

ASSAULT AND RELATED OFFENSES

~~RSA 631:1, (1) (a) First Degree Assault~~ DRAFT

The defendant is charged with first degree assault. The definition of the crime of first degree assault has two parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant caused serious bodily injury to another person; and
2. The defendant acted purposely.

These are the elements of the crime of first degree assault. Certain words in the definition need to be defined:

"Serious bodily injury" means . . . [see RSA 625:11, VI]..

"Purposely" means . [see instruction on purposely].

RSA 631:1 (I) (b) First Degree Assault

The defendant is charged with first degree assault. The definition of the crime of first degree assault has [three] or [four] parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

1. The defendant caused bodily injury to another person; and
2. The bodily injury was caused by the defendant's use of a deadly weapon ; and
- [3. The deadly weapon was a firearm.]; and
- [3] [4]. The defendant acted [purposely] [knowingly].

These are the elements of the crime of first degree assault. Certain words in the definition need to be defined:

"Deadly weapon" means any firearm, knife or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury.¹

"Firearm" means a weapon capable of discharging a shot by means of gunpowder. ²

"Purposely" means [see definition of purposely].

"Knowingly" means [see definition of knowingly].

¹ RSA 625:11, V

² *State v. Beaudette*, 124 N.H. 579, 581 (1984); *State v. Taylor*, 135 N.H. 131, 133 (1992); *State v. Hatt*, 144 N.H. 246, (1999).

RSA 631:1 (I) (c) First Degree Assault

The defendant is charged with first degree assault. The definition of the crime of first degree assault has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

1. The defendant caused injury to another person, and
2. The injury resulted in [miscarriage] [stillbirth]; and
3. The defendant acted [purposely] [knowingly.]

These are the elements of the crime of first degree assault. Certain words in the definition need to be further defined:

"Miscarriage" means the interruption of the normal development of the fetus other than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of a fetus.¹

"Stillbirth" means the death of a fetus prior to complete expulsion or extraction and not an induced abortion².

"Purposely" means [see instruction for purposely].

"Knowingly" means [see instruction for knowingly].

¹ RSA 631:1, II (a)

² RSA 631:1, II (b)

RSA 631:1 (I) (d) First Degree Assault

The defendant is charged with first degree assault. The definition of the crime of first degree assault has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

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1. The defendant caused serious bodily injury to another person; and
2. The injured person was under thirteen years of age; and
3. The defendant acted [knowingly] [recklessly].

These are the elements of the crime of first degree assault. Certain words in the definition need to be further defined:

"Serious bodily injury" means [see RSA 625:11, VI]

"Knowingly" means [see instruction for knowingly].

"Recklessly" means [see instruction for recklessly].

RSA 631:2(I) (a) Second Degree Assault -

The defendant is charged with second degree assault. The definition of the crime of second degree assault has two parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

1. The defendant caused serious bodily injury to another person; and
2. The defendant acted [recklessly] [knowingly].

These are the elements of the crime of second degree assault. Certain words in the definition need to be further defined:

"Serious bodily injury" means [see RSA 625:11, VI].

"Recklessly" means [see instruction for recklessly].

"Knowingly" means [see instruction for knowingly].

RSA 631:2(I) (b) Second Degree Assault

The defendant is charged with second degree assault. The definition of the crime of second degree assault has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

1. The defendant caused bodily injury to another person; and
2. The bodily injury was caused by means of a deadly weapon; and
3. The defendant acted recklessly.

These are the elements of the crime of second degree assault. Certain words in the definition need to be further defined:

"Deadly weapon" means any firearm, knife or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury.¹

"Firearm" means a weapon capable of discharging a shot by means of gunpowder.²

"Recklessly" means [see definition for recklessly].

¹ RSA 625:11, V

² *State v Beaudette*, 124 N.H. 579, 581 (1984); *State v Taylor*, 135 N.H. 131, 133 (1992); *State v Hatt* 144 N.H. 246 (1999).

RSA 631:2(I) (c) Second Degree Assault

The defendant is charged with second degree assault. The definition of the crime of second degree assault has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

1. The defendant caused bodily injury to another person; and
2. The bodily injury was inflicted under circumstances manifesting extreme indifference to the value of human life; and
3. The defendant acted recklessly.

These are the elements of the crime of second degree assault. Certain words in the definition need to be defined:

"Recklessly" means [See definition for recklessly].

