

**SEXUAL MISCONDUCT**  
**(Oral Sexual Contact-Forcible Compulsion)**  
**Penal Law § 130.20(2)**  
**(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 oral sexual contact with another person without such person's consent.

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

ORAL SEXUAL CONTACT means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.<sup>1</sup>

Oral sexual contact takes place WITHOUT A PERSON'S CONSENT when there is a lack of consent to the oral sexual contact as a result of forcible compulsion.<sup>2</sup>

FORCIBLE COMPULSION<sup>3</sup> means to intentionally<sup>4</sup> compel:

by forcible compulsion;

[or<sup>5</sup>]

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<sup>1</sup> Penal Law § 130.00(2)(b).

<sup>2</sup> See Penal Law § 130.05(2)(a).

<sup>3</sup> Penal Law § 130.00(8).

<sup>4</sup> 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).

<sup>5</sup> *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.

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 oral 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 proven beyond a reasonable doubt both of those elements, you must find the defendant not guilty of this crime.