

Submitted August 21, 2003

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CORRUPT PRACTICES

DRAFT
RSA 640:2, (a) Bribery [offering of]

The defendant is charged with the crime of bribery. The definition of this crime has four parts or elements, each of which the State must prove beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant [promised] [offered] [gave] a pecuniary benefit to another person; and
2. The other person was a [public servant] [party official] [voter]; and
3. The pecuniary benefit was intended to influence the recipient's action, decision, recommendation or other exercise of discretion in his capacity as a [public servant] [party official] [voter]; and
4. The defendant acted purposely, that is, that the defendant had the conscious object or specific intent to [promise] [offer] [give] a pecuniary benefit to a [public servant] [party official] [voter] to influence the recipient's conduct in his official capacity.

This is the definition of bribery. Certain words in the definition need to be further explained:

A "public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

A "party official" means any person who holds any post in a political party whether by election, appointment or otherwise.

"Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, "pecuniary benefit" does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

"Purposely" means [see definition of purposely.]

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RSA 640:2, I (b) Bribery [failure to report]

DRAFT

The defendant is charged with the crime of failing to report an offer of a bribe. The definition of this crime has four parts or elements, each of which the State must prove beyond a reasonable doubt. Thus the State must prove that:

1. The defendant was a [public servant] [party official] [voter] [candidate for electoral office]; and
2. The defendant was offered or promised a pecuniary benefit for the purpose of influencing his action, decision, recommendation or other exercise of discretion in his capacity as a [public servant] [party official] [voter] [candidate for electoral office]; and
3. The defendant failed to report to a law enforcement officer that he had been offered or promised a pecuniary benefit for the purpose of influencing his action, decision, recommendation or other exercise of discretion in his capacity as a [public servant] [party official] [voter]; [candidate for electoral office].

This is the definition of the crime of bribery. Certain words in the definition need to be further explained.

A “public servant” means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his/her election, appointment or other designation as such, although he/she may not yet officially occupy that position. A person is a candidate for electoral office upon the announcement of his/her candidacy.

A “party official” means any person who holds any post in a political party whether by election, appointment or otherwise.

“Pecuniary benefit” means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, “pecuniary benefit” does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

“Knowingly” means [see definition of knowingly.]

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RSA 649:2, I (b) Bribery soliciting, accepting]

DRAFT

The defendant is charged with the crime of bribery. The definition of this crime has three parts or elements, each of which the State must prove beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant was a [public servant] [party official] [candidate for electoral office] [voter]; and
2. The defendant [solicited] [accepted] [agreed to accept] a pecuniary benefit from another person; and
3. The defendant knew or believed that the other person's purpose in giving or offering to give the pecuniary benefit was to influence the defendant's action, decision, recommendation or other exercise of discretion in the defendant's capacity as a [public servant] [party official] [voter].

This is the definition of the crime of bribery. Certain words in the definition need to be further explained.

A "public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

A person is a "candidate for electoral office" upon his public announcement of his candidacy.

A "party official" means any person who holds any post in a political party whether by election, appointment or otherwise.

"Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, "pecuniary benefit" does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

"Knowingly" means [see definition of knowingly.]

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RSA 640:3, I (a) Improper influence [threats]

DRAFT

The defendant is charged with the crime of improper influence. The definition of this crime has three parts or elements, each of which the State must prove beyond a reasonable doubt. Thus the State must prove that:

1. The defendant made a threat of harm to another person; and
2. The other person was a [public servant] [party official] [voter]; and
3. The threat of harm was intended to influence the recipient's action, decision, opinion, nomination, vote, recommendation or other exercise of discretion in his capacity as a [public servant] [party official] [voter].

This is the definition of the crime of improper influence. Certain words in the definition need to be further explained.

A "public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

A "party official" means any person who holds any post in a political party whether by election, appointment or otherwise.

"Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the [public servant] [party official] [voter] is interested.

"Purposely" means [see definition of purposely.]