To act "under circumstances manifesting extreme indifference to the value of human life" means that the defendant's acts demonstrate a blatant disregard for the risk to the victim's life. It is not necessary that the injury or series of injuries themselves be life threatening.¹

¹ *State v. Bailey*, 127 N.H. 416, 423 (1985); *State v. Fletcher*, 129 N.H. 641, 644 (1987); *State v. Saucier*, 128 N.H. 291, 297 (1986); See also Report of Commission to Recommend Codification of Criminal Laws 576:3 comment at 43 (1969) (Paragraph [I(c)] also requires only bodily injury of any degree and the justification for permitting slight harm to be the basis for a felony conviction is that the defendant's conduct was of the most threatening sort and it is largely by chance that a murder was not committed.")

RSA 631:2(I) (d) Second Degree Assault

The defendant is charged with second degree assault. The definition of the crime of second degree assault has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant caused bodily injury to another person; and
2. The injured person was under thirteen years of age; and
3. The defendant acted [purposely] [knowingly.]

These are the elements of the crime of second degree assault. Certain words in the definition need to be further defined:

"Purposely" means [see definition of purposely].

"Knowingly" means [see definition of knowingly].

RSA 631:2(I) (e) Second Degree Assault

The defendant is charged with second degree assault. The definition of the crime of second degree assault has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant caused injury to another person; and
2. The injury resulted in [miscarriage] [stillbirth]; and
3. The defendant acted [recklessly] [negligently].

These are the elements of the crime of second degree assault. Certain words in the definition need to be defined:

"Miscarriage" means the interruption of the normal development of the fetus other than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of a fetus¹.

"Stillbirth" means the death of a fetus prior to complete expulsion or extraction and not an induced abortion.²

"Recklessly" means [see definition for recklessly].

"Negligently" means [see instruction for negligently].

¹ RSA 631:2, II (a)

² RSA 631:2, II (b)

RSA. 631:3 Reckless Conduct¹

The defendant is charged with reckless conduct. The definition of this crime has [two] [three] [four] parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

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1. The defendant engaged in conduct that either placed or may have placed another person in danger of serious bodily injury and ;
2. The defendant acted recklessly; and
- [3 The defendant used a deadly weapon; and]
- [4. The deadly weapon was a firearm.]

These are the elements of the crime of reckless conduct. Certain words need to be further defined.

“Deadly weapon” means [see RSA 625:11 V].

"Serious bodily injury" means [see RSA 625:11 VI].

“Firearm” means a weapon capable of discharging a shot by means of gunpowder.²

"Recklessly" means [refer to “recklessly” jury instruction].

¹ This statute is derived from Model Penal Code § 211.2. See Report of Commission to Recommend Codification of Criminal Laws § 576:3 comment at 43 (1969).

² *State v. Beaudette*, 124 N.H. 579,581 (1984); *State v. Taylor*, 136 N.H. 131, 133 (1992)

RSA 631:4, I (a) Criminal Threatening (Placing or attempting to place another in fear.)

The defendant is charged with criminal threatening. The definition of this crime has [two], [three] [four] parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. By physical conduct, the defendant placed or attempted to place another person in fear of [imminent bodily injury] [physical contact]; and
- 2 The defendant acted purposely; and
- [3. The defendant used a deadly weapon]; and
- [4. The deadly weapon was a firearm.]

These are the elements of the crime of criminal threatening. Certain words need to be further defined.

Bodily injury means [to be supplied later by the committee]

Deadly weapon means [see RSA 625:11, V.]

“Firearm” means a weapon capable of discharging a shot by means of gunpowder.¹

“Purposely means” [refer to “purposely” jury instruction].

¹ *State v. Beaudette*, 124 N.H. 579,581 (1984); *State v. Taylor*, 136 N.H. 131, 133 (1992)

RSA 631:4, I (b) Criminal Threatening (Placing an object or graffiti on the property of another)¹

The defendant is charged with criminal threatening. The definition of this crime has [two], [three] [four] parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant placed an object or graffiti on the property of another; and
2. The defendant acted with a purpose to coerce or terrorize another; and
- [3. The defendant used a deadly weapon]; and
- [4. The deadly weapon was a firearm].

These are the elements of the crime of criminal threatening. Certain words need to be further defined.

“Property” means [see RSA 637:2, I.]

