

Wage Theft and U Visas: A Guide to Analyzing Federal and State Crimes Relevant for Undocumented Workers Seeking U Visa Remedies



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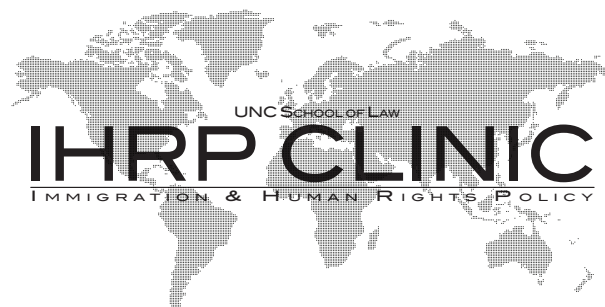
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WAGE THEFT AND U VISAS

A Guide To Using This Document

This document identifies the relevant federal crimes listed in the U visa statute that are most likely related to wage theft.

- The document identifies the federal statutes most relevant to the enumerated federal “U” visa crime that may be beneficial to immigrant victims of wage theft. It then sets out the federal statutory elements. In some instances, the federal crimes that may relate to the list of “U” visa crimes are defined in different sections of the U.S. Code. They may regulate specific conduct seemingly unrelated to victims of wage theft. For example, the Uniform Code of Military Justice contains some crime definitions that if applied in the context of wage theft may illuminate the type of prohibited conduct or acts that wage theft victims suffer and thus would help to prove what acts constitute a U visa crime. U visa advocates should consider using all relevant statutory definitions as may demonstrate client eligibility.
- Following the federal statutory elements, the document lists the relevant state statutes and elements that most closely track the federal crimes. (In this document, we analyze North Carolina statutes only).
- The document suggests preliminary interview questions that would be likely to solicit relevant and helpful information to demonstrate that a victim of wage theft might be eligible for a U visa. These questions are not meant to be a full U visa questionnaire, script, or inquiry, nor are they framed to reflect best practices with regard to interview techniques. They are meant to help identify the type of inquiry that might help the interviewer frame the issue and expand the inquiry/interview. The questions are limited to soliciting information about the nature of a potential U visa crime. They do not address other U visa elements, e.g., physical or emotional harm suffered as a consequence of the crime.

Please note that not all of the U visa crimes listed in the statute are included here, rather only those most likely to be related to **wage theft** have been analyzed.

Abusive sexual contact	Obstruction of justice	
Blackmail	Peonage	Sexual exploitation
Extortion	Perjury	Trafficking
Felonious assault	Rape	Unlawful restraint
Involuntary servitude	Sexual assault	Witness tampering

Depending on the individual client circumstances, other U visa crimes may be relevant to explore.

We recommend consulting with service providers and advocacy groups to assure that questions are asked in the most appropriate manner and most likely to elicit helpful information without re-traumatizing the client. **This is especially critical with victims of sexual offenses.**



CRIMES AND STATUTORY ELEMENTS RELATED TO EXTORTION AND BLACKMAIL

Related Federal Statutory Elements

Title 10. Armed Forces, Subtitle A. General Military Law,

Chapt. 47, Uniform Code of Military Justice

§ 927. Art. 127. Extortion

Any person subject to this chapter who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct.

Title 18. Crimes and Criminal Procedure,

Chapt. 41, Extortion and Threats

§ 873. Blackmail

Whoever, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demands or receives any money or other valuable thing, shall be fined under this title or imprisoned not more than one year, or both.

§ 874. Kickbacks from public works employees

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both.

§ 875. Interstate communications

(a) Whoever transmits in interstate or foreign commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than twenty years, or both.

(c) Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.

(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both.

Title 18. Crimes and Criminal Procedure , Part I Crimes, Chapt. 95, Racketeering

§ 1951. Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section—

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

Title 18. Crimes and Criminal Procedure, Part II. Criminal Procedure,
Chapt. 227. Sentences

§ 3559. Sentencing classification of offenses

(c) Imprisonment of certain violent felons.—

(2) Definitions.--For purposes of this subsection--

(C) the term "extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

Related North Carolina Statutory Elements:

Chapter 14. Criminal Law , Subchapter V. Offenses Against Property

Article 20, Frauds

§ 14-118.4. Extortion

Any person who threatens or communicates a threat or threats to another with the intention thereby wrongfully to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and such person shall be punished as a Class F felon.

