**PREDATORY SEXUAL ASSAULT**

**Penal Law 130.95(2)**

**(Committed on or after June 23, 2006)**

The (*specify*) count is Predatory Sexual Assault.

Under our law, a person is guilty of Predatory Sexual Assault when he or she commits the crime of

*Select appropriate alternative:*

Rape in the first degree

Criminal sexual act in the first degree

Aggravated sexual abuse in the first degree

Course of sexual conduct against a child in the first degree,

and when he or she has engaged in conduct constituting the crime(s) of

*Select appropriate alternative(s):*

Rape in the first degree

Criminal sexual act in the first degree

Aggravated sexual abuse in the first degree

Course of sexual conduct against a child in the first degree,

against one or more additional persons.

The following term(s) used in that definition (has/have) a special meaning:

[*Specify name and definition of underlying crime(s*) and any necessary definitions of terms used in that definition][[1]](#footnote-1)

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, both of the following elements:

*NOTE: This crime requires the commission of separate sex acts, identified below for purposes of this Note and charge, as Sex Act I and Sex Act II.[[2]](#footnote-2)*

*The Court may in lieu of the following element for each Sex Act substitute the elements of the applicable crime as set forth in the CJI2d charge for that crime.*

[SEXUAL ACT I]

1. That on or about  *(date)* , in the County of  *(County)* , the defendant, *(defendant's name)*, committed *(name of underlying crime, e.g., rape in the first degree)* in that he/she (*insert element(s) of underlying crime and complainants name; e.g., in that he engaged in sexual intercourse with (complainant) by forcible compulsion*); and

[SEXUAL ACT II]

2. That, on or about  *(date)* , in the County of  *(County)* , the defendant, *(defendant's name)*, committed *(name of underlying crime, e.g. criminal sexual act in the first degree)* in that he/she (*insert element(s) of underlying crime and complainants name; e.g., in that he engaged in oral sexual conduct with (complainant) by 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.

1. With respect to defining the underlying crime, if the underlying crime is a separate count within the indictment, incorporation by reference to that crime or count is sufficient. [↑](#footnote-ref-1)
2. *See* *People v. Cruciani*, 63 Misc.3d 858 (2019). [↑](#footnote-ref-2)