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H.B. 226
134th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Pavliga and A. Miller

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SUMMARY

- Expands the offenses of intimidation and intimidation in a criminal case in the following ways:
 - Adds a guardian ad litem or a court appointed special advocate to the list of protected victim classes covered by the offense.
 - Provides that an attorney, a witness, a guardian ad litem, or a court appointed special advocate is protected under the bill only if the offender knew or had reason to know that the person was an attorney, a witness, a guardian ad litem, or a court appointed special advocate.
- Includes intimidation by way of abuse, threats, or harassment against any of the protected victim classes.
- 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.

DETAILED ANALYSIS

Intimidation

The bill expands the offense of “intimidation.” Under current law, the offense of “intimidation” 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

a 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

The bill modifies the offense in three ways. First, the bill adds guardians ad litem and court appointed special advocates to the list of protected victim classes covered by the offense. Second, the bill provides that an attorney, a witness, a guardian ad litem, or a court appointed special advocate is protected under the bill only if the offender knew or had reason to know that the person was an attorney, a witness, a guardian ad litem, or a court appointed special advocate. Third, the bill expands the offense to include abuse, threats, and harassment against any of the protected victim classes. Under the bill, the offense of "intimidation" 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, hinder, abuse, threaten, or harass any of the following in the discharge of the person's duties:²

1. A public servant;
2. A party official;
3. An attorney, a witness, a guardian ad litem, or a court appointed special advocate involved in a civil action or proceeding, including a domestic relations or juvenile action or proceeding, if the offender knew or had reason to know that the person was an attorney, a witness, a guardian ad litem, or a court appointed special advocate.

Under the bill, if the victim of the offense is a guardian ad litem or court appointed special advocate, a violation of the offense is a first degree misdemeanor. Under current law, if the victim of the offense is a public servant, party official, or attorney, or witness, a violation of the offense is a third degree felony.³

Intimidation in a criminal case

The bill expands the offense of "intimidation of an attorney, victim, or witness in a criminal case." Under current law, the offense of "intimidation of an attorney, victim, or witness in a criminal case" prohibits a person from doing either of the following: (1) 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 knowingly attempting to intimidate a witness to a criminal or delinquent act by reason of the person being a witness to that act or (2) 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

¹ R.C. 2921.03(A).

² R.C. 2921.03(A).

³ R.C. 2921.03(B).

attempting to influence, intimidate, or hinder any of the following persons: (a) the victim of a crime or delinquent act in the filing or prosecution of criminal charges or a delinquent child action or proceeding, (b) a witness to a criminal or delinquent act by reason of the person being a witness to that act, (c) an attorney, by reason of the attorney's involvement in any criminal or delinquent child action or proceeding.⁴

The bill similarly modifies the offense in three ways. First, the bill adds guardians ad litem and court appointed special advocates to the list of protected victim classes covered by the offense. Second, the bill provides that an attorney, a witness, a guardian ad litem, or a court appointed special advocate is protected under the bill only if the offender knew or had reason to know that the person was an attorney, a witness, a guardian ad litem, or a court appointed special advocate. Third, the bill expands the offense to include abuse, threats, and harassment against any of the protected victim classes. Under the bill, the offense of "intimidation of a guardian ad litem, court appointed special advocate, private victim advocate, attorney, victim, or witness in a criminal case" prohibits a person from doing either of the following:⁵

1. Knowingly attempting to intimidate, hinder, abuse, threaten or harass 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, abuse, threaten or harass a witness to a criminal or delinquent act by reason of the person being a witness to that act if the offender knew or had reason to know that the person was a witness.
2. 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, hinder, abuse, threaten, or harass any of the following persons: (a) the victim of a crime or delinquent act in the filing or prosecution of criminal charges or a delinquent child action or proceeding, (b) a witness to a criminal or delinquent act by reason of the person being a witness to that act if the offender knew or had reason to know that the person was a witness, (c) an attorney, a guardian ad litem, or a court appointed special advocate by reason of the person's involvement in any criminal or delinquent child action or proceeding if the person knew or had reason to know that the person was an attorney, a guardian ad litem, or a court appointed special advocate.

Under continuing law, a violation of (1) above is a first degree misdemeanor. Under the bill, if the victim of the offense is a guardian ad litem or court appointed special advocate, a violation of (2) above is a first degree misdemeanor. Under current law, if the victim of the offense is a public servant, party official, attorney, or witness, a violation of (2) above is a third degree felony.⁶

⁴ R.C. 2921.04(A) and (B).

⁵ R.C. 2921.04(A) and (B).

⁶ R.C. 2921.04(D).

HISTORY

| Action | Date |
|-------------------------------|----------|
| Introduced | 03-23-21 |
| Reported, H. Criminal Justice | 10-25-21 |
| Passed House (94-2) | 10-27-21 |
