

**MENACING THIRD DEGREE  
(B Misdemeanor)  
(Fear of Imminent Injury)  
PENAL LAW 120.15  
(Committed on or after Nov. 1, 1992)**

The \_\_\_\_\_ count is Menacing in the Third Degree.

Under our law, a person is guilty of Menacing in the Third Degree when, by physical menace, he or she intentionally places or attempts to place another person in fear of death or imminent serious physical injury or imminent physical injury.

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: “intentionally,” “physical injury,” and “serious physical injury”.

A person acts INTENTIONALLY when that person's conscious objective or purpose is to cause a particular result or to engage in particular conduct.<sup>1</sup> Thus, a person intentionally places another person in fear of death or imminent serious physical injury or imminent physical injury by physical menace when that person's conscious objective or purpose is to do so.<sup>2</sup>

PHYSICAL INJURY means impairment of physical condition or substantial pain.<sup>3</sup>

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death, or which causes death, or serious and protracted disfigurement, or protracted impairment of health or protracted

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<sup>1</sup> See Penal Law § 15.05(1).

<sup>2</sup> *Id.*

<sup>3</sup> Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

loss or impairment of the function of any bodily organ.<sup>4</sup>

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 defendant, (defendant's name), by physical menace, placed or attempted to place (specify) in fear of death, or imminent serious physical injury, or imminent physical injury; and
2. That the defendant did so intentionally.

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 Menacing 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 Menacing in the Third Degree as charged in the \_\_\_\_\_ count.

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<sup>4</sup> Penal Law § 10.00(10).