

ABUSE OF PUBLIC OFFICE

18-8-401. Definitions.

The definitions contained in sections [18-8-101](#) and 18-8-301 are applicable to this part 4, unless a different meaning is plainly required.

Source: L. 71: R&RE, p. 461, § 1. **C.R.S. 1963:** § 40-8-401.

18-8-402. Misuse of official information.

(1) Any public servant, in contemplation of official action by himself or by a governmental unit with which he is associated or in reliance on information to which he has access in his official capacity and which has not been made public, commits misuse of official information if he:

(a) Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by such information or official action; or

(b) Speculates or wagers on the basis of such information or official action; or

(c) Aids, advises, or encourages another to do any of the foregoing with intent to confer on any person a special pecuniary benefit.

(2) Misuse of official information is a class 6 felony.

Source: L. 71: R&RE, p. 461, § 1. **C.R.S. 1963:** § 40-8-402. **L. 89:** (2) amended, p. 840, § 83, effective July 1.

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.

Source: L. 71: R&RE, p. 461, § 1. **C.R.S. 1963:** § 40-8-403.

Cross references: For the duty of officers to admit an attorney, see § [16-3-404](#).

[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.

Source: L. 71: R&RE, p. 462, § 1. **C.R.S. 1963:** § 40-8-404. **L. 83:** (1)(b) amended, p. 710, § 1, effective June 10. **L. 2000:** IP(1) amended, p. 709, § 41, effective July 1.

[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.

Source: L. 71: R&RE, p. 462, § 1. **C.R.S. 1963:** § 40-8-405. **L. 83:** (1)(a) amended, p. 710, § 2, effective June 10.

[18-8-406. Issuing a false certificate.](#)

A person commits a class 6 felony, if, being a public servant authorized by law to make and issue official certificates or other official written instruments, he makes and issues such an instrument containing a statement which he knows to be false.

Source: L. 71: R&RE, p. 462, § 1. **C.R.S. 1963:** § 40-8-406. **L. 89:** Entire section amended, p. 840, § 84, effective July 1.

[18-8-407. Embezzlement of public property.](#)

(1) Every public servant who lawfully or unlawfully comes into possession of any public moneys or public property of whatever description, being the property of the state or of any political subdivision of the state, and who knowingly converts any of such public moneys or property to his own use or to any use other than the public use authorized by law is guilty of embezzlement of public property. Every person convicted under the provisions of this section shall be forever thereafter ineligible and disqualified from being a member of the general assembly of this state or from holding any office of trust or profit in this state.

(2) Embezzlement of public property is a class 5 felony.

Source: L. 71: R&RE, p. 462, § 1. **C.R.S. 1963:** § 40-8-407. **L. 77:** (1) amended, p. 967, § 45, effective July 1. **L. 89:** (2) amended, p. 840, § 85, effective July 1.

[18-8-408. Designation of insurer prohibited.](#)

(1) No public servant shall, directly or indirectly, require or direct a bidder on any public building or construction contract which is about to be or has been competitively bid to obtain from a particular insurer, agent, or broker any surety bond or contract of insurance required in such bid or contract or required by any law, ordinance, or regulation.

(2) Any such public servant who violates any of the provisions of subsection (1) of this section commits a class 1 petty offense.

(3) Any provisions in invitations to bid or in any contract documents prohibited by this section are declared void as against the public policy of this state.

(4) Nothing in this section shall be construed to prevent any such public servant acting on behalf of the government from exercising the right to approve or reject a surety bond or contract of insurance as to its form or sufficiency or the lack of financial capability of an insurer selected by a bidder.

(5) This section shall apply only to contracts entered into on or after July 1, 1977.

Source: L. 77: Entire section added, p. 989, § 1, effective May 26.

18-8-409. Violation of rules and regulations of judicial nominating commissions not subject to criminal prosecution.

A person who violates a rule or regulation promulgated by any judicial nominating commission shall not be subject to criminal prosecution.

Source: L. 87: Entire section added, p. 673, § 1, effective May 16.