

PREDATORY SEXUAL ASSAULT
Penal Law § 130.95(3)
(Committed on or after June 23, 2006)

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

Criminal sexual act in the first degree

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.