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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 793 Session of  
2015

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INTRODUCED BY ROZZI, MURT, MILLARD, THOMAS, KINSEY, BISHOP,  
COHEN, YOUNGBLOOD, SABATINA, McNEILL AND TOOHL,  
MARCH 13, 2015

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 13, 2015

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AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 44 (Law and  
2 Justice) of the Pennsylvania Consolidated Statutes, in  
3 falsification and intimidation, further providing for  
4 definitions and for intimidation of witnesses or victims and  
5 for retaliation against witness, victim or party; and  
6 providing for confidential informants.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 4951 of Title 18 of the Pennsylvania  
10 Consolidated Statutes is amended by adding a definition to read:  
11 § 4951. Definitions.

12 The following words and phrases when used in this subchapter  
13 shall have, unless the context clearly indicates otherwise, the  
14 meanings given to them in this section:

15 "Confidential informant." A person who:

16 (1) cooperates with a law enforcement agency  
17 confidentially to protect the person or the agency's  
18 intelligence gathering or investigative efforts; and

19 (2) seeks to avoid arrest or prosecution for a crime or

1 seeks to mitigate punishment for a crime in which a sentence  
2 will be or has been imposed.

3 \* \* \*

4 Section 2. Sections 4952(a) and (b) and 4953(a) of Title 18  
5 are amended to read:

6 § 4952. Intimidation of witnesses or victims.

7 (a) Offense defined.--A person commits an offense if, with  
8 the intent to or with the knowledge that his conduct will  
9 obstruct, impede, impair, prevent or interfere with the  
10 administration of criminal justice, he intimidates or attempts  
11 to intimidate any confidential informant, witness or victim to:

12 (1) Refrain from informing or reporting to any law  
13 enforcement officer, prosecuting official or judge concerning  
14 any information, document or thing relating to the commission  
15 of a crime.

16 (2) Give any false or misleading information or  
17 testimony relating to the commission of any crime to any law  
18 enforcement officer, prosecuting official or judge.

19 (3) Withhold any testimony, information, document or  
20 thing relating to the commission of a crime from any law  
21 enforcement officer, prosecuting official or judge.

22 (4) Give any false or misleading information or  
23 testimony or refrain from giving any testimony, information,  
24 document or thing, relating to the commission of a crime, to  
25 an attorney representing a criminal defendant.

26 (5) Elude, evade or ignore any request to appear or  
27 legal process summoning him to appear to testify or supply  
28 evidence.

29 (6) Absent himself from any proceeding or investigation  
30 to which he has been legally summoned.

1 (b) Grading.--

2 (1) The offense is a felony of the degree indicated in  
3 paragraphs (2) through (4) if:

4 (i) The actor employs force, violence or deception,  
5 or threatens to employ force or violence, upon the  
6 confidential informant, witness or victim or, with the  
7 requisite intent or knowledge upon any other person.

8 (ii) The actor offers any pecuniary or other benefit  
9 to the confidential informant, witness or victim or, with  
10 the requisite intent or knowledge, to any other person.

11 (iii) The actor's conduct is in furtherance of a  
12 conspiracy to intimidate a confidential informant,  
13 witness or victim.

14 (iv) The actor accepts, agrees or solicits another  
15 to accept any pecuniary or other benefit to intimidate a  
16 confidential informant, witness or victim.

17 (v) The actor has suffered any prior conviction for  
18 any violation of this section or any predecessor law  
19 hereto, or has been convicted, under any Federal statute  
20 or statute of any other state, of an act which would be a  
21 violation of this section if committed in this State.

22 (2) The offense is a felony of the first degree if a  
23 felony of the first degree or murder in the first or second  
24 degree was charged in the case in which the actor sought to  
25 influence or intimidate a confidential informant, witness or  
26 victim as specified in this subsection.

27 (3) The offense is a felony of the second degree if a  
28 felony of the second degree is the most serious offense  
29 charged in the case in which the actor sought to influence or  
30 intimidate a confidential informant, witness or victim as

1 specified in this subsection.

2 (4) The offense is a felony of the third degree in any  
3 other case in which the actor sought to influence or  
4 intimidate a confidential informant, witness or victim as  
5 specified in this subsection.

6 (5) Otherwise the offense is a misdemeanor of the second  
7 degree.

8 § 4953. Retaliation against witness, victim or party.

9 (a) Offense defined.--A person commits an offense if he  
10 harms another by any unlawful act or engages in a course of  
11 conduct or repeatedly commits acts which threaten another in  
12 retaliation for anything lawfully done in the capacity of  
13 confidential informant, witness, victim or a party in a civil  
14 matter.

15 \* \* \*

16 Section 2. Title 44 of the Pennsylvania Consolidated  
17 Statutes is amended by adding a chapter to read:

18 CHAPTER 9

19 CONFIDENTIAL INFORMANTS

20 Sec.

21 901. Definitions.

22 902. Duties of law enforcement agency.

23 § 901. Definitions.

24 The following words and phrases when used in this chapter  
25 shall have the meanings given to them in this section unless the  
26 context clearly indicates otherwise:

27 "Confidential informant." A person who:

28 (1) cooperates with a law enforcement agency  
29 confidentially to protect the person or the agency's  
30 intelligence gathering or investigative efforts; and

1       (2) seeks to avoid arrest or prosecution for a crime or  
2       seeks to mitigate punishment for a crime in which a sentence  
3       will be or has been imposed.

4       "Law enforcement agency." A police department of a city,  
5       borough, incorporated town or township, the Pennsylvania State  
6       Police, district attorneys' offices and the Office of Attorney  
7       General.

8       § 902. Duties of law enforcement agency.

9       (a) General duties.--A law enforcement agency shall:

10       (1) Ensure that an individual has an opportunity to  
11       consult with legal counsel, upon request of the individual,  
12       prior to agreeing to perform any activity as a confidential  
13       informant. Nothing in this paragraph creates a right to  
14       publicly funded legal counsel.

15       (2) Obtain the prior written consent of a parent or  
16       guardian of a proposed confidential informant who is under 18  
17       years of age prior to enlisting the minor as a confidential  
18       informant.

19       (3) Inform an individual who agrees to serve as a  
20       confidential informant that the agency is prohibited from  
21       offering inducements, including, but not limited to, a grant  
22       of immunity, dropped or reduced charges, a reduced sentence  
23       or placement on probation, in exchange for serving as a  
24       confidential informant.

25       (4) Inform an individual who agrees to serve as a  
26       confidential informant of the risk of physical harm to the  
27       individual and the immediate family or close associates of  
28       the individual:

29               (i) as a result of providing information or  
30               assistance as a confidential informant; or

1           (ii) upon the disclosure of the individual's  
2           assistance to the community as a confidential informant.

3           (b) Substance abusers.--A chronic abuser of alcohol or  
4           controlled substances in treatment may not serve as a  
5           confidential informant.

6           (c) Confidentiality of records.--All records and information  
7           of a law enforcement agency relating to confidential informants  
8           shall be confidential except that disclosure may be made to law  
9           enforcement officials or for other official purposes.

10          Section 3. This act shall take effect in 60 days.