

[DESTROYING] [ALTERING] [CONCEALING] [TAMPERING WITH] BIOLOGICAL EVIDENCE OF CRIMINAL CONDUCT. G.S. § 15A-268. FELONY.

The defendant has been charged with [destroying] [altering] [concealing] [tampering with] biological evidence¹ relevant to a criminal [offense] [court proceeding].

For you to find the defendant guilty of [destroying] [altering] [concealing] [tampering with] biological evidence relevant to a criminal [offense] [court proceeding], the State must prove three things beyond a reasonable doubt:

First, that the defendant knowingly and intentionally² [destroyed] [altered³] [concealed] [tampered with] (*describe article*),

Second, that the defendant [destroyed] [altered] [concealed] [tampered with] (*describe article*) with the intent to [impair the integrity of (*describe article*)] [prevent (*describe article*)] from being subjected to DNA testing] [prevent [production] [use] of (*describe article*) in an official proceeding],

And Third, that (*describe article*) was evidence for [a noncapital crime ((*Name felony would be a noncapital crime.*))] [a crime of first degree murder⁴].

1. Biological evidence includes the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in the criminal investigation, whether that material is catalogued separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, cigarettes, or any other item of evidence and that is in the possession of a law enforcement officer or officer of the General Court of Justice being retained for the purpose of being introduced in evidence or having been introduced in evidence or being preserved as evidence.

2. If further elaboration is needed with respect to "intent", see N.C.P.I.—Crim. 120.10.

3. The jury may be told that something is altered when it is changed in some material respect, but is not destroyed entirely.

4. The statute provides for a higher penalty if the offense involves evidence for a capital crime.

[DESTROYING] [ALTERING] [CONCEALING] [TAMPERING WITH] BIOLOGICAL EVIDENCE OF CRIMINAL CONDUCT. G.S. § 15A-268. FELONY. (*Continued.*)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, that the defendant knowingly and intentionally [destroyed] [altered] [concealed] [tampered with] (*describe article*) with the intent to [impair the integrity of (*describe article*)] [prevent (*describe article*) from being subjected to DNA testing] [prevent [production] [use] of (*describe article*) in an official proceeding] in a [noncapital] [first degree murder] crime, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.