

HINDERING ONE’S OWN APPREHENSION OR PROSECUTION
(N.J.S.A. 2C:29-3b)

The defendant is charged with the offense of hindering his/her own 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 his own detention, apprehension, investigation, prosecution, conviction or punishment 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:29-3b(1) thru (4)].

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 he/she could/might be charged with (offense);
- (2) that the defendant **(read appropriate subsection of N.J.S.A. 2C:29-3b(1) to (4))**; and
- (3) that the defendant acted with purpose to hinder his/her own detention, apprehension, investigation, prosecution, conviction, or punishment.

The first element that the State must prove beyond a reasonable doubt is that the defendant must have known that he/she could/might be charged or was liable to be charged with (offense).¹

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

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). Note that the degree of this crime depends upon whether the offense that the defendant 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 (he/she) 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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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) (suppressed, by way of concealment or destruction, any evidence of the crime) **OR** (tampered with a document [or other source of information]), which (evidence, document, etc.) might aid in his/her discovery or apprehension or in the lodging of a charge against him/her.

OR

- (2) prevented or obstructed, by means of force or intimidation (name of person) from performing an act which might aid in his/her discovery or apprehension or in the lodging of a charge against him/her.

OR

- (3) prevented or obstructed, by means of force, intimidation or deception (name of witness or informant) from providing testimony or information which might aid in his/her discovery or apprehension or in the lodging of a charge against him/her.

OR

- (4) gave³ 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,

² N.J.S.A. 2C:2-2b(2).

³ 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. Valentin, 105 N.J. 14 (1987).

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apprehension, arrest and conviction of offenders against the laws of this State.⁴

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 his/her detention, apprehension, investigation, 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.⁵

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 the defendant 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 the defendant not guilty.

⁴ N.J.S.A. 2C:25-19c.

⁵ N.J.S.A. 2C:2-2b(1).