

21.20 TAMPERING WITH AN ELECTRONIC MONITORING DEVICE

§ 843.23, Fla. Stat.

To prove the crime of Tampering with an Electronic Monitoring Device, the State must prove the following three elements beyond a reasonable doubt:

- 1. [(Defendant)] [(Name of person)] was ordered to [wear] [use] an electronic monitoring device by [court order] [an order by the Florida Commission on Offender Review].**
- 2. (Defendant) intentionally [removed] [destroyed] [altered] [tampered with] [damaged] [affirmatively acted to circumvent the operation of] [requested, authorized, or solicited a person to [remove] [destroy] [alter] [tamper with] [damage] [affirmatively act to circumvent the operation of]] that electronic monitoring device.**
- 3. (Defendant) did not have authority to do so.**

An “electronic monitoring device” includes any device that is used to track the location of a person.

Give if applicable. § 777.04(2), Fla. Stat.

To “solicit” means to command, encourage, hire, or request another person to engage in specific conduct.

Give after a finding of guilt in a bifurcated proceeding.

Now that you found (defendant) guilty of Tampering with an Electronic Monitoring Device, you must further determine whether the State proved beyond a reasonable doubt whether the person who had to wear or use the electronic monitoring device was [charged with] [serving a sentence for]:

- a. a misdemeanor or a third degree felony.**
- b. a second degree felony.**
- c. a first degree felony, or a first degree felony punishable by a term of years not exceeding life, a life felony, or a capital felony.**

The Court instructs you that (name of relevant crime) is a [misdemeanor] [[third degree felony] [second degree felony] [first degree felony] [first degree felony punishable by a term of years not exceeding life] [life felony] [capital felony]].

Lesser Included Offense

TAMPERING WITH AN ELECTRONIC MONITORING DEVICE — 843.23

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Criminal Mischief	806.13	12.4
	Attempt	777.04(1)	5.1

Comments

It is a third degree felony if the person who committed Tampering with an Electronic Monitoring Device was under 18 years of age at the time of commission of the crime. *See* § 843.23, Fla. Stat.

This instruction was adopted on April 3, 2020, and amended on March 20, 2026.