

ARTICLE 26
Interference with Public Records

Section

- 30-26-1 Tampering with public records.
30-26-2 Refusal to surrender public record.

30-26-1. Tampering with public records.

Tampering with public records consists of:

- A. knowingly altering any public record without lawful authority;
- B. any public officer or public employee knowingly filing or recording any written instrument, judicial order, judgment or decree in a form other than as the original thereof in fact appeared;
- C. any public officer or public employee knowingly falsifying or falsely making any record or file, authorized or required by law to be kept;
- D. any public officer or public employee knowingly issuing or causing to be issued, any false or untrue certified copy of a public record; or
- E. knowingly destroying, concealing, mutilating or removing without lawful authority any public record or public document belonging to or received or kept by any public authority for information, record or pursuant to law.

Whoever commits tampering with public records is guilty of a fourth degree felony.

History: 1953 Comp., § 40A-26-1, enacted by Laws 1963, ch. 303, § 26-1.

Cross references. — For altering, changing or making away with bill pending in or passed by the legislature, see N.M. Const., art. IV, § 21.

ANNOTATION

Medicaid documents. — Evidence that Medicaid cards sold by defendant to undercover agents were public documents was sufficient for conviction under this section. *State v. Dartz*, 1998-NMCA-009, 124 N.M. 450, 952 P.2d 450, cert. denied, 124 N.M. 311, 950 P.2d 284 (1998).

Falsifying record. — Public officer or employee who knowingly and willfully made as a matter of public record in his office any false or untrue statement of fact, or so caused or permitted the same to be made or entered, or otherwise falsified or made falsely any public record of his office, violated Laws 1939, ch. 8, § 1 (former 40-36-1, 1953 Comp.) and incurred its penalties. *State v. Gallegos*, 48 N.M. 72, 145 P.2d 999 (1944).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 66 Am. Jur. 2d Records and Recording Laws §§ 10, 11.

What constitutes a public record or document within statute making falsification, forgery, mutilation, removal, or other misuse thereof an offense, 75 A.L.R.4th 1067.

76 C.J.S. Records § 57 et seq.

30-26-2. Refusal to surrender public record.

Refusal to surrender public record consists of any person wrongfully or unlawfully refusing or neglecting to deliver unto the proper authority, any record of either house of the legislature, of any court of this state or of any department of the state or local government which he has in his possession, within three days after demand therefor shall have been made by the proper officer.

Whoever commits refusal to surrender public records is guilty of a misdemeanor.

History: 1953 Comp., § 40A-26-2, enacted by Laws 1963, ch. 303, § 26-2.

Cross references. — For altering, changing or making away with bill pending in or passed by the legislature, see N.M. Const., art. IV, § 21.

For duty of public officers to deliver records to their successors, see 10-17-5 NMSA 1978.
