USE OF A JUVENILE TO COMMIT A CRIMINAL OFFENSE
(N.J.S.A. 2C:24-9)

The defendant(s) is (are) charged in count _____ of the indictment with the crime of employing a juvenile to commit a criminal offense. **(Here read pertinent count of indictment).**

That section of our statutes provides in pertinent part that:

> Any person being at least 18 years of age who knowingly uses, solicits, directs, hires, employs or conspires with a person who is in fact 17 years of age or younger to commit a criminal offense is guilty of a crime.

In order for you to find the defendant guilty of this offense, the State must prove each of the following elements beyond a reasonable doubt:

(1)   That the defendant was at least 18 years of age;

(2)   That the defendant knowingly used, solicited, directed, hired, employed or conspired with __(Name)__ to commit or aid in the commission of the crime; and

(3)   That __(Name)__ was in fact 17 years of age or younger.

The first element that the State must prove beyond a reasonable doubt is that the defendant was at least 18 years old at the time he/she engaged in the conduct alleged in the indictment.

The second element that the State must prove beyond a reasonable doubt is that the defendant knowingly used, solicited, directed, hired, employed or conspired with __(Name)__ to commit or aid in the commission of the crime described in count _____ of the indictment. **(Read pertinent part of N.J.S.A. 2C:5-2 or the charge for the appropriate crime allegedly committed).[1]**

The mere fact that a juvenile and an adult are participants in the same criminal act is insufficient to prove this element of the offense; rather, the State must prove beyond a reasonable doubt that the defendant used, solicited, directed, hired, employed or conspired with __(Name)__.[2]

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

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[1]   If the court has already charged these substantive offenses, remind the jury of those definitions.

[2]   State v. Laws, 262 N.J. Super. 551, 561 (App. Div. 1993), certif. denied 134 N.J. 475 (1993).

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. Knowledge is a condition of the mind that cannot be seen and can only be determined by inference from conduct, words or acts. Therefore, it is not necessary that witnesses be produced by the State to testify that a defendant said that he/she knowingly did something. His/Her knowledge may be gathered from his/her acts and his/her conduct and from all he/she said and did at the particular time and place and from all the surrounding circumstances reflected in the testimony [and evidence adduced at trial].

The third element that the State must prove beyond a reasonable doubt is that the person used, solicited, directed, hired, employed or conspired with was in fact 17 years of age or younger at the time. It is no defense to a prosecution under this statute that the defendant mistakenly believed that the person whom he/she used, solicited, directed, hired, employed, or conspired with was 18 years of age or older, even if that mistaken belief was reasonable.

If you find that the State has proven beyond a reasonable doubt each of the three elements, that is, that the defendant was at least 18 years old, that he/she knowingly used, solicited, directed, hired, employed or conspired with ___(Name)___, and that ___(Name)___ was 17 years old or younger, then you must convict him/her of employing a juvenile to commit a criminal offense. If the State has failed to prove any of these elements beyond a reasonable doubt, then you must find the defendant not guilty.