

RECKLESS ENDANGERMENT SECOND DEGREE
(Risk of Serious Physical Injury)
Penal Law § 120.20
(Committed on or after Sept. 1, 1967)

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

Under our law, a person is guilty of Reckless Endangerment in the Second Degree when that person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

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

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death, or which causes death, or serious and protracted disfigurement, or protracted impairment of health or protracted loss or impairment of the function of any bodily organ.¹

A person **RECKLESSLY** engages in conduct which creates a substantial risk of serious physical injury to another person:

when he or she engages in conduct which creates a substantial and unjustifiable risk of serious physical injury to another person,

and when he or she 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

¹See Penal Law § 10.00(10).

observe in the situation.²

[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.³]

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:

That on or about (date), in the county of (county), the defendant, (defendant's name), recklessly engaged in conduct which created a substantial risk of serious physical injury to another person.

If you find the People have proven that element beyond a reasonable doubt, you must find the defendant guilty of this crime.

If you find the People have not proven that element beyond a reasonable doubt, you must find the defendant not guilty of this crime.

²See Penal Law § 15.05(3).

³See Penal Law § 15.05(3); *People v. Boutin*, 75 NY2d 692, 696 (1990).