

By: Woolley

H.B. No. 1856

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of and punishment for the offense of
3 tampering with a witness.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 36.05, Penal Code, is amended by
6 amending Subsections (a), (b), and (d) and adding Subsections
7 (c-1), (e), and (f) to read as follows:

8 (a) A person commits an offense if, with intent to influence
9 the witness or prospective witness, the person coerces, [he] offers
10 any benefit to, confers[~~r~~] or agrees to confer any benefit on, or
11 engages in any other conduct reasonably designed to cause [a
12 ~~witness or prospective witness in an official proceeding or~~
13 ~~coerces]~~ a witness or prospective witness in an official
14 proceeding:

15 (1) to testify falsely;

16 (2) to withhold any testimony, information, document,
17 or thing;

18 (3) to elude legal process summoning the witness or
19 prospective witness [him] to testify or supply evidence;

20 (4) to be absent [~~himself~~] from an official proceeding
21 to which the witness or prospective witness [he] has been legally
22 summoned; or

23 (5) to abstain from, discontinue, or delay the
24 prosecution of another.

1 (b) A witness or prospective witness in an official
2 proceeding commits an offense if the actor [~~he~~] knowingly solicits,
3 accepts, or agrees to accept any benefit on the representation or
4 understanding that the actor [~~he~~] will do any of the things
5 specified in Subsection (a).

6 (c-1) For purposes of this section:

7 (1) an official proceeding is not required to be
8 pending at the time of the offense; and

9 (2) the testimony, information, document, or thing
10 that is or could be withheld is not required to be admissible in
11 evidence or free from a claim of privilege.

12 (d) An offense under this section is a [~~state-jail~~] felony
13 of the third degree, except that if the official proceeding is part
14 of the prosecution of a criminal case, an offense under this section
15 is the same category of offense as the most serious offense charged
16 in that criminal case.

17 (e) Notwithstanding Subsection (d), if the most serious
18 offense charged is a capital felony, an offense under this section
19 is a felony of the first degree.

20 (f) If conduct that constitutes an offense under this
21 section also constitutes an offense under any other law, the actor
22 may be prosecuted under this section, the other law, or both.

23 SECTION 2. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 governed by the law in effect on the date the offense was committed,
27 and the former law is continued in effect for that purpose. For

1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

4 SECTION 3. This Act takes effect September 1, 2011.