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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Com. Sub. For
HOUSE BILL No. 2331

(By Delegates *Fantasia and Rowe*)



Passed *March 11,* 1995

In Effect *Ninety Days From* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2331

(BY DELEGATES FANTASIA AND ROWE)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-seven, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to crimes against public justice; providing for the criminal offense of impeding or obstructing the administration of justice by an officer or member of any court or of impairing the testimony of any person or the production of any document by use of intimidation, physical force or threats or attempts thereof; providing for the criminal offense of retaliating against an officer or member of any court or against a witness or other party testifying or producing documentary evidence; establishing criminal penalties; defining the term "official proceeding" for purposes of section; and clarifying the applicability of the provisions.

Be it enacted by the Legislature of West Virginia:

That section twenty-seven, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-27. Obstructing administration of justice; intimidation of judicial officer, jurors and witnesses; retaliation against judicial officers, jurors and witnesses; penalty.

1 (a) It shall be unlawful for any person to use intima-
2 tion, physical force or threats of such, or to attempt to do
3 so, against any person, with the intent to:

4 (1) Impede or obstruct the administration of justice
5 by any judge, family law master, magistrate, juror, arbitra-
6 tor, or officer or member of any court in the discharge of
7 that person's duties as such in an official proceeding;

8 (2) Influence, delay, or prevent the testimony of any
9 person in an official proceeding; or

10 (3) Cause or induce any person to (A) withhold testi-
11 mony, or withhold a record, document, or other object,
12 from an official proceeding; (B) alter, destroy, mutilate,
13 or conceal an object with intent to impair the object's in-
14 tegrity or availability for use in an official proceeding; (C)
15 evade legal process summoning that person to appear as a
16 witness, or to produce a record, document, or other object
17 in an official proceeding; or (D) be absent from an offi-
18 cial proceeding to which such person has been summoned
19 by legal process.

20 (b) It shall be unlawful for any person to engage in
21 any conduct and thereby cause bodily injury to another
22 person or to damage the tangible property of another
23 person, or to threaten or to attempt to do so, with intent to
24 retaliate against any person:

25 (1) For that person's discharge of duties as a judge,
26 family law master, magistrate, juror, arbitrator, or officer
27 or member of any court in an official proceeding; or

28 (2) For the attendance of a witness or party at an
29 official proceeding, or for any testimony given or for the
30 production of any record, document, or other object pro-
31 duced by a witness in an official proceeding.

32 (c) Any person who violates the provisions of this
33 section:

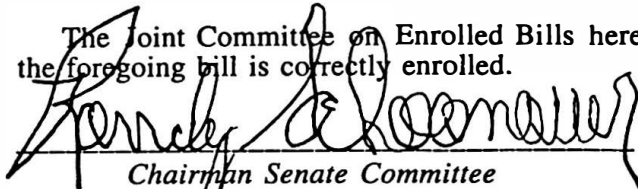
34 (1) In the case of an official proceeding involving any
35 felony charge, is guilty of a felony, and upon conviction
36 thereof, shall be imprisoned for a definite term of not less
37 than one year nor more than five years or fined not more
38 than one thousand dollars, or both;

39 (2) In the case of an official proceeding involving any
40 misdemeanor charge and no felony charge, or of an offi-
41 cial proceeding which is a civil proceeding, is guilty of a
42 misdemeanor, and upon conviction thereof, shall be con-
43 fined in jail for not more than one year or fined not more
44 than five hundred dollars, or both; or

45 (3) In the case of any official proceeding, where the
46 violation of the provisions of this section is directed at a
47 judge, family law master or magistrate, is guilty of a felo-
48 ny, and upon conviction thereof, shall be imprisoned for a
49 definite term of not less than one year nor more than five
50 years or fined not more than one thousand dollars, or
51 both.

52 (d) For the purposes of this section, the term "official
53 proceeding" means a proceeding pending before the su-
54 preme court of appeals or before any judge, magistrate,
55 family law master, court, or grand jury of the state of West
56 Virginia, and the testimony given or to be given, or the
57 record, document or other object produced or to be pro-
58 duced need not be admissible in evidence or free of a
59 claim of privilege at the time of the commission of any
60 unlawful act as provided in this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



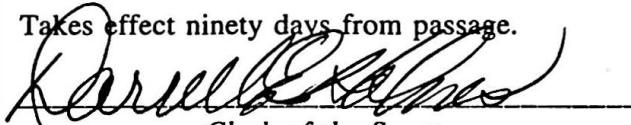
Chairman Senate Committee



Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within _____ this the _____
day of _____, 1995.

Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/55

Time 2:25 pm