

**312 PRISONER AS WITNESS OR DEFENDANT: PRISONER STATUS AN ISSUE****Statutory Definition of the Crime**

Evidence has been received that (the defendant) (witness (name of witness)) was a prisoner at (name of institution). This evidence was received because the (defendant's) (witness') status as a prisoner is an issue in this case. It must not be used for any other purpose.

**COMMENT**

Wis JI-Criminal 312 was originally published in 1979 and revised in 1991 and 2001. This revision was approved by the Committee in October 2016.

This instruction is to be used when the offense charged requires proof that the defendant or a witness was a prisoner. Common examples would be cases involving escape under § 946.42 (Wis JI-Criminal 1770-1774), assaults by prisoners under § 946.43 (Wis JI-Criminal 1778 and 1779), or battery by prisoner under § 940.20(1) (Wis JI-Criminal 1222).

These cases differ from the usual situation where the defendant or a witness has a prior conviction (see Wis JI-Criminal 325 and 327) because the prior goes not only to credibility but also is a required element of the crime – the person's status of prisoner at the time of the offense.