

**CRIMINAL USE OF A PUBLIC BENEFIT CARD  
IN THE FIRST DEGREE  
Penal Law § 158.35  
(Committed on or after Nov. 1, 1995)**

The (specify) count is Criminal Use of a Public Benefit Card in the First Degree.

Under our law, a person is guilty of Criminal Use of a Public Benefit Card in the First Degree when that person, pursuant to an act or a series of acts, knowingly

*Select Appropriate Alternative(s):*

obtains three or more public benefit cards from another or others in exchange for a benefit, [*or*]

transfers or delivers three or more public benefit cards to another or other in exchange for money [or a controlled substance.<sup>1</sup> Specify is a controlled substance.]

The following terms used in that definition have a special meaning:

*Select Appropriate Alternative(s):*

A person KNOWINGLY obtains three or more public benefit cards from another or others in exchange for a benefit when that person is aware that he or she is doing so.

A person KNOWINGLY transfers or delivers three or more public benefit cards to another or other in exchange for money [or specify controlled substance].<sup>2</sup>

PUBLIC BENEFIT CARD means any medical assistance card, food stamp assistance card, public assistance card, or

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<sup>1</sup> For the definition of “controlled substance” see Penal Law § 220.00 (5).

<sup>2</sup> Penal Law § 15.05 (2).

any other identification, authorization card or electronic access device issued by the state or social services district which entitles a person to obtain public assistance benefits under a local, state, or federal program administered by the state, its political subdivisions, or social services districts.<sup>3</sup>

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

1. That on or about (date) in the county of (county), the defendant (defendant's name), pursuant to an act or series of acts,

*Select Appropriate Alternative(s):*

obtained three or more public benefit cards from another or others in exchange for a benefit, [or]

transferred or delivered three or more public benefit cards to another or other in exchange for money or (specify controlled substance)<sup>4</sup>;

and

2. That the defendant did so knowingly.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a

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<sup>3</sup> Penal Law § 158.00 (1)(a). For the definition of “social services district,” see Social Services Law § 2 (7).

<sup>4</sup> For the definition of “controlled substance” see Penal Law § 220.00 (5).

reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.