

By: Moody

H.B. No. 1163

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for the offense of tampering with a witness.

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

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

(a-1) A person commits an offense if the person intentionally or knowingly:

(1) solicits or directs a witness or prospective witness in an official proceeding:

(A) to testify falsely;

(B) to withhold any testimony, information, document, or thing;

(C) to elude legal process summoning the witness or prospective witness to testify or supply evidence; or

(D) to avoid attending an official proceeding to which the witness or prospective witness has been legally summoned;

or

(2) assists or attempts to assist a witness or prospective witness in performing an activity listed in Subdivision (1).

(c-1) It is a defense to prosecution under Subsection (a-1)(1)(B) or (a-1)(2) with respect to a withholding of testimony,

1 information, a document, or a thing that the withholding occurred  
2 or would have occurred through the exercise of a legal right or  
3 privilege the actor reasonably believed the witness or prospective  
4 witness was entitled to assert in the official proceeding.

5 (d) Subject to Subsections (e) and (e-1), an [An] offense  
6 under this section is a felony of the third degree.

7 (e) Subject to Subsection (e-1), if[, except that if] the  
8 official proceeding is part of the prosecution of a criminal case,  
9 an offense under this section is the same category of offense as the  
10 most serious offense charged in that criminal case, except that if  
11 the most serious offense charged is a capital felony, the offense is  
12 a felony of the first degree.

13 (e-1) An offense under Subsection (a) or (a-1) is a felony  
14 of the second degree if the actor is a public servant acting or  
15 purporting to act in an official capacity or an attorney  
16 representing a party to the official proceeding, except that the  
17 offense is a felony of the first degree if the official proceeding  
18 is part of the prosecution of a criminal case in which the most  
19 serious offense charged is punishable as a felony of the first  
20 degree or a capital felony [(e) Notwithstanding Subsection (d), if  
21 the most serious offense charged is a capital felony, an offense  
22 under this section is a felony of the first degree].

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, 2013.