

**INTERFERENCE WITH MONITORING DEVICE**  
**(N.J.S.A. 30:4-123.95)**

Count \_\_\_\_\_ of the indictment charges defendant with the crime of interference with a monitoring device.

**[READ COUNT OF INDICTMENT]**

That statute provides in pertinent part:

Any person who tampers with, removes or vandalizes a device worn or utilized by a monitored subject is guilty of a crime.

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

1. that the defendant tampered with, removed or vandalized a monitoring device;
2. that the monitoring device was worn or utilized by a monitored subject; and
3. that the defendant acted knowingly.

The first element that the State must prove beyond a reasonable doubt is that defendant tampered with, removed or vandalized a monitoring device.<sup>1</sup> A monitoring device is a device used to provide for a system of continuous satellite-based monitoring.<sup>2</sup>

A monitoring system provides:

1. Time-correlated or continuous tracking of the geographic location of the monitored subject using a global positioning system based on satellite and other location technology; and/or

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<sup>1</sup> If the Defendant is someone other than the monitored subject, consider using the Model Criminal Jury Charge on Accomplice Liability, pursuant to N.J.S.A. 2C:2-6.

<sup>2</sup> N.J.S.A. 30:4-123.92a.

**INTERFERENCE WITH MONITORING DEVICE**  
**(N.J.S.A. 30:4-123.95)**

2. An automated monitoring system that can be used to permit law enforcement agencies to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was in the proximity of such reported crime incidents.<sup>3</sup>

The second element that the State must prove beyond a reasonable doubt is that the monitoring device was worn by a monitored subject. A “monitored subject” means a person who has been determined by the New Jersey State Parole Board to be appropriate for continuous satellite-based monitoring of his/her geographic location.<sup>4</sup>

The third element that the State must prove beyond a reasonable doubt is that defendant acted knowingly.<sup>5</sup> 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 if he/she is aware of a high probability of their existence. A person acts knowingly with respect to the result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result.<sup>6</sup>

Knowledge is a condition of the mind that cannot be seen and that can be determined only 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 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,

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<sup>3</sup> N.J.S.A. 30:4-123.92b.

<sup>4</sup> N.J.S.A. 30:4-123.91a. and b.

<sup>5</sup> Because there is no mental state specified in the statute, the knowing state of mind applies by virtue of N.J.S.A. 2C:2-2c(3).

<sup>6</sup> N.J.S.A. 2C:2-2b(2).

**INTERFERENCE WITH MONITORING DEVICE**  
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which may arise from the nature of the defendant's acts and conduct, from all that he/she said and did at the particular time and place, and from all surrounding circumstances.

If you find that the State has proven all of these three elements beyond a reasonable doubt, you must find the defendant guilty. If the State has failed to prove any of these elements beyond a reasonable doubt, you must find the defendant not guilty.