

**CRIMINAL POSSESSION OF METHAMPHETAMINE
MANUFACTURING MATERIAL
IN THE FIRST DEGREE
(Prior Conviction)
Penal Law § 220.71
(Committed on or after Oct. 1, 2005)**

No charge has been prepared for this offense, which elevates the second degree crime to a felony when the defendant "has previously been convicted within the preceding five years of criminal possession of methamphetamine manufacturing material in the second degree, as defined in section 220.70 of this article, or a violation of this section."

The aggravating element must be charged in a special information, and after the commencement of trial the defendant must be arraigned on the special information. If, upon such arraignment, the defendant admits the element, the court must not make any reference to it in the definition of the offense or in listing the elements of the offense. But if the defendant denies the element or remains mute, the court must add the element to the definition of the offense and the list of elements. CPL § 200.60. See *People v. Cooper*, 78 NY2d 476 (1991).

For the basic charge, see the charge for Criminal Possession of Methamphetamine Manufacturing Material in the Second Degree, Penal Law § 220.70.