

**AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE**  
**(Object or Finger by Forcible Compulsion)**  
**Penal Law § 130.66 (1) (a)**  
**(Committed on or after Jan 22, 2023)<sup>1</sup>**  
(Revised)<sup>1</sup>

The (*specify*) count is Aggravated Sexual Abuse in the Third Degree.

Under our law, a person is guilty of Aggravated Sexual Abuse in the Third Degree when he or she inserts a

Select appropriate alternative(s):

foreign object  
[or] a finger

in the

Select appropriate alternative(s):

vagina  
[or] urethra  
[or] penis  
[or] rectum  
[or] anus

of another person by forcible compulsion.

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<sup>1</sup> The first revision was for the purpose of adding “or anus” to the definition as required by the L. 2009, c. 485, effective January 7, 2010. Thus, the definition, with that term included, is applicable to a crime committed on or after January 7, 2010. For a crime committed on or after November 1, 1996 and before January 7, 2010, omit “anus.”

The second revision was for the purpose of adding “or a finger” to the definition as required by the L. 2022, c. 645, effective January 22, 2023. Thus, the definition, with that term included, is applicable to a crime committed on or after January 22, 2023. For a crime committed on or after November 1, 1996 and before January 22, 2023, omit “or a finger.”

Under our law, it is also an element of this offense that the insertion of a

Select appropriate alternative(s):

foreign object  
[or] a finger

was without consent.<sup>2</sup> Such conduct takes place without a person's consent when the lack of consent results from forcible compulsion.<sup>3</sup>

Conduct performed for a valid medical purpose does not violate the provisions of this law.<sup>4</sup>

The following terms used in that definition have a special meaning:

[FOREIGN OBJECT means any instrument or article which, when inserted in the (specify), is capable of causing physical injury.]<sup>5</sup>

PHYSICAL INJURY means impairment of physical condition or substantial pain.<sup>6</sup>

FORCIBLE COMPULSION means to intentionally compel either:

(1) by the use of physical force;

or

(2) by a threat, express or implied, which places a person in fear of immediate death or physical injury to himself or herself

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<sup>2</sup> Penal Law § 130.05 (1).

<sup>3</sup> Penal Law § 130.05 (2) (a).

<sup>4</sup> Penal Law § 130.65-a (2).

<sup>5</sup> Penal Law § 130.00 (9).

<sup>6</sup> Penal Law § 10.00 (9); See *People v Chiddick*, 8 NY3d 445 (2007).

[or another person] or in fear that he or she [or another person] will immediately be kidnapped.<sup>7</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case beyond a reasonable doubt, both of the following two elements:

1. That on or about (date) , in the county of (County) , the defendant, (name of defendant), without a valid medical purpose, inserted a  
Select appropriate alternative(s):  
foreign object  
[or] a finger  
  
in the (specify) of (complainant's name); and
2. That the defendant did so without (complainant's name)'s consent by the use of forcible compulsion.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.

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<sup>7</sup> See Penal Law § 130.00 (8); Penal Law § 15.05 (1). The definition has been modified by adding the term “intentionally” in the first line to reflect the holding of *People v Williams*, 81 NY2d 303 (1993). See also *People v Grega*, 72 NY2d 489 (1988) (directing the trial court not to charge both definitions of forcible compulsion when the indictment alleges only one of the two definitions)