

1830 IMPERSONATING A PEACE OFFICER, FIRE FIGHTER, OR OTHER EMERGENCY PERSONNEL — § 946.70(1)**Statutory Definition of the Crime**

Impersonating a (peace officer) (fire fighter) (emergency medical technician) (first responder), as defined in § 946.70(1) of the Criminal Code of Wisconsin, is committed by one who impersonates a (peace officer) (fire fighter) (emergency medical technician) (first responder) with intent to mislead others into believing that the person is actually a (peace officer) (fire fighter) (emergency medical technician) (first responder).

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 impersonated a (peace officer) (fire fighter) (emergency medical technician)¹ (first responder).²

To "impersonate" means to (assume the identity or characteristics of) (represent oneself to be) (pretend to be) another person without authority to do so.³ (One may impersonate another by verbal declarations as well as by obvious physical impersonations as in wearing a badge or a uniform.)⁴

[A "peace officer" is a person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.]⁵

2. The defendant impersonated a (peace officer) (fire fighter) (emergency medical technician) (first responder) with intent to mislead⁶ (another person) (other persons) into believing the defendant was actually a (peace officer) (fire fighter) (emergency medical technician) (first responder).

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 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 1830 was originally published in 1980 and revised in 1986, 1995, and 2009. This revision was approved by the Committee in July 2012; it reflects changes made in § 946.70 by 2011 Wisconsin Act 276.

This instruction is drafted for a violation of subsec. (1) of § 946.70 which is a Class A misdemeanor. The maximum penalty for the basic offense is increased to a Class H felony if the person acts "with the intent to commit or aid and abet the commission of a crime. . . ." § 946.70(2). Wis JI-Criminal 1831 is the suggested uniform instruction for the felony offense.

1985 Wisconsin Act 97 amended § 946.70 by substituting the word "impersonate" for "personate." Since the two words have essentially the same meaning, it is assumed that no change in meaning was intended.

2011 Wisconsin Act 276 amended § 946.70 by creating subs. (1)(b), (c), and (d), extending the coverage to include impersonating a fire fighter, an emergency medical technician, and a first responder. [Effective date: April 24, 2012.]

1. Section 946.70(1)(c) refers to "an emergency medical technician as defined in s. 256.01(5)."
2. Section 946.70(1)(d) refers to "a first responder as defined in s. 256.01(9)."
3. Webster's Third New International Dictionary.
4. This definition was adopted when the instruction was first published in 1980. It was based on one found in 35 C.J.S. False Personation § 3 (1960).
5. This is the definition provided in Wis. Stat. § 939.22(22).
6. The phrase "with intent to" means that the actor 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.