

## **Appendix A**

---

### **18-5-114 - Offering a false instrument for recording.**

(1) A person commits offering a false instrument for recording in the first degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, and with intent to defraud, he presents or offers it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee.

(2) Offering a false instrument for recording in the first degree is a class 5 felony.

(3) A person commits offering a false instrument for recording in the second degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, he presents or offers it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee.

(4) Offering a false instrument for recording in the second degree is a class 1 misdemeanor.

### **18-5-113 - Criminal impersonation.**

(1) A person commits criminal impersonation if he knowingly assumes a false or fictitious identity or capacity, and in such identity or capacity he: (e) Does any other act with intent to unlawfully gain a benefit for himself or another or to injure or defraud another.

(2) Criminal impersonation is a class 6 felony.

### **18-5-112 - Obtaining signature by deception.**

(1) A person commits obtaining signature by deception if, by deception and with intent to defraud or to acquire a benefit for himself or another, he causes another to sign or execute a written instrument.

(2) As used in this section, "by deception" means by knowingly: (a) Creating or confirming another's impression which is false and which the deceiver does not believe to be true; or (b) Failing to correct a false impression held by another which the deceiver previously has created or confirmed; or (c) Preventing another from acquiring information pertinent to any matter material to a proper understanding of any transaction in which the signature of such person is procured.

(3) Obtaining signatures by deception is a class 2 misdemeanor.

### **18-8-704 - Intimidating a witness or victim.**

(1) A person commits intimidating a witness or victim if, by use of a threat, act of harassment, or act of harm or injury to any person or property directed to or committed upon a witness or a victim to any crime, a person he believes has been or is to be called or who would have been called to testify as a witness or a victim, a member of the witness' family, a member of the victim's family, a person in close relationship to the witness or victim, a person residing in the same household with the witness or victim, or any person who has reported a crime or who may be called to testify as a witness to or victim of any crime, he intentionally attempts to or does:

(a) Influence the witness or victim to testify falsely or unlawfully withhold any testimony; or

(b) Induce the witness or victim to avoid legal process summoning him to testify; or

(c) Induce the witness or victim to absent himself from an official proceeding to which he has been legally summoned; or

(d) Inflict such harm or injury prior to such testimony or expected testimony.

(2) Intimidating a witness or victim is a class 4 felony.

**18-8-706 - Retaliation against a witness or victim.**

(1) An individual commits retaliation against a witness or victim if such person uses a threat, act of harassment<sup>1</sup>, or act of harm or injury upon any person or property, which action is directed to or committed upon a witness or a victim to any crime, an individual whom the person believes has been or would have been called to testify as a witness or victim, a member of the witness' family, a member of the victim's family, an individual in close relationship to the witness or victim, an individual residing in the same household with the witness or victim, as retaliation or retribution against such witness or victim.

(2) Retaliation against a witness or victim is a class 3 felony.

**18-8-707 - Tampering with a witness or victim.**

(1) A person commits tampering with a witness or victim if he intentionally attempts without bribery or threats to induce a witness or victim or a person he believes is to be called to testify as a witness or victim in any official proceeding or who may be called to testify as a witness to or victim of any crime to: (a) Testify falsely or unlawfully withhold any testimony; or (b) Absent himself from any official proceeding to which he has been legally summoned; or (c) Avoid legal process summoning him to testify.

(2) Tampering with a witness or victim is a class 4 felony.

**18-8-703 - Bribing a witness or victim.**

(1) A person commits bribing a witness or victim if he offers, confers, or agrees to confer any benefit upon a witness, or a victim, or a person he believes is to be called to testify as a witness or victim in any official proceeding, or upon a member of the witness' family, a member of the victim's family, a person in close relationship to the witness or victim, or a person residing in the same household as the witness or victim with intent to: (a) Influence the witness or victim to testify falsely or unlawfully withhold any testimony; or (b) Induce the witness or victim to avoid legal process summoning him to testify; or (c) Induce the witness or victim to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribing a witness or victim is a class 4 felony.

**18-8-708 - Suit for damages by victim of intimidation or retaliation.** (1) The following persons are eligible for relief pursuant to this section: (a) Any person who testifies as a witness or victim in any official proceeding; (b) Any person who may be called to testify as a witness to or victim of any crime; (c) Any person who is a member of the witness' or victim's family; (d) Any person who is in a close relationship to the witness or victim; (e) Any person who is residing in the same household with the witness or victim.

