

SEXUAL MISCONDUCT
(Anal 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 anal sexual contact with another person without such person's consent.

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

ANAL SEXUAL CONTACT means conduct between persons consisting of contact between the penis and anus.¹

Anal sexual contact takes place **WITHOUT A PERSON'S CONSENT** when there is a lack of consent to the anal sexual contact as a result of forcible compulsion.²

FORCIBLE COMPULSION³ means to intentionally⁴ compel:

by the use of physical force;

[or⁵]

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.

¹ Penal Law § 130.00(2)(b).

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 See *People v. Grega*, 72 NY2d 489 (1988) which directs a trial court to not charge both definitions of forcible compulsion when the indictment alleges only one of the two definitions.

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 anal 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.