

MANSLAUGHTER IN THE FIRST DEGREE
(Intentional Homicide
Under Extreme Emotional Disturbance)¹
Penal Law § 125.20(2)
(Committed on or after Sept. 1, 1967)

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

Under our law, a person is guilty of Manslaughter in the First Degree when, with intent to cause the death of another person, he or she causes the death of such person [*or* of a third person].

The following term used in that definition has a special meaning:²

INTENT means conscious objective or purpose.³ Thus, a person acts with intent to cause the death of another when his or her conscious objective or purpose is to cause the death of another.

[NOTE: In a case of "transferred intent," add the following paragraph:

Under our law, it is not required that the person who dies be the same person whose death was intended to be caused.]

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:

¹This charge should be used in those relatively rare cases where, having heard evidence of "extreme emotional disturbance," the Grand Jury finds legally sufficient evidence of an intentional killing, but votes to indict the defendant only for Manslaughter in the First Degree, rather than for Murder. In such cases, the affirmative defense of "extreme emotional disturbance," having been accepted by the Grand Jury, is no longer relevant at trial and need not be established by the defendant nor proven as an element of the crime by the People. See Penal Law § 125.20(2). Accordingly, this charge is essentially identical to that for Murder in the Second Degree under Penal Law § 125.25(1).

²If causation, "death," or "person" is in issue, see Additional Charges at the end of this article.

³See Penal Law § 15.05(1). If necessary, an expanded definition of "intent" is available in the section on Instructions of General Applicability under Culpable Mental States.

1. That on or about (date), in the county of (county), the defendant, (defendant's name), caused the death of (specify); and
2. That the defendant did so with the intent to cause the death of (specify).

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.