESTIMONY AT A PRESENT OR
9 FUTURE OFFICIAL PROCEEDING.

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1 (C) TO ENCOURAGE ANY INDIVIDUAL TO AVOID LEGAL PROCESS, TO
2 WITHHOLD TESTIMONY, OR TO TESTIFY FALSELY IN A PRESENT OR FUTURE
3 OFFICIAL PROCEEDING.

4 (2) SUBSECTION (1) DOES NOT APPLY TO THE REIMBURSEMENT OR
5 PAYMENT OF REASONABLE COSTS FOR ANY WITNESS TO PROVIDE A STATE-
6 MENT TO TESTIFY TRUTHFULLY OR PROVIDE TRUTHFUL INFORMATION IN AN
7 OFFICIAL PROCEEDING AS PROVIDED FOR UNDER SECTION 16 OF THE UNI-
8 FORM CONDEMNATION PROCEDURES ACT, 1980 PA 87, MCL 213.66, OR SEC-
9 TION 2164 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
10 600.2164, OR COURT RULE.

11 (3) A PERSON SHALL NOT DO ANY OF THE FOLLOWING BY THREAT OR
12 INTIMIDATION:

13 (A) DISCOURAGE OR ATTEMPT TO DISCOURAGE ANY INDIVIDUAL FROM
14 ATTENDING A PRESENT OR FUTURE OFFICIAL PROCEEDING AS A WITNESS,
15 TESTIFYING AT A PRESENT OR FUTURE OFFICIAL PROCEEDING, OR GIVING
16 INFORMATION AT A PRESENT OR FUTURE OFFICIAL PROCEEDING.

17 (B) INFLUENCE OR ATTEMPT TO INFLUENCE TESTIMONY AT A PRESENT
18 OR FUTURE OFFICIAL PROCEEDING.

19 (C) ENCOURAGE OR ATTEMPT TO ENCOURAGE ANY INDIVIDUAL TO
20 AVOID LEGAL PROCESS, TO WITHHOLD TESTIMONY, OR TO TESTIFY FALSELY
21 IN A PRESENT OR FUTURE OFFICIAL PROCEEDING.

22 (4) IT IS AN AFFIRMATIVE DEFENSE UNDER SUBSECTIONS (1) AND
23 (3), FOR WHICH THE DEFENDANT HAS THE BURDEN OF PROOF BY A PREPON-
24 DERANCE OF THE EVIDENCE, THAT THE CONDUCT CONSISTED SOLELY OF
25 LAWFUL CONDUCT AND THAT THE DEFENDANT'S SOLE INTENTION WAS TO
26 ENCOURAGE, INDUCE, OR CAUSE THE OTHER PERSON TO TESTIFY OR
27 PROVIDE EVIDENCE TRUTHFULLY.

1 (5) SUBSECTIONS (1) AND (3) DO NOT APPLY TO ANY OF THE
2 FOLLOWING:

3 (A) THE LAWFUL CONDUCT OF AN ATTORNEY IN THE PERFORMANCE OF
4 HIS OR HER DUTIES, SUCH AS ADVISING A CLIENT.

5 (B) THE LAWFUL CONDUCT OR COMMUNICATIONS OF A PERSON AS PER-
6 MITTED BY STATUTE OR OTHER LAWFUL PRIVILEGE.

7 (6) A PERSON SHALL NOT WILLFULLY IMPEDE, INTERFERE WITH,
8 PREVENT, OR OBSTRUCT OR ATTEMPT TO WILLFULLY IMPEDE, INTERFERE
9 WITH, PREVENT, OR OBSTRUCT THE ABILITY OF A WITNESS TO ATTEND,
10 TESTIFY, OR PROVIDE INFORMATION IN OR FOR A PRESENT OR FUTURE
11 OFFICIAL PROCEEDING.

