

AGGRAVATED HARASSMENT IN THE SECOND DEGREE
(Physical Contact)
Penal Law § 240.30(3)
(Committed on or after October 8, 2000)

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, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age of sixty years old or more¹, disability or sexual orientation, regardless of whether the belief or perception is correct.

The following term(s) used in that definition (has/have) a special meaning:

INTENT means conscious objective or purpose.² Thus, a person acts with intent to harass, annoy, threaten or alarm another person when his or her conscious objective or purpose is to do so.

If applicable, select appropriate definition(s):

DISABILITY means a physical or mental impairment that substantially limits a major life activity.³

GENDER IDENTITY OR EXPRESSION means a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic, regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.⁴

²See Penal Law §15.05(1).

³See Penal Law §240.00(6).

⁴See Penal Law §240.00(7).

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, both of the following two elements:

1. That on or about (date), in the County of (County), the defendant (defendant's name) struck, shoved, kicked, or otherwise subjected (specify person) to physical contact, or attempted or threatened to do so, because of a belief or perception regarding the (specify appropriate attribute(s)), of (repeat name of above specified person), regardless of whether the belief or perception was correct; and
2. That the defendant did so with the intent to harass, annoy, threaten or alarm (specify person).

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.