

Effective 5/1/2024

76-8-306 Obstruction of justice in a criminal investigation or proceeding.

- (1)
 - (a) As used in this section:
 - (i)
 - (A) "Conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section.
 - (B) "Conduct that constitutes a criminal offense" includes:
 - (I) any violation of a criminal statute or ordinance of this state or a political subdivision of this state, any other state, or any district, possession, or territory of the United States; and
 - (II) conduct committed by a juvenile that would be a crime if committed by an adult.
 - (ii) "Juvenile offender" means the same as that term is defined in Section 80-1-102.
 - (iii) "Official custody" means the same as that term is defined in Section 76-8-309.
 - (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- (2) Except as provided in Subsection (5), an actor commits obstruction of justice in a criminal investigation or proceeding if the actor, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constitutes a criminal offense:
 - (a) provides any person with a weapon;
 - (b) prevents by force, intimidation, or deception, a person from performing an act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any person;
 - (c) alters, destroys, conceals, or removes an item or other thing;
 - (d) makes, presents, or uses an item or thing known by the actor to be false;
 - (e) harbors or conceals a person;
 - (f) provides a person with transportation, disguise, or other means of avoiding discovery or apprehension;
 - (g) warns a person of impending discovery or apprehension;
 - (h) warns a person of an order authorizing the interception of wire communications or of a pending application for an order authorizing the interception of wire communications;
 - (i) conceals information that is not privileged and that concerns the offense, after a judge or magistrate has ordered the actor to provide the information; or
 - (j) provides false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation.
- (3) A violation of Subsection (2) is:
 - (a) a second degree felony if the conduct that constitutes an offense would be a capital felony or first degree felony;
 - (b) a third degree felony if:
 - (i) the conduct that constitutes an offense would be a second or third degree felony and the actor violates Subsection (2)(b), (c), (d), (e), or (f);
 - (ii) the conduct that constitutes an offense would be any offense other than a capital or first degree felony and the actor violates Subsection (2)(a);
 - (iii) the obstruction of justice is presented or committed before a court of law; or
 - (iv) a violation of Subsection (2)(h); or
 - (c) a class A misdemeanor for any violation of this section that is not enumerated under Subsection (3)(a) or (b).
- (4) It is not a defense that the actor was unaware of the level of penalty for the conduct constituting an offense.
- (5)

- (a) Subsection (2) does not apply to harboring or concealing an offender who has escaped from official custody, which is governed by Section 76-8-309.2.
- (b) Subsection (2)(b) does not apply to:
 - (i) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316;
 - (ii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.2;
 - (iii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.4;
 - (iv) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.6;
 - (v) tampering with a witness under Section 76-8-508;
 - (vi) retaliation against a witness, victim, or informant under Section 76-8-508.3;
 - (vii) tampering or retaliating against a juror under Section 76-8-508.5;
 - (viii) receiving or soliciting a bribe as a witness under Section 76-8-508.7; or
 - (ix) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509.
- (c) Subsection (2)(e) does not apply to harboring a juvenile offender, which is governed by Section 76-8-319.
- (6) For purposes of Subsection (3), a violation of a criminal statute that is committed in another state, or any district, possession, or territory of the United States, is:
 - (a) a capital felony if the penalty provided includes death or life imprisonment without parole;
 - (b) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;
 - (c) a second degree felony if the penalty provided exceeds five years;
 - (d) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; or
 - (e) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.

Amended by Chapter 96, 2024 General Session