§ 210.20 Perjury; pleading and proof where inconsistent statements involved.

Where a person has made two statements under oath which are inconsistent to the degree that one of them is necessarily false, where the circumstances are such that each statement, if false, is perjuriously so, and where each statement was made within the jurisdiction of this state and within the period of the statute of limitations for the crime charged, the inability of the people to establish specifically which of the two statements is the false one does not preclude a prosecution for perjury, and such prosecution may be conducted as follows:

1. The indictment or information may set forth the two statements and, without designating either, charge that one of them is false and perjuriously made.

2. The falsity of one or the other of the two statements may be established by proof or a showing of their irreconcilable inconsistency.

3. The highest degree of perjury of which the defendant may be convicted is determined by hypothetically assuming each statement to be false and perjurious. If under such circumstances perjury of the same degree would be established by the making of each statement, the defendant may be convicted of that degree at most. If perjury of different degrees would be established by the making of the two statements, the defendant may be convicted of the lesser degree at most.