

**PROMOTING PROSTITUTION IN THE FIRST DEGREE**  
**(Person less than 13)**  
**Penal Law § 230.32(1)**  
**(Committed on or after Jan. 19, 2016)<sup>1</sup>**

The (*specify*) count is Promoting Prostitution in the First Degree.

Under our law, a person is guilty of Promoting Prostitution in the First Degree when he or she knowingly advances or profits from prostitution of a person less than thirteen years old.

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

PROSTITUTION means the act or practice of engaging, or agreeing or offering to engage in sexual conduct with another person in return for a fee.<sup>2</sup>

A person "ADVANCES PROSTITUTION" when, acting other than as a person in prostitution or as a patron thereof, he or she knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute,

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<sup>1</sup> Effective January 19, 2016, by the laws of 2015, ch. 368, the statute defining the instant crime was designated subdivision one of Penal Law § 230.32 and a new subdivision two was added. Further, subdivision one was amended to substitute "less than thirteen" for "less than eleven"; and the definitions of "advances prostitution" and "profits from prostitution" were amended. See footnotes 3 and 4. For the commission of this crime on or after September 1, 1978 and before January 19, 2016, the prior statutory language as to the ages is substituted, along with the prior language set forth in footnote three as to the definitions of "advances prostitution" and "profits from prostitution."

<sup>2</sup> Penal Law § 230.00.

aid or facilitate an act or enterprise of prostitution.<sup>3</sup>

A person "PROFITS FROM PROSTITUTION" when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of prostitution activity.<sup>4</sup>

A person KNOWINGLY advances or profits from prostitution when that person is aware that he or she is advancing or profiting from prostitution.<sup>5</sup>

It is not a defense to this charge that the actor did not know the age of the person whose prostitution the actor advanced or profited from, or that the actor believed the age of such person to be eleven years old or more.<sup>6</sup>

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 elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), advanced or

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<sup>3</sup> Penal Law 230.15(1). Effective January 19, 2016, the definition of "advances prostitution" and "profits from prostitution" were amended to substitute the terminology: "when, acting other than as a person in prostitution" for the terminology "when acting other than as a prostitute." For the commission of this crime on or after September 1, 1978 and before January 19, 2016, this charge may be used provided the term "prostitute" is substituted for the term "person for prostitution" in the definition of "advances prostitution."

<sup>4</sup> Penal Law § 230.15(2). See footnote 3.

<sup>5</sup> See Penal Law § 15.05(2). An expanded definition of "knowingly" is set forth in the General charges in the "Culpable Mental States" section.

<sup>6</sup> See Penal Law §15.20(3); *People v. Coleman*, 74 N.Y.2d 381 (1989).

profited from prostitution of another person;

2. That the defendant did so knowingly; and
3. That the person, whose prostitution the defendant advanced or profited from, was less than eleven years of age.

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.