

1922 INTENTIONALLY SENDING A FALSE COMMUNICATION TO 911 — § 256.35(10)(a)

Statutory Definition of the Crime

Section 256.35(10)(a) of the Wisconsin Statutes is violated by a person who intentionally (dials) (sends a text message to) the telephone number “911” to report an emergency, knowing that the fact situation which he or she reports does not exist.

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 Charged Crime That the State Must Prove

1. The defendant intentionally (dialed) (sent a text message to) the telephone number “911” to report an emergency.

The term “intentionally,” as used here, means that the defendant either acted with the purpose of (dialing) (sending a text message to) the number 911 to report an emergency, or was aware that (his) (her) conduct was practically certain to cause that result.¹

2. At the time the defendant (dialed) (sent the text message to) 911, the defendant knew that the emergency fact situation reported did not exist.²

Deciding About Intent and Knowledge

You cannot look into a person's mind to find intent and knowledge. Intent and knowledge 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 and knowledge.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 1922 was approved by the Committee in June 2026.

This instruction is drafted for violations of § 256.35(10)(a), as amended by 2025 Wisconsin Act 245.

Section 256.35(10)(a) establishes two offense levels. Any person shall be fined not less than \$100 nor more than \$600 or imprisoned not more than 90 days or both for the first offense and is guilty of a Class H felony for any other offense committed within 4 years after the first offense.

1. The knowledge requirement is based on § 939.23(3) which provides that the use of "intentionally" in a criminal statute requires "knowledge of those facts which are necessary to make [the] conduct criminal and which are set forth after the word 'intentionally.'"

2. The phrase "does not exist" tracks the statutory language of § 256.35(10)(a): "knowing that the fact situation which he or she reports does not exist." The element as drafted requires the jury to find that the defendant had actual knowledge of the falsity of the reported emergency, distinguishing this offense from a negligent or mistaken call.

3. This is the shorter version used to describe the process of finding intent. The Committee concluded that it is suitable for use in most cases. For the longer description of the intent-finding process, see Wis JI-Criminal 923A.