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RSA 640:3, I (b) Improper influence [private communication]

DRAFT

The defendant is charged with the crime of improper influence. The definition of this crime has four parts or elements, each of which the State must prove beyond a reasonable doubt. Thus the State must prove that:

1. The defendant made a representation, argument, or other communication to a public servant; and
2. The public servant had or was expected to have before him a judicial or administrative proceeding in which he would exercise official discretion; and
3. The representation, argument, or other communication was made privately, and
4. The purpose of the representation, argument, or other communication was to influence the public servant's discretion on the basis of considerations other than those authorized by law.

This is the definition of the crime of improper influence. Certain words in the definition need to be further explained.

A "public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

A "party official" means any person who holds any post in a political party whether by election, appointment or otherwise.

"Purposely" means [see definition of purposely.]

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RSA 640:3, I(c) Improper influence [failure to report private communications]

DRAFT

The defendant is charged with the crime of failing to report an attempt to improperly influence him. The definition of this crime has five parts or elements, each of which the State must prove beyond a reasonable doubt. Thus the State must prove that:

1. The defendant was a public servant or party official who had or was expected to have official discretion in a judicial or administrative proceeding; and
2. Another person addressed a representation, argument or other communication to the defendant; and
3. The communication was made privately, and
4. The purpose of the communication was to influence the defendant's action, decision, opinion, recommendation, nomination, vote or other exercise of discretion on the basis of considerations other than those authorized by law; and
5. The defendant failed to report the private communication to a law enforcement officer.

This is the definition of the crime of improper influence. Certain words in the definition need to be further explained.

A "public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his/her election, appointment or other designation as such, although he/she may not yet officially occupy that position.

A "party official" means any person who holds any post in a political party whether by election, appointment or otherwise.

"Knowingly" means [see definition of knowingly.]

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RSA 640:3, I (c) Improper influence [failure to report threats]

DRAFT

The defendant is charged with the crime of failing to report an attempt to improperly influence him. The definition of this crime has four parts or elements, each of which the State must prove beyond a reasonable doubt. Thus the State must prove that:

1. The defendant was a [public servant] [party official]; and
2. The defendant was threatened with harm by another person; and
3. The purpose of the threat of harm was to influence the defendant's action, decision, recommendation, vote, nomination, opinion or other exercise of discretion in his capacity as a [public servant] [party official];
4. The defendant failed to report the threat to a law enforcement officer.

This is the definition of the crime of improper influence. Certain words in the definition need to be further explained.

A "public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his/her election, appointment or other designation as such, although he/she may not yet officially occupy that position.

A "party official" means any person who holds any post in a political party whether by election, appointment or otherwise.

"Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the [public servant] [party official] is interested.

"Knowingly" means [see definition of knowingly.]

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RSA 640:4, I Compensation for past acts [soliciting, accepting])

DRAFT

The defendant is charged with the crime of improper solicitation of compensation. The definition of this crime has three parts or elements, each of which the State must prove beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant was a public servant; and
2. The defendant [solicited] [accepted] [agreed to accept] a pecuniary benefit from another person; and
3. The pecuniary benefit was solicited or accepted in return for the defendant's past decision, recommendation, opinion, nomination, vote or other exercise of discretion in the defendant's official capacity or for having violated his/her duty.

This is the definition of the crime of improper solicitation of compensation. Certain words in the definition need to be further explained.

A "public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

"Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, "pecuniary benefit" does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

"Purposely" means [see definition of purposely.]

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RSA 640:4, II Compensation for past acts [paying, offering]

DRAFT

The defendant is charged with the crime of making or offering improper payments to a public servant. The definition of this offense has three parts or elements, each of which the State must prove beyond a reasonable doubt. Thus the State must prove:

1. The defendant [promised] [offered] [gave] a pecuniary benefit to another person; and
2. The other person was a public servant; and
3. The purpose of the pecuniary benefit was to compensate or reward the public servant for his past decision, recommendation, opinion, nomination, vote or other exercise of discretion, or for his breach of duty.

This is the definition of the crime of improper solicitation of compensation. Certain words in the definition need to be further explained.

A “public servant” means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

“Pecuniary benefit” means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, “pecuniary benefit” does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

“Purposely” means [see definition of purposely.]

