

**SUBSTITUTE FOR
HOUSE BILL NO. 5444**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 483a (MCL 750.483a), as added by 2000
PA 451.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

2 (a) Withhold or refuse to produce any testimony, informa-
3 tion, document, or thing after the court has ordered it to be
4 produced following a hearing.

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

8 (c) Retaliate or attempt to retaliate against another person
9 for having reported or attempted to report a crime committed or

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1 attempted by ~~another~~ ANY person. As used in this subsection,
2 "retaliate" means to do any of the following:

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

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

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

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

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

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

17 (a) Give, offer to give, or promise anything of value to any
18 person to influence a person's statement to a ~~police~~ PEACE
19 officer conducting a lawful investigation of a crime or the pre-
20 sentation of evidence to a ~~police~~ PEACE officer conducting a
21 lawful investigation of a crime.

22 (b) Threaten or intimidate any person to influence a
23 person's statement to a ~~police~~ PEACE officer conducting a
24 lawful investigation of a crime or the presentation of evidence
25 to a ~~police~~ PEACE officer conducting a lawful investigation of
26 a crime.

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1 (C) KNOWINGLY PROVIDE FALSE OR MISLEADING INFORMATION TO A
2 PEACE OFFICER IN THE PERFORMANCE OF HIS OR HER DUTIES AS A PEACE
3 OFFICER, KNOWING THE INFORMATION IS FALSE OR MISLEADING.

4 (4) EXCEPT AS PROVIDED IN SUBSECTION (5), A PERSON WHO KNOWS
5 OR HAS REASON TO KNOW THAT AN INDIVIDUAL HAS COMMITTED A CRIME OR
6 IS SOUGHT BY PEACE OFFICERS SHALL NOT DO ANY OF THE FOLLOWING
7 WITH THE INTENT TO PREVENT, HINDER, OR DELAY THE DISCOVERY,
8 APPREHENSION, PROSECUTION, OR SENTENCING OF THE INDIVIDUAL:

9 (A) HARBOR, HIDE, OR CONCEAL THAT INDIVIDUAL.

10 (B) PROVIDE ASSISTANCE FOR THE INDIVIDUAL.

11 (C) SUPPRESS BY ANY ACT OF CONCEALMENT, ALTERATION, OR
12 DESTRUCTION ANY EVIDENCE THAT MIGHT AID IN THE DISCOVERY OF THE
13 INDIVIDUAL.

14 (5) SUBSECTION (4) DOES NOT APPLY TO EITHER OF THE
15 FOLLOWING.

16 (A) CONDUCT PUNISHABLE UNDER CHAPTER XXXII.

17 (B) CONDUCT FOR WHICH A PERSON MAY BE PUNISHED AS IF HE OR
18 SHE HAD DIRECTLY COMMITTED THE OFFENSE COMMITTED BY THE INDIVIDU-
19 AL, AS ALLOWED UNDER SECTION 39 OF CHAPTER VII OF THE CODE OF
20 CRIMINAL PROCEDURE, 1927 PA 175, MCL 767.39.

21 (6) ~~-(4)-~~ A person who violates subsection ~~-(3)-~~ (3)(A) OR
22 (B) is guilty of a crime as follows:

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

26 (b) If the violation involves committing or attempting to
27 commit a crime or a threat to kill or injure any person or to

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1 cause property damage, the person is guilty of a felony
2 punishable by imprisonment for not more than 10 years or a fine
3 of not more than \$20,000.00, or both.

4 (7) A PERSON WHO VIOLATES SUBSECTION (3)(C) IS GUILTY OF A
5 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS
6 OR A FINE OF NOT MORE THAN \$100.00, OR BOTH.

7 (8) A PERSON WHO VIOLATES SUBSECTION (4) IS GUILTY OF A
8 CRIME AS FOLLOWS:

9 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS
10 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4
11 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

12 (B) IF THE CRIME THE INDIVIDUAL COMMITTED OR FOR WHICH THE
13 INDIVIDUAL IS SOUGHT WAS A FELONY PUNISHABLE BY IMPRISONMENT FOR
14 MORE THAN 10 YEARS, THE PERSON IS GUILTY OF A FELONY PUNISHABLE
15 BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE
16 THAN \$25,000.00, OR BOTH.

