

**14-5062. Lost, destroyed, or uncollected evidence; adverse inference permitted.<sup>1</sup>**

If the State fails to produce evidence [under its control]<sup>2</sup> because the State [lost]<sup>3</sup> [or] [destroyed] [or] [inadequately preserved] [or] [failed to gather or collect] that evidence, then you may, but are not required to, infer that the evidence would be unfavorable to the State.

USE NOTES

1. For use upon a court's finding that the State breached a duty to preserve material evidence and the deprivation of evidence was prejudicial to the defendant, or upon a court's finding that the State acted with gross negligence in failing to collect material evidence.

2. Use when the State failed to preserve evidence.

3. Use applicable alternative or alternatives.

[Adopted by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed on or after December 31, 2020.]