**PREDATORY SEXUAL ASSAULT
Penal Law § 130.95(3)**

**(Committed on or after Sept 1, 2024)**

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[[1]](#footnote-1)

Aggravated sexual abuse in the first degree

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

[and when he or she has previously been subjected to a conviction for (*specify: a felony defined in Penal Law article 130, incest as defined in Penal Law section 255.25 or use of a child in a sexual performance as defined in Penal Law section 263.05*).]1

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

[*Specify name and definition of underlying crime(s*) and any necessary definitions of terms used in that definition]2

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, the following element(s):

[1] That on or about  *(date)* , in the County of

*(County),* the defendant, *defendant's name)*  ,

1 The prior conviction must be charged by a separate information and the defendant must be given an opportunity to admit the prior conviction and thereby preclude having this element charged to the jury pursuant to CPL 200.60. *See People v. Cooper,* 78 NY2d 476 (1991).

2 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.

committed *(name of underlying crime, e.g., rape in the*

*first degree)* in that he/she (*insert element(s) of underlying crime and complainant’s name; e.g., in that he engaged in sexual intercourse with (complainant) by*

*forcible compulsion*); [and]

*Note: If the defendant admitted the prior conviction pursuant to CPL 200.60, do not read element two.*

[2. That, on or about  *(date)*  , in the County of  *(County)*  , the

defendant,  *(defendant's name)*  , was previously convicted

of (*specify: a felony defined in Penal Law article 130, incest as defined in Penal Law section 255.25 or use of a child in a sexual*

*performance as defined in Penal Law section 263.05*).]

If you find the People have proven beyond a reasonable doubt (that element / each element), you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt (that element / either one or both of those elements), you must find the defendant not guilty of this crime.

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1. Although Rape includes oral and anal sexual contact, the L. 2024, c. 23 added: “a crime formerly defined in section 130.50 of this title.” Penal Law former § 130.50 defined “criminal sexual act in the first degree.” Reference to the repealed law should be unnecessary when Rape is charged and is therefore not included in the text. [↑](#footnote-ref-1)