

12.4(a) CRIMINAL MISCHIEF – [MEMORIAL] [HISTORIC PROPERTY]

§ 806.13(3), Fla. Stat.

To prove the crime of Criminal Mischief – [Memorial] [Historic Property], the State must prove the following four elements beyond a reasonable doubt:

1. (Defendant) defaced, injured, or damaged [a memorial] [historic property].
2. The [memorial] [historic property] was defaced, injured, or damaged without the consent of the owner.
3. The defacement, injury, or damage was done willfully and maliciously.
4. The damage to the [memorial] [historic property] was greater than \$200.

Definitions.

“Willfully” means intentionally, knowingly, and purposely.

“Maliciously” means wrongfully, intentionally, without legal justification or excuse, and with the knowledge that injury or damage will or may be caused to the property of another person.

Give as applicable. § 806.135(1), Fla. Stat.

“Memorial” means a plaque, statue, marker, flag, banner, cenotaph, religious symbol, painting, seal, tombstone, structure name, or display that is constructed and located with the intent of being permanently displayed or perpetually maintained; is dedicated to a historical person, an entity, an event, or a series of events; and honors or recounts the military service of any past or present United States Armed Forces military personnel, or the past or present public service of a resident of the geographical area comprising the state or the United States.

“Historic Property” means any building, structure, site, or object that has been officially designated as a historic building, historic structure, historic site, or historic object through a federal, state, or local designation program.

Lesser Included Offenses

CRIMINAL MISCHIEF [MEMORIAL] [HISTORIC PROPERTY] — 806.13(3)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Criminal Mischief		806.13(1)(b)1	12.4
	Criminal Mischief	806.13(1)(b)3	12.4
	Criminal Mischief	806.13(1)(b)2	12.4
	Attempt	777.04(1)	5.1

Comment

This instruction was adopted on December 15, 2021.