

ABANDONMENT OF A CHILD
Penal Law § 260.00 (1)
(Committed on or after Aug. 30, 2010)

The (specify) count is Abandonment of a Child.

Under our law, a person is guilty of Abandonment of a Child when, being a parent, guardian or other person legally charged with the care or custody of a child¹ less than fourteen years old, he or she deserts such child in any place with intent to wholly abandon such child.

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

INTENT means conscious objective or purpose.² Thus, a person acts with intent to wholly abandon a child when his or her conscious objective or purpose is to do so.

It is not a defense to this charge that the actor did not know that the child was less than fourteen (14) years old, or that the actor believed that the child was fourteen (14) years old or more on the date of the crime.³

[Add if applicable:

A person is not guilty of this crime when:

¹ The terminology: “other person legally charged with the care and custody of a child,” is not defined in the statute. In *People v Carroll*, 93 NY2d 564, 566 and 568 1999), however, the Court of Appeals agreed with the First Department’s application of the definition of “person legally responsible” in Family Court Act § 1012 (g) to define the term “other person legally charged with the care or custody of a child” in the context of Penal Law § 260.10 (2).

² See Penal Law § 15.05 (1).

³ See Penal Law §15.20 (3).

(1) He or she acts with the intent that the child be safe from physical injury and cared for in an appropriate manner; *and* (2) the child is left with an appropriate person, or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location; *and* (3) the child is not more than thirty days old.]

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 (three/four) elements:

1. That on or about (date), in the county of (County), the defendant, (defendant's name), deserted (specify), a child less than fourteen years old;
2. That the defendant did so with the intent to wholly abandon (specify); and
3. That the defendant was the [parent][guardian][other person legally charged with the care or custody] of (specify).

[Add if applicable:]

4. and, that the defendant did not act with the intent that the child be safe from physical injury and cared for in an appropriate manner;

or the child was not left with an appropriate person or in a suitable location, or the person who left the child did not promptly notify an appropriate person of the child's location;

or the child was more than thirty days old.]

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.