

**CHAPTER 12.1-09  
TAMPERING AND UNLAWFUL INFLUENCE**

**12.1-09-01. Tampering with witnesses and informants in proceedings.**

1. A person is guilty of a class C felony if he uses force, threat, deception, or bribery:
  - a. With intent to influence another's testimony in an official proceeding; or
  - b. With intent to induce or otherwise cause another:
    - (1) To withhold any testimony, information, document, or thing from an official proceeding, whether or not the other person would be legally privileged to do so;
    - (2) To violate section 12.1-09-03;
    - (3) To elude legal process summoning him to testify in an official proceeding; or
    - (4) To absent himself from an official proceeding to which he has been summoned.
2. A person is guilty of a class C felony if he solicits, accepts, or agrees to accept from another a thing of pecuniary value as consideration for:
  - a. Influencing the actor's testimony in an official proceeding; or
  - b. The actor's engaging in the conduct described in paragraphs 1 through 4 of subdivision b of subsection 1.
3.
  - a. It is a defense to a prosecution under this section for use of threat with intent to influence another's testimony that the threat was not of unlawful harm and was used solely to influence the other to testify truthfully.
  - b. In a prosecution under this section based on bribery, it shall be an affirmative defense that any consideration for a person's refraining from instigating or pressing the prosecution of an offense was to be limited to restitution or indemnification for harm caused by the offense.
  - c. It is no defense to a prosecution under this section that an official proceeding was not pending or about to be instituted.
4. This section shall not be construed to prohibit the payment or receipt of witness fees provided by statute, or the payment, by the party upon whose behalf a witness is called, and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time spent in attendance at an official proceeding, or in the case of expert witnesses, a reasonable fee for preparing and presenting an expert opinion.

**12.1-09-02. Tampering with informants in criminal investigations.**

A person is guilty of a class C felony if, believing another may have information relating to an offense, he deceives such other person or employs force, threat, or bribery with intent to hinder, delay, or prevent communication of such information to a law enforcement officer. The affirmative defense in subdivision b of subsection 3 of section 12.1-09-01 applies to this section.

**12.1-09-03. Tampering with physical evidence.**

1. A person is guilty of an offense if, believing an official proceeding is pending or about to be instituted, or believing process, demand, or order has been issued or is about to be issued, he alters, destroys, mutilates, conceals, or removes a record, document, or thing with intent to impair its verity or availability in such official proceeding or for the purposes of such process, demand, or order.
2. The offense is a class C felony if the actor substantially obstructs, impairs, or perverts prosecution for a felony. Otherwise it is a class A misdemeanor.
3. In this section, "process, demand, or order" means process, demand, or order authorized by law for the seizure, production, copying, discovery, or examination of a record, document, or thing.

**12.1-09-04. Harassment of and communication with jurors.**

1. A person is guilty of a class A misdemeanor if, with intent to influence the official action of another as juror, that person communicates directly or indirectly with the juror, other than as part of the proceedings in a case, or harasses or alarms the juror. A person is guilty of a class A misdemeanor if, with the intent to harass or annoy a former juror because of the verdict returned by the jury or the participation of the juror in the verdict, that person communicates directly or indirectly with the juror in a manner that intimidates the juror or conveys a threat of injury or damage to the juror's property or person. Conduct directed against the juror's spouse or other relative residing in the same household with the juror shall be deemed conduct directed against the juror.
2. In this section, "juror" means a grand juror or a petit juror and includes a person who has been drawn or summoned to attend as a prospective juror, and any referee, arbitrator, umpire, or assessor authorized by law to hear and determine any controversy.

**12.1-09-05. Eavesdropping on jury deliberations.**

1. A person is guilty of a class A misdemeanor if he intentionally:
  - a. Records the proceedings of a jury while such jury is deliberating or voting; or
  - b. Listens to or observes the proceedings of any jury of which he is not a member while such jury is deliberating or voting.
2. This section shall not apply to the taking of notes by a juror in connection with and solely for the purpose of assisting him in the performance of his official duties. Nor does this section apply to a person studying the jury process in the manner provided by statute, and under the control and supervision of the court. Inapplicability under this subsection is a defense.
3. In this section, "jury" means grand jury or petit jury, and "juror" means grand juror or petit juror.

**12.1-09-06. Nondisclosure of retainer in criminal matter.**

1. A person employed for compensation to influence the official action of a public servant with respect to:
  - a. The initiation, conduct, or dismissal of a prosecution;
  - b. The imposition or modification of a sentence; or
  - c. The granting of parole or probation is guilty of a class A misdemeanor if he privately addresses to such public servant any representation, entreaty, argument, or other communication intended to influence official action without disclosing the fact of such employment, knowing that the public servant is unaware of it.
2. This section does not apply to an attorney at law or to a person authorized by statute or regulation to act in a representative capacity with respect to the official action when he is acting in such capacity and makes known to the public servant or has indicated in any manner authorized by law that he is acting in such capacity. Inapplicability under this subsection is a defense.