

AGGRAVATED HARASSMENT IN THE FIRST DEGREE
Penal Law § 240.31(1)
(Committed on or after November 1, 2019) ¹
(Revised May 2021) ²

The (specify) count is Aggravated Harassment in the First Degree.

Under our law, a person is guilty of Aggravated Harassment in the First Degree when, with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's

race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age of sixty years old or more³, disability or sexual orientation,⁴

regardless of whether the belief or perception is correct,

he or she damages premises primarily used for religious purposes, [or acquired pursuant to section six of the religious corporation law and maintained for purposes of religious instruction,] and the damage to the premises exceeds fifty dollars.

The following term(s) used in that definition (has/have) a special meaning:

¹ By the laws of 2019, c. 8, the words "gender identity or expression" were added to the statute. With the omission of those words, however, this charge remains applicable to crimes committed between on or after October 8, 2000, and November 1, 2019.

² In May 2021, this charge was revised to include the additions stated in footnote number 1.

³ "Age" is defined in Penal Law 240.00(5) as meaning "sixty years old or more."

⁴ The court need not recite the attributes and related definitions that are not in issue in the case.

INTENT means conscious objective or purpose.⁵ Thus, a person acts with intent to harass, annoy, threaten or alarm another person when his or her conscious objective or purpose is to do so.

Select appropriate definition(s)

DISABILITY means a physical or mental impairment that substantially limits a major life activity.³

GENDER IDENTITY OR EXPRESSION means a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic, regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.⁶

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, the following three elements:

1. That on or about (date), in the County of (County), the defendant (defendant's name) damaged premises primarily used for religious purposes, [or acquired pursuant to section six of the religious corporation law and maintained for purposes of religious instruction];
2. That the damage to the premises exceeded fifty dollars; and
3. That the defendant did so with the intent to harass, annoy, threaten or alarm (specify person) because of a belief or perception regarding the (specify appropriate attribute(s)), of (repeat name of above specified person), regardless of whether the belief or perception was correct.

⁵ See Penal Law §15.05(1).

⁶ See Penal Law § 240.00(7)

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.