E2 5lr1502

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

- 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
- 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
- proceedings, or to not report the existence of facts relating to a crime or
- delinquent act; prohibiting a person from threatening to harm another with the
- intent of retaliating against a victim or witness for giving testimony in an
- official proceeding or for reporting a crime or delinquent act; prohibiting a
- person from soliciting another person to harm another, threaten to harm
- another, or damage or destroy property with the intent of retaliating against a
- 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
- the State or of the United States in the performance of the person's official
- 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

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(d)

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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.
	the unit will be a second of the second of t
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	6
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)
20	(2002 Fordine and 200 Fouppiement)
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	· ·
30	(2001 Volume and 2004 Supplement)
21	GEOTEON 1 DE MENACTED DA THE CENEDAL AGGENDLY OF
31 32	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
33	Article - Courts and Judicial Proceedings
34	3 8A 03.
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The court does not have jurisdiction over:

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3	(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4 202 of the Criminal Procedure Article:
5 6	(xvi) Attempted robbery under § 3 403 of the Criminal Law Article; [or]
7 8	(xvii) A violation of § 4 203, § 4 204, § 4 404, or § 4 405 of the Criminal Law Article; OR
9 10	(XVIII) A VIOLATION OF \S 9 302, \S 9 303, OR \S 9 305 OF THE CRIMINAL LAW ARTICLE THAT IS A FELONY;
11	10 901.
14 15	(A) A STATEMENT IS NOT EXCLUDED BY THE HEARSAY RULE IF THE STATEMENT IS OFFERED AGAINST A PARTY THAT HAS ENGAGED OR ACQUIESCED IN WRONGDOING THAT WAS INTENDED TO AND DID RESULT IN THE UNAVAILABILITY OF THE WITNESS, AS DEFINED IN MARYLAND RULE 5-804, WHO WAS THE DECLARANT OF THE STATEMENT.
17 18	(B) THE COURT SHALL DETERMINE THE ADMISSIBILITY OF A STATEMENT UNDER THIS SECTION IN THE MANNER PROVIDED IN THE MARYLAND RULES.
19	Article - Criminal Law
20	9-301.
21 22	(c) "Victim" means a person against whom a crime or delinquent act has been committed or attempted.
23	(d) "Witness" means a person who:
24 25	(1) has knowledge of the existence of facts relating to a crime or delinquent act;
26 27	(2) makes a declaration under oath that is received as evidence for any purpose;
28 29	(3) has reported a crime or delinquent act to a law enforcement officer, prosecutor, intake officer, correctional officer, or judicial officer; or
30 31	(4) has been served with a subpoena issued under the authority of a court of this State, any other state, or the United States.
32	9-302.
33 34	(a) A person may not harm another, threaten to harm another, or damage or destroy property with the intent to:

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1 2	(1)	influence a victim or witness to testify falsely or withhold testimony;
3	(2)	induce a victim or witness:
4		(i) to avoid the service of a subpoena or summons to testify; [or]
5 6	witness has been sub	(ii) to be absent from an official proceeding to which the victim or oenaed or summoned; OR
7 8	CRIME OR DELING	(III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A UENT ACT.
		ON MAY NOT SOLICIT ANOTHER PERSON TO HARM ANOTHER, RM ANOTHER, OR DAMAGE OR DESTROY PROPERTY WITH THE
12 13	(1) WITHHOLD TEST	INFLUENCE A VICTIM OR WITNESS TO TESTIFY FALSELY OR MONY; OR
14	(2)	INDUCE A VICTIM OR WITNESS:
15 16	TESTIFY;	(I) TO AVOID THE SERVICE OF A SUBPOENA OR SUMMONS TO
17 18	THE VICTIM OR W	(II) TO BE ABSENT FROM AN OFFICIAL PROCEEDING TO WHICH ITNESS HAS BEEN SUBPOENAED OR SUMMONED; OR
19 20	CRIME OR DELIN	(III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A UENT ACT.
23		(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS rson who violates this section is guilty of a misdemeanor and on o imprisonment not exceeding 5 years OR A FINE NOT OR BOTH.
27 28	ATTEMPT, CONSP VIOLATES THIS S	IF THE TESTIMONY, SUBPOENA, OFFICIAL PROCEEDING, OR REPORT ICTIM OR WITNESS RELATES TO A FELONY, INCLUDING AN RACY, OR SOLICITATION TO COMMIT A FELONY, A PERSON WHO CTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT I NOT EXCEEDING 20 YEARS.
	AND CONSECUTI	ENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM E TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED BLISHING THE VIOLATION OF THIS SECTION.
33	9-303.	
		may not intentionally harm another, THREATEN TO HARM ge or destroy property with the intent of retaliating against a

UNOFFICIAL COPY OF SENATE BILL 122 1 (1) giving testimony in an official proceeding; or 2 (2) reporting a crime or delinquent act. 3 A PERSON MAY NOT SOLICIT ANOTHER PERSON TO INTENTIONALLY HARM ANOTHER, THREATEN TO HARM ANOTHER, OR DAMAGE OR DESTROY PROPERTY WITH THE INTENT OF RETALIATING AGAINST A VICTIM OR WITNESS FOR: GIVING TESTIMONY IN AN OFFICIAL PROCEEDING; OR 6 (1) 7 (2) REPORTING A CRIME OR DELINQUENT ACT. [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS 8 [(b)](C) (1) 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 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 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. [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS 28 [(b)](1) 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 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.

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	AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.
4	Article - Criminal Procedure
5	4 -202.
	(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a a plea is entered under Maryland Rule 4 242 if:
9 10	(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;
11 12	the alleged crime is excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and
13 14	(3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.
15 16	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.