(2) Any person who is eligible pursuant to subsection (1) of this section who suffers any physical injury or property damage as the result of the commission of intimidating a witness or victim pursuant to section 18-8-704, aggravated intimidation of a witness or victim pursuant to section 18-8-705, or retaliation against a witness or victim pursuant to section 18-8-706 shall, in a civil proceeding to recover for such injury or property damage, be eligible for the award of treble damages and attorney fees.

(3) Nothing in this section shall limit the amount of recovery which a person specified in subsection (1) of this section may receive in a civil proceeding or in any other proceeding.

---

<sup>1</sup>Phrase "act of harassment" is unconstitutionally overbroad, and it is stricken from the statute. But the term "threat" is not overbroad. After partial invalidation, this section is not unconstitutionally vague or overbroad. *People v. Hickman*, 988 P.2d 628 (Colo. 1999).

**18-8-502 - Perjury in the first degree.**

(1) A person commits perjury in the first degree if in any official proceeding he knowingly makes a materially false statement, which he does not believe to be true, under an oath required or authorized by law.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the defendant's mistaken belief that his statement was not material is not a defense, although it may be considered by the court in imposing sentence.

(3) Perjury in the first degree is a class 4 felony.

**18-8-503 - Perjury in the second degree.**

(1) A person commits perjury in the second degree if, other than in an official proceeding, with an intent to mislead a public servant in the performance of his duty, he makes a materially false statement, which he does not believe to be true, under an oath required or authorized by law.

(2) Perjury in the second degree is a class 1 misdemeanor.

**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.

**18-4-412 - Theft of medical records or medical information - penalty.**

(1) Any person who, without proper authorization, knowingly obtains a medical record or medical information with the intent to appropriate the medical record or medical information to his own use or to the use of another, who steals or discloses to an unauthorized person a medical record or medical information, or who, without authority, makes or causes to be made a copy of a medical record or medical information commits theft of a medical record or medical information.

(2) As used in this section: (a) "Medical record" means the written or graphic documentation, sound recording, or computer record of services pertaining to medical and health care which are performed at the direction of a physician or other licensed health care provider on behalf of a patient by physicians, dentists, nurses, technicians, emergency medical technicians, prehospital providers, or other health care personnel. "Medical record" includes such diagnostic documentation as X rays, electrocardiograms, electroencephalograms, and other test results.

(b) "Medical information" means any information contained in the medical record or any information pertaining to the medical and health care services performed at the direction of a physician or other licensed health care provider which is protected by the physician-patient privilege established by section 13-90-107 (1) (d), C.R.S.

(c) "Proper authorization" means: (I) A written authorization signed by the patient or his or her duly designated representative; or (II) An appropriate order of court; or (III) Authorized possession pursuant to law or regulation for claims processing, possession for medical audit or quality assurance purposes, possession by a consulting physician to the patient, or possession by hospital personnel for record-keeping and billing purposes; or (IV) Authorized possession pursuant to section 18-7-201.5, 18-7-205.5, or 18-3-415.5.

(d) "Copy" means any facsimile, replica, photograph, sound recording, magnetic or electronic recording, or other reproduction of a medical record and any note, drawing, or sketch made of or from a medical record.

(3) Theft of a medical record or medical information is a class 6 felony.

#### **18-8-114 - Abuse of public records.**

(1) A person commits a class 1 misdemeanor if: (a) The person knowingly makes a false entry in or falsely alters any public record; or (b) Knowing the person lacks the authority to do so, the person knowingly destroys, mutilates, conceals, removes, or impairs the availability of any public record; or (c) Knowing the person lacks the authority to retain the record, the person refuses to deliver up a public record in the person's possession upon proper request of any person lawfully entitled to receive such record; or (d) Knowing the person has not been authorized by the custodian of the public record to do so, the person knowingly alters any public record.

(2) As used in this section, the term "public record" includes all official books, papers, or records created, received, or used by or in any governmental office or agency.

#### **18-8-403 - Official oppression.**

(1) A public servant, while acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity, commits official oppression if, with actual knowledge that his conduct is illegal, he: (a) Subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, or lien; or (b) Has legal authority and jurisdiction of any person legally restrained of his liberty and denies the person restrained the reasonable opportunity to consult in private with a licensed attorney-at-law, if there is no danger of imminent escape and the person in custody expresses a desire to consult with such attorney.

