**SEXUAL MISCONDUCT   
(Vaginal sexual contact; forcible compulsion)   
Penal Law § 130.20(1)   
(Committed on or after Sept 1, 2024)**

The (*specify*) count is Sexual Misconduct.

Under our law, a person is guilty of Sexual Misconduct when he or she engages in vaginal sexual contact with another person without such person's consent.

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

VAGINAL SEXUAL CONTACT means conduct between persons consisting of contact between the penis and the vagina or vulva.[[1]](#footnote-1)

Vaginal sexual contact takes place WITHOUT A PERSON'S CONSENT when there is a lack of consent to the vaginal sexual contact as a result of forcible compulsion.[[2]](#footnote-2)

FORCIBLE COMPULSION[[3]](#footnote-3) means to intentionally[[4]](#footnote-4) compel

by forcible compulsion;

[or [[5]](#footnote-5) ]

by a threat, express or implied, which places a person in fear of immediate death or physical injury to himself or herself [*or* another person] or in fear that he or she [*or* another person] will immediately be kidnapped.

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 two elements:

1. That on or about *(date)*, in the County of  *(county)*, the defendant, *(name of defendant)*, engaged in vaginal sexual contact with (*name of complainant*); and
2. That the defendant did so without *(name of   
   complainant)'s* consent by the use of 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. Penal Law § 130.00(1). [↑](#footnote-ref-1)
2. See Penal Law § 130.05(2)(a). [↑](#footnote-ref-2)
3. Penal Law § 130.00(8). [↑](#footnote-ref-3)
4. The statutory definition has been modified by adding the term “intentionally” [defined in Penal Law § 15.05(1) to reflect the holding of *People v. Williams*, 81 NY2d 303 (1993). [↑](#footnote-ref-4)
5. *People v. Grega*, 72 NY2d 489 (1988), directs a trial court to not charge both definitions of forcible compulsion when the indictment alleges only one of the two definitions. [↑](#footnote-ref-5)