

**ABUSE/CRUELTY TO CHILD  
(NON-PARENT/GUARDIAN/PERSON HAVING CONTROL)  
(N.J.S.A. 9:6-1; N.J.S.A. 9:6-3)**

Count \_\_\_\_\_ of the indictment charges defendant with [abusing] [acting cruelly toward] a child.

The statute upon which this count of the indictment is based states in pertinent part

Any person who [abuses][acts cruelly toward] a child . . . is guilty of a crime.

In order to find defendant guilty of this crime, the State must prove beyond a reasonable doubt

1. That the victim was a child.
2. That the defendant knowingly<sup>1</sup> [abused] [acted cruelly toward] the victim.

The first element that the State must prove beyond a reasonable doubt is that (name of child) is a child. A “child” means any person under the age of eighteen (18) years at the time of the offense.

The second element that the State must prove beyond a reasonable doubt is that defendant knowingly abused (name of child) by (**choose appropriate**<sup>2</sup>)

- (a) disposing of his/her custody contrary to law.
- (b) employing or permitting (him/her) to be employed in any vocation or employment injurious to (his/her) health or dangerous to (his/her) life or limb, or contrary to the laws of New Jersey.
- (c) employing or permitting (him/her) to be employed in any occupation,

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<sup>1</sup> The State must prove that the defendant’s conduct was knowing to convict of a Title 9 criminal offense. State v. Overton, 357 N.J. Super. 387, 393 (App. Div.), certif. denied, 177 N.J. 219 (2003).

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employment or vocation dangerous to the morals of the child.

- (d) habitually using, in the hearing of (name of child) profane, indecent or obscene language.
- (e) performing any indecent, immoral or unlawful act or deed in the presence of (name of child) that may tend to debauch or endanger or degrade the morals of (name of child).
- (f) permitting or allowing any other person to perform any indecent, immoral or unlawful act or deed in the presence of (name of child) that may tend to debauch or endanger or degrade the morals of (name of child).
- (g) using excessive physical restraint on (name of child) under circumstances which did not indicate that (name of child)'s behavior was harmful to (himself/herself), others or property.
- (h) in an institution, isolating (name of child) from ordinary social contact under circumstances which indicate emotional or social deprivation.

**OR**

The second element that the State must prove beyond a reasonable doubt is that defendant knowingly acted cruelly toward (name of child) by (**choose appropriate**<sup>3</sup>)

- (a) inflicting on (him/her) unnecessarily severe corporal punishment.
- (b) inflicting on (him/her) unnecessary suffering or pain, either mental or physical.
- (c) habitually tormenting, vexing, or afflicting (him/her).

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<sup>2</sup> See N.J.S.A. 9:6-1.

<sup>3</sup> See N.J.S.A. 9:6-1.

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- (d) committing any act of omission or commission whereby unnecessary pain and suffering, whether mental or physical, was caused or permitted to be inflicted on (him/her).
- (e) exposing (him/her) to unnecessary hardship, fatigue or mental or physical strains that might tend to injure (his/her) health or physical or moral well being.

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

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences 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 inferences 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.

If you find that the State has proven every element of the offense beyond a reasonable doubt, then you must find defendant guilty. If you find that the State has failed to prove any element beyond a reasonable doubt, then you must find defendant not guilty.