

CHAPTER 12.1-12

BRIBERY - UNLAWFUL INFLUENCE OF PUBLIC SERVANTS

12.1-12-01. Bribery.

1. A person is guilty of bribery, a class C felony, if he knowingly offers, gives, or agrees to give to another, or solicits, accepts, or agrees to accept from another, a thing of value as consideration for:
 - a. The recipient's official action as a public servant; or
 - b. The recipient's violation of a known legal duty as a public servant.
2. It is no defense to a prosecution under this section that a recipient was not qualified to act in the desired way whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason.
3. A prima facie case is established under this section upon proof that the actor knew that a thing of pecuniary value was offered, given, or agreed to be given by, or solicited, accepted, or agreed to be accepted from, a person having an interest in an imminent or pending:
 - a. examination, investigation, arrest, or judicial or administrative proceeding; or
 - b. bid, contract, claim, or application, and that interest could be affected by the recipient's performance or nonperformance of his official action or violation of his known legal duty as a public servant.

12.1-12-02. Illegal influence between legislators or between legislators and governor. Any person who violates the provisions of section 9 of article IV or section 10 of article V of the Constitution of North Dakota is guilty of a class C felony.

12.1-12-03. Unlawful compensation for assistance in government matters.

1. A public servant is guilty of a class A misdemeanor if he solicits, accepts, or agrees to accept a thing of pecuniary value from nongovernmental sources:
 - a. As compensation for advice or other assistance in preparing or promoting a bill, contract, claim, or other matter which is or is likely to be subject to his official action;
 - b. As compensation for omitting or delaying official action; or
 - c. As a fee or compensation for services not rendered or to which he was not legally entitled.
2. A person is guilty of a class A misdemeanor if he knowingly offers, gives, or agrees to give a thing of pecuniary value to a public servant, receipt of which is prohibited by this section.

12.1-12-04. Trading in public office and political endorsement.

1. A person is guilty of a class A misdemeanor if he solicits, accepts, or agrees to accept, or offers, gives, or agrees to give, a thing of pecuniary value as consideration for approval or disapproval by a public servant or party official of a person for:
 - a. Appointment, employment, advancement, or retention as a public servant; or
 - b. Designation or nomination as a candidate for elective office.

2. In this section:
 - a. "Approval" includes recommendation, failure to disapprove, or any other manifestation of favor or acquiescence.
 - b. "Disapproval" includes failure to approve or any other manifestation of disfavor or nonacquiescence.
 - c. "Party official" means a person who holds a position or office in a political party, whether by election, appointment, or otherwise.
3. Any appointment of a public servant made in violation of this section is void, but any official action taken by the appointee prior to conviction under this section is valid.

12.1-12-05. Trading in special influence. A person is guilty of a class A misdemeanor if he knowingly offers, gives, or agrees to give, or solicits, accepts, or agrees to accept, a thing of pecuniary value for exerting, or procuring another to exert, special influence upon a public servant with respect to his legal duty or official action as a public servant. "Special influence" means power to influence through kinship or by reason of position as a public servant or party official, as defined in section 12.1-12-04.

12.1-12-06. Threatening public servants.

1. A person is guilty of a class C felony if he threatens harm to another with intent to influence his official action as a public servant in a pending or prospective judicial or administrative proceeding held before him, or with intent to influence him to violate his duty as a public servant.
2. A person is guilty of a class C felony if, with intent to influence another's official action as a public servant, he threatens:
 - a. To commit any crime or to do anything unlawful;
 - b. To accuse anyone of a crime; or
 - c. To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person, living or deceased, to hatred, contempt, or ridicule, or to impair another's credit or business repute.
3. It is no defense to a prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason.

12.1-12-07. Sports bribery.

1. A person is guilty of a class C felony if, with intent to prevent a publicly exhibited sporting contest from being conducted in accordance with the rules and usages purporting to govern it, he:
 - a. Confers, offers, or agrees to confer any benefit upon, or threatens any harm to, a participant, official, or other person associated with the contest; or
 - b. Tampers with any person, animal, or thing.
2. A person is guilty of a class C felony if he knowingly solicits, accepts, or agrees to accept any benefit, the giving of which is prohibited under subsection 1.

3. A "publicly exhibited sporting contest" is any contest in any sport, between individual contestants or teams of contestants, the occurrence of which is publicly announced in advance of the event.
4. The status of the contestant as amateur or professional is not material to the commission of the offense described in this section.

12.1-12-08. Commercial bribery.

1. A person is guilty of a class C felony if he:
 - a. Confers, agrees, or offers to confer any benefit upon an employee or agent without the consent of the latter's employer or principal, with intent to influence his conduct in relation to his employer's or principal's affairs; or
 - b. Confers, agrees, or offers to confer any benefit upon any fiduciary without the consent of the beneficiary, with intent to influence the fiduciary to act or conduct himself contrary to his fiduciary obligation.
2. A person is guilty of a class C felony if he knowingly solicits, accepts, or agrees to accept any benefit, the giving of which is prohibited under subsection 1.

12.1-12-09. Definitions for chapter. In this chapter, "thing of value" and "thing of pecuniary value" do not include (1) salary, fees, and other compensation paid by the government in consideration for which the official action or legal duty is performed; or (2) concurrence in official action in the course of legitimate compromise among public servants, except as provided in section 9 of article IV or section 10 of article V of the Constitution of North Dakota.