

MURDER IN THE SECOND DEGREE
(Intentional Homicide)
Penal Law § 125.25(1)
(Committed on or after Sept. 1, 1967)

The (specify) count is Murder in the Second Degree.

Under our law, a person is guilty of Murder in the Second 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:¹

INTENT means conscious objective or purpose.² Thus, a person acts with intent to cause the death of another when that person's 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:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), caused the death of (specify); and

¹If causation, "death," or "person" is in issue, see Additional Charges at the end of this article.

²See 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.

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.

[NOTE: If either of the affirmative defenses -- Extreme Emotional Disturbance (§ 125.25(1)(a)) or Aiding a Suicide (§ 125.25(1)(b)) -- applies, omit the final two paragraphs of the above charge, and substitute one of the charges at the end of this article.]