**Tampering with Physical Evidence AS 11.56.610(a)(1)**

**Added 2022**

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 , the defendant in this case, has been charged with the crime of tampering with physical evidence in the first degree.

To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements:

(1) The defendant knowingly [destroyed], [mutilated], [altered], [suppressed], [concealed] [removed] physical evidence; and

(2) The defendant did so with the intent to impair the physical evidence’s verity or availability in an [official proceeding] [criminal investigation].

**USE NOTE**

The following terms are defined in a statute or other instructions:

“knowingly” – AS 11.81.900

“intentionally” – AS 11.81.900

“official proceeding” – AS 11.81.900

“physical evidence” – AS 11.56.900(4)

The crucial inquiry in determining whether the removal of evidence constitutes evidence tampering is whether the defendant’s actions disguised the evidentiary value of the article. *Anderson v. State*, 123 P.3d 1110, 1118 (Alaska App. 2005). Similarly, whether an act constitutes “alteration” depends upon whether the defendant’s conduct disguised or altered the evidentiary value of the item. *Id*; *see also Y.J. v. State*, 130 P.3d 954 (Alaska App. 2006).

Based on AS 11.81.610, the mental state “knowingly” is included in element (1) of this offense.