Chapter 14. Criminal Law, Subchapter XI, General Police Regulations

Article 60, Computer-Related Crime

§ 14-457. Extortion



Any person who verbally or by a written or printed communication, maliciously threatens to commit an act described in G.S. 14-455 with the intent to extort money or any pecuniary advantage, or with the intent to compel any person to do or refrain from doing any act against his will, is guilty of a Class H felony

Interview Questions:

1. Has an employer/supervisor ever said he would report you to the police or immigration authorities?
2. Has an employer/supervisor ever threatened to harm you or anyone you know?
3. Has an employer/supervisor ever threatened to harm your business, or property, or other economic opportunities?
4. *If so:* Did the employer/supervisor threaten you around the time of the wage theft incidents we discussed?
5. Did an employer/supervisor demand that you give up any of your wages or compensation?
6. Did an employer/supervisor demand that you give up any of your equipment, tools, vehicle, or other property?
7. Were you ever fired or demoted for asking for your wages?
8. Were you ever threatened with physical harm or physically harmed for asking for your wages?
9. Is there anything else you can tell me about the incident?

CRIMES AND STATUTORY ELEMENTS RELATED TO INVOLUNTARY SERVITUDE/TRAFFICKING/ PEONAGE/UNLAWFUL CRIMINAL RESTRAINT

Related Federal Statutory Elements

Definition from Title 22. Foreign Relations and Intercourse

Chapt. 78. Trafficking Victims Protection Act

§ 7102. Definitions

(5) Involuntary servitude

The term “involuntary servitude” includes a condition of servitude induced by means of--

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(8) Severe forms of trafficking in persons

The term “severe forms of trafficking in persons” means--

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(9) Sex trafficking

The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

14) Victim of trafficking

The term “victim of trafficking” means a person subjected to an act or practice described in paragraph (8) or (9).

Definition from Title 18. Crimes and Criminal Procedure. Crimes

Chapter 77. Peonage, Slavery, and Trafficking in Persons

§ 1581. Peonage; obstructing enforcement

(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

Definition from Title 18. Crimes and Criminal Procedure, Part I. Crimes

Chapt. 77. Peonage, Slavery, and Trafficking in Persons

§ 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

(a) Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this



section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties under subsection (a).

Related North Carolina Statutory Elements

Chapter 14. Criminal Law, Subchapter III, Offenses Against the Person

Article 10A, Human Trafficking

§ 14-43.10. Definitions

(a) Definitions. -- The following definitions apply in this Article:

(1) Coercion. -- The term includes all of the following:

- a. Causing or threatening to cause bodily harm to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person.
- b. Exposing or threatening to expose any fact or information that if revealed would tend to subject a person to criminal or immigration proceedings, hatred, contempt, or ridicule.
- c. Destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of any person.

(2) Deception. -- The term includes all of the following:

- a. Creating or confirming another's impression of an existing fact or past event that is false and which the accused knows or believes to be false.
- b. Maintaining the status or condition of a person arising from a pledge by that person of his or her personal services as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined, or preventing a person from acquiring information pertinent to the disposition of such debt.
- c. Promising benefits or the performance of services that the accused does not intend to deliver or perform or knows will not be delivered or performed.

(3) Involuntary servitude. -- The term includes the following:

- a. The performance of labor, whether or not for compensation, or whether or not for the satisfaction of a debt; and
- b. By deception, coercion, or intimidation using violence or the threat of violence or by any other means of coercion or intimidation.

Chapter 14. Criminal Law , Subchapter III, Offenses Against the Person

Article 10A, Human Trafficking

§ 14-43.11. Human trafficking

(a) A person commits the offense of human trafficking when that person knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude.

Chapter 14. Criminal Law, Subchapter III, Offenses Against the Person

Article 10A, Human Trafficking

§ 14-43.12. Involuntary servitude

(a) A person commits the offense of involuntary servitude when that person knowingly and willfully holds another in involuntary servitude.

