

20.19(a) COMMUNICATIONS FRAUD

817.034(4)(b), Fla. Stat.

To prove the crime of Communications Fraud, the State must prove the following two elements beyond a reasonable doubt:

- 1. (Defendant) engaged in a scheme to defraud.**
- 2. As part of the scheme to defraud, (defendant) communicated with (victim) with the intent to obtain property from (victim).**

“Scheme to Defraud” means a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, endorsements of nonconsenting parties, or promises or willful misrepresentations of a future act.

“Willful” means intentional, purposeful, and with knowledge.

Give relevant portions of definition as needed.

“Communicate” means to transmit or transfer or to cause another to transmit or transfer signs, signals, writing, images, sounds, data, or intelligences of any nature in whole or in part by mail, or by wire, radio, electromagnetic, photoelectronic, or photooptical system.

“Obtain” means to temporarily or permanently deprive any person of the right to property or a benefit therefrom, or to appropriate the property to one's own use or to the use of any other person not entitled thereto.

If you find the defendant guilty of Communications Fraud, you must also determine if the State proved beyond a reasonable doubt that the value of property obtained or endeavored to be obtained by the communication was [\$300 or more] [less than \$300].

§ 817.034(1) has additional definitions of value that should be added if applicable.

“Value” means the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense.

If the exact value cannot be determined, you should attempt to determine a minimum value. If the minimum value of the property cannot be determined, you must find the value is less than \$300.

“Property” means anything of value, and includes:

- 1. Real property, including things growing on, affixed to, or found in land;**

2. Tangible or intangible personal property, including rights, privileges, interests, and claims; and

3. Services.

“Endeavor” means to attempt or try.

Reclassification. Give if § 817.034(4)(c), Fla. Stat. is charged.

If you find the defendant committed Communications Fraud, you must further determine whether the State proved beyond a reasonable doubt that (victim) was [65 years or older] [less than 18 years of age] [or] [a person with a mental or physical disability].

Give if applicable. § 775.0863, Fla. Stat.

“Mental or Physical Disability” means a condition of mental or physical incapacitation due to a developmental disability, organic brain damage, or mental illness, and one or more mental or physical limitations that restrict a person’s ability to perform the normal activities of daily living.

Lesser Included Offenses

COMMUNICATIONS FRAUD — 817.034(4)(b)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Grand theft – third degree		812.014(2)(c)1, 2, 3	14.1
Petit theft – first degree		812.014(2)(e)	14.1
Petit theft – second degree		812.014(3)(a)	14.1
	Scheme to defraud	817.034(4)(a)3.	20.19

Comment

This instruction was adopted on June 27, 2025.