

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2829

1 AN ACT TO CREATE A NEW ARTICLE DELINEATING A SERIES OF
 2 OFFENSES CONSTITUTING THE CRIME OF OBSTRUCTION OF JUSTICE; TO
 3 ENACT DEFINITIONS; TO PROVIDE DEGREES OF THE OFFENSES; TO DEFINE
 4 WHAT CONDUCT CONSTITUTES HINDERING PROSECUTION OR APPREHENSION; TO
 5 DEFINE WHAT CONDUCT CONSTITUTES BRIBING A WITNESS; TO DEFINE WHAT
 6 CONDUCT CONSTITUTES RECEIPT OF A BRIBE BY A WITNESS; TO DEFINE
 7 WHAT CONDUCT CONSTITUTES WITNESS INTIMIDATION; TO DEFINE WHAT
 8 CONDUCT CONSTITUTES WITNESS TAMPERING; TO DEFINE WHAT CONDUCT
 9 CONSTITUTES BRIBING OF A JUROR AND RECEIPT OF A BRIBE BY A JUROR;
 10 TO DEFINE WHAT CONDUCT CONSTITUTES JUROR INTIMIDATION; TO DEFINE
 11 WHAT CONDUCT CONSTITUTES WITNESS INTIMIDATION; TO DEFINE WHAT
 12 CONDUCT CONSTITUTES TAMPERING WITH A JURY OR WITH PHYSICAL
 13 EVIDENCE; TO DEFINE WHAT CONDUCT CONSTITUTES RETALIATION AGAINST A
 14 PUBLIC SERVANT OR WITNESS; TO PROVIDE PENALTIES; AND FOR RELATED
 15 PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1. Definitions.** The following words and phrases
 18 shall have the meanings ascribed unless the context clearly
 19 requires otherwise:

20 (a) "Benefit" means any gain or advantage to the
 21 beneficiary, including any gain or advantage to a third person
 22 pursuant to the desire or consent of the beneficiary.

23 (b) "Government" means the state, county, municipality
 24 or other political subdivision, agency, branch or department of
 25 any of the foregoing, and any corporation or other entity
 26 established by law to carry out any governmental function.

27 (c) "Governmental function" means any activity which a
 28 public servant is legally authorized to undertake on behalf of a
 29 government.

30 (d) "Harm" means loss, disadvantage or injury, or
 31 anything so regarded by the person affected, including loss,
 32 disadvantage or injury to any other person or entity in whose
 33 welfare he is interested.

34 (e) "Juror" means any person who is a member of any
35 jury, including a grand jury, impaneled by any court of this state
36 or by any public servant authorized by law to impanel a jury. The
37 term juror also includes any person who has been summoned or whose
38 name has been drawn to attend as a prospective juror.

39 (f) "Official proceeding" means any proceeding heard
40 before any legislative, judicial, administrative or other
41 government agency or official authorized to hear evidence under
42 oath.

43 (g) "Physical evidence" means any article, object,
44 document, record or other thing of physical substance.

45 (h) "Property" means any real or personal property,
46 including books, records and documents.

47 (i) "Public servant" means any officer or employee of
48 government, including legislators and judges and any person
49 participating as juror, advisor, consultant or otherwise, in
50 performing a governmental function; but the term does not include
51 witnesses. This term includes persons who have been elected,
52 appointed or designated to become a public servant although not
53 yet occupying that position.

54 (j) "Testimony" means oral or written statements,
55 documents or any other material that may be offered as evidence in
56 an official proceeding.

57 (k) "Threat" means any menace, however communicated,
58 to: (i) cause bodily injury to the person threatened or another
59 or commit any other criminal offense; (ii) cause damage to
60 property or cause anyone to part with property; (iii) accuse
61 anyone of a criminal offense; (iv) expose a secret or an asserted
62 fact, whether true or false, tending to subject anyone to hatred,
63 contempt or ridicule; (v) impair the credit or business repute of
64 any person; or (vi) take or withhold action as a public servant or
65 cause a public servant to take or withhold action.

66 **SECTION 2. Hindering prosecution or apprehension; definition**
67 **of "criminal assistance."** For the purposes of Sections 3 and 4 of
68 this act, a person "renders criminal assistance" to another if he
69 knowingly:

70 (a) Harbors or conceals the other person;

71 (b) Warns the other person of impending discovery or
72 apprehension, except that this paragraph (b) does not apply to a
73 warning given in connection with an effort to bring another into
74 compliance with the law;

75 (c) Provides or aids in providing the other person with
76 money, transportation, weapon, disguise or other means of avoiding
77 discovery or apprehension;

78 (d) Prevents or obstructs, by means of force, deception
79 or intimidation, anyone from performing an act that might aid in
80 the discovery, apprehension, prosecution or conviction of the
81 other person; or

82 (e) Suppresses, by an act of concealment, alteration or
83 destruction, any physical evidence that might aid in the
84 discovery, apprehension or conviction of the other person.

85 **SECTION 3. Hindering prosecution in the first degree.** (1)

86 A person commits the crime of hindering prosecution in the first
87 degree if, with the intent to hinder the apprehension,
88 prosecution, conviction or punishment of another for conduct
89 constituting a felony, he renders criminal assistance to the other
90 person.

91 (2) Hindering prosecution in the first degree is a Class 1
92 felony.

93 **SECTION 4. Hindering prosecution in the second degree.** (1)

94 A person commits the crime of hindering prosecution in the second
95 degree if, with the intent to hinder the apprehension,
96 prosecution, conviction or punishment of another for conduct
97 constituting a misdemeanor, he renders criminal assistance to the
98 other person.

