

## Colorado Statutes

### Title 18. CRIMINAL CODE

#### Article 8. Offenses - Governmental Operations

#### Part 6. OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS

*Current through Chapter 430, Second Regular Session 2010*

#### § 18-8-610. Tampering with physical evidence

(1) A person commits tampering with physical evidence if, believing that an official proceeding is pending or about to be instituted and acting without legal right or authority, he:

(a) Destroys, mutilates, conceals, removes, or alters physical evidence with intent to impair its verity or availability in the pending or prospective official proceeding; or

(b) Knowingly makes, presents, or offers any false or altered physical evidence with intent that it be introduced in the pending or prospective official proceeding.

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

(3) Tampering with physical evidence is a class 6 felony.

**History.** L. 71: R&RE, p. 466, § 1. C.R.S. 1963: § 40-8-610. L. 89: (3) amended, p. 840, § 87, effective July 1.

#### Case Notes:

#### ANNOTATION

**Law reviews.** For article, "Incriminating Evidence: What to do With a Hot Potato", see 11 Colo. Law. 880 (1982). For article, "The Search for Truth Continued: More Disclosure, Less Privilege", see 54 U. Colo. L. Rev. 51 (1982). For article, "The Search for Truth Continued, The Privilege Retained: A Response to Judge Frankel", see 54 U. Colo. L. Rev. 67 (1982).

**The tampering statute is intended to criminalize behavior that interferes with an official proceeding even if that behavior occurs before the proceeding is instituted.** In this case, the defendant knew proceedings were "about to be instituted", because the defendant was about to be taken into custody and had a controlled substance that would have been discovered upon a search incident to arrest. *People v. Atencio*, 140 P.3d 73 (Colo.

App. 2005).

**"Physical evidence" includes false affidavit presented to a grand jury.** *People v. Board*, 656 P.2d 712 (Colo. App. 1982).

**Evidence sufficient for jury to infer that defendant believed official proceeding was about to be instituted against her.** *People v. Frayer*, 661 P.2d 1189 (Colo. App. 1982), *aff'd*, 684 P.2d 927 (Colo. 1984).