

**TAMPERING WITH A WITNESS
IN THE FOURTH DEGREE
(Avoiding Testimony)
Penal Law § 215.10(a)
(Committed on or after Sept. 1, 1967)**

The (specify) count is Tampering with a Witness in the Fourth Degree.

Under our law, a person is guilty of Tampering with a Witness in the Fourth Degree when, knowing that a person is or is about to be called as a witness in an action or proceeding, he or she wrongfully induces or attempts to induce such person to absent himself or herself from, or otherwise to avoid or seek to avoid appearing or testifying at, such action or proceeding.

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, each of the following three elements:

1. That on or about (date), (specify) was, or was about to be called as, a witness in an action or proceeding;
2. That on that date, in the county of (county), the defendant, (defendant's name), wrongfully induced or attempted to induce (specify) to absent himself/herself from, or otherwise to avoid or seek to avoid appearing or testifying at, such action or proceeding; and
3. That the defendant did so knowing that (specify) was, or was about to be called as, a witness in such action or proceeding.

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.