

5301 ELECTION FRAUD — UNQUALIFIED ELECTOR — §§ 12.13(1)(a) and 12.60(1)(a)**Statutory Definition of the Crime**

Section 12.13(1)(a) is violated by a person who intentionally votes at any election if the person does not have the necessary elector qualifications and residence requirements.

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 voted at an election.
2. The defendant did not have the necessary (elector qualifications) (residency requirements).

In this case, it is alleged that the defendant did not (identify the qualification or requirement that the defendant allegedly lacked).¹

3. The defendant acted intentionally.²

This requires that the defendant knew (he) (she) did not have the necessary (elector qualifications) (residency requirements).

Deciding About Knowledge

You cannot look into a person's mind to find knowledge. 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 knowledge.

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 5301 was approved by the Committee in October 2008.

Election fraud offenses are defined in § 12.13. Penalties are set forth in § 12.60. Violations of § 12.13(1) are Class I felonies.

1. The following statutes provide general qualifications and requirements for electors: § 6.02 Qualifications, general; § 6.02 Disqualification of electors; and, § 6.10 Elector residence.

2. Sec. 12.02 Construction, provides: "In this chapter, criminal intent shall be construed in accordance with s. 939.23." As applied to this offense, the s. 939.23(3) definition of "intentionally" requires that the defendant had the mental purpose to vote and knew that he or she lacked the necessary elector qualifications or residence requirements.