

11.13(a) VIDEO VOYEURISM

§ 810.145(2)(a) or (b), Fla. Stat.

To prove the crime of Video Voyeurism, the State must prove the following five elements beyond a reasonable doubt:

Give 1a or 1b as applicable.

1. (Defendant)
 - a. intentionally [used] [or] [installed] an imaging device to secretly [view] [broadcast] [or] [record] (victim) for [his] [her] own [amusement] [entertainment] [sexual arousal] [gratification] [or] [profit] [or] [for the purpose of degrading or abusing (victim)].
 - b. intentionally permitted [the use] [or] [installation] of an imaging device to secretly [view] [broadcast] [or] [record] (victim) for the [amusement] [entertainment] [sexual arousal] [gratification] [or] [profit] [of another or on behalf of another].
2. (Victim) was thereby [viewed] [broadcast] [or] [recorded] at a time when (victim) was [dressing] [undressing] [or] [privately exposing [his] [her] body].
3. At the place and time when (victim) was [viewed] [broadcast] [or] [recorded], [he] [she] had a reasonable expectation of privacy.
4. The [viewing] [broadcast] [or] [recording] of (victim) was without the knowledge and consent of (victim).
5. At the time (defendant) [viewed] [broadcast] [or] [recorded] (victim), (defendant) was [19 years of age or older] [under 19 years of age].

Definitions.

“Broadcast” means electronically transmitting a visual image with the intent that it be viewed by another person.

“Imaging device” means any mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing, or transmitting visual images of another person.

“Place and time when a person has a reasonable expectation of privacy” means a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without being concerned that his or her undressing was being viewed, recorded, or broadcasted by another, including, but not limited to, the interior of a residential dwelling, bathroom, changing room, fitting room, dressing room, or tanning booth.

“Privately exposing the body” means exposing a sexual organ.

Lesser Included Offenses

VIDEO VOYEURISM — 810.145(2)(a) or (b)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

It is error to inform the jury of a prior conviction before a determination of guilt of the charged offense. Therefore, do not read the allegation of prior conviction or send the information or indictment into the jury room. If the defendant is convicted of the current charge, the historical fact of a previous conviction shall be determined beyond a reasonable doubt by the jury in a bifurcated proceeding. *State v. Harbaugh*, 754 So. 2d 691 (Fla. 2000).

This instruction was adopted in 2008 [982 So. 2d 1160] and 2013.