(2) Official oppression is a class 2 misdemeanor.

#### **18-8-404 - First degree official misconduct.**

(1) A public servant commits first degree official misconduct if, with intent to obtain a benefit for the public servant or another or maliciously to cause harm to another, he or she knowingly:

(a) Commits an act relating to his office but constituting an unauthorized exercise of his official function; or (b) Refrains from performing a duty imposed upon him by law; or (c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) First degree official misconduct is a class 2 misdemeanor.

#### **18-8-405 - Second degree official misconduct.**

(1) A public servant commits second degree official misconduct if he knowingly, arbitrarily, and capriciously: (a) Refrains from performing a duty imposed upon him by law; or (b) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Second degree official misconduct is a class 1 petty offense.

#### **Racketeering:**

##### **18-17-103 - Definitions.**

As used in this article, unless the context otherwise requires:

(1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other functionally similar tangible item.

(2) "Enterprise" means any individual, sole proprietorship, partnership, corporation, trust, or other legal entity or any chartered union, association, or group of individuals, associated in fact

although not a legal entity, and shall include illicit as well as licit enterprises and governmental as well as other entities.

(3) "Pattern of racketeering activity" means engaging in at least two acts of racketeering activity which are related to the conduct of the enterprise, if at least one of such acts occurred in this state after July 1, 1981, and if the last of such acts occurred within ten years (excluding any period of imprisonment) after a prior act of racketeering activity.

(4) "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property.

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any conduct defined as "racketeering activity" under 18 U.S.C. 1961 (1) (A), (1) (B), (1) (C), and (1) (D); or

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed in this state, would be a crime under the following provisions of the Colorado statutes:

(IV) Offenses involving fraud, as defined in sections 18-5-102 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal possession of forged instrument), 18-5-109 (criminal possession of forgery devices), 6-16-111, C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor or debtor), 18-5-403 (bribery in sports), 18-5-113 (criminal impersonation), and 18-5-114 (offering a false document for recording); . . .

(VII) Offenses involving governmental operations, as defined in sections 18-8-302 (bribery), 18-8-303 (compensation for past official behavior), 18-8-306 (attempt to influence a public servant), 18-8-402 (misuse of official information), 18-8-502 (first degree perjury), 18-8-503 (second degree perjury), 18-8-603 (bribe-receiving by a witness), 18-8-606 (bribing a juror), 18-8-608 (intimidating a juror), 18-8-609 (jury-tampering), 18-8-610 (tampering with physical evidence), 18-8-703 (bribing a witness or victim), 18-8-704 (intimidating a witness or victim), and 18-8-707 (tampering with a witness or victim);

#### **18-17-104 - Prohibited activities.**

(1) (a) It is unlawful for any person who knowingly has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds or the proceeds derived from the investment or use thereof in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise. . . .

(2) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to knowingly acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(3) It is unlawful for any person employed by, or associated with, any enterprise to knowingly conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

(4) It is unlawful for any person to conspire or endeavor to violate any of the provisions of subsection (1), (2), or (3) of this section.

#### **18-17-105 - Criminal penalties.**

(1) Any person convicted of engaging in activity in violation of the provisions of section 18-17-104 commits a class 2 felony and, upon conviction thereof, shall, in addition to the penalty provided for in section 18-1-105:

