

WELFARE FRAUD IN THE FIFTH DEGREE
Penal law § 158.05
(Committed on or after Nov. 1, 1995)

The (*specify*) count is Welfare Fraud in the Fifth Degree.

Under our law, a person is guilty of Welfare Fraud in the Fifth Degree when that person commits a fraudulent welfare act and thereby takes or obtains public assistance benefits.

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

PUBLIC ASSISTANCE BENEFITS means money, property or services provided directly or indirectly through programs of the federal government, the state government or the government of any political subdivision within the state and administered by the department of social services or social services districts.¹

FRAUDULENT WELFARE ACT means knowingly and with intent to defraud, engaging in an act or acts pursuant to which a person:

Select Appropriate Alternative(s):

Offers, presents or causes to be presented to the state, any of its political subdivisions or social services districts, or any employee or agent thereof, an oral or written application or request for public assistance benefits or for a public benefit card with knowledge that the application or request contains a false statement or false information, and such statement or information is material *[or]*

Holds himself or herself out to be another person, whether real or fictitious, for the purpose of obtaining public assistance benefits *[or]*

¹ Penal Law § 158.00 (1)(c).

Makes a false statement or provides false information for the purpose of

Select Appropriate Alternative(s):

establishing or maintaining eligibility for public assistance benefits, [or]

increasing or preventing reduction of public assistance benefits,

and such statement or information is material.²

Some of the terms used in this definition of “fraudulent welfare act” have their own special meaning in our law. I will now give you the meaning of the following terms: “knowingly,” “intent” and [“public benefit card”].

A person KNOWINGLY commits a fraudulent welfare act when that person is aware that he or she is committing a fraudulent welfare act.³

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud when that person’s conscious objective or purpose is to do so.⁴

[PUBLIC BENEFIT CARD means any medical assistance card, food stamp assistance card, public assistance card, or any other identification, authorization card or electronic access device issued by the state or social services district which entitles a person to obtain public assistance benefits under a local, state, or federal program administered by the state, its political subdivisions, or social services districts.⁵]

In order for you to find the defendant guilty of this crime, the

² Penal Law § 158.00 (1)(b).

³ Penal Law § 15.05 (2).

⁴ Penal Law § 15.05 (1).

⁵

Penal Law § 158.00 (1)(a). For the definition of “social services district,” see Social Services Law § 2 (7).

People are required to prove from all of the evidence in the case 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) committed a fraudulent welfare act; and
2. The defendant did so knowingly and with intent to defraud.

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.