

**CRIMINAL POSSESSION OF FORGERY DEVICES**  
**(Make or Possess Forgery Device With Intent to Use)**  
**Penal Law § 170.40(2)**  
**(Committed on or After September 1, 1967)**

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

Under our law, a person is guilty of Criminal Possession of Forgery Devices when, with intent to use or to aid or permit another to use the same for purposes of forgery, he or she makes or possesses any device, apparatus, equipment or article capable of or adaptable to such use.

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

INTENT means conscious objective or purpose.<sup>1</sup> Thus, a person intends to use, or to aid or permit another to use, a device, apparatus, equipment or article for purposes of forgery when that person's conscious objective or purpose is to do so.

FORGERY occurs when a person falsely makes, completes or alters a written instrument.<sup>2</sup>

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.<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, the following two elements:

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<sup>1</sup>See Penal Law §15.05(1).

<sup>2</sup>-Penal Law § 170.00(2). If necessary, definitions of "written instrument," "falsely made," "falsely completed" or "falsely altered" are also set forth in Penal Law § 170.00.

<sup>3</sup>See Penal Law §10.00(8). If necessary, an expanded definition of "possession" is available in the section on Instructions of General Applicability under Possession.

1. That on or about *(date)*, in the County of *(County)*, the defendant, *(defendant's name)*, made or possessed a device, apparatus, equipment , or article capable of forgery, or adaptable to such use; and
2. That the defendant did so with intent to use or to aid or permit another to use the same for purposes of forgery.

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.