

ASSAULT IN THE SECOND DEGREE
(Physical Injury; Intent; Weapon)
Penal Law § 120.05(2)
(Committed on or after Nov. 1, 1986)¹
Revised April, 2018 ¹

Under our law, a person is guilty of Assault in the Second Degree when, with intent to cause physical injury to another person, he or she causes such injury to that person [or to a third person] by means of a deadly weapon [or dangerous instrument].

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

PHYSICAL INJURY means impairment of physical condition or substantial pain.

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause physical injury to another when that person's conscious objective or purpose is to cause physical injury to another.

DEADLY WEAPON means:

Select appropriate alternative:

any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged.

a switchblade knife defined as any knife having a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

a pilum ballistic knife defined as any knife having a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.

a metal knuckle knife, defined as a weapon that, when closed, cannot function as a set of plastic knuckles or metal knuckles, nor as a knife and when open, can function as both a set of plastic knuckles or metal knuckles as well as a knife.

metal knuckles, defined as a metal object with multiple holes, through which individual places his or her fingers so that a metal bar rests atop the individual's knuckles.

a billy, defined as a cylindrical or rounded, rigid, club or baton with a handle grip which, from its appearance and inherent characteristics, is designed to be used as a striking weapon and not for other lawful purposes.

a dagger

a blackjack

plastic knuckles

DANGEROUS INSTRUMENT means any instrument, article or substance (including a vehicle) which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other serious physical injury,⁵ that is, serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.⁶ Under that definition, death or other serious physical injury need not, in fact, be caused.]

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) , caused physical injury to (specify) by means of a deadly weapon [or dangerous instrument]; and
2. That the defendant did so with the intent to cause physical injury to (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.