

Reviewed by Committee 2/16/01, 3/16/01 6/15/01 and 7/20/01
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MENTAL STATES - KNOWINGLY¹

DRAFT

Part of the definition of the crime of _____ is that the defendant acted knowingly. A person acts knowingly when he/she is aware of the nature of his/her conduct or the circumstance under which he/she acted. The state does not have to prove that the defendant specifically intended or desired a particular result. What the state must prove is that the defendant [was aware that his/she conduct would cause a certain result] [was aware of the nature of his/her conduct] [was aware of the circumstance under which he/she engaged in the conduct].^{2, 3}

¹ This instruction is appropriate when the mental state at issue is willfully unless a purpose to impose further requirements appears. R.S.A. 626:2, IV

² In the appropriate case, the jury may be instructed that proof of a higher mental state satisfies the charged mental state. *See* R.S.A. 626:2, III; *State v. Bathalon*, 146 N.H. 485 (2001).

³ The court and counsel should determine for the crime at issue which elements the mental state applies to, that is, which elements are material elements, as opposed to merely elements. *See* R.S.A. 625:11, IV. Unless a contrary intent plainly appears in the statute defining the crime at issue, the required mental state applies to all material elements. *See* R.S.A. 626:1, I.