

**CRIMINAL POSSESSION OF A FORGED INSTRUMENT  
THIRD DEGREE  
(A Misdemeanor)  
(Knowingly Uttering or Possessing  
Forged Instrument with Intent to Defraud, Etc.)  
PENAL LAW 170.20  
(Committed on or After September 1, 1967)**

The \_\_\_\_\_ count is Criminal Possession of a Forged Instrument in the Third Degree.

Under our law, a person is guilty of Criminal Possession of a Forged Instrument in the Third Degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he or she utters or possesses a forged instrument.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms<sup>1</sup>: "intent," "possess," and "forged instrument."

INTENT means conscious objective or purpose.<sup>2</sup> Thus, a person acts with intent to defraud, deceive or injure another when that person's conscious objective or purpose is to do so.

To POSSESS means to have physical possession or otherwise to exercise dominion and control over tangible property.

---

<sup>1</sup>The term "utter" is not defined by statute or in case law. Black's Law Dictionary (7<sup>th</sup> ed 1999) defines the term as follows:

"1. To say, express, or publish.... 2. To put or send (a document) into circulation; esp., to circulate (a forged note) as if genuine...."  
(Examples omitted).

<sup>2</sup>See Penal Law §15.05(1).

<sup>3</sup>See Penal Law §10.00(8). Where constructive possession is alleged, insert the appropriate instructions from the "Additional Charges" section at the end of this article.

A FORGED INSTRUMENT means a written instrument which has been falsely made, completed or altered.<sup>4</sup> The words "written instrument," "falsely made," "falsely completed," and "falsely altered" used in the definition of "forged instrument" also have their own special meanings.

A written instrument means any instrument or article [including computer data or a computer program] containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.<sup>5</sup>

A written instrument can be either complete or incomplete.

A complete written instrument means one which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof.<sup>6</sup>

[NOTE: Add where appropriate:

An endorsement, attestation, acknowledgment or other similar signature or statement is deemed both a complete written instrument in itself and a part of the main instrument in which it is contained or to which it attaches.<sup>7</sup>]

An incomplete written instrument means one which contains some matter by way of content or authentication but which requires

---

<sup>4</sup> See Penal Law §170.00(7). Depending on the evidence, it may not be necessary to define all three of the methods by which a written instrument may be forged.

<sup>5</sup> See Penal Law §170.00(1).

<sup>6</sup> See Penal Law §170.00(2).

<sup>7</sup> Id.

additional matter in order to render it a complete written instrument.<sup>8</sup>

A written instrument is falsely made when a person makes or draws a complete written instrument in its entirety, or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not such either because the ostensible maker or drawer is fictitious or because, if real, he or she did not authorize the making or drawing thereof.<sup>9</sup>

A written instrument is falsely completed when, by adding, inserting or changing matter, a person transforms an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that such complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.<sup>10</sup>

A written instrument is falsely altered when, without the authority of anyone entitled to grant it, a person changes a written instrument, whether it be in a complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.<sup>11</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

---

<sup>8</sup>See Penal Law §170.00(3).

<sup>9</sup> See Penal Law §170.00(4).

<sup>10</sup>See Penal Law §170.00(5).

<sup>11</sup>See Penal Law §170.06(6).

1. That on or about  (date) , in the county of  (county) , the defendant,  (defendant's name) , uttered or possessed a forged instrument; and
2. That the defendant did so with knowledge that it was forged and with the intent to defraud, deceive or injure another.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Possession of a Forged Instrument in the Third Degree as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Possession of a Forged Instrument in the Third Degree as charged in the \_\_\_\_\_ count.