“Property of another” means [see RSA 637:2, IV]

To “terrorize” means to cause alarm, fright, or dread; the state of mind induced by the apprehension of hurt from some hostile or threatening event or manifestation.²

“Firearm” means a weapon capable of discharging a shot by means of gunpowder³

“Purposely means” [refer to “purposely” jury instruction].

¹ This statute is derived from Model Penal Code § 211.2. See Report of Commission to Recommend Codification of Criminal Laws § 576:3 comment at 43 (1969).

² RSA 631:4, III (b).

³ *State v. Beaudette*, 124 N.H. 579,581 (1984); *State v. Taylor*, 136 N.H. 131, 133 (1992)

RSA 631:4, I (c) Criminal Threatening (Crime against property)

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The defendant is charged with criminal threatening. The definition of this crime has [two], [three] [four] parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant placed on object or graffiti on the property of another; and
2. The defendant acted with a purpose to coerce or terrorize another; and
- [3. The defendant used a deadly weapon]; and
- [4. The deadly weapon was a firearm].

These are the elements of the crime of criminal threatening. Certain words need to be further defined.

“Property” means [see RSA 637:2, I.]

“Property of another” means [see RSA 637:2, IV]

To “terrorize” means to cause alarm, fright, or dread; the state of mind induced by the apprehension of hurt from some hostile or threatening event or manifestation¹.

“Firearm” means a weapon capable of discharging a shot by means of gunpowder²

“Purposely means” [refer to “purposely” jury instruction].

¹ RSA 631:4, III (b).

² *State v. Beaudette*, 124 N.H. 579,581 (1984); *State v. Taylor*, 136 N.H. 131, 133 (1992)

RSA 631:4, I (d) Criminal Threatening (Crime against another)¹

The defendant is charged with criminal threatening. The definition of this crime has [two] [three] [four] parts or elements. The State must prove each element beyond a reasonable doubt. Thus, the State must prove that:

1. The defendant threatened to commit a crime against the person of another; and
2. The defendant acted with a purpose to coerce or terrorize another; and
- [3. The defendant used a deadly weapon; and]
- [4. The deadly weapon was a firearm].

These are the elements of the crime of criminal threatening. Certain words need to be further defined.

To “terrorize” means to cause alarm, fright, or dread; the state of mind induced by the apprehension of hurt from some hostile or threatening event or manifestation².

Deadly weapon means [insert statutory definition, RSA 625:11, V.

“Firearm” means a weapon capable of discharging a shot by means of gunpowder³

“Purposely means” [refer to “purposely” jury instruction].

¹ This statute is derived from Model Penal Code § 211.2. See Report of Commission to Recommend Codification of Criminal Laws § 576:3 comment at 43 (1969).

² RSA 631:4, III (b)

³ *State v. Beaudette*, 124 N.H. 579,581 (1984); *State v. Taylor*, 136 N.H. 131, 133 (1992)

RSA 631:4, I (e) Criminal Threatening (Crime of violence)¹

The defendant is charged with criminal threatening. The definition of this crime has two parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

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1. The defendant threatened [any crime of violence] [the delivery or use of a biological or chemical substance]; and
2. The defendant acted with [a purpose to cause][reckless disregard of causing fear, terror or inconvenience associated with] the evacuation of a building, place of assembly, facility or public transportation, or otherwise cause serious public inconvenience.

These are the elements of the crime of criminal threatening. Certain words need to be further defined.

“Purposely” means” [refer to “purposely” jury instruction].

“Recklessly” means [refer to “recklessly” jury instruction].

¹ This statute is derived from Model Penal Code § 211.2. See Report of Commission to Recommend Codification of Criminal Laws § 576:3 comment at 43 (1969).

RSA 631:4, I (f) Criminal Threatening (Crime of violence)

The defendant is charged with criminal threatening. The definition of this crime has three parts or elements. The State must prove each element beyond a reasonable doubt. Thus the State must prove that:

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1. The defendant delivered, threatened to deliver, caused the delivery of any substance to another person; and
2. The defendant knew the substance could be perceived as a biological or chemical substance and;
3. The defendant acted with [the purpose of] [in reckless disregard of] causing fear or terror.

These are the elements of the crime of criminal threatening. Certain words need to be further defined.

“Purposely” means” [refer to “purposely” jury instruction].

“Recklessly” means [refer to “recklessly” jury instruction].