99 (2) Hindering prosecution in the second degree is a
100 misdemeanor.

101 **SECTION 5. Bribing a witness.** (1) A person commits the
102 crime of bribing a witness if he intentionally or knowingly
103 offers, confers or agrees to confer any benefit upon a witness or
104 a person he believes will be called as a witness in any official
105 proceeding with intent to:

106 (a) Influence the testimony of that person;

107 (b) Induce that person to avoid legal process summoning
108 him to testify; or

109 (c) Induce that person to absent himself from an
110 official proceeding to which he has been legally summoned.

111 (2) Bribing a witness is a Class 1 felony.

112 **SECTION 6. Bribe receiving by a witness.** (1) A witness or
113 a person believing he will be called as a witness in any official
114 proceeding commits the crime of bribe receiving by a witness if he
115 intentionally or knowingly solicits, accepts or agrees to accept
116 any benefit upon an agreement or understanding that:

117 (a) His testimony will thereby be influenced;

118 (b) He will attempt to avoid legal process summoning
119 him to testify; or

120 (c) He will absent himself from an official proceeding
121 to which he has been legally summoned.

122 (2) Bribe receiving by a witness is a Class 1 felony.

123 **SECTION 7. Intimidating a witness.** (1) A person commits
124 the crime of intimidating a witness if he intentionally or
125 knowingly attempts, by use of a threat directed to a witness or a
126 person he believes will be called as a witness in any official
127 proceedings, to:

128 (a) Influence the testimony of that person;

129 (b) Induce that person to avoid legal process summoning
130 him to testify; or

131 (c) Induce that person to absent himself from an
132 official proceeding to which he has been legally summoned.

133 (2) Intimidating a witness is a Class 1 felony.

134 **SECTION 8. Tampering with a witness.** (1) A person commits
135 the crime of tampering with a witness if he intentionally or
136 knowingly attempts to induce a witness or a person he believes
137 will be called as a witness in any official proceeding to:

138 (a) Testify falsely or unlawfully withhold testimony;
139 or

140 (b) Absent himself from any official proceeding to
141 which he has been legally summoned.

142 (2) Tampering with a witness is a Class 2 felony.

143 **SECTION 9. Bribing a juror.** (1) A person commits the crime
144 of bribing a juror if he intentionally or knowingly offers,
145 confers or agrees to confer any benefit upon a juror with the
146 intent that the juror's vote, opinion, decision or other action as
147 a juror will thereby be influenced.

148 (2) Bribing a juror is a Class 1 felony.

149 **SECTION 10. Bribe receiving by a juror.** (1) A person
150 commits the crime of bribe receiving by a juror if he
151 intentionally or knowingly solicits, accepts or agrees to accept
152 any benefit upon an agreement or understanding that his vote,
153 opinion, decision or other action as a juror will thereby be
154 influenced.

155 (2) Bribe receiving by a juror is a Class 1 felony.

156 **SECTION 11. Intimidating a juror.** (1) A person commits the
157 crime of intimidating a juror if he intentionally or knowingly
158 attempts, by the use of a threat, to influence a juror's vote,
159 opinion, decision or other action as a juror.

160 (2) Intimidating a juror is a Class 1 felony.

161 **SECTION 12. Jury tampering.** (1) A person commits the crime
162 of jury tampering if, with intent to influence a juror's vote,
163 opinion, decision or other action in the case, he intentionally or

164 knowingly attempts to communicate directly or indirectly with a
165 juror other than as part of the proceedings in the trial of the
166 case.

167 (2) Jury tampering is a Class 2 felony.

168 **SECTION 13. Tampering with physical evidence.** (1) A person
169 commits the crime of tampering with physical evidence if,
170 believing that an official proceeding is pending or may be
171 instituted, and acting without legal right or authority, he:

172 (a) Intentionally destroys, mutilates, conceals,
173 removes or alters physical evidence with intent to impair its use,
174 verity or availability in the pending or prospective official
175 proceeding;

176 (b) Knowingly makes, presents or offers any false
177 physical evidence with intent that it be introduced in the pending
178 or prospective official proceeding; or

179 (c) Intentionally prevents the production of physical
180 evidence by an act of force, intimidation or deception against any
181 person.

182 (2) Tampering with physical evidence is a Class 2 felony.

183 **SECTION 14. Retaliation against a public servant or witness.**

184 (1) A person commits the offense of retaliation if he
185 intentionally or knowingly harms or threatens to harm another by
186 any unlawful act in retaliation for anything lawfully done in the
187 capacity of public servant, witness, prospective witness or
188 informant.

189 (2) Retaliation is a Class 2 felony.

190 **SECTION 15. Sentencing.** (1) A person who has been
191 convicted of any Class 1 felony under this act shall be sentenced
192 to imprisonment for a term of not more than five (5) years or
193 fined not more than Five Thousand Dollars (\$5,000.00), or both.

194 (2) A person who has been convicted of any Class 2 felony
195 under this act shall be sentenced to imprisonment for a term of

196 not more than two (2) years or fined not more than Three Thousand
197 Dollars (\$3,000.00), or both.

198 (3) A person who has been convicted of any misdemeanor under
199 this act shall be sentenced to confinement in the county jail for
200 a term of not more than one (1) year or fined not more than One
201 Thousand Dollars (\$1,000.00), or both.

202 **SECTION 16.** This act shall be codified under Title 97,
203 Chapter 9, Mississippi Code of 1972, as a separate Article 3 to be
204 entitled "Obstruction of Justice," and shall begin with Section
205 97-9-101.

206 **SECTION 17.** This act shall take effect and be in force from
207 and after its passage.