



SPONSOR: Sen. S. McBride & Rep. Griffith
Sens. Richardson, Sokola, Wilson; Reps. Bolden,
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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 128

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OBSTRUCTION OF JUSTICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1244A Obstruction of justice; class D felony; class G felony; class A misdemeanor.

(a) A person is guilty of obstruction of justice when the person corruptly intimidates, influences, obstructs, or impedes the administration of law, a law enforcement investigation, or any other inquiry authorized by law, including criminal, civil, or administrative inquiries.

(b) Obstruction of justice is classified and punished as follows:

(1) Obstruction of justice is a class D felony if a person uses force, violence, or physical interference when the person commits or attempts to commit an act under subsection (a) of this section.

(2) Obstruction of justice is a class G felony if a person does any of the following when the person commits or attempts to commit an act under subsection (a) of this section:

a. Conceals, alters, or destroys material evidence.

b. Bestows money or any other benefit upon another person.

c. Commits a breach of official duty or creates an obstacle.

(3) If a person intentionally commits or attempts to commit any crime under the laws of this State, other than a crime enumerated under paragraphs (b)(1) or (b)(2) of this section, when the person commits or attempts to commit an act under subsection (a) of this section, obstruction of justice is 1 class higher than the underlying offense.

(4) All other violations under subsection (a) of this section are a class A misdemeanor.

(c) For purposes of this section:

(1) "Corruptly" means acting with an improper purpose, personally or by influencing another, including any of the following:

a. Making a false or misleading statement.

b. Withholding, concealing, altering, or destroying a document or other information.

(2) “Obstacle” means any effort or scheme intended to delay or interfere with a law enforcement investigation or any other inquiry authorized by law, including criminal, civil, or administrative inquiries. An “obstacle” may be a threat, act, or physical object.

(d) This section does not apply to any of the following:

(1) Flight by a person charged with a crime.

(2) Refusal to submit to arrest.

(e) Superior Court has exclusive jurisdiction over violations of this section.

Section 2. Amend § 1502, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1502. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(9) “Racketeering” shall mean to engage in, to attempt to engage in, to conspire to engage in or to solicit, coerce or intimidate another person to engage in: in any of the following:

a. Any activity defined as “racketeering activity” under 18 U.S.C. § 1961(1)(A), (1)(B), (1)(C) or ~~(1)(D);~~
~~or (1)(D).~~

b. Any activity constituting any felony which is chargeable under the Delaware Code or any activity constituting a misdemeanor under any of the following provisions of the Delaware Code:

1. Chapter 53 of Title 30 relating to evasion of payment of cigarette ~~taxes;~~ taxes.

2. Chapter 73 of Title 6 relating to the sale of ~~securities;~~ securities.

3. Chapter 5 of Title 11 relating to ~~prostitution;~~ prostitution.

4. Chapter 5 of Title 11 and Title 6 relating to forgery and ~~counterfeiting;~~ counterfeiting.

5. Chapter 5 of Title 11 relating to ~~perjury;~~ perjury.

6. Chapter 5 of Title 11 and Title 28 relating to bribery and misuse of public office and improper ~~influence;~~ influence.

7. Chapter 5 of Title 11 relating to ~~obscenity;~~ obscenity.

8. Chapter 5 of Title 11 and Title 28 relating to ~~gambling;~~ gambling.

9. Title 11 and Title 16 relating to drug abuse, prevention and ~~control;~~ control.

10. Chapter 5 of Title 11 relating to tampering with jurors, evidence and ~~witnesses;~~ witnesses.

- 53 11. Chapter 51 of Title 30 relating to motor fuel tax ~~offenses;~~ offenses.
- 54 12. Chapter 5 of Title 11 relating to human ~~trafficking;~~ trafficking.
- 55 13. Chapter 5 of Title 11 relating to animal fighting and ~~baiting;~~ or baiting.
- 56 14. Chapter 5 of Title 11 relating to hate crimes or civil rights.
- 57 15. Chapter 5 of Title 11 relating to obstruction of justice.

SYNOPSIS

This Act establishes the crime of obstruction of justice. Nearly every other state has a statutory crime of obstruction of justice and this Act is modeled on laws that prohibit intentional obstruction of justice and interference with governmental functions under federal law, Chapter 73 of Title 18 of the United States Code, and in Pennsylvania, under § 5101 of Title 18 of the Pennsylvania Criminal Code. This Act addresses actions that powerful individuals and organizations take to silence victims and witnesses and impede investigations into fraud, abuse, corruption, and white collar crime.

Author: Senator S. McBride