

**HARASSMENT IN THE FIRST DEGREE  
(Stalking)  
Penal Law § 240.25  
(Committed on or after May 24, 1994)**

The (*specify*) count is Harassment in the First Degree.

Under our law, a person is guilty of Harassment in the First Degree when he or she intentionally and repeatedly harasses another person by following such person in or about a public place or places, or by engaging in a course of conduct, or by repeatedly committing acts which places such person in reasonable fear of physical injury.<sup>1</sup>

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

**PUBLIC PLACE** means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, community centers, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.<sup>2</sup>

*[NOTE: Add where appropriate:*

**TRANSPORTATION FACILITY** means any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all

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<sup>1</sup>Penal Law § 240.25 adds that this section does "not apply to activities regulated by the national labor relations act [29 USCA § 151 et seq.], as amended, the railway labor act [45 USCA § 151 et seq.], as amended, or the federal employment labor management act [probably refers to the Federal Service Labor-Management Relations Act, 5 USCA § 7101 et seq.], as amended".

<sup>2</sup>Penal Law § 240.00(1). "Community centers" was added by the L. 2017, c. 197, effective November 12, 2017.

appurtenances thereto.<sup>3]</sup>

PHYSICAL INJURY means impairment of physical condition or substantial pain.<sup>4</sup>

A person INTENTIONALLY harasses another person when his or her conscious objective or purpose is to do so.<sup>5</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, both of the following two elements:

1. That on or about (date), in the County of (county), the defendant, (defendant's name), repeatedly harassed (specify) by following him/her in or about a public place or places, or by engaging in a course of conduct, or by repeatedly committing acts which placed him/her in reasonable fear of physical injury; and
2. That the defendant did so intentionally.

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

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<sup>3</sup>Penal Law § 240.00(2).

<sup>4</sup>Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

<sup>5</sup>See Penal Law § 15.05(1).

