

**ASSAULT IN THE SECOND DEGREE**  
**(Serious Physical Injury; Intent)**  
**Penal Law § 120.05(1)**  
**(Committed on or after Sept. 1, 1967)**

The (*specify*) count is Assault in the Second Degree.

Under our law, a person is guilty of Assault in the Second Degree when, with the intent to cause serious physical injury to another person, he or she causes such injury to that person [*or to a third person*].

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

**SERIOUS PHYSICAL INJURY** means impairment of a person's physical condition which creates a substantial risk of death or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.<sup>1</sup>

**INTENT** means conscious objective or purpose. Thus, a person acts with intent to cause serious physical injury to another when that person's conscious objective or purpose is to cause serious physical injury to another.<sup>2</sup>

*[NOTE: In a case of "transferred intent," add the following paragraph:*

Under our law, it is not required that the person who is injured be the same person who was intended to be injured.]

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:

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<sup>1</sup>See Penal Law § 10.00(10).

<sup>2</sup>See Penal Law § 15.05(1). If necessary, an expanded definition of "intent" is available in the section on Instructions of General Applicability under Culpable Mental States.

1. That on or about (date), in the county of (county), the defendant, (defendant's name), caused serious physical injury to (specify); and
2. That the defendant did so with the intent to cause serious physical injury to (specify).

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.