

HOUSE BILL No. 5537

February 8, 2018, Introduced by Reps. Kesto, Iden, Griffin, LaSata, Kahle, Howell, Hauck, Noble, Bellino, LaFave, Hughes, Hornberger, Lucido, Tedder, VanderWall, Sheppard, Allor and Brann and referred to the Committee on Law and Justice.

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) **USE HIS OR HER POSITION OF AUTHORITY OVER ANOTHER PERSON**
- 9 **TO PREVENT OR ATTEMPT TO PREVENT THE PERSON FROM REPORTING A CRIME**

1 **THAT IS LISTED IN SECTION 136B, 520B, 520C, 520D, 520E, OR 520G,**
2 **COMMITTED OR ATTEMPTED BY ANOTHER PERSON.**

3 (D) ~~(e)~~—Retaliate or attempt to retaliate against another
4 person for having reported or attempted to report a crime committed
5 or attempted by another person. As used in this subsection,
6 "retaliate" means to do any of the following:

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

8 (ii) Threaten to kill or injure any person or threaten to
9 cause property damage.

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

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

15 (b) If the violation involves committing or attempting to
16 commit a crime or a threat to kill or injure any person or to cause
17 property damage, the person is guilty of a felony punishable by
18 imprisonment for not more than 10 years or a fine of not more than
19 \$20,000.00, or both.

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

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

26 (b) Threaten or intimidate any person to influence a person's
27 statement to a police officer conducting a lawful investigation of

1 a crime or the presentation of evidence to a police officer
2 conducting a lawful investigation of a crime.

3 (4) A person who violates subsection (3) is guilty of a crime
4 as follows:

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

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

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

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

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

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

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

24 (b) If the violation is committed in a criminal case for which
25 the maximum term of imprisonment for the violation is more than 10
26 years, or the violation is punishable by imprisonment for life or
27 any term of years, the person is guilty of a felony punishable by

1 imprisonment for not more than 10 years or a fine of not more than
2 \$20,000.00, or both.

3 (7) It is an affirmative defense under subsection (3), for
4 which the defendant has the burden of proof by a preponderance of
5 the evidence, that the conduct consisted solely of lawful conduct
6 and that the defendant's sole intention was to encourage, induce,
7 or cause the other person to provide a statement or evidence
8 truthfully.

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

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

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

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

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

24 (11) As used in this section:

25 (a) "Official proceeding" means a proceeding heard before a
26 legislative, judicial, administrative, or other governmental agency
27 or official authorized to hear evidence under oath, including a

1 referee, prosecuting attorney, hearing examiner, commissioner,
2 notary, or other person taking testimony or deposition in that
3 proceeding.

4 (b) "Threaten or intimidate" does not mean a communication
5 regarding the otherwise lawful access to courts or other branches
6 of government, such as the lawful filing of any civil action or
7 police report of which the purpose is not to harass the other
8 person in violation of section 2907 of the revised judicature act
9 of 1961, 1961 PA 236, MCL 600.2907.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.