

**CRIMINAL SOLICITATION FIRST DEGREE**  
**(Solicits class A felony and person solicited under 16)**  
**Penal Law § 100.13**  
**(Committed on or after Sept. 1, 1978)**

The (specify) count is Criminal Solicitation in the First Degree.

Under our law, a person is guilty of Criminal Solicitation in the First Degree when, being over eighteen years of age, with intent that another person under sixteen years of age engage in conduct that would constitute a class A felony, he or she solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

The following term used in that definition has a special meaning:

INTENT means conscious objective or purpose.<sup>1</sup> Thus, a person acts with the intent that another person under sixteen years of age engage in conduct that would constitute a class A felony when his or her conscious objective or purpose is that such other person engage in such conduct.

Under our law, (specify the solicited felony) is a class A felony. A person is guilty of (specify the solicited felony), when (read the applicable portion of the statutory definition of the solicited felony).

Under our law, it is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the crime solicited owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose or to other factors precluding the mental state required for the commission of the crime in question.<sup>2</sup> In other words, a

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<sup>1</sup> See Penal Law § 15.05(1). If necessary, an expanded definition of "intent" is available in the section on Instructions of General Applicability under Culpable Mental States.

<sup>2</sup> Penal Law § 100.15.

defendant may be convicted of solicitation even though the person solicited could not be guilty of (specify the crime solicited).

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about \_\_(date)\_\_, in the County of \_\_(county), the defendant, (defendant's name), who was over eighteen years of age, solicited, requested, commanded, importuned, or otherwise attempted to cause another person who was under sixteen years of age, namely (specify), to engage in conduct that would constitute a class A felony, namely (specify); and
2. That the defendant did so with the intent that a person under sixteen years of age, namely (specify), engage in that conduct.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.