

CHAPTER 12.1-08
OBSTRUCTION OF LAW ENFORCEMENT - ESCAPE

12.1-08-01. Physical obstruction of government function.

1. A person is guilty of a class A misdemeanor if he intentionally obstructs, impairs, impedes, hinders, prevents, or perverts the administration of law or other governmental function.
2. This section does not apply to the conduct of a person obstructing arrest of himself, but such conduct is subject to section 12.1-08-02. This section does apply to the conduct of a person obstructing arrest of another. Inapplicability under this subsection is a defense.
3. It is a defense to a prosecution under this section that the administration of law or other government function was not lawful, but it is no defense that the defendant mistakenly believed that the administration of law or other government function was not lawful. For the purposes of this subsection, the conduct of a public servant acting in good faith and under color of law in the execution of a warrant or other process for arrest or search and seizure shall be deemed lawful.

12.1-08-02. Preventing arrest or discharge of other duties.

1. A person is guilty of a class A misdemeanor if, with intent to prevent a public servant from effecting an arrest of himself or another for a misdemeanor or infraction, or from discharging any other official duty, he creates a substantial risk of bodily injury to the public servant or to anyone except himself, or employs means justifying or requiring substantial force to overcome resistance to effecting the arrest or the discharge of the duty. A person is guilty of a class C felony if, with intent to prevent a public servant from effecting an arrest of himself or another for a class A, B, or C felony, he creates a substantial risk of bodily injury to the public servant or to anyone except himself, or employs means justifying or requiring substantial force to overcome resistance to effecting such an arrest.
2. It is a defense to a prosecution under this section that the public servant was not acting lawfully, but it is no defense that the defendant mistakenly believed that the public servant was not acting lawfully. A public servant executing a warrant or other process in good faith and under color of law shall be deemed to be acting lawfully.

12.1-08-03. Hindering law enforcement.

1. A person is guilty of hindering law enforcement if he intentionally interferes with, hinders, delays, or prevents the discovery, apprehension, prosecution, conviction, or punishment of another for an offense by:
 - a. Harboring or concealing the other;
 - b. Providing the other with a weapon, money, transportation, disguise, or other means of avoiding discovery or apprehension;
 - c. Concealing, altering, mutilating, or destroying a document or thing, regardless of its admissibility in evidence;
 - d. Warning the other of impending discovery or apprehension other than in connection with an effort to bring another into compliance with the law; or
 - e. Giving false information or a false report to a law enforcement officer knowing such information or report to be false.

2. Hindering law enforcement is a class C felony if the actor:
 - a. Knows of the conduct of the other and such conduct constitutes a class AA, class A, or class B felony; or
 - b. Knows that the other has been charged with or convicted of a crime and such crime is a class AA, class A, or class B felony.

Otherwise hindering law enforcement is a class A misdemeanor.

12.1-08-04. Aiding consummation of crime.

1. A person is guilty of aiding consummation of crime if he intentionally aids another to secrete, disguise, or convert the proceeds of a crime or otherwise profit from a crime.
2. Aiding consummation of a crime:
 - a. Is a class C felony if the actor knows of the conduct of the other and such conduct constitutes a class A or class B felony.
 - b. Is a class A misdemeanor if the actor knows of the conduct of the other and such conduct constitutes a class C felony or class A misdemeanor.

Otherwise aiding consummation of a crime is a class B misdemeanor.

12.1-08-05. Failure to appear after release - Bail jumping.

1. A person is guilty of an offense if, after having been released upon condition or undertaking that he will subsequently appear before a court or judicial officer as required, he willfully fails to appear as required.
2. The offense is a class C felony if the actor was released in connection with a charge of felony or while awaiting sentence or pending appeal after conviction of any crime. Otherwise it is a class A misdemeanor.

12.1-08-06. Escape.

1. A person is guilty of escape if, without lawful authority, the person removes or attempts to remove himself from official detention or fails to return to official detention following temporary leave granted for a specified purpose or limited period. A person who is subject to official detention under this section is guilty of escape, if while outside the state of North Dakota and without lawful authority, the person removes or attempts to remove himself from official detention, or fails to return to official detention following temporary leave granted for a specified purpose or limited period, when at the time the person is in the legal custody of a warden of the penitentiary, department of corrections and rehabilitation, or other competent authority by virtue of a lawful commitment to official detention.
2. Escape is a class B felony if the actor uses a firearm, destructive device, or other dangerous weapon in effecting or attempting to effect the actor's removal from official detention. Escape is a class C felony if:
 - a. The actor uses any other force or threat of force against another in effecting or attempting to effect the actor's removal from official detention; or
 - b. The person escaping was in official detention by virtue of the person's arrest for, or on charge of, a felony, or pursuant to the person's conviction of any offense. Otherwise escape is a class A misdemeanor.

