

OBSTRUCTION OF JUSTICE AMENDMENT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Jennifer M. Seelig

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the offense of obstruction of justice.

Highlighted Provisions:

This bill:

▶ includes as obstruction of justice the act of advising a person of the existence of an order for a wiretap, or the pending application for a wiretap.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-8-306, as last amended by Laws of Utah 2005, Chapter 13

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-8-306** is amended to read:

76-8-306. Obstruction of justice in criminal investigations or proceedings --

Elements -- Penalties -- Exceptions.

(1) An actor commits obstruction of justice 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;

30 (b) prevents by force, intimidation, or deception, any person from performing any act
31 that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any
32 person;

33 (c) alters, destroys, conceals, or removes any item or other thing;

34 (d) makes, presents, or uses any item or thing known by the actor to be false;

35 (e) harbors or conceals a person;

36 (f) provides a person with transportation, disguise, or other means of avoiding
37 discovery or apprehension;

38 (g) warns any person of impending discovery or apprehension;

39 (h) warns any person of an order authorizing the interception of wire communications
40 or of a pending application for an order authorizing the interception of wire communications;

41 ~~[(h)]~~ (i) conceals information that is not privileged and that concerns the offense, after
42 a judge or magistrate has ordered the actor to provide the information; or

43 ~~[(i)]~~ (j) provides false information regarding a suspect, a witness, the conduct
44 constituting an offense, or any other material aspect of the investigation.

45 (2) (a) As used in this section, "conduct that constitutes a criminal offense" means
46 conduct that would be punishable as a crime and is separate from a violation of this section,
47 and includes:

48 (i) any violation of a criminal statute or ordinance of this state, its political
49 subdivisions, any other state, or any district, possession, or territory of the United States; and

50 (ii) conduct committed by a juvenile which would be a crime if committed by an
51 adult.

52 (b) A violation of a criminal statute that is committed in another state, or any district,
53 possession, or territory of the United States, is a:

54 (i) capital felony if the penalty provided includes death or life imprisonment without
55 parole;

56 (ii) a first degree felony if the penalty provided includes life imprisonment with parole
57 or a maximum term of imprisonment exceeding 15 years;

- 58 (iii) a second degree felony if the penalty provided exceeds five years;
- 59 (iv) a third degree felony if the penalty provided includes imprisonment for any period
- 60 exceeding one year; and
- 61 (v) a misdemeanor if the penalty provided includes imprisonment for any period of
- 62 one year or less.
- 63 (3) ~~[The penalties for obstruction]~~ Obstruction of justice ~~[are]~~ is:
- 64 (a) a second degree felony if the conduct which constitutes an offense would be a
- 65 capital felony or first degree felony;
- 66 (b) a third degree felony if:
- 67 (i) the conduct that constitutes an offense would be a second or third degree felony
- 68 and the actor violates Subsection (1)(b), (c), (d), (e), or (f);
- 69 (ii) the conduct that constitutes an offense would be any offense other than a capital or
- 70 first degree felony and the actor violates Subsection (1)(a); ~~[or]~~
- 71 (iii) the obstruction of justice is presented or committed before a court of law; or
- 72 (iv) a violation of Subsection (1)(h); or
- 73 (c) a class A misdemeanor for any violation of this section that is not enumerated
- 74 under Subsection (3)(a) or (b).
- 75 (4) It is not a defense that the actor was unaware of the level of penalty for the conduct
- 76 constituting an offense.
- 77 (5) Subsection (1)(e) does not apply to harboring a youth offender, which is governed
- 78 by Section 62A-7-402.
- 79 (6) Subsection (1)(b) does not apply to:
- 80 (a) tampering with a juror, which is governed by Section 76-8-508.5;
- 81 (b) influencing, impeding, or retaliating against a judge or member of the Board of
- 82 Pardons and Parole, which is governed by Section 76-8-316;
- 83 (c) tampering with a witness or soliciting or receiving a bribe, which is governed by
- 84 Section 76-8-508;
- 85 (d) retaliation against a witness, victim, or informant, which is governed by Section

86 76-8-508.3; or

87 (e) extortion or bribery to dismiss a criminal proceeding, which is governed by Section
88 76-8-509.

89 (7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony
90 if the actor harbors or conceals an offender who has escaped from official custody as defined
91 in Section 76-8-309.