

**CRIMINAL CONTEMPT IN THE FIRST DEGREE**  
**(Violation of Order of Protection;**  
**Damage to Property)**  
**Penal Law § 215.51(d)**  
**(Committed on or after Jan. 1, 1995)**  
(Revised June 2020<sup>1</sup>)

The (specify) count is Criminal Contempt in the First Degree.

Under our law, a person is guilty of Criminal Contempt in the First Degree when, in violation of

*Select appropriate alternative(s):*

a duly served order of protection issued by a court of competent jurisdiction in this state [or another state, territorial or tribal jurisdiction <sup>2</sup>];

[(or) such order issued by a court of competent jurisdiction in this state (or another state, territorial or tribal jurisdiction) of which that person has actual knowledge because he or she was present in court when such order was issued],

he or she intentionally or recklessly damages the property of a person for whose protection such order was issued in an amount exceeding two hundred fifty dollars.

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<sup>1</sup> The June 2020 revision was for the purpose providing one charge, rather than two, for the crime set forth in Penal Law § 251.50(d), and to include an order issued in another jurisdiction, see footnote two.

<sup>2</sup> The statutory reference to an order “issued by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction” appears to be a description of the type of order either served on the defendant or of which he knew about. That is so because a violation of such an order that was not served on the defendant or of which the defendant was unaware could not legally form an independent basis for criminal liability. Thus, those words are included in both alternatives.

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

A COURT OF COMPETENT JURISDICTION in this state [or another state, territorial or tribal jurisdiction] is a court that is authorized by law to issue an order of protection. (Specify) is a court of this state authorized by law to issue an order of protection.

A defendant INTENTIONALLY damages property of a person for whose protection an order was issued when that defendant's conscious objective or purpose is to do so.<sup>3</sup>

A defendant RECKLESSLY damages the property of a person for whose protection an order was issued when that defendant does so by engaging in conduct which creates a substantial and unjustifiable risk that such damage will occur, and

when that defendant 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>4</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 voluntary intoxication.<sup>5]</sup>

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<sup>3</sup>See Penal Law § 15.05(1).

<sup>4</sup> See Penal Law § 15.05(3); *People v Boutin*, 75 NY2d 692 (1990).

<sup>5</sup>See Penal Law § 15.03(3).

The amount of damage to property is determined by the cost of repair or the replacement value, whichever is less.<sup>6</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, each of the following five elements:

1. That on or about (date), an order of protection was issued by a court of competent jurisdiction in this state; namely, (specify name of court) [or specify the court in the other state, territorial or tribal jurisdiction];
2. Select appropriate alternative(s):  
  
That the order was duly served on the defendant; [or]  
  
That the defendant had actual knowledge of the order because he/she was present in court when the order was issued; [and]
3. That the order was issued for the protection of (specify);
4. That on or about (date), in the County of (County), the defendant, (defendant's name), in violation of the order, intentionally or recklessly damaged the property of (specify the person named in (3)); and
5. That the damage to the property was in an amount exceeding two hundred fifty dollars (\$250).

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

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<sup>6</sup>See *People v. Woodward*, 148 AD2d 997 (4th Dept. 1989); *People v. Gina*, 137 AD2d 555 (2d Dept. 1988); *People v. Simpson*, 132 AD2d 894 (3d Dept. 1987).

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.