- (a) Be fined not more than twenty-five thousand dollars; and
  - (b) Forfeit to the state any interest, including proceeds, he has acquired or maintained in violation of section 18-17-104 and any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which has established, operated, controlled, conducted, or participated in the conduct of in violation of section 18-17-104.
- (2) In lieu of the fine authorized by paragraph (a) of subsection (1) of this section, any person convicted of engaging in conduct in violation of the provisions of section 18-17-104, through which he derived pecuniary value, or by which he caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.
- (3) The court shall hold a hearing to determine the amount of the fine authorized by subsection (2) of this section.
- (4) For the purposes of subsection (2) of this section, "pecuniary value" means:
- (a) Anything of value in the form of money, a negotiable instrument, or a commercial interest or anything else, the primary significance of which is economic advantage; or
  - (b) Any other property or service that has a value in excess of one hundred dollars.
- (5) In any action brought under this section, the district court may, at any time, enter such injunctions, prohibitions, or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as the court may deem proper.
- (6) Upon conviction of a person under this section, the district court shall authorize the district attorney or the attorney general to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. The state shall dispose of all property or other interest seized under this section as soon as feasible, making due provision for the rights of innocent persons. If a property right or other interest is not exercisable or transferable for value by the state, it shall expire and shall not revert to the convicted person. The disposition of seized property shall be as follows:
- (a) Any personal property which is required by law to be destroyed, or the possession of which is illegal, or which, in the opinion of the court is not properly the subject of a sale may be destroyed pursuant to a warrant for the destruction of personal property, issued by the district court, directed to the sheriff, and returned by the sheriff upon execution thereof. The district court shall stay the execution of any such warrant during the period in which the property is used as evidence in any pending criminal or civil proceeding.
  - (b) Any personal property seized and forfeited under the provisions of this section shall be sold by the sheriff in the manner provided for sales on execution. In lieu of ordering the sale of such property, the court may, if it finds that it can be used by a law enforcement agency, order it delivered to a law enforcement agency for such use.
  - (c) As to any real property, the district court shall enter a permanent order of abatement. The order of abatement shall direct the sheriff to sell such building or place and the ground upon which it is situated, to the extent of the interest, direct or indirect, of such person convicted under this section, at public sale in the manner provided for sales of property upon execution.
  - (d) The proceeds realized from such sales shall be applied as follows: (I) To the fees and costs of sale; (II) All costs and expenses of investigation and prosecution, including, but not limited to,

costs of resources and manpower incurred in investigation and prosecution; (III) The balance, if any, to the general fund of the state.

**18-17-106 - Civil remedies.**

(1) Any district court may, after making due provision for the rights of innocent persons, enjoin violations of the provisions of section 18-17-104 by issuing appropriate orders and judgments, including, but not limited to:

(a) Ordering any defendant to divest himself of any interest in any enterprise, including real property; (b) Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which he was engaged in violation of the provisions of section 18-17-104; (c) Ordering the dissolution or reorganization of any enterprise; (d) Ordering the suspension or revocation of a license, permit, or prior approval granted to any enterprise by any agency of the state; (e) Ordering the forfeiture of the charter of a corporation organized under the laws of this state or the revocation of a certificate authorizing a foreign corporation to conduct business within the state, upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of section 18-17-104 and that, for the prevention of future criminal activity, the public interest requires the charter of the corporation forfeited and the corporation dissolved or the certificate revoked.

(2) All property, real or personal, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of the provisions of section 18-17-104 is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the state, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons. The disposition of seized property shall be as follows:

(a) Any personal property which is required by law to be destroyed, or the possession of which is illegal, or which, in the opinion of the court is not properly the subject of a sale may be destroyed pursuant to a warrant for the destruction of personal property, issued by the district court, directed to the sheriff, and returned by the sheriff upon execution thereof. The district court shall stay the execution of any such warrant during the period in which the property is used as evidence in any pending criminal or civil proceeding.

(b) Any personal property seized and forfeited under the provisions of this section shall be sold by the sheriff in the manner provided for sales on execution. In lieu of ordering the sale of such property, the court may, if it finds that it can be used by a law enforcement agency, order it delivered to a law enforcement agency for such use. (c) As to any real property, the district court shall enter a permanent order of abatement. The order of abatement shall direct the sheriff to sell such building or place and the ground upon which it is situated, to the extent of the interest, direct or indirect, of such person found to be in violation of the provisions of section 18-17-104, at public sale in the manner provided for sales of property upon execution.

(d) The proceeds realized from such sales shall be applied as follows: (I) To the fees and costs of sale; (II) All costs and expenses of investigation and prosecution, including, but not limited to, costs of resources and manpower incurred in investigation and prosecution; (III) The balance, if any, to the general fund of the state.

(3) Property subject to forfeiture under this section may be seized by a law enforcement officer upon court process. Seizure without process may be made if: (a) The seizure is incident to a

lawful arrest or search or an inspection under an administrative inspection warrant; (b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) In the event of a seizure under subsection (3) of this section, a forfeiture proceeding shall be instituted promptly. Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the law enforcement officer making the seizure, subject only to the order of the court. When property is seized under this section, pending forfeiture and final disposition, the law enforcement officer may: (a) Place the property under seal; (b) Remove the property to a place designated by court; (c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(5) The attorney general or district attorney may institute civil proceedings under this section. In any action brought under this section, the district court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the district court may, at any time, enter such injunctions, prohibitions, or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

(6) Any aggrieved person may institute a proceeding under subsection (1) of this section. In such proceeding, relief shall be granted in conformity with the principles that govern that granting of injunctive relief from threatened loss or damage in other civil cases; except that no showing of special or irreparable damage to the person shall have to be made. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any such action before a final determination on the merits.

