

20.7 WELFARE FRAUD — ADMINISTRATOR MISAPPROPRIATING

§§ 414.39(3)(a) and (3)(b), Fla. Stat.

To prove the crime of Welfare Fraud — Administrator Misappropriating, the State must prove the following [two] [three] elements beyond a reasonable doubt:

§ 414.39(3)(a), Fla. Stat.

1. (Defendant) **had duties [in the administration of a state or federally funded assistance program] [in the distribution of state or federally funded public assistance] [or] [in the authorizations or identifications of those to obtain public assistance under a state or federally funded public assistance program].**
2. (Defendant), **by virtue of [his] [her] position, [had been entrusted with] [gained possession of] [food assistance] [an authorization for food assistance] [a certificate of eligibility for prescribed medicine] [a Medicaid identification card] [or] [public assistance from any state or federally funded program].**
3. (Defendant) **[fraudulently misappropriated] [attempted to misappropriate] [or] [aided and abetted another in the misappropriation of] [food assistance] [an authorization for food assistance] [a certificate of eligibility for prescribed medicine] [a Medicaid identification card] [or] [public assistance from any state or federally funded program].**

§ 414.39(3)(b), Fla. Stat.

1. (Defendant) **had duties [in the administration of a state or federally funded assistance program] [in the distribution of state or federally funded public assistance] [or] [in the authorizations or identifications of those to obtain public assistance under a state or federally funded public assistance program].**
2. (Defendant) **knowingly [misappropriated] [attempted to misappropriate] [aided or abetted another in the misappropriation of] [funds given in exchange for food assistance program benefits] [any form of food assistance benefits authorization].**

§ 414.39(5), Fla. Stat.

If you find (Defendant) guilty of Welfare Fraud, you must also determine if the State proved beyond a reasonable doubt whether the value of the public assistance or identification wrongfully [received] [retained] [misappropriated] [sought] [used] was:

- a. **less than an aggregate value of \$200 in any 12 consecutive months.**
- b. **an aggregate value of \$200 or more, but less than \$20,000 in any 12 consecutive months.**
- c. **an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months.**
- d. **\$100,000 or more in any 12 consecutive months.**

§ 414.39(5)(e), Fla. Stat.

The value of a food assistance authorization benefit is the cash or exchange value unlawfully obtained by the fraudulent act.

Definitions. Give as applicable.

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

§ 414.39(5)(f), Fla. Stat.

“Fraud” includes the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, and the stealing of financial instruments, data, and other assets.

An “attempt” to commit a crime is the formation of an intent to commit that crime and the doing of some act toward the commission of the crime other than mere preparation to commit the crime.

“Aid or abet” means help, assist or facilitate.

“Knowingly” means with actual knowledge and understanding of the facts or the truth.

Optional Definition

“Knowingly” means an act done voluntarily and intentionally and not because of mistake or accident or other innocent reason. (Devitt & Blackmar Federal Jury Practice and Instructions, Sec. 16.07)

Give if applicable. § 414.39(7), Fla. Stat.

It is not a defense that the defendant repaid the assistance or services obtained [or returned the authorization or identification wrongfully obtained].

Inferences. Give as applicable.

§ 414.39(8)(a), Fla. Stat.

You may conclude that (defendant) did receive public assistance from the state if you find that there was a paid state warrant made to the order of the defendant.

§ 414.39(8)(b), Fla. Stat.

You may conclude that an identified recipient received public assistance from the state if you find that a transaction history generated by a Personal Identification Number (PIN) established a purchase or withdrawal by electronic benefit transfer.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comment

This instruction was adopted in 1981 and amended in 2015.