

ASSAULT IN THE SECOND DEGREE
Defendant 18 or more; Victim less than 7
Penal Law § 120.05(9)
(Committed on or after August 1, 1996)

The (specify) count is Assault in the Second Degree.

Under our law, a person is guilty of Assault in the Second Degree when, being eighteen (18) years old or more and with intent to cause physical injury to a person less than seven (7) years old, he or she causes such injury to such person.

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

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause physical injury to a child less than seven (7) years old, when that person's conscious objective or purpose is to cause physical injury to that child.¹

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

1. That on or about (date), in the County of (county), the defendant (defendant's name) caused physical injury to (specify) who was less than seven (7) years old;
2. That the defendant did so with the intent

¹ See Penal Law §15.05(1). If necessary, an expanded definition of "intent" is available in the section on Instructions of General Applicability under Culpable Mental States.

² Penal Law §10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

to cause such physical injury; and

3. That the defendant was eighteen (18) years old or more.

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.