



LEGAL PROTECTIONS FOR PUBLIC HEALTH OFFICIALS

North Dakota Fact Sheet

Obstructing Government Functions

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 North Dakota's relevant law.


North Dakota Code, § 12.1-08-01 Physical Obstruction of Government Function

1. A person is guilty of a class A misdemeanor if he intentionally obstructs, impairs, impedes, hinders, prevents, or perverts the administration of law or other governmental function.
2. This section does not apply to the conduct of a person obstructing arrest of himself, but such conduct is subject to section 12.1-08-02. This section does apply to the conduct of a person obstructing arrest of another. Inapplicability under this subsection is a defense.
3. It is a defense to a prosecution under this section that the administration of law or other government function was not lawful, but it is no defense that the defendant mistakenly believed that the administration of law or other government function was not lawful. For the purposes of this subsection, the conduct of a public servant acting in good faith and under color of law in the execution of a warrant or other process for arrest or search and seizure shall be deemed lawful.

Definitions

North Dakota Code, § 12.1-01.04

"Government" means:

- 
- a. The government of this state or any political subdivision of this state;
 - b. Any agency, subdivision, or department of the state or any political subdivision of the state, including the executive, legislative, and judicial branches;
 - c. Any corporation or other entity established by law to carry on any governmental function; and
 - d. Any commission, corporation, or agency established by statute, compact, or contract between or among governments for the execution of intergovernmental programs.

“Governmental function” includes any activity that one or more public servants are legally authorized to undertake on behalf of government.

“Public servant” as used in this title and in any statute outside this title which defines an offense means any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function. The term does not include witnesses.

Penalties

North Dakota Code, § 12.1-32-01

Up to 1 year imprisonment and/or up to a \$3,000 fine

Summary

A person is guilty of physically obstructing a government function if he/she obstructs, impairs, impedes, hinders, prevents, or perverts the administration of law or other governmental function. “Governmental function” includes any activity that one or more public servants are legally authorized to undertake on behalf of government. “Public servant” includes any officer or employee of government, including law enforcement officers, whether elected or appointed, and any person participating in the performance of a governmental function. If convicted a person faces up to 1 year imprisonment and/or up to a \$3,000 fine.

Template for Notifying Violators

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

North Dakota Code, § 12.1-08-01 prohibits physical obstructing a government function [insert here a description of the conduct with a date—for example: On August 28, 2020, you prevented the North Dakota Health Officer from leaving his home to present information at a press conference, by staging an armed protest in his driveway.] *This may constitute a violation of § 12.1-08-01. If convicted, you face up to 1 year imprisonment and/or a fine of up to \$3,000.*

- 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].*