

**AGGRAVATED HARASSMENT  
SECOND DEGREE  
(A Misdemeanor)  
(Strikes, Shoves, Kicks)  
PENAL LAW 240.30(3)  
(Committed on or after October 8, 2000)**

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, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age of sixty years old or more<sup>1</sup>, disability or sexual orientation, regardless of whether the belief or perception is correct.

The term(s), "intent" [and "disability"], used in this definition (has/have) (its/their) own special meaning in our law. I will now give you the meaning of (that/those) term(s):

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

[DISABILITY means a physical or mental impairment that substantially limits a major life activity.<sup>3</sup>]

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,

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<sup>1</sup> See Penal Law § 240.00(5). Include material in brackets only in a case involving age.

<sup>2</sup>See Penal Law §15.05(1).

<sup>3</sup>See Penal Law §240.00(6).

beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the County of (County), the defendant (defendant's name) struck, shoved, kicked, or otherwise subjected (specify person) to physical contact, or attempted or threatened to do so, because of a belief or perception regarding the (specify appropriate attribute(s)), of (repeat name of above specified person), regardless of whether the belief or perception was correct; and
2. That the defendant did so with the intent to harass, annoy, threaten or alarm (specify person).

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.