

ABUSE OF OFFICE

DRAFT

RSA 643:1: Official Oppression

The defendant is charged with the crime of official oppression. The definition of the crime of official oppression has three parts. The State must prove each part of the definition beyond a reasonable doubt. Thus, the State must prove:

1. The defendant was a public servant; and
2. The defendant knowingly [committed an unauthorized act which purported to be an act of [his][her] office] [refrained from performing a duty imposed on [him][her] by law or clearly inherent in the nature of [his][her] office]; and
3. The defendant's purpose was to [benefit [himself][herself]] [another] [harm another].

These are the elements of the crime of official oppression. Certain words in the definition need to be further defined.

“Knowingly” means [see definition of knowingly.]

“Purposely” means [see definition of purposely.]

“Public servant” means an officer or employee of the state or any political subdivision thereof, 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.

RSA 643:2 Misuse of Information

DRAFT

The defendant is charged with the crime of misuse of information. The definition of this offense has four parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove:

1. The defendant was a public servant; and
2. The defendant [knew that an official action was contemplated][relied on information which [he] [she] acquired because of his office][relied on information which [he][she] acquired from another public servant]; and
3. [Acquired or divested [himself][herself] of a pecuniary interest that may have been affected by such [action][information]] [speculated or made a wager on the basis of such [action][information]] [aided another to acquire or divest [himself][herself] of a pecuniary interest on the basis of such [action][information]] [aided another to speculate or wager on the basis of such [action][information]];and
4. The defendant acted knowingly.

These are the elements of the crime of misuse of information. Certain words in the definition need to be further defined.

“Public servant” means an officer or employee of the state or any political subdivision thereof, 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

“Purposely” means [see definition of purposely.]

“Knowingly” means [see definition of knowingly].