

No. 1980-187

## AN ACT

SB 812

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for criminal penalties for any intimidation of any victim of or witness to any criminal activity.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The heading of Chapter 49 of Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended and a subchapter designation and heading are added to read:

**CHAPTER 49**  
**[PERJURY AND OTHER] FALSIFICATION**  
**[IN OFFICIAL MATTERS] AND INTIMIDATION**

**SUBCHAPTER A**  
**PERJURY AND FALSIFICATION IN OFFICIAL MATTERS**

Section 2. Sections 4907 and 4908 of Title 18 are repealed.

Section 3. Section 4909 of Title 18 is amended to read:

§ 4909. Witness or informant taking bribe.

A person commits a felony of the third degree if he solicits, accepts or agrees to accept any benefit in consideration of his doing any of the things specified in section [4907(a)(1) through (a)(4) of this title (relating to tampering with witnesses and informants)] 4952(a)(1) through (6) (relating to intimidation of witnesses or victims).

Section 4. Chapter 49 of Title 18 is amended by adding a subchapter to read:

**SUBCHAPTER B**  
**VICTIM AND WITNESS INTIMIDATION**

Sec.

- 4951. Definitions.
- 4952. Intimidation of witnesses or victims.
- 4953. Retaliation against witness or victim.
- 4954. Protective orders.
- 4955. Violation of orders.
- 4956. Pretrial release.

§ 4951. Definitions.

The following words and phrases when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Victim.” Any person against whom any crime as defined under the laws of this State or of any other state or of the United States is being or has been perpetrated or attempted.

“Witness.” Any person having knowledge of the existence or nonexistence of facts or information relating to any crime, including but not limited to those who have reported facts or information to any law enforcement officer, prosecuting official, attorney representing a criminal defendant or judge, those who have been served with a subpoena issued under the authority of this State or any other state or of the United States, and those who have given written or oral testimony in any criminal matter; or who would be believed by any reasonable person to be an individual described in this definition.

§ 4952. Intimidation of witnesses or victims.

(a) Offense defined.—A person commits an offense if, with the intent to or with the knowledge that his conduct will obstruct, impede, impair, prevent or interfere with the administration of criminal justice, he intimidates or attempts to intimidate any witness or victim to:

(1) Refrain from informing or reporting to any law enforcement officer, prosecuting official or judge concerning any information, document or thing relating to the commission of a crime.

(2) Give any false or misleading information or testimony relating to the commission of any crime to any law enforcement officer, prosecuting official or judge.

(3) Withhold any testimony, information, document or thing relating to the commission of a crime from any law enforcement officer, prosecuting official or judge.

(4) Give any false or misleading information or testimony or refrain from giving any testimony, information, document or thing, relating to the commission of a crime, to an attorney representing a criminal defendant.

(5) Elude, evade or ignore any request to appear or legal process summoning him to appear to testify or supply evidence.

(6) Absent himself from any proceeding or investigation to which he has been legally summoned.

(b) Grading.—The offense is a felony of the third degree if:

(1) The actor employs force, violence or deception, or threatens to employ force or violence, upon the witness or victim or, with the requisite intent or knowledge upon any other person.

(2) The actor offers any pecuniary or other benefit to the witness or victim or, with the requisite intent or knowledge, to any other person.

(3) The actor’s conduct is in furtherance of a conspiracy to intimidate a witness or victim.

(4) The actor solicits another to or accepts or agrees to accept any pecuniary or other benefit to intimidate a witness or victim.

(5) The actor has suffered any prior conviction for any violation of this title or any predecessor law hereto, or has been convicted,

under any Federal statute or statute of any other state, of an act which would be a violation of this title if committed in this State.

Otherwise the offense is a misdemeanor of the second degree.

§ 4953. Retaliation against witness or victim.

(a) Offense defined.—A person commits an offense if he harms another by any unlawful act in retaliation for anything lawfully done in the capacity of witness or victim.

(b) Grading.—The offense is a felony of the third degree if the retaliation is accomplished by any of the means specified in section 4952(b)(1) through (5) (relating to intimidation of witnesses or victims). Otherwise the offense is a misdemeanor of the second degree.

§ 4954. Protective orders.

Any court with jurisdiction over any criminal matter may, after a hearing and in its discretion, upon substantial evidence, which may include hearsay or the declaration of the prosecutor that a witness or victim has been intimidated or is reasonably likely to be intimidated, issue protective orders including but not limited to the following:

(1) An order that a defendant not violate any provision of this subchapter.

(2) An order that a person other than the defendant, including but not limited to a subpoenaed witness, not violate any provision of this subchapter.

(3) An order that any person described in paragraph (1) or (2) maintain a prescribed geographic distance from any specified witness or victim.

(4) An order that any person described in paragraph (1) or (2) have no communication whatsoever with any specified witness or victim, except through an attorney under such reasonable restrictions as the court may impose.

§ 4955. Violation of orders.

Any person violating any order made pursuant to section 4954 (relating to protective orders) may be punished in any of the following ways:

(1) For any substantive offense described in this subchapter, where such violation of an order is a violation of any provision of this subchapter.

(2) As a contempt of the court making such order. No finding of contempt shall be a bar to prosecution for a substantive offense under section 4952 (relating to intimidation of witnesses or victims) or 4953 (relating to retaliation against witness or victim), but:

(i) any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed on conviction of said substantive offense; and

(ii) any conviction or acquittal for any substantive offense under this title shall be a bar to subsequent punishment for contempt arising out of the same act.

(3) By revocation of any form of pretrial release, or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody. Revocation may, after hearing and on substantial evidence, in the sound discretion of the court, be made whether the violation of order complained of has been committed by the defendant personally or was caused or encouraged to have been committed by the defendant.

§ 4956. Pretrial release.

(a) Conditions for pretrial release.—Any pretrial release of any defendant whether on bail or under any other form of recognizance shall be deemed, as a matter of law, to include a condition that the defendant neither do, nor cause to be done, nor permit to be done on his behalf, any act proscribed by section 4952 (relating to intimidation of witnesses or victims) or 4953 (relating to retaliation against witness or victim) and any willful violation of said condition is subject to punishment as prescribed in section 4955(3) (relating to violation of orders) whether or not the defendant was the subject of an order under section 4954 (relating to protective orders).

(b) Notice of condition.—From and after the effective date of this subchapter, any receipt for any bail or bond given by the clerk of any court, by any court, by any surety or bondsman and any written promise to appear on one's own recognizance shall contain, in a conspicuous location, notice of this condition.

Section 5. This act shall take effect in 60 days.

APPROVED—The 4th day of December, A. D. 1980.

DICK THORNBURGH