

12.4 CRIMINAL MISCHIEF

§ 806.13(1)-(2), Fla. Stat.

To prove the crime of Criminal Mischief, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **injured or damaged [real] [personal] property.**
2. **The property injured or damaged belonged to (person alleged).**
3. **The injury or damage was done willfully and maliciously.**

Give if applicable.

Among the means by which property can be injured or damaged under the law is the placement of graffiti on it or other acts of vandalism to it.

Definitions.

“Willfully” means intentionally, knowingly, and purposely.

“Maliciously” means wrongfully, intentionally, without legal justification or excuse, and with the knowledge that injury or damage will or may be caused to another person or the property of another person.

Degrees. Give as applicable.

If you find the defendant guilty of criminal mischief, you must determine whether the State proved beyond a reasonable doubt that:

- a. **[the damage to the property was \$1,000 or greater.]**
[by reason of the damage, there was an interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which cost \$1,000 or more in labor and supplies to restore.]
- b. **[the damage to the property was greater than \$200 but less than \$1,000.]**
- c. **[the damage to the property was \$200 or less.]**
- d. **[the property damaged was a church, synagogue, mosque, or other place of worship or any religious article contained therein].**
- e. **[the defendant has previously been convicted of criminal mischief].**

§ 806.13(5) (a), Fla. Stat.

The amounts of value of damage to property owned by separate persons, if the property was damaged during one scheme or course of conduct, may be aggregated in determining the total value.

Lesser Included Offenses

CRIMINAL MISCHIEF — 806.13(1)(b)1			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

CRIMINAL MISCHIEF — 806.13(1)(b)2			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Criminal mischief		806.13(1)(b)1	12.4
	Attempt	777.04(1)	5.1

CRIMINAL MISCHIEF — 806.13(1)(b)3			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Criminal mischief		806.13(1)(b)1	12.4
Criminal mischief		806.13(1)(b)2	12.4
	Attempt	777.04(1)	5.1

Comment

It is error to inform the jury of a prior criminal mischief conviction. Therefore, if the information or indictment contains an allegation of one or more prior criminal mischief convictions, do not read the allegation and do not send the information or indictment into the jury room. If the defendant is found guilty of criminal mischief, the historical fact of a previous criminal mischief conviction shall be determined beyond a reasonable doubt in a bifurcated proceeding. *State v. Harbaugh*, 754 So. 2d 691 (Fla. 2000).

This instruction was adopted in 1981 and amended in 1992 and 2010.