

**OFFERING A FALSE INSTRUMENT FOR FILING  
IN THE FIRST DEGREE  
Penal Law § 175.35 (1)  
(Committed on or after Nov. 1, 1998)<sup>1</sup>**

The (*specify*) 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 OR SHE 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.

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

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>2</sup>

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud the state [or any political

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<sup>1</sup> Effective November 1, 2014 (L 2013, ch 490), Penal Law § 175.35 was amended by adding a subdivision (2) and designating the existing crime, which remains unchanged except for the addition of gender-neutral language, as subdivision (1).

<sup>2</sup> See Penal Law § 175.00 (3).

subdivision, public authority or public benefit corporation of the state], when that person's conscious objective or purpose is to defraud the state [or any political subdivision, public authority or public benefit corporation of the state].<sup>3</sup>

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

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<sup>3</sup> See Penal Law § 15.05 (1).

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

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.