

CRIMINAL MISCHIEF IN THE FOURTH DEGREE
(Disabling Equipment to Prevent
Request for Emergency Assistance)
Penal Law § 145.00(4)
(Committed on or after July 6, 2008)

The (*specify*) count is Criminal Mischief in the Fourth Degree.

Under our law, a defendant¹ is guilty of Criminal Mischief in the Fourth Degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she with intent to prevent a person from communicating a request for emergency assistance intentionally disables or removes telephonic, TTY or similar communication sending equipment while that person is attempting to seek or is engaged in the process of seeking emergency assistance:

Select appropriate alternative:

from police, law enforcement, fire or emergency medical services personnel;

from another person or entity in order to protect himself, herself or a third person from imminent physical injury.

Add if applicable:

[The fact that the defendant has an ownership interest in such equipment is not a defense.²]

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

¹ The statutory text uses the word “person,” but the word “defendant” is substituted here for clarity.

² The statute reads: “The fact that the defendant has an ownership interest in such equipment shall not be a defense to a charge pursuant to this subdivision.” The language here is amended for clarity.

INTENT means conscious objective or purpose. Thus, a person INTENTIONALLY disables or removes telephonic, TTY or similar communication sending equipment when that person's conscious objective or purpose is to disable or remove such equipment.³ Further, a person does so WITH INTENT to prevent another from communicating a request for emergency assistance when the person's conscious objective or purpose is to prevent that other person from communicating a request for emergency assistance.⁴

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, each of the following three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), intentionally disabled or removed telephonic, TTY or similar communication sending equipment while another person was attempting to seek or was engaged in the process of seeking emergency assistance:

Select appropriate alternative:

[from police, law enforcement, fire or emergency medical services personnel;]

[from another person or entity in order to protect himself, herself or a third person from imminent physical injury];

2. That the defendant did so with intent to prevent that person from communicating a request for emergency assistance; and
3. That the defendant had no right to do so nor any reasonable ground to believe that he/she had such right.

³ See Penal Law § 15.05(1).

⁴ *Id.*

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.