

**OBSTRUCTION OF JUSTICE AMENDMENT**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ralph Okerlund**

House Sponsor: Jennifer M. Seelig

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**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

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*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



28 regarding conduct that constitutes a criminal offense:

- 29 (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 adult.

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

- 53 (i) capital felony if the penalty provided includes death or life imprisonment without  
54 parole;
- 55 (ii) a first degree felony if the penalty provided includes life imprisonment with parole  
56 or a maximum term of imprisonment exceeding 15 years;
- 57 (iii) a second degree felony if the penalty provided exceeds five years;
- 58 (iv) a third degree felony if the penalty provided includes imprisonment for any period

59 exceeding one year; and

60 (v) a misdemeanor if the penalty provided includes imprisonment for any period of one  
61 year or less.

62 (3) [~~The penalties for obstruction~~] Obstruction of justice [~~are~~] is:

63 (a) a second degree felony if the conduct which constitutes an offense would be a  
64 capital felony or first degree felony;

65 (b) a third degree felony if:

66 (i) the conduct that constitutes an offense would be a second or third degree felony and  
67 the actor violates Subsection (1)(b), (c), (d), (e), or (f);

68 (ii) the conduct that constitutes an offense would be any offense other than a capital or  
69 first degree felony and the actor violates Subsection (1)(a); or

70 (iii) the obstruction of justice is presented or committed before a court of law; or

71 (c) a class A misdemeanor for any violation of this section that is not enumerated under  
72 Subsection (3)(a) or (b).

73 (4) It is not a defense that the actor was unaware of the level of penalty for the conduct  
74 constituting an offense.

75 (5) Subsection (1)(e) does not apply to harboring a youth offender, which is governed  
76 by Section 62A-7-402.

77 (6) Subsection (1)(b) does not apply to:

78 (a) tampering with a juror, which is governed by Section 76-8-508.5;

79 (b) influencing, impeding, or retaliating against a judge or member of the Board of  
80 Pardons and Parole, which is governed by Section 76-8-316;

81 (c) tampering with a witness or soliciting or receiving a bribe, which is governed by  
82 Section 76-8-508;

83 (d) retaliation against a witness, victim, or informant, which is governed by Section  
84 76-8-508.3; or

85 (e) extortion or bribery to dismiss a criminal proceeding, which is governed by Section  
86 76-8-509.

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

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**Legislative Review Note**  
**as of 1-15-09 2:55 PM**

**Office of Legislative Research and General Counsel**

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**S.B. 112 - Obstruction of Justice Amendment**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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