

**DISRUPTION OR DISTURBANCE OF A RELIGIOUS SERVICE
[FUNERAL, BURIAL OR MEMORIAL SERVICE]**

Penal Law § 240.21

Committed on or after March 21, 2011

The (specify) count is Disruption or Disturbance of a Religious Service [Funeral, Burial or Memorial Service]

Under our law, a person is guilty of Disruption or Disturbance of a Religious Service [Funeral, Burial or Memorial Service] when he or she makes unreasonable noise or disturbance while at a lawfully assembled religious service [funeral, burial or memorial service], or within three hundred feet thereof, with intent to cause annoyance or alarm or recklessly creating a risk thereof.

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

"UNREASONABLE NOISE" means a noise of a type or volume that a reasonable person, under the circumstances, would not tolerate.¹

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause annoyance or alarm when that person's conscious objective or purpose is to do so.²

A person acts RECKLESSLY in creating a risk of annoyance or alarm when that person:

engages in conduct which creates or contributes to a substantial and unjustifiable risk that annoyance or alarm to another person will occur,

¹ See *People v. Bakolas*, 59 N.Y.2d 51, 53 (1983) (defining the term as it appears in the Disorderly Conduct statute).

² See Penal Law § 15.05(1).

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 observe in the situation.³

[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.⁴]

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, each of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), made unreasonable noise or disturbance

Select appropriate alternative(s):

while at a lawfully assembled religious service [funeral, burial or memorial service]

[or]

within 300 feet of a lawfully assembled religious service [funeral, burial or memorial service]; and

² See Penal Law § 15.05(3); *People v. Boutin*, 75 NY2d 692, 696 (1990).

³ See Penal Law § 15.05(3).

2. That the defendant did so with intent to cause annoyance or alarm or recklessly creating a risk thereof.

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.