

CHAPTER 251

(HB 571)

AN ACT relating to intimidation and retaliation against participants in the legal process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 524.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) ***"Judge" means, with reference to intimidating a participant in the legal process, any current justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding of or authorized by the Court of Justice. With reference to retaliating against a participant in the legal process, the term "judge" also includes a former justice or judge of the Court of Justice, a trial commissioner of the Court of Justice, and any person serving as a judge at a trial or judicial proceeding authorized by the Court of Justice. The term includes persons who have been elected or appointed, but have not yet taken office.***
- (2) "Juror" means a person who is *or has been* a member of any impaneled jury, including a grand jury, and includes any person who has been drawn or summoned to attend as a prospective juror.
- (3) ***"Participant in the legal process" means any judge, prosecutor, attorney defending a criminal case, juror, or witness and includes members of the participant's immediate family.***
- ~~(2) "Physical evidence" means any article, object, document, record or other thing of physical substance.~~
- ~~(3) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. }~~
- (4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.
- (5) ***"Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.***
- (6) ***"Physical evidence" means any article, object, document, record or other thing of physical substance.***
- (7) ***"Prosecutor" means, with reference to intimidating a participant in the legal process, a current Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law. With reference to retaliating against a participant in the legal process, the term "prosecutor" also includes a former Commonwealth's attorney, assistant Commonwealth's attorney, county attorney, assistant county attorney, attorney general, deputy attorney general, assistant attorney general, or special prosecutor appointed pursuant to law.***

- (8) *"Threat" means any direct threat to kill or injure a person protected by this chapter or an immediate family member of such a person. Persons protected by this chapter include persons who have been elected or appointed but have not yet taken office.*
- (9) *"Witness" means any person who may be called to testify in an official proceeding, has been called to testify in an official proceeding, is testifying in an official proceeding, or who has testified in an official proceeding.*

Section 2. KRS 524.040 is amended to read as follows:

- (1) A person is guilty of intimidating a ***participant in the legal process***~~[witness]~~ when, by use of physical force or a threat directed to ~~[a witness or]~~ a person he believes *to be a participant in the legal process*~~[may be called as a witness in any official proceeding]~~, he *or she*:
- Influences, or attempts to influence, the testimony, ***vote, decision, or opinion*** of that person;
 - Induces, or attempts to induce, that person to avoid legal process summoning him *or her* to testify;
 - Induces, or attempts to induce, that person to absent himself *or herself* from an official proceeding to which he has been legally summoned;
 - Induces, or attempts to induce, that person to withhold a record, document, or other object from an official proceeding;
 - Induces, or attempts to induce, that person to alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; or
 - Hinders, delays, or prevents the communication to a law enforcement officer or judge of information relating to the possible commission of an offense or a violation of conditions of probation, parole or release pending judicial proceedings.
- (2) For purposes of this section:
- An official proceeding need not be pending or about to be instituted at the time of the offense; and
 - The testimony, record, document or other object need not be admissible in evidence or free of a claim of privilege.

~~(3) "Threat" as used in this section means any threat proscribed in KRS 508.080 or 514.080.~~

~~(4)~~ Intimidating a ***participant in the legal process***~~[witness]~~ is a Class D felony.

- (4) *In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.*

Section 3. KRS 524.055 is amended to read as follows:

- (1) A person is guilty of retaliating against a ***participant in the legal process***~~[witness]~~ when he *or she* engages or threatens to engage in conduct causing or intended to cause bodily injury or damage to the tangible property of a ***participant in the legal process***~~[witness]~~ or a person he *or she* believes may be called as a ***participant in the legal process***~~[witness]~~ in any

official proceeding *or because the person has participated in a legal proceeding*~~[for the witness's]~~:

- (a) Attending an official proceeding, or giving or producing any testimony, record, document, or other object produced at that proceeding;~~[or]~~
 - (b) Giving information to a law enforcement officer relating to the possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;
 - (c) *Vote, decision, or opinion; or*
 - (d) *Performance of his or her duty.*
- (2) Retaliating against a *participant in the legal process*~~[witness]~~ is a Class D felony.
- (3) *In order for a person to be convicted of a violation of this section, the act against a participant in the legal process or the immediate family of a participant in the legal process shall be related to the performance of a duty or role played by the participant in the legal process.*

Section 4. KRS 524.050 is amended to read as follows:

- (1) A person is guilty of tampering with a witness when, knowing that a person is or may be called as a witness in an official proceeding, he:
- (a) Induces or attempts to induce the witness to absent himself or otherwise avoid appearing or testifying at the official proceeding with intent to influence the outcome thereby; or
 - (b) Knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of the witness.
- (2) Tampering with a witness is a Class ***D felony***~~[A misdemeanor]~~.

Section 5. KRS 524.090 is amended to read as follows:

- (1) A person is guilty of jury tampering when, with intent to influence a juror's vote, opinion, decision or other action in a case, he communicates or attempts to communicate, directly or indirectly, with a juror other than as a part of the proceedings in the trial of the case.
- (2) Jury tampering is a Class ***D felony***~~[A misdemeanor]~~.

Section 6. The following KRS sections are repealed:

- 524.045 Harassing a witness.
- 524.080 Intimidating a juror.
- 524.120 Intimidating a judicial officer.

Approved April 8, 2002