

SENATE BILL NO. 484

May 25, 2021, Introduced by Senators BULLOCK, HOLLIER, CHANG, GEISS, IRWIN, ANANICH, MOSS, BRINKS, SANTANA, WOJNO, HERTEL, POLEHANKI and BAYER and referred to the Committee on Judiciary and Public Safety.

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) Retaliate or attempt to retaliate against another person
4 for having reported or attempted to report a crime committed or
5 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 cause
9 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
28 a crime or the presentation of evidence to a police officer
29 conducting a lawful investigation of a crime.

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

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

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

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

12 (a) Knowingly and intentionally remove, alter, conceal,
13 destroy, or otherwise tamper with evidence, **including, but not**
14 **limited to, a digital image or video audio recording from a body-**
15 **worn camera used for law enforcement purposes**, 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 (c) **Knowingly and intentionally fail to activate a body-worn**
20 **camera used for law enforcement purposes and that failure**
21 **interferes with a present or future official proceeding or an**
22 **internal law enforcement investigation.**

23 (6) A person who violates subsection (5) **(a) or (b)** is guilty
24 of a crime as follows:

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

28 (b) If the violation is committed in a criminal case for which
29 the maximum term of imprisonment for the violation is more than 10

1 years, or the violation is punishable by imprisonment for life or
2 any term of years, the person is guilty of a felony punishable by
3 imprisonment for not more than 10 years or a fine of not more than
4 \$20,000.00, or both.

5 **(7) A person who violates subsection (5) (c) is guilty of a**
6 **misdemeanor punishable by imprisonment for not more than 90 days or**
7 **a fine of not more than \$500.00, or both.**

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

14 **(9) ~~(8)~~**—Subsections (1) (a), (3) (b), and (5) (b) do not apply to
15 any of the following:

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

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

20 **(10) ~~(9)~~**—This section does not prohibit a person from being
21 charged with, convicted of, or punished for any other violation of
22 law arising out of the same transaction as the violation of this
23 section.

24 **(11) ~~(10)~~**—The court may order a term of imprisonment imposed
25 for a violation of this section to be served consecutively to a
26 term of imprisonment imposed for any other crime including any
27 other violation of law arising out of the same transaction as the
28 violation of this section.

29 **(12) ~~(11)~~**—As used in this section:

1 (a) "Official proceeding" means a proceeding heard before a
2 legislative, judicial, administrative, or other governmental agency
3 or official authorized to hear evidence under oath, including a
4 referee, prosecuting attorney, hearing examiner, commissioner,
5 notary, or other person taking testimony or deposition in that
6 proceeding.

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

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