26.9 MONEY LAUNDERING
§ 896.101(3)(a), (3)(b), or (3)(c), Fla. Stat.

Give if § 896.101(3)(a), Fla. Stat. is charged:
To prove the crime of Money Laundering, the State must prove the following five elements beyond a reasonable doubt:

1. (Defendant) [**conducted] [attempted to conduct] a financial transaction.**

2. **The money or property involved in the financial transaction represented the proceeds of** (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged)**.**

3. (Defendant) **knew the money or property involved in the financial transaction represented the proceeds of some form of unlawful activity.**

Give 4a and/or 4b as applicable.
4. **a.** (Defendant) **did so with the intent to promote the carrying on of** (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged)**.**

b. (Defendant) **knew that the transaction was designed in whole or in part**

i. to [conceal] [disguise] the [nature] [location] [source] [ownership] [control] of the proceeds of (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged)**;**

[or]

ii. to avoid a [transaction reporting requirement] [money transmitters' registration requirement] under state law.

5. **The money or property involved in the financial transaction exceeded $300 in any 12-month period.**

Give if § 896.101(3)(b), Fla. Stat. is charged:
To prove the crime of Money Laundering, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **[transported] [attempted to transport] [a monetary instrument] [funds].**

Give 2a and/or 2b as applicable.
2. **a. (Defendant) did so with the intent to promote the carrying on of (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged);**

[or]

b. (Defendant) **knew that the [monetary instrument] [funds] involved in the transportation represented the proceeds of some form of unlawful activity and also**

knew that such transportation was designed in whole or in part

i. [to conceal] [to disguise] the [nature] [location] [source] [ownership] [control] of the proceeds of (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged);

[or]

ii. to avoid a [transaction reporting requirement] [money transmitters' registration requirement] under state law.

3. The money or property involved in the financial transaction exceeded $300 in any 12-month period.

Give if § 896.101(3)(c), Fla. Stat. is charged:

To prove the crime of Money Laundering, the State must prove the following four elements beyond a reasonable doubt:

1. (Defendant) **[conducted] [attempted to conduct] a financial transaction.**

2. The financial transaction involved [property] [proceeds] which [an investigative or law enforcement officer] [someone acting under an investigative or law enforcement officer's direction] represented as being [derived from] [used to conduct or facilitate] (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged)**.**

3. (Defendant) **did so with the intent to**

Give 3a and/or 3b and/or 3c as applicable.

a. promote the carrying on of (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged)**;**

[or]

b. [conceal] [disguise] the [nature] [location] [source] [ownership] [control] of the [proceeds] [property believed to be the proceeds] of (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged)**;**

[or]

c. avoid a transaction reporting requirement under state law.

4. The money or property involved in the financial transaction exceeded $300 in any 12-month period.

Give in all cases.

A[n] (name of the specified unlawful activity in § 895.02(8)(a)1.–50. alleged) **consists of** (give elements of the specified unlawful activity alleged)**.** *(If applicable, also explain attempt, conspiracy, solicitation, coercion, and/or intimidation to commit the specified unlawful activity.)*

Give if applicable. § 896.101(4), Fla. Stat.

It is not a defense to Money Laundering that:

(a) Any stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed.

(b) A facility or an opportunity to engage in conduct in violation of this act was provided.

(c) A law enforcement officer, or person acting under direction of a law enforcement officer, solicited a person predisposed to engage in conduct in violation of any provision of this chapter to commit a violation of this chapter in order to gain evidence against that person, provided such solicitation would not induce an ordinary law-abiding person to violate this law.

Note to Judge: This subsection does not preclude the defense of entrapment. See jury instruction 3.6(j).

Definitions.

§ 896.101(2)(e), Fla. Stat.

Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state or federal law, regardless of whether such activity is (name the specified unlawful activity in § 895.02(8)(a)1.–50. alleged)**. A "felony" is a crime punishable by death or imprisonment in excess of one year.** (Name of crime) **is a felony.**

§ 896.101(2)(a), Fla. Stat.

Conducted includes initiating, concluding, or participating in initiating or concluding a transaction.

§ 896.101(2)(i), Fla. Stat.

"Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 896.101(2)(c), Fla. Stat.

"Financial transaction" means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects

commerce, or a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, commerce in any way or degree.

§ 896.101(2)(b), Fla. Stat.

"Financial institution" means [an insured bank] [a commercial bank or trust company] [a private banker] [an agency or branch of a foreign bank] [a credit union] [a thrift institution] [a broker or dealer in securities or commodities] [an investment banker or investment company] [a currency exchange] [an operator of a credit card system] [an insurance company] [a dealer in precious metals, stones, or jewels] [a pawnbroker] [a loan or finance company] [a travel agency] [a telegraph company] [the United States Postal Service] [(list one of the other institutions enumerated in 31 U.S.C. § 5312)**], that is located in Florida.**

§ 896.101(2)(f), Fla. Stat.

"Monetary instruments" means coin or currency of the United States or of any other country, virtual currency, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

§ 896.101(2)(j), Fla. Stat.

"Virtual currency" means a medium of exchange in electronic or digital format that is not a coin or currency of the United States or any other country.

§ 896.101(2)(d), Fla. Stat.

Knowing means that a person knew; or, with respect to any transaction or transportation involving more than $10,000 in U.S. currency or foreign equivalent, should have known after reasonable inquiry, unless the person has a duty to file a federal currency transaction report, IRS Form 8300, or a like report under state law and has complied with that reporting requirement in accordance with law.

§ 896.101(3)(d), Fla. Stat.

"Investigative or law enforcement officer" means any officer of the State of Florida or political subdivision thereof, of the United States, or of any other state or political subdivision thereof, who is empowered by law to conduct, on behalf of the government, investigations of, or to make arrests for, offenses enumerated in this subsection or similar federal offenses.

§ 896.101(5), Fla. Stat. Give as applicable

If you find the defendant guilty of Money Laundering, you must also determine if the State has proven beyond a reasonable doubt whether:

a. **the financial transaction involved more than $300 but less than $20,000 during any 12-month period.**

b. **the financial transaction involved $20,000 or more but less than $100,000 during any 12-month period.**

c. **the financial transaction involved $100,000 or more during any 12-month period.**

Lesser Included Offenses

MONEY LAUNDERING ($100,000 OR GREATER IN ANY 12-MONTH PERIOD) — 896.101(3) and 896.101(5)(c)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Money Laundering ($20,000 but less than $100,000 in any 12-month period)		896.101(3) and 896.101(5)(b)	26.9
Money Laundering (more than $300 but less than $20,000 in any 12-month period)		896.101(3) and 896.101(5)(a)	26.9

Comment

This instruction was adopted in 2013 [123 So. 3d 54] and amended in 2018.