

ASSAULT THIRD DEGREE
(A Misdemeanor)
(Physical Injury; Intent)
PENAL LAW 120.00(1)
(Committed on or after Sept. 1, 1967)

The _____ count is Assault in the Third Degree.

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

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "physical injury" and "intent."

PHYSICAL INJURY means impairment of physical condition or substantial pain.¹

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

[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:

1. That on or about (date), in the county of (county), the

¹ See Penal Law § 10.00(9).

² See Penal Law § 15.05(1).

defendant, (defendant's name), caused physical injury to (specify); and

2. That the defendant did so with the intent to cause physical injury to (specify).

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Assault in the Third Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Assault in the Third Degree as charged in the _____ count.