PATRONIZING A PERSON FOR PROSTITUTION
SECOND DEGREE
(E Felony)
(Defendant over 18; Person less than 15)
PENAL LAW 230.05
(Committed on or after Jan. 19, 2016)[1]

The _____ count is Patronizing a Person for Prostitution in the Second Degree.

Under our law, a person is guilty of Patronizing a Person for Prostitution in the Second Degree when, being eighteen years old or more, he or she patronizes a person for prostitution and the person who is patronized is less than fifteen years old.

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: "patronizes a PERSON FOR PROSTITUTION," and "(the) person who is patronized."

A person PATRONIZES a person for prostitution when:

Select appropriate alternative(s):

he or she pays a fee to another person, pursuant to a prior understanding, as compensation for such person

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[1] Prior to January 19, 2016, this section read: "A person is guilty of patronizing a prostitute in the second degree when, being **over** eighteen years of age, he patronizes a **prostitute** and the person who is patronized is less than **fourteen** years of age" (emphasis added). Effective January 19, 2016, the words in bold face were amended as follows: "being over eighteen years of age" was changed to "being eighteen years old or more"; the term "prostitute" was changed to "person for prostitution"; and the age "fourteen" was changed to "fifteen." L 2015, ch. 368. For crimes committed on or after September 1, 1978 and before the revision of January 19, 2016, the instant charge may be utilized with appropriate substitution of: "over eighteen years of age" for "eighteen years of age or more"; and "prostitute" for "person for prostitution"; and of "less than fourteen years of age" for "less than fifteen years old."

or a third person having engaged in sexual conduct[2] with him or her; or

He or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him or her; or

He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.[3]

(The) PERSON WHO IS PATRONIZED means the person with whom the defendant

Select appropriate alternative(s):

engaged in sexual conduct or

was to have engaged in sexual conduct pursuant to the understanding, or

the person who was solicited or requested by the defendant to engage in sexual conduct.[4]

[*Add if applicable:*

It is a defense to this charge that the defendant did not have reasonable grounds to believe that the person who

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[1] There is no statutory definition of the term "sexual conduct" that is applicable to the statutes contained in Penal Law article 230. For case law interpretations of that term, *see People v Costello*, 90 Misc 2d 431 (NY Sup Ct, NY County 1977) (defining the term to include sexual intercourse, deviate sexual intercourse, and masturbation).

[2] Penal Law § 230.02 (1).

[3] Penal Law § 230.02 (2).

was patronized was less than fifteen years old.[5]]

[*Add if applicable:*

In any prosecution for patronizing a person for prostitution, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

1. Such persons were of the same sex; or

2. The person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female.[6]]

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 three [four] elements:

1. That on or about (*date*), in the county of (*County*), the defendant, (*defendant's name*), patronized a person for prostitution;

2. That the defendant was eighteen years old or more;

3. That the person who was patronized was less than fifteen years old [and;]

[Add if applicable:

4. That the defendant had reasonable grounds to believe that the person who was patronized was less than fifteen years old.[7]]

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[4] Penal Law § 230.07.

[5] Penal Law § 230.10.

[6] Penal Law § 230.07.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Patronizing a Person for Prostitution 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 any one or more of those elements, you must find the defendant not guilty of the crime of Patronizing a Person for Prostitution in the Second Degree as charged in the _____ count.