

**ABSCONDING FROM TEMPORARY RELEASE
IN THE SECOND DEGREE
(Work Release)
Penal Law § 205.16
(Committed on or after June 21, 1972)**

The (specify) count is Absconding From Temporary Release in the Second Degree.

Under our law, a person is guilty of Absconding From Temporary Release in the Second Degree when, having been released from confinement in a

Select appropriate alternative:

correctional institution

state office of children and family services¹ facility

to participate in a program of work release, that person intentionally fails to return to the institution or facility of his or her confinement at or before the time prescribed for his or her return.

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

A WORK RELEASE PROGRAM is a program under which eligible inmates may be granted the privilege of leaving the premises of an institution for a period not exceeding fourteen hours in any day for the purpose of on-the-job training or employment, or for any matter necessary to the furtherance of

¹ The statute states: "division of youth." However, on January 8, 1998, the "Division of Youth" (DOY) was renamed the "Office of Children & Family Services" (OCFS). A reference to the DOY is deemed a reference to OCFS [Executive Law § 500(3)].

any such purposes.²

Intent means conscious objective or purpose.³ Thus, a person INTENTIONALLY fails to return to the institution or facility of his or her confinement at or before the time prescribed for his or her return when that person's conscious objective or purpose is to do so.

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), was released from confinement in

Select appropriate alternative:

correctional institution

state office of children and family services

facility

t to participate in a program of work release; and

2. That the defendant intentionally failed to return to that institution [facility] at or before the time prescribed for his/her return.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty

² Correction Law § 851 (3)

³ See Penal Law § 15.05 (1)

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.