

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

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

FORCIBLE COMPULSION³ means to intentionally⁴ compel

by forcible compulsion;

[or ⁵]

by a threat, express or implied, which places a person in fear of immediate death or physical injury to himself

¹ Penal Law § 130.00(1).

² See Penal Law § 130.05(2)(a).

³ Penal Law § 130.00(8).

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).

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.

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.