

HOUSE BILL No. 6106

May 24, 2006, Introduced by Reps. Angerer, Spade, McDowell, Sheltroun, Adamini, Brown, Lemmons, Jr., Cushingberry, Sak, Gillard, Condino, Accavitti, Wojno, Gleason, Clack, Gonzales, Donigan, Kathleen Law, Vagnozzi, Miller, Leland, Kolb, Clemente, Anderson, Farrah, Hood, Bennett, Espinoza, Plakas, Tobocman, Mayes, Polidori, Meisner, Zelenko, Williams, Hopgood, Alma Smith, Waters, Byrum and Byrnes and referred to the Committee on Judiciary.

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, information,
3 document, or thing after the court has ordered it to be produced
4 following a hearing.

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

1 attempted by another 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 cause
5 property damage.

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

8 (a) Except as provided in subdivision (b), the person is
9 guilty of a ~~misdemeanor~~ **FELONY** punishable by imprisonment for not
10 more than ~~1 year~~ **2 YEARS** or a fine of not more than ~~\$1,000.00~~
11 **\$5,000.00**, or both.

12 (b) If the violation involves committing or attempting to
13 commit a crime or a threat to kill or injure any person or to cause
14 property damage, the person is guilty of a felony punishable by
15 imprisonment for not more than 10 years or a fine of not more than
16 ~~\$20,000.00~~ **\$250,000.00**, or both.

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

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

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

27 (4) A person who violates subsection (3) is guilty of a crime

1 as follows:

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

5 (b) If the violation involves committing or attempting to
6 commit a crime or a threat to kill or injure any person or to cause
7 property damage, the person is guilty of a felony punishable by
8 imprisonment for not more than 10 years or a fine of not more than
9 \$20,000.00, or both.

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

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

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

16 (6) A person who violates subsection (5) is guilty of a crime
17 as follows:

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

21 (b) If the violation is committed in a criminal case for which
22 the maximum term of imprisonment for the violation is more than 10
23 years, or the violation is punishable by imprisonment for life or
24 any term of years, the person is guilty of a felony punishable by
25 imprisonment for not more than 10 years or a fine of not more than
26 \$20,000.00, or both.

27 (7) It is an affirmative defense under subsection (3), for

1 which the defendant has the burden of proof by a preponderance of
2 the evidence, that the conduct consisted solely of lawful conduct
3 and that the defendant's sole intention was to encourage, induce,
4 or cause the other person to provide a statement or evidence
5 truthfully.

6 (8) Subsections (1)(a), (3)(b), and (5)(b) do not apply to any
7 of the following:

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

10 (b) The lawful conduct or communications of a person as
11 permitted by statute or other lawful privilege.

12 (9) This section does not prohibit a person from being charged
13 with, convicted of, or punished for any other violation of law
14 arising out of the same transaction as the violation of this
15 section.

16 (10) The court may order a term of imprisonment imposed for a
17 violation of this section to be served consecutively to a term of
18 imprisonment imposed for any other crime including any other
19 violation of law arising out of the same transaction as the
20 violation of this section.

21 (11) As used in this section:

22 (a) "Official proceeding" means a proceeding heard before a
23 legislative, judicial, administrative, or other governmental agency
24 or official authorized to hear evidence under oath, including a
25 referee, prosecuting attorney, hearing examiner, commissioner,
26 notary, or other person taking testimony or deposition in that
27 proceeding.

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.