



## LEGAL PROTECTIONS FOR PUBLIC HEALTH OFFICIALS

### New York Fact Sheet

## Offenses Against Health Officials and Other Public Servants

Nationwide, state and local public health officials working to protect the public from COVID-19 are on the receiving end of threatening and harassing conduct for simply fulfilling their duty to protect the public health. In response, the Network conducted research to examine whether the states and Washington, D.C., have criminal statutes punishing individuals who impede public health officials' duties with such behavior. Our research is presented in this [chart](#). Many states have adopted statutes to protect public officials generally; included here are those with broad enough language to include public health officials. However, we have also included the three states with laws that if broadened, would encompass public health officials, namely, Illinois, North Carolina, and Vermont. While 35 states and Washington, D.C., have such a statute, the remaining 15 states either do not have a statute protecting government officials in these circumstances or do not have one protecting public health officials. Of the 35 states and Washington, D.C., all but two, Louisiana and Oklahoma, include protections for state **and** local officials. Below is more information on New York's relevant laws.

### McKinney's Public Health Law § 12-c, Obstructing Health Officer in Performance of Duty

A person who wilfully opposes or obstructs a health officer or physician charged with enforcement of the health laws, in performing any legal duty, is guilty of a misdemeanor.

### McKinney's Penal Law § 195.05, Obstructing Government Administration

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, town, village, fire district or emergency medical service or by means of releasing a dangerous animal under circumstances evincing the actor's intent that the animal obstruct governmental administration.

Obstructing governmental administration is a class A misdemeanor.



## Relevant Definitions

### McKinney's Penal Law § 10

Public servant" means (a) any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or (b) any person exercising the functions of any such public officer or employee. The term public servant includes a person who has been elected or designated to become a public servant.

## Penalties

### *McKinney's Public Health Law § 12-c, Obstructing Health Officer in Performance of Duty*

Up to 1 year imprisonment and a fine up to \$2,000 for a first offense (up to \$10,000 if serious harm results to patients and \$5,000 for a subsequent offense within 12 months of the first if the same violation is committed)

### *McKinney's Penal Law § 195.05, Obstructing Government Administration*

Up to 1 year imprisonment and/or up to \$1,000 fine

## Summary

A person is guilty of obstructing a health officer in the performance of duty if he/she opposes or hinders his/her ability to enforce the law. If convicted, a person faces up to 1 year imprisonment and fines based on the seriousness of the offense. A person obstructs government administration if he/she obstructs, impairs a public servant's ability to perform a governmental function by using intimidation, physical force or interference. If convicted, a person faces up to 1 year imprisonment and/or up to \$1,000 fine. In both instances, this may apply to state or local government.

## Template for Notifying Violators

**Below is a sample template for notifying individuals regarding their conduct relative to the code.**

**McKinney's Public Health Law § 12-c**, prohibits obstructing a health officer in the performance of duty [insert here a description of the conduct with a date—for example: On August 28, 2020, you sent an email to the New York Commissioner of Health threatening his life if he announced the enforcement of a mask mandate.] *This may constitute a violation of § 12-c. If convicted, you face up to 1 year imprisonment and/or financial penalties.*

- If the conduct is extreme, add: *We have notified the [insert proper law enforcement agency] of this conduct.*
- If the conduct does not rise to the level of reporting, add: *Should you continue with this conduct, we may report the matter to [insert law enforcement agency].*

**McKinney's Penal Law § 195.05** prohibits the obstruction of government administration. [insert here a description of the conduct with a date—for example: On August 28, 2020, you sent an email to the New York Governor threatening his life if he announced a mask mandate.] *This may constitute a violation of § 195.05. If convicted, you face up to 1 year imprisonment and/or a fine of up to \$1,000.*

- If the conduct is extreme, add: *We have notified the [insert proper law enforcement agency] of this conduct.*
- If the conduct does not rise to the level of reporting, add: *Should you continue with this conduct, we may report the matter to [insert law enforcement agency].*

