

HINDERING APPREHENSION OR PROSECUTION OF ANOTHER
(N.J.S.A. 2C:29-3a)

The defendant is charged with the offense of hindering apprehension or prosecution, in that he/she is alleged to have **(summarize appropriate portions of indictment)**.

This charge is based upon a statute which provides that:

A person commits an offense if, with purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another for [an offense] **OR** [a violation of Title 39 of the New Jersey Statutes] **OR** [a violation of Chapter 33A of Title 17 of the Revised Statutes] he [refer to appropriate portion of N.J.S.A. 2C:29-3a(1) thru (7)].

For you to find the defendant guilty, the State must prove each of the essential elements of the offense beyond a reasonable doubt. Those elements are:

- (1) that the defendant knew that (Name) could/might be charged with (offense);
- (2) that the defendant **(read appropriate subsection of N.J.S.A. 2C:29-3a(1) to (7))**; and
- (3) that the defendant acted with purpose to hinder the detention, apprehension, investigation, prosecution, conviction, or punishment of (Name).

The first element that the State must prove beyond a reasonable doubt is that the defendant must have known that (Name) could/might be charged with (offense). This does not mean that the State must prove that he/she had actual personal knowledge that (Name) had committed (the offense), but rather that he/she knew such facts either by his/her own observations or by information given to him/her as would reasonably alert someone that (Name) could/might be charged with (offense).¹

A person acts knowingly with respect to the nature of his/her conduct or the attendant

¹ Unlike N.J.S.A. 2C:28-5 (tampering), this statute does not require that defendant know or believe either that a charge has been made or is likely to be made; instead, it is addressed at “the wrongful **avoidance** of an official action by attempting to prevent a witness from reporting a crime to the police.” State v. D.A., 191 N.J. 158, 170 (2007) (emphasis added).

State v. Lynch, 79 N.J. 327, 339 (1979). Note that the degree of this crime depends upon whether the offense that the person aided had been or was likely to be charged with would have constituted a crime of the second degree or greater, a crime of the third degree, or a crime of the fourth degree or less. Any issue regarding what degree of crime defendant knew that the person aided had been or would likely be charged with must be submitted to the jury, along with definitions of the elements of the crimes or offenses that the issue of knowledge entails.

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circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. “Knowing,” “with knowledge,” or equivalent terms have the same meaning.²

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inference from defendant’s conduct, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she did a particular thing. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference which may arise from the nature of his/her acts and conduct and from all he/she said and did at the particular time and place and from all surrounding circumstances established by the evidence.

The second element that the State must prove beyond a reasonable doubt is that on (date), the defendant:

- (1) harbored or concealed (Name).

Here, the State must prove that the defendant hid, or protected, or sheltered or secreted (Name) from the authorities.

OR

- (2) provided (or aided in providing) a weapon (or money, transportation, disguise or other means of avoiding discovery or apprehension or affecting escape) to (Name).³

OR

- (3) (suppressed, by way of concealment or destruction, any evidence of the crime) **OR** (tampered with a witness [or informant, document or other source of information]), which (evidence, witness, etc.) might aid in the discovery or apprehension of (Name) or in the lodging of a charge against (him/her).

² N.J.S.A. 2C:2-2b(2).

³ See notation in II Commentary: Final Report of the New Jersey Criminal Law Review Commission 284-85 (1971): “Providing a fugitive with funds is an act of equivocal significance. He may use it to escape or hide, to pay debts or go into business, or to support himself or his dependents, or to hire a lawyer. Paragraph b [now 3a(2)] is intended to require proof that money was furnished not merely pursuant to a general desire to promote the offender’s plan to remain at large, but specifically to facilitate escape efforts.”

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OR

- (4) warned (Name) of impending or imminent discovery or apprehension.⁴

OR

- (5) prevented or obstructed, by means of force, intimidation or deception, (Name) from performing an act which might aid in the discovery or apprehension of (other) or in the lodging of a charge against (him/her).

OR

- (6) aided (other) to protect or expeditiously profit from an advantage derived from such crime. This means that after the (offense) was committed, the defendant assisted (Name) in carrying out his unlawful objective for a share in the proceeds or some other reason.⁵

OR

- (7) gave⁶ false information to
- (A) a law enforcement officer. A law enforcement officer is a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of the State.⁷

OR

- (B) a civil State Investigator assigned to the Office of Insurance Fraud Prosecutor.

The third element that the State must prove beyond a reasonable doubt is that the defendant acted with the purpose of hindering (Name)’s detention, apprehension, investigation,

⁴ *Note:* this does not apply to a warning given in connection with an effort to bring another into compliance with law, such as a fellow motorist warning speeders to slow down for a speed trap, or a lawyer advising a client to discontinue illegal activities. Commentary, supra, at 285.

⁵ For example, one might act as custodian of the proceeds of a bank robbery until the robbers should agree on a distribution, or help a thief to collect a reward for the return of stolen goods, or to exchange marked ransom money. Commentary, supra, at 285.

⁶ Prior to the enactment of P.L. 1999, c. 297 (December 23, 1999), this subsection read “volunteered false information . . . ,” which was read to mean taking the initiative in furnishing false information, rather than simply providing such information in response to questioning. State v. Valentine, 105 N.J. 14 (1987).

⁷ N.J.S.A. 2C:25-19c.

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prosecution, conviction or punishment for (offense).

A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if he/she is aware of the existence of such circumstances or he/she believes or hopes that they exist. Someone acts purposely if he/she acts with design, with a purpose, with a particular objective in mind, if he/she really means to do what he/she does. “With purpose,” “designed,” “with design,” or equivalent terms have the same meaning.⁸

A purpose to aid another to avoid arrest is not proved merely by showing that the defendant helped someone who was a fugitive, for such help may be provided with motivations having nothing to do with impeding law enforcement. Here, the objective of the defendant must have been to obstruct, to prevent, to hinder the authorities from arresting, prosecuting, investigating, convicting or punishing (Name) for an offense.

Purpose and knowledge are conditions of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. A state of mind is rarely susceptible of direct proof, but must ordinarily be inferred from the facts. Therefore, it is not necessary, members of the jury, that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she engaged in a particular act. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference which may arise from the nature of his/her acts and his/her conduct, and from all he/she said and did at the particular time and place, and from all of the surrounding circumstances.

If after considering all of the evidence you conclude that the State has proven each of these elements beyond a reasonable doubt, then you must find him/her guilty. On the other hand, if you find that the State has failed to prove any of these elements beyond a reasonable doubt, then you must find defendant not guilty.

AFFIRMATIVE DEFENSE (WHERE APPROPRIATE)

As part of his/her denial of guilt, the defendant claims that he/she is the [parent] [child] [spouse] [domestic partner] [civil union partner] of the person he/she allegedly aided.

⁸ N.J.S.A. 2C:2-2(b)(1).

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If after considering all of the evidence you conclude that the State has proved each of the elements beyond a reasonable doubt, and you further conclude that the State has proven beyond a reasonable doubt that the defendant is not the **[choose appropriate relationship]**, then you must find defendant guilty of hindering apprehension of his/her **[choose appropriate relationship]**.

If after considering all of the evidence you conclude that the State has proved each of the elements beyond a reasonable doubt, but you conclude that the State has not proven beyond a reasonable doubt that the defendant is not the **[choose appropriate relationship]**, then you must find defendant guilty of hindering apprehension of his/her **[choose appropriate relationship]**.