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OBSTRUCTION OF JUSTICE

House Bill 5928

Sponsor: Rep. Jim Howell

House Bill 5929

Sponsor: Rep. Bruce Patterson

Committee: Criminal Law and Corrections

Complete to 8-16-00

A SUMMARY OF HOUSE BILLS 5928 AND 5929 AS INTRODUCED 6-21-00

House Bill 5928 would amend the Penal Code (MCL 750.483a) to prohibit and provide penalties for obstructing justice, interfering with witnesses, and tampering with evidence. However, the prohibitions against obstruction of justice or against interference with a witness would not apply where a person's conduct was permitted by statutory privilege.

Obstruction of Justice. Obstruction of justice would include all of the following:

- 1) Intentionally impeding, interfering with, or obstructing, or attempting to impede, interfere with, or obstruct the orderly administration of justice.
- 2) Withholding or unreasonably delaying the production of any testimony, information, document, or thing that a court had ordered to be produced.
- 3) Preventing or attempting to prevent another person from reporting a crime or attempted crime; or retaliating or attempting to retaliate against someone for reporting or attempting to report a crime or attempted crime. 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.

Interfering with a witness. Interfering with a witness would be defined as purposely impeding, interfering with, preventing, or obstructing, or attempting to impede, interfere with, prevent, or obstruct the ability of a witness to attend, testify, or provide information in or for an official proceeding. An official proceeding would include any proceeding before a legislative, judicial, administrative, or other governmental agency or any proceeding before an official who was authorized to hear evidence under oath. This would specifically include the taking of testimony or depositions in such a proceeding.

Tampering with evidence. Either of the following actions would be tampering with evidence: 1) providing evidence at an official proceeding that was known or should have been known to be false; and 2) knowingly and intentionally removing, altering, concealing, destroying, or otherwise tampering with evidence that was to be offered in an official proceeding.

Penalties. Generally, obstruction of justice would be a misdemeanor punishable by imprisonment for up to one year and/or a fine of up to \$500. However, violations that involved a threat to kill or injure any person or to cause property damage would be felonies punishable by imprisonment for up to four years and/or a fine of up to \$2,000. Interference with a witness, tampering with evidence, and providing false evidence would all be felonies. Each would be 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 for life or any term of years, the crime of interfering with a witness, tampering with evidence, or providing false evidence would be punishable by up to ten years imprisonment.

Anyone who violated these provisions could also be charged with, convicted of, or punished for any other violation of law that arose from the same transaction. If a defendant was convicted of obstructing justice, interference with a witness, tampering with evidence, or providing false evidence in a criminal case where the maximum term of imprisonment was more than ten years or for life and any term of years be served, 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.

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

House Bill 5929, which would not take effect unless House Bill 5928 was also enacted, would amend the Code of Criminal Procedure's statutory sentencing guidelines (MCL 777.16f) to include obstructing justice - a Class F crime against a person with a four-year statutory maximum; interfering with a witness or altering or concealing evidence - a Class F crime against public order with a four year statutory maximum; and interfering with a witness or altering or concealing evidence in a criminal case punishable by more than ten years imprisonment - a Class D crime against public order with a ten 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.