

**20.15 FRAUDULENT USE OF PERSONAL IDENTIFICATION INFORMATION OF A
[MINOR] [PERSON SIXTY YEARS OF AGE OR OLDER]**

§ 817.568(6), Fla. Stat.

To prove the crime of Fraudulent Use of Personal Identification Information of a [Minor] [Person Sixty Years of Age or Older], the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **willfully and without authorization fraudulently used personal identification information concerning** (victim).
2. **At the time,** (victim) **was** [younger than 18 years of age] [60 years of age or older].
3. (Defendant) **did so without first obtaining the consent of** (victim) [or [his] [her] legal guardian].

Definitions.

“Willfully” means intentionally, knowingly, and purposely.

“Fraudulently” means purposely or intentionally suppressing the truth or perpetrating a deception.

§ 817.568(1)(b), Fla. Stat.

“Authorization” means empowerment, permission, or competence to act.

§ 817.568(1)(f), Fla. Stat.

“Personal identification information” means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any name, postal or electronic mail address, telephone number, social security number, date of birth, mother’s maiden name, official state or United States issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer’s identification number, Medicaid or food stamp account number, bank account number, credit or debit card number or personal identification number or code assigned to the holder of a debit card by the issuer to permit authorized use of such card, unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation, unique electronic identification number, address, or routing code, medical record, telecommunication identifying information or access device, or other number or information that can be used to access a person’s financial resources.

§ 817.568(1)(e), Fla. Stat.

The word **“person”** includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

Reclassification. § 817.568(5), Fla. Stat. and § 119.011, Fla. Stat.

If you find (defendant) guilty of Fraudulent Use of Personal Identification Information of a [Minor] [Person Sixty Years of Age or Older], you must then determine whether the State has further proved beyond a reasonable doubt that the crime was facilitated or furthered by the use of a public record. “Public record” means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Reclassification. § 817.568(10), Fla. Stat. Give a. and/or b. as applicable.

If you find (defendant) guilty of Fraudulent Use of Personal Identification Information of a [Minor] [Person Sixty Years of Age or Older], you must then determine whether the State has further proved beyond a reasonable doubt that [he] [she], for the purpose of obtaining or using personal identification information,

- a. misrepresented [himself] [herself] to be [a law enforcement officer] [an employee or representative of a bank, credit card company, credit counseling company or credit reporting agency].**
- b. wrongfully represented that [he] [she] was seeking to assist (victim) with (victim’s) credit history.**

Lesser Included Offense

FRAUDULENT USE OF PERSONAL IDENTIFICATION INFORMATION OF A [MINOR] [PERSON SIXTY YEARS OF AGE OR OLDER — 817.568(6)]

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
*Fraudulent Use of Personal Identification Information		817.568(2)(a)	20.13
*Unlawful Possession of the Personal Identification Information of Another Person		817.5685	20.18(a)
	Attempt	777.04(1)	5.1
	Unauthorized possession of and other unlawful acts in relation to driver’s license or identification card	322.212	

Comments

*The part of § 817.568(2)(a), Fla. Stat., that covers the defendant willfully and without authorization fraudulently using the victim's personal identification information is a necessary lesser included offense of this crime. However, it is unclear whether the courts will hold that someone charged solely with fraudulent use of personal identification information is necessarily charged with possession with intent to fraudulently use personal identification information or unlawful possession of personal identification information. In an abundance of caution, the Committee on Standard Jury Instructions in Criminal Cases put all of § 817.568(2)(a), Fla. Stat., and § 817.5685, Fla. Stat., in the Category One box.

This instruction was adopted in 2007 [962 So. 2d 310] and amended in 2015 [176 So. 3d 938], 2016 [202 So. 3d 830], and 2018.