

**MAKING AN APPARENTLY SWORN FALSE STATEMENT  
IN THE SECOND DEGREE  
Penal Law § 210.35  
(Committed on or after Sept. 1, 1967)**

The (specify) count is Making an Apparently Sworn False Statement in the Second Degree.

Under our law, a person is guilty of Making an Apparently Sworn False Statement in the Second Degree when that person subscribes a written instrument knowing that it contains a statement which is in fact false and which he or she does not believe to be true, and he or she intends or believes that such instrument will be uttered or delivered with a jurat affixed thereto, and such instrument is uttered or delivered with a jurat affixed thereto.

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

JURAT means a clause wherein an attesting officer certifies, among other matters, that the subscriber has appeared before him and sworn to the truth of the contents thereof.<sup>1</sup>

Intent means conscious objective or purpose.<sup>2</sup> Thus, a person INTENDS that a written instrument be uttered or delivered with a jurat affixed thereto when his or her conscious objective or purpose is that such instrument be uttered or delivered with a jurat affixed to it.

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, the following four elements:

1. That on or about (date), in the county of (county)

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<sup>1</sup> Penal Law §210.00(7).

<sup>2</sup> See Penal Law §15.05(1).

\_\_, the defendant, (defendant's name), subscribed a written instrument which contained a statement that was false;

2. That the defendant did so knowing that the instrument contained a false statement which he/she did not believe to be true;

3. That the defendant intended or believed that such instrument would be uttered or delivered with a jurat affixed to it; and

4. That the instrument was uttered or delivered with a jurat affixed to it.

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

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.