13.40A
Issues In Forgery

Use For Cases Where The Offense Is Alleged To Have Occurred After December 31, 2011

To sustain the charge of forgery, the State must prove the following propositions:

[1] *First Proposition*: That the defendant knowingly [(made a false document) (altered any document to make it false)] a _____so that it appeared to have been made [(by another) (at another time) (with different provisions) (by authority of one who did not give such authority)]; and

[or]

[2] *First Proposition*: That the defendant knowingly [(issued) (delivered)] a _____which he knew had been made or altered so that it appeared to have been made [(by another) (at another time) (with different provisions) (by authority of one who did not give such authority)]; and

[or]

[3] *First Proposition*: That the defendant knowingly possessed, with intent to issue or deliver a _____, which he knew had been made or altered so that it appeared to have been made [(by another) (at another time) (with different provisions) (by authority of one who did not give such authority)]; and

[or]

[4] *First Proposition*: That the defendant knowingly and unlawfully used the digital signature of another; and

[or]

[5] *First Proposition*: That the defendant knowingly and unlawfully used the signature device of another to create an electronic signature of that other person; and

Second Proposition: That the defendant did so with an intent to defraud; and

Third Proposition: That the _____was apparently capable of defrauding another.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/17-3 (West 2013), amended by P.A. 90-575, effective March 20, 1998, which added subsection (a)(4), amended by P.A. 90-759, effective July 1, 1999, which added subsection (a)(5).

Give Instruction 13.39.

When applicable, give Instruction 13.42, defining "document".

When applicable, give Instruction 5.12, defining "digital signature".

When applicable, give Instruction 5.13, defining "electronic signature".

When applicable, give Instruction 5.14, defining "signature device".

When applicable, give Instruction 5.15, defining "false document" or "document that is false".

In *People v. Smith*, 259 Ill. App.3d 492, 500-01, 631 N.E.2d (4th Dist. 1994), the appellate court concluded that the State is not required to prove that anyone was actually defrauded by the defendant's conduct, and accordingly held that the State need not allege or prove the identity of the victim whom the defendant intended to defraud. *See also People v. Crouch*, 29 Ill.2d 485, 486-87, 194 N.E.2d 248 (1963). Because this instruction formerly required the inclusion of the victim's identity, the appellate court held that it misstated the law. In light of *Smith*, the Committee has deleted the victim's identity previously required in the Second Proposition.

The bracketed numbers [1] through [5] correspond to the alternatives of the same number in Instruction 13.39, the definitional instruction for this offense. Select the alternative First Proposition that corresponds to the alternative selected from the definitional instruction.

Insert in the blanks the appropriate descriptions of the documents involved, *e.g.* check, note, mortgage.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. Give Instruction 5.03.