

# HOUSE BILL No. 1427

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-44.1-2-2.

**Synopsis:** Obstruction of justice enhancement. Creates an enhancement to the obstruction of justice crime for intimidation of a witness during the investigation or pendency of a domestic violence or child abuse case. Provides immunity for prosecuting attorneys and deputies, federal prosecutors and deputies, defense attorneys, judges, and investigators.

**Effective:** July 1, 2017.

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## Olthoff

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January 17, 2017, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1427

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-44.1-2-2, AS AMENDED BY P.L.158-2013,  
2 SECTION 502, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) A person who:  
4 (1) knowingly or intentionally induces, by threat, coercion, false  
5 statement, or offer of goods, services, or anything of value, a  
6 witness or informant in an official proceeding or investigation to:  
7 (A) withhold or unreasonably delay in producing any  
8 testimony, information, document, or thing;  
9 (B) avoid legal process summoning the person to testify or  
10 supply evidence; or  
11 (C) absent the person from a proceeding or investigation to  
12 which the person has been legally summoned;  
13 (2) knowingly or intentionally in an official criminal proceeding  
14 or investigation:  
15 (A) withholds or unreasonably delays in producing any  
16 testimony, information, document, or thing after a court orders  
17 the person to produce the testimony, information, document,



- 1 or thing;
- 2 (B) avoids legal process summoning the person to testify or
- 3 supply evidence; or
- 4 (C) absents the person from a proceeding or investigation to
- 5 which the person has been legally summoned;
- 6 (3) alters, damages, or removes any record, document, or thing,
- 7 with intent to prevent it from being produced or used as evidence
- 8 in any official proceeding or investigation;
- 9 (4) makes, presents, or uses a false record, document, or thing
- 10 with intent that the record, document, or thing, material to the
- 11 point in question, appear in evidence in an official proceeding or
- 12 investigation to mislead a public servant; or
- 13 (5) communicates, directly or indirectly, with a juror otherwise
- 14 than as authorized by law, with intent to influence the juror
- 15 regarding any matter that is or may be brought before the juror;
- 16 commits obstruction of justice, a Level 6 felony.
- 17 **(b) The offense in subsection (a) is a Level 5 felony if, during the**
- 18 **investigation or pendency of a domestic violence or child abuse**
- 19 **case as defined in subsection (c), a person knowingly or**
- 20 **intentionally:**
- 21 **(1) offers, gives, or promises any benefit to any witness;**
- 22 **(2) communicates a threat as defined by IC 35-45-2-1(c) to**
- 23 **any witness; or**
- 24 **(3) intimidates, influences, or otherwise persuades any witness**
- 25 **to abstain from:**
- 26 **(A) attending or giving testimony at any hearing, trial,**
- 27 **deposition, probation, or other criminal proceeding; or**
- 28 **(B) giving testimony or other statements to a court or law**
- 29 **enforcement officer as defined in IC 35-31.5-2-185.**
- 30 **(c) As used in this section, "domestic violence or child abuse**
- 31 **case" means any case involving allegations of:**
- 32 **(1) a crime involving domestic or family violence under**
- 33 **IC 35-31.5-2-76 involving a family or household member**
- 34 **under IC 35-31.5-2-128;**
- 35 **(2) a crime of domestic violence under IC 35-31.5-2-78**
- 36 **involving a family or household member under**
- 37 **IC 35-31.5-2-128; or**
- 38 **(3) physical abuse, sexual abuse, or child neglect, including**
- 39 **crimes listed under IC 35-31.5-2-76 involving a victim who**
- 40 **was less than eighteen (18) years of age at the time of the**
- 41 **offense, whether or not the person is a family or household**
- 42 **member under IC 35-31.5-2-128.**



- 1           ~~(b)~~ (d) Subsection (a)(2)(A) does not apply to:  
2           (1) a person who qualifies for a special privilege under IC 34-46-4  
3           with respect to the testimony, information, document, or thing; or  
4           (2) a person who, as:  
5           (A) an attorney;  
6           (B) a physician;  
7           (C) a member of the clergy; or  
8           (D) a husband or wife;  
9           is not required to testify under IC 34-46-3-1.  
10          (e) Subsection (b) does not apply to any prosecuting attorney,  
11          federal prosecutor, deputy prosecuting attorney, defense attorney,  
12          investigator, or judge engaged in plea or immunity negotiations or  
13          advisement of rights to a defendant, suspect, or witness in a  
14          pending case or a case under law enforcement investigation.

