

Ala. Code 1975, § 13A-10-129

Tampering with Physical Evidence

The defendant is charged with tampering with physical evidence.

A person commits the crime of tampering with physical evidence if, believing that an official proceeding is pending or may be instituted, and acting without legal right or authority, he/she **[read as appropriate]**:

- (1) Destroys, mutilates, conceals, removes or alters physical evidence with intent to impair its use, verity or availability in the pending or prospective official proceeding; **(OR)**
- (2) Knowingly makes, presents or offers any false physical evidence with intent that it be introduced in the pending or prospective official proceeding.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant believed that an official proceeding was pending or might be instituted **[describe]**;
- (2) The defendant acted without legal right or authority; **(AND)**
- (3) The defendant **[read as appropriate]**:
 - (a) Destroyed, mutilated, concealed, removed or altered physical evidence **[describe]**, with intent to impair its use, verity or availability in the pending or prospective official proceeding; **(OR)**
 - (b) Knowingly made, presented or offered false physical evidence **[describe]**, with intent that it be introduced in the pending or prospective official proceeding.

Official proceeding is any proceeding heard before any legislative, judicial, administrative or other government agency or official authorized to hear evidence under oath. [13A-10-100(b)(5)]

Physical evidence includes any article, object, document, record or other thing of physical substance. [13A-10-129(b)]

[Read as appropriate]: A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)] **(OR)**

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of tampering with physical evidence, then you shall find the defendant guilty of tampering with physical evidence.

If you find that the State has failed to prove any one or more of the elements of tampering with physical evidence, then you cannot find the defendant guilty of tampering with physical evidence.

[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]

[Approved 6-17-16.]