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RSA 640:5, I Gifts to public servants [soliciting, accepting]

DRAFT

The defendant is charged with the crime of improper solicitation or receipt of a gift. The definition of this crime has three parts or elements, each of which the State must prove beyond a reasonable doubt. Thus the State must prove that:

1. The defendant was a public servant; and
2. The defendant [solicited] [accepted] [agreed to accept] a pecuniary benefit from another person; and
3. The other person was someone who was or was likely to become interested in any matter or action pending or contemplated to come before the governmental body with which the defendant was affiliated; and

This is the definition of the crime of improper solicitation or receipt of a gift. Certain words in the definition need to be explained.

A “public servant” means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

“Pecuniary benefit” means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, “pecuniary benefit” does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

“Knowingly” means [see definition of knowingly.]

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RSA 640:5, II Gifts to public servants [paying, offering]

The defendant is charged with the crime of making or offering improper gifts to a public servant. The definition of this crime has three parts or elements, each of which the State must prove beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant [promised] [offered] [gave] a pecuniary benefit to another person; and
2. The other person was a public servant; and
3. The defendant was someone who was or was likely to become interested in any matter or action pending or contemplated to come before the governmental body with which the public servant was affiliated.

This is the definition of the crime of making or offering improper gifts to a public servant. Certain words in the definition need to be explained.

A “public servant” means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

“Pecuniary benefit” means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, “pecuniary benefit” does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

“Knowingly” means [see definition of knowingly.]

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RSA 640:6 I Compensation for services [soliciting, accepting]

DRAFT

The defendant is charged with the crime of soliciting improper compensation. The definition of this crime has three parts or elements, each of which the State must prove beyond a reasonable doubt. Thus, the State must prove that”

- 1.The defendant was a [public servant] [party official] [candidate for electoral office] [voter];
- 2.The defendant [solicited] [accepted] [agreed to accept] a pecuniary benefit from another person;
3. The pecuniary benefit was [solicited] [accepted] in return for the defendant’s advice or other assistance in preparing or promoting a transaction, bill contract, claim or proposal as to which the defendant knew that he had or was likely to have the exercise of official discretion.

This is the definition of the crime of soliciting improper compensation for services. Certain words in the definition need to be further explained.

A “public servant” means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

A person is a “candidate for electoral office” upon his public announcement of his candidacy.

A “party official” means any person who holds any post in a political party whether by election, appointment or otherwise.

“Pecuniary benefit” means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, “pecuniary benefit” does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

“Purposely” means [see definition of purposely.]

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RSA 640:7, I Purchase of public office [soliciting, accepting]

DRAFT

The defendant is charged with the crime of soliciting compensation to obtain public office for another person. The definition of this offense has two parts or elements, each of which the State must prove beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant [solicited] [accepted] [agreed to accept] from another money or any other pecuniary benefit for himself, any other person or a political party; and
2. The money or pecuniary benefit was intended to compensate the defendant for his endorsement, nomination, appointment, approval or disapproval of any person for a position as a public servant or for the advancement of any public servant.

This is the definition of the crime of soliciting compensation to obtain public office for another person. Certain words in the definition need to be further explained.

A “public servant” means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

“Pecuniary benefit” means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, “pecuniary benefit” does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

““Purposely” means [see definition of purposely.]

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RSA 640:7, II Purchase of public office [offering]

DRAFT

The defendant is charged with the crime of offering compensation to obtain public office. The definition of this crime has two parts or elements, each of which the State must prove beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant [gave] [offered] [promised] money or any other pecuniary benefit to any other person or a political party; and
2. The money or pecuniary benefit was intended as compensation for the endorsement, nomination, appointment, approval or disapproval of any person for a position as a public servant or for the advancement of any public servant.

This is the definition of the crime of offering compensation to obtain public office. Certain words in the definition need to be further explained.

A “public servant” means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, jurors and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

A “party official” means any person who holds any post in a political party whether by election, appointment or otherwise.

“Pecuniary benefit” means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain. However, “pecuniary benefit” does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

“Purposely” means [see definition of purposely.]