

**MANSLAUGHTER IN THE SECOND DEGREE**  
**(Reckless Homicide)**  
**Penal Law § 125.15(1)**  
**(Committed on or after Sept. 1, 1967)**

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

Under our law, a person is guilty of Manslaughter in the Second Degree when that person recklessly causes the death of another person.

The following term used in that definition has a special meaning:<sup>1</sup>

A person acts RECKLESSLY with respect to a death when that person

engages in conduct which creates or contributes to a substantial and unjustifiable risk that another person's death will occur,

and when he or she is aware of and consciously disregards that risk,

and when that risk is of such nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.<sup>2</sup>

*[NOTE: Where there is evidence of voluntary intoxication on the part of the defendant, add:*

A person also acts recklessly when he or she creates such a risk but is unaware of that risk solely by reason of his or her

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<sup>1</sup> If causation, "death," or "person" is in issue, see Additional Charges at the end of this article.

<sup>2</sup> See Penal Law § 15.05(3); *People v. Boutin*, 75 NY2d 692, 696 (1990).

voluntary intoxication.<sup>3]</sup>

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 the death of (specify); and
2. That the defendant did so recklessly.

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.

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<sup>3</sup>See, Penal Law § 15.05(3).