

CUSTODIAL INTERFERENCE IN THE FIRST DEGREE
(Class E felony)
(Person Entrusted to Another Endangered)
PENAL LAW 135.50(2)
(Committed on or after July 27, 1981)

The _____ count is Custodial Interference in the First Degree.

Under our law, a person is guilty of custodial interference in the first degree when, knowing that he or she has no legal right to do so, that person takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution under circumstances which expose the victim to a risk that his or her safety will be endangered or his or her health materially impaired.¹

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 four elements:

1. That on or about (date), (specify) was a person entrusted by authority of law to the custody of (specify);
2. That on that date in the county of (county), the defendant took or enticed (specify) from the lawful custody of (specify);
3. That the defendant knew that he/she had no legal right to do so; and
4. That the defendant did so under circumstances which exposed (specify) to a risk that his/her safety would be endangered or his/her health materially impaired.

¹ The statute defining this crime, Penal Law §135.50, begins: "A person is guilty of custodial interference in the first degree when he commits the crime of custodial interference in the second degree ..." This charge incorporates the definition of custodial interference in the second degree as defined in Penal Law §135.45(2).

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Custodial Interference in the First Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of Custodial Interference in the First Degree as charged in the _____ count.