

**AGGRAVATED MURDER  
(Child)  
Penal Law § 125.26(2)  
(Committed on or after Oct. 9, 2009)**

The (*specify*) count is Aggravated Murder.

Under our law, a person is guilty of Aggravated Murder when, with intent to cause the death of a person less than fourteen years old, he or she causes the death of such person, and the defendant acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim prior to the victim's death, and the defendant was more than eighteen years old at the time of the commission of the crime.

The following terms used in that definition have a special meaning: <sup>1</sup>

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause the death of another person when his or her conscious objective or purpose is to cause the death of that person.<sup>2</sup>

TORTURE means the intentional and depraved infliction of extreme physical pain that is separate and apart from the pain which otherwise would have been associated with such cause of death.

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, each of the following four elements:

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

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

<sup>2</sup> See 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.

(Specify), a person less than fourteen years old;

2. That the defendant did so with the intent to cause the death of (Specify);
3. That the defendant acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict, and inflicting, torture upon (Specify) prior to (Specify)'s death; and
4. That at the time of the defendant's acts, the defendant was more than eighteen years old.

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

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

*[NOTE: If either of the affirmative defenses -- Extreme Emotional Disturbance (§ 125.26(2)(a)) or Aiding a Suicide (§ 125.26(2)(b)) -- applies, omit the final two paragraphs of the above charge, and substitute one of the charges at the end of this article.]*