

FRAUDULENT MISREPRESENTATION INVOLVING CHILD CARE SUBSIDIES.¹
G.S. 110-107. FELONY; MISDEMEANOR.²

The defendant has been charged with fraudulent misrepresentation involving child care subsidies.³

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

First, that the defendant⁴ [made a false [statement] [representation] regarding a material fact] (or) [failed to disclose a material fact].

Second, that this [false [statement] [representation] regarding a material fact] (or) [failure to disclose a material fact] was calculated and intended to deceive.

Third, that the defendant thereby [obtained] [attempted to obtain] [continues to obtain] a child care subsidy for [himself] [herself] [another person].

And Fourth, that the child care subsidy involved was more than \$1,000.

¹G.S. 110-107(c) defines child care subsidy as the use of public funds to pay for day care services for children.

²G.S. 110-107(b) states that "If the child care subsidy is not more than one thousand dollars (\$1,000), the person is guilty of a Class 1 misdemeanor. If the child care subsidy is more than one thousand dollar (\$1,000), the person is guilty of a Class I felony."

³This section applies whether the defendant is a provider or recipient of child care subsidies or someone claiming to be a provider or recipient of child care subsidies.

⁴G.S. 110-107(c) states that the defendant could be an individual, association, consortium, corporation, body politic, partnership, or other group, entity, or organization.

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If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [made a false [statement] [representation] regarding a material fact] [failed to disclose a material fact], that this was calculated and intended to deceive, that the defendant thereby [obtained] [attempted to obtain] [continues to obtain] a child care subsidy for [himself] [herself] [another person], and that the child care subsidy involved was more than \$1,000, it would be your duty to return a verdict of guilty of felonious misrepresentation involving child care subsidies. If you do not so find or have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of felonious fraudulent misrepresentation involving child care subsidies, but will consider whether the defendant is guilty of misdemeanor fraudulent misrepresentation involving child care subsidies.⁵ The misdemeanor differs from the felony in that the subsidy involved need not be more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [made a false [statement] [representation] regarding a material fact] [failed to disclose a material fact], that this was calculated and intended to deceive, and that the defendant thereby [obtained] [attempted to obtain] [continues to obtain] a child care subsidy

⁵If there is to be no instruction on lesser included offenses, the last phrase should be: "...it would be your duty to return a verdict of not guilty."

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for [himself] [herself] [another person], it would be your duty to return a verdict of guilty of misdemeanor fraudulent misrepresentation involving child care subsidies. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

