

**MURDER IN THE FIRST DEGREE**  
**(Intentional Murder While Escaped**  
**From Life Sentence)**  
**Penal Law § 125.27(1)(a)(iv)**  
**(Committed on or after Sept. 1, 1995)**

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

Under our law, a defendant is guilty of Murder in the First Degree when, with intent to cause the death of another person, the defendant causes the death of such other person [*or* of a third person] and at the time of the commission of the killing the defendant had escaped from confinement in a state correctional institution [*or* from custody] upon a sentence

[*NOTE: Select appropriate alternative:*  
for the term of his or her natural life

*or* commuted to one of natural life

*or* for an indeterminate term the minimum of which was at least fifteen (15) years and the maximum of which was natural life]

and had not yet been returned to such confinement [*or* custody], and the defendant was more than eighteen (18) years old at the time of the commission of the crime.

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

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>1</sup>

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<sup>1</sup> See Penal Law § 15.05(1). For an expanded charge on intent, see General Charges, Culpable Mental States, Intent.

*[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, 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 (specify);
2. That the defendant did so with the intent to cause the death of (specify);
3. That, at the time of the commission of the killing, the defendant had escaped from confinement in a state correctional institution [*or* from custody] upon a sentence

*[NOTE: Select appropriate provision:  
for the term of his/her natural life*

*or* commuted to one of natural life

*or* for an indeterminate term the minimum of which was at least fifteen (15) years and the maximum of which was natural life]

and had not yet been returned to such confinement [*or* custody]; and

4. That the defendant was more than eighteen (18) years old at the time of the commission of the crime.

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 (§ 125.27(2)(a)) or Aiding a Suicide (§ 125.27(2)(b)) -- applies, omit the final two paragraphs of the above charge, and substitute one of the charges at the end of this article.]*