

**PROMOTING PROSTITUTION
FIRST DEGREE
(B felony)
(Prostitute less than 11)
PENAL LAW 230.32
(Committed on or after Sept. 1, 1978)**

The _____ count is Promoting Prostitution in the First Degree.

Under our law, a person is guilty of Promoting Prostitution in the First Degree when he or she knowingly advances or profits from prostitution of a person less than eleven years old.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "prostitution," "advances prostitution," "profits from prostitution," and "knowingly."

PROSTITUTION means the act or practice of engaging, or agreeing or offering to engage in sexual conduct with another person in return for a fee.¹

A person "ADVANCES PROSTITUTION" when, acting other than as a prostitute or as a patron thereof, he or she knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution.²

A person "PROFITS FROM PROSTITUTION" when, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she accepts or receives

¹ Penal Law § 230.00.

² Penal Law 230.15(1).

money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of prostitution activity.³

A person KNOWINGLY advances or profits from prostitution when that person is aware that he or she is advancing or profiting from prostitution.⁴

It is not a defense to this charge that the actor did not know the age of the person whose prostitution the actor advanced or profited from, or that the actor believed the age of such person to be eleven years old or more.⁵

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 three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), advanced or profited from prostitution of another person;
2. That the defendant did so knowingly; and
3. That the person, whose prostitution the defendant advanced or profited from, was less than eleven years of age.

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 Promoting Prostitution in the First Degree as charged in the _____ count.

³ Penal Law § 230.15(2)

⁴ See Penal Law § 15.05(2). An expanded definition of “knowingly” is set forth in the General charges in the “Culpable Mental States” section.

⁵ See Penal Law §15.20(3);*People v. Coleman*, 74 N.Y.2d 381 (1989).

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