

**CRIMINAL POSSESSION OF FORGERY DEVICES**  
**(Make or Possess Counterfeiting Device)**  
**Penal Law § 170.40(1)**  
**(Committed on or after Sept. 1, 1967)**  
Revised Dec. 2019 <sup>1</sup>

The (*specify*) count is Criminal Possession of Forgery Devices.

Under our law, a person is guilty of Criminal Possession of Forgery Devices when he or she makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

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

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.<sup>2</sup>

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>3</sup>

FORGED WRITTEN INSTRUMENT means a written instrument that is falsely made, completed or altered.<sup>4</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,

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<sup>1</sup> The December 2019 revision was for the purpose of adding the definition of “forged written instrument.”

<sup>2</sup> Penal Law §10.00(8). If necessary, an expanded definition of "possession" is available in the section on Instructions of General Applicability under Possession.

<sup>3</sup> Penal Law §170.00(1).

<sup>4</sup> This definition was added in Dec. 2019. See Penal Law § 170.00(7). If necessary, definitions of “falsely made,” “falsely completed” or “falsely altered” are also set forth in Penal Law § 170.00.

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)*, made or possessed any plate, die or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments; and
2. That the defendant did so with knowledge of its character.

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