

**1438 ENTRY INTO A LOCKED DWELLING — § 943.15****Statutory Definition of the Crime**

Entry into a locked dwelling, as defined in § 943.15 of the Criminal Code of Wisconsin, is committed by one who enters the locked and enclosed dwelling of another without the consent of the owner or person in lawful possession of the premises.

**State's Burden of Proof**

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following three elements were present.

**Elements of the Crime That the State Must Prove**

1. The defendant entered the dwelling of another.

The term "dwelling" means the (apartment) (room) (building) or other structure in which a person makes a home.<sup>1</sup>

2. The defendant entered the dwelling when it was locked and enclosed.
3. The defendant entered the dwelling of another without the consent<sup>2</sup> of the owner or person in lawful possession of the premises.

**Jury's Decision**

If you are satisfied beyond a reasonable doubt that all three elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

**COMMENT**

Wis JI-Criminal 1438 was originally published in 1984 and revised in 1995. This revision was approved by the Committee in December 2007 and involved adoption of a new format and nonsubstantive changes to the text.

This instruction is for a violation of § 943.15 which prohibits entry without consent into a "locked and enclosed building, dwelling or room of another." The model instruction is drafted for charges involving entry into a dwelling. The statute also prohibits entry into a locked or posted construction site.

1. The definition of "dwelling" is based on the one used in Wis JI-Criminal 1437 Criminal Trespass to Dwellings. Regarding what constitutes "entry" for the purposes of burglary, see note 3, Wis JI-Criminal 1421.

2. Entry is "without consent" if there was no consent in fact or if the consent was given under the circumstances identified in § 939.22(48)(a)-(c). Also see, Wis JI-Criminal 948.