

**AGGRAVATED HARASSMENT IN THE SECOND DEGREE**  
**(Harassment; Telephone Call Without Purpose)**  
**Penal Law § 240.30 (2)**  
**(Committed on or after Nov. 1, 1992**  
**as amended, effective July 23, 2014)<sup>1</sup>**

The (*specify*) count is Aggravated Harassment in the Second Degree.

Under our law, a person is guilty of Aggravated Harassment in the Second Degree when, with intent to harass or threaten another person, he or she makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

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

INTENT means conscious objective or purpose.<sup>2</sup> Thus, a person acts with intent to harass or threaten another person when his or her 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), made a telephone call whether or not a conversation ensued with no purpose of legitimate communication;

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<sup>1</sup> The amendment (L 2014, ch 188, § 1, effective July 23, 2014) modified the intent element by repealing the additional alternatives of “annoy” and “alarm.” The legislature may have done so in response to the belief that *People v Golb*, 23 NY3d 455 (2014), which declared Penal Law former § 240.30 (1) unconstitutional, placed in question the continued validity of those alternatives.

<sup>2</sup> See Penal Law § 15.05 (1).

2. That the defendant did so with intent to harass or threaten (specify).

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.