

21.22 MISUSE OF 911 SERVICES

§ 365.172(14), Fla. Stat.

To prove the crime of Misuse of 911 Services, the State must prove the following element beyond a reasonable doubt:

Give as applicable.

- a. (Defendant) accessed, or caused another party to access, 911 services for the purpose of [making a false alarm] [making a false complaint] [reporting false information] that could result in the emergency response of any public safety agency.**
- b. (Defendant) knowingly used or attempted to use 911 services for a purpose other than obtaining public safety assistance.**
- c. (Defendant) knowingly used or attempted to use 911 services in an effort to avoid any charge for service.**

Give if applicable. See § 365.172, Fla. Stat., for definitions such as “Enhanced 911 services,” “E911,” “Next Generation 911,” “NG911,” “PSAP,” “public safety answering point,” “automatic number identification,” “automatic location-identification,” “wireless provider,” and “order.”

“911 services” includes “Enhanced 911,” “E911,” “Next Generation 911,” and “NG911.”

Give if applicable.

“Public safety agency” means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

Give only if element a. is charged and only if applicable.

If you find the defendant guilty of Misuse of 911 Services, you must also determine if the State proved beyond a reasonable doubt that the subsequent emergency response by a public safety agency resulted in great bodily harm, permanent disfigurement, or permanent disability to any person as a proximate result* of lawful conduct arising out of the emergency response.

“Great bodily harm” means harm that is more than slight, trivial, minor, or moderate.

*Give only if element a. is charged and only if applicable.**

If you find the defendant guilty of Misuse of 911 Services, you must also determine if the State proved beyond a reasonable doubt that the subsequent emergency response by a public safety agency resulted in the death of any person as a proximate result of lawful conduct arising out of the emergency response.

Lesser Included Offense

MISUSE OF 911 SYSTEM — 365.172(14)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

*As of August 2025, the courts had not defined the term “proximate result.” A special instruction will be required if either party requests a definition or if the trial judge thinks it necessary.

A person who was convicted twice for this crime commits a third degree felony upon a third violation. The term “conviction” means a determination of guilt that is the result of a plea agreement or a trial, regardless of whether adjudication was withheld or a plea of nolo contendere was entered. As of August 2025, it was unclear whether the prior convictions are a recidivist factor that can be proven to the judge at sentencing or an element of the crime that must be proven to the jury under the beyond a reasonable doubt standard. It is error to inform the jury of prior convictions. The judge must not read the allegation of prior convictions to the jury and must not send the charging document into the jury room. If the defendant is found guilty of Misuse of 911 Services, the historical fact of previous convictions must be determined in a bifurcated proceeding if the prior convictions are treated as an element. *State v. Harbaugh*, 754 So. 2d 691 (Fla. 2000).

This instruction was adopted on February 21, 2025, and was amended on September 12, 2025.