

## SUGGESTED FORMS

**Allegation Charging Receipt by Judicial Officer of Gratuity for Performing Marriage***[Insert general form of complaint (see Penal C § 740)]*

\_\_\_\_, being duly sworn, states, on information and belief that the defendant[s] did in the \_\_\_\_ [City of \_\_\_\_ or \_\_\_\_ Judicial District], County of \_\_\_\_, State of California, on or about the \_\_\_\_ day of \_\_\_\_, [date], commit a misdemeanor, to wit: Receipt by judicial officer of gratuity for performing marriage, in that \_\_\_\_ [he or she or they] being a \_\_\_\_ [judge or justice or commissioner] of a court of the State of California, did accept \_\_\_\_ [state amount of money received or describe thing of value received] for performing a marriage on a weekday not a legal holiday, which \_\_\_\_ [money or property] was not a fee expressly imposed by law for the performance of a marriage.

**§ 95. Improper attempt to influence juror, arbitrator, or referee**

Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator or umpire, or appointed a referee, in respect to his or her verdict in, or decision of, any cause or proceeding, pending, or about to be brought before him or her, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, if it is by means of any of the following:

(a) Any oral or written communication with him or her except in the regular course of proceedings.

(b) Any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings.

(c) Any threat, intimidation, persuasion, or entreaty.

(d) Any promise, or assurance of any pecuniary or other advantage.

Amended Stats 1990 ch 350 § 9 (SB 2084).

**Amendments:**

**1990 Amendment:** Substituted the section for the former section which read: "Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator, or umpire, or appointed a referee, in respect to his verdict in, or decision of any cause, or proceeding, pending, or about to be brought before him, either:

"One—By means of any communication, oral or written, had with him except in the regular course of proceedings;

"Two—By means of any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings;

"Three—By means of any threat, intimidation, persuasion, or entreaty; or,

"Four—By means of any promise, or assurance of any pecuniary or other advantage;

"—is punishable by fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison."

## SUGGESTED FORMS

**Allegation Charging Corrupt Attempt To Influence Juror or Other Trier of Fact***[Insert general form of indictment or information (see Penal C § 951)]*

The \_\_\_\_ [Grand Jury or District Attorney] of the County of \_\_\_\_ hereby accuses \_\_\_\_ of a felony, to wit: Corrupt attempt to influence \_\_\_\_ (juror or arbitrator or umpire or referee) in that on or about \_\_\_\_, 19\_\_, in the County of \_\_\_\_, State of California, he did corruptly attempt to influence a \_\_\_\_ [juror or person summoned as a juror or person drawn as a juror or arbitrator or umpire or referee] in respect to his \_\_\_\_ [verdict in or decision of] a cause or proceeding \_\_\_\_ [pending or about to be brought] before him by means of \_\_\_\_ [a communication had with him not in the regular course of proceedings or a \_\_\_\_ (book or paper or instrument) exhibited not in the regular course of proceedings or a \_\_\_\_ (threat or intimidation or persuasion or entreaty) or \_\_\_\_ (promise or assurance) of a \_\_\_\_ (pecuniary or other) advantage].

by jurors for the county, either by placing the names in the jury box or otherwise, or extracts any name therefrom, or destroys the jury box or any of the pieces of paper containing the names of jurors, or mutilates or defaces the names so that they cannot be read, or changes the names on the pieces of paper, except in cases allowed by law, is guilty of a felony.

Amended Stats 1989 ch 1360 § 104.

**Amendments:**

**1989 Amendment:** Routine code maintenance.

**Collateral References:**

Witkin & Epstein, Criminal Law (2d ed) § 1134.

**§ 116.5. Specified acts to constitute jury tampering**

(a) A person is guilty of tampering with a jury when, prior to, or within 90 days of, discharge of the jury in a criminal proceeding, he or she does any of the following:

(1) Confers, or offers or agrees to confer, any payment or benefit upon a juror or upon a third person who is acting on behalf of a juror in consideration for the juror or third person supplying information in relation to an action or proceeding.

(2) Acting on behalf of a juror, accepts or agrees to accept any payment or benefit for himself or herself or for the juror in consideration for supplying any information in relation to an action or proceeding.

(3) Acting on behalf of himself or herself, agrees to accept, directly or indirectly, any payment or benefit in consideration for supplying any information in relation to an action or proceeding.

(b) Any person who violates this section is guilty of a misdemeanor.