12 (7) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME
13 AS FOLLOWS:

14 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE
15 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
16 MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

17 (B) IF THE VIOLATION IS COMMITTED IN A CRIMINAL CASE FOR
18 WHICH THE MAXIMUM TERM OF IMPRISONMENT FOR THE VIOLATION IS MORE
19 THAN 10 YEARS, OR THE VIOLATION IS PUNISHABLE BY IMPRISONMENT FOR
20 LIFE OR ANY TERM OF YEARS, THE PERSON IS GUILTY OF A FELONY PUN-
21 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS.

22 (C) IF THE VIOLATION IS A THREAT TO KILL OR CAUSE SERIOUS
23 PHYSICAL INJURY TO ANY PERSON, THE PERSON IS GUILTY OF A FELONY
24 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE
25 OF NOT MORE THAN \$5,000.00, OR BOTH.

26 (8) A PERSON WHO RETALIATES, ATTEMPTS TO RETALIATE, OR
27 THREATENS TO RETALIATE AGAINST ANOTHER PERSON FOR HAVING BEEN A

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1 WITNESS IN AN OFFICIAL PROCEEDING IS GUILTY OF A FELONY
2 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF
3 NOT MORE THAN \$2,000.00, OR BOTH. AS USED IN THIS SUBSECTION,
4 "RETALIATE" MEANS TO DO ANY OF THE FOLLOWING:

5 (A) COMMIT OR ATTEMPT TO COMMIT A CRIME AGAINST ANY PERSON.

6 (B) THREATEN TO KILL OR INJURE ANY PERSON OR THREATEN TO
7 CAUSE PROPERTY DAMAGE.

8 (9) THIS SECTION APPLIES REGARDLESS OF WHETHER AN OFFICIAL
9 PROCEEDING ACTUALLY TAKES PLACE OR IS PENDING OR WHETHER THE
10 INDIVIDUAL HAS BEEN SUBPOENAED OR OTHERWISE ORDERED TO APPEAR AT
11 THE OFFICIAL PROCEEDING IF THE PERSON KNOWS OR HAS REASON TO KNOW
12 THE OTHER PERSON COULD BE A WITNESS AT ANY OFFICIAL PROCEEDING.

13 (10) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING
14 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION
15 OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE VIOLATION OF
16 THIS SECTION.

17 (11) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR
18 VIOLATING THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF
19 IMPRISONMENT IMPOSED FOR THE COMMISSION OF ANY OTHER CRIME
20 INCLUDING ANY OTHER VIOLATION OF LAW ARISING OUT OF THE SAME
21 TRANSACTION AS THE VIOLATION OF THIS SECTION.

22 (12) AS USED IN THIS SECTION:

23 (A) "OFFICIAL PROCEEDING" MEANS A PROCEEDING HEARD BEFORE A
24 LEGISLATIVE, JUDICIAL, ADMINISTRATIVE, OR OTHER GOVERNMENTAL
25 AGENCY OR OFFICIAL AUTHORIZED TO HEAR EVIDENCE UNDER OATH,
26 INCLUDING A REFEREE, PROSECUTING ATTORNEY, HEARING EXAMINER,

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1 COMMISSIONER, NOTARY, OR OTHER PERSON TAKING TESTIMONY OR
2 DEPOSITION IN THAT PROCEEDING.

3 (B) "THREATEN OR INTIMIDATE" DOES NOT MEAN A COMMUNICATION
4 REGARDING THE OTHERWISE LAWFUL ACCESS TO COURTS OR OTHER BRANCHES
5 OF GOVERNMENT, SUCH AS THE OTHERWISE LAWFUL FILING OF ANY CIVIL
6 ACTION OR POLICE REPORT OF WHICH THE PURPOSE IS NOT TO HARASS THE
7 OTHER PERSON IN VIOLATION OF SECTION 2907 OF THE REVISED JUDICA-
8 TURE ACT OF 1961, 1961 PA 236, MCL 600.2907.

9 Enacting section 1. This amendatory act takes effect
10 January 1, 2001.

11 Enacting section 2. This amendatory act does not take
12 effect unless all of the following bills of the 90th Legislature
13 are enacted into law:

14 (a) House Bill No. 5925.

15 (b) House Bill No. 5928.

16 (c) House Bill No. 5932.