

**OFFERING A FALSE INSTRUMENT FOR FILING
FIRST DEGREE
(E felony)
PENAL LAW 175.35
(Committed on or after November 1, 1998)**

The _____ count is Offering a False Instrument For Filing in the First Degree.

Under our law, a person is guilty of offering a false instrument for filing in the first degree when, knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he offers or presents it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "written instrument," and "intent," "public servant."

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.¹

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud the state [or any political subdivision, public authority or public benefit corporation of the state], when that person's conscious objective or purpose is to

¹ See Penal Law § 175.00(3).

defraud the state [or any political subdivision, public authority or public benefit corporation of the state].²

PUBLIC SERVANT means any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or any person exercising the functions of any such public officer or employee. [The term public servant includes a person who has been elected or designated to become a public servant.]

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, each of the following five elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), offered or presented a written instrument to a public office, or public servant, [or public authority or public benefit corporation];
2. The defendant did so with the knowledge or belief that it would be filed with, registered, or recorded in, or otherwise become a part of the records of such public office, or public servant, [or public authority or public benefit corporation];
3. That the written instrument contained a false statement or false information;
4. That the defendant knew that the written instrument contained a false statement or false information; and
5. That the defendant offered or presented the written instrument with intent to defraud the state or any political subdivision, [or public authority or public benefit corporation] of the state.

² See, Penal Law § 15.05(1).

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Offering a False Instrument For Filing in the First Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Offering a False Instrument For Filing in the First Degree as charged in the _____ count.