

**MAKING A THREAT OF MASS HARM**  
**Penal Law § 240.78**  
**(Committed on or after June 6, 2022)**

The (specify) count is Making A Threat Of Mass Harm.

Under our law, a person is guilty of Making A Threat Of Mass Harm when, with the intent to intimidate a group of people or to create public alarm, such person threatens to inflict or cause to be inflicted, serious physical injury or death at a:

Select appropriate alternative(s): school, place of worship, business, government building, or other place of assembly,

and thereby

Select appropriate alternative(s)

causes a reasonable expectation or fear of serious physical injury or death at a:

[or] causes the evacuation or lockdown of a:

Select appropriate alternative(s): school, place of worship, business, government building, or other place of assembly.

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

**SERIOUS PHYSICAL INJURY** means impairment of a person's physical condition which creates a substantial risk of death or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.<sup>1</sup>

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<sup>1</sup> See Penal Law § 10.00(10).

INTENT means conscious objective or purpose. Thus, a person acts with the intent to intimidate a group of people or to create public alarm when that person's conscious objective or purpose is to do so.<sup>2</sup>

It is not a defense to a prosecution for this offense that the defendant did not have the intent or capability of committing the conduct threatened.<sup>3</sup>

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

1. That on or about (date), in the County of (County), the defendant, (defendant's name)<sup>4</sup> threatened to inflict or cause to be inflicted, serious physical injury [or death] at a:

Select appropriate place:

school, place of worship, business, government building, or other place of assembly;

2. That the defendant did so with the intent to intimidate a group of people or to create public alarm; and
3. That the defendant thereby

Select appropriate alternative(s)

caused a reasonable expectation or fear of serious physical injury or death at a:

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<sup>2</sup> See Penal Law § 15.05(1).

<sup>3</sup> Penal Law § 240.78(2).

<sup>4</sup> When the defendant is charged in whole or in part as an accomplice, Court will add: "personally, or by acting in concert with another person." See Accomplice charge.

[or] caused the evacuation or lockdown of a:

Select appropriate alternative(s):

school, place of worship, business, government building,  
or other place of assembly.

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

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