
By: ~~Senators Forehand and Frosh, Frosh, Green, Giannetti, Garagiola,~~
Jimeno, and Stone

Introduced and read first time: January 19, 2005

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2005

CHAPTER _____

1 AN ACT concerning

2 **Crimes and Criminal Procedure - Victim and Witness Intimidation**

3 FOR the purpose of prohibiting a person from harming another, threatening to harm
4 another, or damaging or destroying property with the intent to induce a victim
5 or witness not to report the existence of facts relating to a crime or delinquent
6 act; prohibiting solicitation of another person to harm another, threaten to harm
7 another, or damage or destroy property with the intent to influence a victim or
8 witness to testify falsely or withhold testimony or to induce a victim or witness
9 to avoid service of a subpoena or summons to testify, to be absent from certain
10 proceedings, or to not report the existence of facts relating to a crime or
11 delinquent act; prohibiting a person from threatening to harm another with the
12 intent of retaliating against a victim or witness for giving testimony in an
13 official proceeding or for reporting a crime or delinquent act; prohibiting a
14 person from soliciting another person to harm another, threaten to harm
15 another, or damage or destroy property with the intent of retaliating against a
16 victim or witness for giving testimony in an official proceeding or for reporting a
17 crime or delinquent act; prohibiting a person, from trying by threat, force, or
18 corrupt means, to influence, intimidate, or impede an officer of a court of the
19 United States in the performance of the person's official duties; prohibiting a
20 person from soliciting another person to try, by threat, force, or corrupt means,
21 to influence, intimidate, or impede a juror, a witness, or an officer of a court of
22 the State or of the United States in the performance of the person's official
23 duties; increasing certain penalties; providing that if the testimony, subpoena,
24 official proceeding, or report involving a victim or witness relates to a felony, a
25 person who violates certain provisions of this Act is guilty of a felony and on
26 conviction is subject to a certain term of imprisonment; providing that certain
27 sentences imposed under certain provisions of this Act may be separate from

1 and consecutive to or concurrent with a sentence for certain other crimes;
 2 ~~providing that a certain juvenile court has jurisdiction over certain offenses;~~
 3 ~~providing that certain statements made by certain victims or witnesses are not~~
 4 ~~excluded in a judicial proceeding by the hearsay rule under certain~~
 5 ~~circumstances;~~ and generally relating to crimes against victims and witnesses.

6 ~~BY repealing and reenacting, with amendments,~~
 7 ~~Article - Courts and Judicial Proceedings~~
 8 ~~Section 3-8A-03(d)(4)(xvi) and (xvii)~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2002 Replacement Volume and 2004 Supplement)~~

11 ~~BY adding to~~
 12 ~~Article - Courts and Judicial Proceedings~~
 13 ~~Section 3-8A-03(d)(4)(xviii) and 10-901~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(2002 Replacement Volume and 2004 Supplement)~~

16 BY repealing and reenacting, without amendments,
 17 Article - Criminal Law
 18 Section 9-301(c) and (d)
 19 Annotated Code of Maryland
 20 (2002 Volume and 2004 Supplement)

21 BY repealing and reenacting, with amendments,
 22 Article - Criminal Law
 23 Section 9-302, 9-303, and 9-305
 24 Annotated Code of Maryland
 25 (2002 Volume and 2004 Supplement)

26 ~~BY repealing and reenacting, without amendments,~~
 27 ~~Article - Criminal Procedure~~
 28 ~~Section 4-202(b)~~
 29 ~~Annotated Code of Maryland~~
 30 ~~(2001 Volume and 2004 Supplement)~~

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 32 MARYLAND, That the Laws of Maryland read as follows:

33 **~~Article - Courts and Judicial Proceedings~~**

34 ~~3-8A-03.~~

35 (d) ~~The court does not have jurisdiction over:~~

1 (1) influence a victim or witness to testify falsely or withhold testimony;

2 or

3 (2) induce a victim or witness:

4 (i) to avoid the service of a subpoena or summons to testify; [or]

5 (ii) to be absent from an official proceeding to which the victim or
6 witness has been subpoenaed or summoned; OR

7 (III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A
8 CRIME OR DELINQUENT ACT.

