

21.8 TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE

§ 918.13 Fla. Stat.

To prove the crime of [Tampering with] [Fabricating] Physical Evidence, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant) **knew that a criminal trial, proceeding, or investigation by a duly constituted prosecuting authority, law enforcement agency, grand jury or legislative committee of Florida was pending or was about to be instituted.**

Give 2a or 2b or both as applicable.

2. a. (Defendant) **[altered] [destroyed] [concealed] [removed] any record, document, or other item, with the purpose to impair its [verity] [availability] in such proceeding or investigation.**

- b. (Defendant) **[made] [presented] [used] any record, document, or other item, knowing it to be false.**

Give if § 918.13(2)(b), Fla. Stat. is charged.

If you find the defendant guilty of [Tampering with] [Fabricating] Physical Evidence, you must further determine whether the State has proven beyond a reasonable doubt that the [tampering] [fabricating] related to a criminal trial, proceeding, or investigation related to a capital felony.

The Court instructs you that (name of capital felony) **is a capital felony. If necessary, define elements of the capital felony but do not instruct on the State's burden of proof when defining that crime.**

Lesser Included Offense

21.8 [TAMPERING WITH] [FABRICATING] PHYSICAL EVIDENCE — 918.13			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comment

This instruction was adopted in 2010 [44 So. 3d 565] and amended in 2013 [131 So. 3d 755], and on December 21, 2022.