Interview Questions:

1. Have you ever been forced to work?
2. Have you, your family, or anyone else you know ever suffered physical harm for refusal to work?
3. Have you ever felt that you would suffer serious harm or physical restraint if you refused to work?
4. Did anyone ever threaten to hurt or physically restrain you or your family if you did not work?
5. Did anyone ever threaten you, your family, or anyone else you know with deportation or other legal action if you refused to work?
6. Did anyone ever refuse to return, destroy, take from you, or conceal your passport or other personal documents?
7. *If so:* Did this occur around the time of the wage theft incident we discussed?
8. Is there anything else you want to tell me about the incident?
9. Did anyone ever physically force you to work to pay off a debt?
10. Did anyone ever threaten you with physical force if you refused to work to pay off a debt?
11. Did anyone ever threatened to sue you if refused to work to pay off a debt?
12. Did anyone ever threaten to deport you if you did not work to pay off a debt?
13. *If so:* Under what circumstances did this occur?
14. Were you ever forcibly transported to or from your workplace against your will?
15. How did you enter the United States?
16. Were you ever forced to work to pay off a smuggler?
17. Were you ever forced to do something sexual to pay off a debt?
18. Were you ever forced to do something sexual to receive your wages?
19. Were you ever promised wages or other benefit regarding work that you did not receive?
20. Did any of the above occur in relation to wage theft or other employment circumstances?
21. Is there anything else you want to tell me about these incidents?



CRIME AND STATUTORY ELEMENTS RELATED TO RAPE, ABUSIVE SEXUAL CONDUCT, SEXUAL ASSAULT, SEXUAL EXPLOITATION

Related Federal Statutory Elements

Definition from Title 10. Armed Forces, Subtitle A. General Military Law
Chapter 47, Uniform Code of Military Justice

§ 920. Art. 120. Rape, sexual assault, and other sexual misconduct

(a) Rape.--Any person subject to this chapter who causes another person of any age to engage in a sexual act by--

- (1)** using force against that other person;
 - (2)** causing grievous bodily harm to any person;
 - (3)** threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnaping;
 - (4)** rendering another person unconscious; or
 - (5)** administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairs the ability of that other person to appraise or control conduct;
- is guilty of rape and shall be punished as a court-martial may direct.

(c) Aggravated sexual assault.--Any person subject to this chapter who--

- (1)** causes another person of any age to engage in a sexual act by--
 - (A)** threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping); or
 - (B)** causing bodily harm; or
 - (2)** engages in a sexual act with another person of any age if that other person is substantially incapacitated or substantially incapable of--
 - (A)** appraising the nature of the sexual act;
 - (B)** declining participation in the sexual act; or
 - (C)** communicating unwillingness to engage in the sexual act;
- is guilty of aggravated sexual assault and shall be punished as a court-martial may direct.

(h) Abusive sexual contact.--Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (c) (aggravated sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

(k) Indecent act.--Any person subject to this chapter who engages in indecent conduct is guilty of an indecent act and shall be punished as a court-martial may direct.

(l) Forcible pandering.--Any person subject to this chapter who compels another person to engage in an act of prostitution with another person to be directed to said person is guilty of forcible pandering and shall be punished as a court-martial may direct.

(m) Wrongful sexual contact.--Any person subject to this chapter who, without legal justification or lawful authorization, engages in sexual contact with another person without that other person's permission is guilty of wrongful sexual contact and shall be punished as a court-martial may direct.

(n) Indecent exposure.--Any person subject to this chapter who intentionally exposes, in an indecent manner, in any place where the conduct involved may reasonably be expected to be viewed by people other than members of the actor's family or household, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall be punished as a court-martial may direct.

(t) Definitions.--In this section:

(1) Sexual act.--The term "sexual act" means--

(A) contact between the penis and the vulva, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

(B) the penetration, however slight, of the genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

(2) Sexual contact.--The term "sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person or to arouse or gratify the sexual desire of any person.

