

7141--A

Cal. No. 336

I N S E N A T E

March 16, 2010

Introduced by Sens. SCHNEIDERMAN, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, in relation to tampering with and intimidating a victim or witness

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 215.10 of the penal law, the section heading and
2 the closing paragraph as amended by chapter 664 of the laws of 1982, is
3 amended to read as follows:
4 S 215.10 Tampering with a VICTIM OR witness in the fourth degree.
5 A person is guilty of tampering with a VICTIM OR witness IN THE FOURTH
6 DEGREE when, knowing that [a] ANOTHER person is or is about to be called
7 as a witness OR OTHERWISE GIVE TESTIMONY in an action or proceeding, OR
8 IS INTENDING OR ABOUT TO REQUEST FROM A COURT, PROSECUTOR, POLICE OFFI-
9 CER OR PEACE OFFICER THE ISSUANCE, ENFORCEMENT, EXTENSION OR EXPANSION
10 OF AN ORDER OF PROTECTION, (a) he OR SHE wrongfully induces or attempts
11 to induce such OTHER person, EITHER DIRECTLY OR THROUGH AN INTERMEDIARY,
12 TO REFRAIN FROM PROCEEDING WITH SUCH REQUEST OR to absent himself OR
13 HERSELF from, or otherwise to avoid or seek to avoid appearing or testi-
14 fying at, such action or proceeding, or (b) he OR SHE knowingly makes
15 any false statement or practices any fraud or deceit with intent to
16 affect the testimony of such OTHER person.
17 Tampering with a VICTIM OR witness in the fourth degree is a class A
18 misdemeanor.
19 S 2. Section 215.11 of the penal law, as added by chapter 664 of the
20 laws of 1982, is amended to read as follows:
21 S 215.11 Tampering with a VICTIM OR witness in the third degree.
22 A person is guilty of tampering with a VICTIM OR witness in the third
23 degree when, knowing that [a] ANOTHER person is OR IS about to be called
24 as a witness OR OTHERWISE GIVE TESTIMONY in a criminal, FAMILY COURT OR
25 SUPREME COURT MATRIMONIAL proceeding, OR IS INTENDING OR ABOUT TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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REQUEST FROM A COURT, PROSECUTOR, POLICE OFFICER OR PEACE OFFICER THE
ISSUANCE, ENFORCEMENT, EXTENSION OR EXPANSION OF AN ORDER OF PROTECTION:

1. He OR SHE wrongfully compels or attempts to compel such OTHER
person, EITHER DIRECTLY OR THROUGH AN INTERMEDIARY, to REFRAIN FROM
PROCEEDING WITH SUCH REQUEST OR TO absent himself OR HERSELF from, or
otherwise to avoid or seek to avoid appearing or testifying at such
proceeding by means of instilling in him OR HER a fear that the actor
will cause physical injury to such OTHER person or [another] A THIRD
person; or

2. He OR SHE wrongfully compels or attempts to compel such OTHER
person, EITHER DIRECTLY OR THROUGH AN INTERMEDIARY, to swear falsely by
means of instilling in him OR HER a fear that the actor will cause phys-
ical injury to such OTHER person or [another] A THIRD person.

Tampering with a VICTIM OR witness in the third degree is a class E
felony.

S 3. Section 215.12 of the penal law, as added by chapter 664 of the
laws of 1982, is amended to read as follows:

S 215.12 Tampering with a VICTIM OR witness in the second degree.

A person is guilty of tampering with a VICTIM OR witness in the second
degree when he OR SHE:

1. Intentionally causes physical injury to a person for the purpose of
obstructing, delaying, preventing or impeding the giving of testimony in
a criminal, FAMILY COURT OR SUPREME COURT MATRIMONIAL proceeding by such
person or another person or for the purpose of compelling such person or
another person to swear falsely OR FOR THE PURPOSE OF OBSTRUCTING,
DELAYING, PREVENTING OR IMPEDING SUCH PERSON OR ANOTHER PERSON FROM
REQUESTING FROM A COURT, PROSECUTOR, POLICE OFFICER OR PEACE OFFICER THE
ISSUANCE, ENFORCEMENT, EXTENSION OR EXPANSION OF AN ORDER OF PROTECTION;
or

2. [He intentionally] INTENTIONALLY causes physical injury to a person
on account of such person or another person having testified in a crimi-
nal, FAMILY COURT OR SUPREME COURT MATRIMONIAL proceeding.

Tampering with a VICTIM OR witness in the second degree is a class D
felony.

S 4. Section 215.13 of the penal law, as added by chapter 664 of the
laws of 1982, is amended to read as follows:

S 215.13 Tampering with a VICTIM OR witness in the first degree.

A person is guilty of tampering with a VICTIM OR witness in the first
degree when:

1. He OR SHE intentionally causes serious physical injury to a person
for the purpose of obstructing, delaying, preventing or impeding the
giving of testimony in a criminal, FAMILY COURT OR SUPREME COURT MATRI-
MONIAL proceeding by such person or another person or for the purpose of
compelling such person or another person to swear falsely OR FOR THE
PURPOSE OF OBSTRUCTING, DELAYING, PREVENTING OR IMPEDING SUCH PERSON OR
ANOTHER PERSON FROM REQUESTING FROM A COURT, PROSECUTOR, POLICE OFFICER
OR PEACE OFFICER THE ISSUANCE, ENFORCEMENT, EXTENSION OR EXPANSION OF AN
ORDER OF PROTECTION; or

2. He OR SHE intentionally causes serious physical injury to a person
on account of such person or another person having testified in a crimi-
nal, FAMILY COURT OR SUPREME COURT MATRIMONIAL proceeding.

