

202.80 FELONIOUS CONSPIRACY<sup>1</sup>.

*NOTE WELL: Unless the statute provides otherwise, conspiracy is punished one class lower than the substantive offense.*

The defendant has been charged with feloniously conspiring to commit (*name crime; e.g., "larceny"*).

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant and (*name other person or persons*)<sup>2</sup> entered into an agreement.

Second, that the agreement was to commit (*name crime, e.g., "larceny"*). (*Name crime*) is (*describe elements of the crime.*)

And Third, that the defendant and (*name other person or persons*) intended that the agreement be carried out at the time it was made.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant agreed with (*name other person or persons*) to commit (*name crime; e.g., "larceny"*), and that the defendant and that (those) person(s) intended at the time the agreement was made that it would be carried out, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

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1. "A criminal conspiracy is an agreement between two or more people to do an unlawful act or to do a lawful act in an unlawful manner. In order to prove conspiracy, the State need not prove an express agreement; evidence tending to show a mutual, implied

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understanding will suffice. This evidence may be circumstantial or inferred from the defendant's behavior. The crime of conspiracy does not require an overt act for its completion; the agreement itself is the crime." *State v. Shelly*, 181 N.C. App. 196 (2007) (citations omitted).

2. If one or more co-conspirators are named in the indictment state their names. The jury must find that the defendant entered into an agreement with at least one of the named persons. *State v. Minter*, 111 N.C. App. 40 (1993), *cert. denied*, 335 N.C. 241 (1993). *See also, State v. Mickey*, 207 N.C. 608 (1935).