

HARASSMENT IN THE SECOND DEGREE
(Physical Contact or Attempt or Threat to do same)
Penal Law § 240.26
(Committed on or after Nov. 1, 1992)

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

Under our law, a person is guilty of Harassment in the Second Degree when, with intent to harass, annoy or alarm another person, he or she

Select appropriate alternative:

strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same.

follows a person in or about a public place or places.

engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose. [NO LEGITIMATE PURPOSE means the absence of expression of ideas or thoughts other than threats and/or intimidating or coercive conduct.¹]

The following term used in that definition has a special meaning:

INTENT means conscious objective or purpose.² Thus, a person acts with intent to harass, annoy or alarm a person when his or her conscious objective or purpose is to do so.

¹ *People v. Shack*, 86 N.Y.2d 529, 538 (1995); *See, People v. Stuart*, 100 N.Y.2d 412, 428 (2003). The case law uses the term “coercive utterances.” The word “utterances” has been replaced with “conduct” to conform with statutory language of the offense.

² *See* Penal Law § 15.05(1). An expanded definition of “intent” is available in the General Charges section under Culpable Mental States.

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),

Select appropriate alternative:

struck, shoved, kicked or otherwise subjected (specify) to physical contact or attempted or threatened to do the same;

followed (specify) in or about a public place or places;

engaged in a course of conduct or repeatedly committed acts which alarmed or seriously annoyed (specify) and which served no legitimate purpose;

and

2. That the defendant did so with intent to harass, annoy or alarm (specify).

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.