(7) Any person injured by reason of any violation of the provisions of section 18-17-104 shall have a cause of action for threefold the actual damages sustained. Such person shall also recover attorney fees in the trial and appellate courts and costs of investigation and litigation reasonably incurred; except that: (a) The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this section; and (b) Any injured person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds.

(8) A final judgment or decree rendered in favor of the people in any criminal proceeding under this article shall estop the defendant in any subsequent civil action or proceeding as to all matters as to which such judgment or decree would be an estoppel as between the parties.

(9) The application of one civil remedy under any provision of this article shall not preclude the application of any other remedy, civil or criminal, under this article or any other provision of law. Civil remedies under this article are supplemental and not mutually exclusive.

(10) Whenever it is established in an action brought pursuant to this section that a person has received proceeds derived from activities prohibited by section 18-17-104, the court shall, upon request, award to the plaintiff a money judgment of forfeiture for the amount of such proceeds. The person subjected to such a money judgment may claim a setoff in an amount equal to the fair market value of other property forfeited if he shows that said property is traceable to a pattern of racketeering activity.

(11) The burden of proof in an action brought pursuant to this section shall be by a preponderance of the evidence.

(12) An action may be commenced and heard pursuant to this section even if the defendant has not been charged or convicted in a criminal prosecution under this article.

## **18 U.S.C. CHAPTER 47 - FRAUD AND FALSE STATEMENTS**

### **Sec. 1001. Statements or entries generally**

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully -

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to -

- (1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or
- (2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

### **Sec. 1002. Possession of false papers to defraud United States**

Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money, shall be fined under this title or imprisoned not more than five years, or both.

### **Sec. 1018. Official certificates or writings**

Whoever, being a public officer or other person authorized by any law of the United States to make or give a certificate or other writing, knowingly makes and delivers as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not elsewhere expressly provided by law, shall be fined under this title or imprisoned not more than one year, or both.

### **Sec. 1031. Major fraud against the United States**

(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent -

- (1) to defraud the United States; or . . .

(b) The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed \$5,000,000 and -

- (1) the gross loss to the Government or the gross gain to a

- defendant is \$500,000 or greater; or
- (2) the offense involves a conscious or reckless risk of serious personal injury.
- (c) The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed \$10,000,000.
- (d) Nothing in this section shall preclude a court from imposing any other sentences available under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d).
- (e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including -
- (1) the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant;
  - (2) whether the defendant previously has been fined for a similar offense; and
  - (3) any other pertinent equitable considerations.
- (f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

**Sec. 1035. False statements relating to health care matters**

- (a) Whoever, in any matter involving a health care benefit program, knowingly and willfully -
- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or
  - (2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.
- (b) As used in this section, the term "health care benefit program" has the meaning given such term in section 24(b) of this title.

**18 U.S.C. Chapter 31**

**Sec. 666. Theft or bribery concerning programs receiving Federal funds**

- (a) Whoever, if the circumstance described in subsection (b) of this section exists -
- (1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof -
    - (A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that -
      - (i) is valued at \$5,000 or more, and
      - (ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or
    - (B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any

business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of \$5,000 or more; or

(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of \$5,000 or more; shall be fined under this title, imprisoned not more than 10 years, or both.

(b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

(c) This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

(d) As used in this section -

(1) the term "agent" means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

(2) the term "government agency" means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program;

(3) the term "local" means of or pertaining to a political subdivision within a State;

(4) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(5) the term "in any one-year period" means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.

### **Sec. 1951. Interference with commerce by threats or violence**

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section -

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or

Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

**DEFINITIONS - BLACK'S LAW DICTIONARY, SEVENTH EDITION**

**ARBITRARY** - 1. Depending on individual discretion; specifically, determined by a judge rather than by fixed rules, procedures, or law. 2. Founded on prejudice or preference rather than on reason or fact - *this type of decision is often arbitrary and capricious.*

**CAPRICIOUS** - 1. Characterized by or guided by unpredictable or impulsive behavior. 2. Contrary to the evidence or established rules of law.