

ESCAPE IMPLEMENTS - INTRODUCING INTO INSTITUTION
OR PROVIDING INMATE
(N.J.S.A. 2C:29-6a)

Defendant is charged with the crime of introducing an implement for escape into an institution or a detention facility (or providing an implement for escape to an inmate of an institution or a detention facility). The relevant statute provides that "A person commits an offense if he knowingly and unlawfully introduces within an institution or a detention facility (or knowingly and unlawfully provides an inmate with) any weapon, tool or other thing which may be useful for escape."

To obtain a conviction on this charge, the State must prove each of the following elements beyond a reasonable doubt:

- (1) That S1 is a weapon, tool or other thing which may be useful for escape;
- (2) That defendant introduced S1 within an institution or a detention facility (or that defendant provided S1 to an inmate of an institution or a detention facility); and
- (3) That defendant acted both knowingly and unlawfully.

For these purposes, escape means a removal of oneself from official detention in an institution or a detention facility (or a failure to return to official detention in an institution or a detention facility following temporary leave for a specific purpose or limited period) without lawful authority.¹ An institution or a detention facility means any place designed to hold persons charged with criminal or other offenses while they are awaiting trial or after they have been convicted. _____ is such an institution (or such a detention facility).

Knowingly. A person acts knowingly with respect to the nature of (his/her) conduct or the attendant circumstances if the person is aware that (his/her) conduct is of that nature, or that such circumstances exist, or the person is aware of a high probability of their existence. A person acts knowingly with respect to a result of (his/her) conduct if the person is aware that it is practically certain that (his/her) conduct will cause such a result.

Unlawfully means surreptitiously or contrary to law, regulations or order of the detaining authority.

Again, the elements of the crime that the State must prove beyond a reasonable doubt are

¹ See the model charge on escape (N.J.S.A. 2C:29-5a) for further discussion on the elements of the crime of escape.

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that S1 is a weapon, tool or other thing which may be useful for escape; that defendant introduced S1 within an institution or a detention facility (or that defendant provided S1 to an inmate of an institution or detention facility); and that defendant acted both knowingly and unlawfully. If you find that the State has failed to prove any one or more of these elements beyond a reasonable doubt then your verdict should be Not Guilty and you should deliberate no further.² On the other hand, if you find that the State has proven all of these elements beyond a reasonable doubt, then your verdict should be Guilty and you must deliberate further to determine the degree of the offense.

Under our law, the crime of introducing an implement for escape into an institution or a detention facility (or providing an implement for escape to an inmate of an institution or a detention facility) is a crime of the second degree if the implement for escape introduced (or provided is a weapon and a crime of the third degree if it is not. Therefore, if you find defendant Guilty you must determine whether S1 is a weapon to determine the degree of the offense. A weapon is defined as anything readily capable of lethal use or of inflicting serious bodily injury.³

Here, as always, the burden of proof is on the State and the standard is proof beyond a reasonable doubt. If you find that the State has proven beyond a reasonable doubt not only that defendant committed the crime of introducing an implement for escape into an institution or a detention facility (or providing an implement for escape to an inmate of an institution or detention facility), but also that the implement for escape the defendant introduced (or provided) is a weapon, then your verdict should be Guilty of the second degree offense. On the other hand, if you find that the State has proven beyond a reasonable doubt that defendant committed the crime of introducing an implement for escape into an institution or a detention facility (or providing an implement for escape to an inmate of an institution or detention facility), but you also find that the State has failed to prove beyond a reasonable doubt that the implement for escape the defendant introduced (or provided) is a weapon, then your verdict should be Guilty of the third degree offense.

² For a lesser included offense where there is an issue as to whether an item provided to an inmate is other than a "weapon, tool or other thing which may be useful for escape", see the model charge on Providing an Inmate with Contraband (N.J.S.A. 2C:29-6b).

³ N.J.S.A. 2C:39-1r. See the statute for particular examples.