

Colorado Revised Statutes: Title 18: Criminal Proceedings:

18-5-102. Forgery.

TITLE 18. CRIMINAL CODE.

ARTICLE 5. OFFENSES INVOLVING FRAUD

PART 1. FORGERY, SIMULATION, IMPERSONATION, AND RELATED OFFENSES.

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(1) A person commits forgery, if, with intent to defraud, such person falsely makes, completes, alters, or utters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

(a) Part of an issue of money, stamps, securities, or other valuable instruments issued by a government or government agency; or

(b) Part of an issue of stock, bonds, or other instruments representing interests in or claims against a corporate or other organization or its property; or

(c) A deed, will, codicil, contract, assignment, commercial instrument, promissory note, check, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status; or

(d) A public record or an instrument filed or required by law to be filed or legally fileable in or with a public office or public servant; or

(e) A written instrument officially issued or created by a public office, public servant, or government agency; or

(f) Part of an issue of tokens, transfers, certificates, or other articles manufactured and designed for use in transportation fees upon public conveyances, or as symbols of value usable in place of money for the purchase of property or services available to the public for compensation; or

(g) Part of an issue of lottery tickets or shares designed for use in the lottery held pursuant to article 40 of title 44; or

(h) A document-making implement that may be used or is used in the production of a false identification document or in the production of another document-making implement to produce false identification documents.

(2) Forgery is a class 5 felony.

(3) Uttering a forged document to a peace officer shall create a presumption that the person intended to defraud such peace officer.

Case Notes, Annotation:

Annotator's note. Since § 18-5-102 is similar to former § 40-6-1, C.R.S. 1963, relevant cases construing that provision have been included in the annotations to this section.

Because conduct prohibited by this section is distinguishable from conduct prohibited by § 8-81-101 (1)(a), charging a defendant under this section did not violate his or her right to equal protection of the laws. *People v. Clanton*, 2015 COA 8, 361 P.3d 1056.

The general assembly did not intend to preclude prosecution under this section where the conduct underlying the charge also arguably violates § 8-81-101 (1)(a). *People v. Clanton*, 2015 COA 8, 361 P.3d 1056.

Reasonable distinctions can be drawn between crimes prohibited by credit card and forgery statutes, and the existence of the specific statute regarding the misuse of credit cards does not preclude prosecution or conviction of appellant under the state's general forgery statute. *People v. James*, 178 Colo. 401, 497 P.2d 1256 (1972).

Circumstances sufficient to establish prima facie case of forgery. *Duncan v. People*, 178 Colo. 314, 497 P.2d 1029 (1972).

To satisfy subsection (1)(c), a document must purport to have legal efficacy that affects some right or status, and fraudulent letter to the prosecutor's office recanting the initial statement of events and purporting to contain the victim's signature meets statutory requirements, since the prosecutor would likely rely on the letter in determining whether probable cause exists to move forward with the prosecution, which would affect defendant's legal status in the pending criminal matter. *People v. Cunefare*, 102 P.3d 302 (Colo. 2004).

"[F]iled or required by law to be filed or legally fileable in or with a public office or public servant" under subsection (1)(d) refers to those instruments actually delivered to a public office or public servant pursuant to a legal mandate, such as documents that have a specific legal requirement of delivery to a public officer or with a public office for a specific purpose, like income taxes or license applications. *People v. Carian*, 2017 COA 106, -- P.3d --.

"Legally fileable" document may also include real property conveyancing documents and other documents relating to interests in real property that may be "legally fileable" even though they are not filed pursuant to a legal mandate. *People v. Carian*, 2017 COA 106, -- P.3d --.

Evidence of giving a forged resident alien card to a police officer was insufficient to support a charge of forgery with the intent to defraud the immigration and naturalization service. *People v. Miralda*, 981 P.2d 676 (Colo. App. 1999).

Requisite intent to commit forgery can exist in case where defendant used a false written instrument prepared by another. Prosecution is not obligated to prove defendant either mailed the false instrument or explicitly directed another to do so on defendant's behalf. *People v. Taylor*, 159 P.3d 730 (Colo. App. 2006).

Section 42-3-133 does not preclude prosecution under this section for altering and displaying a temporary license plate; therefore, this section is an appropriate statute to prosecute persons who alter temporary license plates. *People v. Stansberry*, 83 P.3d 1188 (Colo. App. 2003).

A person "falsely completes" an instrument when he or she adds or inserts materially false information or a materially false statement into any instrument, genuine or non-genuine, thereby purporting to complete the instrument so as to render it legally operative. *People v. Kovacs*, 2012 COA 111, 284 P.3d 186.

Urinalysis test results were "instrument[s]" within the reach of subsection (1)(d) since those documents recorded and conveyed information to defendant's probation officer regarding the apparent results of his mandatory drug tests required as a condition of his probation. *People v. Carian*, 2017 COA 106, -- P.3d --.

Forged urinalysis test results are not admissible evidence for prosecution of probation revocation under subsection (1)(d). Because urinalysis test results were not filed, are not required by law to be filed, and are not legally fileable as provided in subsection (1)(d) as a probation requirement, the forged urinalysis test results evidence did not show that defendant engaged in alleged felony forgery. *People v. Carian*, 2017 COA 106, -- P.3d --.

Applied in

People v. Smith, 195 Colo. 404, 579 P.2d 1129 (1978).