

FELONIOUS MISREPRESENTATION IN OBTAINING PUBLIC ASSISTANCE--MORE THAN \$400. G.S. § 108A-39(b). FELONY; MISDEMEANOR.

NOTE WELL: *This instruction is to be used in Aid to Families With Dependent Children matters.*

The defendant has been charged with felonious misrepresentation in obtaining public assistance.

For you to find the defendant guilty this offense, the State must prove six things beyond a reasonable doubt:

First, that the defendant [made a [statement] [representation]] [failed to disclose a fact] to (*name public agency*).

Second, that such [[statement] [representation] was false] [undisclosed fact was material to the defendant's eligibility for public assistance.]

Third, that the defendant [made such [statement] [representation]] [failed to disclose such material fact] willfully and knowingly and with the intent to deceive.

Fourth, that as a result of [making such [statement] [representation]] [failing to disclose such material fact], the defendant [obtained]<sup>1</sup> [attempted to obtain]<sup>2</sup> [continued to receive] public assistance.

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<sup>1</sup>G.S. § 108A-24 defines "recipient" as "a person to whom or on whose behalf assistance is granted under this Article."

<sup>2</sup>For Attempt see N.C.P.I.--Crim. 201.10.

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Fifth, that the defendant was not entitled to receive such public assistance.

And Sixth, that the amount of the public assistance which the defendant [obtained] [attempted to obtain] [continued to receive] was more than \$400.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant willfully and knowingly with intent to deceive [made a [statement] [representation] that was false] [failed to disclose a fact material to defendant's eligibility for public assistance]] to (*name public agency*) and that as a result the defendant [obtained] [attempted to receive] [continued to receive] more than \$400 of public assistance to which he was not entitled, it would be your duty to return a verdict of guilty of felonious misrepresentation in obtaining public assistance. If you do not so find, or if you have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of felonious misrepresentation in obtaining public assistance, but would consider whether the defendant is guilty of misdemeanor misrepresentation in obtaining public assistance. The misdemeanor differs from the felony only in that the State need not prove that the public assistance involved was worth more than \$400.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant willfully and

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knowingly with the intent to deceive [made a [statement] [representation] that was false] [failed to disclose a fact material to the defendant's eligibility for public assistance] to (*name public agency*) and that as a result the defendant [received] [attempted to receive] [continued to receive] public assistance to which he was not entitled, it would be your duty to return a verdict of guilty of misdemeanor misrepresentation in obtaining public assistance. If you do not so find, or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