(10) Lewd act.--The term "lewd act" means--

(A) the intentional touching, not through the clothing, of the genitalia of another person, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

(B) intentionally causing another person to touch, not through the clothing, the genitalia of any person with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

(11) Indecent liberty.--The term "indecent liberty" means indecent conduct, but physical contact is not required. It includes one who with the requisite intent exposes one's genitalia, anus, buttocks, or female areola or nipple to a child. An indecent liberty may consist of communication of indecent language as long as the communication is made in the physical presence of the child. If words designed to excite sexual desire are spoken to a child, or a child is exposed to or involved in sexual conduct, it is an indecent liberty; the child's consent is not relevant.

(12) Indecent conduct.--The term "indecent conduct" means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations. Indecent conduct includes observing, or making a videotape, photograph, motion picture, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material, without another person's consent, and contrary to that other person's reasonable expectation of privacy, of--

(A) that other person's genitalia, anus, or buttocks, or (if that other person is female) that person's areola or nipple; or

(B) that other person while that other person is engaged in a sexual act, sodomy (under Section 925 (article 125)), or sexual contact.

(13) Act of prostitution.--The term "act of prostitution" means a sexual act, sexual contact, or lewd act for the purpose of receiving money or other compensation.



Definition from Title 18. Crimes and Criminal Procedure, Part I. Crimes
Chapter 109A. Sexual Abuse

§ 2241. Aggravated sexual abuse

(a) By force or threat.--Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly causes another person to engage in a sexual act--

(1) by using force against that other person; or

(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) By other means.--Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly--

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby--

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

§ 2242. Sexual abuse

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly--

(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

(2) engages in a sexual act with another person if that other person is--

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title and imprisoned for any term of years or for life.

Title 18. Crimes and Criminal Procedure, Part I. Crimes
Chapt. 109A. Sexual Abuse

§ 2246. Definitions for chapter

As used in this chapter--

(2) the term "sexual act" means--

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) the term "sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

Definition from Federal Rules of Evidence

Rule 413. Similar Crimes in Sexual-Assault Cases

(d) **Definition of "Sexual Assault."** In this rule and Rule 415, "sexual assault" means a crime under federal law or under state law (as "state" is defined in 18 U.S.C § 513 involving:

(1) any conduct prohibited by 18 U.S.C. chapter 109A;

(2) contact, without consent, between any part of the defendant's body--or an object--and another person's genitals or anus;

(3) contact, without consent, between the defendant's genitals or anus and any part of another person's body;

(4) deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on another person; or

(5) an attempt or conspiracy to engage in conduct described in subparagraphs (1)-(4).

Related North Carolina Statutory Elements

Chapter 14. Criminal Law, Subchapter III. Offenses Against the Person

Article 7A. Rape and Other Sex Offenses

§ 14-27.2. First-degree rape

(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

(2) With another person by force and against the will of the other person, and:

a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. Inflicts serious personal injury upon the victim or another person; or

c. The person commits the offense aided and abetted by one or more other persons.

Chapter 14. Criminal Law

Subchapter III. Offenses Against the Person



Article 7A. Rape and Other Sex Offenses

§ 14-27.3. Second-degree rape

(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:

- (1) By force and against the will of the other person; or
- (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.

Chapter 14. Criminal Law Subchapter III. Offenses Against the Person

Article 7A. Rape and Other Sex Offenses

§ 14-27.4. First-degree sexual offense

(a) A person is guilty of a sexual offense in the first degree if the person engages in a sexual act:

- (2) With another person by force and against the will of the other person, and:
 - a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or
 - b. Inflicts serious personal injury upon the victim or another person; or
 - c. The person commits the offense aided and abetted by one or more other persons.

Chapter 14. Criminal Law Subchapter III. Offenses Against the Person

Article 7A. Rape and Other Sex Offenses

§ 14-27.5. Second-degree sexual offense

(a) A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:

- (1) By force and against the will of the other person; or
- (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

Chapter 14. Criminal Law Subchapter III. Offenses Against the Person

Article 7A. Rape and Other Sex Offenses

§ 14-27.5A. Sexual battery

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

- (1) By force and against the will of the other person; or
- (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor.

Interview Questions:

NB: These questions should be drafted in consultation with sexual assault advocates who should also advise about interview techniques.