9 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO HARM ANOTHER,
10 THREATEN TO HARM ANOTHER, OR DAMAGE OR DESTROY PROPERTY WITH THE
11 INTENT TO:

12 (1) INFLUENCE A VICTIM OR WITNESS TO TESTIFY FALSELY OR
13 WITHHOLD TESTIMONY; OR

14 (2) INDUCE A VICTIM OR WITNESS:

15 (I) TO AVOID THE SERVICE OF A SUBPOENA OR SUMMONS TO
16 TESTIFY;

17 (II) TO BE ABSENT FROM AN OFFICIAL PROCEEDING TO WHICH
18 THE VICTIM OR WITNESS HAS BEEN SUBPOENAED OR SUMMONED; OR

19 (III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A
20 CRIME OR DELINQUENT ACT.

21 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
22 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on
23 conviction is subject to imprisonment not exceeding 5 years OR A FINE NOT
24 EXCEEDING \$5,000 OR BOTH.

25 (2) IF THE TESTIMONY, SUBPOENA, OFFICIAL PROCEEDING, OR REPORT
26 INVOLVING THE VICTIM OR WITNESS RELATES TO A FELONY, INCLUDING AN
27 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT A FELONY, A PERSON WHO
28 VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT
29 TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

30 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
31 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED
32 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

33 9-303.

34 (a) A person may not intentionally harm another, THREATEN TO HARM
35 ANOTHER, or damage or destroy property with the intent of retaliating against a
36 victim or witness for:

1 (1) giving testimony in an official proceeding; or

2 (2) reporting a crime or delinquent act.

3 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO INTENTIONALLY HARM
4 ANOTHER, THREATEN TO HARM ANOTHER, OR DAMAGE OR DESTROY PROPERTY
5 WITH THE INTENT OF RETALIATING AGAINST A VICTIM OR WITNESS FOR:

6 (1) GIVING TESTIMONY IN AN OFFICIAL PROCEEDING; OR

7 (2) REPORTING A CRIME OR DELINQUENT ACT.

8 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
9 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on
10 conviction is subject to imprisonment not exceeding 5 years OR A FINE NOT
11 EXCEEDING \$5,000 OR BOTH.

12 (2) IF THE OFFICIAL PROCEEDING OR REPORT DESCRIBED IN
13 SUBSECTION (A) OF THIS SECTION RELATES TO A FELONY OR A DELINQUENT ACT
14 BASED ON A FELONY, INCLUDING AN ATTEMPT, CONSPIRACY, OR SOLICITATION TO
15 COMMIT A FELONY, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
16 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

17 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
18 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED
19 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

20 9-305.

21 (a) A person may not, by threat, force, or corrupt means, try to influence,
22 intimidate, or impede a juror, a witness, or an officer of a court of the State OR OF THE
23 UNITED STATES in the performance of the person's official duties.

24 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO, TRY BY THREAT,
25 FORCE, OR CORRUPT MEANS, TO INFLUENCE, INTIMIDATE, OR IMPEDE A JUROR, A
26 WITNESS, OR AN OFFICER OF THE COURT OF THE STATE OR OF THE UNITED STATES
27 IN THE PERFORMANCE OF THE PERSON'S OFFICIAL DUTIES.

28 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
29 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on
30 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
31 [\$10,000] \$5,000 or both.

32 (2) IF AN ACT DESCRIBED IN SUBSECTION (A) OF THIS SECTION RELATES
33 TO A PROCEEDING INVOLVING A FELONY, INCLUDING AN ATTEMPT, CONSPIRACY, OR
34 SOLICITATION TO COMMIT A FELONY, A PERSON WHO VIOLATES THIS SECTION IS
35 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
36 EXCEEDING 20 YEARS.

1 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM
2 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED
3 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

4

~~Article—Criminal Procedure~~

5 ~~4-202.~~

6 (b) ~~Except as provided in subsection (c) of this section, a court exercising~~
7 ~~criminal jurisdiction in a case involving a child may transfer the case to the juvenile~~
8 ~~court before trial or before a plea is entered under Maryland Rule 4-242 if:~~

9 (1) ~~the accused child was at least 14 but not 18 years of age when the~~
10 ~~alleged crime was committed;~~

11 (2) ~~the alleged crime is excluded from the jurisdiction of the juvenile~~
12 ~~court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and~~

13 (3) ~~the court determines by a preponderance of the evidence that a~~
14 ~~transfer of its jurisdiction is in the interest of the child or society.~~

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect October 1, 2005.