**MAKING A THREAT OF MASS HARM**

**Penal Law § 240.78**

**(Committed on or after June 6, 2022)**

The (*specify*) count is Making A Threat Of Mass Harm.

Under our law, a person is guilty of Making A Threat Of Mass Harm when, with the intent to intimidate a group of people or to create public alarm, such person threatens to inflict or cause to be inflicted, serious physical injury or death at a:

*Select appropriate alternative(s):* school, place of worship, business, government building, or other place of assembly,

and thereby

*Select appropriate alternative(s)*

causes a reasonable expectation or fear of serious physical injury or death at a:

[or] causes the evacuation or lockdown of a:

*Select appropriate alternative(s):* school, place of worship, business, government building, or other place of assembly.

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, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.[[1]](#footnote-1)

INTENT means conscious objective or purpose. Thus, a person acts with the intent to intimidate a group of people or to create public alarm when that person's conscious objective or purpose is to do so.[[2]](#footnote-2)

It is not a defense to a prosecution for this offense that the defendant did not have the intent or capability of committing the conduct threatened.[[3]](#footnote-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, each of the following three elements:

1. That on or about (*date*) , in the County of (County), the defendant, (*defendant's name*)[[4]](#footnote-4) threatened to inflict or cause to be inflicted, serious physical injury [or death] at a:

*Select appropriate place:*

school, place of worship, business, government building, or other place of assembly;

1. That the defendant did so with the intent to intimidate a group of people or to create public alarm; and
2. That the defendant thereby

*Select appropriate alternative(s)*

caused a reasonable expectation or fear of serious physical injury or death at a:

[or] caused the evacuation or lockdown of a:

*Select appropriate alternative(s):*

school, place of worship, business, government building, or other place of assembly.

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.

1. 1 *See* Penal Law 10.00(10). [↑](#footnote-ref-1)
2. 2 *See* Penal Law 15.05(1). [↑](#footnote-ref-2)
3. Penal Law § 240.78(2). [↑](#footnote-ref-3)
4. When the defendant is charged in whole or in part as an accomplice, Court will add: personally, or by acting in concert with another person. *See* Accomplice charge. [↑](#footnote-ref-4)