

11.13 VOYEURISM

§ 810.14, Fla. Stat.

To prove the crime of Voyeurism, the State must prove the following [three] [four] elements beyond a reasonable doubt:

Give if § 810.14(1)(a), Fla. Stat. is charged.

1. (Defendant) **secretly observed** (victim).
2. (Defendant's) **observation was done with a lewd, lascivious, or indecent intent.**
3. **When (victim) was observed, (victim) was in a [dwelling] [structure] [conveyance] in which [he] [she] had a reasonable expectation of privacy.**

Give if § 810.14(1)(b), Fla. Stat. is charged.

1. (Defendant) **secretly observed any portion of (victim's) body or undergarments that were covered by clothing and were intended to be protected from public view.**
2. (Defendant's) **observation was done with a lewd, lascivious, or indecent intent.**
3. **At the time, (victim) was located in a public or private [dwelling] [structure] [conveyance].**
4. (Victim) **had a reasonable expectation of privacy in the portion of [his] [her] body or undergarments observed by (defendant).**

The words lewd, lascivious, and indecent mean the same thing: a wicked, lustful, unchaste, licentious, or sensual intent on the part of the person doing the act.

Definitions. Give as applicable. Jacobs v. State, 41 So. 3d 1004 (Fla. 1st DCA 2010).

“Dwelling” means a building [or conveyance] of any kind, including any attached porch [or attached garage], whether such building [or conveyance] is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the enclosed space of ground and outbuildings immediately surrounding it. The enclosure need not be continuous and may have an opening for entering and exiting.

Jacobs v. State, 41 So. 3d 1004 (Fla. 1st DCA 2010).

“Structure” means any kind of building, either temporary or permanent, that has a roof over it, together with the enclosed space of ground and outbuildings immediately surrounding it. The enclosure need not be continuous and may have an opening for entering and exiting.

“Conveyance” means any motor vehicle, ship, vessel, railroad car, trailer, aircraft or sleeping car.

Lesser Included Offenses

VOYEURISM — 810.14

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

It is error to inform the jury of a prior conviction before a determination of guilt of the charged offense. Therefore, do not read the allegation of prior conviction or send the information or indictment into the jury room. If the defendant is convicted of the current charge, the historical fact of a previous conviction shall be determined beyond a reasonable doubt by the jury in a bifurcated proceeding. *State v. Harbaugh*, 754 So. 2d 691 (Fla. 2000).

This instruction was adopted in 2000 [765 So. 2d 692] and amended in 2008 [982 So. 2d 1160], 2013 [122 So. 3d 263], and 2015.