

## Chapter 4

### SPECIFIC OFFENSES

#### A. ANTICIPATORY OFFENSES

##### 401 CRIMINAL SOLICITATION IN THE FIFTH DEGREE

A Native American is guilty of criminal solicitation in the fifth degree when, with intent that another person engage in conduct constituting a crime, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

Criminal solicitation in the fifth degree is a violation.

##### 402 CRIMINAL SOLICITATION IN THE FOURTH DEGREE

A Native American is guilty of criminal solicitation in the fourth degree when:

1. with intent that another person engage in conduct constituting a felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct; or
2. being over eighteen years of age, with intent that another person under sixteen years of age engage in conduct that would constitute a crime, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

Criminal solicitation in the fourth degree is a misdemeanor.

##### 403 CRIMINAL SOLICITATION IN THE THIRD DEGREE

A Native American is guilty of criminal solicitation in the third 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 felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

Criminal solicitation in the third degree is a felony.

##### 404 CRIMINAL SOLICITATION IN THE SECOND DEGREE

A Native American is guilty of criminal solicitation in the second degree when, with intent that another person engage in conduct constituting a felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

Criminal solicitation in the second degree is a felony.

#### **405 CRIMINAL SOLICITATION IN THE FIRST DEGREE**

A Native American 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 felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct.

Criminal solicitation in the first degree is a felony.

#### **406 CRIMINAL SOLICITATION; NO DEFENSE**

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.

#### **407 CRIMINAL SOLICITATION; EXEMPTION**

A Native American is not guilty of criminal solicitation when his solicitation constitutes conduct of a kind that is necessarily incidental to the commission of the crime solicited. When under such circumstances the solicitation constitutes an offense other than criminal solicitation which is related to but separate from the crime solicited, the actor is guilty of such related and separate offense only and not of criminal solicitation.

### **B. CONSPIRACY**

#### **408 CONSPIRACY IN THE SIXTH DEGREE**

A Native American is guilty of conspiracy in the sixth degree when, with intent that conduct constituting a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct.

Conspiracy in the sixth degree is a misdemeanor.

#### **409 CONSPIRACY IN THE FIFTH DEGREE**

A Native American is guilty of conspiracy in the fifth degree when, with intent that conduct constituting:

1. a felony be performed, he agrees with one or more persons to engage in or