

HOUSE BILL REPORT

HB 1182

As Passed House:
February 14, 2011

Title: An act relating to the unit of prosecution for tampering with or intimidating a witness.

Brief Description: Clarifying that each instance of an attempt to intimidate or tamper with a witness constitutes a separate violation for purposes of determining the unit of prosecution under tampering with or intimidating a witness statutes.

Sponsors: Representatives Goodman, Ross, Kirby, Johnson, Hope, Hurst, Kelley, Maxwell, Frockt, Klippert, Liias, Miloscia, Moscoso, Pearson, Billig, Warnick and Ladenburg.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/26/11, 2/4/11 [DP].

Floor Activity:

Passed House: 2/14/11, 93-0.

Brief Summary of Bill

- Changes the unit of prosecution for Intimidating a Witness and Tampering with a Witness.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Alexa Silver (786-7190).

Background:

A person is guilty of Intimidating a Witness if he or she uses a threat to attempt to influence a witness's testimony, induce a witness to absent him or herself from proceedings, induce a person not to report information relevant to a criminal investigation or child abuse, or induce

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a person not to have a crime or abuse prosecuted. Intimidating a Witness is a class B felony with a seriousness level of VI.

A person is guilty of Tampering with a Witness if he or she attempts to induce a witness to testify falsely, absent him or herself from proceedings, or withhold information from law enforcement or an agency that is relevant to a criminal investigation or child abuse. Tampering with a Witness is a class C felony with a seriousness level of III.

The Washington Supreme Court (Court) recently determined that where a defendant makes multiple phone calls to induce a single witness not to testify, the prosecutor may charge the defendant with one count of Tampering with a Witness. The Court determined that the unit of prosecution is the ongoing attempt to persuade the witness not to testify.

Summary of Bill:

For the offenses of Intimidating a Witness and Tampering with a Witness, each instance of an attempt to intimidate or tamper with a witness constitutes a separate offense.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Witness tampering is a problem in the domestic violence and gang contexts. Under the *State v. Hall* decision, there is no incentive for an offender to refrain from making additional attempts to persuade a witness not to testify. Before *Hall*, an offender who made hundreds of calls would receive a sentence of 60 months, but now the offender would be sentenced to three months.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; and Adrienne McCoy, King County Prosecutor's Office.

Persons Signed In To Testify But Not Testifying: None.