

**ASSAULT SECOND DEGREE
(D Felony)
(Employee of Local Social Services District)
PENAL LAW 120.05 (11-a)
(Committed on or after Nov. 1, 2012)**

The _____ count is Assault in the Second Degree.

Under our law, a person is guilty of Assault in the Second Degree when

Select appropriate alternative(s):

with intent to cause physical injury to an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, vulnerable elderly person or an incompetent or physically disabled person, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, [or]

with intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, he or she

causes physical injury to such employee.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: “physical injury,” and “intent.”

PHYSICAL INJURY means impairment of physical condition or substantial pain.¹

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause physical injury to an employee of a local social services district [or to prevent an employee of a

¹ Penal Law § 10.00 (9); See *People v Chiddick*, 8 NY3d 445 (2007).

local social services district from performing his or her job] when that person's conscious objective or purpose is to do so.²

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, each of the following three elements:

Note: This statute defines two alternative theories of liability for causing physical injury to an employee of a local social services district. Each theory is distinguished by the type of work the employee is engaged in at the time the physical injury is caused and the corresponding culpable mental state. The following list of elements includes both theories in two sets of three elements for each theory of liability. If both theories of liability apply, then both sets of elements are presented to the jury in the alternative; otherwise only the one set of the applicable elements is presented to the jury.

1. That on or about (date), (specify name of complainant) was an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, vulnerable elderly person or an incompetent or physically disabled person;
2. That on that date, in the County of (County), the defendant, not being such child, vulnerable elderly person or incompetent or physically disabled person, caused physical injury to (specify name of complainant); and
3. That the defendant did so with intent to cause physical injury to that person.

[or]

² See Penal Law § 15.05 (1).

1. That on or about (date), (specify name of complainant) was an employee of a local social services district directly involved in providing public assistance and care;
2. That on that date, in the County of (County), the defendant caused physical injury to (specify name of complainant);
3. That the defendant did so with intent to prevent that person from performing his or her job.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Assault in the Second Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Assault in the Second Degree as charged in the _____ count.