

By: Senator(s) Albritton

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2305

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.**

18 The following words and phrases shall have the meanings
19 ascribed unless the context clearly 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."**

68 For the purposes of Sections 3 and 4 of this act, a person
69 "renders criminal assistance" to another if he 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.**

86 (1) A person commits the crime of hindering prosecution in
87 the first 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.**

94 (1) A person commits the crime of hindering prosecution in
95 the second 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.**

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

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

118 (a) His testimony will thereby be influenced;

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

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

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

124 **SECTION 7. Intimidating a witness.**

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

129 (a) Influence the testimony of that person;

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

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

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

135 **SECTION 8. Tampering with a witness.**

136 (1) A person commits the crime of tampering with a witness
137 if he intentionally or knowingly attempts to induce a witness or a
138 person he believes will be called as a witness in any official
139 proceeding to:

140 (a) Testify falsely or unlawfully withhold testimony;

141 or

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

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

145 **SECTION 9. Bribing a juror.**

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

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

152 **SECTION 10. Bribe receiving by a juror.**

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

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

159 **SECTION 11. Intimidating a juror.**

160 (1) A person commits the crime of intimidating a juror if he
161 intentionally or knowingly attempts, by the use of a threat, to
162 influence a juror's vote, opinion, decision or other action as a
163 juror.

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

165 **SECTION 12. Jury tampering.**

166 (1) A person commits the crime of jury tampering if, with
167 intent to influence a juror's vote, opinion, decision or other
168 action in the case, he intentionally or knowingly attempts to
169 communicate directly or indirectly with a juror other than as part
170 of the proceedings in the trial of the case.

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

172 **SECTION 13. Tampering with physical evidence.**

173 (1) A person commits the crime of tampering with physical
174 evidence if, believing that an official proceeding is pending or
175 may be instituted, and acting without legal right or authority,
176 he:

177 (a) Intentionally destroys, mutilates, conceals,
178 removes or alters physical evidence with intent to impair its use,
179 verity or availability in the pending or prospective official
180 proceeding;

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

184 (c) Intentionally prevents the production of physical
185 evidence by an act of force, intimidation or deception against any
186 person.

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

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

189 (1) A person commits the offense of retaliation if he
190 intentionally or knowingly harms or threatens to harm another by
191 any unlawful act in retaliation for anything lawfully done in the
192 capacity of public servant, witness, prospective witness or
193 informant.

194 (2) Retaliation is a Class 2 felony.

195 **SECTION 15. Sentencing.**

196 (1) A person who has been convicted of any Class 1 felony
197 under this act shall be sentenced to imprisonment for a term of

198 not more than five (5) years or fined not more than Five Thousand
199 Dollars (\$5,000.00), or both.

200 (2) A person who has been convicted of any Class 2 felony
201 under this act shall be sentenced to imprisonment for a term of
202 not more than two (2) years or fined not more than Three Thousand
203 Dollars (\$3,000.00), or both.

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

208 **SECTION 16.** This act shall be codified under Title 97,
209 Chapter 9, Mississippi Code of 1972, as a separate Article 3 to be
210 entitled "Obstruction of Justice," and shall begin with Section
211 97-9-101.

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