

TITLE 7. PUBLIC PEACE, MORALS, AND WELFARE

Chapter 7.13

PERJURY

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7.13.1. Definitions. The following definitions are applicable in this chapter unless the context otherwise requires:

(a) “Materially false statement” means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; whether a false statement is material shall be determined by the Court as a matter of law.

(b) “Oath” includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this chapter, written statements shall be treated as if made under oath if:

(1) The statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or

(2) The statement recites that it was made under oath; the declarant was aware of such recitation at the time he or she made the statement and intended that the statement should be represented as a sworn statement; and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto.

(c) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or depositions.

(d) "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court of this state or by any public servant authorized by law to impanel a jury. The term juror also includes any person who has been drawn or summoned to attend as a prospective juror.

(e) "Testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.2. Perjury in the First Degree. (a) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.

(b) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.

(c) Perjury in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.3. Perjury in the Second Degree. (a) A person is guilty of perjury in the second degree if, with intent to mislead a public servant in the performance of his or her duty, he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.

(b) Perjury in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.4. False Swearing. (a) A person is guilty of false swearing if he or she makes a false statement which he or she knows to be false under an oath required or authorized by law.

(b) False swearing is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.5. Perjury and False Swearing — Inconsistent Statements — Degree of Crime.

(a) Where in the course of one or more official proceedings, a person makes inconsistent material statements under oath, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and known by the defendant to be false. In such case it shall not be

necessary for the prosecution to prove which material statement was false but only that one or the other was false and known by the defendant to be false.

(b) The highest offense of which a person may be convicted in such an instance as set forth in §7.13.5(a) shall be determined by hypothetically assuming each statement to be false. If perjury of different degrees would be established by the making of the two statements, the person may only be convicted of the lesser degree. If perjury or false swearing would be established by the making of the two statements, the person may only be convicted of false swearing. For purposes of this section, no corroboration shall be required of either inconsistent statement. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.6. Perjury and False Swearing — Retraction. No person shall be convicted of perjury or false swearing if he or she retracts his or her false statement in the course of the same proceeding in which it was made, if in fact he or she does so before it becomes manifest that the falsification is or will be exposed and before the falsification substantially affects the proceeding. Statements made in separate hearings at separate stages of the same trial, administrative, or other official proceeding shall be treated as if made in the course of the same proceeding. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.7. Perjury and False Swearing — Irregularities No Defense. It is no defense to a prosecution for perjury or false swearing:

(a) That the oath was administered or taken in an irregular manner; or

(b) That the person administering the oath lacked authority to do so, if the taking of the oath was required or authorized by law. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.8. Statement of What One Does Not Know to Be True. Every unqualified statement of that which one does not know to be true is equivalent to a statement of that which he or she knows to be false. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.9. Bribing a Witness. (a) A person is guilty of bribing a witness if he or she offers, confers, or agrees to confer any benefit upon a witness or a person he or she has reason to believe is about to be called as a witness in any official proceeding with intent:

(1) To influence the testimony of that person;

(2) To induce that person to avoid legal process summoning him or her to testify; or

(3) To induce that person to absent him- or herself from an official proceeding to which he or she has been legally summoned.

(b) Bribing a witness is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.10. Bribe Receiving by a Witness. (a) A witness or a person who has reason to believe he or she is about to be called as a witness in any official proceeding is guilty of bribe receiving by a witness if he or she requests, accepts, or agrees to accept any benefit pursuant to an agreement or understanding that:

(1) His or her testimony will thereby be influenced;

(2) He or she will attempt to avoid legal process summoning him or her to testify; or

(3) He or she will attempt to absent him- or herself from an official proceeding to which he or she has been legally summoned.

(b) Bribe receiving by a witness is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.11. Intimidating a Witness. (a) A person is guilty of intimidating a witness if by use of a threat directed to a witness or a person he or she has reason to believe is about to be called as a witness in any official proceeding he or she attempts:

(1) To influence the testimony of that person;

(2) To induce that person to elude legal process summoning him or her to testify; or

(3) To induce that person to absent him- or herself from such proceeding.

(b) "Threat" as used in this section means:

(1) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(2) Threats as defined in STC §7.1.5(y).

(c) Intimidating a witness is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.12. Tampering with a Witness. (a) A person is guilty of tampering with a witness if he or she attempts to induce a witness or person he or she has reason to believe is about to be called as a witness in any official proceeding:

(1) To testify falsely or, without right or privilege to do so, to withhold any testimony; or

(2) To absent him- or herself from such proceedings.

(b) Tampering with a witness is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.13. Intimidating a Juror. (a) A person is guilty of intimidating a juror if by use of a threat he or she attempts to influence a juror's vote, opinion, decision, or other official action as a juror.

(b) "Threat" as used in this section means:

(1) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(2) Threats as defined in §7.1.5(y).

(c) Intimidating a juror is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.14. Jury Tampering. (a) A person is guilty of jury tampering if, with intent to influence a juror's vote, opinion, decision, or other official action in a case, he or she attempts to communicate directly or indirectly with a juror other than as part of the proceedings in the trial of the case.

(b) Jury tampering is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

7.13.15. Tampering with Physical Evidence. (a) A person is guilty of tampering with physical evidence if, having reason to believe that an official proceeding is pending or about to be instituted and acting without legal right or authority, he or she:

(1) Destroys, mutilates, conceals, removes, or alters physical evidence with intent to impair its appearance, character, or availability in such pending or prospective official proceeding; or

(2) Knowingly presents or offers any false physical evidence.

(b) "Physical evidence" as used in this section includes any article, object, document, record, or other thing of physical substance.

(c) Tampering with physical evidence is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993)

Note: All subsections in this chapter have been renumbered for consistency, as follows. (Res. 2016-090, Jun. 20, 2016)

All Arabic numerals (1, 2, 3, etc.) used as subsection headings have been changed to lower case letters (a, b, c, etc.)

All lower case letters have been changed to Arabic numerals

Example: What was previously 7.13.1(2)(a) is now 7.13.1(b)(1)