

**ENDANGERING THE WELFARE OF AN INCOMPETENT OR
PHYSICALLY DISABLED PERSON
(A Misdemeanor)
PENAL LAW 260.25
(Committed on or after Nov. 1, 1998)**

The _____ count is Endangering the Welfare of an Incompetent or Physically Disabled Person.

Under our law, a person is guilty of endangering the welfare of an incompetent or physically disabled person when he or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.

The term "knowingly" has its own special meaning in our law. I will now give you the meaning of that term.

A person KNOWINGLY acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect when that person is aware that he or she is acting in such manner.¹

Actual harm to the incompetent or physically disabled person need not result.²

_____[The defendant's conduct need not be specifically directed at an incompetent or physically disabled person.]³

In order for you to find the defendant guilty of this crime, the

¹ See Penal Law § 15.00(2).

² See *People v. Johnson*, 95 N.Y.2d 368 (2000) which held that actual harm to a child is not an element of the crime of endangering the welfare of a child.

³ *Id.*

People are required to prove from all of the evidence in this case, beyond a reasonable doubt, each of the following two elements:

1. That on or about [and between] (date[s]), in the county of (county), the defendant (defendant's name), acted in a manner likely to be injurious to the physical, mental or moral welfare of (specify) who was unable to care for himself /herself because of physical disability, mental disease or defect; and
2. That the defendant did so knowingly.

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 Endangering the Welfare of an Incompetent or Physically Disabled Person 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 an Endangering the Welfare of an Incompetent or Physically Disabled Person as charged in the _____ count.