1. While you have been working in the United States, has your employer or supervisor forced you to have sex or with him/her when you did not want to?
2. While you have been working in the United States, has your employer or supervisor forced you to perform a sexual act or with him/her when you did not want to?
3. While you have been working in the United States, has your employer or supervisor had any unwanted sexual contact with you when you did not want to?
4. While you have been working in the United States, has your employer or supervisor ever exposed himself/herself sexually to you?
5. *If so: were these acts videotaped, recorded, or photographed?*
6. *If so: did this happen in NC?*
7. *If so: did this happen around the time of the wage theft incident(s) we discussed?*
8. *If so: Do you think this occurred because of the wage theft we discussed?*
9. *If so: Is it because you asked for your wages?*
10. *If so: Is it because you were going to tell someone about your stolen wages?*
11. If you believe that the rape/sexual assault was related in any way to your wage theft problem, please explain
12. Have you ever had sex with an employer or supervisor or performed a sexual act, even though you did not want to, because you thought you would not get paid if you didn't?
13. *If so: Was this in the United States?*
14. *If so: Was this in NC?*
15. *If so: what made you think that you would not get paid if you did not have sex/performed a sexual act with him/her?*
16. *If so: Is it because you asked for your wages?*
17. *If so: Is it because you were going to tell someone about this?*
18. Please provide any additional information that you think would help to connect unwanted sexual relations with your employer and supervisor and wage theft.

Crimes and Statutory Elements Related to Assault Related Crimes

Related Federal Statutory Elements

Federal Sentencing Guidelines, Chapter Two. Offense Conduct, Part A. Offenses Against the Person

§ 2A2.2. Aggravated Assault

COMMENTARY

1. Definitions.--For purposes of guideline:

"Aggravated assault" means a felonious assault that involved (A) a dangerous weapon with intent to cause bodily injury (i.e., not merely to frighten) with that weapon; (B) serious bodily injury; or (C) an intent to commit another felony.

COMMENTARY

§ 2A2.3. Minor Assault

"Minor assault" means a misdemeanor assault, or a felonious assault not covered by § 2A2.2 (Aggravated Assault).

Title 10. Armed Forces ,Subtitle A. General Military Law Part II. Personnel
Chapter 47Uniform Code of Military Justice , Subchapter X. Punitive Articles

§ 928. Art. 128. Assault

(a) Any person subject to this chapter who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who--

(1) commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

(2) commits an assault and intentionally inflicts grievous bodily harm with or without a weapon;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

Assault Related Crimes: North Carolina Statutory Elements

Chapter 14. Criminal Law
Subchapter III. Offenses Against the Person
Article 8. Assaults

§ 14-32. Felonious assault with deadly weapon with intent to kill or inflicting serious injury; punishments

(a) Any person who assaults another person with a deadly weapon with intent to kill and inflicts serious injury shall be punished as a Class C felon.

(b) Any person who assaults another person with a deadly weapon and inflicts serious injury shall be punished as a Class E felon.

(c) Any person who assaults another person with a deadly weapon with intent to kill shall be punished as a Class E felon.

Chapter 14. Criminal Law
Subchapter III. Offenses Against the Person
Article 8. Assaults

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony.

Chapter 14. Criminal Law
Subchapter III. Offenses Against the Person
Article 8. Assaults

§ 14-33.2. Habitual misdemeanor assault

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of G.S. 14-33 and causes physical injury, or G.S. 14-34, and has two or more prior convictions for either misdemeanor or felony assault, with the earlier of the two prior convictions occurring no more than 15 years prior to the date of the current violation. A conviction under this section shall not be used as a prior conviction for any other habitual offense statute. A person convicted of violating this section is guilty of a Class H felony.

Chapter 14. Criminal Law
Subchapter III. Offenses Against the Person
Article 8. Assaults

§ 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments (Assault on a Female)

Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

(2) Assaults a female, he being a male person at least 18 years of age;

Interview Questions:

1. Has an employer/supervisor ever hit/attempted to hit you?
2. Has an employer/supervisor ever used physical force/attempted to use physical force on you?
3. Has an employer/supervisor ever used or threaten to use a weapon against you?
4. *If so:* Did this occur around the time of the wage theft incident we discussed?
5. Can you describe what happened to you?
6. Is there anything else you want to tell me about the incident?



