

**AGGRAVATED SEXUAL ABUSE
FIRST DEGREE
(B Felony)
(Insertion of Foreign Object;
Forcible Compulsion)
PENAL LAW 130.70(1)(a)
(Committed on or after July 21, 1981)¹**

The ____ count is Aggravated Sexual Abuse in the First Degree.

Under our law, a person is guilty of Aggravated Sexual Abuse in the First Degree when he or she inserts a foreign object in the vagina [*or* urethra] [*or* penis] [*or* rectum] of another person causing physical injury to such person by forcible compulsion. Conduct performed for a valid medical purpose does not violate the provisions of this law.

I will now give you the meaning of the following terms used in that definition: "foreign object," "physical injury," and "forcible compulsion."

FOREIGN OBJECT means any instrument or article which, when inserted in the vagina [*or* urethra] [*or* penis] [*or* rectum], is capable of causing physical injury.²

PHYSICAL INJURY means impairment of physical condition or substantial pain.³

FORCIBLE COMPULSION means to intentionally compel either:

(1) by the use of physical force;

or

(2) by a threat, express or implied, which places a person in fear of immediate death or physical injury to himself or herself [*or* another person] or in fear that he or she [*or* another person] will immediately be kidnapped.⁴

In order for you to find the defendant guilty of this crime, the People are required to

¹*People v. Liberta*, 64 NY2d 152 (1984), decided December 20, 1984, eliminated the gender exemption for forcible rape and sodomy. Therefore, if a female is charged as a principal, the effective date of the statute is December 20, 1984. The definition of the crime has been modified accordingly.

²*See*, Penal Law §130.00(9).

³*See*, Penal Law § 10.00(9).

⁴*See*, Penal Law § 130.00(8); Penal Law §15.05(1). The definition has been modified to reflect the holding of *People v. Williams*, 81 NY2d 303 (1993).

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, *(name of defendant)*, without a valid medical purpose, inserted a foreign object, to wit, a *(specify)*, into the vagina [*or urethra*] [*or penis*] [*or rectum*] of *(name of complainant)*, causing him/her physical injury; and
2. That the defendant did so by forcible compulsion.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Aggravated Sexual Abuse in the First Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Aggravated Sexual Abuse in the First Degree as charged in the _____ count.