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H.B. 226
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Pavliga and A. Miller

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SUMMARY

- Expands the offenses of intimidation and intimidation in a criminal case to include intimidation of a guardian ad litem or court appointed special advocate and to include intimidation by way of abuse, threats, or harassment.
- Makes intimidation or intimidation in a criminal case a first degree misdemeanor when the victim of the offense is a guardian ad litem or court appointed special advocate and retains the third degree felony penalty for intimidation of persons protected by existing law intimidation offenses.
- Narrows the scope of intimidation of a public servant or party official so that the offense only applies when the public servant or party official is involved in a civil action or proceeding.

DETAILED ANALYSIS

Intimidation

The bill adds protected victim classes to the offense of “intimidation” and makes changes to the offense generally. The offense under current law prohibits a person, knowingly and by force, by unlawful threat of harm to any person or property, or by filing, recording, or otherwise using a materially false or fraudulent writing with malicious purpose, in bad faith, or in a wanton or reckless manner, from attempting to influence, intimidate, or hinder a public servant, a party official, or an attorney or witness involved in a civil action or proceeding “in the discharge of the person’s the duties of the public servant, party official, attorney, or witness.”¹

¹ R.C. 2921.03(A).

Intimidation of guardian ad litem or court appointed special advocate

The bill adds guardians ad litem and court appointed special advocates to the list of persons covered by the “intimidation” offense so that the offense also prohibits a person, knowingly and by force, by unlawful threat of harm to any person or property, or by filing, recording, or otherwise using a materially false or fraudulent writing with malicious purpose, in bad faith, or in a wanton or reckless manner, from attempting to influence, intimidate, or hinder a guardian ad litem or court appointed special advocate. A violation of intimidation is generally a third degree felony, but under the bill it is a first degree misdemeanor if the victim is a guardian ad litem or a court appointed special advocate.²

Intimidation generally

The bill expands the offense of intimidation to include abuse, threats, and harassment against any of the protected victim classes. The bill also appears to narrow the scope of the intimidation to apply only when the victim is *involved in a civil action or proceeding, including a domestic relations or juvenile action or proceeding* (current law, by contrast, appears to apply this narrower scope only to attorneys and witnesses, making the offense applicable to intimidation against a public servant or party official regardless of whether the person was involved in a civil action or proceeding).³

Intimidation in a criminal case

The bill similarly adds protected victim classes to the offense of intimidation in a criminal case and makes changes to the offense generally. The offense under current law prohibits, in part, a person from knowingly attempting to intimidate or hinder the victim of a crime or delinquent act in the filing or prosecution of criminal charges or a delinquent child action or proceeding, and from knowingly attempting to intimidate a witness to a criminal or delinquent act by reason of the person being a witness to that act. The bill expands this prohibition to also prohibit a person from knowingly abusing, threatening, or harassing a victim under those circumstances, which under continuing law is a first degree misdemeanor.⁴

The current law offense of intimidation in a criminal case also prohibits a person from knowingly and by force or by unlawful threat of harm to person or property or by unlawful threat to commit any offense or calumny against any person, from attempting to influence, intimidate, or hinder any of the following persons:⁵

1. The victim of a crime or delinquent act in the filing or prosecution of criminal charges or a delinquent child action or proceeding;

² R.C. 2921.03(A) and (B).

³ R.C. 2921.03(A).

⁴ R.C. 2921.04(A) and (D).

⁵ R.C. 2921.04(B) and (D).

2. A witness to a criminal or delinquent act by reason of the person being a witness to that act;
3. An attorney, by reason of the attorney's involvement in any criminal or delinquent child action or proceeding.

The bill adds guardians ad litem and court appointed special advocates to the class of persons listed in (3), above, and includes abuse, threats, and harassment of any of the listed persons. Under continuing law, if the victim of the offense under the circumstances described in the preceding paragraph is an attorney, a victim, or a witness, intimidation in a criminal case is a third degree felony. Under the bill, if the victim of the offense is a guardian ad litem or a court appointed special advocate, a violation of intimidation in a criminal case under the circumstances described in the preceding paragraph is a first degree misdemeanor.

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 03-23-21 |
