

ASSAULT SECOND DEGREE
(D Felony)
(Interference with Social Services Employee)
PENAL LAW 120.05 (3-a)
(Committed on or after November 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 the intent to prevent an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, a vulnerable elderly person or an incompetent or physically disabled person, from performing such investigation or response, 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.¹

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: “intent” and “physical injury.”

INTENT means conscious objective or purpose.²

¹ At this point, the statute states “including by means of releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such employee.” This language need be included only if applicable.

² See Penal Law § 15.05 (1).

Select appropriate alternative(s):

Thus, a person acts with intent to prevent an employee of a local social services district from performing an investigation of or response to alleged abuse or neglect of a child, a vulnerable elderly person or an incompetent or physically disabled person when that person's conscious objective or purpose is to do so.

[Thus/And,] a person acts 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 when that person's conscious objective or purpose is to do so.

PHYSICAL INJURY means impairment of physical condition or substantial pain.³

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), (specify name of complainant) was an employee of a local social services district

Select appropriate alternative(s):

directly involved in investigation of or response to alleged abuse or neglect of a child, a vulnerable elderly person or an incompetent or physically disabled person, [or]

³ Penal Law § 10.00 (9); See *People v Chiddick*, 8 NY3d 445 (2007).

directly involved in providing public assistance and care, and

2. That on or about that date in the county of (County), the defendant, (defendant's name), caused physical injury to (specify name of complainant);⁴ and

3. That the defendant did so with the intent to prevent (specify name of complainant)

Select appropriate alternative(s):

from performing an investigation of or response to alleged abuse or neglect of a child, a vulnerable elderly person or an incompetent or physically disabled person; and the defendant was not the child, vulnerable elderly person, or incompetent or physically disabled person [or]

from performing his/her job of providing public assistance and care.

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.

⁴ At this point, if applicable, add the following statutory language: “including by means of releasing or failing to control an animal under circumstances evincing the actor’s intent that the animal obstruct the lawful activity of such employee.”