

**HB 5930, As Passed Senate, December 14, 2000**

**SENATE 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.

**HB 5930, As Passed Senate, December 14, 2000**

House Bill No. 5930

2

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.

**HB 5930, As Passed Senate, December 14, 2000**

House Bill No. 5930 as amended December 14, 2000

3

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 \$5,000.00, 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 OR A FINE OF  
22 NOT MORE THAN \$20,000.00, OR BOTH.

23 (C) IF THE VIOLATION INVOLVES COMMITTING OR ATTEMPTING TO  
24 COMMIT A CRIME OR A THREAT TO KILL OR INJURE ANY PERSON OR TO CAUSE  
25 PROPERTY DAMAGE, THE PERSON IS GUILTY OF A FELONY  
26 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A FINE  
OF NOT MORE THAN \$25,000.00, OR BOTH.

**HB 5930, As Passed Senate, December 14, 2000**

House Bill No. 5930

4

1 (8) A PERSON WHO RETALIATES, ATTEMPTS TO RETALIATE, OR  
2 THREATENS TO RETALIATE AGAINST ANOTHER PERSON FOR HAVING BEEN A  
3 WITNESS IN AN OFFICIAL PROCEEDING IS GUILTY OF A FELONY PUNISH-  
4 ABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT  
5 MORE THAN \$20,000.00, OR BOTH. AS USED IN THIS SUBSECTION,  
6 "RETALIATE" MEANS TO DO ANY OF THE FOLLOWING:

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

8 (B) THREATEN TO KILL OR INJURE ANY PERSON OR THREATEN TO  
9 CAUSE PROPERTY DAMAGE.

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

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

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

24 (12) AS USED IN THIS SECTION:

25 (A) "OFFICIAL PROCEEDING" MEANS A PROCEEDING HEARD BEFORE A  
26 LEGISLATIVE, JUDICIAL, ADMINISTRATIVE, OR OTHER GOVERNMENTAL  
27 AGENCY OR OFFICIAL AUTHORIZED TO HEAR EVIDENCE UNDER OATH,

**HB 5930, As Passed Senate, December 14, 2000**

House Bill No. 5930

5

1 INCLUDING A REFEREE, PROSECUTING ATTORNEY, HEARING EXAMINER,  
2 COMMISSIONER, NOTARY, OR OTHER PERSON TAKING TESTIMONY OR DEPOSI-  
3 TION IN THAT PROCEEDING.

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

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

13 (a) House Bill No. 5925.

14 (b) House Bill No. 5928.

15 (c) House Bill No. 5932.