Tampering with a VICTIM OR witness in the first degree is a class B
felony.

S 5. The penal law is amended by adding a new section 215.14-a to read
as follows:

S 215.14-A INTIMIDATING A VICTIM OR WITNESS IN THE FOURTH DEGREE.

1 A PERSON IS GUILTY OF INTIMIDATING A VICTIM OR WITNESS IN THE FOURTH
2 DEGREE WHEN, KNOWING THAT ANOTHER PERSON POSSESSES INFORMATION RELATING
3 TO A CRIMINAL TRANSACTION AND OTHER THAN IN THE COURSE OF THAT CRIMINAL
4 TRANSACTION OR IMMEDIATE FLIGHT THEREFROM, OR INFORMATION RELATING TO
5 ANY VIOLATION OF OR FAILURE TO COMPLY WITH THE TERMS OF AN ORDER OF
6 PROTECTION, HE OR SHE WRONGFULLY INDUCES OR ATTEMPTS TO INDUCE SUCH
7 OTHER PERSON:

8 1. TO REFRAIN FROM COMMUNICATING SUCH INFORMATION TO ANY COURT, GRAND
9 JURY, PROSECUTOR, POLICE OFFICER OR PEACE OFFICER; OR

10 2. TO PROVIDE FALSE INFORMATION RELATING TO SUCH CRIMINAL TRANSACTION
11 OR VIOLATION OF OR FAILURE TO COMPLY WITH THE TERMS OF AN ORDER OF
12 PROTECTION TO ANY COURT, GRAND JURY, PROSECUTOR, POLICE OFFICER OR PEACE
13 OFFICER.

14 INTIMIDATING A VICTIM OR WITNESS IN THE FOURTH DEGREE IS A CLASS A
15 MISDEMEANOR.

16 S 6. Section 215.15 of the penal law, as added by chapter 667 of the
17 laws of 1985, is amended to read as follows:

18 S 215.15 Intimidating a victim or witness in the third degree.

19 A person is guilty of intimidating a victim or witness in the third
20 degree when[,]:

21 1. knowing that another person possesses information relating to a
22 criminal transaction and other than in the course of that criminal tran-
23 saction or immediate flight therefrom, he OR SHE:

24 [1.] (A) Wrongfully compels or attempts to compel such other person to
25 refrain from communicating such information to any court, grand jury,
26 prosecutor, police officer or peace officer by means of instilling in
27 him OR HER a fear that the actor will cause physical injury to such
28 other person or another person; or

29 [2.] (B) Intentionally damages the property of such other person or
30 another person for the purpose of compelling such other person or anoth-
31 er person to refrain from communicating, or on account of such other
32 person or another person having communicated, information relating to
33 that criminal transaction to any court, grand jury, prosecutor, police
34 officer or peace officer; OR

35 2. HE OR SHE COMMITS THE CRIME OF INTIMIDATING A VICTIM OR WITNESS IN
36 THE FOURTH DEGREE, AS DEFINED IN SECTION 215.14-A OF THIS ARTICLE AND
37 SUCH CONDUCT TAKES PLACE IN CONNECTION WITH A CRIMINAL INVESTIGATION OR
38 PROSECUTION OF A FELONY OFFENSE; OR

39 3. HE OR SHE COMMITS THE CRIME OF INTIMIDATING A VICTIM OR WITNESS IN
40 THE FOURTH DEGREE, AS DEFINED IN SECTION 215.14-A OF THIS ARTICLE AND
41 HAS BEEN PREVIOUSLY CONVICTED OF BRIBING A WITNESS AS DEFINED IN SECTION
42 215.00, BRIBE RECEIVING BY A WITNESS AS DEFINED IN SECTION 215.05,
43 TAMPERING WITH A WITNESS IN THE FOURTH DEGREE AS DEFINED IN SECTION
44 215.10, TAMPERING WITH A WITNESS IN THE THIRD DEGREE AS DEFINED IN
45 SECTION 215.11, TAMPERING WITH A WITNESS IN THE SECOND DEGREE AS DEFINED
46 IN SECTION 215.12, TAMPERING WITH A WITNESS IN THE FIRST DEGREE AS
47 DEFINED IN SECTION 215.13, INTIMIDATING A VICTIM OR WITNESS IN THE
48 FOURTH DEGREE AS DEFINED IN SECTION 215.14-A, INTIMIDATING A VICTIM OR
49 WITNESS IN THE THIRD DEGREE AS DEFINED IN THIS SECTION, INTIMIDATING A
50 VICTIM OR WITNESS IN THE SECOND DEGREE AS DEFINED IN SECTION 215.16,
51 INTIMIDATING A VICTIM OR WITNESS IN THE FIRST DEGREE AS DEFINED IN
52 SECTION 215.17, BRIBING A JUROR AS DEFINED IN SECTION 215.19, BRIBE
53 RECEIVING BY A JUROR AS DEFINED IN SECTION 215.20, PROVIDING A JUROR
54 WITH A GRATUITY AS DEFINED IN SECTION 215.22, TAMPERING WITH A JUROR IN
55 THE SECOND DEGREE AS DEFINED IN SECTION 215.23, TAMPERING WITH A JUROR
56 IN THE FIRST DEGREE AS DEFINED IN SECTION 215.25, TAMPERING WITH PHYS-

1 ICAL EVIDENCE AS DEFINED IN SECTION 215.40 OR COMPOUNDING A CRIME AS
2 DEFINED IN SECTION 215.45 OF THIS ARTICLE.

3 Intimidating a victim or witness in the third degree is a class E
4 felony.

5 S 7. This act shall take effect on the one hundred eightieth day after
6 it shall have become a law.