



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

Sub. H.B. 20*

129th General Assembly
(As Reported by S. Judiciary)

Reps. Burke and Letson, Amstutz, Boose, Derickson, Gardner, Grossman, Murray, Pillich, Snitchler, Stautberg, Stinziano, Winburn, Garland, Bulp, Blessing, Hayes, Slaby, R. Adams, Anielski, Ashford, Barnes, Beck, Blair, Brenner, Butler, Carney, Coley, Combs, DeGeeter, Dovilla, Driehaus, Fedor, Fende, Gerberry, Gonzales, Goyal, Hackett, C. Hagan, R. Hagan, Luckie, Lundy, Mallory, McClain, McKenney, Milkovich, Newbold, O'Brien, Patmon, Phillips, Ramos, Reece, Roegner, Rosenberger, Ruhl, Sears, Szollosi, Thompson, Uecker, Weddington, Young, Batchelder

BILL SUMMARY

- Amends the first degree misdemeanor prohibition of "intimidation of an attorney, victim, or witness in a criminal case" to prohibit a person from knowingly attempting to intimidate or hinder the victim of a crime *or delinquent act* in the filing or prosecution of criminal charges *or a delinquent child action or proceeding* or knowingly attempting to intimidate a witness *to a criminal or delinquent act by reason of the person being a witness to that act*.
- Amends the third degree felony prohibition of "intimidation of an attorney, victim, or witness in a criminal case" to prohibit a person, knowingly and by force or by unlawful threat of harm to any person or property *or by unlawful threat to commit any offense or calumny against any person*, for attempting to influence, intimidate, or hinder *any of the following persons: (1) the victim of a crime or delinquent act in the filing or prosecution of criminal charges or a delinquent child action or proceeding, (2) a witness to a criminal or delinquent act by reason of the person being a witness to that act, or (3) an attorney by reason of the attorney's involvement in any criminal or delinquent child action or proceeding.*

* This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

CONTENT AND OPERATION

Existing law includes two separate prohibitions within the offense of "intimidation of an attorney, victim, or witness in a criminal case." A violation of one of the prohibitions is a first degree misdemeanor, and a violation of the other prohibition is a third degree felony. The bill modifies the elements of each prohibition, provides an affirmative defense for both prohibitions, and defines the term "witness."

First degree misdemeanor offense of "intimidation of an attorney, victim, or witness in a criminal case"

The bill alters the elements of the prohibition under "intimidation of an attorney, victim, or witness in a criminal case" that is a first degree misdemeanor so that it prohibits a person from: (1) knowingly attempting to intimidate or hinder the victim of a crime *or delinquent act* in the filing or prosecution of criminal charges *or a delinquent child action or proceeding*, or (2) knowingly attempting to intimidate a witness to a criminal *or delinquent act by reason of the person being a witness to that act*.¹

Under current law, the above prohibition prohibits a person from: (1) knowingly attempting to intimidate or hinder the victim of a crime in the filing or prosecution of criminal charges, or (2) knowingly attempting to intimidate or hinder a witness involved in a criminal action or proceeding in the discharge of the duties of the witness.

Third degree felony offense of "intimidation of an attorney, victim, or witness in a criminal case"

The bill amends the elements of the prohibition under "intimidation of an attorney, victim, or witness in a criminal case" that is a third degree felony to prohibit a person, knowingly and by force or by unlawful threat of harm to any person or property *or by unlawful threat to commit any offense or calumny against any person*, from attempting to influence, intimidate or hinder any of the following persons:

(1) The victim of a crime *or delinquent act* in the filing or prosecution of criminal charges *or a delinquent child action or proceeding*;

(2) A witness *to a criminal or delinquent act by reason of the person being a witness to that act*;

¹ R.C. 2921.04(A) and (D).

(3) An attorney *by reason of the attorney's involvement* in any criminal or delinquent child action or proceeding.²

Under current law, the above prohibition prohibits a person, knowingly and by force or by unlawful threat of harm to any person or property, from attempting to influence, intimidate, or hinder the victim of a crime in the filing or prosecution of criminal charges or an attorney or witness involved in a criminal action or proceeding in the discharge of the duties of the attorney or witness.

Definition of "witness"

The bill defines "witness" for purposes of the prohibitions described above as any person who has or claims to have knowledge concerning a fact or facts concerning a criminal or delinquent act, whether or not criminal or delinquent child charges are actually filed.³

Background

Existing law, unchanged by the bill, specifies that the first degree misdemeanor offense of "intimidation of an attorney, victim, or witness in a criminal case" does not apply to a person who is attempting to resolve a dispute pertaining to the alleged commission of a criminal offense, either prior to or subsequent to the filing of a complaint, indictment, or information, by participating in the arbitration, mediation, compromise, settlement, or conciliation of that dispute pursuant to an authorization for arbitration, mediation, compromise, settlement, or conciliation of a dispute of that nature that is conferred by:⁴

(1) A Revised Code section;

(2) The Rules of Criminal Procedure, the Rules of Superintendence for Municipal Courts and County Courts, the Rules of Superintendence for Courts of Common Pleas, or another rule adopted by the Supreme Court under Section 5, Article IV, Ohio Constitution;

(3) A local rule of court, including a local rule of court that relates to alternative dispute resolution or other case management programs and that authorizes the referral of disputes pertaining to the alleged commission of certain types of criminal offenses to

² R.C. 2921.04(B) and (D).

³ R.C. 2921.04(E).

⁴ R.C. 2921.04(C).

appropriate and available arbitration, mediation, compromise, settlement, or other conciliation programs;

(4) The order of a judge of a municipal court, county court, or court of common pleas.

HISTORY

ACTION	DATE
Introduced	01-13-11
Reported, H. Criminal Justice	03-09-11
Passed House (96-0)	03-16-11
Reported, S. Judiciary	--

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