

**HB 5928, As Passed Senate, December 14, 2000**

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5928**

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding section 483a.

**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 PERSON.

**8** (C) RETALIATE OR ATTEMPT TO RETALIATE AGAINST ANOTHER PERSON  
**9** FOR HAVING REPORTED OR ATTEMPTED TO REPORT A CRIME COMMITTED OR  
**10** ATTEMPTED BY ANOTHER PERSON. AS USED IN THIS SUBSECTION,  
**11** "RETALIATE" MEANS TO DO ANY OF THE FOLLOWING:

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

2 (ii) THREATEN TO KILL OR INJURE ANY PERSON OR THREATEN TO  
3 CAUSE PROPERTY DAMAGE.

4 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A  
5 CRIME AS FOLLOWS:

6 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS  
7 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
8 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

9 (B) IF THE VIOLATION INVOLVES COMMITTING OR ATTEMPTING TO  
10 COMMIT A CRIME OR A THREAT TO KILL OR INJURE ANY PERSON OR TO  
11 CAUSE PROPERTY DAMAGE, THE PERSON IS GUILTY OF A FELONY PUNISH-  
12 ABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT  
13 MORE THAN \$20,000.00, OR BOTH.

14 (3) A PERSON SHALL NOT DO ANY OF THE FOLLOWING:

15 (A) GIVE, OFFER TO GIVE, OR PROMISE ANYTHING OF VALUE TO ANY  
16 PERSON TO INFLUENCE A PERSON'S STATEMENT TO A POLICE OFFICER CON-  
17 DUCTING A LAWFUL INVESTIGATION OF A CRIME OR THE PRESENTATION OF  
18 EVIDENCE TO A POLICE OFFICER CONDUCTING A LAWFUL INVESTIGATION OF  
19 A CRIME.

20 (B) THREATEN OR INTIMIDATE ANY PERSON TO INFLUENCE A  
21 PERSON'S STATEMENT TO A POLICE OFFICER CONDUCTING A LAWFUL INVES-  
22 TIGATION OF A CRIME OR THE PRESENTATION OF EVIDENCE TO A POLICE  
23 OFFICER CONDUCTING A LAWFUL INVESTIGATION OF A CRIME.

24 (4) A PERSON WHO VIOLATES SUBSECTION (3) IS GUILTY OF A  
25 CRIME AS FOLLOWS:

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1 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS  
2 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
3 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

4 (B) IF THE VIOLATION INVOLVES COMMITTING OR ATTEMPTING TO  
5 COMMIT A CRIME OR A THREAT TO KILL OR INJURE ANY PERSON OR TO  
6 CAUSE PROPERTY DAMAGE, THE PERSON IS GUILTY OF A FELONY PUNISH-  
7 ABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT  
8 MORE THAN \$20,000.00, OR BOTH.

9 (5) A PERSON SHALL NOT DO ANY OF THE FOLLOWING:

10 (A) KNOWINGLY AND INTENTIONALLY REMOVE, ALTER, CONCEAL,  
11 DESTROY, OR OTHERWISE TAMPER WITH EVIDENCE TO BE OFFERED IN A  
12 PRESENT OR FUTURE OFFICIAL PROCEEDING.

13 (B) OFFER EVIDENCE AT AN OFFICIAL PROCEEDING THAT HE OR SHE  
14 RECKLESSLY DISREGARDS AS FALSE.

15 (6) A PERSON WHO VIOLATES SUBSECTION (5) IS GUILTY OF A  
16 CRIME AS FOLLOWS:

17 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS  
18 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4  
19 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

20 (B) IF THE VIOLATION IS COMMITTED IN A CRIMINAL CASE FOR  
21 WHICH THE MAXIMUM TERM OF IMPRISONMENT FOR THE VIOLATION IS MORE  
22 THAN 10 YEARS, OR THE VIOLATION IS PUNISHABLE BY IMPRISONMENT FOR  
23 LIFE OR ANY TERM OF YEARS, THE PERSON IS GUILTY OF A FELONY PUN-  
24 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF  
25 NOT MORE THAN \$20,000.00, OR BOTH.

26 (7) IT IS AN AFFIRMATIVE DEFENSE UNDER SUBSECTION (3), FOR  
27 WHICH THE DEFENDANT HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF

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1 THE EVIDENCE, THAT THE CONDUCT CONSISTED SOLELY OF LAWFUL CONDUCT  
2 AND THAT THE DEFENDANT'S SOLE INTENTION WAS TO ENCOURAGE, INDUCE,  
3 OR CAUSE THE OTHER PERSON TO PROVIDE A STATEMENT OR EVIDENCE  
4 TRUTHFULLY.

5 (8) SUBSECTIONS (1)(A), (3)(B), AND (5)(B) DO NOT APPLY TO  
6 ANY OF THE FOLLOWING:

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

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

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

15 (10) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR  
16 A VIOLATION OF THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM  
17 OF IMPRISONMENT IMPOSED FOR ANY OTHER CRIME INCLUDING ANY OTHER  
18 VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE VIO-  
19 LATION OF THIS SECTION.

20 (11) AS USED IN THIS SECTION:

21 (A) "OFFICIAL PROCEEDING" MEANS A PROCEEDING HEARD BEFORE A  
22 LEGISLATIVE, JUDICIAL, ADMINISTRATIVE, OR OTHER GOVERNMENTAL  
23 AGENCY OR OFFICIAL AUTHORIZED TO HEAR EVIDENCE UNDER OATH,  
24 INCLUDING A REFEREE, PROSECUTING ATTORNEY, HEARING EXAMINER, COM-  
25 MISSIONER, NOTARY, OR OTHER PERSON TAKING TESTIMONY OR DEPOSITION  
26 IN THAT PROCEEDING.

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

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

- 10 (a) House Bill No. 5925.  
11 (b) House Bill No. 5930.  
12 (c) House Bill No. 5932.