Interview Questions (Related to assault on a female):

1. While living in North Carolina, has any employer or supervisor ever hit you or tried to hit you?
2. *If so:* Was he over 18?
3. *If so:* Did this occur around the time of the wage theft incident(s) we discussed?

**Crimes and Statutory Elements Related to Obstruction of justice/Witness
Tampering/Bribery**

Related Federal Statutory Elements.

Title 18. Crimes and Criminal Procedure, Part I. Crimes

Chapter 73. Obstruction of Justice

§ 1503. Influencing or injuring officer or juror generally

(a) Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate, in the discharge of his duty, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, magistrate judge, or other committing magistrate in his person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished as provided in subsection (b). If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

Title 18. Crimes and Criminal Procedure, Part I. Crimes

Chapter 73. Obstruction of Justice

§ 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress-- Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331) imprisoned not more than 8 years, or both.



Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 73. Obstruction of Justice

§ 1510. Obstruction of criminal investigations

(a) Whoever willfully endeavors by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined under this title, or imprisoned not more than five years, or both.

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 73. Obstruction of Justice

§ 1512. Tampering with a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person, with intent to--

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to--

(A) influence, delay, or prevent the testimony of any person in an official proceeding;

(B) cause or induce any person to--

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to--

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to--

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation supervised release, parole, or release pending judicial proceedings;

shall be fined under this title or imprisoned not more than 20 years, or both.

(c) Whoever corruptly--

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from--

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation supervised release, parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

or attempts to do so, shall be fined under this title or imprisoned not more than 3 years, or both.

(e) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

(f) For the purposes of this section--

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(g) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance--

(1) that the official proceeding before a judge, court, magistrate judge, grand jury, or government agency is before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

(h) There is extraterritorial Federal jurisdiction over an offense under this section.

(i) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

(j) If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 73. Obstruction of Justice

§ 1513. Retaliating against a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for--

(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings, shall be punished as provided in paragraph (2).

(b) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for--

(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings given by a person to a law enforcement officer; or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(c) If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(d) There is extraterritorial Federal jurisdiction over an offense under this section.

(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

(f) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 73. Obstruction of Justice

§ 1515. Definitions for certain provisions; general provision

(a) As used in sections 1512 and 1513 of this title and in this section--

(1) the term "official proceeding" means--

(A) a proceeding before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Court of Federal Claims, or a Federal grand jury;

(B) a proceeding before the Congress;

(C) a proceeding before a Federal Government agency which is authorized by law; or

(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;

(2) the term "physical force" means physical action against another, and includes confinement;

(3) the term "misleading conduct" means--

(A) knowingly making a false statement;

(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

(E) knowingly using a trick, scheme, or device with intent to mislead;

(4) the term "law enforcement officer" means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant--

(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

- (B) serving as a probation or pretrial services officer under this title;
- (5) the term "bodily injury" means--
 - (A) a cut, abrasion, bruise, burn, or disfigurement;
 - (B) physical pain;
 - (C) illness;
 - (D) impairment of the function of a bodily member, organ, or mental faculty; or
 - (E) any other injury to the body, no matter how temporary; and
- (6) the term "corruptly persuades" does not include conduct which would be misleading conduct but for a lack of a state of mind.
- (b) As used in section 1505, the term "corruptly" means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.
- (c) This chapter does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 11. Bribery, Graft, and Conflicts of Interest

§ 201. Bribery of public officials and witnesses

- (b) Whoever--
 - (1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent--
 - (A) to influence any official act; or
 - (B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or
 - (C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;
 - (2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:
 - (A) being influenced in the performance of any official act;
 - (B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or
 - (C) being induced to do or omit to do any act in violation of the official duty of such official or person;
 - (3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom; shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever--

(1) otherwise than as provided by law for the proper discharge of official duty--

(A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom; shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

Related North Carolina Statutory Elements.

Chapter 14. Criminal Law

Subchapter VIII. Offenses Against Public Justice

Article 30. Obstructing Justice

§ 14-221.1. Altering, destroying, or stealing evidence of criminal conduct

Any person who breaks or enters any building, structure, compartment, vehicle, file, cabinet, drawer, or any other enclosure wherein evidence relevant to any criminal



offense or court proceeding is kept or stored with the purpose of altering, destroying or stealing such evidence; or any person who alters, destroys, or steals any evidence relevant to any criminal offense or court proceeding shall be punished as a Class I felon.

