

**CRIMINAL POSSESSION OF A WEAPON
IN THE FOURTH DEGREE
(Unfinished frame or receiver)
Penal Law § 265.01(10)
(Committed on or after April 26, 2022)¹**

The (specify) count is Criminal Possession of a Weapon in the Fourth Degree.

A person is guilty of Criminal Possession of a Weapon in the Fourth Degree when such person is not required to be a gunsmith licensed pursuant to law² and, knowing it is an unfinished frame or receiver, such person possesses an unfinished frame or receiver.

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

UNFINISHED FRAME OR RECEIVER means any material that does not constitute the frame or receiver of a firearm, rifle, or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle, or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means. [The term shall not include material that has had its size or external shape altered to facilitate transportation or storage or has had its

¹ While the effective date of this statute is the 180th day after it became law on October 28, 2021 [L. 2021, c. 520], the statute contains the following proviso:

“provided that for a period of six months after the effective date of this section, a person shall not be guilty of criminal sale of an unfinished frame or receiver in the second degree if such person: (a) voluntarily surrenders such unfinished frame or receiver to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) sells, exchanges, gives, or disposes of such unfinished frame or receiver to a gunsmith licensed pursuant to section 400.00 of this chapter.”

² The word “law” is substituted for “section 400.00 of this chapter.”

chemical composition altered.^{3]}

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.⁴

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, each of the following three elements:

1. That on or about (date), in the County of (County), the defendant, defendant's name⁵ possessed an unfinished frame or receiver; and
2. That the defendant did so knowing it was an unfinished frame or receiver; and
3. That the defendant was not required to be a gunsmith licensed pursuant to law.

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.

³ Penal Law § 265.00(32). The definition of “unfinished frame or receiver” in this section and Penal Law § 265.07 were identical in the L. 2021, c. 520. By a chapter amendment L. 2022, 149, the definition in Penal Law § 265.07 was amended to delete the last sentence and to insert in the opening sentence the word “unserialized” in the phrase: “ ‘unfinished frame or receiver’ means any unserialized material.”

⁴ Penal Law § 10.00(8). When constructive possession is in issue, insert the instruction in the section: General Applicability, Possession, Physical and Constructive.

⁵ When the defendant is charged in whole or in part as an accomplice, Court will add: “personally, or by acting in concert with another person.” See Accomplice charge.