

**AGGRAVATED HARASSMENT
SECOND DEGREE
(Harassment; Telephone Call
Without Legitimate Purpose)
(A Misdemeanor)
PENAL LAW 240.30 (2)
(Committed on or after Nov. 1, 1992
as amended, effective July 23, 2014)¹**

The _____ count is Aggravated Harassment in the Second Degree.

Under our law, a person is guilty of Aggravated Harassment in the Second Degree when, with intent to harass or threaten another person, he or she makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

The term "intent" used in this definition has its own special meaning in our law. I will now give you the meaning of that term.

INTENT means conscious objective or purpose.² Thus, a person acts with intent to harass or threaten another person when his or her conscious objective or purpose is to do so.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1. That on or about (date), in the county of (County),
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¹ The amendment (L 2014, ch 188, § 1, effective July 23, 2014) modified the intent element by repealing the additional alternatives of "annoy" and "alarm." The legislature may have done so in response to the belief that *People v Golb*, 23 NY3d 455 (2014), which declared Penal Law former § 240.30 (1) unconstitutional, placed in question the continued validity of those alternatives.

² See Penal Law § 15.05 (1).

the defendant, (defendant's name), made a telephone call whether or not a conversation ensued with no purpose of legitimate communication;

2. That the defendant did so with intent to harass or threaten (specify).

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Aggravated Harassment in the Second Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either or both of those elements, you must find the defendant not guilty of Aggravated Harassment in the Second Degree as charged in the _____ count.