

21.11 HARASSING A [WITNESS] [VICTIM] [INFORMANT]

§ 914.22(3), Fla. Stat.

To prove the crime of Harassing a [Witness] [Victim] [Informant] [Person], the State must prove the following three elements beyond a reasonable doubt:

Give as applicable.

- 1. (Defendant) intentionally [harassed] [attempted to harass] (name of person).**
- 2. (Defendant) thereby [hindered] [attempted to hinder] [delayed] [attempted to delay] [prevented] [attempted to prevent] [dissuaded] [attempted to dissuade] [a person] [(name of person)] from**
 - a. attending or testifying in an official proceeding or cooperating in an official investigation.**
 - b. reporting to a law enforcement officer or judge the commission or possible commission of [an offense] [a violation of a condition of [probation] [parole] [release pending a judicial proceeding]].**
 - c. arresting or seeking the arrest of another person in connection with an offense.**
 - d. causing a [criminal prosecution] [[parole] [probation] revocation proceeding] to be sought or instituted or from assisting in such [prosecution] [proceeding].**
- 3. The [official investigation] [official proceeding] [offense] [violation of a condition of [probation] [parole] [release]] [affected] [attempted to be affected], involved the investigation or prosecution of a[n]**
 - [non-criminal offense]**
 - [misdemeanor]**
 - [third degree felony]**
 - [second degree felony]**
 - [first degree felony [punishable by a term of years not exceeding life]]**
 - [life felony]**
 - [capital felony]**
 - [offense of indeterminable degree].**

The Court instructs you that a[n] (name of offense) is a[n] (insert appropriate severity level of offense).

Give if requested and if applicable.

§ 914.22(5)(a), Fla. Stat.

The State does not have to prove that an official proceeding was pending or about to be instituted at the time of this alleged offense.

§ 914.22(5)(b), Fla. Stat.

The State does not have to prove that the testimony or the record, document, or other thing was admissible in evidence [or free from a claim of privilege].

§ 914.22(6)(a), Fla. Stat.

The State does not have to prove that the defendant knew or should have known that the official proceeding before a judge, court, grand jury, or government agency, was before a judge or court of the state, a state or local grand jury, or a state agency.

§ 914.22(6)(b), Fla. Stat.

The State does not have to prove that the defendant knew or should have known that the judge is a judge of the state or that the law enforcement officer is an officer or employee of the state or a person authorized to act for or on behalf of the state or serving the state as an adviser or consultant.

Definitions. § 914.21, Fla. Stat. Give as applicable.

“Official investigation” means any investigation instituted by a law enforcement agency or prosecuting officer of the state or a political subdivision of the state or the Commission on Ethics.

“Official proceeding” means:

- a. A proceeding before a judge or court or a grand jury;**
- b. A proceeding before the Legislature;**
- c. A proceeding before a federal agency that is authorized by law; or**
- d. A proceeding before the Commission on Ethics.**

Lesser Included Offense

The degree of this crime depends on the severity of the underlying offense that is the subject of the harassment. § 914.22(4), Fla. Stat.

Comment

This instruction was adopted in 2013 [131 So. 3d 720] and amended in 2018 [260 So. 3d 1024], and on April 25, 2023.