**CRIMINAL USE OF A PUBLIC BENEFIT CARD

IN THE FIRST DEGREE

Penal Law § 158.35

(Committed on or after Nov. 1, 1995)**

The (*specify*) count is Criminal Use of a Public Benefit Card in the First Degree.

Under our law, a person is guilty of Criminal Use of a Public Benefit Card in the First Degree when that person, pursuant to an act or a series of acts, knowingly

*Select Appropriate Alternative(s)*:

obtains three or more public benefit cards from another or others in exchange for a benefit, *[or]*

transfers or delivers three or more public benefit cards to another or other in exchange for money [or a controlled substance.1 *Specify* is a controlled substance.]

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

*Select Appropriate Alternative(s)*:

A person KNOWINGLY obtains three or more public benefit cards from another or others in exchange for a benefit when that person is aware that he or she is doing so.

A person KNOWINGLY transfers or delivers three or more public benefit cards to another or other in exchange for money [or *specify controlled substance*]. 2

PUBLIC BENEFIT CARD means any medical assistance card, food stamp assistance card, public assistance card, or

1 For the definition of “controlled substance” *see* Penal Law § 220.00 (5).

2 Penal Law § 15.05 (2).

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.3

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 both of the following two elements:

1. That on or about (*date*) in the county of (*county*), the defendant (*defendant’s name*), pursuant to an act or series of acts,

*Select Appropriate Alternative(s)*:

obtained three or more public benefit cards from another or others in exchange for a benefit, *[or]*

transferred or delivered three or more public benefit cards to another or other in exchange for money or (*specify controlled substance*)4;

and

1. That the defendant did so knowingly.

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

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

4 For the definition of “controlled substance” *see* Penal Law § 220.00 (5).

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