

**ASSAULT THIRD DEGREE**  
**(A Misdemeanor)**  
**(Physical Injury; Intent)**  
**PENAL LAW 120.00(1)**  
**(Committed on or after Sept. 1, 1967)**

The \_\_\_\_\_ 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*].

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: "physical injury" and "intent."

PHYSICAL INJURY means impairment of physical condition or substantial pain.<sup>1</sup>

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.<sup>2</sup>

*[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

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<sup>1</sup> Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

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

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).

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Assault in the Third Degree as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Assault in the Third Degree as charged in the \_\_\_\_\_ count.