

**CRIMINAL CONTEMPT IN THE FIRST DEGREE
(Violation of an Order of Protection; Stalking¹)
Penal Law § 215.51(b)(ii)
(Committed on or after Sept. 1, 1996)**

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

Under our law, a person is guilty of Criminal Contempt in the First Degree when, in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, he or she intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by repeatedly following such person or by engaging in a course of conduct or by repeatedly committing acts over a period of time.

The following terms used in that definition have a special meaning:

PHYSICAL INJURY means impairment of physical condition or substantial pain.²

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death, or which causes death, or serious and protracted disfigurement, or protracted impairment of health or protracted loss or impairment of the function of any bodily organ.³

A defendant INTENTIONALLY places or attempts to place a person for whose protection an order was issued in reasonable fear of physical injury, serious physical injury or death when that

¹ Penal Law § 120.14(2)

² Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

³ Penal Law § 10.00(10).

defendant's conscious objective or purpose is to do so.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 three elements:

1. That on or about (date), the (specify) court issued an order of protection that was duly served, or such order of which the defendant had actual knowledge because he/she was present in court when such order was issued;
2. That the order was issued for the protection of (specify);
3. That on or about (date), in the County of (county), the defendant, (defendant's name), in violation of that order, placed or attempted to place (specify) in reasonable fear of physical injury, serious physical injury or death by repeatedly following such person or by engaging in a course of conduct or by repeatedly committing acts over a period of time; and
4. That the defendant did so intentionally.

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.

⁴ See Penal Law § 15.05(1).