As used in this section, the word evidence shall mean any article or document 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.

Chapter 14. Criminal Law

Subchapter VIII. Offenses Against Public Justice

Article 30. Obstructing Justice

§ 14-225.2. Harassment of and communication with jurors

(a) A person is guilty of harassment of a juror if he:

(1) With intent to influence the official action of another as a juror, harasses, intimidates, or communicates with the juror or his spouse; or

(2) As a result of the prior official action of another as a juror in a grand jury proceeding or trial, threatens in any manner or in any place, or intimidates the former juror or his spouse.

(b) In this section “juror” means a grand juror or a petit juror and includes a person who has been drawn or summoned to attend as a prospective juror.

(c) A person who commits the offense defined in subdivision (a)(1) of this section is guilty of a Class H felony. A person who commits the offense defined in subdivision (a)(2) of this section is guilty of a Class I felony.

Chapter 14. Criminal Law

Subchapter VIII. Offenses Against Public Justice

Article 30. Obstructing Justice

§ 14-226. Intimidating or interfering with witnesses

(a) If any person shall by threats, menaces or in any other manner intimidate or attempt to intimidate any person who is summoned or acting as a witness in any of the courts of this State, or prevent or deter, or attempt to prevent or deter any person summoned or acting as such witness from attendance upon such court, the person shall be guilty of a Class G felony.

(b) A defendant in a criminal proceeding who threatens a witness in the defendant's case with the assertion or denial of parental rights shall be in violation of this section.

Chapter 96. Employment Security

Article 2. Unemployment Insurance Division

§ 96-15.1. Protection of witnesses from discharge, demotion, or intimidation

(a) No person may discharge, demote, or threaten any person because that person has testified or has been summoned to testify in any proceeding under the Employment Security Act.

(b) Any person who violates the provisions of this section shall be liable in a civil action for reasonable damages suffered by any person as a result of the violation, and an

employee discharged or demoted in violation of this section shall be entitled to be reinstated to his former position. The burden of proof shall be upon the party claiming a violation to prove a claim under this section.

Chapter 96. Employment Security

Article 2. Unemployment Insurance Division

§ 96-15.2 - Protection of witness before the Employment Security Commission

If any person shall by threats, menace, or in any other manner intimidate or attempt to intimidate any person who is summoned or acting as a witness in any proceeding brought under the Employment Security Act, or prevent or deter, or attempt to prevent or deter any person summoned or acting as such witness from attendance upon such proceeding.

Chapter 14. Criminal Law

Subchapter VIII. Offenses Against Public Justice

Article 29. Bribery

§ 14-218. Offering bribes

If any person shall offer a bribe, whether it be accepted or not, he shall be punished as a Class F felon.

Chapter 14. Criminal Law

Subchapter VIII. Offenses Against Public Justice

Article 29. Bribery

§ 14-220. Bribery of jurors

If any juror, either directly or indirectly, shall take anything from the plaintiff or defendant in a civil suit, or from any defendant in a State prosecution, or from any other person, to give his verdict, every such juror, and the person who shall give such juror any fee or reward to influence his verdict, or induce or procure him to make any gain or profit by his verdict, shall be punished as a Class F felon.

Interview Questions:

1. Have you ever made any legal claims regarding the wage theft you described earlier?
2. If so, what sorts of claims did you make/court or administrative hearing/other?
3. Did you ever attend any sort of court proceeding/administrative hearing/other to enforce these claims?
4. If so, did you ever feel threatened/harassed/intimidated/harmed by someone for attending this proceeding?
5. Did your employer/supervisor or anyone on his behalf do or say anything to make you feel uncomfortable or frightened to testify?
6. If so: What did you think would happen if you did not do as your employer/supervisor told you.
7. If so, why and who made you feel this way?
8. Did you ever testify at any of these proceedings?