(c) In the case of a juror who is within 90 days of having been discharged, otherwise lawful compensation not exceeding fifty dollars (\$50) in value shall not constitute a criminal violation of this section.

(d) Upon conviction under this section, in addition to the penalty described in subdivision (b), any compensation received in violation of this section shall be forfeited by the defendant and deposited in the Victim Restitution Fund.

Added Stats 1994 ch 869 § 2 (SB 1999).

**Note**—Stats 1994 ch 869 provides:

SEC. 5. If any provision enacted by this act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this act that can be given effect without the invalid provision or application, and to this end those provisions are severable.

**Collateral References:**

*Law Review Articles:*

Recent legislation: California enacts ban on receipt of money for information. 108 Harvard LR 1214.

Son of Sam Laws: Killing Free Speech or Promoting Killer Profits? 20 Whittier LR 949.

## CHAPTER 5

### *Perjury and Subornation of Perjury*

**Collateral References:**

*Law Review Articles:*

Legal ethics, client perjury and the privilege against self-incrimination. 13 Hast Const LQ 545.

The language of perjury: "Literal truth," ambiguity, and the false statement requirement. 63 SCLR 373.

*Annotations:*

Materiality of testimony forming basis of perjury charge as question for court or jury in state trial. 37 ALR4th 948.

## SUGGESTED FORMS

**Allegation Charging Receipt by Judicial Officer of Gratuity for Performing Marriage***[Insert general form of complaint (see Penal C § 740)]*

\_\_\_\_, being duly sworn, states, on information and belief that the defendant[s] did in the \_\_\_\_ [City of \_\_\_\_ or \_\_\_\_ Judicial District], County of \_\_\_\_, State of California, on or about the \_\_\_\_ day of \_\_\_\_, [date], commit a misdemeanor, to wit: Receipt by judicial officer of gratuity for performing marriage, in that \_\_\_\_ [he or she or they] being a \_\_\_\_ [judge or justice or commissioner] of a court of the State of California, did accept \_\_\_\_ [state amount of money received or describe thing of value received] for performing a marriage on a weekday not a legal holiday, which \_\_\_\_ [money or property] was not a fee expressly imposed by law for the performance of a marriage.

**§ 95. Improper attempt to influence juror, arbitrator, or referee**

Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator or umpire, or appointed a referee, in respect to his or her verdict in, or decision of, any cause or proceeding, pending, or about to be brought before him or her, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, if it is by means of any of the following:

(a) Any oral or written communication with him or her except in the regular course of proceedings.

(b) Any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings.

(c) Any threat, intimidation, persuasion, or entreaty.

(d) Any promise, or assurance of any pecuniary or other advantage.

Amended Stats 1990 ch 350 § 9 (SB 2084).

**Amendments:**

**1990 Amendment:** Substituted the section for the former section which read: "Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator, or umpire, or appointed a referee, in respect to his verdict in, or decision of any cause, or proceeding, pending, or about to be brought before him, either:

"One—By means of any communication, oral or written, had with him except in the regular course of proceedings;

"Two—By means of any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings;

"Three—By means of any threat, intimidation, persuasion, or entreaty; or,

"Four—By means of any promise, or assurance of any pecuniary or other advantage;

"—is punishable by fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison."

## SUGGESTED FORMS

**Allegation Charging Corrupt Attempt To Influence Juror or Other Trier of Fact***[Insert general form of indictment or information (see Penal C § 951)]*

The \_\_\_\_ [Grand Jury or District Attorney] of the County of \_\_\_\_ hereby accuses \_\_\_\_ of a felony, to wit: Corrupt attempt to influence \_\_\_\_ (juror or arbitrator or umpire or referee) in that on or about \_\_\_\_, 19\_\_, in the County of \_\_\_\_, State of California, he did corruptly attempt to influence a \_\_\_\_ [juror or person summoned as a juror or person drawn as a juror or arbitrator or umpire or referee] in respect to his \_\_\_\_ [verdict in or decision of] a cause or proceeding \_\_\_\_ [pending or about to be brought] before him by means of \_\_\_\_ [a communication had with him not in the regular course of proceedings or a \_\_\_\_ (book or paper or instrument) exhibited not in the regular course of proceedings or a \_\_\_\_ (threat or intimidation or persuasion or entreaty) or \_\_\_\_ (promise or assurance) of a \_\_\_\_ (pecuniary or other) advantage].