

1514 FALSE REPRESENTATION AS A FINANCIAL INSTITUTION — § 943.82(2)**Statutory Definition of the Crime**

False representation as a financial institution, as defined in § 943.82(2) of the Criminal Code of Wisconsin, is committed by one who falsely represents that (he) (she) is a (financial institution) (representative of a financial institution) for the purpose of (obtaining money, goods, or services from any person) (obtaining or recording a person's personal identifying information).

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 two elements were present.

Elements of the Crime That the State Must Prove

1. The defendant falsely represented that (he) (she) was a (financial institution) (representative of a financial institution).

“Financial institution” means a (bank) (savings bank) (savings and loan association) (trust company) (credit union) (mortgage banker) (mortgage broker)¹ chartered under the laws of this state, another state or territory, or under the laws of the United States.²

2. The defendant made the false representation for the purpose of [obtaining (money) (goods) (services) from (name of victim)] [obtaining or recording (name of victim)’s personal identifying information].

[“Personal identifying information” means (insert type of information provided in s. 943.201 (1) (b)³.)]

Jury’s Decision

If you are satisfied beyond a reasonable doubt that both 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 1514 was approved by the Committee in October 2024.

This instruction is drafted for violations of § 943.82(2), which is part of Subchapter IV, Chapter 943, created by 2005 Wisconsin Act 212. Effective date: April 11, 2006. The penalty for committing a violation of sub (2) § 943.82 is a Class H felony.

For violations of sub (1) of § 943.82 concerning fraud against a financial institution, see Wis JI-Criminal 1512.

1. The options in parentheses are the most common of the alternatives included in the definition of “financial institution” provided in § 943.80(2). The definition also includes “a company that controls, is controlled by, or is under common control” of the specified institutions. The definition includes cross-references to other definitions for some of the specified institutions:

- bank – §214.01(1)(c)
- savings bank – §214.01(1)(t)
- credit union – §186.01(2)
- mortgage banker – §224.71(3)(a)
- mortgage broker – §224.71(4)(a)

2. Proof of chartered status was an issue in State v. Eady, 2016 WI App 12, 366 Wis.2d 711, 875 N.W.2d 139, which dealt with a violation of § 943.87. In Eady, the court of appeals apparently agreed with the defendant's contention that "chartered" status was an element of the crime but found that it was established by circumstantial evidence.

3. The types of "personal identifying information" are provided in Wis. Stat. § 943.201(1)(b). Choose one or more of the following options that match the evidence in the case.

1. An individual's name. 943.201(1)(b)2.
2. An individual's address.
3. An individual's telephone number.
4. The unique identifying driver number assigned to the individual by the department of transportation under s. 343.17 (3) (a) 4.
5. An individual's social security number.
6. An individual's employer or place of employment.
7. An identification number assigned to an individual by his or her employer.
8. The maiden name of an individual's mother.
9. The identifying number of a depository account, as defined in s. 815.18 (2) (e), of an individual.
10. An individual's taxpayer identification number.
11. An individual's deoxyribonucleic acid profile, as defined in s. 939.74 (2d) (a).
12. Any of the following, if it can be used, alone or in conjunction with any access device, to obtain money, goods, services, or any other thing of value or benefit, or if it can be used to initiate a transfer of funds:
 - a. An individual's code or account number.
 - b. An individual's electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier.
 - c. Any other means of account access.
13. An individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation.
14. Any other information or data that is unique to, assigned to, or belongs to an individual and that is intended to be used to access services, funds, or benefits of any kind to which the individual is entitled.
15. Any other information that can be associated with a particular individual through one or more identifiers or other information or circumstances.