

**VIOLATION OF AN ORDER UNDER THE PREVENTION
OF DOMESTIC VIOLENCE ACT**
(N.J.S.A. 2C:29-9b)

The defendant, _____, is charged with the crime of violating a court order entered under the Prevention of Domestic Violence Act.

New Jersey statutes describe this crime as follows:

. . . a person is guilty of a crime. . . if that person purposely or knowingly violates [a] provision in an order entered under the provisions of the "Prevention of Domestic Violence Act . . . "when the conduct which constitutes the violation could also constitute a crime or a disorderly persons offense.¹

In order for the defendant to be found guilty of this crime, the State has the burden of proving beyond a reasonable doubt the following four elements:

1. There was a court order entered under the provisions of the "Prevention of Domestic Violence Act".
2. The defendant knew of the existence of the order.
3. The defendant purposely or knowingly violated a provision of the order.
4. The conduct which constituted the violation could also constitute a crime or a disorderly persons offense.

The first element is that there was a court order entered under the provisions of the "Prevention of Domestic Violence Act".

The second element is that the defendant knew of the existence of the order. I shall shortly define "knowingly" for you.

The third element is that the defendant purposely or knowingly violated a provision of the order.

¹ Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of N.J.S.A. 2C:25-29(b) shall be excluded from the provisions of this subsection.

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. "With purpose," "designed," "with design" or equivalent terms have the same meaning.

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) conduct will cause such a result. "Knowing," "with knowledge" or equivalent terms have the same meaning.

It is alleged that defendant violated [state specifics of Order] by the following conduct:

[Describe alleged acts.]

In order for you to find the defendant guilty of the crime charged, you must find that the defendant's conduct could also constitute the crime(s) of _____
or the disorderly persons offense(s) of _____.

[In cases in which the trials of the violation of domestic violence order charge and of the underlying indictable crime arising out of the same criminal episode have been severed, and are being tried sequentially before the same jury, the following language should be charged if the jury has already found the defendant guilty of either the indictable crime or a lesser included disorderly persons offense.² (This language, however, should not be charged where defendant affirmatively requests that it not be given³):

In regard to the fourth element, that defendant's conduct also constituted the (crime/disorderly persons) offense of _____, you must disregard your prior verdict

² See State V. Chenique-Puey, 145 N.J. 334 (1996) and State V. Ragland, 105 N.J. 189 (1986).

³ See Ragland, at 195.

finding defendant guilty of the (crime/disorderly persons offense) of _____. As with any other element, the State's burden is to prove this element beyond a reasonable doubt. In making the determination as to whether the State has met this burden, you may consider the evidence previously presented to you, as well as the court's instructions, pertaining to the (crime/disorderly persons offense) of _____⁴.]

[In cases not involving sequential trials, instruct on the elements of the applicable crime(s) and/or disorderly persons offense(s).]

If you find that the State has proven the first three elements beyond a reasonable doubt, that is, that there was a court order entered under the provisions of the Prevention of Domestic Violence Act, that the defendant knew of the existence of the order, and that (he/she) purposely or knowingly violated the provision of the order as described, but you are not satisfied beyond a reasonable doubt that the conduct which constituted the violation could also constitute a separate crime or disorderly persons offense, then the defendant must be found guilty of a less serious offense, namely a disorderly persons offense of violating a court order entered under the Prevention of Domestic Violence Act. Thus, you may return one of three possible verdicts on this charge: (1) guilty of the crime of violating a court order entered under the Prevention of Domestic Violence Act, which requires conduct that could also constitute a separate crime or disorderly persons offense, (2) guilty of the disorderly persons offense of violating a court order entered under the Prevention of Domestic Violence Act, which does not require conduct that could also constitute a separate crime or disorderly persons offense, or (3) not guilty.

To summarize, if you find that the State has failed to prove each and every one of the first three elements beyond a reasonable doubt, namely that there was a court order entered under the

⁴ The Court may wish to restate the elements of the underlying crime or disorderly persons offense if it is felt that a sufficient time period has elapsed since the jury was given its instructions on that crime or disorderly persons offense.

**Violation of An Order Under the
Prevention of Domestic Violence Act
(N.J.S.A) 2C:29-9b)**
Page 4 of 4

provisions of the Prevention of Domestic Violence Act, that the defendant knew of the existence of the order, and that (he/she) purposely or knowingly violated a provision of the order, you must find the defendant not guilty. If you find that the State has proven all of the first three elements beyond a reasonable doubt, but you are not satisfied beyond a reasonable doubt that the conduct which constituted the violation could also constitute a separate crime or disorderly persons offense, you must find the defendant guilty of the disorderly persons offense of violating an order under the Prevention of Domestic Violence Act. If you find that the State has proven all four elements beyond a reasonable doubt, including the element that the conduct which constituted the violation could also constitute a separate crime or disorderly persons offense, you must find the defendant guilty of the crime of violating an order under the Prevention of Domestic Violence Act.