9. Did your employer/supervisor or anyone on his behalf tell you what to say in court?
10. Did you feel threatened/harassed/intimidated/harmed by someone for testifying?
11. If so, why and who made you feel this way?
12. If so, why and who made you feel this way?
13. If you did not file any claims regarding wage theft, why not?
14. Did anyone testify on your behalf at the court/administrative hearing/other?
15. If not, why not?
16. Did your employer/supervisor or anyone on his behalf ask a witness not to testify?
17. Did your employer/supervisor or anyone on his behalf tell a witness what to say in court? Explain
18. Did your employer/supervisor prevent you or a witness from producing a record, document, or object in this case?
19. If so, how? What did he or she do?
20. *If so:* Were you or the witness threatened? Who made the threats?
21. *If so:* Were you or the witness harmed? Please explain.
22. If you filed a suit in court or claim with the Wage and Hour board, did your employer/supervisor or other designee appear in court?
23. *If so:* were your employer/supervisor asked to provide records?
24. *If so:* Did they provide all of the records requested?
25. If so, were the records accurate?
26. Do you know if any of your employer records were missing?
27. Do you know if your employer/supervisor destroyed or hid records relating to your hours, wages and other terms of employment?
28. If you filed a claim for wages, do you know if any other witnesses were asked to provide information or appear?
29. *If so:* Did they provide all of the information requested/ did they appear?
30. *If so:* Did they provide accurate information/testimony?
31. *If so:* Do you know whether the employer/supervisor retaliated against them in any way?
32. *If they did not appear or provide accurate information:* Do you know why?
33. *If not:* Do you know whether any witness was intimidated or threatened and if so, by whom?
34. *If you filed a claim or went to court or an administrative proceeding:* How did the case turn out?
35. Do you have reason to believe that your supervisor/employer was able to influence the outcome of the case, and if so, how?
36. Do you have reason to believe that your supervisor/employer gave anything of value to a public official or juror in any case or claim regarding wage theft to influence the outcome? Please explain.
37. Is there anything else you want to tell me about these incident?
38. Do you know of any crimes committed by your employer or supervisor?
39. What sorts of crime did your employer or supervisor commit?
40. Did you witness this crime take place?
41. If so, did you report this crime?

42. Did anyone prevent you from reporting any criminal activity related to your employment?
43. Who and why?

CRIMES AND STATUTORY ELEMENTS RELATED TO PERJURY

Related Federal Statutory Elements

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 79. Perjury

§ 1621. Perjury generally

Whoever--

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury. This section is applicable whether the statement or subscription is made within or without the United States.

Title 18. Crimes and Criminal Procedure

Part I. Crimes

Chapter 79. Perjury

§ 1622. Subornation of perjury

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

Related North Carolina Statutory Elements

Chapter 14. Criminal Law

Subchapter VIII. Offenses Against Public Justice

Article 28. Perjury

§ 14-209. Punishment for perjury

If any person shall willfully and corruptly commit perjury, on his oath or affirmation, in any suit, controversy, matter or cause, depending in any of the courts of the State, or in any deposition or affidavit taken pursuant to law, or in any oath or affirmation duly administered of or concerning any matter or thing whereof such person is lawfully required to be sworn or affirmed, every person so offending shall be punished as a Class F felon.

Chapter 14. Criminal Law

Subchapter VIII. Offenses Against Public Justice



Article 28. Perjury

§ 14-210. Subornation of perjury

If any person shall, by any means, procure another person to commit such willful and corrupt perjury as is mentioned in G.S. 14-209, the person so offending shall be punished as a Class I felon.

Interview Questions:

1. Has an employer or supervisor ever testified about you in a North Carolina court?
2. If so, do you believe this testimony was true?
3. If not, do you think the employer/supervisor believed this testimony to be true?
4. Why/Why not?
5. Has an employer or supervisor ever made reference to you in a sworn document, such as an affidavit?
6. If so, was this reference about you true?
7. Do you think the employer or supervisor believed this to be true?
8. Why or why not?
9. Has an employer or supervisor ever submitted any sworn written document in a court or administrative or other matter about a wage-theft related matter that was not true? Explain.
10. Did he/she tell you to testify or to say something that was not true? Explain, Did you? What happened?
11. Has your employer or supervisor ever asked someone else to testify about a wage-theft related matter?
12. Did he/she tell that person to testify or to say something that was not true? Explain, Did they? What happened?