17 (9) THE COURT MAY ALSO IMPOSE COSTS ON THE PERSON WHO VIO-
18 LATED SUBSECTION (4) TO REIMBURSE ANY GOVERNMENTAL AGENCY FOR ITS
19 EXPENSES INCURRED IN DISCOVERING, APPREHENDING, OR PROSECUTING
20 THE INDIVIDUAL, IN THE MANNER PROVIDED IN SECTION 1F OF CHAPTER
21 IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.1F.

22 (10) ~~-(5)-~~ A person shall not do any of the following:

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

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

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1 (11) ~~-(6)-~~ A person who violates subsection ~~-(5)-~~ (10) is
2 guilty of a crime as follows:

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

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

12 (12) ~~-(7)-~~ It is an affirmative defense under ~~subsection~~
13 SUBSECTIONS (3) AND (4), for which the defendant has the burden
14 of proof by a preponderance of the evidence, that the conduct
15 consisted solely of lawful conduct and that the defendant's sole
16 intention was to encourage, induce, or cause the other person to
17 provide a statement or evidence truthfully.

18 (13) ~~-(8)-~~ Subsections (1)(a), ~~-(3)(b), and (5)(b)-~~ (3),
19 (4), AND (10)(B) do not apply to any of the following:

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

22 (b) The lawful conduct or communications of a person as per-
23 mitted by statute or other lawful privilege.

24 (14) ~~-(9)-~~ This section does not prohibit a person from
25 being charged with, convicted of, or punished for any other vio-
26 lation of law arising out of the same transaction as the
27 violation of this section.

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1 (15) ~~—(10)—~~ The court may order a term of imprisonment
2 imposed for a violation of this section to be served consecu-
3 tively to a term of imprisonment imposed for any other crime
4 including any other violation of law arising out of the same
5 transaction as the violation of this section.

6 (16) ~~—(11)—~~ As used in this section:

7 (a) "Official proceeding" means a proceeding heard before a
8 legislative, judicial, administrative, or other governmental
9 agency or official authorized to hear evidence under oath,
10 including a referee, prosecuting attorney, hearing examiner, com-
11 missioner, notary, or other person taking testimony or deposition
12 in that proceeding.

13 (b) "PEACE OFFICER" MEANS ANY OF THE FOLLOWING:

14 (i) A POLICE OFFICER OF THIS STATE OR OF A POLITICAL SUBDI-
15 VISION OF THIS STATE INCLUDING, BUT NOT LIMITED TO, A MOTOR CAR-
16 RIER OFFICER OF THE DEPARTMENT OF STATE POLICE.

17 (ii) A POLICE OFFICER OF ANOTHER STATE OR OF A POLITICAL
18 SUBDIVISION OF ANOTHER STATE.

19 (iii) A POLICE OFFICER OF ANY ENTITY OF THE UNITED STATES.

20 (iv) THE SHERIFF OF A COUNTY OF THIS STATE OR THE SHERIFF'S
21 DEPUTY.

22 (v) THE SHERIFF OF A POLITICAL SUBDIVISION OF ANOTHER STATE
23 OR THE SHERIFF'S DEPUTY.

24 (vi) A PUBLIC SAFETY OFFICER OF A COMMUNITY COLLEGE, COL-
25 LEGE, OR UNIVERSITY WHO IS AUTHORIZED BY THE GOVERNING BOARD OF
26 THAT COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY TO ENFORCE THE LAW

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1 OF THIS STATE OR OF ANOTHER STATE AND THE RULES AND ORDINANCES OF
2 THAT COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY.

3 (vii) A CONSERVATION OFFICER OF THE DEPARTMENT OF NATURAL
4 RESOURCES.

5 (viii) A CONSERVATION OFFICER OF ANOTHER STATE.

6 (ix) A CONSERVATION OFFICER OF THE UNITED STATES DEPARTMENT
7 OF INTERIOR.

8 (C) ~~-(b)-~~ "Threaten or intimidate" does not mean a communi-
9 cation regarding the otherwise lawful access to courts or other
10 branches of government, such as the lawful filing of any civil
11 action or police report of which the purpose is not to harass the
12 other person in violation of section 2907 of the revised judica-
13 ture act of 1961, 1961 PA 236, MCL 600.2907.

[Enacting section 1. This amendatory act takes effect July 1,
2002.]

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