

9-1-1988

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Recommended Citation

C. Henson, *CRIMES AND OFFENSES Threatening or Influencing Witnesses: Expand Prohibitions*, 5 GA. ST. U. L. REV. (1988).
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CRIMES AND OFFENSES

Threatening or Influencing Witnesses: Expand Prohibitions

CODE SECTION:	O.C.G.A. § 16-10-93 (amended)
BILL NUMBER:	HB 1577
ACT NUMBER:	1110
SUMMARY:	The Act expands the statute which proscribes threatening or influencing a witness. The Act prohibits threatening an administrative hearing witness and makes unlawful any threats concerning the employment of a witness or of a witness's relative.
EFFECTIVE DATE:	July 1, 1988

History

Under existing law, perjury, false swearing, and subornation of perjury or false swearing in judicial and administrative proceedings are punishable offenses.¹ These offenses necessarily include the actual giving of false testimony.² In addition, threatening a witness with intent to deter free, full, and truthful testimony in any matter pending in court or before a grand jury is also an offense.³ However, prior law did not address the threatening of a witness in administrative hearings.⁴ The law protected a witness's person or property from threats but failed to address threats directed at the witness's employment.⁵

Besides HB 1577, two other bills addressing witness threats were introduced during the 1988 session, but failed to pass. HB 1204 and HB 1604

1. O.C.G.A. § 16-10-70(b) (1988) (punishes perjury with a fine up to \$1000 or one to ten years' imprisonment); O.C.G.A. § 16-10-71(b) (1988) (punishes false swearing with a fine up to \$1000 or one to five years' imprisonment); O.C.G.A. § 16-10-72 (1988) (punishes subornation of perjury or false swearing with a fine up to \$1000 or one to ten years' imprisonment).

2. O.C.G.A. § 16-10-70(a) (1988) (A person commits the offense of perjury by knowingly and willfully making a material false statement in a judicial proceeding.); O.C.G.A. § 16-10-71(a) (1988) (A person commits the offense of false swearing by knowingly and willfully making a false statement in any proceeding other than a judicial proceeding.); O.C.G.A. § 16-10-72 (1988) (A person commits the offense of subornation of perjury or false swearing by inducing another to commit perjury or false swearing.).

3. O.C.G.A. § 16-10-93 (1988), enacted by 1975 Ga. Laws 34.

4. Telephone interview with Representative Kenneth Waldrep, House District No. 80 (Apr. 15, 1988) [hereinafter Waldrep Interview].

5. 1975 Ga. Laws 34.

attempted to create public policy exceptions to Georgia's employment-at-will doctrine.⁶ The bills prevented employers from threatening to discipline, penalize, or discharge an employee for testifying truthfully at the workers' compensation hearing of a co-worker.⁷ If passed, these bills would have established a cause of action for the recovery of damages, expenses, and attorney's fees if an employee was fired for testifying truthfully at a workers' compensation hearing.⁸ The Business Council of Georgia and other business lobbyists strongly opposed these bills.⁹

HB 1577

The Act amends O.C.G.A. § 16-10-93 by making it unlawful to threaten damage to the employment of a witness or of a witness's relative.¹⁰ The Act also prohibits influencing a witness in any administrative hearing.¹¹ Imprisonment from one to five years can be imposed for either violation.¹²

The purpose of the Act is to deter the conduct of those in a position to threaten a witness. This approach differs from that taken in HB 1204 and HB 1604; these bills provided an incentive for the witness to testify truthfully.¹³ Although neither HB 1204 nor HB 1604 passed, the witnesses that would have been protected under them are still protected because workers' compensation hearings are administrative proceedings.¹⁴

C. Henson

6. Telephone interview with Representative Pete Robinson, House District No. 96 (Apr. 5, 1988).

7. HB 1204, as introduced, 1988 Ga. Gen. Assem. (prohibited discharge, discipline, or penalty for testifying at a workers' compensation hearing); HB 1604, as introduced, 1988 Ga. Gen. Assem. (prohibited discharge for testifying at a workers' compensation hearing).

8. HB 1204, as introduced, 1988 Ga. Gen. Assem.; HB 1604, as introduced, 1988 Ga. Gen. Assem.

9. Lundy, *Bill Protects Witnesses, But Employment at Will Stands*, *Fulton County Daily Rep.*, Mar. 3, 1988, at 1, col. 1.

10. O.C.G.A. § 16-10-93 (1988). Originally, the Act included threatening injury to a person's reputation. HB 1577, as introduced, 1988 Ga. Gen. Assem. This provision was deleted because legislators considered the language too vague. HB 1577 (HCA), 1988 Ga. Gen. Assem.; Waldrep Interview, *supra* note 4.

11. O.C.G.A. § 16-10-93 (1988).

12. *Id.* The penalty for influencing a witness in a court or grand jury proceeding is also one to five years' imprisonment.

13. Telephone interview with Representative James Pannell, House District No. 122 (Apr. 14, 1988).

14. See O.C.G.A. § 34-9-102 (1982) (providing that workers' compensation hearings occur before an administrative law judge).