

**CRIMINAL IMPERSONATION SECOND DEGREE
(A Misdemeanor)
(Internet or Electronic Impersonation of Another)
Penal Law 190.25 (4)
(Committed on or after Nov. 1, 2008)**

The _____ count is Criminal Impersonation in the Second Degree.

Under our law, a person is guilty of Criminal Impersonation in the Second Degree when he or she knowingly¹

Select appropriate alternative(s):

impersonates another by communication by internet website or electronic means with intent to obtain a benefit or injure² or defraud another, *or*

by communication by internet website or electronic means, pretends to be a public servant in order to induce another to submit to such authority or act in reliance on such pretense.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: ["benefit"] ["public servant"] "knowingly," and ["intent"].

[BENEFIT means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.³]

¹ The word "knowingly" does not appear in the statute and has been added in order to comport with Penal Law § 15.05 (2).

² See *People v Golb*, 23 NY3d 455 (2014) (an intent to injure another includes, but is not limited to, an intent to injure another person's reputation).

³ Penal Law § 10.00 (17).

[PUBLIC SERVANT means (a) any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or (b) any person exercising the functions of any such public officer or employee. (The term public servant includes a person who has been elected or designated to become a public servant.)⁴]

A person KNOWINGLY

Select appropriate alternative(s):

impersonates another by communication by internet website or electronic means, *or*

by communication by internet website or electronic means pretends to be a public servant

when he or she is aware that he or she is doing so.

[INTENT means conscious objective or purpose.⁵ Thus, a person acts with intent to obtain a benefit or to injure or defraud another when that person's conscious objective or purpose is to do so.]

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1. That on or about (*date*), in the county of (*County*), the defendant (*defendant's name*), knowingly

Select appropriate alternative(s):

⁴ Penal Law § 10.00 (15).

⁵ See Penal Law § 15.05 (1).

impersonated another by communication by internet website or electronic means, *or*

by communication by internet website or electronic means pretended to be a public servant;

and

2. That the defendant did such an act

Select appropriate alternative(s):

with intent to obtain a benefit or injure or defraud (specify), *or*

in order to induce (specify) to submit to such authority or act in reliance on such pretense.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Impersonation in the Second Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Impersonation in the Second Degree as charged in the _____ count.