

22.01 Definition Of Perjury

A person commits the offense of perjury when he, under [(oath) (affirmation)] knowingly makes a false statement, material to the issue or point in question, in [(a proceeding) (any matter)] where by law such [(oath) (affirmation)] is required, and at the time he makes the statement he does not believe the statement to be true.

Committee Note

720 ILCS 5/32-2(a) (West 2011) (formerly Ill.Rev.Stat. ch. 38, §32-2 (1991)).

Give Instruction 22.02.

Give Instruction 22.01A, defining “material”.

Give Instruction 22.01B.

The materiality of the alleged false statement is a question of fact for the jury. *United States v. Gaudin*, 515 U.S. 506, 115 S.Ct. 2310, 132 L.Ed.2d 444 (1995).

The issue of whether an oath or affirmation is required is a question of law for the court. *People v. Dyer*, 51 Ill.App.3d 731, 734, 366 N.E.2d 572 (5th Dist. 1977).

The language of the perjury statute does not require the alleged false statement to be before the trier of fact or anyone else. *People v. Davis*, 164 Ill.2d 309, 311, 647 N.E.2d 977 (1995). The pertinent inquiry is not whether the statement did in fact influence the trier of fact, but whether it could have influenced the trier of fact. *Davis*, 164 Ill.2d at 316 (J. McMorrow concurring), citing 70 CJS, *Perjury* §13, at 262 (1987).

Knowledge of the falsity of the statement at the time it was made is an essential element of the crime of perjury. *People v. Kang*, 269 Ill.App.3d 546, 552, 646 N.E.2d 279 (4th Dist. 1995), citing *People v. Taylor*, 6 Ill.App.3d 961, 963, 286 N.E.2d 122 (4th Dist. 1972). In other words, the perjury statute requires the defendant not believe the false statement is true at the time he or she made the false statement. *People v. Penn*, 177 Ill.App.3d 179, 182, 533 N.E.2d 383 (5th Dist. 1988).

“Materiality is derived from the relationship between the proposition of the allegedly false statement and the issues in the case. The test of materiality for an allegedly perjured statement is whether the statement tends to prove or disprove an issue in the case.” *Acevedo*, 275 Ill.App.3d at 423 (internal citations omitted).

Use applicable bracketed material.

The brackets are provided solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.