

1812 COMMUNICATING WITH A JUROR — § 946.64)**Statutory Definition of the Crime**

Section 946.64 of the Criminal Code of Wisconsin is violated by one who, with intent to influence a person summoned or serving as juror, in relation to any matter which is before or which may be brought before that person, communicates with that person otherwise than in the regular course of proceedings in the trial or hearing of that matter.

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. (Name of juror) was (summoned) (serving) as a juror.
2. The defendant communicated with (name of juror) other than in the regular course of proceedings in a trial or hearing.
3. The defendant communicated with (name of juror) with intent to influence (name of juror) in relation to any matter which (was before) (might have come before) (name of juror).

"With intent to" means that the defendant had the mental purpose to influence (name of juror).¹

Deciding About Intent

You cannot look into a person's mind to find intent. Intent must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent.

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 1812 was originally published in 1995. This revision was approved by the Committee in December 2008 and involved adoption of a new format and nonsubstantive changes to the text.

This instruction is for violations of § 946.64, Communicating with Jurors. There are no reported decisions interpreting the statute, which was created as part of the 1956 revision of the Criminal Code. Often referred to as "jury tampering," the offense was known at common law as "embracery." See Platz, "The Criminal Code," 1956 Wis. L. Rev. 350, 380.

1. Under the Criminal Code, the phrase "with intent to" means that the defendant either has a purpose to do the thing or cause the result specified or is aware that his or her conduct is practically certain to cause that result. See § 939.23(4) and Wis JI-Criminal 923A and 923B.