**ASSAULT IN THE THIRD DEGREE**

**(Physical Injury; Intent)**

**Penal Law § 120.00(1)**

**(Committed on or after Sept. 1, 1967)**

The (*specify*) count is Assault in the Third Degree.

Under our law, a person is guilty of Assault in the Third Degree when, with intent to cause physical injury to another person, he or she causes such injury to that person [*or* to a third person].

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

PHYSICAL INJURY means impairment of physical condition or substantial pain.[[1]](#footnote-1)

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause physical injury to another when that person's conscious objective or purpose is to cause physical injury to another.[[2]](#footnote-2)

[*NOTE: In a case of "transferred intent,"* *add the following paragraph:*

Under our law, it is not required that the person who is injured be the same person who was intended to be injured.]

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)* , caused physical injury to  *(specify)* ; and

2. That the defendant did so with the intent to cause physical injury to  *(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.

1. 1Penal Law 10.00(9); *See People v. Chiddick*, 8 NY3d 445 (2007). [↑](#footnote-ref-1)
2. 2 *See* Penal Law 15.05(1). [↑](#footnote-ref-2)