

**ESCAPE IMPLEMENTS - INMATE PROVIDING HIMSELF**  
**(N.J.S.A. 2C:29-6a)**

Defendant is charged with the crime of providing himself/herself with an implement for escape while the defendant was an inmate of an institution or a detention facility.

The relevant statute provides that "an inmate [of an institution or detention facility] commits an offense if he knowingly and unlawfully procures, makes, or otherwise provides himself with, or has in his possession, [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 defendant was an inmate of an institution or detention facility;
- (2) That defendant procured, made, or otherwise provided himself/herself with, or had in his/her possession S1;
- (3) That S1 is a weapon, tool or other thing which may be useful for escape; and
- (4) That defendant acted both knowingly and unlawfully.

For these purposes, 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).

To procure an item is to acquire or obtain it from another; to make it is to manufacture or fashion it oneself; to otherwise provide oneself with it is to obtain it in some other way. Possession is the intentional exercise of dominion and control over an item with knowledge of its character. For the purposes of this element, it is not necessary that you resolve how or when defendant may have obtained S1 if you find beyond a reasonable doubt that the defendant procured, made, otherwise provided himself/herself with or possessed S1.

Escape means 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.<sup>1</sup>

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

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<sup>1</sup> 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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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, regulation or order of the detaining authority.

Again, the elements of the crime that the State must prove beyond a reasonable doubt are that defendant was an inmate of an institution or a detention facility; that defendant procured, made or otherwise provided himself/herself with or had in his/her possession S1; that S1 is a weapon, tool or other thing which may be useful for escape; 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. 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 providing oneself with an implement for escape while an inmate of an institution or a detention facility is a crime of the second degree if the implement for escape is a weapon and a crime of the third degree if it is not. Therefore, if you find the 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.<sup>2</sup>

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 providing himself/herself with an implement for escape while the defendant was an inmate of an institution or a detention facility, but also that the implement for escape 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 providing himself/herself with an implement for escape while he/she was an inmate of an institution or a detention facility, but you also find that the State has failed to prove beyond a reasonable doubt that the implement for escape is a weapon, then your verdict should be Guilty of the third degree offense.

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<sup>2</sup> N.J.S.A. 2C:39-1r. See the statute for particular examples.