

LURING
(N.J.S.A. 2C:13-6)

The defendant is charged in Count _____ of the indictment with luring.

[Read Count of Indictment]

The statute upon which this Count of the Indictment is based states in pertinent part that:

A person is guilty of luring if he attempts, via electronic or any other means, to lure or entice a child or one who he reasonably believes to be a child into a motor vehicle, structure or isolated area, or to meet or appear at any other place, with a purpose to commit a criminal offense with or against the child.

To find defendant guilty of this crime, the State must prove beyond a reasonable doubt these elements:

1. That _____ (**name**) was a child

OR

1. That defendant reasonably believed that (**name**) was a child.
2. That defendant attempted to lure or entice (**name**) into a motor vehicle, structure or isolated area or to meet or appear at any other place; and
3. That defendant had a purpose to commit a criminal offense with or against the child.

The first element that the State must prove beyond a reasonable doubt is [**choose one**] [**that (name) was a child**] [**that defendant reasonably believed that (name) was 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 attempted¹, via electronic or other means, to lure or entice (**name**) into [**Choose appropriate**] [**a motor vehicle**], [**a structure**] [**an isolated area**], [**meeting or appearing at any other place**].

¹ Child luring does not involve an attempt to commit some other substantive offense. State v. Perez, 177 N.J. 540, 551 (2003). Rather, like the eluding and witness tampering statutes, the mere act of trying to entice a child is criminalized. Id. at 550-51. See also State v. Mendez, 345 N.J. Super. 498, 506 (App. Div. 2001), aff’d 175 N.J. 201 (2002). Thus, the attempt statute, N.J.S.A. 2C:5-1, is not implicated, State v. Perez, 177 N.J. at 553, and need not be charged to the jury.

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“Attempted” means “to try.”

“Lure” or “Entice” means to attract, tempt, induce or coax.²

“Motor vehicle” means all vehicles propelled other than by muscular power, except vehicles that run only on rails or tracks. Motor vehicle includes motorcycles, motorized bicycles, trailers and tractors.³

“Electronic means” includes, but is not limited to the Internet. “Internet” means the international computer network of both federal and non-federal interoperable packet switched data networks.⁴

“Structure” means any building, room, ship, vessel or airplane and also means any place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present.⁵

The third element that the State must prove beyond a reasonable doubt is that defendant’s purpose was to commit a criminal offense. “Criminal offense” means a breach or violation of the criminal laws by conduct for which a defendant could be sent to jail for more than six months. Here, the State alleges that the defendant’s purpose was to _____ which is an offense for which a defendant could be sent to jail for more than six months. You must not rely upon your own notions of the unlawfulness of some other undescribed purpose of defendant; rather, you must consider whether the State has proven the specific unlawful purpose charged.⁶ The unlawful purpose alleged by the State may be inferred from all that was said or done and from all of the surrounding circumstances of this case.⁷

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

² Webster’s New World Dictionary, Third College Edition (1988); Black’s Law Dictionary (5th ed. 1979), p. 477 (defining entice).

³ N.J.S.A. 39:10-2.

⁴ N.J.S.A. 2C:24-4b(1).

⁵ N.J.S.A. 2C:13-6.

⁶ State v. Olivera, 344 N.J. Super. 583, 592, 594 (App. Div. 2001).

⁷ Cf. State v. Petties, 139 N.J. 310, 316 (1995).

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person acts purposely with respect to attendant circumstances if the individual is aware of the existence of such circumstances or the individual believes or hopes that they exist. “With purpose,” “designed,” “with design” or equivalent terms have the same meaning.

The term purposely is a condition of the mind. A condition of the mind 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 the State has failed to prove any element of the offense beyond a reasonable doubt, you must find defendant not guilty of luring or enticing the child. If, however, the State has proved each element of the offense beyond a reasonable doubt, you must find defendant guilty of luring or enticing the child.