

Act No. 452
Public Acts of 2000
Approved by the Governor
January 9, 2001
Filed with the Secretary of State
January 9, 2001
EFFECTIVE DATE: March 28, 2001

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Reps. Bradstreet, Bishop, Vander Roest, Van Woerkom, Faunce, Kowall, Gosselin, Rick Johnson, Shulman, Shackleton, Gilbert, Hager, Raczkowski, Julian, Hart, Ehardt, Richardville, Cameron Brown, LaSata, Kukuk, O'Neil, Woodward, Bob Brown, DeRossett, Sheltroun and Bovin

ENROLLED HOUSE BILL No. 5930

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 122.

The People of the State of Michigan enact:

Sec. 122. (1) A person shall not give, offer to give, or promise anything of value to an individual for any of the following purposes:

(a) To discourage any individual from attending a present or future official proceeding as a witness, testifying at a present or future official proceeding, or giving information at a present or future official proceeding.

(b) To influence any individual's testimony at a present or future official proceeding.

(c) To encourage any individual to avoid legal process, to withhold testimony, or to testify falsely in a present or future official proceeding.

(2) Subsection (1) does not apply to the reimbursement or payment of reasonable costs for any witness to provide a statement to testify truthfully or provide truthful information in an official proceeding as provided for under section 16 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.66, or section 2164 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2164, or court rule.

(3) A person shall not do any of the following by threat or intimidation:

(a) Discourage or attempt to discourage any individual from attending a present or future official proceeding as a witness, testifying at a present or future official proceeding, or giving information at a present or future official proceeding.

(b) Influence or attempt to influence testimony at a present or future official proceeding.

(c) Encourage or attempt to encourage any individual to avoid legal process, to withhold testimony, or to testify falsely in a present or future official proceeding.

(4) It is an affirmative defense under subsections (1) and (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 testify or provide evidence truthfully.

(5) Subsections (1) and (3) 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.

(6) A person shall not willfully impede, interfere with, prevent, or obstruct or attempt to willfully impede, interfere with, prevent, or obstruct the ability of a witness to attend, testify, or provide information in or for a present or future official proceeding.

(7) A person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), 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.

(c) 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 15 years or a fine of not more than \$25,000.00, or both.

(8) A person who retaliates, attempts to retaliate, or threatens to retaliate against another person for having been a witness in an official proceeding 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. As used in this subsection, "retaliate" means to do any of the following:

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

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

(9) This section applies regardless of whether an official proceeding actually takes place or is pending or whether the individual has been subpoenaed or otherwise ordered to appear at the official proceeding if the person knows or has reason to know the other person could be a witness at any official proceeding.

(10) 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.

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

(12) 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 otherwise 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.

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

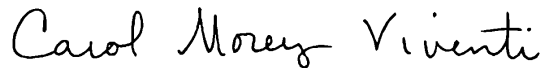
(a) House Bill No. 5925.

(b) House Bill No. 5928.

(c) House Bill No. 5932.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.