S T A T E O F N E W Y O R K

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:

Section 1. Section 215.10 of the penal law, the section heading and the closing paragraph as amended by chapter 664 of the laws of 1982, is amended to read as follows:

S 215.10 Tampering with a VICTIM OR witness in the fourth degree.

A person is guilty of tampering with a VICTIM OR witness IN THE FOURTH DEGREE when, knowing that [a] ANOTHER person is or is about to be called as a witness OR OTHERWISE GIVE TESTIMONY in an action or proceeding, OR IS INTENDING OR ABOUT TO REQUEST FROM A COURT, PROSECUTOR, POLICE OFFICER OR PEACE OFFICER THE ISSUANCE, ENFORCEMENT, EXTENSION OR EXPANSION OF AN ORDER OF PROTECTION, (a) he OR SHE wrongfully induces or attempts to induce 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 action or proceeding, or (b) he OR SHE knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of such OTHER person.

Tampering with a VICTIM OR witness in the fourth degree is a class A misdemeanor.

S 2. Section 215.11 of the penal law, as added by chapter 664 of the laws of 1982, is amended to read as follows:

S 215.11 Tampering with a VICTIM OR witness in the third degree.

A person is guilty of tampering with a VICTIM OR witness in the third degree when, knowing that [a] ANOTHER person is OR IS about to be called as a witness OR OTHERWISE GIVE TESTIMONY in a criminal, FAMILY COURT OR 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 physical 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 criminal, 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 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 OR SHE intentionally causes serious physical injury to a person on account of such person or another person having testified in a criminal, 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.

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

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

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

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

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

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

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

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

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

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

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

3. HE OR SHE COMMITS THE CRIME OF INTIMIDATING A VICTIM OR WITNESS IN THE FOURTH DEGREE, AS DEFINED IN SECTION 215.14-A OF THIS ARTICLE AND HAS BEEN PREVIOUSLY CONVICTED OF BRIBING A WITNESS AS DEFINED IN SECTION 215.00, BRIBE RECEIVING BY A WITNESS AS DEFINED IN SECTION 215.05, TAMPERING WITH A WITNESS IN THE FOURTH DEGREE AS DEFINED IN SECTION 215.10, TAMPERING WITH A WITNESS IN THE THIRD DEGREE AS DEFINED IN SECTION 215.11, TAMPERING WITH A WITNESS IN THE SECOND DEGREE AS DEFINED IN SECTION 215.12, TAMPERING WITH A WITNESS IN THE FIRST DEGREE AS DEFINED IN SECTION 215.13, INTIMIDATING A VICTIM OR WITNESS IN THE FOURTH DEGREE AS DEFINED IN SECTION 215.14-A, INTIMIDATING A VICTIM OR WITNESS IN THE THIRD DEGREE AS DEFINED IN THIS SECTION, INTIMIDATING A VICTIM OR WITNESS IN THE SECOND DEGREE AS DEFINED IN SECTION 215.16, INTIMIDATING A VICTIM OR WITNESS IN THE FIRST DEGREE AS DEFINED IN SECTION 215.17, BRIBING A JUROR AS DEFINED IN SECTION 215.19, BRIBE RECEIVING BY A JUROR AS DEFINED IN SECTION 215.20, PROVIDING A JUROR WITH A GRATUITY AS DEFINED IN SECTION 215.22, TAMPERING WITH A JUROR IN THE SECOND DEGREE AS DEFINED IN SECTION 215.23, TAMPERING WITH A JUROR IN THE FIRST DEGREE AS DEFINED IN SECTION 215.25, TAMPERING WITH PHYS-

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

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

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