

HOUSE BILL NO. 4374

March 14, 2019, Introduced by Reps. Alexander, Griffin, Pagan, Hornberger, Glenn, Witwer, Pohutsky, Brixie, Clemente, Ellison, Hoadley, Hood, Hammoud, Guerra, Manoogian, Garza, LaGrand, Whiteford, Love, Bolden, Hertel, Rendon, Koleszar, Kuppa, Sabo, Elder, Whitsett, Sowerby, Camilleri, Kennedy, Sneller, Tyrone Carter, Shannon, Hauck, Tate, Lasinski, Warren, Gay-Dagnogo, Greig, Neeley, Byrd, Garrett, Jones, Rabhi and Wittenberg 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



1 physical force another person from reporting a crime committed or
2 attempted by another person.

3 **(c) Intentionally use his or her professional position of**
4 **authority over another person to prevent or attempt to prevent the**
5 **person from reporting a crime listed in section 136b, 520b, 520c,**
6 **520d, 520e, or 520g, that is committed or attempted by another**
7 **person.**

8 **(d) ~~(e)~~—Retaliate or attempt to retaliate against another**
9 **person for having reported or attempted to report a crime committed**
10 **or attempted by another person. As used in this ~~subsection,~~**
11 **subdivision, "retaliate" means to do any of the following:**

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

13 (ii) Threaten to kill or injure any person or threaten to cause
14 property damage.

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

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

20 (b) If the violation involves committing or attempting to
21 commit a crime or a threat to kill or injure any person or to cause
22 property damage, the person is guilty of a felony punishable by
23 imprisonment for not more than 10 years or a fine of not more than
24 \$20,000.00, or both.

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

26 (a) Give, offer to give, or promise anything of value to any
27 person to influence a person's statement to a police officer
28 conducting a lawful investigation of a crime or the presentation of
29 evidence to a police officer conducting a lawful investigation of a



1 crime.

2 (b) Threaten or intimidate any person to influence a person's
3 statement to a police officer conducting a lawful investigation of
4 a crime or the presentation of evidence to a police officer
5 conducting a lawful investigation of a crime.

6 (4) A person who violates subsection (3) is guilty of a crime
7 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 cause
13 property damage, the person is guilty of a felony punishable by
14 imprisonment for not more than 10 years or a fine of not more than
15 \$20,000.00, or both.

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

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

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

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

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

27 (b) If the violation is committed in a criminal case for which
28 the maximum term of imprisonment for the violation is more than 10
29 years, or the violation is punishable by imprisonment for life or



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

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

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

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

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

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

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

25 (11) As used in this section:

26 (a) "Official proceeding" means a proceeding heard before a
27 legislative, judicial, administrative, or other governmental agency
28 or official authorized to hear evidence under oath, including a
29 referee, prosecuting attorney, hearing examiner, commissioner,



1 notary, or other person taking testimony or deposition in that
2 proceeding.

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

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