3. In this section:
 - a. "Conviction of an offense" does not include an adjudication of juvenile delinquency.
 - b. "Official detention" means arrest, custody following surrender in lieu of arrest, detention in any facility for custody of persons under charge or conviction of an offense or alleged or found to be delinquent, detention under a law authorizing civil commitment in lieu of criminal proceedings or authorizing such detention while criminal proceedings are held in abeyance, detention for extradition, home detention as authorized by chapter 12-67, or custody for purposes incident to the foregoing, including transportation, medical diagnosis or treatment, court appearances, work, and recreation, or being absent without permission from any release granted while under custody of a sentence such as work or education release, community confinement, or other temporary leaves from a correctional or placement facility. "Official detention" does not include supervision on probation or parole or constraint incidental to release.
4. Irregularity in bringing about or maintaining detention, or lack of jurisdiction of the committing or detaining authority, shall not be a defense to a prosecution under this section if the escape is from the penitentiary or other facility used for official detention or from detention pursuant to commitment by an official proceeding. In the case of other detentions, irregularity or lack of jurisdiction shall be an affirmative defense if:
 - a. The escape involved no substantial risk of harm to the person or property of anyone other than the detainee; or
 - b. The detaining authority did not act in good faith under color of law.
5. The jurisdiction of a violation of this section when the person is in the legal custody of a warden of the penitentiary, the department of corrections and rehabilitation, or other lawful authority is in the county where the violation occurred if the violation occurred within this state, and is in Burleigh County or in the county in which the order committing the person to official detention was entered if the violation occurred outside this state.

12.1-08-07. Public servants permitting escape. A public servant concerned in official detention pursuant to process issued by a court, judge, or magistrate is guilty of a class A misdemeanor if he recklessly permits an escape and is guilty of a class B misdemeanor if he negligently permits an escape. "Official detention" has the meaning prescribed in subsection 3 of section 12.1-08-06.

12.1-08-08. Inciting or leading riot in detention facilities.

1. A person is guilty of a class C felony if, with intent to cause, continue, or enlarge a riot, he solicits a group of five or more persons to engage in a riot in a facility used for official detention or engages in conduct intended to serve as the beginning of or signal for such riot, or participates in planning such riot, or, in the course of such riot, issues commands or instructions in furtherance thereof.
2. In this section:
 - a. "Official detention" has the meaning prescribed in subsection 3 of section 12.1-08-06.
 - b. "Riot" means a disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct creates grave danger of damage or

injury to property or persons or substantially obstructs the operation of the facility or other government function.

12.1-08-09. Introducing or possessing contraband useful for escape.

1. A person is guilty of a class C felony if he unlawfully provides an inmate of an official detention facility with any tool, weapon, or other object which may be useful for escape. Such person is guilty of a class B felony if the object is a firearm, destructive device, or other dangerous weapon.
2. An inmate of an official detention facility is guilty of a class C felony if he unlawfully procures, makes, or otherwise provides himself with, or has in his possession, any tool, weapon, or other object which may be useful for escape. Such person is guilty of a class B felony if the object is a firearm, destructive device, or other dangerous weapon.
3. In this section:
 - a. "Official detention" has the meaning prescribed in subsection 3 of section 12.1-08-06.
 - b. "Unlawfully" means surreptitiously or contrary to a statute or regulation, rule, or order issued pursuant thereto.

12.1-08-10. Harboring a runaway minor - Penalty. A person who willfully harbors a runaway minor with knowledge that the child is being sought by a law enforcement authority is guilty of a class A misdemeanor. This section does not apply to a person who provides temporary sanctuary, not exceeding seventy-two hours, to a runaway minor who is seeking refuge from a physically, sexually, or mentally abusive person. For the purposes of this section, a "runaway minor" is an unemancipated minor who is voluntarily absent from the minor's home without the consent of a minor's parent entitled to legal custody of the minor or legal guardian with the intention of evading the direction or control of the parent or guardian. This section does not apply to persons providing temporary sanctuary to minors accompanied by a parent or legal guardian in a domestic violence shelter or safe home.

12.1-08-11. (Effective through December 31, 2009) Fleeing a peace officer. Any person, other than the driver of a motor vehicle under section 39-10-71, who willfully fails or refuses to stop or who otherwise flees or attempts to elude, in any manner, a pursuing peace officer, when given a visual or audible signal to stop, is guilty of a class B misdemeanor for a first or second offense and a class A misdemeanor for a subsequent offense. A signal to stop complies with this section if the signal is perceptible to the person and:

1. If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the vehicle is appropriately marked showing it to be an official law enforcement vehicle; or
2. If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform and prominently displays the officer's badge of office.

(Effective after December 31, 2009) Refusing to halt. Any person, other than the driver of a motor vehicle under section 39-10-71, who willfully fails or refuses to stop or who otherwise flees or attempts to elude, in any manner, a pursuing peace officer, when given a visual or audible signal to stop, is guilty of a class B misdemeanor for a first or second offense and a class A misdemeanor for a subsequent offense. A signal to stop complies with this section if the signal is perceptible to the person and:

1. If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the vehicle is appropriately marked showing it to be an official law enforcement vehicle; or
2. If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform and prominently displays the officer's badge of office.