

MURDER IN THE FIRST DEGREE
("Contract Killing;" Procurer)
PENAL LAW 125.27(1)(a)(vi)
(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 person [*or* of a third person]¹, and the defendant procured commission of the killing pursuant to an agreement with a person other than the intended victim to commit such killing for the receipt [*or* in the expectation of the receipt] of anything of pecuniary value from a party to the agreement [*or* from a person other than the intended victim, acting at the direction of a party to such agreement], and the defendant was more than eighteen (18) years old at the time of the commission of the crime.

The following terms used in that definition have 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.²

To PROCURE means to cause a thing to be done; to bring about, obtain, or effect a result; or to induce, prevail upon, or

¹If transferred intent applies and is in issue, see the definition of transferred intent in the Additional Charges at the end of this article.

²See Penal Law § 15.05(1). For an expanded charge on intent, see General Charges, Culpable Mental States, Intent.

cause a person to do something.³

PECUNIARY means consisting of money or that which can be valued in money.⁴

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 by procuring the commission of the killing pursuant to an agreement with a person other than (intended victim) to commit such killing for [or in the expectation of] the receipt of something of pecuniary value from

[Select appropriate alternative:

a party to the agreement

or a person other than (intended victim), acting at the direction of a party to such agreement];

3. That the defendant did so with the intent to cause the death of (intended victim); and
4. That the defendant was more than eighteen (18) years old at the time of the commission of the crime.

³See Black's Law Dictionary [6th Ed.]. *Cf.*, *People v. Keyes*, 75 NY2d 343 (1990).

⁴ See Black's Law Dictionary.

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.]